

AFTER RECORDING RETURN TO:
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555 Zang Street, Suite 100
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**AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF GLENWOOD GARDENS PHASE I**

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**AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
OF GLENWOOD GARDENS PHASE I**

THIS AMENDED AND RESTATED DECLARATION is made effective upon recording.

RECITALS

A. Declarant, Gateway Development Company, Inc., recorded that certain Declaration of Covenants, Conditions and Restrictions of Glenwood Gardens Phase I in the Office of the Clerk and Recorder, Boulder County, Colorado on March 15, 1974, at Reception No. 96542, which was amended by the Amendment of the Declaration of Covenants, Conditions and Restrictions of Glenwood Gardens Phase I, recorded on June 24, 1977, at Reception No. 225736, in the Office of the Clerk and Recorder, Boulder County, Colorado (collectively the "Original Declaration") subjecting the real estate described therein to the terms and conditions set forth in the Original Declaration

B. The Owners and the Association desire to amend and restate all provisions of the Original Declaration, by virtue of this Amended and Restated Declaration of Covenants, Conditions and Restrictions of Glenwood Gardens Phase I ("Declaration"), and intend, upon the recording of this Declaration, that all prior recorded declarations, amendments and supplements thereto shall be superseded and replaced by this Declaration.

C. The Original Declaration provides for and allows for this Declaration in Article XI, Section 4, which provides as follows:

The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by Owners representing the ownership of not less than ninety percent (90%) of the units, and thereafter by an instrument signed by owners representing the ownership of not less than seventy-five percent (75%) of the Units. Any amendment must be recorded.

D. Pursuant to the Colorado Common Interest Ownership Act, C.R.S. §38-33.3-217(1)(a), the required approval of 75% of the Owners for amendment is now void and is now sixty-seven percent (67%) of the Owners.

E. All Owners are aware of the provisions of the Original Declaration allowing for amendment, by virtue of the record notice of the Original Declaration, by acts and disclosures, newsletters or notices of the Association and by other means;

F. The amendments within this Declaration have been prepared and determined by the Association and by the Owners that have approved this Declaration to be reasonable and not burdensome;

G. The purposes of the amendments in this Declaration are to remove unreasonable restrictions on the community, remove developer "boilerplate" language that is no longer applicable to the Community, remove provisions that do not allow the Board to efficiently operate the community or deal with community concerns, remove provisions that do not comply with current state law, add provisions that provide the proper tools for the Association to effectively solve problems, add provisions to provide the Association with sufficient power to create and successfully enforce Rules and Regulations, and add provisions that reflect beneficial state law provisions.

H. The purpose of the Association as provided in the Declaration is to preserve the value and desirability of the Community and the Lots and to further the interests of the residents of the Community and Members of the Association; and

I. Owners representing at least 67% of the Owners have signed an instrument approving this Declaration; or, alternatively, a Court Order entered by the District Court for Boulder County, Colorado pursuant to C.R.S. §38-33.3-217(7), has been entered approving this Declaration.

NOW THEREFORE, the Original Declaration is amended and restated as follows:

ARTICLE 1 DEFINITIONS

Section 1.1 Defined Terms.

Each capitalized term in this Declaration shall have the meaning specified or as used in the Act, unless otherwise defined in this Declaration or the context requires otherwise:

(a) "Act" shall mean the Colorado Common Interest Ownership Act, *C.R.S. §38-33.3-101 et. seq.*, as it may be amended.

(b) "Architectural Review Committee" or "Committee" shall mean the committee appointed by the Board of Directors pursuant to this Declaration for the purpose of administering the architectural approval and design review provisions contained in this Declaration.

(c) "Assessment" shall include all Common Expense Assessments, insurance Assessments, utility Assessments, and any other expense levied to a Lot pursuant to this Declaration or the Act, including interest, late fees, attorney fees, fines, and costs.

(d) "Association" shall mean and refer to the Glenwood Gardens Phase I Homeowners Association, a Colorado nonprofit corporation, and its successors and assigns.

- (e) "Board" or "Board of Directors" shall mean the body designated in the Governing Documents to act on behalf of the Association.
- (f) "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners, together with all improvements located thereon and all common property owned by the Association, but excluding the Lots, and shall include any Common Area located upon any real property which is annexed to the Property.
- (g) "Common Expenses" shall mean expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves.
- (h) "Community" or "Glenwood Gardens Community" shall mean the planned community created by the Original Declaration, as amended and restated by this Declaration, consisting of the Property, Common Area, and any improvements constructed on the Property and the Common Area.
- (i) "Governing Documents" shall mean this Declaration, the Map, the Articles of Incorporation, the Bylaws, and any Rules and Regulations of the Association, as they may be amended from time to time.
- (j) "Lot" shall mean and refer to any of the Lots shown upon any recorded subdivision map or plat of the Property, together with all appurtenances thereto and improvements now or hereafter located thereon, with the exception of the Common Area.
- (k) "Map" or "Plat" shall mean and refer to the map(s) and/or plat(s) of the Property and improvements that are subject to this Declaration and which are designated in the Map or Plat recorded in the records of the Office of the Clerk and Recorder of Boulder County. More than one Map or supplement thereto may be recorded, and, if so, then the term "Map" shall collectively mean and refer to all of such maps, plats and supplements thereto.
- (l) "Member" shall mean any Owner. The terms "Member" and "Owner" may be used interchangeably.
- (m) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
- (n) "Pet" shall mean and include cats, dogs, birds, reptiles or other household animals, as may be further defined in or supplemented by the Rules and Regulations.
- (o) "Property" shall mean the property described in or which is subject to the Declaration together with all easements, rights, and appurtenances thereto and the buildings and improvements erected or to be erected thereon.

(p) "Rules and Regulations" shall mean any written instruments, however identified, which are adopted by the Association for the regulation and management of the Community, and/or clarification of the Governing Documents, including any amendment to those instruments.

(q) "Townhouse" shall mean the residential dwelling improvement constructed on a Lot, which is designed and intended for use and occupancy as a residence.

ARTICLE 2 NAMES/DESCRIPTION OF PROPERTY/EASEMENTS

Section 2.1 Name and Type.

The type of Common Interest Community is a Planned Community. The name of the Planned Community is Glenwood Gardens. The name of the Association is the Glenwood Gardens Phase I Homeowners Association.

Section 2.2 Property.

The Community is located in Boulder County, State of Colorado. The Property of the Community is described in *Exhibit A* of this Declaration and/or as is consistent with the common scheme and plan for the creation and operation of the Community. The Property currently consists of 31 Lots. Easements for utilities and other purposes over and across the Lots and Common Area may be as shown upon a recorded Map and on any recorded map of the Community, and as may be established pursuant to the provisions of this Declaration, or granted by authority reserved in any recorded document.

Section 2.3 Easement for Encroachments.

Each Townhouse and the property included in the Common Area shall be subject to an easement for encroachments created by the original construction, settling and overhangs. A valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist. In the event a multi-family structure containing two or more Townhouses is partially or totally destroyed, and then rebuilt, the owners of the attached Townhouse so affected agree that minor encroachments of parts of the adjacent Townhouse or Common Areas due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

Section 2.4 Blanket Easement.

(a) Maintenance Easement. An easement is hereby granted to the Association, its officers, agents, and employees to enter in or to cross over the Common Area and any Lot to perform the duties of operation, installation, maintenance, repair and replacement of the Lot, Townhouse or Common Area provided for in this Declaration.

(b) Utility Easement. A blanket easement is granted to the Association upon, across, over and under all of the Common Area and, as applicable, the Lots for ingress,

gress, installation, replacing, repairing and maintaining any utilities, including but not limited to water, sewers, gas, telephones, electricity, cable, and a master antenna system, to the extent the Association is responsible for such utilities. By virtue of this easement, the Association shall have the authority to permit a utility company to affix and maintain wires, circuits, conduits, meters and similar equipment on, across and under the Lots and Townhouses. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines or other utilities may be installed or relocated on the Common Area or Lots, except as approved by the Board of Directors. The easements provided for in this paragraph shall in no way affect any other prior recorded easements on the premises.

Section 2.5 Easement for Common and Party Walls.

Each Owner, his agents and contractors, are granted a non-exclusive easement for the purpose of maintenance, construction, reconstruction and repair, in, over, under and upon adjacent Lots and in and upon adjacent Townhouses for purposes of common wall maintenance and repair, in accordance with the party wall provisions contained in this Declaration, upon reasonable notice to the Owners of the common wall. Any damage occasioned to the adjacent Lot or improvements, including the dwelling thereon, in exercising this easement, shall be the responsibility of the Owner whose negligent or wrongful acts or omissions caused the damage.

Section 2.6 Access.

For the purpose of performing the maintenance referred to in this Article and as set forth in Exhibit B, and inspections related thereto, the Association, through its Board and its duly authorized agents, contractors, employees or the Architectural Review Committee, shall have the right, after reasonable notice to the Owner or occupants thereof and during regular business hours, to enter upon any Lot, and such entry shall not be deemed a trespass. In emergency situations, the Association or its agents, contractors or employees, may enter without notice at any time, but the Owner or other occupants thereof shall be notified as soon as reasonably possible thereafter. In performing repairs or maintenance authorized under this Article, the Association shall not be liable for any loss, cost or damage caused by its actions, except on account of its willful misconduct.

Section 2.7 Owners' Easements of Enjoyment.

