

**DECLARATION
OF
FLAGSTONE TOWNHOMES AT STONE LANE MEADOWS**

THIS DECLARATION, made on the date hereinafter set forth, by Peter Kreissig ("Declarant").

a) Declarant is the owner of certain real estate in the City of Steamboat Springs, Routt County, State of Colorado, which is more particularly described in Exhibit A, attached hereto, and;

b) Declarant desires to create a Planned Community, Common Interest Community ("CIC") on the real estate described in Exhibit A, the name of which is Flagstone Townhomes at Stone Lane Meadows, in which portions of the real estate described in Exhibit A will be designated for separate ownership and the remainder of which will be designated for common ownership by the owners of the separate ownership portions and which will be managed by a unit owners' association formed by the Declarant for that purpose; and

c) Declarant has caused to be incorporated under the laws of the State of Colorado, Flagstone Townhome Association, Inc., a unit owners' association, nonprofit corporation, for the purpose of exercising the functions as herein set forth.

**ARTICLE I
SUBMISSION; DEFINED TERMS**

Section 1.01 Submission of Real Estate.

(a) Declarant hereby declares that all of the real estate described in Exhibit A shall be held or sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of, and which shall run with, the real estate and be binding on all parties having any right, title or interest in the real estate or any part thereof, their heirs, legal representatives, successors, and assigns and shall inure to the benefit of each owner thereof.

(b) Additionally, Declarant hereby submits the real estate to the provisions of the Colorado Common Interest Ownership Act, Sections 38-33.3-101, et seq., Colorado Revised Statutes, as it may be amended from time to time (the "Act"). In the event the Act is repealed, the Act, on the effective date of this Declaration, shall remain applicable.

Section 1.02 Defined Terms. Each capitalized term not otherwise defined in this

492888 B-746 P-348 05/12/1998 01:49P PG 1 OF 13 REC 66.00
4827C-PP Kay Weinland Routt County Clerk & Recorder DOC

Declaration or in the plat or map shall have the meanings specified or used in the Act.

**ARTICLE II
NAMES; DESCRIPTION OF REAL ESTATE**

Section 2.01 Names.

(a) CIC. The name of the Planned Community project is Flagstone Townhomes at Stone Lane Meadows.

(b) Association. The name of the Association is Flagstone Townhome Association, Inc.

Section 2.02 Real Estate. The project is located in Routt County, Colorado. The real estate of the project is described in Exhibit A.

**ARTICLE III
THE ASSOCIATION**

Section 3.01 Authority. The business affairs of the CIC shall be managed by the Flagstone Townhome Association, Inc., a Colorado nonprofit corporation. The Association shall be governed by its Bylaws, as amended from time to time.

Section 3.02 Powers.

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

(b) The Association may assign its future income, including its rights to receive Common Expense assessments, only by the affirmative vote of the Lot Owners of Lots to which at least 51 percent (51%) of the votes in the Association are allocated, at a meeting called for that purpose.

Section 3.03 Declarant Control. The Declarant shall have all the powers reserved in Section 38-3.33-303(5) of the Act to appoint and remove officers and members of the Executive Board.

**ARTICLE IV
LOTS**

Section 4.01 Number of Lots. The number of Lots in the CIC is two (2). The Declarant

492888 B-746 P-348 05/12/1998 01:49P PG 2 OF 13

reserves no rights to create additional Lots.

Section 4.02 Identification of Lots. The identification number of each Lot is shown on the plat or map and Exhibit B of this Declaration.

Section 4.03 Lot Boundaries. The boundaries of each Lot are located as shown on the plat or map.

Section 4.04 Subdivisions of Lots. No further subdivision of the Lots shall be allowed.

ARTICLE V COVENANT FOR COMMON EXPENSE ASSESSMENTS

Section 5.01 Creation of Association Lien and Personal Obligation to Pay Common Expense Assessments. Declarant, for each Lot, shall be deemed to covenant and agree, and each Lot Owner, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association annual Common Expense Assessments. Such assessments, including fees, charges, late charges, attorney fees, fines and interest charged by the Association shall be the personal obligation of the Lot Owner at the time when the assessment or other charges became or fell due. The personal obligation to pay any past due sums due the Association shall not pass to a successor in title unless expressly assumed by them.

