

**DECLARATION OF PROTECTIVE COVENANTS
OF
THE PINES VILLAGE**

06/09/2011

The undersigned are the Declarant and owners of all open space, roads and Lots 1 through 3, 5 through 18 and 22 through 45, The Pines Village, located in Custer County, Colorado, according to a plat, recorded April 5, 1971, as reception No. 114422 in the records of the Custer County, Colorado Clerk and Recorder ("Original Plat"). The Plat has been amended by:

1. Custer County Approval, dated March 22, 2006, and recorded October 6, 2006, in book 564, page 154 that vacated a lot line between Lots 32 and 33 to create Lot 32A (formerly known as Lots 32 and 33);
2. Custer County Approval, dated March 22, 2006, and recorded June 6, 2007, in book 582, page 272 that vacated a lot line between Lots 30 and 31 to create Lot 30A (formerly known as Lots 30 and 31); and
3. Custer County Approval, dated June 3, 2008, and recorded October 20, 2009, in book 640, page 279 that adjusted an interior lot line and vacated an interior lot line between Lots 42, 43 and 44A to create Lots 43A and 44B (formerly known as Lots 42, 43 and 44A.)
4. A Vacation of a Portion of The Pines Village and a Replat into "The Pines Village North Replat", dated May 17, 2010, and filed 214653 that vacated Lots 1 through 3, 5 through 18, 22 and 23 and portions of open space and Firmont Road to create Lots 1A, 5A, 8A, 11A, 16A and 22A, Open Space Lots OS-1 through OS-3 and an Out parcel and now consists of Lots 1A, 5A, 8A, 11A, 16A, 22A of The Pines Village North Replat and Lots 24 through 29, 30A, 32A, 34 through 41, 43A and 44A, The Pines Village, together with Open Space as shown on the Original Plat, as amended, and as recorded on April 5, 1977, and filed 114422 in the records of Custer County Colorado and the Replat of The Pines Village North Replat as recorded on May 17, 2010, and filed 214653 in the records of Custer County Colorado.

The Original Plat, together with the above amendments to the Original Plat and The Pines Village North Replat are referred to as "the Plat".

By this Declaration, Declarant and the undersigned hereby make the property described in the Plat, including the open space and roads shown thereon, (the "Property") subject to the provisions of this Declaration and repeal any prior declaration of restrictive and protective covenants previously filed as they may apply to the Property, including the Declaration of Restrictive and Protective Covenants for The Pines Village, Custer County, Colorado, Westcliffe, Colorado, recorded on April 4, 1994, in book 262, page 299 of the records of Custer County, Colorado (the "Original Declaration"). This Declaration shall run with the title to the Property and all Lots within the Property and shall burden and benefit Declarant, its successors and assigns, as well as any and all persons or entities acquiring or owning an interest in the Property

and improvements, their successors, representatives or assigns. It is the intent of the undersigned that this Amended and Restated Declaration completely and totally supersede and replace the previous Original Declaration.

BACKGROUND AND PURPOSE

- A. This Declaration is intended to establish protective covenants, conditions, easements and restrictions on the Property and shall be interpreted so as to protect and maintain the aesthetics and quality of an essentially undisturbed rural mountain residential environment.
- B. Pines Village is Colorado Subdivision formed before the advent of the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101 et. seq. having been formed on April 5, 1977 prior to the effective date of the Act and has not elected to operate under that act under C.R.S. § 38-33.3-118, other than as required by C.R.S. § 38-33.3-117. Except as stated herein the Act shall not apply, to this Declaration, the Association or the property contained in the Pines Village.

DECLARATION

The undersigned, for themselves and their grantees, successors and assigns, hereby impose and establish upon the Property, and all of the Property shall hereafter be subject to, all of the following restrictions, covenants, easements and conditions, all of which shall run with the land and shall inure to the benefit of and be binding upon the undersigned, their grantees, successors and assigns, and all parties having or acquiring any right, title or interest in or to the Property or any part thereof.

I. DEFINITIONS

The following words and phrases, when used in this Declaration, shall have the meanings specified in this paragraph I.

- A. "Accessory Building" means any detached garage, building or structure used for storage or for any other purpose that is located on any Lot.
- B. "Applicant" means any Person, other than Declarant, who desires to build, erect or install any Improvement on a Lot.
- C. "Architectural Review Committee" has the meaning set forth in VI, below.
- D. "Assessment" has the meaning set forth in paragraph VIII, below.
- E. "Association" means The Pines Village Property Owners Association, Inc., a Colorado nonprofit corporation, its successors and assigns. The address

of the Association is P.O. Box 1371, Westcliffe, CO 81252, provided, however, the Association may change its address from time to time by notice to the Members.