Every Owner shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every assessed Lot, subject to the following provisions:

- (a) the right of the Association to limit the number of guests of Owners on the Common Area;
- (b) the right of the Association to adopt Rules and Regulations governing the use of the Common Area;

(c) the right of the Association, upon approval of Members holding at least 67% of the total votes entitled to be cast in the Association, to mortgage the Common Area as security for loans or other such purposes, provided, that the rights of such mortgagee shall be subordinate to the rights of the homeowners;

(d) the right, power and authority of the Association to grant any easement, right-of-way, license, lease, dedication or similar interest through, over or in the Common Area;

(e) the right of the Association to transfer or convey ownership of the Common Area, or any portion thereof, subject to the prior approval of Members holding at least 67% of the total votes entitled to be cast in the Association;

(f) the right of the Association to suspend the voting rights and the right to use of any Common Area and recreational facilities for a period not to exceed 60 days or until the violation is cured, whichever period is greater; provided that suspension of voting and use rights shall be automatic during any period that an Owner is in default in payment of any Common Expense Assessment;

(g) the right of the Association to close portions of the Common Area for maintenance, repair, replacement, and improvement;

(h) the right of the Association to charge its Members reasonable admission and other fees for the use of any recreational facility situated upon the Common Area; and,

(i) the right of the Association to change use of, add, or remove improvements to the Common Area.

Section 2.8 Delegation of Use.

Owners may delegate, in accordance with the Bylaws and Rules and Regulations adopted by the Board of Directors, their right of enjoyment to the Common Area and facilities to family members, tenants, or contract purchasers who reside on the Property. If the Owner delegates rights to use the Common Area and facilities to tenants or contract purchasers who reside on their Lot, the Owner shall not be entitled to use the Common Area and facilities. The Board of Directors shall have the express right to limit Owners' ability to delegate their right to use the recreational amenities of the Community through Rules and Regulations and/or reasonable fees charged for such use.

Section 2.9 Disclaimer of Liability.

The Association shall be and remain wholly free and clear of any and all liability to, or claims by, all Owners and all persons and entities, of whatever kind or character, whether sounding in contract or tort, deriving from the occurrence of any injury or damage to any person or property on, or in respect to the use and operation of, the Common Area or any of its improvements, fixtures, and facilities. It shall be the affirmative duty and responsibility of each

Owner, and each user of the Common Area, to continuously inspect the same for any defects or perils or other unsafe conditions or circumstances, prior to and during such use or enjoyment thereof; and all users of, and visitors to, the Common Area and its improvements and facilities shall use, enjoy, and visit, the same at their own risk and peril.

ARTICLE 3 THE ASSOCIATION

Section 3.1 Membership.

Every person who is an Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of a Lot shall be the sole qualification for membership. Each Lot shall be entitled to cast one vote. Fractional and cumulative voting are prohibited.

Section 3.2 Allocated Interests.

The Common Expense liability and votes in the Association are allocated to each Lot as follows:

- (a) the percentage of liability for Common Expenses, equally; and
- (b) the number of votes in the Association, equally.

Section 3.3 General Purposes and Powers of the Association.

The Association, through its Board of Directors, shall perform functions and manage the Community as provided in the Recitals section of this Declaration. All Owners and any purchaser of a Lot shall be deemed to have assented to, ratified and approved such designations and management. The Association shall have all power necessary or desirable to effectuate such purposes.

Section 3.4 Authority of the Association.

The business affairs of the Community shall be managed by the Association. The Association shall be governed by the Act, to the extent it applies to communities created prior to July 1, 1992, this Declaration, the Map, its Articles of Incorporation and Bylaws, and any Rules and Regulations adopted by the Board of Directors. All corporate or other powers of the Association, unless otherwise specified or expressly reserved to the Members in the Governing Documents, shall be exercised by or under the authority of the Board of Directors, and the business and affairs of the Association shall be managed under the direction of the Board of Directors. The Board of Directors may, by written resolution, delegate authority to a manager or managing agent for the Association, provided no such delegation shall relieve the Board of final responsibility. The Association may exercise any right or privilege and shall perform all duties and obligations expressly granted or reasonably necessary or implied in the Governing Documents to affect such right or privilege or to satisfy such duty or obligation.

Section 3.5 Managing Agent.

The Association may employ or contract for the services of a managing agent licensed pursuant to Colorado law, to whom the Board may delegate certain powers, functions, or duties of the Association, as provided in the Bylaws of the Association. The agreement shall be by written contract having a term of no more than three years and shall be subject to cancellation by the Association on 30 days' notice, with or without cause, and without a cancellation fee. The Board shall not be liable for any omission or improper exercise by a managing agent of any duty, power, or function so delegated by written instrument executed by or on behalf of the Board.

Section 3.6 Indemnification.

To the full extent permitted by law, each officer, director, committee member and volunteer of the Association shall be indemnified by the Association against all expenses and liabilities including attorney fees, reasonably incurred by or imposed upon them in any proceeding to which they may be a party, or in which they may become involved, by reason of being or having been an officer, director, committee member, or volunteer of the Association, or any settlements thereof, whether or not they are an officer, director, committee member, or volunteer at the time such expenses are incurred, pursuant to the indemnification provisions set forth in the Bylaws and by Colorado law.

Section 3.7 Security Disclaimer.

The Association may, but shall not be required to, from time to time, provide measures or take actions which directly or indirectly improve security in the Community; however, each Owner, for himself or herself and his or her tenants, guests, licensees and invitees, acknowledges and agrees that the Association is not a provider of security and shall have no duty to provide security in the Community. Furthermore, the Association does not guarantee that non-residents will not gain access to the Community and commit criminal acts in the Community, nor does the Association guarantee that criminal acts in the Community will not be committed by residents. It shall be the responsibility of each Owner to protect his or her person and property and all responsibility to provide such security shall lie solely with each Owner. The Association shall not be held liable for any loss or damage by reason of failure to provide security or the ineffectiveness of measures taken.

Section 3.8 Education and Training.

As a Common Expense, the Association shall, in accordance with the Act, provide education and training opportunities for Owners, residents and occupants, including providing funding and permitting use of facilities for such purposes. The Association shall provide education and training activities as a tool for fostering Owner, resident and occupant awareness of governance, operations and concerns of the Community and of the Association. Appropriate educational topics include dispute or conflict resolution, issues involving the Governing Documents, and education or topics benefitting or contributing to operation or governance of the Community and the rights and responsibilities of Owners and the Association. The Association may also fund and support education and training for officers and directors.

ARTICLE 4 MAINTENANCE AND SERVICE RESPONSIBILITIES

Section 4.1 Association Maintenance and Service Responsibilities.

(a) The Board of Directors of the Association shall determine the specifications, scope, extent, nature and parameters of the Association's maintenance and service responsibilities. The Association shall maintain, repair, replace, and keep in good repair in a workman like manner as a Common Expense those items set forth in **Exhibit B** of this Declaration.

(b) **Association Discretion.** The Association may, in its sole discretion, assume the obligation for maintenance or repair of additional property, either real or personal, that lies within or outside the Community. The Association shall have the right to assume such obligation even if the obligation currently lies with Owners or other entities, provided however, the Association shall provide Owners with 15 days prior written notice of any such change. The Association, in its sole discretion, shall determine the time and manner in which any maintenance, whether required or assumed, shall be performed as well as the color or type of materials used.

(c) **Maintenance of Common Area by Owner.** Subject to the maintenance responsibilities herein provided, any maintenance or repair performed on or to the Common Area or any portion of the Lot that is Association maintenance responsibility by an Owner or occupant shall be performed at the sole expense of such Owner or occupant, and the Owner or occupant shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair.

(d) **Damage to Lot by Association.** The Association shall repair incidental damage to any Lot resulting from performance of work which is the responsibility of the Association. As finish levels can have varying degrees, such repairs will be complete only to the extent of being "paint-ready." Such repair and subsequent cleaning shall be performed based on a reasonableness standard. In performing its responsibilities hereunder, the Association shall have the authority to delegate to such persons, firms or corporations of its choice, such duties as are approved by the Board of Directors.

(e) **Liability of Association.**

(i) The Association shall not be liable for injury or damage to person or property caused by or resulting from any water, rain, snow or ice which may leak or flow from any portion of the Common Area or from any device, pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder, except:

(A) for injuries or damages arising after the Owner of a Lot has put the Association on written notice of a specific leak or flow from any portion of the Common Area or device, pipe, drain, conduit, appliance or equipment for which the Association has a maintenance responsibility; and

(B) only if the Association has failed to exercise due care to correct the leak or flow within a reasonable time thereafter.

(ii) The Association shall not be liable to the Owner of any Lot or such Owner's tenant, guest, or family, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Area.

(iii) The Association shall not be liable to any Owner, or any Owner's tenant, guest or family for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Section where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities.

(iv) No diminution or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

Section 4.2 Owner's Maintenance Responsibility.

(a) Except as otherwise provided in this Declaration and as clarified in Exhibit B, each Owner shall have the obligation to maintain, repair and replace all portions of the Owner's Townhouse and any other improvements on the Lot as further clarified in Exhibit B of this Declaration.

(b) Each Owner shall have the responsibility to:

(i) perform his or her maintenance responsibility in such manner so as not to unreasonably disturb other persons in the adjacent Townhouses;

(ii) promptly report to the Association or its agent any defect or need for repairs, for which the Association is responsible;

(iii) pay for the cost of repairing, replacing or cleaning up any item which is the responsibility of the Owner but which responsibility such Owner fails or refuses to discharge (which the Association shall have the right, but not the obligation, to do), or to pay for the cost of repairing, replacing or cleaning up any item which, although the responsibility of the Association, is necessitated by reason of the willful or negligent act of the Owner, his or her family, tenants, guests, with the cost thereof to be added to and become part of the Owner's next chargeable Assessment; and

(iv) An Owner shall not be liable for injury or damage to person or property caused by or resulting from the Owner's maintenance or lack of maintenance of the Lot except if the Owner has failed to exercise due care in performing said maintenance.

Section 4.3 Bedbugs.