The Common Expense Assessment of the Association shall be a continuing lien upon the Lot against which each such assessment is made. A lien under this Section is prior to all other liens and encumbrances on a Lot except: (1) liens and encumbrances recorded before the recordation of the Declaration; (2) a first lien Security Interest on the Lot recorded before the date on which the Common Expense Assessment sought to be enforced became delinquent; and (3) liens for real estate taxes and other governmental assessments or charges against the Lot. This Section does not prohibit an action to recover sums for which this Section creates a lien or prohibit the Association from taking a deed in lieu of foreclosure. Sale or transfer of any Lot shall not affect the Association's lien except that sale or transfer of any Lot pursuant to foreclosure of any first lien Security interest, or any proceeding in lieu of foreclosure, or cancellation or forfeiture shall only extinguish the Associations's lien as provided in the Act. No such sale, transfer, foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure, nor cancellation or forfeiture shall relieve any Lot from continuing liability for any Common Expense Assessments thereafter becoming due, nor from the lien thereof.

Section 5.02 Apportionment of Common Expenses. Common Expenses shall be assessed against all Lots in accordance with their percentage interest in the Common Expenses as shown on Exhibit B of this Declaration.

492888 B-746 P-348 05/12/1998 01:49P PG 3 OF 13

492888 B-746 P-348 05/12/1998 01:49P PG 4 OF 13

Section 5.03 Purpose of Assessments. The assessments levied by the Association through its Executive Board shall be used for the purposes of promoting the health, safety, and welfare of the residents in the Common Interest Community, for preservation of values of the Townhomes and the CIC, and for taxes, insurance, maintenance, repairs, capital improvements and necessary reserves.

Section 5.04 Annual Assessment/Commencement of Common Expense Assessments. The Common Expense assessment shall be made on an annual basis against all Lots and shall be based upon the Association's advance budget of the cash requirements needed by it to provide for the administration and performance of its duties during such assessment year. Common Expense Assessments may be collected in the manner determined by the Executive Board. Common Expense Assessments shall begin on the first day of the month in which conveyance of the first Lot to a Lot Owner other than the Declarant occurs.

Section 5.05 Proposed Budget. The Association shall comply with the provisions of Section 38-33.3-303(4) C.R.S. regarding ratification of proposed budgets for the CIC.

Section 5.06 Effect of Non-Payment of Assessments. Any assessment, charge or fee provided for in this Declaration, or any monthly or other installment thereof, which is not fully paid within ten (10) days after the due date thereof shall bear interest at the rate as determined by the Executive Board and the Association may assess a late charge thereon. Further, the Association may bring an action at law or in equity, or both, against any owner personally obligated to pay such overdue assessments, charges or fees, or monthly or other installments thereof, and may also proceed to foreclose its lien against such owner's Lot. An action at law or in equity by the Association against an owner to recover a money judgment for unpaid assessments, charges or fees, or monthly or other installments thereof, may be commenced and pursued by the Association without foreclosing, or in any way waiving, the Association's lien therefor.

**ARTICLE VI
COMMON ELEMENTS AND
LIMITED COMMON ELEMENTS**

Section 6.01 Common Elements. "Common Element" means all of the real property described on the Map except Lot A, and Lot B, Flagstone Townhomes at Stone Lane Meadows, Steamboat Springs, Routt County, Colorado, including, but not limited to the landscaping, parking areas, streets and recreational facilities and as defined in Sections 38-33.3-202 (a) and (b) C.R.S.

Section 6.02 Limited Common Elements. "Limited Common Elements" means a portion of the Common Elements, allocated in this Declaration, or on the Plat, or by the Act, or in any amendment to any of the foregoing, for the exclusive use of only one of the Lots, including but

492888 B-746 P-348 05/12/1998 01:49P PG 5 OF 13

not limited to sidewalks, doorsteps, stoops, porches, decks, balconies, patios and exterior stairs for the exclusive use of only one Lot.

**ARTICLE VII
MAINTENANCE, REPAIR AND REPLACEMENT**

Section 7.01 Common Elements. The Association or its delegated representative shall maintain and otherwise manage all of the Common Area, including, but not limited to the driveway and parking areas, and all trees, shrubs, grass and any other items located on the Common Area. The Association or its delegated representative shall also maintain in good order and repair the exterior of each Townhome with respect to the following items: The Owners shall jointly maintain, repair, replace and care for the foundations, roofs (including any required snow removal), gutters and down spouts, pilings, siding and exterior building surfaces. The Lot Owners shall also jointly maintain, repair and replace the driveways and all utility trunklines and connections whether situated exterior to or underneath either Townhomes. Any improvements to the driveways other than standard maintenance shall be jointly agreed to by the parties. In the event that the need for extra maintenance or extra repair on the Common Areas is caused through the wilful or negligent act or omission of an Owner, his family, guests or invitees, and such Owner refuses or neglects to perform same within a reasonable time after written demand from the other Lot Owner, the other Lot Owner may perform such extra maintenance or extra repairs and the cost thereof shall be billed to the Owner liable for the extra maintenance or repair and shall constitute a lien against such Owner's Lot.

