

10 PAGE DOCUMENT

## RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF GRAND VIEW HOA, INC.

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR GRAND VIEW SUBDIVISION, ("Declaration") is made, imposed and declared this 23<sup>rd</sup> day of October, 2014 by GRAND VIEW HOA, INC. a Colorado Nonprofit Corporation, located in Grand Junction, Colorado ("Declarant"). These Covenants, in whole, amend and replace any and all Covenants, Conditions and Restrictions which predate these Covenants.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, 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 property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

### ARTICLE I DEFINITIONS

Section 1. "Association" shall mean and refer to Grand View HOA, Inc. its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4 "Common Area" shall mean all real property (including the improvements thereto) owned by the Association.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Grand View HOA, Inc. a Colorado Nonprofit Corporation, its successors and assigns if such successors or assigns should

acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Architectural Control Committee" shall mean and refer to the Architectural Control Committee (ACC) set forth at Article VI of this declaration.

## **ARTICLE II PROPERTY RIGHTS**

Section 1. Irrigation Water Delivery System. Every Owner shall have a right to access and use the irrigation water delivery system located in the utility and irrigation easement located along the boundary of each Lot, subject to the following provisions:

- a. The right of the Association to charge reasonable fees for the use and maintenance of the irrigation water delivery system; and the right of the Association to promulgate rules, regulations and schedules related to the use of the irrigation water system, and,
- b. The right of the Association to suspend the voting rights of an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the bylaws, his right of use to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Ownership of Irrigation Equipment. The Association shall own and be responsible for the maintenance of the irrigation pump(s), irrigation water lines, pump house(s) and associated equipment and fixtures. The Owner shall own and be responsible for the maintenance of all irrigation lines and sprinklers located within the boundaries of the Owner's Lot.

Section 4. Drainage Ditch. The drainage ditch at the south boundary of Grand View Subdivision is presently maintained by the Grand Valley Water Users Association ("GVWUA"). In the event such maintenance is not performed by GVWUA or a successor governmental or quasi-governmental entity, the Grand View HOA, Inc., shall be responsible for the maintenance of the drainage ditch adjacent to the boundary of the subdivision.

### **ARTICLE III MEMBERSHIP AND VOTING RIGHTS**

Section 1. Every Owner of a Lot, which is subject to assessment, shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have one class of voting membership, being all Owners of Lots within Grand View HOA, Inc., who shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

### **ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS**

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvement, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used to provide and maintain irrigation water and an irrigation water delivery system to the Properties and to maintain the Common Area including but not limited to the drainage ditch on the south boundary of Grand View Subdivision.

Section 3. Maximum Annual Assessment. The maximum annual assessment may be increased each year not more than 10% above the maximum assessment for the previous year without a vote of the membership.

- a. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.
- b. The maximum annual assessment may be increased above the 10% by a vote of a majority of the members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of the irrigation water delivery system, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of **thirty three percent (33%) of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose.**

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than **10 days nor more than 50 days** in advance of the meeting. Notices may be sent electronically and/or posted in a conspicuous place within the neighborhood. At the first such meeting called, the presence of members or of proxies entitled to cast **thirty three percent (33%) of all the votes of the membership shall constitute a quorum.** If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be **one-half (1/2) of the required quorum at the preceding meeting.** No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Date. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due date shall be established by the Board of Directors.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 18 percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or file a lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the irrigation water delivery system or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of the first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payment which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

## **ARTICLE V USE RESTRICTIONS**

Section 1. Temporary Structures. No trailer, unimproved basement, tent, shack, garage, barn or other outbuilding erected on any land covered by these covenants shall not at any time be used as a residence, temporarily or permanently, nor shall any structure of a temporary character be used as a residence.

Section 2. Prefabricated Structures. All dwellings, garages and outbuildings constructed upon the land covered by these covenants shall be of top quality design, construction, workmanship and materials; in particular, no structure will be of the types known as "pre-built," "pre-cut," "Modular," "Manufactured," or "pre-fabricated," regardless of its quality as determined by other standards.

Section 3. Antenna and similar devices. No radio towers, cell towers, large satellite dishes, or similar devices used for electronic transmission or reception shall be placed upon or around the exterior of any Lot within said subdivision or upon any improvements constructed upon any Lot.

Section 4. Grounds Maintenance. The land covered by these covenants, and the improvements thereon, shall be maintained by the owner in good condition and neat appearance, and no portion thereof shall be used or maintained as a dumping ground for trash, junk or rubbish. Trash, garbage and other waste shall not be kept on any Lot except in containers designed for storage and disposal of the same, which containers shall be kept in a clean and sanitary condition at all times. In the event any owner shall fail to maintain their Lot or Lots, the Association shall have the power to hire clean-up as necessary and to bill the Lot owner, and file mechanics liens for said work in the event of nonpayment.

Section 5. Irrigation System Maintenance. The owner of any Lot is required to have their irrigation system serviced and shut down for the winter season. Failure to have valves closed when the irrigation system is activated in the spring can cause major damage to the system and fines of up to \$500.00 per Lot may be levied for each violation.