Each Owner shall be required to take necessary measures, as determined in the sole discretion of the Board of Directors, to retard and prevent bedbugs from accumulating in the Townhouse. Owners shall immediately notify the Board in writing of the following: (a) any evidence of bedbugs in a Townhouse; (b) all steps taken to remove bedbugs in a Townhouse. Owners shall be responsible for treatment and removal of bedbugs immediately upon the discovery of the same. The receipt of notice of bedbugs in a Townhouse by the Association shall not create any additional Association maintenance responsibility other than those set forth in this Declaration. Owners must provide written confirmation to the Association that all bedbugs have been removed from the Townhouse upon completion and must provide evidence and documentation to the Association of such removal. Owners shall be responsible for any damage to his or her Townhouse and personal property, to any other Townhouses, as well as any injury to the Owner or occupants resulting from the Owner's failure to comply with this Section. Owners shall be responsible for all costs and expenses incurred by the Board to remove bedbugs or for damage within his or her Townhouse or to any other Townhouse if the Owner fails to meet the requirements of this Section.

Section 4.4 Insect and Vermin Infestations.

Each Owner shall be required to take necessary measures, as determined in the sole discretion of the Board of Directors, to retard and prevent insect and vermin infestations, including but not limited to, bedbugs, rodents, vermin, termites, lice, cockroaches, mice, and rats from accumulating in the Townhouse. Owners shall immediately notify the Board in writing of the following: (a) any evidence of an insect and/or vermin infestation in a Townhouse; and (b) all steps taken to remove insects and vermin in a Townhouse. Owners shall be responsible for treatment and removal of insect and/or vermin infestations immediately upon the discovery of the same. The receipt of notice of an insects and/or vermin infestation in a Townhouse by the Association shall not create any additional Association maintenance responsibility other than those set forth in this Declaration. Owners must provide written confirmation to the Association that all insect and/or vermin infestations have been removed from the Townhouse upon completion of the remediation process and must provide evidence and documentation to the Association of such removal. Failure by any Owner to comply with this Section shall entitle the Association to perform all necessary remediation and collect any amounts expended for such remediation as an Assessment. Owners shall be responsible for any damages to their Townhouses, personal property, to any other Townhouses, as well as any injury to residents and guests resulting from the Owner's failure to comply with this Section. Any fees or costs incurred by the Association or other Owners as a result of violation of this Section shall be the obligation of the infested Townhouse's Owner to pay.

Section 4.5 Inspection, Repair and Replacement of Designated Owner Maintenance Components.

The Association shall have the right, but not the obligation, to conduct a periodic inspection, on a schedule to be determined by the Board of Directors, of designated Owner maintenance components as may be set forth in the Rules and Regulations. If, in the Board of Directors' sole discretion, the component needs to be maintained, repaired or replaced, the Association may provide such maintenance, repair or replacement (even though such component may be the Owner's responsibility) and the cost of such periodic inspection, maintenance, repair or replacement may be assessed against the Owner of the Townhouse served by such component pursuant to this Declaration.

Section 4.6 Failure to Maintain.

If the Association determines that any Owner has failed or refused to discharge properly his or her obligation with regard to the maintenance, repair, or replacement of items of which he or she is responsible hereunder, then, except in the case of an emergency, the Association shall give the Owner written notice of the Owner's failure or refusal and of the Association's right to provide necessary maintenance, repair, or replacement at the Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Association.

Unless the Association determines that an emergency exists, the Owner shall have 10 days within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within 10 days. If the Board determines that: (i) an emergency exists or (ii) that an Owner has not complied with the demand given by the Association as provided in this Section; then the Association may provide any such maintenance, repair, or replacement at the Owner's sole cost and expense, and such costs shall be added to and become a part of the Assessment to which such Owner is subject, shall become and be a lien against the Lot(s) upon which the Townhouse is built and shall be collected as provided in this Declaration for the collection of Assessments.

If the Board determines that the need for maintenance or repair is a Common Expense and is caused through the willful or negligent act of any Owner, or occupant or their family, guests, lessees, or invitees, then the Association may assess the cost of any such maintenance, repair, or replacement against the Owner's or occupant's Lot(s), shall become a lien against the Lot(s), and shall be collected as provided in this Declaration for the collection of Assessments.

ARTICLE 5 PARTY WALLS

Section 5.1 General Rules of Law to Apply.

Each wall which is built as a part of the original construction of a Townhouse upon the Property and placed on the dividing line between Lots shall constitute a party wall. To the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply.

Section 5.2 Sharing of Repair and Maintenance.

The cost of reasonable repair, replacement and maintenance of a party wall shall be shared by the Owners who make use of the wall in equal proportions.

Section 5.3 Destruction by Fire or Other Casualty.

If a party wall is destroyed or damaged by fire or other casualty, then, to the extent that such damage is not covered by insurance and repaired out of the proceeds of same, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, subject to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 5.4 Liability for Negligence.

Notwithstanding any other provision of this Article, to the extent that such damage is not covered and paid by the insurance provided for in this Declaration, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements and damages as a result of failure to do so.

Section 5.5 Right to Contribution Runs with Land.

The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 5.6 Dispute Resolution.

In the event of any dispute arising concerning a party wall, or under the provisions of this Article, the parties shall submit the dispute to mediation. If the dispute cannot be resolved through mediation, the parties may pursue the dispute in arbitration or through a legal proceeding before a court.

ARTICLE 6 COVENANT FOR COMMON EXPENSE ASSESSMENTS

Section 6.1 Creation of Association Lien and Personal Obligation to Pay Common Expense Assessments.

Each Owner, by acceptance of a deed for a Lot, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association annual Common Expense Assessments and such other Assessments as imposed by the Association. Such Assessments, including fees, charges, late fees, attorney fees, fines and interest charged by the Association and additional fees charged by the managing agent, including but not limited to, administration and witness fees, shall be the personal obligation of the Owner of such Lot at the time when the Assessment or other charges became or fell due.

The Association annual Common Expense Assessments and such other Assessments as imposed by the Association, including fees, charges, late fees, attorney fees, fines and interest charged by the Association, and additional fees charged by the managing agent, including but not limited to, administration and witness fees, and/or any other charges that may be assessed and/or levied or may be agreed to in the process of collecting past due Assessments, including but not limited to, credit card convenience fees from whatever source, shall be a charge on each Lot and shall be a continuing lien upon the Lot against which each such Assessment or charge is made.

If any Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment becomes due. The personal obligation to pay any past due sums due the Association shall not pass to a successor in title unless expressly assumed by them. No Owner may become exempt from liability for payment of the Common Expense Assessments by waiver of the use or enjoyment of the Common Areas or by abandonment of the Lot against which the Common Expense Assessments are made.

All Assessments shall be payable in the amounts specified in the levy thereof, and no offsets or reduction thereof, except as provided in this Declaration, shall be permitted by any reason including, without limitation, any claim that the Association or the Board of Directors is not properly exercising its duties and powers under this Declaration. Except as provided in this Declaration, all Common Expense Assessments shall be assessed against all Lots equally.

Section 6.2 Basis of Assessments.

The budget for annual Assessments shall be submitted to the Owners for ratification pursuant to Section 303(4) of the Act and as set forth in the Bylaws, as the Bylaws may be amended from time to time. The budget may be vetoed by votes of Owners representing a sixty-seven percent (67%) of the total Association vote. Assessments for Common Expenses shall be due and payable in monthly, quarterly, or annual installments, or in any other manner, as determined by the Board of Directors. The omission or failure of the Board of Directors to levy the Assessment for any period shall not be deemed a waiver, modification or a release of the Owners from their obligation to pay. Should the Board adopt a revised budget, the Board shall submit such revised budget to the Owners for ratification in the same manner as above.

Section 6.3 Special Assessments.

In addition to other authorized Assessments, the Association may levy Special Assessments from time to time to cover previously unbudgeted expenses or expenses in excess of those budgeted, including, without limitation, the costs of any construction, restoration, or unbudgeted repairs or replacements of capital improvements that are not covered by the general reserve fund. The proposed Special Assessment may be approved by the Board of Directors without Owner approval. Special Assessments may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. The Board shall have the right to require that Special Assessments be paid in advance of the provision of the subject services or materials.

Section 6.4 Supplemental Assessments.

The Association shall have the right to add to any Owner's Assessment as provided in this Article the following:

- (a) Those amounts expended by the Association for the benefit of any individual Townhouse or Lot or any occupant thereof, including but not limited to: insurance; maintenance, repair and replacement specific to a Townhouse or Lot; maintenance, repair, and replacement caused by the negligent or willful acts of any Owner, his or her guest, employee, licensee, lessee or invitee as set forth in this Declaration;
- (b) Any extraordinary maintenance, repair, improvement or replacement costs of any area which the Association maintains required on fewer than all the Townhouses or Lots;
- (c) Any extraordinary insurance costs incurred as a result of the value of a particular Owner's Townhouse or Lot or the actions of an Owner (or his agents, guests, licensees, invitees or lessees);
- (d) All fines and costs assessed against an Owner pursuant to the Governing Documents; and
- (e) Any other expenditures or charges which the Board, in its reasonable and sole discretion, chooses to allocate to a Lot and is reasonably determined to be allocable to a particular Lot.

Section 6.5 Application of Payments.

All sums collected on a delinquent account referred to an attorney shall be remitted to the Association's attorney until the account is brought current. All payments received on an account of any Owner or the Owner's Lot shall be applied to payment of any and all legal fees and costs (including attorney fees), expenses of enforcement and collection, late fees, returned check fees, lien fees and other costs owing or incurred with respect to such Owner pursuant to the Governing Documents, prior to application of the payment to any special or regular Assessments due or to become due with respect to such Owner.

Section 6.6 Effect of Non-Payment of Assessments.

