

641113 DECLARATION OF COVENANTS  
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AUDREY KOLTISKA, SHERIDAN COUNTY CLERK

**DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS OF ASPEN GROVE SUBDIVISION  
A Planned Unit Development**

Aspen Grove Development LLC hereinafter referred to as  
DECLARANT makes THIS DECLARATION.

**DECLARATION PURPOSES**

WHEREAS DECLARANT is the owner of certain property in  
Sheridan County, Wyoming, which is more particularly described as Lots 1  
thru 60, Outlots A, B, C, D and E of the Amended Plat of Aspen Grove  
Planned Unit Development City of Sheridan Wyoming.

AND WHEREAS, in order to establish a general plan for the  
improvement and development of the Properties, DECLARANT desires to  
subject the Properties to certain conditions, covenants, and restrictions, and  
subject to which all the Properties shall be held, improved, and conveyed.

AND WHEREAS, DECLARANT, will convey the said properties,  
subject to certain protective covenants, conditions, restrictions, liens, and  
charges as hereinafter set forth;

NOW THEREFORE, DECLARANT hereby declares that all of the  
properties described above shall be held, sold, and conveyed subject to the  
following, 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,  
shall inure to the benefit of each owner thereof, and which are intended not  
to be merely personal. The undersigned Declarant further declares that this  
declaration and every provision hereof constitute not only covenants, but  
also equitable servitudes enforceable by and against any purchaser of any  
lot. These declarations are for the purpose of developing the lands herein  
according to a uniform plan between the grantees of such lots, their heirs,  
successors and assigns; and to operate as covenants running with the land  
for the benefit of each and all such lots becoming subject to this Declaration  
and the respective owners of such lots, present and future.

ARTICLE 1  
DEFINITIONS

Section 1.1 - Definitions: The following words and terms, when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

- (a) the properties shall mean and refer to the existing properties, and all additions to the existing properties subject to this declaration.
- (b) lot shall mean any plot of land described by a number upon any recorded subdivision map of the properties.
- (c) owner shall mean the record owner (whether one or more persons or entities), of the fee simple title to, or the contract purchaser of any lot situated upon the properties, but shall not mean or refer to any holder of debt or mortgage unless and until such holder has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.
- (d) dwelling lot shall mean any lot intended for improvement with a dwelling.
- (e) dwelling shall mean any building located on a dwelling lot and intended for the shelter and housing of a single family.
- (f) dwelling accessory building shall mean a subordinate building or a portion of a dwelling, the use of which is incidental to the dwelling and customary in connection with that use.
- (g) single family shall mean one or more persons, each related to the other by blood, marriage or adoption, or a group of not more than three persons not all so related, together with his or their domestic servants, maintaining a common household in a dwelling.
- (h) story shall mean that portion of a dwelling included between the surface of any floor and the surface of a floor next above, or if there is no floor above, the space between the floor and the ceiling next above.
- (i) living area shall mean that portion of a dwelling which is enclosed and customarily used for dwelling purposes and having not less than eight (8) feet headroom, but shall not include open

porches, open terraces breeze-ways, attached garages, carports or dwelling accessory buildings. It shall include those areas of the building which are no more than 3 1/2 feet below the exterior grade and considered as living area by the City of Sheridan Engineering Department.

(j) structure shall mean any building or other improvement erected or constructed, the use of which requires more or less permanent location on or in the ground, or attached to something having a permanent location on or in the ground.

(k) committee shall mean the Architectural Review Committee.

(l) maintenance shall mean exercise of reasonable care to keep buildings, roads, landscaping, lighting and other related improvements and fixtures in a condition comparable to their original developed condition, normal wear and tear excepted. Maintenance of landscaping shall further mean the exercise of generally accepted lawn and garden management practices necessary to promote a healthy, weed-free environment for optimum plant growth.

(m) mobile home is defined as a living unit manufactured with an integral towing device or wheels. If the unit is manufactured with an integral towing device or wheels, it does not lose its status as a mobile home by the removal of the towing device or wheels. The Committee shall make the final determination as to whether or not a structure is a mobile home.

(n) common areas are the areas encompassing the pond and any area not within a building lot on the plat which is not maintained by the City of Sheridan.

(o) Association is the Aspen Grove Homeowner's Association.