Section 7.02 Individual Maintenance and Repair. Each Lot Owner shall be individually responsible for the maintenance and repair of the windows and window frames, doors and door frames, garage doors, chimney flues, sidewalks, doorstep, stoop, porch, deck, balcony, patio, exterior stairs, exterior lighting or plumbing or utility elements or appurtenances which are exclusively serving one Townhome and the garage designated for the exclusive use of that Townhome. However, in the event that one Owner fails to maintain these items in a reasonable manner or in the event that the need for extra maintenance or extra repair on a Townhome or garage is caused through the wilful or negligent act or omission of the Owner, his family, guests or invitees, or is to be made to those elements for which the Owner is Liable by virtue of the preceding sentence, and such Owner refused or neglects to perform same within a reasonable time after written demand from the other Lot Owner, the other Lot Owner may perform such extra maintenance or extra repairs and the cost thereof shall be billed to the Owner liable for the extra maintenance or repair and shall constitute a lien against such Owner's Lot.

Section 7.03 Snow Removal. The Lot Owners shall equally share the cost of snow removal necessary for access to each Townhome. However, the owner of a Lot to which any doorstep, stoop, porch, deck, balcony or patio is allocated, shall be responsible for removal of snow, leaves and debris therefrom.

492888 B-746 P-348 05/12/1998 01:49P PG 6 OF 13

Section 7.04 Existing Improvements. In the event that any portion of the townhome improvements existing at the time the Plat is recorded, or any portion of such improvements which are reconstructed or restored subsequent to such recording to substantially the same design and dimensions to replace such existing improvements which are destroyed or damaged by fire or other disaster, including, but not limited to, decks, patios, roof overhangs, walkways and stairways, should be found to extend over or upon the Common Area, such portion extending upon or over the Common Area shall be deemed not to be an encroachment on the Common Area subject to removal.

Section 7.05 Limited Common Areas. Each Lot owner shall have the exclusive use and enjoyment of the Limited Common Area adjacent to its unit. Limited Common Area, as the term is here used, shall mean and comprise that portion of the land adjacent to and surrounding each separate lot of which the imaginary line extending through the party wall shall form one boundary and the exterior perimeters of the Common Area on the respective sides of the party wall line, the others.

**ARTICLE VIII
DEVELOPMENT RIGHTS
OTHER SPECIAL DECLARANT RIGHTS**

Section 8.01 Development Rights and Special Declarant Rights. Declarant reserves no other Development Rights and reserves those Special Declarant Rights as specified in the Articles of Incorporation and Bylaws of the Association, and as permitted by the Act. During the period of Declarant control, Declarant reserves the right to amend this Declaration, the Articles and the Bylaws to correct typographical errors, or to bring any provisions of such documents into compliance with the Act, or to eliminate any inconsistencies between or among such documents.

**ARTICLE IX
ALLOCATED INTERESTS**

Section 9.01 Allocated Interests. The Common Expense liability and votes in the Association allocated to each Lot are set forth in Exhibit B.

Section 9.02 Determination of Allocated Interests. The interests allocated to each Lot have been calculated as follows:

- (a) The percentage of liability for Common Expenses, on the basis of total number of Lots in the CIC; and
- (b) The number of votes in the Association, on the basis of the total number of Lots in the CIC.

**ARTICLE X
RESTRICTIONS ON USE, ALIENATION AND OCCUPANCY**

Section 10.01 Use and Occupancy Restrictions. Subject to the Special Declarant Rights reserved by the Declarant, the following use restrictions apply to all Lots and to the Common Elements:

(a) No use shall be made which will in any manner violate the statutes, rules and regulations of any governmental authority having jurisdiction.

(b) No use shall be made which is contrary to the rules and regulations as may be adopted from time to time by the Association.

(c) No Owner shall place any structure whatsoever upon the Common Elements, including but not limited to the Limited Common Elements and Limited Common Areas, nor shall any Owner engage in any activity which will temporarily or permanently deny free access to any part of the Common Elements without prior consent of the Association.