- (a) Any Assessment, charge or fee provided for in this Declaration, or any monthly or other installment thereof, which is not fully paid within 30 days after the due date thereof, as established by the Board of Directors, shall bear interest at the rate established by the Board of Directors, on a per annum basis to accrue monthly, from the due date, and the Association may assess a reasonable late fee thereon as determined by the Board of Directors.

(b) Failure to make payment within 90 days of the due date thereof shall, at the option of the Board, cause the total amount of such Owner's Common Expense Assessment for the remainder of that fiscal year to become immediately due and payable. The Board may, in its discretion, decelerate the Member's annual Assessment.

(c) Further, the Association may foreclose its lien and/or bring an action at law or in equity, or all of the same, against any Owner personally obligated to pay such overdue Assessments, charges or fees, or monthly or other installments thereof. An action at law or in equity by the Association against an Owner to recover a money judgment for unpaid Assessments, charges or fees, or monthly or other installments thereof, may be commenced and pursued by the Association without foreclosing, or in any way waiving the Association's lien therefor. Likewise, the obtaining of a money judgment shall not preclude the foreclosure of the Association's lien so long as the judgment remains unsatisfied.

(d) Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to estop or otherwise preclude the Association from thereafter again foreclosing or attempting to foreclose its lien for any subsequent Assessment, charges or fees, or monthly or other installments thereof, which are not fully paid when due. The Association shall have the power and right to bid on or purchase any Lot at foreclosure or other legal sale, and to acquire and hold, lease, mortgage, convey or otherwise deal with the same. If a foreclosure action is filed to foreclose any Assessment lien, and an Owner abandons or leaves vacant his or her Lot, the Board may take possession and rent said Lot or apply for the appointment of a receiver for the Lot without prior notice to the Owner. The rights of the Association shall be expressly subordinate to the rights of any holder of a first lien security interest as set forth in its deed of trust or mortgage (including any assignment of rents), to the extent permitted under the Act.

Section 6.7 Lien Priority.

The lien of the Association under this Section is prior to all other liens and encumbrances on a Lot except: (1) liens and encumbrances recorded before the recordation of the Declaration; (2) a first lien security interest on the Lot (except as allowed by the Act with regard to the limited lien priority allowed to the Association); and (3) liens for real estate taxes and other governmental assessments or charges against the Lot.

This Section does not affect the priority of mechanics' or materialmen's liens. The lien of the Association under this Article is not subject to the provision of any homestead exemption as allowed under state or federal law. The acceptance of a deed to a Lot subject to this Declaration shall constitute a waiver of the homestead exemption as against said Assessment lien.

Sale or transfer of any Lot shall not affect the lien for said Assessments or charges except that sale or transfer of any Lot pursuant to foreclosure of any first lien security interest, or any proceeding in lieu thereof, including deed in lieu of foreclosure, or cancellation or forfeiture shall only extinguish the lien of Assessment charges as provided by applicable state law. No such sale, transfer, foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure,

nor cancellation or forfeiture shall relieve any Lot from continuing liability for any Assessment charges thereafter becoming due, nor from the lien thereof.

ARTICLE 7 USE RESTRICTIONS

Section 7.1 Flexible Application of the Subsequent Covenants and Restrictions.

All Lots within the Glenwood Gardens Community shall be held, used and enjoyed subject to the following limitations and restrictions. The strict application of the following limitations and restrictions in any specific case may be modified or waived, in whole or in part, by the Board of Directors or by an appropriate committee (subject to review by the Board of Directors) if such strict application would be unreasonable or unduly harsh under the circumstances. Any such modification or waiver must be in writing.

Section 7.2 Authority.

All provisions of the Governing Documents shall apply to Owners and their guests, tenants, invitees and licensees. Owners and their successors and assigns, by acceptance of a deed to their Lot, acknowledge that they have been given notice, and that:

- (a) The ability of Owners to use their Townhouses or Lots may be limited by the provisions in the Governing Documents.
- (b) The Board may, from time to time, adopt and amend reasonable definitions of words, phrases and terms used in this Declaration and other Governing Documents.
- (c) The Board may establish penalties for the infraction of all regulations and Owners will be responsible for fines assessed against their tenants, guests and invitees for violations of the restrictions.
- (d) All fines imposed are collectable as Assessments.

Section 7.3 Use/Occupancy.

All Lots within the Community shall be used only for those uses and/or purposes as allowed by the local zoning, control and regulation, and permitted by this Declaration, subject to any Rules and Regulations adopted by the Association. Lots shall not be used for any purpose other than a residential dwelling except as set forth in this Section. Home occupations shall be allowed so long as the home occupations are incidental and secondary to the use of the Lot and do not change the residential character thereof, comply with local zoning ordinances and regulations, and comply with this Declaration.

External advertising of any kind is prohibited. In no instance shall a home occupation be visible externally, nor shall any home occupation employ any person other than the Owner. Uses which have one or more of the following characteristics are not permitted: (a) manufacturing or fabrication of any kind; (b) storage of hazardous materials; (c) increased traffic or parked

vehicles beyond that reasonable and customary to a residential dwelling use; (d) permanent or long term parking of heavy equipment, including semi-trailers; (e) the use or rental of any structure on a Lot for any transient, hotel, motel, bed and breakfast, restaurant, bar or other commercial purposes.

Section 7.4 Leasing and Occupancy.

No Townhouse shall be leased for any period of less than 30 days.

Within 10 days after executing a lease agreement for the lease of a Townhouse, the Owner shall provide the Board with the name of the lessee and all other people occupying the Townhouse. The Owner must provide the lessee copies of the Declaration, Bylaws, and the Rules and Regulations.

The Owner shall cause all occupants of his or her Townhouse to comply with the Governing Documents, and shall be responsible for all violations by such occupants, notwithstanding the fact that such occupants of the Townhouse are fully liable and may be sanctioned for any such violation. If the lessee, or a person living with the lessee, violates the Governing Documents for which a fine is imposed, notice of the violation shall be given to the Owner and the lessee. The fine may be assessed against the Owner after notice and an opportunity for hearing. Unpaid fines shall constitute a lien against the Lot.

Section 7.5 Acquisition of Multiple Units.

No Owner may own or control more than two Lots in the Community, directly or indirectly through an affiliate of the Owner, whether through purchase, trade, gift, inheritance, lease, merger, consolidation or other means of acquisition. Notwithstanding anything in this Declaration to the contrary, this restriction on acquisition of Lots shall not apply to a mortgagee acquiring title to a Lot subject to a mortgage by foreclosure or deed in lieu of foreclosure. This restriction shall be enforceable by the Association or any Owner by means of an action for injunction to restrain any future acquisition or to require an Owner who has violated this restriction to divest any interest so acquired.

Section 7.6 Restrictions on Pets.

A reasonable number of Pets per Lot, which may be defined in the Rules and Regulations, may be kept in a Townhouse, if the Pet(s) is/are not a nuisance to other residents and as long as the Pet is permitted under City ordinance. No resident shall maintain or keep any Pet which, in the sole discretion of the Board, is considered to be a danger to the Owners, management staff or residents in the Community or is otherwise considered to be a dangerous breed, as may be further defined in the Rules and Regulations. If a Pet is deemed a nuisance by the Association, the resident having control of the Pet shall be given a written notice to correct the problem and if not corrected, that resident will be required to remove the Pet from the Community pursuant to, and in accordance with, any dispute resolution procedures as may be set forth in this Declaration or the Rules and Regulations, if any.

Pets may not be kept for any commercial purposes. When on Common Area, Pets must be on a leash and under control. Feces left by Pets upon the Common Area must be removed promptly by the owner of the Pet or the person responsible for the Pet. Owners shall hold the Association harmless from any claim resulting from any action of their Pets or the Pets of their tenants, guests or other invitees.

Section 7.7 Antennae.

"Permitted Antennas" are defined as (a) an antenna which is less than one meter in diameter and is used to receive direct broadcast satellite service, including direct-to-home satellite services, or is used to receive or transmit fixed wireless signals via satellite; (b) an antenna which is less than one meter in diameter and is used to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instruction television fixed services, and local multipoint distribution services or is used to receive or transmit fixed wireless signals other than via satellite; (c) an antenna which is designed to receive broadcast television broadcast signals; or (d) other antennas which are expressly permitted under applicable federal statutes or regulations.

In the event a Permitted Antenna is no longer expressly permitted under applicable federal statutes or regulations, such antenna will no longer be a Permitted Antenna for purposes of this Section.

Permitted Antennas shall be installed in the least conspicuous location available on a Lot which permits acceptable signals, without unreasonable delay or increase in the cost of installation, maintenance or use of the Permitted Antenna. The Association may adopt rules regarding location and installation of Permitted Antennas, subject to limitations of applicable federal law. Except as allowed by federal statutes and regulation, no exterior television or any other antennae, microwave dish, satellite dish, satellite antenna, satellite earth station or similar device of any type shall be erected, installed or maintained on a Lot.

Section 7.8 Tanks.

No propane gas tanks larger than five (5) gallons are permitted within 10 feet of a flammable surface of a building.

Section 7.9 Nuisances.

No nuisance shall be permitted within the Community, nor any use, activity or practice which is the source of unreasonable annoyance or embarrassment to, or which unreasonably offends or disturbs, any Owner or which may unreasonably interfere with the peaceful enjoyment or possession or the proper use of a Lot, Townhouse or any Common Area, or any portion of the Community by residents. Further, no improper, offensive or unlawful use shall be permitted within the Glenwood Gardens Community or any portion thereof. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction over the Community or a portion thereof shall be observed.

Section 7.10 Vehicular Parking, Storage, and Repairs.

(a) Parking upon any Common Area, including any Common Area carports, shall be regulated by the Association. Regulation may include the assignment of carports and other such parking spaces to specific Units.