- F. "Association Documents" means this Declaration, the Association's Articles of Incorporation and Bylaws, the Plat and the Rules and Regulations, as they may be amended from time to time.
- G. "Association Properties" means all real and personal property including, Open Space and roads shown on the Plat, together with any and all Improvements now or hereafter owned by the Association or which the Association hereafter maintains, holds or uses for the common use and enjoyment of all of the Members. The Association Properties shall include, without limitation, the easements identified in the Plat.
- H. "Board" means the Board of Directors of the Association.
- I. "County" means Custer County, Colorado.
- J. "Commercial Enterprise" means any business operation but does not include renting or leasing property for residential purposes only and does not include home offices.
- K. "Declarant" means Pines Ranch Limited Liability Company, its successors and assigns. A Person shall be deemed a successor or assign of Pines Ranch Limited Liability Company as Declarant only if specifically designated in a recorded instrument as a successor or assign of Declarant under this Declaration, and only as to the particular rights or interests of Declarant under this Declaration that are specifically designated in the recorded instrument.
- L. "Declaration" means this Declaration of Protective Covenants of The Pines Village, Custer County, Colorado.
- M. "First Mortgage" means a deed of trust or mortgage on a Lot having a priority of record over all other recorded encumbrances and liens thereon, except those governmental liens made superior by statute. The beneficiary named in such deed of trust or mortgage shall be referred to as a "First Mortgagee."
- N. "Improvement" means any building or shed.
- O. "Lot" means a parcel of land designated as a Lot in the Plat, together with all appurtenances and Improvements associated therewith, now existing or subsequently created.

- P. "Member" means a member of the Association, who must also be an owner of a Lot. Membership in the Association shall be appurtenant to, and may not be severed from, ownership of a Lot.
- Q. "Notice and Hearing" shall have the meaning set forth in paragraph VII.G, below.
- R. "Nuisance" means any noxious or offensive activity that causes annoyance, embarrassment, discomfort or hazard as may be agreed upon by a simple majority vote of all of the members.
- S. "Open Space" means the approximately 47.77 acres of land as shown on the Plat.
- T. "Person" means a natural individual, trust or legal entity.
- U. "Property" means the real property that the parties makes subject to this Declaration as described in the Plat.
- V. "Residence" means an Improvement on a Lot that is intended or used for residential occupancy, whether long or short term.
- W. "Rules and Regulations" means those rules and regulations, if any, adopted by the Board as provided in paragraph VII.F.4 of this Declaration, as the same may be amended from time to time.
- X. "Living Space" means the space enclosed by the perimeter of the building, exclusive of garage, porches, balconies, sun-decks, roof-overhangs, and out-buildings.

II. USE OF LOTS AND ASSOCIATION PROPERTIES.

Each Member shall be entitled to exclusive ownership and possession of the Member's Lot. Each Member may use the Association Properties in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other Members.

III. FUTURE DEVELOPMENT.

Declarant shall neither add real property to nor withdraw real property from the Property without a majority vote of the Members.

IV. ARCHITECTURAL AND LIVING ENVIRONMENT STANDARDS

- A. *Land Use, Building Type and Occupancy.* All Lots shall be used only for single-family residential purposes, including, however, the right to have a

home-office as defined by the Association. No more than one Residence is permitted on any Lot. No Lot may be subdivided or further divided, but two or more Lots may be combined upon approval of the Architectural Review Committee. Garages shall not be used for any commercial purpose or for living space.

- B. *Quality and Size of Structures.* It is the intention and purpose of this Declaration to assure that all Residences contain a high quality of workmanship and material that will enhance the value of all Lots. Unless approved by the Architectural Review Committee, every new Residence shall consist of no less than 1,200 square feet of Living Space. No new Residence shall exceed 3,000 square feet of Living Space if on one or two combined Lots or 3,500 square feet of Living Space if on three or more combined Lots (counting Lots as shown on the Original Plat before any combination) Homes over 3,500 (over 3,000 if on one or two lots) square feet are allowed with the approval of the architectural review committee.
- C. *Architectural Review.* No new Improvement shall be commenced, erected, placed or maintained on any Lot without prior approval of the Architectural Review Committee as provided in paragraph VI.
- D. *Construction Completion.* The exterior construction of any residence or Accessory Building shall be completed in not more than twelve months from the beginning of Construction.
- E. *Minimum Setbacks.* No new building may be constructed within any public or private easement. Setbacks for new construction adjacent to roads shall be at least fifty (50) feet, and side-yard and rear-yard setbacks shall be at least thirty (30) feet or such greater amount as required by the County Zoning Resolution.
- F. *Utility Right of Way.* In addition to the easements set forth on the Plat, there are hereby granted: (1) easements for utilities, drainage and water lines and for maintenance of those facilities that now may cross any Lot, even though such lines may be outside the easements as described on the Plat. Within these easements, no structure, additional planting or other material shall be placed which damages or interferes with the installation and maintenance of the water well or utilities or which may change the direction or flow of drainage channels in the easements. All easements depicted on the Plat are for the benefit of the Members, their families, guests and invitees, except as otherwise indicated.
- G. *Nuisances.* No noxious or offensive activity shall be carried on in any Residence, upon any Lot or on the Open Space, nor shall anything be done thereon to cause annoyance, embarrassment, discomfort, or a nuisance in the neighborhood.