(p) The term Board of Directors or Board used herein, shall mean and refer to the DECLARANT until the sale of 95% of the lots, or Declarant proclaims that it is done acting as the Board of the association, whichever occurs earlier. Thereafter it shall consist of a duly elected Board of Directors of the Association. There shall be five (5) directors. Until the aforementioned conditions are met, the Declarant shall act as the Board and Committee and have control of the association, subject to these declarations. The terms powers and duties of the Board shall be as set forth herein and by the bylaws of the association.

(q) Unoccupied lot shall mean a lot with no structure. Occupied lot shall mean a lot with a structure that has obtained a certificate of occupancy.

(r) Taxes shall mean any assessment on the outlots as shown on the plat, or for any common area in the plat.

## ARTICLE II

### CREATION OF HOMEOWNER'S ASSOCIATION

Section 2.1: There is hereby created a homeowner's association known as the Aspen Grove Homeowner's Association, This will be a non-profit association in accordance with W.S. §17-22-102 et. seq.

Section 2.2: The purposes for which the Homeowners association is created includes but is not limited to:

- (a) The maintenance and replacement of a subdivision perimeter fence, and signage.
- (b) To fertilize mow, keep free of weeds, and generally take care of all elements of lawn care except watering.
- (c) To keep sidewalks and driveways free of debris and reasonably clear of snow.
- (d) To hold any and all monies deposited in the Association account, and to use those monies only for the purposes set out under this document and activities incident thereto.
- (e) To maintain the common area located within the subdivision.
- (f) To fix, levy, collect and enforce payment by any lawful means all charges or assessments incurred by the Association in fulfillment of its purposes.
- (g) To purchase insurance insuring the board and other insurance as the board deems necessary.
- (h) To pay any taxes assessed on the outlots or common area.
- (i) To do the other acts that are reasonably necessary to carry out its purpose.

Section 2.3: An owner may opt out of the fees for all maintenance of the homeowner lot subject to the following:

- (a) The owner desiring to opt out must present a written notice to the Board indicating his desire to undertake all the maintenance and snow removal for his lot.
- (b) The notice must be presented by December 1<sup>st</sup> of the calendar year preceding the opting out. Provided however, an owner who has not owned the property on December 1<sup>st</sup> must present the writing within 60 days after closing on the purchase of the lot of his intent to opt out. The opt out period in that event will end at the end of the calendar year.
- (c) Opting out will not be allowed for less than a full calendar year to allow the association to budget its expenses and payments.
- (d) Any opt out will not excuse the homeowner from assessment for maintenance of the common areas, insurance, administrative fees, taxes, contingency assessments and the like still required for the association.
- (e) Assessments shall be set by the Association for members who have complied with the opt out provisions and whose opt out has been approved, on a reduced fee basis.
- (f) If a homeowner fails to provide the maintenance required after the opt out, the Association will have the right to notify the owner, and thereafter if the owner has not done the required maintenance within 10 days after the date of the notice, the Association may do it and bill for the cost. The opt out will end and assessments will then be due each month thereafter unless association in its sole discretion determines that the homeowner has given adequate assurance that the maintenance will be performed up to the standards set by the association thereafter.
- (g) Bills for costs and further assessments and delinquencies shall be liens against the property if not paid.
- (h) The president of the board, or the named designee shall disprove requests to opt out in writing, by email, facsimile or orally, and then confirmed in writing within 30 days of the request, or the requests shall be deemed granted.

ARTICLE III

PROPERTY RIGHTS

**Section 3.1- Owner's Enjoyment:** Every owner shall have a right of enjoyment of ownership of his lot, subject to the following easements and provisions:

- (a) the right of the Association to assess and charge a reasonable maintenance, and operation fee for its purposes, and to impose such charge or assessment as a lien against any property for which such charge or lien has not been paid in accordance with these DECLARATIONS, or Bylaws of the Association.
- (b) the right of the Association to suspend the voting rights, assess a late fee as determined by the board for late payment, to tow vehicles not in compliance with these covenants at the owner's expense, to enter on the property of an owner to enforce a covenant or to perform the functions of the Association and right to suspend services to an owner for any period during which any assessment against his lot remains unpaid.
- (c) the right of the Association, in accordance with its Articles and Bylaws at a meeting called, to borrow money for the purposes of providing services improving or operating the facilities.
- (d) the right of the Association, through its Board of Directors to adopt and publish rules and regulations, and bylaws for the association's operation.

