

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

OF

THE WONDERLAND HILL POOL & TENNIS CLUB

PREAMBLE

THIS DECLARATION, made on the date hereinafter set forth, by The Wonderland Hill Development Company, a Colorado corporation, of Boulder, Colorado, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of the following property, situate in the County of Boulder, State of Colorado, more particularly described on Exhibit "A" attached hereto which describes what is to be known as Wonderland Hill Fifth Filing, Wonderland Hill Sixth Filing, Wonderland Hill Seventh Filing and Wonderland Hill Eighth Filing.

WHEREAS, Declarant will construct a residential community on the property above described, together with other improvements thereon; and

WHEREAS, Declarant will convey the said property subject to the protective covenants, conditions, restrictions, reservations, obligations, liens and charges as hereinafter set forth.

NOW, THEREFOR, Declarant hereby declares that the property above shall be held, sold, and conveyed subject to the following covenants, conditions, restrictions, uses and obligations, all of which are declared and agreed to be for the protection of the value of the property and for the benefit of any person having any right, title or interest in the described property, and which shall be deemed to run with the land, and shall be a burden and benefit to any persons acquiring such interests, their grantees, successors, heirs, legal representatives and assigns.

## ARTICLE I

### DEFINITIONS

Section 1 ASSOCIATION shall mean and refer to THE WONDERLAND HILL POOL & TENNIS CLUB, a Colorado corporation, not for profit.

Section 2 BOARD OF DIRECTORS or BOARD shall mean and refer to the Board of Directors of the Association, duly elected pursuant to the Bylaws of the Association or appointed by the Declarant as herein provided.

Section 3 BYLAWS shall mean the Bylaws adopted by the Association as amended from time to time.

Section 4 COMMON AREAS shall mean that portion of The Properties owned by the Association for the common use and enjoyment of the Members more specifically described as Outlot A of the said Wonderland Hill Fifth Filing, together with all facilities and improvements hereon.

Section 5 DECLARANT shall mean the Wonderland Hill Development Company, its successors or assigns.

Section 6 DECLARATION shall mean this Declaration of Covenants, Conditions and Restrictions of the Wonderland Hill Pool & Tennis Club, as may be amended from time to time.

Section 7 DWELLING UNIT shall mean and refer to the residence constructed on each Lot within The Properties and any replacment thereof, including the patio, fence, garage and basement, if applicable.

Section 8 LOT shall mean and refer to any plot of land shown upon any recorded subdivision map of The Properties with the exception of the Common Areas.

Section 9 OWNER shall mean and refer to the record Owner including the Declarant of the fee simple title to any Lot as defined herein which is a part of The Properties, whether one or more persons or entities, excluding those having an interest under an encumbrance.

Section 10 MEMBER shall mean and refer to all those who are Resident and Non-Resident Members of the Association as provided in ARTICLE IV, Section 2 hereof.

Section 11 ASSESSMENTS shall mean all monies due the Association from Members as duly assessed against the membership by the Board of Directors of the Association in accordance with ARTICLE V of this Declaration.

Section 12 FIRST MORTGAGEE shall mean a person or entity who is the beneficiary of a mortgage or deed of trust reflecting a first lien against a Resident Member's Lot which is a part of The Properties.

Section 13 THE PROPERTIES shall mean and refer to all Common Areas and Lots and all the improvements thereon which constitute or shall constitute the entire project herein created. The legal description of which is attached hereto as Exhibit "A" and will be known as Wonderland Hill Fifth Filing, Wonderland Hill Sixth Filing, Wonderland Hill Seventh Filing, and Wonderland Hill Eighth Filing.

Section 14 RULES shall mean the Rules and Regulations adopted by the Board of Directors as amended from time to time.

## ARTICLE II

### SCOPE OF DECLARATION AND RIGHTS RESERVED BY DECLARANT

#### Section 1 PROPERTY SUBJECT TO DECLARATION

Declarant, as the owner of fee simple title to The Properties, expressly intends to and, by recording this Declaration, does hereby subject The Properties to the provisions of this Declaration.

