

**AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
FALL VALLEY SUBDIVISION**

Throughout the amendment we removed references to the Declarant, since the Declarant is no longer a part of Fall Valley HOA. We also included the prior amendments that are still pertinent to this amendment (25 Rd landscaping & fence maintenance).

RECITALS

We expanded the recitals to include clarification of the prior versions of the Declarations, the purpose of this amendment, as well as the amendment approval requirement. This was a change from 75% to 67% per CCIOA.

On September 30, 1997, John Davis, "Declarant", recorded the real property described in the Declaration of Covenants, Conditions, and Restrictions for the Fall Valley Subdivision in the real property records of Mesa County, Colorado, at Reception No. 1815050. This declaration was subsequently amended by:

An amendment recorded on January 27, 1998, in the Mesa County real property records at Reception No. 1829957, Book 2398, Page 383;

An amendment recorded on February 11, 1998, in the Mesa County real property records at Reception No. 1832163, Book 2404, Page 212;

along with other recorded documents (collectively referred to as the "Original Declaration").

The Original Declaration ran with and attached to that certain real property comprising Fall Valley Filing Numbers One, Two & Three, as depicted on the plats thereof recorded, respectively, under Reception Numbers 1815049, 1841698, and 1883635, in the office of the Clerk and Recorder of Mesa County, Colorado, together with all improvements presently existing or hereafter constructed thereon.

Article VII, Section 7 of the Original Declaration allows for amendments, stating: "This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners.", However, under the Colorado Common Interest Ownership Act (C.R.S. §38-33.3-217(1)(a)), the requirement for 75% approval is now void. In accordance with C.R.S. §38-33.3-217(1)(a), the current requirement for amending this Declaration is the approval of at least sixty-seven percent (67%) of the votes in the Association. All Owners are deemed aware of the amendment provisions in the Original Declaration due to its recorded status, as well as through disclosures, Association newsletters, notices, and other communications.

The Owners within the Fall Valley Subdivision ("Association") wish to amend and restate the Original Declaration through this Amended and Restated Declaration of Covenants, Conditions, and Restrictions of Fall Valley Subdivision (the "Declaration"), pursuant to the affirmative vote thereon of

the Owners representing an aggregate ownership interest of more than sixty-seven percent (67%) of the Lots to which votes are allocated in accordance with the Colorado Common Interest Ownership Act (C.R.S. §38-33.3-217)

The primary purposes of these amendments are to ensure compliance with current state laws, remove outdated and unreasonable restrictions, eliminate developer language no longer relevant to the Association, and enhance the Board of Director's ability to efficiently manage the Association and address concerns.

Upon recording, this Declaration will supersede and replace all previously recorded declarations, amendments, and supplements.

NOW, THEREFORE, based on the vote of at least sixty-seven percent (67%) of the Owners, Fall Valley Subdivision does hereby publish and declare that the following terms, covenants, conditions, easements, restriction, uses, reservations, limitations, and obligations are declared and agreed to be for the protection of the value of the Property, and shall be deemed to run with the land.

ARTICLE I DEFINITIONS

We had only 7 definitions before and have increased this section to 18 definitions. This helps ensure better understanding of the Declarations.

Section 1. "Act" shall mean the Colorado Common Interest Ownership Act, C.R.S. §38-33.3-101 et seq., as it may be amended from time to time.

Section 2. "Architectural Control Committee" or "ACC" shall mean and refer to the Architectural Control Committee set forth within Article VI of this Declaration.

Section 3. "Assessment" shall include all Common Expense Assessments, as well as any other expenses levied against Lots under this Declaration or the Act. This includes, but is not limited to, interest, late fees, attorney fees, fines, and associated costs.

Section 4. "Association" shall mean and refer to Fall Valley Homeowners Association, Inc., its successors and assigns.

Section 5. "Board", "Directors", or "Board of Directors" shall refer to the body, regardless of its formal name, designated in the Governing Documents to act on behalf of the Association.

Section 6. "Commercial Vehicles" shall mean and refer to any vehicle used in commerce with a gross combination weight rating (GCWR) of 16,001 pounds or more, or designed to transport 16 or more passengers.

Section 7. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. Such Common Area shall include the irrigation, drainage and recreational facilities, if any, located in Fall Valley

Subdivision.

Section 8. "Common Expense" shall mean all expenditures made and liabilities incurred by or on behalf of the Association, including any amounts allocated to reserves.

Section 9. "Community" shall mean the planned community known as Fall Valley Subdivision, and the real property subject to this Declaration and as further defined by the recorded Plats, and the Members of the Association.

Section 10. "Declaration" shall mean and refer to this Amended and Restated Declaration of Covenants, Conditions, and Restrictions of Fall Valley Subdivision, as amended, and recorded in the office of the Clerk and Recorder of Mesa County, Colorado.

Section 11. "Governing Documents" shall refer to this Declaration, the Bylaws, the Articles of Incorporation, the Plats, Policies, and Rules and Regulations of the Association, all as may be amended from time to time.

Section 12. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Property with the exception of the Common Area.

Section 13. "Member" shall refer to any person or entity who owns a Lot in Fall Valley Subdivision. The terms "Member" and "Owner" may be used interchangeably.

Section 14. "Owner" shall mean the record titleholder, whether one or more persons or entities, of any Lot within the Property, including contract sellers, but excluding those who hold an interest solely as security for the performance of an obligation (i.e. mortgagee).

