



AMENDMENT TO CONDOMINIUM DECLARATION  
FOR MOUNTAIN STREAM CONDOMINIUMS

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KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS there was recorded a certain Condominium Declaration for Mountain Stream Condominiums on November 16, 1979 as amended by the First Supplemental Declaration to Condominium Declaration for Mountain Steam Condominiums and Second Supplemental Declaration to Condominium Declaration for Mountain Steam Condominiums, (collectively referred to as the "Declaration") and

WHEREAS, the owners of not less than sixty-seven percent (67%) of the votes in the Association, as defined in said Declaration, as Amended, and the Condominium Map of the Mountain Stream Condominiums (the "Members") have consented to the adoption of this Amendment to Condominium Declaration for Mountain Stream Condominiums;

NOW, THEREFORE, the Members do hereby agree, publish and declare as follows:

1.0 That Section 1 (a) of Article II of the Condominium Declaration is hereby revoked and replaced in its entirety by the following section 1 (a):

(a) "Unit" shall mean the following:

(i) one individual air space contained within perimeter walls, floors, ceilings, windows and doors, intended for separate ownership or occupancy, as depicted on the Condominium Map for Mountain Stream Condominiums filed for record in the real property records of Eagle County, Colorado, but not including any of the structural components of the buildings, if any, located within any Unit. All wallboard, plasterboard, plaster, drywall, paneling, wood, tiles, paint, wallpaper, paint, carpeting, finished flooring, or any other wall, ceiling, or floor coverings are a part of the Unit, and all other spaces, interior partitions and other fixtures and improvements are all part of each individual Unit.

(ii) Windows and window frames, doorsteps, stoops, and exterior doors and door frames are also a part of the individual units.

return to Brian E. O'Reilly P. C. P. O. Box 5780 Avon, Co. 81620

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(iii) "Unit" shall also include any fireplace or hearth, firebox, and all improvements contained within the unfinished perimeter walls, ceilings, and floors, any heating and refrigerating elements or related equipment, utility lines and outlets, electrical and plumbing fixtures, pipes, and all other related equipment required to provide heating, air conditioning, hot and cold water, electrical, or other utility services to the Unit and located within the unfinished walls, ceilings, and floors which serve only one Unit.

(iv) The structural components of the buildings are not part of any Unit.

2.0 The following language shall be deleted from Section 12 (b) of the Declaration:

"Each member shall be entitled to cast one (1) vote notwithstanding the undivided ownership interest of the General Common Elements appurtenant to the Unit"

and be replaced with the following :

"Each Unit shall be entitled to cast one (1) vote, notwithstanding the undivided ownership interest of the General Common Elements appurtenant to the Unit".

3.0 The following language shall be added at the end of Section 15 of Article II:

(c) In the event that a Unit is not properly maintained and repaired, and if the maintenance responsibility for the un-maintained portion of the Unit lies with the Owner of the Unit, or in the event that the improvements on the Unit that are insured by the Owner are damaged or destroyed by an event of casualty and the Owner does not take reasonable measures to diligently pursue the repair and reconstruction of the damaged or destroyed improvements to substantially the same condition in which they existed prior to the damage or destruction, then the Association, after notice to the Owner and with the approval of the Executive Board, shall have the right to enter upon the Unit to perform such work as is reasonably required to restore the Unit and the building in which it is located, to a condition of good order and repair. All costs incurred by the Association in connection with the restoration shall be reimbursed to the Association by the Owner of the Unit, upon demand. All un-reimbursed costs shall be a lien upon the Unit until reimbursement is made. The lien may be enforced in the same manner as a lien for an unpaid Assessment levied in accordance with this Declaration.