#### Section 2 CONVEYANCES SUBJECT TO DECLARATION

All easements, restrictions, conditions, obligations, reservations, liens, charges, rights, benefits and privileges which are granted, created, reserved or declared by this Declaration shall be deemed to be covenants appurtenant, running with the land, and shall at all times inure to the benefit of and be binding on any person having at any time any interest or estate in The Properties, and their respective heirs, successors, representatives or assigns. Reference in any deed of conveyance, lease, mortgage, deed of trust, other evidence of obligation or any other instrument to the provisions of this Declaration shall be sufficient to create and reserve all of the easements, restrictions, conditions, covenants, reservations, liens, charges, rights, benefits and privileges which are granted, created, reserved or declared herein as though fully and completely set forth in their entirety in any such document.

#### Section 3 OWNER'S RIGHTS SUBJECT TO THE PROVISIONS OF THIS DECLARATION

Each Resident member shall own his Lot in fee simple for use as a single family residence, and shall have full and complete dominion thereof, subject to the provisions of this Declaration.

## ARTICLE III

### PROPERTY RIGHTS

#### Section 1 MEMBERS EASEMENTS OF ENJOYMENT

Every Member and his immediate family shall have a non-exclusive right and easement of enjoyment in and to the Common Areas, which shall be appurtenant to and shall pass with the title to the Lot of such Resident member and with the membership of a Non-Resident member, subject to the following rights:

- (a) The non-exclusive right and easement of the Association to make such use of The Properties as may be necessary or appropriate for the performance of the duties and functions which it is obligated or permitted to perform under this Declaration. The Board of Directors, in its sole discretion, may from time to time grant easements and rights of way on, across, under and over the Common Areas to any entity providing water, sewer, gas, electricity, telephone, cable television, or other similar service to the Properties.
- (b) The right of the Board of Directors to make such reasonable Rules regarding the use of the Common Areas and the facilities located thereon by Members and other persons entitled to such use.
- (c) The rights reserved in this Declaration to Declarant, members, other persons and the Association.

#### Section 2 TITLE TO COMMON AREAS

The Declarant may retain the legal title to the Common Areas until such time as in the opinion of the Declarant, it has completed improvements thereon and the Association is able to maintain the same, but, notwithstanding any provisions herein, the Declarant hereby covenants, for itself, its successors and assigns, that it shall convey the Common Areas to the Association free and clear of all encumbrances and liens, not later than December 31, 1984.

#### Section 3 DELEGATION OF USE

A Resident member may delegate his right of enjoyment of the Common Areas to the members of his family, to his tenants or to contract purchasers who reside upon a Lot within The Properties. A Non-Resident Member may delegate his right of enjoyment to the Common Areas to members of his family, to his tenants and to contract purchasers. All such persons shall be subject to the Rules concerning such use. A Member is fully responsible for the actions of the members of his family, guests, employees, licenses, lessees, or invitees.

## ARTICLE IV

### THE ASSOCIATION

#### Section 1 DUTIES AND RESPONSIBILITIES OF THE WONDERLAND HILL POOL & TENNIS CLUB

Declarant has caused to be incorporated as a non-profit corporation, The Wonderland Hill Pool & Tennis Club, and has designated such Association to be the owner and manager of the Common Areas. Any purchaser of a Lot or a Non-Resident Membership in the Association shall be deemed to have assented to, ratified and approved such designation and management. Said Association, through its Board of Directors, shall have the following duties, rights and powers:

- (a) To collect monthly or periodic assessments, equitably prorated, from members; to collect such other assessments as are herein authorized; and to collect delinquent assessments by suit or otherwise.
- (b) From funds collected, to provide for maintenance, management, insurance and such other expenses as are enumerated in this Declaration.
- (c) To lease, acquire and sell real or personal property in pursuance of its obligations.
- (d) To enjoin or seek damages from or assess fines against the Members for violation of provisions of this Declaration, the Bylaws or the Rules of the Association.
- (e) To employ workmen and others; to contract for services to be performed, including those of a manager; to purchase supplies and equipment; to enter into contracts; and generally to have the powers of property manager in connection with the matters herein set forth. The Association shall not enter into any management Agreement for the furnishings of service, material or supplies, the term of which is in excess of one year; and further provided that any management agreement entered into by the Association shall be terminable by the Association without cause or payment of a termination fee upon ninety (90) days or less written notice.
- (f) To employ attorneys and accountants in connection with legal matters of the Association and in connection with the audit of its books and records, which audit shall be available to Members and First Mortgagees for inspection at the Association's office.

- (g) To adopt and enforce Rules for the regulation and operation of The Properties, including but not limited to regulations governing the use of the Common Areas.