Section 15. "Plat" or "Map" shall refer to the plat(s) and/or map(s) of the Property and its improvements subject to this Declaration, as recorded in the records of the office of the Clerk and Recorder of Mesa County, Colorado. If multiple plats, maps, or supplements are recorded, the terms Plat or Map shall collectively refer to all such documents and their supplements.

Section 16. "Property" shall mean and refer to all area related thereto, within Fall Valley Subdivision, as described on the final plats thereof filed as Reception Numbers 1815049, 1841698, and 1883635, in the office of the Clerk and Recorder of Mesa County, Colorado, together with all improvements presently existing or hereafter constructed thereon.

Section 17. "Residence" shall refer to the single-family dwelling structure located on a Lot, within Fall Valley Subdivision.

Section 18. "Rules and Regulations" shall refer to any written instruments, regardless of title, adopted by the Association to regulate and manage the Property and/or clarify the Governing Documents, including any amendments thereto.

ARTICLE II

NAMES & PROPERTY RIGHTS

This section now includes a new naming and titling section at the beginning. We moved the parking plan as well as the initial landscaping requirements, since it is obsolete now that the subdivision has been fully developed. We moved the “General Restrictions” section to Article V – Use Restrictions.

Section 1. Name and Type. The name of the Common Interest Community is “Fall Valley Subdivision”, and it is a Planned Community consisting of 109 Lots. The name of the Association is “Fall Valley Homeowners Association, Inc.”

Section 2. Title to the Lots. Owners shall convey fee simple title to the Lots subject to current real property taxes, which taxes shall be prorated to the date of transfer, and easements, conditions and reservations then of record, including those set forth in this Declaration. No Owner shall be entitled to subdivide a Lot, nor shall any Owner be entitled to sever his ownership interest in a Lot from his membership in the Association, provided that this clause shall not be construed as precluding the Owner of a Lot from creating a co-tenancy or joint tenancy with any other person or persons.

Section 3. Easements and Owner’s Right of Enjoyment. Easements for utilities and other purposes, including the Association fulfilling its obligations, acting through the Board (including its agents and contractors), shall run across the Lots and any Common Area as may be as depicted on a recorded Plat or any recorded Map of the Community, as established under this Declaration, or as granted through authority reserved in any recorded document. This easement shall not unreasonably interfere with or impair the use of any improvements on the Lot and shall be exercised only after providing reasonable notice to the Lot Owner.

Every Member shall have a non-exclusive right and easement in and to the Common Area, including, but not limited to, an easement for ingress, egress and support over and through the Common Area, and easements for utilities and drainage. Members are prohibited from removing, altering, damaging, or interfering with any trees, shrubs, landscaping, or improvements installed by the Association on Common Area Property. Each such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- a. The right of the Association to adopt uniform rules and regulations pertaining to the use and enjoyment of the Common Area and for the use, operation and maintenance of the irrigation system;
- b. The right of the Association to borrow money and grant a mortgage or deed of trust on the Common Area or any part thereof for the purpose of improving the Common Area, provided any such mortgage or deed of trust shall be expressly subordinate to the rights of the Members herein;
- c. The right of the Association to transfer or convey ownership of any Common Area, provided that such transfer or conveyance is subject to the prior approval of Owners holding at least 67% of the total Association votes;
- d. The right of the Association to grant any easement, right-of-way, license, lease, dedication, or similar interest over, through, or within the Common Area;

- e. The right of the Association to close or limit access to any Common Area as necessary for maintenance, repairs, or replacements; and
- f. The right of the Association to modify the use of, add to, or remove improvements from the Common Area.

Section 4. Delegation of Use. Any Member may delegate their right of enjoyment to the Common Area to the members of their family, guests, tenants, or contract purchasers who are in possession of such Member's Lot. The Board shall have the express authority to limit Owners' ability to delegate their right to use the Common Area through Rules and Regulations.

Section 5. Waiver of Use. No Member may exempt himself from personal liability for assessments duly levied by the Association nor release the Lot owned by him from the liens and charges hereof, by waiver of the use and enjoyment of the Common Area and the facilities thereon or by abandonment of his Lot.

Section 6. Disclaimer of Liability. It is the sole responsibility of each Owner and user of the Common Area to continuously inspect for defects, hazards, or unsafe conditions before and during use. Owners use the Common Area at their own risk. The Association shall be entirely free from any and all liability or claims from Owners, individuals, or entities—whether arising from contract or tort—related to any injury or damage to persons or property occurring on, or resulting from the use of the Common Area or its improvements.

Section 7. Irrigation and Water Rights. Every Owner shall have a right to tap into such system and to the use and benefit of any and all irrigation water, subject to all rules and regulations for the use of water adopted by the Association.

ARTICLE III ASSOCIATION

Article III used to be very small (8 lines) and only included Membership and Voting Rights. It now also gives definition to the powers and duties of the Association, as well as a few other requirements per CCIOA.

We are proposing to remove the maintenance of the F ½ Road fencing, since this fencing is not at the entrance and does not provide aesthetic, property value increasing benefits to the community, as a whole.

Section 1. Membership and Voting Rights. Every Owner of a Lot, subject to Assessment, shall be a Member of the Association. Membership is appurtenant to, and may not be separated from, ownership of any Lot subject to Assessment. The Association shall have a single class of voting membership, consisting of all Owners of Lots within Fall Valley Subdivision, with each Owner entitled to one vote per Lot owned. If multiple people hold an interest in a Lot, all shall be Members; however, the vote for that Lot must be cast as they collectively determine, with no more than one vote allowed per Lot.