(b) The following may not be parked or stored within the Community, including the Common Area private streets, unless such parking or storage is authorized in writing by the Association or is otherwise exempted by Colorado law: oversized vehicles, pickup trucks over 1 ton, trailers (including camping trailers, boat trailers, hauling trailers), boats or other motor-craft and accessories thereto, self-contained motorized recreational vehicles, or other oversized types of vehicles or equipment as prohibited by rule or regulation. The foregoing may be parked as a temporary expedience for loading or delivery of goods or services; provided, however, that overnight parking is prohibited. This restriction shall not apply to trucks temporarily located within the Community which are necessary for construction or for the maintenance of any Common Area, Lots, or any improvement located thereon.

(c) No abandoned, unlicensed or inoperable automobiles or vehicles of any kind shall be stored or parked on a Lot or within the Community unless parked or stored within a garage. An "abandoned or inoperable vehicle" shall be defined by Colorado statutes governing inoperable, unlicensed or abandoned vehicles on public streets, or as defined by rule or regulation adopted by the Association.

(d) No motor vehicle may impede the safe and efficient use of streets within the Community by residents, obstruct emergency access to/from the Community or interfere with the reasonable needs of other residents to use their driveway, streets, or guest parking within the Community.

(e) No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting, or servicing of any kind of vehicle, trailer or boat, may be performed or conducted in the Community.

(f) Parking in fire lanes (as designated by the Association or as designated by local government or a local fire protection authority) shall not be permitted.

(g) If any vehicle is parked on any portion of the Community in violation of this Section or in violation of the Association's Rules and Regulations, the Board may place a notice on the vehicle specifying the nature of the violation and stating that after 72 hours the vehicle may be towed or booted. The notice shall include the name and telephone number of a person to contact regarding the alleged violation. A notice also shall be conspicuously placed at the Community stating the name and telephone number of the person or entity which will do the towing and/or booting hereunder. If 72 hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within six months of such notice, the vehicle may be towed or booted in accordance with the notice, without further notice to the vehicle owner or user, and the owner thereof shall be solely responsible for all towing and storage charges.

(h) If a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's or occupant's Lot or Townhouse, is obstructing the flow of traffic, is parked on any grassy area, is parked in a space which has been assigned as exclusively serving another Lot, or otherwise creates a hazardous condition, no notice shall be required and the vehicle may be towed or booted immediately.

(i) If a vehicle is towed or booted in accordance with this Section, neither the Association nor any officer or agent of the Association shall be liable to any person for towing and storage costs or for any claim of damage as a result of the towing or booting activity. The Association's right to tow or boot is in addition to, and not in limitation of all other rights of the Association, including the right to assess fines. Notwithstanding anything to the contrary in this Section, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow or boot.

Section 7.11 Use of Common Area.

There shall be no obstruction of any Common Area, nor shall anything be kept or stored on any part of any Common Area without the prior written approval of the Association. Nothing shall be altered on, constructed in, or removed from any Common Area without the prior written approval of the Association.

Section 7.12 No Annoying Lights, Sounds or Odors.

No light shall be emitted from any portion of the Community which is unreasonably bright or causes unreasonable glare, and no sound or odor shall be emitted from any portion of the Community which would reasonably be found by others to be noxious or offensive. Without limiting the generality of the foregoing, no exterior spot lights, searchlights, speakers, horns, whistles, bells or other light or sound devices shall be located or used on any portion of the Community except with the prior written approval of the Association.

Section 7.13 No Hazardous Activities.

No activity shall be conducted on and no improvement shall be constructed on any Property within the Community which is 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 Property within the Community. No open fires shall be lighted or permitted on any Property within the Community except in a contained barbeque unit while attended and in use for cooking purposes or within an interior or exterior fireplace designed to prevent dispersal of burning embers unless otherwise prohibited by governmental ordinances. No Owner or Owners shall permit any condition on his Lot or Lots which creates a fire hazard or is in violation of applicable fire prevention regulations

Section 7.14 Restrictions on Clotheslines and Storage.

Except for retractable clotheslines which comply with reasonable aesthetic regulations adopted by the Board and except as otherwise permitted by Colorado law, no non-retractable

clotheslines, drying areas or yards, shops, equipment, storage or storage areas shall be installed, allowed, kept, maintained or permitted on any Lot.

Section 7.15 Restriction on Signs and Advertising Devices.

Except as provided in this Section, no sign, poster, billboard, advertising device or display of any kind shall be erected or maintained anywhere on a Lot except such sign or signs as may be approved in writing by the Association. Political signs, which are signs intended to impact the outcome of an election or ballot issue must be displayed in accordance with the Association's Rules and Regulations, if any. One professionally lettered "For Sale" or "For Rent" sign may be displayed inside a window of a Lot.

Section 7.16 Outbuildings.

An "outbuilding" shall mean an enclosed or covered structure not directly attached to the dwelling it serves. No outbuilding or temporary structure, including sheds, playhouses, trailers, mobile homes, tents, shacks, barns, swing sets, detached garages or carports, shall be allowed on any Lot. Further, no outbuilding or temporary structure shall be used on any Lot at any time for residential purposes, either temporarily or permanently.

Section 7.17 Trash Removal Restriction.

All garbage, refuse, rubbish, or cuttings must be placed in marked containers in designated disposal areas.

Section 7.18 Smoking Prohibition.

(a) **Definitions.** For the purposes of this Section, the following terms shall be defined as follows:

(i) "Smoking" shall mean and include the inhaling, exhaling, burning or carrying of any lighted cigarette, cigar or other tobacco product, marijuana or any other legal or illegal substance.

(ii) "Business Invitee" shall mean and include, but not be limited to, any contractor, agent, household worker or other person hired by the Owner, tenant or resident to provide a service or product to the Owner, tenant or resident.

(b) **Smoking Prohibition.** No Owner, guest, family member, tenant, resident, business invitee or visitor shall smoke cigarettes, cigars, other tobacco products and/or any other legal or illegal substance outside, within 25 feet of any window or door.

(c) **Disclosure Requirement.** Any Owner who rents his or her Townhouse or otherwise allows someone other than the Owner to reside within or occupy the Townhouse shall disclose to all persons residing within the Townhouse that smoking within 25 feet of any window or door is prohibited in the Community prior to their residency or occupancy.

(d) **Enforcement.** Each Owner is responsible for the actions of all other persons residing within or visiting his or her Lot and shall be subject to disciplinary action or a court action for an injunction, or any remedies available under this Declaration or State law, for violation of this Section. This Section may be enforced in a court of law by any Owner, resident or the Association. Any and all fees and costs incurred by the Association as a result of enforcing this Section shall be recoverable by the Association and may be collected as an Assessment under the terms of this Declaration.

(e) **Rules and Regulations.** The Board of Directors shall have the authority and power to enact Rules and Regulations which it deems necessary to enforce this restriction, including a schedule of fines which may be imposed after notice and opportunity for hearing.

Section 7.19 Restriction on Mining and Drilling.

No Property within the Community shall be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing oil, gas, or other hydrocarbons, minerals, rocks, stones, gravel or earth.

Section 7.20 Rules and Regulations.

In furtherance of the provisions of this Declaration, and the general plan, Rules and Regulations concerning and governing the Community or any portion thereof may be adopted, amended, or repealed from time to time by the Board of Directors. The Board of Directors may establish and enforce penalties for the infraction thereof.

Section 7.21 Compliance with Governing Documents.

Each Owner and occupant shall comply strictly with the provisions of this Declaration, the Articles of Incorporation, Bylaws, and the Rules and Regulations of the Association, as amended.

Section 7.22 Subdivision and Combination of Lots.

Subdivision of a Lot and combination of Lots is not permitted.

Section 7.23 No Imperiling of Insurance.

Nothing shall be done or kept in or on any portion of the Property which might result in an increase in the premiums with respect to insurance obtained for all or any portion of the Property or which might cause cancellation of such insurance.

Section 7.24 Compliance With Other Laws.

No improper, offensive or unlawful use shall be permitted within the Community or any portion thereof. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction over the Community or a portion thereof shall be observed.

Section 7.25 Use of the Words Glenwood Gardens.

No resident or Owner shall use the words Glenwood Gardens or Glenwood Gardens Phase 1 Homeowners Association or the logo of the Community or Association, if any, or any derivative thereof, in connection with any goods, materials or services, the use of which is likely to cause confusion, mistake or deception as to the source or origin of such goods, materials or services, without the prior written consent of the Association.

ARTICLE 8 ARCHITECTURAL APPROVAL/DESIGN REVIEW

Section 8.1 Required Approval.

No structures, including residences, outbuildings, accessory buildings, tennis courts, swimming pools, antennas (except as otherwise permitted under this Declaration), flags and flag poles (except as otherwise permitted by the Act), fences, walls, exterior lighting, landscaping, or any other improvements shall be constructed, erected, relocated, removed or installed on a Lot.

Nor shall any alteration or change to the exterior of the improvements, the exterior of a Townhouse, to a Lot or to any structure or any attachment to the exterior of a residence (including paint, awnings, patios, decks, house numbers, or shutters) be commenced unless complete plans and specifications shall have been first submitted to and approved in writing by the Architectural Review Committee ("Committee") as may be outlined in the Rules and Regulations.

No alteration, addition or change to the interior of the Townhouse that affects the exterior appearance of the Townhouse, including but not limited to the installation of burglar bars, window coverings that detract from the conformity and harmony of the neighboring structures, and signage, shall be commenced without prior Committee approval.

The Committee may require that applications of Owners and their plans and specifications show exterior design, height, materials, color, location of the structure or addition to the structure or proposed improvement (plotted horizontally and vertically), location and size of driveways, walls, windbreaks and grading plan, as well as such other materials and information as may be required by the Committee.

Section 8.2 Acknowledgment of Owners.