## Section 2 MEMBERSHIP

- (a) Resident membership. Every person or entity who is a record owner of a fee interest in any Lot which is subject by covenants of record to assessment by the Association shall have a Resident Membership in the Association, including contract sellers; provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a member. Such Resident membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for such membership.
- (b) Non-Resident membership. Every person or entity who is not a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, but who has purchased a membership in the Association from the Declarant or other Non-Resident Member shall have a Non-Resident membership in the Association. There shall be allowed a maximum of 57 Non-Resident Memberships in the Association. No assessment or charge of any nature shall be made against the Non-Resident Memberships held by the Declarant until they are transferred to the Non-Resident Member nor shall the Declarant be entitled to vote such Non-Resident memberships.

## Section 3 VOTING RIGHTS

There shall be two classes of voting membership

- (a) Class A members shall be all members, Resident and Non- Resident, with the exception of the Declarant.

The Resident Members shall be entitled to one vote for each Lot in which they hold the interests required for membership by Section 2. If more than one person holds such interest or interests, all such persons shall be Resident Members. The vote for such Lot which is held by more than one Member may be exercised by anyone of them, unless an objection or protest by any other holder of an interest in such Lot is made prior to the completion of the vote, in which case the vote for such Lot shall be exercised, as the persons holding such interest shall determine among themselves; provided that in no event shall more than one vote be cast with regard to any such Lot.

The Non-Resident Members shall be entitled to one vote for each Non-Resident Membership. If more than one person holds an interest in such Non-Resident Membership, then all such persons shall be Non-Resident Members. The vote for such membership which is held by more than one Non-Resident Member may be exercised by anyone of them unless an

objection or protest by any other holder of an interest in such Non-Resident Membership is made prior to the completion of the vote in which case the vote for such Non-Resident Membership shall be exercised as the persons holding such membership shall determine among themselves; provided that in no event shall more than one vote be cast with respect to any Non-Resident Member.

When Class B Membership has been converted to Class A Membership, all directors of the Association shall be elected by the Class A members.

- (b) The Class B member shall be the Declarant, its successors or assigns. The Class B member shall be entitled to appoint all members of the Board of Directors of the Association so long as the Class B Membership exists. Class B Membership may be converted to Class A Membership at the option of the Class B member by written notice to the Secretary of the Association and shall be converted to Class A Membership without further act or deed on December 31, 1984.

#### Section 4 INDEMNIFICATION

The manager, employees of the Association, and each director and officer of the Association, shall be indemnified by the Association against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed upon them in connection with any proceeding to which they may be a party, or in which they may become involved, by reason of being or having acted as such upon behalf of the Association; provided that this indemnification shall not apply if the said person is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided further that in the event of a settlement, the indemnification herein shall apply only when the Board approves such settlement. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such person may be entitled.



## ARTICLE V

### ASSESSMENTS

#### Section 1 ASSESSMENTS

Each Resident Member of the Association, except those exempt under Section 6 of this Article, by acceptance of a deed to his Lot and each Non Resident Member by purchase of a Non Resident Membership in the Association is deemed to covenant and agrees to pay to the Association assessments to be fixed, established and collected from time to time as herein provided. Such assessments, together with interest and the costs of collection in the event of delinquency in payment as allowed in ARTICLE V, Section 5, paragraph (b) shall be the personal obligation of the person who was the Member or of the persons jointly and severally who were the Members at the time when the assessment was made.

#### Section 2 PURPOSE OF ASSESSMENTS

The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety and welfare of the Members of the Association, which include, but are not limited to the following: the expenses of the repair and maintenance of the Common Areas to include the mowing of the grass, the caring for the grounds and gardens, the operation and maintenance of the sprinkler systems, swimming pool, tennis court and recreational building or clubhouse repair, to provide casualty and public liability insurance for the Common Areas and for any other purpose reasonable, necessary, or incident to such purposes. Such assessment shall include the establishment and maintenance of a cash reserve and a sinking fund for all of the foregoing purposes, including but not limited to an adequate reserve fund for the maintenance, replacement or repair of those elements of the Common Areas which must be repaired on a periodic basis.