The Association has the authority to suspend a Member's voting rights for any period during

which any Assessment against his Lot remains unpaid and delinquent; and for a period not to exceed thirty (30) days for any single infraction of the Governing Documents, provided that any suspension of such voting rights, except for failure to pay Assessments, shall be made only after notice and an opportunity for a hearing given in accordance with the Governing Documents.

Section 2. Duties and Powers of the Association. In addition to the duties and powers enumerated in all other Governing Documents, the Association, through its Board of Directors, shall manage the business affairs of the Community, and perform functions outlined in the Governing Documents to protect the value and desirability of the Community and its Lots. These duties and powers shall include:

- a. The Association may contract with a managing agent, and delegate specific powers, functions, or duties through a written and signed contract, but retains ultimate responsibility for all Association matters. Any agreement for professional management of the Community shall be terminable with or without cause, with a thirty (30) days written notice.
- b. The Association shall own and maintain all Common Area and improvements thereon, including but not limited to the irrigation system, pumphouse, settling pond, pipelines, pumps, electrical connections, sprinklers, and related easements, used to irrigate the Common Areas, and main irrigation lines running to the shut-off valve on each Lot.
- c. The Association shall maintain the fencing along 25 ½ Road , as well as the irrigation system and landscaping to the west of the fence for the overall cosmetic appearance and benefit of the Community.
- d. To have the authority to enter upon and landscape, maintain or improve any Lot that an Owner fails to landscape or maintain in accordance with this Declaration and to levy a Special Assessment against such Lot for all expenses incurred including court costs and attorney fees for the collection of such Supplemental Assessment.
- e. To grant easements where necessary for utilities, on-site storm drain systems, drainage, and public services to serve the Common Area and the Lots.
- f. To obtain and maintain such policy or policies of insurance as the Board deems necessary or desirable to further the purposes of and protect the interest of the Association, its Members or any mortgagees.
- g. To have the power to establish and maintain a working capital and contingency fund from Assessments in an amount to be determined by the Board.
- h. To have the power and duty to enforce the provisions of this Declaration by appropriate means, including without limitation, the expenditure of funds of the Association, the employment of legal counsel and the commencement of actions.
- i. To appoint and remove members of the Architectural Control Committee, and to ensure that at all reasonable times there is available a duly constituted and appointed Architectural Control Committee.
- j. To levy and enforce collection of the Assessments as provided in Articles IV and V of this Declaration.
- k. To assign its right to future income, including the right to assign its right to receive Assessments for Common Expenses, without Owner approval.
- l. To convey, upon dissolution of the Association, the assets of the Association to an appropriate public agency or agencies to be used for purposes similar to those for which the Association was

created, or to a nonprofit corporation, association, trust or other organization organized and operated for such similar purposes.

Section 3. Right to Notice. The Association may provide notice of matters affecting the Community to Owners and occupants through any means of communication deemed appropriate by the Board of Directors.

Section 4. Indemnification. To the fullest extent permitted by law, the Association shall indemnify its officers, directors, committee members, and volunteers against all expenses and liabilities, including attorney fees, reasonably incurred in connection with any legal proceeding resulting from their role in the Association—except in cases where they are found to have breached their duty of care as defined by the Act.

Section 5. Education and Training. The Association shall provide, or cause to be provided, education to owners at no cost on at least an annual basis as to the general operations of the association and the rights and responsibilities of owners, the association, and its board under Colorado law. The Board may authorize, and account for as a common expense, reimbursement of board members for their actual and necessary expenses incurred in attending Colorado specific trainings.

ARTICLE IV ASSESSMENTS

Added “supplemental assessments” to include additional charges by the HOAs, and listed what they would be. Changed the maximum annual assessments to remove the verbiage for when the HOA was getting started, and better clarification on maximum assessments. Provided the ability to increase the assessment max with approval of 67%. We also added a lot more clarification on application of payments, and remedies for non-payment, including liens. Most of this is CCIOA driven.

Section 1. Owner Assessment Obligation and Lien Provisions. Each Owner of a Lot, by accepting a deed—whether or not stated in the deed—is deemed to have agreed to pay annual, special, and supplemental assessments to the Association. These assessments shall be established and collected as set forth in this document.

All assessments, along with any applicable interest, costs, and reasonable attorney’s fees, shall constitute a charge on the land and a continuing lien against the Lot for which the assessment is made. Additionally, these assessments shall be the personal obligation of the individual who owned the Lot at the time the assessment became due. This personal obligation does not automatically transfer to subsequent owners unless expressly assumed by them in writing.

Owners may not avoid responsibility for assessments by choosing not to use the irrigation water delivery system or by abandoning their Lot.

Further details regarding personal liability and collection procedures are outlined in the Fall Valley Homeowners Association Collections Policy.

Section 2. Annual Assessment. The annual assessments levied by the Association shall be used exclusively to manage the affairs of the Community and maintain the Common Area within Fall Valley Subdivision. The budget for annual Assessments and expenses shall be submitted to the Owners for ratification in accordance with Section 303(4) of the Act and as outlined in the Bylaws, as they may be amended from time to time. The budget shall be deemed ratified unless it is vetoed by a majority of the total Member vote.