4.0 All of the provisions of Article 16 (b) are hereby revoked and the following substituted in its entirety:

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(b) There shall be no additions, alternations or betterments of or to the General Common Elements by the Association requiring an assessment in excess of One Thousand Five Hundred Dollars (\$1500.00) per two-bedroom Unit in any one calendar year without the prior approval of a majority of the Owners. Such approval shall be expressed by the vote in favor thereof, which may be conducted by mail, by the Owners of a simply majority of the Available Votes. This limitation shall not apply to the replacement, repair or maintenance of any General or Limited Common Element or common personal property owned by the Association.

5.0 The following language shall be added at the end of Section 17 of Article II:

Notwithstanding any other language of the Declaration to the contrary, the Association or any aggrieved Owner may take judicial action against any Owner to enforce compliance with the Association's rules and regulations and with the other provisions of the Association's governing documents, including the Declaration, to obtain damages for noncompliance or for injunctive relief, or both, all to the extent permitted by law.

6.0 Subsection (g) of paragraph 19 of Article II of the Declaration shall be deleted from the Declaration in its entirety and replaced with the following subsection (g):

(g) Within fourteen (14) calendar days after receipt of a written request to the Association's Managing Agent, to any member of its Executive Board, or its registered agent, and payment of a reasonable fee set from time to time by the Executive Board, any Owner, Unit Owner's designee, or to the holder of a security interest in a Unit, or its designee, delivered personally or by certified mail, postage prepaid and return receipt requested, shall be furnished, by personal delivery or by certified mail, first class postage prepaid, return receipt requested, to the inquiring party, a statement of the Owner's account setting forth:

- (i) the amount of any unpaid Assessments, interest, late charges, costs, expenses, and attorneys' fees then existing against a particular Unit;
- (ii) the amount of the current installments of the Annual Assessment and the date that the next installment is due and payable;
- (iii) the date of the payment of any installments of any Special Assessments then existing against the Unit; and
- (iv) any other information deemed relevant by the Association.

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Upon the issuance of such a certificate signed by a member of the Executive Board, by an officer of the Association, or by its Managing Agent, the information contained therein shall be conclusive against the Association as to the person or persons to whom such certificate is addressed and who rely on the certificate in good faith. Unless such a statement of status of Assessments is delivered as described above within said fourteen (14) calendar day period, the Association shall have no right to assert a lien upon the Unit over the inquiring party's interest for unpaid Assessments which were due as of the date of the request.

7.0 The following language shall be deleted from Article II, Section 20:

"Both the Board of Managers and the Managing Agent (if any) shall have the responsibility for taking prompt action to collect any assessment which remains unpaid for more than ten (10) days from the date payment thereof is due."

8.0 The following language shall be deleted from Article II, Section 21:

"Such notice of lien shall be signed by one of the Board of Managers or by one of the officers of the Association or by the Managing Agent on behalf of the Association"

and replaced by the following

"Such notice of lien shall be signed by any Director, any Officer, by the Association's Managing Agent, or by its attorney in fact, on behalf of the Association."

9.0 Section 25 of the Declaration ("Insurance") is hereby revoked and replaced in its entirety with the following:

25. Insurance.

(a) The Association shall obtain and maintain in full force and effect physical damage insurance on all Units, but not including any floor coverings, improvements, additions or other personal property owned or installed by Owners) and all insurable Common Elements within the Project, in an amount equal to full replacement value (i.e. 100% of the current "replacement cost" exclusive of land, foundation, excavation, and other items normally excluded from coverage). Such insurance shall afford protection against at least the following:

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(i) Loss or damage caused by fire and other hazards covered by the standard extended coverage endorsement with the standard all-risk endorsement including but not limited to sprinkler leakage, debris removal, demolition, vandalism, malicious mischief, windstorm, and water damage;

(ii) Property damage insurance covering personal property owned by the Association.

(b) Notwithstanding any other language of the Declaration to the contrary, such insurance does not have to insure any fixtures or appliances within a Condominium Unit. For the purposes of this article, those "fixtures" or "appliances" which do not have to be insured by the Association shall include, without limitation, all of the following: refrigerators, dishwashers, humidifiers, faucets, water softeners, water heaters, toilets, bathtubs, sinks, showers, steam showers, stoves, washers, dryers, and the utility lines within any Unit serving those fixtures which do not serve any other Unit.