In the event repairs are required resulting from negligent acts of a Member, the Member's family, guests, employees, invitees or lessees, the Association shall be reimbursed forthwith by such Member therefore upon due notice to the Member responsible and failure of such Member to make the reimbursement within thirty (30) days, then the cost of the repairs shall be chargeable by Individual Assessment in accordance with ARTICLE: V, Section 3, paragraph (b) to such Member.

#### Section 3 BASIS OF ASSESSMENTS

- (a) Common Areas Expense: The expense of the maintenance, repair, replacement and operation of the Common Areas, all of which expense shall take into account any sinking fund established for future expected expenditures shall be paid by the Members in the proportion which the number of Memberships owned by a Member bears to the total number

of issued and outstanding Memberships in the Association. Non-Resident Memberships are not considered issued and outstanding until sold to a Non Resident Member by the Declarant.

- (b) Individual Assessments: The Board of Directors of the Association shall have the right to assess any member individually amounts as provided for by this Declaration to include but not be limited to, charges assessed under ARTICLE V, Section 2, Section 3, paragraph (d) and ARTICLE XII, Section 1. Individual Assessments are exempt from the voting requirements required for other special assessments called for under this Declaration.
- (c) Levy of Assessments: Within the first three months of each calendar year, the Board shall determine the estimated annual assessment payable periodically during the year by each Membership provided however, that said assessments may be adjusted upon a finding of necessity by the Board, but no more than twice in anyone year. Fines and Individual Assessments may be assessed at any time as required.
- (d) Fines: The Board of Directors of the Association shall have the right to assess after given due notice and an opportunity to be heard a fine by Individual Assessment against a Member not exceeding \$50 for each violation of this Declaration, the Bylaws and the Rules of the Association. Such fine may be assessed additionally for each day the violation continues after written notice thereof is given the Member.
- (e) Non-Exemption: No Member shall be relieved from payment of any assessment by waiver or suspension of the use of any of the Common Areas or by the abandonment of his Lot or Non-Resident Membership.

#### Section 4 SPECIAL ASSESSMENTS

In addition to the assessments authorized above, the Board may levy special assessments for the purpose of defraying the cost of any construction or reconstruction, unexpected repairs or replacement of capital improvements, including the necessary fixtures and personal property related thereto. If any such total assessment exceeds \$50 per membership per year, the same must have assent of the majority vote of the members at which a quorum is in attendance as more fully defined by the Association's Bylaws. Written notice shall be sent to all members of record not less than fifteen (15) days or more than thirty (30) days in advance of the meeting setting forth the purpose of the meeting.

#### Section 5 NON-PAYMENT OF ASSESSMENTS: REMEDIES OF THE ASSOCIATION

- (a) Fines and Individual Assessments and Special Assessments shall be due and payable on the date assessed.
- (b) All other assessments shall be due and payable on the first day of the period fixed for payment of the assessment. All assessment shall become

delinquent unless paid thirty (30) days thereafter. All unpaid assessments shall be subject to a late charge for non-payment as may be determined from time to time by the Board. If such assessments are not paid within thirty (30) days after the due date, they shall bear interest from the date of delinquency at the rate of twelve (12%) per cent per annum or other reasonable rate as fixed by the Board and uniformly applied. Failure to make payment within thirty (30) days of the due date thereof also shall cause the full amount of such member's estimated assessment for the remainder of that year to become due and owing at once, at the option of the Board. In the event it shall become necessary for the Board to collect any delinquent assessments, whether by foreclosure of a lien hereinafter created or by an action at law, the delinquent Resident or Non-Resident member shall pay, in addition to the assessments and late charge and interest herein provided, all costs of collection, including a reasonable attorney's fee and costs incurred by the Association in enforcing payment.