(d) The CIC is hereby restricted to residential use and uses related to the convenience and enjoyment of such residential use. No structures of a temporary character, including, but not limited to, any trailer, tent, shack, garage, barn or other outbuilding shall be constructed, placed or used on any portion of the CIC at any time for any purpose, either temporarily or permanently. No automobiles, motor home, camper trailers or boats may be stored on any Lot except within an enclosed garage, without the express written permission of the Owner of the adjacent townhome Lot. No Owner may maintain more than two automobiles on the premises which are permanently parked outside that Owner's garage.

(f) No animals, livestock or poultry of any kind shall be raised, bred or kept on or about the CIC; provided, however, that except for those that are kept, bred or maintained for any commercial purpose, dogs, cats and other household pets may be kept subject to rules and regulations adopted by the Association.

(g) No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on the premises nor shall the premises be used in any way for any purpose which may endanger the health or unreasonably disturb the Owner of any Lot or resident thereof. No business activities of any kind whatsoever shall be conducted in any building or in any portion of the property, except as otherwise permitted by the Declaration of Protective Covenants for Stone Lane Meadows, Filing No. 2, filed in Book 688 at Page 0211, Routt County, Colorado records, or by the ordinances and resolutions lawfully enacted by the City of Steamboat Springs, Colorado; provided further, however, that the foregoing covenants shall not apply to business activities, signs and billboards or the construction and maintenance of buildings of the Association, its successors and assigns in furtherance of its powers and purposes as herein set forth.

452668 B-746 P-348 05/12/1998 01:49P PG 7 OF 13

492888 B-746 P-348 05/12/1998 01:49P PG 8 OF 13

(h) All equipment, garbage cans, wood piles or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring properties and streets.

(i) No improvement, construction, modification, painting, or other change shall be made to the exterior of the existing buildings on the Lots without the prior, specific approval of the Association. The buildings on both Lots shall be painted or stained at the same time and in the same color(s). Any disputes between the Lot Owners as to whether painting should occur or the colors shall be resolved by the Association.

(j) Lot Owners shall maintain their buildings, improvements and property so that the CIC is in first-class and reasonable condition at all times.

Section 10.02 Restrictions on Alienation. A Lot may not be conveyed pursuant to a time-sharing arrangement described in Section 38-33-110 C.R.S. The Lots are hereby restricted to residential Townhomes for single-family residential use, and to uses related to the convenience and enjoyment of such residential use. Either Townhome may be leased or rented for such residential purposes on a short or long term basis.

ARTICLE XI EASEMENTS AND LICENSES

Section 11.01 Recording Data. All easements and licenses to which the CIC is presently subject are recited in Exhibit A and/or shown on the Plat. In addition, the CIC may be subject to other easements or licenses granted by the Declarant pursuant to Section 8.01 of this Declaration.

Section 11.02 Grant of Easement. The Declarant hereby grants and conveys to the Lot Owners a nonexclusive easement over, under and across the Common Area of the CIC, and also a nonexclusive easement over, under and across each Lot, on the exterior of each townhome structure for access to and repair and maintenance of any common and public utility lines and appurtenance, subject to the provisions of this Declaration, the Association By-laws and such Rules and Regulations as may be adopted from time to time by the Association. Such easement shall run with and be appurtenant to the individual Lots of the CIC and shall not be severed from said Lots at any time for any reason. The easement herein granted shall automatically pass to such owner's successors in title.

ARTICLE XII PARTY WALLS

Section 12.01 Party Wall Easements. Mutual reciprocal easements are hereby established, declared and granted for the common wall presently between the Townhome Lots and for each

additional party wall hereafter constructed on the common boundary line between the Lots, and shall be governed by this Declaration. The common wall between the Lots is hereby declared to be a party wall, and the Owners of each Lot shall have an easement on that part of the foundation, stem-walls, supporting wall structure and roofing of the Townhome on the adjoining Lot as are situated adjacent to the common boundary between the Lots for the purpose of structural support, repair and maintenance of the same, and including reasonable access through such adjoining Lot and the Townhome thereon for the repair, maintenance, restoration and replacement of such building components constituting the party wall and situated on such common boundary. Reference to a Lot in any instrument affecting the title thereto, including without limitation deeds, mortgages, deeds of trust, statements of lien and the like, shall be deemed automatically to include the reciprocal easements for party wall structural improvements adjacent and appurtenant to such Lots.

Section 12.02 General Rules of Law to Apply. Each wall which is built as a part of the original construction of the townhome upon the property and placed on the dividing line between the Lots shall constitute a party wall and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply.