- H. *Trucks, Campers, Cars and Trailers.* Unless approved by the a simple majority vote of the Board of Directors of the Association, no camper, trailer, boat, commercial vehicle, mobile home, motor home or utility trailer longer than 18 feet or any tractor, motorcycle or tow trailer may be kept on any Lot or elsewhere on the Property for more than thirty days, unless blocked from view from other Lots or a road.
- I. *Temporary Structures.* No structure of a temporary character, trailer, basement, tent, shack, garage, barn, excavation or other out-building will be permitted on any Lot or Open Space at any time as a human habitation or residence for more than thirty days. No temporary structure, building, supplies, equipment or the like may be maintained stored or kept on any Lot except during the construction, remodeling or maintenance of a dwelling or other approved structure thereon. Camping may be permitted on a Lot for not more than ninety days in one year.
- J. *Accessory Buildings.* All new Accessory Buildings shall be of the same or similar colors, siding and roofing materials as the Residence constructed or planned on the Lot and shall harmonize in appearance with such Residence. New Accessory Buildings must be approved in advance of construction by the Architectural Review Committee. No new Accessory Building shall exceed [800] square feet of space if on one or two combined Lots or 1,500 square feet of space if on three or more combined Lots (counting Lots as shown on the Original Plat before any combination). Accessory buildings of 1,500 (over 800 if on one or two lots) square feet are allowed with the approval of the architectural review committee.
- K. *Mechanical Work.* No stripped down, partially wrecked, junk or abandoned motor vehicle may be stored on any Lot or elsewhere on the Property.
- L. *Maintenance Equipment.* All maintenance equipment stored for more than thirty days shall be stored, so that it is blocked from view from other Lots, Open Space or a road.
- M. *Fences and Walls.* No perimeter or privacy fences are allowed, unless approved by the architectural review committee.
- N. *Drilling and Mining Operations.* No drilling (other than properly permitted water wells and septic systems), development operations, refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot. Wells, tanks, derricks, tunnels, mineral excavations, shafts or any other structure or excavation related to a mining or drilling operation shall not be erected, maintained or permitted on any Lot.
- O. *Signs.* Except as otherwise provided by law, no signs, billboards, poster

boards or advertising structures of any kind shall be erected or maintained on any Lot, Open Space or Improvement for any purpose whatsoever, except for one sign for privacy or identification of not more than four (4) square foot area in size and one sign of not more than four (4) square feet in size advertising the Residence for sale or rent.

- P. *Animals.* Only household pets are allowed.
- Q. *Garbage and Refuse Disposal.* No Lot or Open Space, including easements, shall be used or maintained as a dumping ground.
- R. *Commercial Enterprises.* No commercial enterprises shall be conducted or maintained upon, in front of, or in connection with any Lot, nor shall any Lot be used in any way for other than strictly single-family residential purposes, except that home offices may be maintained within the Residence in accordance with the Rules and Regulations of the Association and applicable County zoning ordinances.
- S. *Changes or Alterations.* No outside pastel colors such as pinks, purples, or other such colors will be acceptable for the exterior of structures. Unless otherwise approved by the Architectural Review Committee, finishes will be clear stains or varnishes or wood colors which fit in with the natural environment.
- T. *Soils, Grading and Maintenance.* Every reasonable effort shall be made to avoid drainage from one Lot to another.
- U. *Lighting.* All outdoor lighting shall be fully shielded.
- V. *Utilities.* Any new utility lines shall be placed underground, and soils disturbed by undergrounding such lines shall be restored as soon as is practicable.
- W. *Tree Cutting.* Trees may only be cut for Christmas trees for use on the Property, to control insects and disease, to control invasive non-native species, to clear for fire control, to protect against overgrowth, to prevent personal injury and property damage and for other reasonable forest management purposes.
- X. *Hunting.* There shall be no hunting within the boundaries of the Property.
- Y. *Leases.* Any lease of a Lot shall be in writing and shall provide that the terms of the lease and lessee's occupancy of the Lot shall be subject in all respects to the provisions of this Declaration, the Articles of Incorporation, Bylaws and Rules and Regulations of the Association. Leases are not meant to be a dormitory; all leases are binded by these covenants.

- Z. *Sewage.* Members are responsible for the sewage facilities on their Lot. All septic tanks and leach fields shall be placed to minimize interference with water supply lines.
- AA. *Water Supply.* Water lines shall be supplied only to Residences and not to any other structure without approval of the Architectural Review Committee.
- BB. *Grandfathered Structures:* Any existing building as of the signature date of this document will be grandfathered

V. OPEN SPACE.

Open Space is for the benefit of the Members, their families, guests and invitees. There shall be no buildings constructed on the Open Space. Open Space may be leased by the Association for agricultural purposes. No motorized vehicles shall be used on Open Space, except for required maintenance. Reasonable exceptions may be made for those who are disabled or for access by horse to the U.S. Forest Service property.