- (c) When a Resident Member fails to make any payment or payments as required by this Declaration, the Association is hereby granted a lien against the Resident Member's Lot for such payment or payments provided however, that (1) such lien shall be effective only upon recordation of a notice thereof in the office of the Clerk and Recorder of Boulder County, State of Colorado, and each Resident Member, by accepting a deed to his Lot, designates any one of the officers of the Association or its duly appointed Manager as agent with full irrevocable power and right to record a notice of said lien in favor of the Association; (2) a lien accruing hereunder shall be foreclosed in the same manner as provided by the laws of the State of Colorado for foreclosure of mortgages on real property; and (3) such lien shall be subject and subordinate to and shall not affect the rights of a First Mortgagee. The lien hereby given shall also be a lien upon all of the rents and profits of the encumbered Lot; provided however, the lien shall also be subject and subordinate to the rights of any First Mortgagee of a Lot under any assignment of rents given in connection with a first deed of trust. In the event of a foreclosure, the Resident Member shall be required to pay reasonable rental to the Association for occupying the same during the period of the foreclosure, and if after the filing of a foreclosure action, the Resident Member's Dwelling Unit is left vacant, the Board make take possession and rent said Dwelling unit or apply for the appointment of a receiver for the Dwelling unit without notice to the Resident Member. In addition to the lien herein granted, the Board shall have the right to bring an action at law against any Resident Member who fails to pay any amounts assessed against his Lot and obtain judgment for the amount of the assessments due plus costs as herein provided. The Board shall have the power to bid at the foreclosure sale, and if title is obtained, hold, lease, mortgage and encumber or convey the same.
- (d) When a Non-Resident Member fails to make any payment or payments as required by this Declaration, the Association shall bring an action at law against the Non-Resident Member personally obligated to pay the assessment.
- (e) When a Resident or Non-Resident: Member fails to make any payment or payments as required by this Declaration, such Member's rights of

enjoyment in the Common Areas shall be suspended until such time as such payments, together with all interest, late fees and costs of collection by the Association have been paid in full.

In the event a Non-Resident Member fails to make any payment or payments as required by this Declaration, any such failure continues for a period of ninety (90) days from its due date, the Board of Directors, at its option, may cancel upon thirty (30) day's written notice, such Non-Resident Member's membership in the Association. A Non-Resident Member's membership cancelled because of non-payment or assessments shall cause all monies paid to the Association by such defaulting Non-Resident Member to be retained by the Association as liquidated damages and not as a penalty. The Board of Directors shall be free to sell said Non-Resident Membership to a new purchaser, free and clear of any claim by the defaulting Non-Resident Member.

- (f) In the event a Resident Member is in default on any obligation secure by an encumbrance on his Lot, the Board at its option may pay the amount due on said obligation and file a lien against the Lot in the manner as provided for herein for unpaid assessments.
- (g) Sale or transfer of any interest by a Resident Member shall not affect or release any lien granted the Association herein.
- (h) In the case of the conveyance of a Lot pursuant to foreclosure proceedings or by deed in lieu of foreclosure, such transfer of title shall extinguish the lien for all unpaid assessments made by the Board becoming due before the date of transfer of title or date of first possession, whichever comes first. The amount remaining unpaid with respect to which the lien is extinguished shall be deemed to be a Common Area Expense collectible from all the Members as such, without prejudice to the right of the Association to recover such amount from the delinquent Resident Member.

## Section 6 EXEMPTION

The following property and Membership subject to this Declaration shall be exempt from the assessment, charges and liens granted herein:

- (a) all Resident Memberships, all Not-Resident Memberships and all Lots owned by the Declarant; provided however the Declarant shall be obligated until its Class B Memberships are terminated pursuant to ARTICLE IV, Section 3 paragraph (b) hereof to contribute monthly to the Association such amounts, if any as will offset any deficits of the Association, excluding from such contribution, however, any deficits resulting from any special assessments or any deficits arising from establishing and maintaining any reserve or sinking fund.
- (b) all properties dedicated to and accepted by a local public authority;
- (c) all Common Areas.

## ARTICLE VI

### ARCHITECTURAL CONTROL

The Architectural Control of Outlot A of The Properties shall be the responsibility of the Architectural Control Committee as established by the COVENANTS, CONDITIONS AND RESTRICTIONS OF THE WONDERLAND HILL FIFTH FILING and all of the terms and conditions of ARTICLE VII of the said COVENANTS, CONDITIONS AND RESTRICTIONS are incorporated herein and by reference made a part hereof.

## ARTICLE VII

### MAINTENANCE OF THE COMMON AREAS

The Association shall provide for the care, operation, management and repair of the Common Areas. Without limiting the generality of the foregoing and by way of illustration, the Association shall keep the Common Areas in good, clean, attractive and sanitary order and repair; shall maintain and keep in good repair the Association's Clubhouse or recreational building, swimming pool and tennis courts, maintain and replace all or any portion of the landscaping, shall keep the Common Areas safe, attractive and desirable; and shall make necessary or desirable alterations or improvements to the Common Areas. Nothing herein shall be construed as a waiver of any right by the Board of Directors to recover for any damage or (expense incurred as the result of the willful or negligent action or omission of any person.