ARTICLE IV

EXISTING PROPERTIES AND  
ADDITIONS THERETO

**Section 4.1 - Existing Properties:** The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Sheridan, Wyoming, and more particularly described above.

Section 4.2 - Other properties: The DECLARANT reserves the right to bring within the scheme of this Declaration any additional lands which are contiguous or adjacent to the subject lands.

## ARTICLE V

### ARCHITECTURAL REVIEW PROCESS

Section 5.1 - Objectives: DECLARANT'S objectives are to carry out the general purposes expressed in this Declaration; to assure that any improvements or changes in the properties will be of good and attractive design and in harmony with the natural setting of the area and will serve to preserve and enhance existing features of natural beauty; and to assure that materials and workmanship of all improvements are of high quality and comparable to other improvements in the area.

#### Section 5.2 - The Committee:

(a) to achieve the objectives of these covenants and restrictions, an Architectural Review Committee is hereby created with power to administer and enforce this Declaration with regard to approving or disapproving those matters which are within the jurisdiction of the Committee.

(b) The Committee shall consist of not less than three members, each of whom shall be an owner. The DECLARANT shall appoint members of the Committee until such time as the DECLARANT transfers the authority to appoint members of the Committee to the Board. The DECLARANT may transfer the authority to appoint the members of the committee to the Board at any time, in the sole discretion of the DECLARANT, by providing a written notice of such transfer to the Board.

(c) Once the authority to appoint members of the Committee is transferred by the DECLARANT, its membership shall be selected in accordance with the Association's Bylaws.

Section 5.3 - Matters Requiring Approval: Prior written approval shall be obtained from the Committee with respect to all matters stated in the Declaration as requiring such approval. A matter requiring approval of the

Committee shall be submitted to its Chairman, or as the Committee otherwise designates. In addition thereto, no building, fence, wall or other structure shall be commenced, erected or maintained upon the properties, nor shall any exterior addition to or change in or alteration of any lot or the improvements located thereon be made, nor shall any clearing of trees or change of property grade be made, until the plans and specifications showing the nature, kind, shape, elevations, heights, location and grade, design and proposed location on the lot have been submitted to and approved in writing by the Committee. Building plans must include a color scheme, a site plan (with building location, grades and landscaping including a sprinkler system) and a proposed construction schedule, and must show back, side and front elevations, indicating roof design, window size and placement, and exterior style and finish. Dwelling units that are to be prefabricated off-site must have the preliminary or sales plan submitted to the Committee for a preliminary review to determine if the construction and design and the style, windows, roof lines, and details will meet minimum criteria, provided that the preliminary review does not relieve the owner from the obligation to meet the remaining review requirements applicable to all dwellings.

Section 5.4 - Procedure: Whenever approval is required of the Committee appropriate building plans and specifications shall be submitted to the Committee. Construction plans shall identify the general contractor and all subcontractors, all of whom shall be licensed by the City of Sheridan. The Committee shall either approve or disapprove such design and location and proposed construction and activities within thirty (30) days after said plans and specifications have been submitted to it: except that, if such plans and specifications are disapproved in any respect, the applicant shall be notified wherein such plans and specifications are deficient. The Committee may withhold approval for any reason deemed by it to be appropriate, including aesthetic reasons, except that approval will not be withheld for capricious or unreasonable reasons. If such plans and specifications are not approved or disapproved within thirty (30) days after submission, approval will not be required and this Article will be deemed fully complied with; provided that nothing herein shall be deemed to waive the obligation of each owner to comply with the substantive covenants and restrictions of this Declaration. At the discretion of the Committee, a reasonable filing fee established by the Committee shall accompany the submissions of such plans to defray expenses, except that so long as the Committee is under DECLARANT'S control such fee shall not exceed \$100.00. No additional



fee shall be required for resubmission of plans revised in accordance with recommendations made upon disapproval. A copy of each approved set of plans and specifications shall be kept on file with the Committee.