Section 3. Maximum Annual Assessment. The maximum annual assessment may be increased each year but shall not exceed ten percent (10%) above the assessment for the previous year without a vote of the membership. The maximum annual assessment may be increased above ten percent (10%) by a vote of sixty-seven percent (67%) of the members who are voting in person or by proxy, at a meeting duly called for this purpose.

The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy Special Assessments from time to time to cover previously unbudgeted expenses or expenses exceeding those budgeted, including, but not limited to:

- a. Costs related to construction, restoration, or unbudgeted repairs; and
- b. Replacement of capital improvements not covered by the general reserve fund.

The proposed Special Assessment shall be approved by a vote of sixty-seven percent (67%) of the members who are voting in person or by proxy, at an Annual or Special Meeting. Special Assessments may be payable in installments that extend beyond the fiscal year in which the Special Assessment is approved. The Board reserves the right to require that Special Assessments be paid in advance of the provision of the subject services or materials.

Section 5. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on an annual or monthly basis.

Section 6. Supplemental Assessments. The Association shall have the right to add to any Owner's Assessment, as provided in this Article, the following:

- a. Those amounts expended by the Association for the benefit of any individual Lot or any occupant thereof, including but not limited to: improvement, repair, replacement, or maintenance specific to a Lot;
- b. Improvement, repair, replacement, or maintenance caused by the negligent or willful acts of any Owner, their guest, employee, licensee, lessee, or invitee as set forth in this Declaration;
- c. All fines and costs assessed against an Owner pursuant to the Governing Documents; and
- d. Any other expenditures or charges allowable by the Act.

Section 7. Application of Payments. All payments received on an account of any Owner or the

Owner's Lot shall be applied first to the payment of any delinquent Assessments, then to all legal fees and costs (including attorney fees), expenses of enforcement and collection, late fees, returned check fees, lien fees, and other costs owing or incurred with respect to such Owner pursuant to the Governing Documents.

Section 8. Remedies of the Association. The remedies available to the Association for the collection of any assessments are set forth in detail in the Association's Collection Policy, which shall be published on the Association's official website.

Section 9. Lien Priority. The Association's lien on a Lot takes priority over all other liens and encumbrances, except for:

- a. Liens and encumbrances recorded before this Declaration;
- b. A first lien security interest on the Lot (subject to any limited lien priority granted to the Association by law); or
- c. Liens for real estate taxes and other government assessments or charges.

This provision does not affect the priority of mechanics' or materialmen's liens. The Association's lien is not subject to state or federal homestead exemptions. The sale or transfer of a Lot does not remove the lien for assessments or charges, except when the Lot is sold through foreclosure of a first lien security interest or through a proceeding in lieu of foreclosure (e.g., a deed in lieu of foreclosure) or cancellation/forfeiture, as governed by state law. However, any such sale or transfer does not release the Lot from liability for future assessment charges or the lien securing them.

ARTICLE V USE RESTRICTIONS

This is a very important section within CC&Rs, because most of it is dictated by CCIOA (38-33.3-106 & 123). Our prior version of our CC&Rs only had 22 lines of Use Restrictions, some of which were in contradiction to CCIOA (ie: restricting signs, and on-street parking). We now have about 4 pages. It now starts by clarifying scope and authority.

Section 1. Scope of Application. All Lots within the Community are subject to the following limitations and restrictions. However, the Board of Directors, or an authorized committee (with Board oversight), may modify or waive these requirements, in whole or in part, if strict enforcement would be unreasonable or unduly harsh under specific circumstances. Any modification or waiver must be documented in writing.

Section 2. Authority. All provisions of the Governing Documents apply to Owners, their guests, tenants, invitees, and licensees. By accepting a deed to their Lot, Owners and their successors acknowledge the following:

- a. The use of their Lot may be limited by the Governing Documents;
- b. The Board has the authority to further define terms used in this Declaration and other Governing Documents;

- c. The Board may establish penalties for rule violations, and Owners are responsible for fines imposed on their tenants, guests, or invitees; and
- d. All fines are collectible as Assessments;

This authority is powers given via CCIOA

Section 3. Use and Occupancy. All Lots within the Community are designated for residential use only, subject to this Declaration and any Rules and Regulations adopted by the Association. Non-residential uses are prohibited unless expressly allowed in this Section.

Home Occupations. Home occupations are permitted if they:

- a. Are incidental and secondary to the primary residential use;
- b. Do not alter the residential character of the Lot;
- c. Comply with local zoning laws and this Declaration; and
- d. Have no external advertising or visible indicators of business activity.

The Association may establish rules for parking, noise, architectural standards, and landscaping in line with the Community's Rules and Regulations.

Section 4. Prohibited Activities. Owners and occupants are prohibited from:

- a. Hoarding or creating fire hazards;
- b. Allowing their Lot to fall into disrepair, leading to infestations by rodents or other pests; and
- c. Engaging in any activities that could cause harm or damage to other Lots or Owners within the Community.

This section is per CCIOA.

Section 5. Accessory Dwelling Unit (ADU). If allowed under Colorado law, one Accessory Dwelling Unit (ADU) may be constructed on a Lot with prior approval from the Architectural Control Committee (ACC). The ADU must be a self-contained living space, including a kitchen, bathroom, and bedroom. Any approved ADU will be subject to an additional Assessment by the Association. In recognition that Accessory Dwelling Units (ADUs) may increase the use of common areas, amenities, and services provided by the Association, the Association may charge an additional twenty-five (25%) annual assessment on any Lot that includes a permitted ADU.