Owners acknowledge, accept and agree to the following:

- (a) Owners will not commence construction or installation of an improvement until they have submitted improvement plans and specifications and received written approval from the Committee;
- (b) Owners shall immediately comply with any request by the Association for additional information relating to an improvement prior to the Committee's approval of a request and/or prior to the completion of an improvement. Failure to comply with such a request by an Owner shall result in the withdrawal of Committee approval, if previously granted;
- (c) Committee approval does not constitute approval of the local building or zoning department, drainage design or structural soundness;
- (d) Owners, by submitting an application for approval, hereby certify: (i) they will construct or modify improvements located only on their own Lot or upon Property which they have permission to construct, modify or improve; and (i) they will not violate any easements, rights-of-way, or other rights appurtenant to such Property.
- (e) Owners shall notify the Committee of completion of the improvement's installation or construction within a reasonable period of time of such completion;
- (f) Upon completion of an improvement, Owners authorize the Committee or its representative(s) to enter onto the Lot for exterior inspection;
- (g) Failure of an Owner to notify the Committee of completion of an approved improvement, or refusal to allow inspection, shall result in the withdrawal of the Committee's approval;
- (h) If the improvement as built does not conform to the improvement as approved by the Committee, the Committee's approval will be deemed withdrawn, and upon written request of the Committee, Owners shall, at their own expense and cost, promptly bring the improvement into compliance with the submitted and approved plans and specifications;
- (i) In the event of withdrawal of Committee approval for any reason(s) cited in this Section, and upon written request from the Committee, the Owner, at his or her expense and cost, shall promptly restore the Lot to substantially the same condition as it existed prior to commencement of the improvement's installation or construction, and such withdrawal will be deemed to toll the statute of limitations as it pertains to the improvement until such time as the improvement is brought into compliance.

Section 8.3 Architectural Criteria.

The Committee shall exercise its reasonable judgment to the end that all attachments, improvements, construction, landscaping and alterations to improvements on a Lot or landscaping of a Lot shall comply with the requirements set forth in this Declaration. The

approval or consent of the Committee on matters properly coming before it shall not be unreasonably withheld, and actions taken shall not be arbitrary or capricious.

Approval shall be based upon, but not limited to, conformity and harmony of exterior appearance of structures with neighboring structures, effect of location and use of improvements on nearby Lots, preservation of aesthetic beauty, and conformity with the specifications and purposes generally set forth in this Declaration. Upon its review of such plans, specifications and submittals, the Committee may require that the applicant(s) reimburse the Committee for actual expense incurred by it in its review and approval process. The Committee may further require the payment of a fee to accompany all plan submissions.

Section 8.4 Establishment of the Committee.

The Committee shall consist of a minimum of three members appointed by the Board of Directors. If no Committee is appointed, the Board of Directors shall act as the Committee. The Board shall have the authority to remove any members of the Committee at their sole discretion.

Section 8.5 Architectural Guidelines.

The Committee may propose architectural guidelines from time to time, which guidelines may be approved by the Board of Directors and included in or with any Rules and Regulations of the Association. Such guidelines may address variances, waiver of approval requirements, height, material, color and other specifications for certain improvements, additional criteria for approval, requirements for construction, and additional provisions regulating the receipt, review and response to applications.

Section 8.6 Reply and Communication.

The Committee shall reply to all submittal of complete plans made in accordance herewith in writing within 60 days after receipt. In the event the Committee fails to take any action on submitted plans and specifications within 60 days after the Committee has received the plans and specifications, approval shall be deemed to be approved; provided, however, nothing in this Section shall authorize anyone to construct or maintain any structure or improvement that is otherwise in violation of this Declaration, the Rules and Regulations or any architectural guidelines adopted by the Board. All communications and submittals shall be addressed to the Committee in care of the Association.

Section 8.7 Condition of Approval.

In the discretion of the Board or the Committee, an Owner may be required to enter into a written agreement establishing the approval of an application in recordable form acknowledged by such Owner on behalf of himself or herself and all successors-in-interest. As a condition of approval for a requested architectural change, modification, addition or alteration, an Owner, on behalf of himself or herself and his or her successors-in-interest affirms and shall assume, unless otherwise agreed in writing, all responsibilities for maintenance, repair, replacement and insurance to and on such change, modification, addition or alteration.

Section 8.8 Commencement and Completion of Construction.

All improvements approved by the Committee must be commenced within one year from the date of approval. If not commenced within such time, then such approval shall be deemed revoked by the Committee, unless the Committee gives a written extension for commencing the work. Additionally, except with written Committee approval otherwise, and except for delays caused by strikes, fires, national emergencies, critical materials shortages or other intervening forces beyond the control of the Owner, all work approved by the Committee shall be completed within 6 months of commencement, subject to extensions that may be requested in writing and granted at the discretion of the ARC.

Section 8.9 Variances.

The Committee may grant reasonable variances or adjustments from any conditions and restrictions imposed under this Article when circumstances including but not limited to topography, natural obstructions, hardship, aesthetic or environmental considerations may require; provided, however a majority of the Board must approve such variance.

Section 8.10 Right to Appeal.

If the Board of Directors is not acting as the Committee, an Owner whose plans have been disapproved or conditionally approved may appeal any decision of the Committee to the Board of Directors. The Board of Directors shall review the decision of the Committee pursuant to the criteria set forth in this Article and the architectural guidelines. Any decision of the Committee may be overruled and reversed on appeal by a majority of the directors by a written decision setting forth the reasons for the reversal when the directors conclude that the Committee's decision was inconsistent with the criteria set forth in this Article and/or the guidelines.

Section 8.11 Waivers.

The approval or consent of the Committee, or appointed representative thereof, to any application for architectural approval shall not be deemed to constitute a waiver of any right to hold or deny approval or consent by the Committee as to any application or other matters subsequently or additionally submitted for approval or consent.

Section 8.12 Liability.

The Committee and the members thereof, as well as any representative of the Board designated to act on its behalf, shall not be liable in damages to any person submitting requests for approval or to any approval, or failure to approve or disapprove in regard to any matter within its jurisdiction under these covenants.

The Committee shall not bear any responsibility for ensuring structural integrity or soundness of approved construction or modifications, or for ensuring compliance with building codes and other governmental requirements. The Association will not make any investigation into title, ownership, easements, rights-of-way, or other rights appurtenant to Property with respect to architectural requests and shall not be liable for any disputes relating to the same.

ARTICLE 9 INSURANCE

Section 9.1 Insurance to be Carried by the Association.

The Association shall obtain and maintain in full force and effect to the extent reasonably available, and at all times, the insurance coverage set forth in this Declaration, which insurance coverage shall be provided by financially responsible and able companies duly authorized to do business in the State of Colorado. All insurance purchased by the Association shall be purchased from companies with ratings of "A" or better, to the extent that insurance is available at reasonable cost to the Association through such companies.

Section 9.2 Real Property Insurance on the Townhouses and Common Areas.

(a) The Association shall obtain insurance providing all risk coverage or the nearest equivalent available for the full replacement cost, without deduction for depreciation, for all insurable improvements located on the Common Areas, the Townhouses, and the other property of the Association, as further clarified in **Exhibit B** of this Declaration, regardless of ownership.

(b) If the Board of Directors changes policies so that a lesser level of coverage is provided, the Board shall notify all Owners in writing at least 10 days prior to the commencement of the policy with reduced coverage.

(c) All policies shall contain a standard non-contributory mortgage clause in favor of each first mortgagee, and their successors and assigns, which shall provide that the loss, if any thereunder, shall be payable to the Association for the use and benefit of such first mortgagee, and their successors and assigns, as their interests may appear of record in the records of the office of the Clerk and Recorder of Boulder County.

(d) The Association may also obtain any additional endorsements which it deems advisable and in the best interests of the Community by the Board of Directors.

(e) The insurance described in this Section shall be inflation coverage insurance, if such insurance is available, which shall at all times represent 100% of the replacement value of all facilities in the Common Area except land, foundation, excavation and other items normally excluded from coverage and except for any deductible provisions as permitted under this Article.

(f) At least every three years, the Association may obtain an appraisal for insurance purposes which shall be maintained as a permanent record showing that the insurance in any year represents 100% of the replacement value of each Townhouse and the facilities in the Common Area.

(g) The Association's insurance policy may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance equals at least the replacement cost of the insured property.

Section 9.3 Association Flood Insurance.

The Association shall obtain flood insurance to the extent required by the Federal Emergency Management Agency (FEMA) or any other governmental agency.

Section 9.4 Liability Insurance.

The Association shall obtain a comprehensive policy of public liability and property damage liability insurance covering all of the Townhouses (excluding liability within each Townhouse) and the Common Areas, including structural coverage of the Townhouses, in such limits as the Board may from time to time determine, but not in any amount less than a combined single limit of \$1,000,000.00, and in all cases covering all claims for bodily injury or property damage.

Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance and other uses of the Lots and the Common Area. The foregoing liability insurance shall name the Association as the insured.

Section 9.5 Fidelity Insurance.

The Association shall obtain fidelity coverage or fidelity bonds to protect against dishonest acts on the parts of its officers, directors, trustees, volunteers and employees and on the part of all others who handle or are responsible for handling the funds of the Association, including persons who serve the Association with or without compensation. The clause "officers, directors, trustees and employees" shall not include any officer, director, agent or employee of any independent, professional manager or managing agent heretofore or hereafter employed by the Association.

The fidelity coverage or bonds should be in an amount sufficient to cover the maximum funds that will be in the control of the Association, its officers, directors, trustees and employees, as required by law. If the Association retains a Managing Agent, the Managing Agent shall be required to provide such fidelity insurance covering itself and its employees and naming the Association as the loss payee.

Section 9.6 Workers Compensation.

The Association shall obtain and maintain workers' compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association in the amounts and in forms now or hereafter required by law.