## ARTICLE VIII

### INSURANCE

#### Section 1 INSURANCE FOR THE ASSOCIATION

The Association shall be required and empowered to obtain and maintain the following insurance:

- (a) Insurance coverage upon the Common Areas and all property owned or leased by the Association;
- (b) Insurance coverage against loss or damage by fire and all other casualty as are covered under standard i coverage provisions for the full insurable replacement i cost of the Common Areas.
- (c) Comprehensive public liability insurance and other liability insurance insuring the Association, Board of Directors, Managers and agents in connection with The Properties.
- (d) Such other insurance as the Board may deem desirable.

#### Section 2 REBUILDING OF DAMAGED COMMON AREAS

Any portion of the Common Areas damaged or destroyed shall be repaired or replaced promptly by the Board of Directors unless a "Declaration not to Rebuild" signed by Members holding seventy-five (75%) per cent or more of the total votes hereunder and by seventy-five (75%) per cent of the First Mortgagees is recorded in the office of the County Clerk and Record, Boulder, Colorado, indicating their intention not to rebuild.

The cost of repair or replacement of the Common Areas in excess of insurance proceeds received and reserves shall be assessed as a Common Area expense in accordance with ARTICLE V, Section 3, paragraph (a) and not as a special assessment and such assessment shall be exempt from any special voting requirements of the Membership.

If the entire damaged Common Area is not repaired or replaced (a) the insurance proceeds shall be used to restore the damaged Common Area to a condition compatible with the remainder of the Common Areas, and (b) the remainder of the proceeds shall be distributed to all Members in the same proportion as Common Area expenses are assessed. Proceeds hereunder shall be paid to the Resident Members and their respective mortgagees as their interest may appear and no Member or other party shall be entitled to priority over a First Mortgagee with respect to any such distribution. A Non-Resident Member shall be entitled to his full pro rata share of the proceeds.

## ARTICLE IX

### CONDEMNATION PROCEDURE

#### Section 1 CONDEMNATION OF COMMON AREA

In the event of a proceeding in condemnation or partial condemnation of any Common Area by any governmental authority authorized so to do, then the proceeds from such condemnation attributable to the Common Areas shall be distributed unto the Members in the same proportion as Common Areas Expense are assessed.

#### Section 2 LIEN HOLDERS

When a condemnation occurs and a Resident Member's Dwelling Unit is subject to an encumbrance, the proceeds due the Resident Member by reason of such condemnation shall be paid to the Members and their respective First Mortgagees as their interest may appear and no Member or other party shall be entitled to priority over a First Mortgagee with respect to any such distribution. A Non-Resident Member shall be entitled to his full pro rata share of the proceeds.

## ARTICLE X

### FIRST MORTGAGEE'S RIGHTS

#### Section 1 NOTICE TO FIRST MORTGAGEE

Each First Mortgagee, upon written request by such First Mortgagee to the Board of Directors, shall receive any of the following:

- (a) Notice of damage exceeding \$1,000 to a Dwelling Unit in which the First Mortgagee has a security interest, or damage exceeding \$10,000 to the Common Areas.
- (b) Copies of budgets, notices of assessments, or any other notices or statements provided for under this Declaration by the Association to the Owner of a Dwelling Unit in which a First Mortgagee has a security interest.
- (c) Any financial statements of the Association which are prepared for the Association and distributed to the Members.
- (d) Copies of notices of meetings of the Membership and the right to be represented at any meetings by a designated representative.

- (e) Notice of the decision of the Members to make any material amendment to this Declaration, the Bylaws, or the Articles of Incorporation of the Association.
- (f) Notice of commencement of any condemnation or eminent domain proceedings with respect to any part of the Common Areas.
- (g) Notice of any default of the holder's Owner which is not cured by the Owner within thirty (30) days after the giving of notice by the Association to the Owner of the existence of the default.

## Section 2 FORM OF BEQUEST

The request of a First Mortgagee shall specify which of the above it desires to receive and shall indicate the address to which any notices or documents shall be sent by the Association. Failure of the Association to provide any of the foregoing to a First Mortgagee who has made a proper request therefore shall not affect the validity of any action which is related to any of the foregoing. The Association need not inquire into the validity of any request made by a First Mortgagee hereunder and in the event of multiple requests from purported First Mortgages of the same Dwelling Unit, the Association shall honor the most recent request received.