(c) Provisions Common to Physical Damage Insurance.

(i) In contracting for the policy or policies of insurance obtained pursuant to this Article 25, the Executive Board shall make reasonable efforts to secure coverage, if the Board deems such coverage advisable, which provides the following:

(ii) A waiver of any right of the insurer to repair, rebuild or replace any damage or destruction, if a decision is made pursuant to this Declaration not to do so.

(iii) The following endorsements (or equivalent): (a) "cost of demolition;" (b) "contingent liability from operation of building laws or codes;" (c) "increased cost of construction;" and (d) "agreed amount" or elimination of co-insurance clause.

(iv) Periodic appraisals to determine replacement cost, as more fully explained hereinbelow.

(v) A provision that no policy may be canceled, invalidated, or suspended on account of the conduct of any Owner (including such Owner's tenants, servants, agents, invitees, and guests), any member of the Executive Board, officer, or employee of the Association or the Manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be covered by the Association, the Manager, any Owner, or Mortgagee.

(d) Provisions Common to Physical Damage Insurance, Liability Insurance, and Fidelity Insurance. Any insurance coverage obtained by the Association under the provisions of this Article shall be subject to the following provisions and limitations:

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(i) The named insurance under any such policies shall include the Association, as attorney-in-fact for the use and benefit of the Owners, or the authorized representative of the Association (including any trustee with whom the Association may enter into an insurance trust agreement, or any successor trustee, each of which is sometimes referred to in this Declaration as the "Insurance Trustee" and such Insurance Trustee will be recognized by an insurer providing insurance pursuant to this Article) who shall have exclusive authority to negotiate losses and receive payments under such policies, and the "loss payable" clause should designate the Association or the Insurance Trustee, if any, who will act as trustee for each Owner and the holder of each Lot's Mortgage.

(ii) Each Owner shall be an insured person with respect to liability arising out of the Owner's interest in the Common Elements or membership in the Association.

(iii) In no event shall the insurance coverage obtained and maintained pursuant to this Article be brought into contribution with insurance purchased by the Owners or their Mortgagees;

(iv) The policies shall provide that coverage shall not be prejudiced by (i) any act or neglect of any Owner (including an Owner's tenants, servants, agents, invitees, and guests) when such act or neglect is not within the control of the Association, or (ii) any act or neglect or failure of the Association to comply with any warranty or condition with regard to any portion of the Property over which the Association has no control;

(v) The policies shall contain the standard mortgagee clause commonly accepted by private institutional mortgage investors in the area in which the Property is located, and provide that coverage may not be canceled nor may the insurer refuse to renew (including cancellation for nonpayment of premium) without at least thirty (30) days' written notice to the Association, each Owner and any First Mortgagee listed as an insured in the policies; and

(vi) The policies shall contain a waiver of subrogation by the insurer as to any and all claims against Declarant, the Executive Board, the Association, the Manager, and any Owner or their respective agents, employees, or tenants; and of any defenses based upon co-insurance or upon invalidity arising from the acts of the insured.

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(e) **Personal Liability Insurance of Officers and Directors.** To the extent obtainable at reasonable cost, appropriate personal liability insurance shall be maintained by the Association to protect the officers and directors from personal liability in relation to their duties and responsibilities in acting as such officers and directors on behalf of the Association.

(f) **Worker's Compensation Insurance.** The Executive Board shall obtain worker's compensation or similar insurance with respect to its employees, if applicable, in the amounts and forms as may now or hereafter be required by law.

(g) **Other Insurance.** The Executive Board may obtain insurance against such other risks of a similar or dissimilar nature as it shall deem appropriate with respect to the Association's responsibilities and duties.