**Section 5.5 - Minimum Criteria for Architectural Review Approval:**  
No dwelling shall be permitted to be constructed upon the properties, nor shall the Committee be required to approve any construction which does not comply with the following minimum requirements:

- (a) No one-story dwelling shall be constructed having less than 1400 square feet of living area. No bi-Level dwelling shall be constructed having less than 1,400 square feet of living area above finish grade. No two-story dwelling shall be constructed having less than 1,400 square feet of living area.
- (b) Any dwelling constructed must have a 4:12 pitch for roof slope and a front elevation that is aesthetically pleasing and compatible with other dwellings in the area. The front elevation must include a roof design with various breaks created by eaves and overhangs, consideration of window size and placement, and an appealing exterior style and finish.
- (c) All garages shall be a minimum of a two (2) car attached to the main dwelling. The Committee in its discretion shall permit variations in cases where peculiar architectural considerations require a space separation between the dwelling and garage. In such cases, the Committee shall have the right to specify the location of any garage detached from the dwelling and whether the garage must be attached by a breezeway structure.
- (d) Repetitive use of the same building style on lots in close proximity shall be allowed only if the houses have different colors or exterior treatments.
- (e) No dwelling shall be erected, altered, or placed, which is more than two and one half (2 1/2) stories or thirty feet (30) in height, whichever is lesser, unless a greater height is approved in writing by Committee.
- (f) Television, radio and other communication antennas or any satellite system (24" maximum diameter) approved by the Committee shall be placed upon the rear of any dwelling roof. All lines or wires shall be buried in conduit. Any roof exhaust systems shall also be placed upon the rear of any dwelling roof.

- (g) Only vinyl fencing or approved fences (no chain link) shall be permitted upon any lot. The fences shall not exceed four (4) feet in height and shall not be placed forward of the rear corners of the building. Special consideration may be given for corner lots, where one of the fence lines may be extended to the front building line, but no closer than 25 feet from the lot corner nearest the adjacent street intersection. No fencing will be allowed within 20 feet of proposed park or conservation areas.
- (h) The elevations of all foundations and the location of all dwellings of dwelling accessory buildings shall be approved by the Committee. No more than six (6) inches of concrete foundation shall be exposed without treatment or covering acceptable to the Committee.
- (i) All pools and spas must be constructed clear of all required setbacks and in accordance with City of Sheridan regulations. All pools must be fenced and all spas skirted with related equipment screened from view.
- (j) Access driveways and other areas for vehicular use on a lot shall have a base of compacted gravel, crushed stone or other approved base material and be paved with concrete. Driveways must be completed prior to occupancy unless prior approval is received from the Committee.
- (k) Approval by the Committee may be conditional upon an owner providing to the Committee plans for the protection and preservation of trees and shrubs that exist upon or are adjacent to an owner's lot. The Committee may further establish requirements regarding the protection of trees and shrubs during construction upon any lot.
- (l) During the course of any construction of any structure or system, the Committee shall have the right, but not the obligation, at all reasonable times to inspect the work to ensure it conforms with the approved plans and with applicable local, county, state and federal regulations. The Committee, or its designated inspectors shall have the right to inspect the building site prior to, during, and at the end of all construction phases. The commencement of any construction before the Committee has granted approval shall be a violation of this Declaration.
- (m) Owners shall do all necessary soils testing, or obtain the results of tests done prior, and build any structures in a manner which

will accommodate any special soil, water or other condition affecting building or design.

**Section 5.6 - Deviations from Covenants and Restrictions:** The Committee shall have the power to enter into agreements with the owner of any lot, without the consent of the owner of any other lot or adjoining or adjacent property, to deviate from the provisions of the covenants restrictions within the jurisdiction of the Committee for reasons of practical difficulty or particular hardship which otherwise would be suffered by such owner. Any such deviation, which shall be manifested by written agreement, shall not constitute a waiver of any such covenant as to other lots in the property.

**Section 5.7 - Waiver and Indemnity:** Each owner waives any claim or cause of action against the Board of Directors of the Association, its members and Committee, its agents and employees, or individual members of the Committee relating to any action taken by, or failure to act on the part of the Board or Committee pursuant to this Declaration, except for gross negligence, willful misconduct or illegal acts. Further, each owner agrees to indemnify, defend and hold harmless the Board, Committee. Members, agents and employees from all claims, liability, causes of action, demands and costs (including reasonable attorney's fees) arising out of or resulting from action or inaction taken pursuant to this Declaration.

## ARTICLE VI

### GENERAL RESTRICTIONS

**Section 6.1 - Land-Use Single Family Residential:** Any portion of the Properties designated by the Aspen Grove Development plat on file with the City of Sheridan for single family residential use shall be used only as dwelling lots for single family residences and shall be subject to the restrictions set forth in this Article or as modified or added to by the provisions of a Supplemental Declaration pertaining thereto. No Structure may be erected or maintained on any such lot except that has been approved in writing by the Committee. Lots designated for duplex use may be used for duplexes, or single-family residences only.