VI. ARCHITECTURAL REVIEW

- A. *Architectural Review Committee Review and Approval.* To carry out the administration and enforcement of the architectural provisions of this Declaration, there is hereby formed an Architectural Review Committee, which initially shall be the Board. The Board later may delegate its architectural review and approval functions to an Architectural Review Committee, which shall be a committee of the Board.
- B. *Approval Procedure.* Any Applicant desiring to build, erect or install any Improvement, or to alter, remove, add to or change the exterior of any previously approved or existing Improvement, on any Lot or other portion of the Property, shall submit plans to the Architectural Review Committee at least sixty (60) days in advance of commencement of construction to enable the Committee to complete its review of the plans within the time limits set forth in this paragraph. Following submittal of the plans, the Committee shall have forty-five (45) days in which to provide its written decision to the Applicant. The Committee may establish written Rules and Regulations regarding submittal requirements and may charge reasonable fees to cover expenses incurred in any professional review of plans submitted pursuant to this Declaration. Failure to issue a written decision within forty-five (45) days shall constitute an approval of the submitted plans.
- C. *Approval Standards.* In approving or disapproving plans, the Architectural Review Committee shall consider the impact of the Applicant's proposal on the quality of the residential environment and on the character, values and amenities of the Property as set forth in this Declaration.

- D. *Variances / Easements.* The Members shall have the authority to grant a variance from any covenant set forth in this Declaration for exceptional and extraordinary circumstances. Any use or deviation from the requirements, restrictions, or provisions of any portion of this Declaration which use or deviation existed as of the date of the adoption of this Declaration may be continued as an authorized variance. All members will be notified of the recommendation, and will be approved or denied based on a simple majority of the members.

Lot 36 is hereby granted an easement for use of, access to, and maintenance of the well and related supply lines already placed on open space and as depicted on the Original Plat as subsequently amended and filed 114422 in the Records of the Clerk and Recorder for Custer County, Colorado on April 5, 1977. This easement shall remain in effect until such time as the well is abandoned at which time this easement shall expire unless extended by a majority vote of the Members.

A 16 foot wide perpetual driveway easement across open space for ingress and egress to Lot 34 as depicted on the Original Plat as subsequently amended and as filed 114422 in the Records of the Clerk and Recorder for Custer County, Colorado on April 5, 1977.

- E. *No Liability.* Neither the Declarant, the Association, the Architectural Review Committee, nor any member or agent thereof, shall be liable in damages to any Person or entity submitting plans for approval or requesting a variance, nor to any Member or owner or any other portion of the Property, by reason of mistake in judgment in connection with the approval, disapproval, or failure to approve or disapprove any plans, specifications or variances. It is the intent of this Declaration that the Committee shall be recognized as a nonprofit, and that individuals serving on the Committee shall be protected from personal liability.

VII. THE PINES VILLAGE PROPERTY OWNERS ASSOCIATION

- A. *Creation.* The Pines Village Property Owners Association, Inc. is a Colorado nonprofit corporation organized to promote the common interests of the Members. The Association shall have the power to do anything that may be necessary or desirable to further the common interests of the Members, to review and approve plans, to maintain Association Properties for which the Association is obligated to maintain pursuant to this Declaration, to administer and enforce the covenants contained in this Declaration, and to improve and enhance the attractiveness, desirability and safety of Pines Village.
- B. *Association Structure.* The Association shall have the duties, powers and rights set forth in this Declaration and in the Association's Articles of Incorporation and Bylaws. In case of conflict between this Declaration and

the Articles and Bylaws, the Declaration shall control, and in case of conflict between the Articles and Bylaws, the Articles shall control. As more specifically set forth hereinafter, the Association shall be managed by a board of directors.

- C. *Board of Directors.* The Association shall be managed by its Board of Directors, which shall consist of five persons. All members of the Board shall be Members of the Association. The terms and qualification of the members of the Board and the creation of and delegation to committees shall be fixed in the Bylaws.
- D. *Membership in the Association.* Each owner of a Lot shall be a Member of the Association. Membership shall automatically pass with fee simple title to the Lot and is not severable from the Lot. Membership in the Association shall not be assignable separate and apart from fee simple title to a Lot, except that a Member may assign some or all of the Member's rights as an owner and Member to a contract purchaser, tenant or First Mortgagee.
- E. *Voting Rights of Members.*
1. Entitlement. There shall be one (1) vote for each approximately 2-acre Lot existing within the Property as shown on the Original Plat, as filed 114422 in the records of Custer County, Westcliffe, Colorado and before any combination of two or more Lots into a lesser number of Lots. There shall be one vote for each Lot shown on The Pines Village North Replat.
 2. Joint or Common Ownership. The rights of Lots jointly owned shall be as set forth in the Bylaws.
 3. Proxies. The use of proxies in voting by the Members shall be permitted as set forth in the Bylaws, as the same may be amended from time to time.
- F. *General Duties and Powers of the Association.*
1. Acceptance of Property by Declarant. The Association shall accept title to any real or personal property transferred to the Association by Declarant, together with the responsibility to perform any and all associated Association functions. Such transferred property will be Association Property.
 2. Acquisition of Property and Improvements. The Association may acquire real or personal property or interests in such property for the common benefit of Members.
 3. Management and Care of Association Property. The Association shall maintain, operate and repair the Association Properties and keep the same in a

condition as may be necessary or desirable for their intended uses; provided, however, the Association is not required to, although it may, plow snow.