## Section 3 PAYMENT OF CHARGES

First Mortgagees, jointly or singularly, may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on a lapse of a policy for such Common Areas and may also pay taxes and other charges which are in default or which may or have become a charge against such Common Areas. A First Mortgagee making such payments shall be owed immediate reimbursement therefore from the Association. Entitlement to such reimbursement is to be reflected in an agreement in favor of all First Mortgagees duly executed by the Association.

## Section 4 BOOKS AND RECORDS

A First Mortgagee shall have the right to examine the books and records of the Association at any reasonable time at the office of the Association upon reasonable notice.

## Section 5 RESTRICTIONS

The prior written approval of all First Mortgagees will be required for any of the following:

- (a) Failure to maintain fire and extended coverage on insurable Common Areas property on a current replacement cost basis in an amount not less than one hundred (100%) percent of the insurable value (based on current replacement cost).



- (b) The use of hazard insurance proceeds for losses to any part of the Common Areas for other than repair, replacement or reconstruction of such improvements.
- (c) An amendment to the Declaration which (i) changes the manner in which assessments are assessed against Members or (ii) amends this Section or any other provision which specifically grants rights to First Mortgagees hereunder.
- (d) The abandonment, partition, subdivision, sale or transfer or the encumbrance of the Common Areas after such Common Areas have been conveyed to the Association subject to Declarant's rights herein; except that the consent of sixty-seven (67%) per cent of the First Mortgagees shall be required for action by the Association to lease all or a portion of the Common Areas; except that the consent of the First Mortgagees shall not be required for action by the Board of Directors to grant easements for utilities and similar or related purposes.
- (e) The abandonment of the planned unit development or the removal of any part or all of The Properties from the provisions of this Declaration.
- (f) The waiver or abandonment of the scheme of Architectural Control or the enforcement thereof.

## Section 6 PROTECTION

No violation or breach of or failure to comply with any provision of this Declaration and no action to enforce any such provision shall affect, defeat, render invalid or impair the lien of any mortgage taken in good faith and for value and perfected by recording in the appropriate office, prior to the time of recording in said office of an instrument describing the Lot and listing the name or names of the Owner or Owners thereof and giving notice of such violation, breach or failure to comply. However, any purchaser on foreclosure or person accepting a deed in lieu thereof shall take subject to this Declaration.

## ARTICLE XI

### DURATION AND AMENDMENTS

#### Section 1 DURATION

The covenants, restrictions and obligations of this Declaration shall run with and bind the land for 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.

#### Section 2 AMENDMENTS

Except in cases of amendments that may be executed by the Declarant pursuant to ARTICLE XI, Section 3, and except as restricted by ARTICLE X, Section 5 hereof, this Declaration shall not be amended or revoked until a certificate setting forth the amendment approved and signed by Members holding seventy-five (75%) per cent of the First Mortgagees is recorded in the office of the County Clerk and Recorder, Boulder, Colorado. No amendment shall affect the rights of the Declarant herein unless approved and consented to by the Declarant in writing.

#### Section 3 SPECIAL AMENDMENTS

Declarant hereby reserves and is granted the right and power to record a Special Amendment to this Declaration at any time and from time to time which amends this Declaration (i) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veteran's Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may perform in the future) functions similar to those currently performed by such entities and/or (ii) to induce any of such agencies or entities to make, purchase, sell, insure, or guarantee first mortgages or deeds of trust covering Dwelling Units. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Declarant to make or consent to a Special Amendment on behalf of each Member. Each deed, mortgage, trust deed, other evidence of obligation or other instrument affecting a Dwelling Unit and the acceptance thereof shall be deemed to be a grant and acknowledgement of, and consent to the reservation of, the power of Declarant to make, execute and record Special Amendments. No Special Amendment made by Declarant shall affect or impair the lien of the first mortgage or deed of trust upon a Dwelling Unit or any warranties made by an Owner or First Mortgagee in order to induce any of the above agencies or entities to make, purchase, insure, or guarantee the first mortgage or deed of trust on such Owner's Dwelling Unit.