Section 6. Nuisances. Notwithstanding any uses permitted by applicable zoning ordinances to the contrary, no trade, industry, shop or professions requiring "STOCK IN TRADE," nor any noxious or offensive activity which may become an annoyance or nuisance to the neighborhood shall be carried on upon any land covered by these Covenants. Home offices are permitted as are businesses considered "traveling salespersons," i.e.: insurance, mail order and franchises such as Avon, etc., as long as clientele do not make frequent visits, and no signs of any kind are displayed on the premises and the street address is not used in public advertisements.

Section 7. Signs. Signs will be no larger than four (4) square feet and are not allowed on a permanent basis. Signs on Common Areas are governed by the ACC.

Section 8. Animals. No animals shall be allowed other than domestic pets, but not more than any three (3) pets in cumulative total shall be kept on the premises and only then if they are kept solely as household pets for private use and not for commercial purposes. No such animal may be kept which is a nuisance or annoyance to other owners' property. Household pets shall be contained on their owners' property or on a leash and not permitted to run loose. At the request of any owner, the Board of Directors of the Association shall determine whether a particular animal shall be considered a household or yard pet, a nuisance, or whether the number of any such animals on any Lot is in compliance. Habitually barking dogs are prohibited at the sole discretion of the Association.

Section 9. Fences, landscaping. No trees, shrubs or hedge plants shall be planted until a plot plan setting forth in detail landscaping design and location and varieties of plants, has been approved by the ACC. No fences shall exceed six (6) feet in height, and all fences are to be architecturally compatible and uniform with the dwellings. All fence plans must be approved by the ACC with plans sufficient to show the location height, materials, and color to be used in the erection of the fence.

Section 10. Easements. Easements for the installation and maintenance of utilities, drainage and detention facilities (shown on plat as Common Area), and landscaping are reserved as shown on the recorded plat of the Subdivision. Within these easements no structures, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow or obstruct the flow of water in an through drainage channels and easement. The easements located on each Lot and all improvements in them shall be maintained continuously by the owner of the Lot, except for those improvements for which the Association, a public authority, or one or more utility company is responsible.

Section 11. Keeping of Motor Vehicles. No motor vehicle designed for travel over public roads shall be kept upon any real property within said subdivision unless

such vehicle shall bear evidence of a license for operation upon public roads of the State of Colorado for the then current year.

Section 12. Recreational Vehicles. No vehicles such as boats, campers, trailers, snowmobiles, motorcycles or other such recreational vehicles, devices or equipment, or vehicles used for business (other than passenger type vehicles) shall be stored or permitted to remain on the premises except behind a six (6) foot privacy fence constructed from the front of the garage to the back of the Lot as approved by the ACC.

Section 13. Maintenance of Lot. The owner or tenant of any Lot is required to maintain the Lot and improvements in a reasonable and satisfactory manner.

## **ARTICLE VI ARCHITECTURAL CONTROL COMMITTEE**

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

Section 2. Submission of Plans. Duplicate copies of plans and specifications relating to an improvement, including, but not limited to residences, fences, garages, and outbuildings, shall be submitted to the ACC for review and final approval. Plans and specifications shall contain, without limitation, the plot plans showing layout, including setbacks, flow and manner of surface drainage, finish and natural grade elevations, floor plans showing overall dimensions, roof plans showing pitch, roof materials, color, exterior elevations showing doors, windows and exterior materials and colors, and a perspective sketch if requested, and other details necessary to explain any feature or component of the improvement.

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 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. 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 votes of the ACC shall be required for the approval or disapproval of any proposed improvement.

Section 5. 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.

## **ARTICLE VII GENERAL PROVISIONS**

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years.

Section 4. Easements. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat of the Property, or any portion thereof, or other duly recorded instrument(s). Within these easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements. Declarant hereby reserves the right to enter upon the Property to correct any flow of water and to establish and re-establish drainage channels.

Section 5. Conflict of Provisions. In case of any conflict between this Declaration, the Articles of Incorporation or Bylaws of the Association, this Declaration shall control. In case of any conflict between the Articles of Incorporation and the Bylaws of the Association, the Articles of Incorporation shall control.





## EXHIBIT "A"

Being the portions of Section 6, Township 1 South, Range 1 East, Ute Meridian, described as follows:

The NE1/4, SW1/4, NW1/4, Section 6,

The SE1/4, SW1/4, NW1/4, Section 6,

The NW1/4, SW1/4, Section 6,

The SW1/4, SW1/4, NW1/4, EXCEPT: Beginning at a point being the West1/4, Section 6, T1S, R1E, Ute Meridian, thence North 536.25 feet, thence East 165.0 feet, thence South 210.25 feet, thence 261.8 feet along the arc of a 50 foot radius curve to the right, the chord of which bears South 50 feet, thence South 276.0 feet to the South line of the NW1/4 of Section 6 T1S, R1W, Ute Meridian, thence West 165.00 feet to the Point of Beginning,

ALSO EXCEPT: Beginning at the Northwest corner of the SW1/4, SW1/4, NW1/4, Section 6, T1S, R1W, Ute Meridian, thence East 165 feet, thence South 125 feet, thence West 165 feet, thence North 125 feet to the Point of Beginning.

ALL IN MESA COUNTY, COLORADO.