4. Adoption of Rules and Regulations. The Association shall adopt, and may amend, repeal and enforce such Rules and Regulations, including Rules and Regulations for Architectural Review, as may be deemed necessary or desirable with respect to the interpretation and implementation of this Declaration and matters related thereto, the operation of the Association, the repair and maintenance of the Association Properties, and the use of any other property within Pines Village, including Lots.
 5. Power to Employ Managers, Consultants, and Employees. The Association shall have the power to hire consultants or contractors, and delegate to them the performance of any functions for which the Association has responsibility under this Declaration.
 6. Enforcement of Declaration and Rules and Regulations. The Association shall have the power to enforce the provisions of the Association Documents and shall take such action as the Board deems necessary to cause compliance by each Member and other Persons.
 7. Borrowing and Pledge of Future Assessments. Upon a majority vote of the Owners, the Association may borrow funds for capital or other expenses and grant a security interest in the Association's right to levy and collect assessments as collateral for such borrowing.
- G. *Notice and Hearing.* A Member or other Person alleged to be in violation of any provision of an Association Document shall be given written notice of the violation and, if requested in writing by the Member within ten days, a hearing scheduled by the board not sooner than twenty days nor later than forty-five days after notice has been physically received by the member alleged to be in violation. The Association or Member may be represented by counsel or other person selected by the Member to assist them and may audio tape the proceedings. All hearings shall be conducted by the Board of Directors at a location within Custer County of the Board's choosing and the Association and the Member or other Person shall each have the opportunity to present evidence and call witnesses in support of their respective positions or may request a closed meeting. Within ten (10) days of the hearing, the Board or designated representative will issue its decision. The hearing may occur whether or not the Member or Member's agent attends the hearing, absent extraordinary circumstances as determined by the Board or designated representative. The decision shall be final and binding unless clearly arbitrary and there is no competent evidence to support the decision.
- H. *Association Easements.* An easement to perform its maintenance or other rights or obligations pursuant to this Declaration is hereby granted to the

Association, its officers, agents, employees and assigns.

VIII. ASSESSMENTS

- A. *Purpose of Assessments.* The Assessments shall be used to pay expenses incurred in connection with the management, ownership, maintenance, repair, replacement, and insurance of the Association Properties and other properties for which the Association has maintenance responsibility.
- B. *Obligation for Assessments.* Each Member, by acceptance of a deed therefor or interest therein, whether or not it shall be so expressed in such deed, shall be deemed to covenant and agree to pay to the Association, in the manner and amounts, and at the times prescribed herein, the Assessments as described in this Declaration. Assessments shall be both a personal obligation of the Member and a lien against the Member's Lot. "Lot", for the purposes of this subparagraph, means a Lot as shown on the Original Plat, as filed 114422 before combination of one or more Lots into a single Lot and as shown on The Pines Village North Replat dated May 17, 2010, and filed 214653. Joint or common owners shall be jointly and severally liable to the Association for the payment of all Assessments attributable to them and/or their Lot. The personal obligation for delinquent Assessments shall not pass to a Member's successors in title or interest unless expressly assumed by them. No Member may waive or otherwise avoid personal liability for the payment of the Assessments by non-use of the Association Properties, by nonuse of any service provided by the Association for Members, by abandonment or leasing of the Member's Lot, or by asserting any claims against the Association, the Declarant or any other Person. Members having the exclusive use and benefit of particular Association Properties or having services performed by the Association that are not performed for all Members may be obligated to pay additional Assessments. In addition to the Assessments, each Member shall have the obligation to pay real property ad valorem taxes and any special assessments imposed by Colorado governmental entities against a Lot. All property dedicated to and accepted by a governmental entity shall be exempt from Assessments, and the Board may waive or reduce the Assessment for any Lot not sold by Declarant at the time of this Declaration.
- C. *Assessments.* By way of example but not by way of limitation, Assessments may be intended to cover the following Association expenses:
1. expenses of management of the Association and its activities;
 2. taxes and special assessments levied upon the Association Properties;

3. premiums for all Association insurance;
4. common services to Members as approved by the Board;
5. maintenance and repairs of Association Properties;
6. wages for Association employees and payments to Association contractors;
7. legal, accounting and other professional fees of the Association;
8. any deficit remaining from a previous Assessment;
9. the creation of reasonable contingency reserves, surpluses, and sinking funds, and adequate reserve funds for maintenance, repairs and replacement and for any applicable insurance deductibles of the Association;
10. any other costs, expenses, and fees which may be incurred or may Reasonably be expected to be incurred by the Board, in its sole discretion, for the benefit of the Members under or by reason of this Declaration.