## ARTICLE XII

### GENERAL PROVISIONS

#### Section 1 ANIMALS WITHIN THE COMMON AREAS

Dogs, cats and other household animals shall not litter the Common Areas. It shall be the duty of the Association to keep the Common Areas free from litter caused by and left by pets. The owners of pets known to be at large shall be properly assessed by the Board of Directors for the cleanup expenses incurred, together with the costs of collection and enforcement to include reasonable attorneys' fees, as an Individual Assessment against the owner of such pets causing such litter in accordance with ARTICLE V, Section 3 Paragraph (b).

Dogs, cats and other household animals shall not be allowed to run at large within the Common Areas but shall be at all times on a leash while such animal is off his owner's Lot. It shall be the duty of the Association, or its representative, to notify the City Dog warden of pets found at large within the Common Areas in violation of City Ordinances.

#### Section 2 PARKING

Automobile parking will be subject to regulation and restriction by the Board of Directors.

#### Section 3 RULES

Every member, his guests, members of his family, servants, employees, invitees, lessees and licensees shall adhere strictly to the Rules as promulgated by the Board of Directors, as amended from time to time.

#### Section 4 ENFORCEMENT

The failure of any member to comply with the provisions of the Declaration, Bylaws and any Articles of Incorporation of the Association will give rise to a cause of action in the Association by its Board of Directors and in any aggrieved Member for the recovery of damages of injunctive relief, or both.

#### Section 5 INVALIDITY

Any portion of this Declaration invalidated in any manner whatsoever shall not be deemed to affect in any manner the validity, enforceability or effect of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

## Section 6 CLAIMS

No claim or cause of action shall accrue in favor of any person for the failure of the Association or Declarant to enforce any provision hereof. This Section may be pleaded as a full bar to the maintenance of any suit, action, or arbitration brought in violation of this provision.

## Section 7 WAIVER

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

## Section 8 NOTICES

Each Member shall register his mailing address with the Association. Any notice required to be sent to any Member under the provisions of this Declaration shall be deemed to have been properly sent when mailed, post-paid, to the last known address of the person who appears as a member on the records of the Association at the time of such mailing.

## Section 9 ATTORNEY'S FEES AND COSTS

If any action is brought in a court of law or put into arbitration as to the enforcement, interpretation, or construction of any of the within covenants, conditions and restrictions, the prevailing party in such action shall be entitled to reasonable attorney's fees as well as all costs incurred in the prosecution or defense of such action.

## Section 10 CAPTIONS

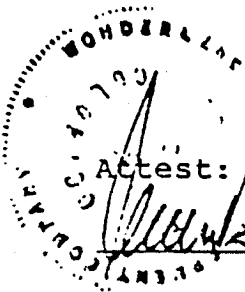
The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describes the scope of this Declaration nor the intent of any provision hereof.

## Section 11 GENDER

The use of the masculine gender in this Declaration shall be deemed to refer to the female gender, and the use of the singular shall be deemed to refer to the plural, and vice versa, when the context so requires.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed by its duly authorized officers and its corporate seal to be affixed on this 24 day of January, 1979.

DECLARANT:  
WONDERLAND HILL DEVELOPMENT COMPANY



Attest: [Signature]  
Secretary

By: [Signature]  
President

STATE OF COLORADO )  
 ) ss.  
COUNTY OF BOULDER

Subscribed and sworn to before me this 24th day of January, 1979, by James W. Leach as President and William A. Love as Assistant Secretary of Wonderland Hill Development Company.

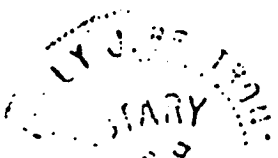
Witness my hand and official seal.  
My commission expires: January 31, 1979.

[Signature]  
Notary Public

The undersigned, owner of all the Lots platted within The Properties, other than those Lots owned by the Declarant, hereby ratifies, confirms, and agrees to be bound by the Covenants, Conditions and Restrictions of The Wonderland Hill Pool & Tennis Club as hereinabove contained.

Dated: 1/25/79

CARLEN Q. PENFOLD COMPANY  
A Partnership  
By: [Signature]  
Larry Penfold, General Partner



STATE OF COLORADO )  
 ) ss.  
COUNTY OF BOULDER

Subscribed and sworn to before me this 25th day of January, 1979, by Larry Penfold, General Partner of Carlen Q. Penfold Company, a Partnership.

My commission expires: January 31, 1979

[Signature]  
Notary Public