This section is per CCIOA.

Section 6. Fencing. Perimeter fencing shall be six (6) foot cedar privacy fence. No rear yard fencing may be erected or maintained in excess of six (6) feet in height.

Section 7. Maintenance of Lot and Improvements. All buildings, improvements, landscaping and vegetation within the Lots must be maintained in a clean, attractive, and well-kept condition. This includes repainting, replacing roofing, fence repair and replacement, mowing lawns, pruning and trimming hedges, shrubs, and trees, and removing weeds and debris. No changes to a Lot, structure

or landscaping shall be made without prior ACC approval, as defined further in Article VI, Section 4.

Lot Owners are solely responsible for the operation, maintenance, and repair of any irrigation systems serving their respective Lots, commencing at the shut-off valve. All utilities, fixtures and equipment installed within the perimeter of any Lot commencing at a point where the utility lines, pipes, wires, conduits or systems enter the perimeter lot line, shall be maintained and kept in repair by the Owner thereof. An Owner shall do no act nor any work that will impair any easement or hereditament nor any act nor allow any condition to exist which will adversely affect the other residences or their Owners.

Lot Owners shall maintain the front yard areas in a clean, sightly, and wholesome condition. No trash, toys, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber, or other building materials shall be permitted to remain exposed upon any Lot so that the same are visible from any neighboring Lot, the Common Area(s), or any street. RVs that are taller than the fence are not in violation of this section. The exterior landscaping of each unit must be maintained as to not allow the grass and vegetation to die due to neglect, or to become overgrown. Weeds shall be controlled through regular mowing, trimming, removal, or other appropriate measures to prevent overgrowth. The Association, or its agents, may enter a Lot to replace, maintain, repair, or clean up any area that does not comply with this Section, after providing the Owner with thirty (30) days written notice. All related costs incurred by the Association will be charged to the Owner as an Assessment.

This is pretty much pulled over from a few different sections within our current Declarations, but has a bit more body to it.

Section 8. Solar Panels. Lot Owners are permitted to install solar panels in compliance with the Act. The Association may establish reasonable aesthetic guidelines for installation, as long as these guidelines do not reduce the efficiency of the solar panels or increase installation costs by more than ten percent (10%).

This section is per CCIOA.

Section 9. Nuisances. No nuisances or activities causing unreasonable annoyance, or disturbance to any Owner are allowed within the Community. Such actions should not interfere with the peaceful enjoyment or proper use of any Lot or Common Area by residents. Further definition of nuisance may be provided in the Rules and Regulations, and the Association has the authority to determine if lighting, sounds, and odors constitute a violation of the Governing Documents.

Section 10. Lights, Sounds, and Odors. No light, sound, or odor shall be emitted from any part of the Community that is excessively bright, glaring, loud, or strong, as may be outlined in the Rules and Regulations. Exterior spotlights, searchlights, or other intense lighting require prior written approval from the Association. However, motion-activated lights for security purposes are permitted and not considered excessive. Loud sounds, strong odors, or any emissions that could reasonably be considered disruptive to others are prohibited. The Association has the authority to determine if

lighting, sounds, and odors constitute a violation of the Governing Documents.

2 prior sections are pulled from prior version, but expanded and clarified.

Section 11. Pets. A reasonable number of pets may be kept on a Lot if they do not create a nuisance for other residents. The Board has sole discretion to determine if a pet poses a danger to Owners, management staff, or occupants, or is a nuisance to other residents.

If a pet is deemed a danger or nuisance, the resident will receive written notice to correct the issue. If not resolved, the resident must remove the pet, following any dispute resolution procedures outlined in the Governing Documents.

Pets may not be kept for commercial purposes. Dogs must be leashed and under control. Pet owners (or handlers) must promptly remove any pet waste from Common Areas.

Owners are responsible for their pets and those of their tenants, guests, or invitees and must hold the Association harmless from any related claims.

This section is an expansion of the current Declaration. Association is expressly held harmless from any damage caused by pets. Added that dogs must be on a leash.

Section 12. Firearms. No firearms, explosives, air rifles, BB guns, crossbows or similar devices shall be discharged on the Property.

Removed fireworks because it's impossible to enforce, and nobody wants to spend their 4th of July or New Years trying to enforce fireworks.

Section 13. Signs and Other Objects. Signs, posters, billboards, and flags (including flagpoles) may be displayed in compliance with Colorado law. The Association may:

- a. Prohibit signs and flags containing commercial messages; and
- b. Establish reasonable, content-neutral regulations regarding the number, placement, size, and other objective factors related to signs and flags, as permitted by law.

This section is per CCIOA.

Section 14. Trash & Junk. Trash containers must be stored inside garages or enclosed backyards, hidden from neighboring properties, except to make the same available for collection during regular trash collection days, and then only for a period of twenty-four (24) hours before and after trash pickup.

No garbage, refuse, rubbish, tools, inoperable automobiles, containers, machinery, toys, equipment, or other unsightly items may be stored in the driveway or front yard area. The storage of

these items in the backyard area is permissible, provided that such storage does not create a nuisance or pose a hazard to adjacent properties or the Community. The Association may further define this section in the Rules and Regulations and has the authority to determine if a Lot is in violation of this section.