D. *Assessment Procedure.*

1. The obligation for any Member to pay Assessments shall commence when the ownership of the Lot is transferred to a purchaser other than Declarant. Declarant shall pay Assessments for Lots owned by Declarant, except that the Board in its discretion may reduce Assessments for Lots in The Pines Village North Replat until such time as they are offered for sale on the market.
2. Assessments for 2011 are \$250 per year. No later than sixty (60) days before the beginning of each year hereafter, the Board shall set the total annual Assessment based upon an estimated budget of the Association's requirements for the following Assessment year. Within ninety days after adoption of any proposed budget for the Association, the Board shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to all Owners and shall set a date for a meeting of the Owners to consider the budget. Such meeting shall occur within a reasonable time after mailing or other delivery of the summary, or as allowed for in the Bylaws. The Board shall give notice to the Owners of the meeting as allowed for in the Bylaws. All budgets should be approved by a majority of the membership as a whole. If the proposed budget is vetoed, the periodic budget last proposed by the Board and not vetoed by the

Owners must be continued until a subsequent budget proposed by the Board is not vetoed by the Owners. At a minimum, the amount of the annual Assessment shall be fixed at an amount adequate to clean, maintain and repair (to include replacement as may be necessary) the roads.

3. After the Members approve the budget, the Board shall mail or deliver to each Member, at least thirty (30) days in advance of the date payment is due, a payment statement setting forth such Member's annual Assessment. The Assessment shall be payable as set forth in the Bylaws.
 4. If, during the fiscal year of the Association, and after the Association budget has been approved, the Board determines the necessity of raising additional funds to cover Association expenses, the Board may request the approval by the Members of an additional Assessment.
- E. *Rate of Assessments.* Assessments shall be set to meet the expected needs of the Association. The rate for Assessments shall generally be determined by dividing the total Assessments payable for any Assessment period as determined by the budget, by the number of Lots then subject to this Declaration. "Lot", for the purposes of this subparagraph, means a Lot as shown on the Original Plat, before combination of one or more Lots into a single Lot and The Pines Village North Replat. The resulting quotient shall be the amount of the Assessments payable with respect to each Lot. If, however, in the sole opinion and discretion of the Board, certain Lots impose greater or lesser costs on the Association than do other Lots, or receive greater or lesser benefit from Association activities, such Lots may be placed into different classes and Assessments in different amounts may be established for each such class, with the intent that each class will pay its reasonable and fair share of the Association's overall expenses.
- F. *Failure to Fix Assessment.* The failure of the Board to levy an Assessment for any period shall not be deemed a waiver or modification with respect to any of the provisions of this Declaration or a release of the liability of any Member to pay Assessments for that or any subsequent period.
- H. *Costs of Enforcement, Late Charges and Interest.* If any Assessment is not paid within thirty days after it is due, the Member may be additionally required to pay all costs of enforcement.
- I. *Notice of Default and Acceleration of Payments.* If any Assessment is not

paid within thirty days after its due date, the Board shall mail a notice of non-compliance with Association requirements and the provisions of Section of VII G above shall apply. The notice shall include a statement including (a) the fact that the installment is late, (b) the action required to cure the default, (c) a date not less than twenty (20) days from the date of mailing of the notice by which such default must be and (d) that failure to cure the default on or before the date specified in the notice may result in a lien for the Assessment against the Member. A default shall not be considered cured unless the past due sums, collection expenses, and all sums coming due through the date of payment are paid to the Association. If the delinquent Assessment and any collection expenses, late charges or interest thereon, plus any other sums due as of the date of the payment, are not paid in full on or before the date specified in the notice, the Board, at its option, may enforce the collection of the Assessment and all collection expenses, charges and interest thereon in any manner authorized by law or in the Association Documents.

- J. *Remedies to Enforce Assessments.* Each Assessment levied hereunder shall be a separate, distinct and personal debt and obligation of the Member against whom it is assessed.
- K. *Lien to Enforce Assessments.* The Association shall have a lien for Assessments (the "Lien"). The Association may bring suit to collect Assessments.
- L. *Estoppel Certificates.* Upon the payment of such reasonable fee as may be determined from time to time by the Board, and upon the written request of any Member and any Person or entity having, or intending to acquire, any right, title or interest in the Lot of such Member, the Association shall furnish a written statement setting forth the amount of any Assessments or other amounts, if any, due and accrued and then unpaid with respect to a Lot and the owner thereof, and setting forth the amount of any Assessment levied against such Lot which is not yet due and payable.
- M. *No Offsets.* All Assessments shall be payable in the amounts specified in the levy, and no offset, abatement or reduction thereof shall be permitted for any reason whatsoever.