**Section 6.2 - Quality of structures:** It is the intention and purpose of this Declaration to insure that all structures shall be of a quality of design,

workmanship and materials which are compatible and harmonious with the natural setting of the area and other structures within the development. All structures shall be constructed in accordance with applicable government building codes and with more restrictive standards that may be required by the Committee.

Section 6.3 - Locality of structures or the location of each structure, including driveways and culverts, on a lot shall be subject to approval in writing by the Committee, giving consideration to setbacks, if any, on the recorded plat, provided that each owner shall be given reasonable opportunity to recommend the suggested construction site.

Section 6.4 - Nuisances: No noxious or offensive activity shall be carried on, in or upon any premises, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No outdoor lights which provide excessive illumination of adjacent lots shall be used on a routine basis. No plants or weeds or other things or conditions harboring or breeding infectious plant diseases or noxious insects shall be introduced or maintained upon any part of a lot. It shall be the responsibility of each owner to maintain his lot (other than the lawn which shall be maintained by the association other than watering) free from accumulation of debris and from the overgrowth thereof of weeds and noxious vegetation. If an owner shall fail to maintain the lot or fail to cut the weeds, or noxious vegetation thereon, the DECLARANT or the Committee, after ten days written notice to owner, shall be authorized to enter upon the lot to cut and maintain the lot. If the DECLARANT or Committee, or persons contracted by them, shall perform such work, owner agrees to pay to the DECLARANT or the Committee the reasonable costs of the work performed, but not less than the sum of Fifty Dollars (\$50.00) for each instance where cutting or maintenance has been provided on owner's lot. The lot shall be charged with a lien to assure payment of such charge upon the recording of a notice of such lien, which lien shall have a priority as of the date of the recording. The DECLARANT or the Committee shall be entitled to designate an agent for the purpose of performing the mowing, and may further direct payment be made directly to such agent. No burning of refuse shall be permitted outside any dwelling, except that the burning of leaves which have fallen on the lot is permitted if allowed by appropriate regulations.

Section 6.5 - Temporary structures, storage sheds:

- (a) No trailer, mobile home, recreational vehicle, tent, shack, garage, barn, dwelling accessory building, outbuilding, or other structure, and no temporary building or structure of any kind shall be used for a residence, either temporary or permanent, except as otherwise permitted herein or in any applicable Supplemental Declaration. However, the occasional, temporary use of motor homes or travel trailers for extra space when there are guests or in emergencies shall be permitted; provided the vehicle is parked on a paved surface and shall not be parked for more than ten (10) days in any calendar year.
- (b) The association may in its sole discretion approve the parking of up to two recreational vehicles/boats or the like on the property. All such vehicles must be off the street, and behind fencing so as not to be in view. No on street parking of trailers boats, etc. shall be allowed for more than 10 days in any calendar year.
- (c) Temporary structures used during the construction of a structure shall be on the same lot as the structure and such temporary structures shall be removed immediately upon completion of construction.
- (d) No storage sheds shall be allowed unless they are no larger than 8' x 12' and the exterior is consistent with the styling of the home on the lot.

**Section 6.6 - Mobile Homes:** No mobile homes shall be permitted upon any lot on the properties at any time. This restriction shall not prevent the temporary parking and occasional use of a camping trailer or motor home in accordance with the provisions of section 6.5 so long as the unit is parked on a paved surface and is not a permanent residence.

**Section 6.7 - Controls Applicable During Construction:** Each owner shall be responsible for the conformance with all such rules by the owner's builder and contractors:

- (a) At all times during the construction period, a trash dumpster shall be located on the site and all construction debris shall be placed in the dumpster.
- (b) The roads shall be kept clean at all times. Any dirt or debris which are deposited on any road or other lot by any vehicle entering or leaving the owner's site shall be cleaned and removed immediately.