This is an expansion from the current Declaration to include more clarification of what is not allowed to be out front, as well as protects from hording in the back yard. In our current Declaration we only mention junk, trash, and inoperable automobiles.

Section 15. Vehicular & RV Parking, Storage, and Repairs.

The following vehicles may not be parked or stored within the Community unless inside a garage, behind a fence, or with written permission from the Association: unlicensed or inoperable vehicles, Commercial Vehicles, trailers (including camping, boat, or hauling trailers), boats and related accessories, campers, tractors, motorized recreational vehicles, or any other vehicles or equipment prohibited by the Rules and Regulations.

Clarification added

Temporary parking for loading, deliveries, construction, maintenance, or emergencies is allowed for a reasonable amount of time, as determined by the Board or further clarified by the Rules and Regulations.

Parked vehicles must not block streets, emergency access routes, driveways, or interfere with other residents' use of Community streets. Vehicles creating a hazard—such as blocking fire lanes, other vehicles, driveways, traffic flow, or parked on grassy areas—may be towed or booted.

The Association, its officers, and agents are not liable for towing or storage fees or any damages resulting from towing or booting. The right to tow or boot is in addition to other enforcement options, such as fines. The Board may choose to impose fines or use alternative sanctions instead of towing or booting.

Minor vehicle maintenance and repair, or related activities are allowed in the driveway for no more than twenty-four (24) consecutive hours. All other maintenance must be conducted in the garage or enclosed back yard area. Vehicle maintenance or repair may not cause damage (e.g., oil stains) to paved areas, and all tools and parts must be removed after work. Vehicles may not be left unattended on jacks or jack stands.

This is a large expansion from our current Declaration, for the sake of clarification. Currently our Declarations only state "Recreational vehicles, boats and trailers shall not be parked on the streets adjacent to each Lot." We don't have authority on public streets anymore.

ARTICLE VI

ARCHITECTURAL CONTROL COMMITTEE

A lot of this is per CCIOA, but also some is to help give more clarification of what this process

includes.

Section 1. Appointment of Architectural Control Committee. The Architectural Control Committee (ACC) shall consist of three (3) persons to be appointed by the majority of the Board.

Section 2. Architectural Guidelines. The ACC may create architectural guidelines, subject to Board approval.

Section 3. Matters Considered. The ACC shall consider the aesthetic and functional design of any improvement as to the quality of workmanship and materials, harmony of exterior design and location with existing improvements, location with respect to topography and finished grade elevation, and the preservation and enhancement of the value and the visual appearance of existing improvements.

Section 4. Required Approval. No changes, alterations, or additions of any kind shall be made to any Lot, structure, or landscaping without the prior written approval of the ACC. This includes, but is not limited to:

- a. Structural Changes: Any modification to the exterior of the home, including additions, garages, sheds, patio covers, decks, balconies, fences, walls, windows, doors, roofing color or material, exterior finishes, or paint colors;
- b. Landscaping Changes: Installation or removal of trees, shrubs, turf, hardscape features (such as walkways, retaining walls, or patios), irrigation systems, or significant changes to existing front landscape design, visible from neighboring properties or common areas. However, planting of annual flowers does not require approval;
- c. Accessory Structures and Features: The addition of accessory dwelling units (ADUs), pergolas, greenhouses, gazebos, swimming pools, spas, or storage units;
- d. Driveways, Paving, and Grading: Changes to driveway materials, extensions, parking pads, grading or drainage modifications, and any other alterations that may affect lot elevation or water flow;
- e. Solar Panels, Antennas, and Equipment: Installation of solar energy systems, satellite dishes, antennas, HVAC units, generators, or similar mechanical or utility equipment visible from neighboring properties or common areas;
- f. Exterior Lighting and Decorative Features: Any new or replacement exterior lighting; decorative items, artwork, or seasonal displays that are permanently affixed or visible from the street or adjoining Lots. However, seasonal decorations or temporary lighting may be allowed without prior approval, provided they are removed within a reasonable time after the season ends; and
- g. Repainting: Repainting the exterior of any structure may be done without prior ACC approval, only if the color is the same as the existing color and the finish is in line with the current appearance.

All proposed changes, unless they fall under the exceptions outlined above, must be submitted in writing to the ACC with the required plans, drawings, material specifications, and other supporting documents as requested by the ACC. No work may begin until written approval is granted. Failure to

obtain prior approval may result in fines, required removal of unapproved work, and other enforcement actions as permitted under the governing documents and the Act.

The ACC will evaluate all requests based on the overall aesthetic impact of the proposed changes, ensuring consistency with community standards and harmony with neighboring properties.

Section 5. Owner Acknowledgment. Owners agree to the following:

- a. Construction or improvements may not begin without written ACC approval and will be made only on the Owner's Lot;
- b. Owners must promptly provide additional information if requested by the ACC. Failure to do so may result in denial of application or withdrawal of approval;
- c. No easements or property rights will be violated;
- d. ACC approval does not imply any warranty with regard to architectural design, local permits, structural integrity, conformity to building codes, setbacks, environmental impact or any other local or state requirements—this remains the Owner's responsibility;
- e. Owners must notify the ACC within five (5) days of completing any approved improvement;
- f. The ACC has the right to inspect completed improvements, in coordination with the Owner;
- g. Failure to notify the ACC or allow inspections may result in revoked approval;
- h. Non-compliant improvements must be corrected or removed at the Owner's expense; and
- i. If construction or improvements are undertaken without the approval of the ACC or the approval is withdrawn, the Association reserves the right to mandate the removal of such improvements and restore the Lot to its original state. The statute of limitations will be suspended until compliance is fully achieved.