IX. INSURANCE.

The Association shall maintain insurance of types, in amounts, upon terms and with companies as the Board shall determine is prudent and/or as is required by applicable law. The Board will review annually the Association's insurance coverage. Any deductible shall be payable by the Person responsible for the repair and maintenance of the damaged or destroyed property which is the subject of an insurance claim. In the

event a joint duty of repair and maintenance of the damaged or destroyed property exists, then the deductible may be apportioned among the parties sharing in such joint duty, or may be partly or wholly borne by the Association, at the election of the Board. Insurance coverage on the furnishings and other items of personal property belonging to a Member, public liability insurance coverage upon each Lot, and hazard insurance coverage on the Improvements on a Lot owned by each Member shall be the responsibility of such Member. Notwithstanding anything to the contrary contained in this Declaration, in the event that the need for maintenance, repair or reconstruction of all or a portion of the Association Properties, or other property maintained by the Association, is caused by the willful or negligent act or omission of any Member, the cost of such repair, maintenance or reconstruction shall be the personal obligation of such Member, and any costs, expenses and fees incurred by the Association for such maintenance, repair or reconstruction may be collected as a Specific Assessment as provided in this Declaration or by the Association exercising any rights or remedies under the Association Documents or otherwise as permitted by law. A determination of the negligence or willful act or omission of any Member's liability shall be determined by the Board after Notice and Hearing and shall not be subject to judicial review unless the decision is arbitrary and is not based on any competent evidence.

X. MISCELLANEOUS

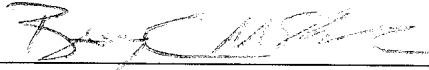
- A. *Mediation of Disputes.* If a dispute arises between the Association and a Member, other than a failure of the Member to make payment of regular or special Assessments, the dispute shall be first submitted to mediation, prior to any litigation. If the Member and the Association cannot agree on a mediator, each party shall select a mediator, and the two mediators shall select a third mediator who shall serve as the mediator. The costs of the mediator shall be divided equally between the Association and the Member.
- B. *Term of Declaration.* Unless amended as herein provided, all provisions, covenants, conditions, restrictions and equitable servitudes contained in this Declaration shall be effective for twenty years following the date this Declaration was originally recorded, and thereafter shall be automatically extended for successive periods of ten years each unless terminated by written agreement of the Members with at least sixty-seven percent of the voting power of the Association, which written agreement shall be duly acknowledged by the Members in the same manner as a deed and recorded in the real property records of the County.
- C. *Amendment of Declaration by Members.* Except as otherwise provided in this Declaration, and subject to provisions elsewhere contained in this Declaration requiring the consent of Declarant or the Association, any provision, covenant, condition or restriction contained in this Declaration may be amended or repealed upon approval by Members with at least sixty-seven percent of the voting power of the Association.

- D. *First Special Rights of First Mortgagees.* Any First Mortgagee, upon filing a written request with the Association, shall be entitled to (a) receive written notice from the Association of any default by the Member indebted to such Mortgagee in the performance of the Member's obligations under the Association Documents, which default is not cured within sixty (60) days after the Association learns of such (b) examine the books and records of the Association during normal business (c) upon request, receive a copy of the Association's financial statement, within ninety (90) days following the end of any fiscal (d) receive written notice of all meetings of (e) designate a representative to attend any meeting of (f) receive written notice of termination of the Association or of this (g) receive notice of any amendment to this Declaration, or to the Association's Articles of Incorporation or (h) receive written notice of termination of any agreement for professional management of the Association Properties following a decision of the Association to assume self-management of the Association (i) receive written notice of any damage to the Association Properties if the cost of reconstruction exceeds \$10,000, and of any condemnation or eminent domain proceedings or other proposed acquisition with respect to any portion of the Association and (j) receive written notice of any lapse, termination or material modification of an Association insurance policy.
- E. *Notices.* Any notice permitted or required to be given under this Declaration shall be in writing and may be served either personally, by email if the party has supplied the Association with an email address and if receipt is acknowledged by the recipient or by mail. Additional provisions for notice may be set forth in the Bylaws. Such address may be changed from time to time by notice in writing to the Association.
- F. *Remedies Cumulative.* Each remedy provided under the Association Documents is cumulative and not exclusive.
- G. *Limitation on Liability.* The Association, the Board, the Architectural Review Committee and Declarant, and any agent or employee of any of the same, shall not be liable to any Person for any action or for any failure to act if the action or failure to act was in good faith and without malice.
- H. *Governing Law.* This Declaration shall be construed and governed in accordance with the laws of the State of Colorado, disregarding any choice of law provision of Colorado law which might cause the laws of another jurisdiction to be applicable. Venue shall be deemed proper in Custer County District Court.
- I. *Severability.* Each of the provisions of the Association Documents shall be deemed independent and severable, and the invalidity or unenforceability

or partial invalidity or partial enforceability or any provision or portion thereof shall not affect the validity or enforceability of any other provision.