Section 12.03 Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared equally by both of the owners.

Section 12.04 Damage or Destruction. In the event of damage to or destruction of the party wall from any cause not due to the negligence of either owner, the owners shall, at joint and equal expense, repair or rebuild said wall, and each party, his successors and assigns, shall have the right to full use of said repaired or rebuilt wall. If either party's negligence shall cause damage to or destruction of said wall, such negligent party shall bear the entire cost of repair or reconstruction. If either party shall neglect or refuse to pay his share or all of such cost in the case of negligence, the other party may have such wall repaired or restored and shall be entitled to have a lien as described in 12.07 hereof on the property of the party so failing to pay for the amount of such defaulting party's share of the cost of repair or replacement.

Section 12.05 Weatherproofing. Notwithstanding any other provision of this Article, the owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 12.06 Right to Contribution Runs with Land. The right of an owner to contribution from the other owner under this Article shall be appurtenant to the Land and shall pass to such owner's successors in title.

Section 12.07 Right to Lien. Any lien created herein shall be evidenced by a written notice setting forth the facts giving rise to the creation of said lien, shall be signed and sworn to by the owner claiming the lien, shall be recorded in the office of Clerk and Recorder of Routt

492888 B-746 P-348 05/12/1998 01:49P PG 10 OF 13

County, Colorado, and may be foreclosed in the same manner as mortgages and deeds of trust are foreclosed in the courts of Colorado. Any such lien shall be junior to the lien of any mortgage or deed of trust recorded prior to the recording of the notice of the lien just described. The amount of lien shall include interest on all sums due at the rate of 18% per annum and the non-defaulting owner's costs of collection and enforcement, including, but not limited to, reasonable attorney and expert witness fees.

Section 12.06 Arbitration. In the event of any dispute between the adjacent Lot Owners arising concerning the party wall, or under the provisions of this Declaration, such dispute shall be referred to the American Arbitration Association for arbitration and the arbitrator's decision shall be final and binding on the parties hereto. Either Owner or any Executive Board member may request that a dispute be settled by arbitration pursuant to the provisions of the uniform Arbitration Act as adopted by the State of Colorado. Within three (3) days of such request, each Owner shall select one arbitrator and they, within three additional days shall select a third; provided, however, that nothing shall prevent the parties from initially agreeing upon one arbitrator. The arbitrator(s) so selected shall forthwith be provided any underlying documentation concerning the controversy by the Owners and shall hear argument within five (5) days of being selected, unless continued by a majority of the arbitrators. The decision reached by the arbitrator(s) shall be binding upon the Owners as to the issue in controversy. Any reasonable costs or expenses of the arbitrator(s), and the costs, expenses and reasonable attorney's fees of the Owners shall be paid by the party against whom the arbitrator(s) substantially rules, or, in the arbitrator's sole and absolute discretion, may be ordered to be paid by the Association.

**ARTICLE XIII
INSURANCE**

Section 13.01 Fire and Casualty Insurance. Each Lot owner will obtain, and continuously maintain in full force and effect, fire and casualty insurance coverage with full replacement cost coverage of the Townhouse improvements on their Lot. Such coverage shall be in a form satisfactory to the first lienor of such Lot, if any. Each Lot Owner shall furnish to the other Lot Owner, on no less frequently than on annual basis, written evidence showing payment of the premium for the insurance coverage described above. In the event any Lot Owner fails to obtain or continuously maintain the insurance coverage described above, then the other Lot Owner may (in the name of the Association, if necessary) pay for the defaulting owner's insurance and shall be entitled to a lien as described in Section 5.01 of Article V on the property of the defaulting owner.

Section 13.02 Repair and Replacement. In case of fire or any other disaster which causes damage or destruction to all or any part of the improvements, the affected Owner or Owners shall arrange for the prompt repair and restoration of the improvements using the proceeds of the insurance on the same for that purpose, and the affected owner or Owners shall be liable for any deficiency, if any, on their respective improvements. Restoration shall mean the restoration of

Exhibit "A", attached to and made a part of
Declaration of Flagstone Townhomes at Stone Lane Meadows

(Legal Description)

492888 B-746 P-348 05/12/1998 01:49P PG 12 OF 13

LOT 6, STONE LANE MEADOWS, Filing No. 2, located in the SE1/4 of Section
28, township 6 North, range 84 West of the 6th P.M.,

County of Routt, State of Colorado