Section 9.7 Director and Officer Liability Insurance.

The Association shall purchase directors' and officers' insurance in an amount reasonably necessary to protect the directors and officers.

Section 9.8 Other Insurance.

The Association may obtain insurance against such other risks, of similar or dissimilar nature as it shall deem appropriate with respect to the Association's responsibilities and duties.

Section 9.9 Miscellaneous Terms Governing Insurance Carried by the Association.

The Association shall maintain, to the extent reasonably available and necessary, policies with the following terms or provisions:

(a) All policies of insurance shall provide that each Owner is an insured under the policy with respect to liability arising out of such Owner's membership in the Association.

(b) All policies of insurance shall contain waivers of subrogation against any Owner or member of his or her household.

(c) All policies of insurance shall contain waivers of any defense based on invalidity arising from any acts of an Owner and shall provide that such policies may not be canceled or modified without at least 45 days prior written notice to all of the Owners, holders of First Mortgages and the Association.

(d) If requested, certificates of insurance and renewals thereof, together with proof of payments of premiums, shall be delivered to all First Mortgagees at least 10 days prior to expiration of the then current policies.

(e) All liability insurance shall be carried in blanket form naming the Association, the Board, the manager or managing agent, if any, and the officers of the Association, as insureds.

(f) Prior to renewing casualty insurance and not less than every three years, pursuant to the provisions hereof, the Board may obtain an appraisal from a duly qualified real estate or insurance appraiser, which appraiser shall reasonably estimate the full replacement cost of the Townhouses and the Common Area, without deduction for depreciation, review any increases in the cost of living, and/or consider other factors, for the purpose of determining the amount of the insurance to be effected pursuant to the provisions hereof. In no event shall any casualty insurance policy contain a co-insurance clause.

(g) All policies of insurance of the Association shall be primary, providing the primary insurance of the loss, if there is other insurance in the name of the Owner.

(h) All policies of insurance shall provide that the insurance thereunder shall not be invalidated, suspended, voidable or have any condition of recovery due to an act or omission by any Owner, only in respect to the interest of any particular Owner guilty of a breach of warranty, act, omission, negligence or non-compliance of any provision of such policy, including payment of the insurance premium applicable to the Owner's interest, or

who permits or fails to prevent the happening of any event, whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy, but the insurance under any such policy, as to the interests of all other insured Owners not guilty of any such act or omission, shall not be invalidated or suspended and shall remain in full force and effect.

Section 9.10 Insurance Obtained by Owners.

Each Owner shall be responsible for maintaining insurance which covers his Lot and Townhouse thereon to the extent not covered by policies maintained by the Association, as further clarified in Exhibit B of this Declaration. Such insurance shall include, but may not be limited to, furnishings and personal or other property in the Townhouse and liability insurance for injury, death or damage in the Townhouse or upon the Lot. Any such policy shall contain waivers of subrogation and shall be so written that the liability of the carriers issuing insurance obtained by the Association shall not be affected or diminished thereby.

Section 9.11 Insurance Premium.

Except as assessed in proportion to risk, insurance premiums for the above provided insurance shall be a Common Expense to be included as a part of the annual Assessments levied by the Association.

Section 9.12 Managing Agent Insurance.

The manager or managing agent, if any, shall be insured for the benefit of the Association, and shall maintain and submit evidence of such coverage to the Association, including professional liability or errors and omissions insurance, workers' compensation, unemployment and fidelity coverage.

Section 9.13 Waiver of Claims Against Association.

As to all policies of insurance maintained by or for the benefit of the Association and Owners, the Association and the Owners hereby waive and release all claims against one another and the Board, to the extent of the insurance proceeds available, whether or not the insurance damage or injury is caused by the negligence of or breach of any agreement by these persons.

Section 9.14 Adjustments by the Association.

Any loss covered by an insurance policy described above shall be adjusted by the Association, and the insurance proceeds for that loss shall be payable to the Association, and not to any first mortgagee. The Association shall hold any insurance proceeds in trust for the Association, Owners and first mortgagees as their interests may appear. The proceeds must be distributed first for the repair or restoration of the damaged property, and the Association, Owners and first mortgagees are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the damaged property has been completely repaired or restored. If the insurance proceeds are insufficient to cover the cost of repair or reconstruction,

the Association may levy a Special Assessment to cover the short fall (or deductible) pursuant to this Declaration.

Section 9.15 Duty to Repair.

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

Section 9.16 Condemnation and Casualty Insurance Allocations and Distributions.

In the event of a distribution of condemnation proceeds or hazard insurance proceeds to the Owners, the distribution shall be to the parties as their interests and rights are determined or allocated by record or as set forth in the Act.

Section 9.17 Responsibility for Payment of Deductible Amount.

Whether the Board, in its discretion, chooses to submit a claim under the Association insurance policies or not, the payment of the deductible amount for claims which the Association is responsible for insuring shall be as follows:

(a) The Association shall pay or absorb the deductible amount for any work, repairs or reconstruction for damage to Common Area unless the damage is the liability of an Owner, his family, guests, or invitees, as set forth in this Declaration, in which case the Association shall seek reimbursement of the deductible amount as an Assessment in compliance with and under the terms of this Declaration.

(b) The Owner shall pay or absorb the deductible for any loss to the Townhouse or Lot that would be the responsibility of the Owner in the absence of insurance unless: (i) the loss is caused by the negligent or willful act or omission of the Association or another Owner, in which case the negligent party shall be responsible for the deductible, or (ii) the loss is caused by the failure of another Owner's Lot or improvement thereon, including any appliance, equipment, or fixture in a Lot, which that Owner is responsible to maintain in good working order and condition, in which case the Owner whose Lot or improvement thereon has failed will be responsible for the deductible. If a negligent Owner or Owner who fails to maintain their lot as provided in this Declaration fails to pay the deductible for damage to a Townhouse or Lot, the Association may, but shall not be obligated to seek the deductible on behalf of the Owner suffering the loss as provided in this Declaration for the collection of Assessments.

(c) If a Lot or Party Wall is damaged, then the Owner of that Lot or the Owners sharing the Party Wall shall have primary responsibility, either directly or through his insurance company, for handling and paying for, any work, repairs, reconstruction or replacement.

Section 9.18 Insurance Assessments.

If the proceeds of insurance are not sufficient to defray the costs of reconstruction and repair due to deductibles allocated to the Association or failure of the Association to maintain coverage to defray costs of repair and reconstruction which in the absence of insurance would be the maintenance responsibility of the Association, the deductible or additional cost shall be a Common Expense. This Assessment shall not be considered an Assessment as discussed in this Declaration and shall not require any vote or ratification of the Owners.

Section 9.19 Association as Attorney-in-Fact.

Each Owner hereby irrevocably appoints the Association as the Owner's true and lawful attorney-in-fact for the purposes of dealing with any improvements covered by insurance written in the name of the Association pursuant to this Article upon their damage or destruction as provided in this Declaration, or a complete or partial taking or condemnation as provided in this Declaration.

Acceptance by a grantee of a deed or other instrument of conveyance conveying any portion of the Property shall constitute appointment of the Association as the grantee's attorney-in-fact, and the Association shall have full authorization, right, and power to make, execute, and deliver any contract, assignment, deed, waiver, or other instrument with respect to the interest of any Owner which may be necessary to exercise the powers granted to the Association as attorney-in-fact. Furthermore, if so requested, an Owner shall execute a separate instrument specifically setting forth this appointment.

Section 9.20 Payment of Claims to Delinquent Owners.

Notwithstanding anything to the contrary in this Declaration, the event of an insured loss under the Association's master hazard insurance policy for which the Association receives from the insurer payment for a loss sustained by an Owner who is delinquent in payment of Assessments owed to the Association under this Declaration hereof, then the Association may retain and apply such proceeds recovered to the delinquency. Any surplus remaining after application of the proceeds to any delinquency shall be paid by the Association to the affected Owner.

ARTICLE 10 MISCELLANEOUS AND GENERAL PROVISIONS

Section 10.1 Compliance and Enforcement.

(a) Every Owner and occupant of a Lot shall comply with the Governing Documents, and each Owner shall have the right to enforce the covenants and restrictions, as set forth in this Declaration.

(b) The Association may enforce all applicable provisions of this Declaration, and may impose sanctions for violation of the Governing Documents. Such sanctions may include, without limitation:

- (i) imposing reasonable monetary fines, after notice and opportunity for a hearing, which fine shall constitute a lien upon the violator's Lot;
 - (ii) suspending the right to vote or use Common Area;
 - (iii) exercising self-help or taking action to abate any violation of the Governing Documents;
 - (iv) requiring an Owner, at the Owner's expense, to remove any structure or improvement on such Owner's Lot in violation of the Governing Documents and to restore the Lot to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass, with all fees and costs in connection with such removal and restoration to be assessed to the Owner as an Assessment under the terms of this Declaration;
 - (v) without liability to any person, the Association precluding any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Declaration from continuing or performing any further activities in the Community;
 - (vi) levying specific Assessments to cover costs incurred by the Association to bring a Lot into compliance with the Governing Documents; and
 - (vii) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.
- (c) In addition to any other enforcement rights, if an Owner fails to properly perform his or her maintenance responsibility, or otherwise fails to comply with the Governing Documents, the Association may record a notice of violation or perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot and the Owner as a specific Assessment. The Association shall provide the Owner reasonable notice and an opportunity to cure the problem prior to taking such enforcement action.
- (d) All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, the prevailing party shall be entitled to recover all costs, including, without limitation, attorney fees and court costs, reasonably incurred in such action.
- (e) The decision of the Association to pursue enforcement action in any particular case shall be left to the Board's discretion, subject to the duty to exercise judgment and be reasonable, as provided for in this Declaration, and further restricted in that the Board shall not be arbitrary or capricious in taking enforcement action.