- (c) Building materials shall be stacked neatly on the site and shall not be stored on adjoining property. Adjoining property and infrastructure shall be restored if damaged.
- (d) Except as otherwise provided herein, no signs of any kind or description shall be displayed on any lot except for one (1) sign of reasonable size, but not to exceed three square feet, to advertise the property for sale or signs used by the DECLARANT or its assigns to advertise the property during the construction and/or initial sales period.
- (e) All equipment which is used in excavating or construction and which is not rubber-tired shall only be loaded or unloaded within the boundary lines of each respective lot where excavating or construction is being performed.
- (f) Proper and adequate barricades shall be provided for protection of any open excavation, formed and/or poured foundation walls prior to back-filling, and/or completion of first floor, horizontal openings in any floor (such as stair-wells) prior to the completion of proper railings, stairs or other uses.
- (g) Any construction undertaken on any lot shall be continued with diligence toward the completion thereof and construction of any dwelling shall be completed within ten months from commencement of construction, except that such period may be extended for a reasonable time by reason of act of God, labor disputes or other matters beyond the owner's control. No structure shall be deemed completed until installation of approved landscaping which shall include a sprinkler system.

**Section 6.8 - Lot Appearance:** No person shall accumulate or store on his lot junked, inoperable, unregistered, derelict or abandoned vehicles, or boats, trailers, horse trailers, heavy trucks (one ton or greater), equipment or machinery, litter, refuse or other unsightly materials. Garbage shall be placed in receptacles provided therefore, and if located outdoors shall be properly screened.

**Section 6.9 - Pet Control:** No animals other than inoffensive common domestic household pets such as dogs and cats shall be kept on any lot. Each Residential owner shall be required to clean up any feces or defecation produced by such pets and shall be strictly liable for all property damage or injury caused by such pets. And all pets shall be required to be kept inside the Residential owner's dwelling from 10:00 o'clock p.m. until

6:00 o clock a.m. unless they are walking such pets on a leash, confined to deck area, or restricted on patio areas. At all times, owners shall prevent dogs from creating a barking or other nuisance. Vicious animals which threaten people or other pets shall not be permitted. Vicious, threatening or nuisance animals shall be permanently removed from the properties immediately upon request of the Committee which shall have authority to determine, in its sole discretion, which animals are vicious, threatening, or a nuisance.

Section 6.10 - Easements Reserved with Respect to lots: DECLARANT reserves for itself, its successors and assigns, easements over, under and through each lot, and the right to ingress and egress to the extent reasonable necessary to exercise such easement, as follows:

- (a) Utility easements shown on any recorded Plat of the Properties, and an easement of ingress and egress for lawn care, maintenance of perimeter fences, enforcement of the covenants and anything reasonably incident and necessary thereto.
- (b) The owner shall not place any structure on any such utility easement which is not portable and shall be responsible for maintaining the easement and any damages caused by user of right to the easement shall be repaired and restored by such user.
- (c) No owner shall have any claim or cause of action, except as herein provided, against DECLARANT, its successors, assigns, or licensees arising out of exercise or non-exercise of any reserved easement except in cases of willful or wanton misconduct.

#### ARTICLE VII COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 7.1 – Creation of the Lien and Personal Obligation of the Assessments: The Declarant, for each lot owned within the properties, hereby covenants, and each owner of any lot by acceptance of a deed therefore whether or not it shall be so expressed in the deed is deemed to covenant and agree to pay to the Association annually or more frequently as set by the board an assessment set for charges for the maintenance to be done by the association, and all actions by the association in accordance with these covenants. Assessments are to be established and collected as hereinafter provided:

- (a) A non refundable contingency assessment may be charged at the initial sale of a lot equal to two month's assessment to help defray the ministerial expenses of the association.
- (b) To establish the amount of the assessment, the Declarant or the board as the case may be shall adopt a budget establishing the estimated costs for the operation of the association for a year. A reserve shall be built into the budget for contingencies, and the budget shall include the ministerial costs to operate the association and estimated property taxes. All charges shall be assessed against each Lot on an equal basis, that is, each Lot regardless of size or abutting front footage will bear an equal share of the total expenses assessed. Halves of duplex lots shall be considered one lot.
- (c) Charges for the assessment may be made annually, or more frequently at the discretion of the board. New owners shall be charged a prorated amount.
- (d) The Association shall inform the owner of the rate of the assessment at least 15 days prior to the assessment, unless emergency situations require less notice. The Board of Directors shall establish the due dates and billing methods. New owners shall contact the Association to determine rates in place at the time they take title.
- (e) Assessments together with interest at 16% per annum for late payments, costs of collection enforcement and reasonable attorney fees shall be a charge upon the land and lien against the lot(s) against which each assessment is made in addition to being a personal obligation of the owner of the property at the time the assessment was due. Personal obligation for delinquent assessments shall not pass to successors in title, unless expressly assumed. However, the liens against the lots shall have priority as of the date of recording and be valid against subsequent purchasers, unless properly extinguished by foreclosure of a prior recorded mortgage.