(h) **Insurance Obtained by Owners.** Each Owner shall obtain physical damage and liability insurance for such Owner's benefit, at such Owner's expense, covering personal property and personal liability and any other items not covered by the Association's master policy in such amounts as the Association may determine, from time to time.. Additionally, an Owner may obtain such other and additional insurance coverage on the Unit as such Owner, in the Owner's sole discretion, shall conclude to be desirable; provided, however, that none of such insurance coverage obtained by the Owner shall operate to decrease the amount which the Executive Board, on behalf of all Owners, may realize under any policy maintained by the Board or otherwise affect any insurance coverage obtained by the Association or cause the diminution or termination of that insurance coverage. Any insurance obtained by an Owner shall include a provision waiving the particular insurance company's right of subrogation against the Association and other Owners. No Owner shall obtain separate insurance policies on the Common Elements.

(i) **Owners Insurance Policies to be filed with the Executive Board.** The Executive Board may require an Owner who purchases insurance coverage for the Owner's Unit (other than coverage for the Owner's personal property) to file copies of such policies with the Association within thirty (30) days after purchase of the coverage to eliminate potential conflicts with any master policy carried by the Association.

(j) **Notice to Owners.** The Executive Board shall promptly furnish to each Owner written notice of the procurement of, subsequent change in, or termination of, insurance coverages obtained on behalf of the Association under this Article.

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(k) General Insurance Provisions. All such insurance coverage obtained by the Executive Board shall be governed by the following provisions.

(i) The deductible amount, if any, on any insurance policy purchased by the Executive Board may be treated as a Common Expense payable from Annual Assessments or Special Assessments, or as an item to be paid from working capital reserves established by the Executive Board; or, alternatively, the Executive Board may treat the expense as an assessment against an Owner whose Unit is specifically affected by the damage or whose negligence or willful act resulted in damage. The Association may enforce payment of any amount due from an individual Owner toward the deductible as an assessment.

(ii) The insurance coverage described in this Article shall be considered minimum coverage and the Association will be obligated to secure and maintain such other and/or additional coverage as may be required by law or §38-33.3-313 of the Act, which Section 313 is also applicable to supplement the provisions of this Article.

(iii) Except as otherwise provided in this Declaration, insurance premiums for the insurance coverage provided by the Executive Board pursuant to this Article shall be a Common Expense to be paid by regular assessments levied by the Association.

(iv) If the insurance described in this article is not "reasonably available", or if any policy of such insurance is cancelled or not renewed without a replacement policy therefore having been obtained, the association promptly shall cause notice of that fact to be hand-delivered or sent prepaid by United States Mail, to all unit owners.

10.0 The first sentence of Subparagraph (d) of Paragraph 31 of the Declaration is hereby deleted from the Declaration and replaced with the following:

(d) No advertising signs, but not including "For Rent" or "For Sale" signs, billboards, or items which the Board reasonably considers to be unsightly or nuisances, shall be erected, placed or permitted to remain on the premises.

11.0 This Agreement may be executed in any number of counterparts.



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IN WITNESS WHEREOF, the Association has caused this Amendment to the  
Condominium Declaration of Mountain Stream Condominiums to be executed by its  
duly authorized President this 16 day of July, 2009.

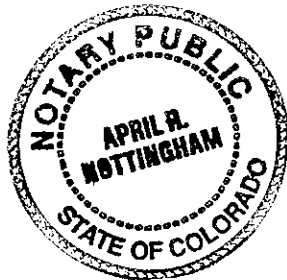
MOUNTAIN STREAM CONDOMINIUM ASSOCIATION

By: Ray Storz  
President

STATE OF COLORADO )  
COUNTY OF EAGLE )

The foregoing Amendment to Condominium Declaration for Mountain Stream  
Condominiums was acknowledged before me this 16 day of July, 2009, by  
Ray Storz as President of Mountain Stream Condominium Association.

Witness my hand and official seal. My commission expires:  
07/18/12.



April R. Nottingham  
Notary Public

Box 9464, Avon, Co 81620  
Address