Section 10.2 Term of Declaration.

The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity.

Section 10.3 Covenants to Run.

All of the covenants, easements, servitudes and provisions contained in this Declaration shall be a burden on the title to all of the lands within the Property, and the benefits thereof shall inure to the owners of all of the lands within the Property.

Section 10.4 Termination.

Termination of this Common Interest Community shall be in accordance with the Act.

Section 10.5 Attorney Fees.

If an Owner fails to pay any Assessment or any other amount due to the Association as provided in this Declaration, the Association may require reimbursement for reasonable attorney fees and costs, without the necessity of commencing a legal proceeding. If an Owner or an Owner's family member, guest, tenant, invitee or licensee fails to comply with any other provision of the Governing Documents, the Association may seek reimbursement for reasonable attorney fees and costs incurred as a result of such failure to comply, without the necessity of commencing a legal proceeding.

In a legal proceeding in any way related to the Governing Documents or the Community, the court shall award to the party prevailing on each claim the prevailing party's reasonable attorney fees and costs incurred in asserting or defending the claim. Such reasonable attorney fees and costs, if awarded against an Owner, shall be charged as an Assessment and shall constitute a lien against the Lot.

Section 10.6 Amendment of Declaration by Owners.

Except as otherwise provided in this Declaration, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration may be amended, revised, removed or repealed, and new provisions, covenants, conditions, restrictions or equitable servitudes may be added, at any time and from time to time upon approval of Members holding at least 67% of the votes in the Association.

Said votes may be obtained in any method allowed by the Governing Documents of the Association. The amendment or repeal shall be effective upon the recordation in the office of the Clerk and Recorder of the Boulder County, of a certificate, setting forth the amendment in full and certifying that the amendment has been approved as set forth above, and containing the written consent and approval of the Association.

Section 10.7 Interpretation.

The provisions of this Declaration shall be construed to effectuate their purposes of creating a uniform plan for promoting and effectuating the fundamental concepts as set forth in this Declaration. The Board of Directors shall have the authority to interpret the meaning of any provision contained in this Declaration. This Declaration shall be construed and governed under the laws of the State of Colorado.

Section 10.8 Singular Includes the Plural.

Unless the context otherwise requires, the singular shall include the plural, and the plural shall include the singular, and each gender referral shall be deemed to include the masculine, feminine and neuter.

Section 10.9 Captions.

All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any paragraph, section or article hereof.

Section 10.10 Non-Waiver.

Any forbearance or failure to enforce any provisions of this Declaration shall not operate as a waiver of any such provision or of any other provision of this Declaration or of any subsequent enforcement of such provision.

Section 10.11 Conflict of Provisions.

In case of conflict between this Declaration and the Articles of Incorporation or the Bylaws, this Declaration shall control. In the case of conflict between the Articles of Incorporation and Bylaws, the Articles of Incorporation shall control.

Section 10.12 Challenge to this Amendment.

All challenges to the validity of this amendment must be made within one year after the date of recording of this document.

Section 10.13 Severability.

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

The undersigned, being the President and the Secretary of the Glenwood Gardens Phase I Homeowners Association, hereby certify that the Association has obtained the signatures of owners representing the ownership of not less than sixty-seven percent (67%) of the Lots. Or, alternatively, has obtained court approval of this Declaration pursuant to the provisions of the

EXHIBIT A**PROPERTY**

All of the real property described on the Glenwood Gardens Phase One Plat, recorded on April 19, 1973, in the Office of the Clerk and Recorder, City and County Boulder, Colorado, at Reception No. 62612, Plan File P-4, F-2, No. 28, with the following legal description:

Commencing at the Northwest corner of the Southeast quarter of Section 20, Township 1 North, Range 70 West of the 6th P.M., Thence North 89°38'55" East 499.60 feet along the North line of said Southeast quarter of the Southwest quarter to the TRUE POINT OF BEGINNING, Thence North 89°38'55" East 330.00 feet along the North line of said Southeast quarter of the Southwest quarter, Thence South 0°20'00" East 315 feet parallel with West line of said Southeast quarter of the Southwest quarter, Thence South 89°38'55" West 231.00 feet parallel with the North line of said Southeast quarter of the Southwest quarter, Thence North 0°20'00" West 504.00 feet parallel with the West line of said Southeast quarter of the Southwest quarter of said Section 20 to the TRUE POINT OF BEGINNING 3.389 acres, more or less.

EXHIBIT B**MAINTENANCE AND INSURANCE OBLIGATIONS**

"A" = Association obligation

"O" = Owner obligation

"NA" = not applicable

The term "maintenance" includes repair and replacement unless otherwise noted on the Chart.

| | MAINTENANCE | INSURANCE |
|---|--|--|
| BUILDING EXTERIORS | | |
| Residence-structure, including foundation, columns, girders, beams and supports | A | A |
| Siding, sheathing, wrap, brick, trim, molding, and other exterior facade surfaces | A | A |
| Exterior stoops, steps, and concrete surfaces | A | A |
| Gutters and downspouts | A | A |
| Roof underlay | A | A |
| Porches, patios, and balconies | O – Owner-installed A – original construction | O- Owner-installed A- Original construction |
| Chimneys and chimney caps | A | A |
| Window screens | O | O |
| Interior glass surfaces—cleaning | O | O |
| Window glass--repair and replacement | O | O |
| Window trim--painting and staining (exterior) | A | A |
| Window panes and frames--maintenance, repair, and replacement | O | A (exterior only) |
| Window caulking (exterior) | A | A |
| Exterior unit doors--painting and staining | A | A |
| Exterior unit doors including peep holes, doorknobs and lock mechanisms--maintenance and repair | O | O |
| Storm doors | O | O |

| | MAINTENANCE | INSURANCE |
|---|-------------|-----------|
| Balcony/patio sliding glass doors | O | O |
| Sidewalk to the front door | A | A |
| Cement pad if original to construction | A | O |
| Exterior lights, excluding porch lights | A | A |
| UTILITIES | | |
| Utilities <u>outside</u> Townhouses and serving only that Townhouse, including but not limited to: <ol style="list-style-type: none"> 1. Electrical and other wires 2. Water/sewer pipes 3. Gas lines 4. Cables 5. Circuit boxes 6. Water meters 7. Circuit breakers | O | O |
| Utilities <u>inside</u> Townhouses and serving only that Townhouse, including but not limited to: <ol style="list-style-type: none"> 1. Furnaces 2. Heating equipment 3. Thermostats 4. Ducts 5. Conduits 6. Water/sewer pipes 7. Gas lines 8. Electrical wiring 9. Electrical outlets 10. Telephone wiring 11. Telephone outlets 12. Light switches 13. Hot water equipment 14. Cables 15. Compressors 16. Sump pumps 17. Circuit breakers | O | O |
| Utilities <u>inside</u> Townhouses and serving more than one Townhouse, including but not limited to: <ol style="list-style-type: none"> 1. Furnaces 2. Heating equipment | | |

| | MAINTENANCE | INSURANCE |
|---|-------------|-----------|
| 3. Thermostats 4. Ducts 5. Conduits 6. Water/sewer pipes 7. Gas lines 8. Electrical wiring 9. Electrical outlets 10. Telephone wiring 11. Telephone outlets 12. Light switches 13. Hot water equipment 14. Cables 15. Compressors 16. Sump pumps 17. Circuit breakers | 0 | 0 |
| Air conditioners, including condensers and lines running from/to such equipment | 0 | 0 |
| RESIDENCE INTERIORS | | |
| Furnishings, including all personal property such as furniture, electronics, jewelry, and clothing | 0 | 0 |
| Window coverings | 0 | 0 |
| Permanent fixtures including but not limited to: 1. ceiling fans 2. hand rails 3. cabinets 4. countertops 5. bathtubs and showers 6. sinks 7. toilets | 0 | 0 |
| Appliances including: 1. oven 2. range 3. refrigerator 4. dishwasher 5. washer/dryer 6. countertop microwave | 0 | 0 |

| | MAINTENANCE | INSURANCE |
|---|-------------|-----------|
| Fireplaces (including facade, screen, chimney back, flue, and damper) | O | O |
| Interior non-perimeter walls, floors, and ceilings—including finished and unfinished surfaces, doors, drywalls, studs, insulation, hardware, and other material lying within such walls, floors, and ceilings | O | O |
| Finished surfaces of perimeter walls and ceilings—including: <ol style="list-style-type: none"> 1. drywalls 2. paint 3. wallpaper 4. paneling 5. texture | O | O |
| Finished surfaces of perimeter floors--including: <ol style="list-style-type: none"> 1. tile 2. vinyl 3. hardwood 4. carpeting | O | O |
| Any components lying between the perimeter drywalls and residence exterior, including but not limited to: <ol style="list-style-type: none"> 1. insulation 2. girders 3. beams 4. pipes 5. wiring 6. plumbing | O | A |
| Party walls (walls dividing residences and shared by owners/residents on each side) | O | O |
| Subflooring | O | O |
| Basements | O | O |
| GROUNDS | | |

| | MAINTENANCE | INSURANCE |
|--|--|-----------|
| Retaining walls | A | A |
| Landscaping | A | A |
| Irrigation system and time clocks | A | A |
| Private roads, drives, and sidewalks | A | A |
| Driveways | A | A |
| Fences surrounding private patios | A – painting O – other maintenance, repair and replacement | O |
| Private parking areas | A | A |
| Signage | A | A |
| Perimeter fence | A | A |
| Storage sheds | A | A |
| OTHER | | |
| Snow removal from driveways and sidewalks | A | A |
| Garbage pick-up | A | A |
| Common Areas existing in community and not otherwise listed | A | A |
| Any personal property of owners not otherwise listed | O | O |
| Any owner installed exterior/interior improvement not otherwise listed | O | O |