- J. *Captions for Convenience.* The titles, headings and captions used in this Declaration are intended solely for convenience of reference and are not intended to affect the meaning of any provision of this Declaration.
- K. *Resolution of Questions of Construction.* If any doubt or question arises concerning the true intent or meaning of any of the provisions, covenants, conditions and restrictions contained in this Declaration, the Board shall have authority to determine the proper construction of the provisions in question and may set forth the meaning, effect, and application of the provision in a written instrument duly acknowledged by the Board, which may be recorded in the County records. All such determinations shall be made so as to further the purpose of these Covenants as set forth in the "Background and Purpose" portion of this document. All determinations will thereafter be binding on all parties so long as they are not arbitrary or capricious or unless modified by a sixty-seven percent vote of the members of the Association.

PINES VILLAGE PROPERTY OWNERS ASSOCIATION
A Colorado nonprofit corporation

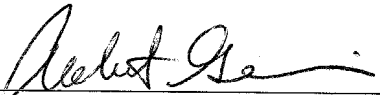
By: 
Barry C. McBride, Secretary/Treasurer

AFFIDAVIT REGARDING VOTE ON REVISED COVENANTS

STATE OF COLORADO §
 §
COUNTY OF CUSTER §

I, Robert Gemin, being over the age of eighteen, competent testify and having been first duly sworn depose and state as follows:

1. In June 2011, I served as the Secretary of the Pines Village Property Owners Association, Inc. On June 11, 2011 a vote of the members in Pines Village Subdivision and Pines Village North Replat was held to approve or disapprove revised covenants for the subdivisions.
2. All of the members were provided a written ballot allowing the members to approve or disapprove revised covenants dated June 9, 2011.
3. Seven ballots were returned all of which approved the revised covenants.
4. Some owners did not return a ballot or did not vote in writing as required.
5. Based on the ballots that were returned the revised covenants were approved unanimously.
6. The count is a true and accurate count of the ballots that were returned.
7. As Secretary at the time the Revised Covenants and this affidavit along with the original returned ballots will be recorded.



ROBERT GEMIN, Secretary

The foregoing affidavit was sworn to and subscribed before me on this 26TH day of NOVEMBER 2013 by a person identified to me as Robert Gemin in his capacity as Secretary of Pines Village Property Owners Association.

Witness my hand and official seal.

My commission expires My Commission Expires
August 4, 2015



Notary Public



6/11/2011

I, BARRY McBride, MANAGER, own lots 26, 44B(44445) & 43A(42443) by PANORAMA Investments, LLC
in the Pines Village, based on the original Plat recorded April 5, 1971.
5 LOTS

I hereby vote to X approve disapprove the new covenants dated
6/09/2011.

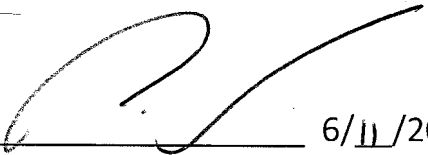
Signed  6/11/2011
MANAGER

Printed BARRY C. MCBRIDE, MANAGER
PANORAMA INVESTMENTS, LLC

6/11/2011

I, Peter Brodmeyer, own lots 36 + 37
in the Pines Village, based on the original Plat recorded April 5, 1971.

I hereby vote to x approve disapprove the new covenants dated
6/09/2011.

Signed  6/11/2011

Printed Peter Brodmeyer

6/11/2011

I, PAUL RONDEAU, own lots 27 & 28 IN JOINT OWNERSHIP
WITH OTHER FAMILY MEMBERS
in the Pines Village, based on the original Plat recorded April 5, 1971.

I hereby vote to X approve disapprove the new covenants dated
6/09/2011.

Signed

 6/11/2011

Printed PAUL J. RONDEAU

6/11/2011

I, ROBERT GEMIN, own lots 34
in the Pines Village, based on the original Plat recorded April 5, 1971.

I hereby vote to ✓ approve disapprove the new covenants dated
6/09/2011.

Signed  6/11/2011

Printed ROBERT GEMIN

6/17/2011

I, Robert M Broussard, own lots 32A

in the Pines Village, based on the original Plat recorded April 5, 1971.

I hereby vote to X approve ____ disapprove the new covenants dated
6/09/2011.

Signed Robert M Broussard 6/17/2011

Printed Robert M Broussard

6/26/2011

AKA Frances Smith

I, Frances Murray, own lots # 38
in the Pines Village, based on the original Plat recorded April 5, 1971.

I hereby vote to ☒ approve ☐ disapprove the new covenants dated
6/09/2011.

Signed Frances Murray 6/26/2011

Printed Frances Murray AKA Frances Smith

Thanks
for keeping us
in the loop
email is
SKSvitala@cf1.rr.com

6/___/2011

We, Richard & Audrey Stermer own lots see below
in the Pines Village, based on the original Plat recorded April 5, 1971.

I hereby vote to 17⁽⁻⁾ approve _____ disapprove the new covenants dated
6/09/2011.

Signed [Signature] 6/11/2011

Printed R.A. Stermer

Audrey Stermer
Audrey Stermer

Ph I - 29
30
31
39
41 } 5 lots 80/20 ∴ 4 votes

Ph II 1A - 3 lots
5A - 3 lots
8A - 3 lots
11A - 4 lots
16A - 3 lots } 16 lots 80/20 ∴ 13 votes