Section 6. Minimum Requirements. The following are the minimum requirements for improvement requests:

- a. No exterior structure or improvement shall be more than one (1) story in height.
- b. Perimeter fencing shall be six (6) foot cedar privacy fence. No rear yard fencing may be erected or maintained in excess of six (6) feet in height.
- a. Vinyl siding is expressly prohibited.
- b. Roofs must use architectural shingles or tile; other materials require ACC approval.
- c. Exterior colors must be in earthen tones.
- d. Detached garages are permitted if they meet city zoning requirements and match the main residence in style and materials. Carports are expressly prohibited.
- e. City setback requirements for fencing shall be observed.

Section 7. Approval. The ACC shall approve or disapprove all written plans within thirty (30) days after submission. In the event the ACC fails to take any action within such thirty (30) day period, the proposed improvement shall be deemed approved. The majority of vote of the ACC shall be required for the approval or disapproval of any proposed improvement.

Section 8. Response Timeline. The ACC will respond in writing within thirty (30) days of receiving complete plans. If no action is taken within this period, the plans are deemed approved.

However, this does not permit violations of this Declaration or any rules or guidelines.

Section 9. Construction Timelines. Approved improvements must begin within six (6) months of approval. If construction has not started by then, approval is revoked unless an extension is granted. All work must be completed within ninety (90) days of commencement unless delays are beyond the Owner's control (e.g., natural disasters or material shortages).

Section 10. Variances. The ACC may grant reasonable variances to avoid undue hardship or practical difficulties, provided they align with the overall intent of the Declaration.

Section 11. Right to Appeal. If the Board is not acting as the ACC, Owners may appeal an ACC decision to the Board. The Board can overturn the ACC decisions if they conflict with the criteria outlined in this Article or architectural guidelines.

Section 12. Limitation on Liability. The ACC shall not be liable in damage to any person submitting requests for approval or to any Owner within the Property by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove with regard to such request. The actions of the ACC shall be deemed conclusively binding upon the Owners.

Section 13. Records. The Association shall maintain written records of all applications submitted to it and all actions taken by it thereon.

ARTICLE VII INSURANCE AND CONDEMNATION

*****This is a completely new section in your Declarations and dictated by CCIOA.**

Section 1. Insurance Maintained by the Association. The Association must secure, and review annually, insurance as required by this Declaration and the Act, using reputable companies authorized in Colorado. These policies shall include:

- a. Association Liability Insurance. The Association must carry public liability and property damage insurance for Common Areas, with coverage limits determined by the Board. This insurance should cover personal injuries, property damage, and vehicle operation on behalf of the Association;
- b. Directors' and Officers' Liability Insurance. The Association must maintain liability insurance for directors, officers, committee members, and others acting under Board authority, protecting them from personal liability in the performance of their duties;
- c. Hazard Insurance for Common Areas. The Association is required to maintain hazard insurance for any insurable improvements made to Common Areas and other property owned by the Association, covering loss, damage, or destruction. The Association must promptly repair or replace damaged Common Areas covered under its insurance, as required by the Act;
- d. Association Fidelity Coverage. The Association is obligated to maintain fidelity bonds or equivalent coverage to protect against dishonest acts by its officers, directors, employees, and

- anyone handling Association funds. Coverage must meet or exceed the maximum funds handled, as mandated by law;
- e. Workers' Compensation and Employer's Liability. The Association shall provide workers' compensation and employer's liability insurance for its employees, as required by law; and
 - f. Additional Insurance. The Association may obtain other types of insurance, including flood insurance, as deemed necessary to fulfill its responsibilities.

Section 2. General Insurance Provisions. The Association's insurance policies must, where reasonably available, include the following terms:

- a. Coverage for each Owner regarding liabilities arising from Association membership;
- b. Waivers of subrogation against Owners and their household members;
- c. Waivers of subrogation and defenses based on Owner actions, and notice of cancellation or changes per Colorado law;
- d. Provision of duplicate policies and proof of premium payments upon request, at least ten (10) days before policy expiration;
- e. Inclusion of the Association, Board, managing agents, officers, first lienholders, and Owners as insured parties;
- f. Appraisal of Common Areas by a qualified appraiser, if needed, to determine full replacement value for casualty insurance. Any policy covering Lots must not include a co-insurance clause;
- g. Association insurance shall be primary over any individual Owner policies; and
- h. Policies shall not be invalidated due to acts or omissions by any Owner.

Section 3. Premiums and Deductibles. Insurance premiums and deductibles for policies maintained by the Association, as well as any repair or reconstruction costs not covered by insurance proceeds, are considered Common Expenses.

In cases where an insurance claim results from the negligence or willful actions of an Owner or their guests, the Association will seek reimbursement for the deductible and any other expenses incurred.

Section 4. Distribution of Condemnation and Insurance Proceeds. In cases of condemnation or distribution of hazard insurance proceeds, funds will be allocated according to recorded interests and the provisions of the Act.

Section 5. Insurance and Damage on Individual Lots. Each Lot Owner is required to obtain hazard insurance for damage or loss from fire and other hazards, as well as liability insurance for injuries or property damage on their Lot.

If improvements on a Lot are damaged or destroyed, the Owner must promptly repair or reconstruct the property in accordance with the original design or approved alternatives. If the Owner decides not to rebuild, the Lot must be cleared of debris, restored to its natural state, and maintained in a neat and orderly condition.

Section 6. Handling Insurance Claims and Proceeds. The Association will manage claims and receive insurance payouts, holding proceeds in trust for the Association, Owners, and lienholders.

Funds will be used first for repairs or restoration. Any surplus will be retained by the Association.

ARTICLE VIII GENERAL PROVISIONS

**Section 1 of our current "General Provisions" (Association) moved to new Article III (Association).
Section 4 of our current "General Provisions" (Owner's Use) moved to Article V (Use Restrictions).
These make more sense.**

**There were some sections in our current Declarations that are no longer relevant, such as "City of Grand Junction" (they don't enforce HOA rules), and "Declarant's Use" (he is not around anymore).
We added a few additional sections that help with clarification and authority.**

Colorado law authorizes that the covenants do not need to be automatically extended for 10-year periods, but can run in perpetuity. Our current Declarations state an amendment needs 75% of all lot owners to vote in approval, but CCIOA states no more than 67%. Challenges up to 1 year also per CCIOA. Removed verbiage about Declarant.

Section 1. Compliance and Enforcement. Each Lot Owner and occupant must adhere to the Governing Documents, and each Owner can enforce the covenants and restrictions outlined in this Declaration.

The Association is authorized to enforce all applicable provisions of this Declaration and may impose corrective measures for violations of the Governing Documents. Failure by the Association, or by any Owner, to enforce any Governing Document shall in no event be deemed a waiver of the right to do so thereafter. The corrective measures may include, but are not limited to:

- a. imposing reasonable monetary fines, following notice and an opportunity for a hearing;
- b. requiring an Owner to remove any structure or improvement on their Lot that violates the Governing Documents and restore the Lot to its original condition, at their own expense. If the Owner fails to comply, the Board or its designee may enter the property, remove the violation, and restore the Lot, all at the Owner's expense. This action will not be deemed trespassing, and all related fees and costs will be charged to the Owner as an Assessment in accordance with this Declaration;
- c. completing necessary maintenance an Owner refuses to complete that is the responsibility of the Owner under this Declaration, or completing necessary action to correct a violation, and charging any related costs to the Lot and the Owner as an Assessment;
- d. imposing specific assessments to cover costs incurred by the Association to ensure a Lot complies with the Governing Documents including reasonable attorney fees and costs, as defined by the Act;
- e. filing a lawsuit to stop violations, seek monetary damages, or both;
- f. suspending the right to vote; and
- g. preventing anyone, including contractors, subcontractors, agents, employees, or other invitees of an Owner who do not comply with this Declaration, from continuing activities in the Community without liability.

In any claim where an Owner is accused of violating the Governing Documents, and where the court determines the Owner did not commit the alleged violation:

- a. The court shall grant the Owner reasonable attorney fees and costs incurred in asserting or defending the claim; and
- b. The court shall not grant costs or attorney fees to the Association. Furthermore, the Association is prohibited from charging any of its incurred costs or attorney fees related to asserting or defending the claim to the Owner's account with the Association.

Section 2. Severability. If any part of this Declaration becomes invalid by judgment or court order, or by existing law or a modification or change in the law, the invalidity shall in no way affect or limit any other provisions which shall remain in full force and effect.

Section 3. Conflict of Provisions. In the event of any conflict between this Declaration, the Articles of Incorporation, or the Bylaws of the Association, this Declaration shall prevail, unless such provision is contrary to law. Should there be any conflict between the Articles of Incorporation and the Bylaws of the Association, the Articles of Incorporation shall take precedence. Any provision that is contrary to law shall be deemed unenforceable and void.

Section 4. Titles. The captions and titles herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Declaration nor the intent of any provision hereof. The use of the masculine gender shall be deemed to refer to the feminine gender and the use of the singular shall be deemed to refer to the plural, and vice versa, whenever the context so requires.

Section 5. Interpretation. The provisions of this Declaration aim to create a consistent plan to promote its core concepts. The Board of Directors has the authority to interpret any provision in this Declaration.

Section 6. Amendments or Revocation. The covenants, conditions, and restrictions of this Declaration shall run with and bind the land in perpetuity and may be amended or revoked from time to time upon approval of Members holding at least sixty-seven percent (67%) of the total votes in the Association. Any amendment must be recorded in the office of the Clerk and Recorder of Mesa County, Colorado, to be effective and binding. Challenges to this amendment's validity or any future amendments must be made within one (1) year of recording.

We, the undersigned, serving as the President and Secretary of Fall Valley Homeowners Association, Inc., do hereby certify that, in accordance with the Colorado Common Interest Ownership Act, the Owners of Lots representing at least sixty-seven percent (67%) of the votes allocated within the Association have duly approved this Declaration.

Fall Valley Homeowners Association, Inc., a Colorado
nonprofit corporation

By: _____
Randy Miller, President

Karen Crespín, Secretary

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

The foregoing Declaration was acknowledged before me on this day of ,
20 by Randy Miller and Karen Crespín, as President and Secretary of Fall Valley
Homeowners Association, Inc., a Colorado nonprofit corporation.

My commission expires: _____

Notary Public