Section 7.2 Maximum assessments: until January 1<sup>st</sup> of the year immediately following the conveyance of the first lot to an owner after the date these covenants are recorded, the maximum assessment shall not exceed Eighty Dollars (\$80.00) per month per occupied lot, Sixty Dollars (\$60.00) per month per unoccupied lot, or Twenty Five Dollars (\$25.00) per month for an opted out lot. Declarant shall be



responsible for the remaining amount of the year's costs until such time as the management is turned over to the owners. Declarant shall not be required to pay annual or special assessments on a per lot basis.

- (a) Beginning January 1<sup>st</sup> of the year immediately following the conveyance of the first lot to an owner the annual assessment may be increased each year, but not by more than 30% without a vote of the membership in favor at a meeting called for this purpose.
- (b) In addition to the normal assessment, the Association may levy a special assessment for the purpose of defraying in whole or in part the cost of any, reconstruction, repair or replacement of any capital improvement which the Association has responsibility for provided that any assessment shall have the assent of 2/3 of the votes of members who are voting in person or by proxy at a meeting duly called for this purpose.
- (c) Written notice of any meeting called for the purpose of taking action for special assessments, or an increase of more than the maximum increase allowed shall be sent to all members not less than 10 days in advance of the meeting. A quorum shall be 30% of all members attending in person and those voting by proxy unless amended by the bylaws of the association.

**Section 7.3 Effect of Nonperformance—Delinquency:** Any assessment or charge provided for in this declaration not paid when due, shall be a delinquency and may carry at the discretion of the board, a late charge not to exceed 16% of the amount due, and interest at the rate of sixteen percent per annum.

- (a) **Creation of Lien:** The amount of all delinquent assessments, and payments due hereunder together with attorney fees, and costs of collection or enforcement shall become a lien upon the lot so assessed which shall attach as of the date the board causes to be recorded in the office of the county clerk a notice of assessment which shall state:
  - i. The amount of the delinquency
  - ii. The name of the owner of record or reputed owner of the lot:
  - iii. A description of the lot against which the lien is assessed.
  - iv. The lien shall also be deemed to secure all items which shall become due or incurred relative to the lot

after recording the Notice of assessment until the completion of the enforcement of the lien or payment of the amount due or other satisfaction.

- (b) Two officers of the Board or the Declarant shall sign the notice.
- (c) No proceeding shall be instituted to foreclose the lien until the Committee has mailed notice of intent to do to the owner at least 30 days prior to the commencement of such an action. The lien may be enforced by judicial foreclosure or if no objection to the amount of the lien is made by the owner within 20 days after the date of the notice, by power of sale foreclosure as set forth in the Wyoming statutes for mortgage foreclosure.
- (d) The board, or any member of the association shall have the right to bid at the sale.
- (e) Upon repayment to the Association of the amount secured by the lien and any other charges authorized herein and a fee that covers the expense of recording, the board shall record a satisfaction in the county records. Any assessment shall be subordinate to any prior recorded mortgage or deed of trust which was made in good faith and for value.
- (f) The lien rights herein shall be in addition to and not in substitution for all other rights and remedies which the board and association may have by law, including but not a suit to recover money judgment for unpaid assessments, and or an injunction.

**Section 7.4 - Subordination:** The liens provided for herein shall be subject to a prior recorded mortgage made in good faith and for value. The sale or transfer of any lot shall not relieve the lot from liability for any assessment not extinguished by foreclosure of a prior recorded mortgage, nor shall the sale relieve a lot from liability for assessments thereafter becoming due.

## ARTICLE VIII

### COMPLIANCE WITH COVENANTS

**Section 8.1 - Notices:** Any notice sent or required to be sent to any owner pursuant to provisions of this Declaration shall be deemed to have been properly given when mailed, certified prepaid, to the last known

address of the person who appears as an owner on the records of the Association at the time of mailing, unless another method has been set forth herein.

**Section 8.2 - Enforcement:** The Committee, board or any owner, shall have the right and authority, but not the obligation, to enforce compliance with the covenants and restrictions contained herein. The Committee shall not be required to take enforcement action at the request of any lot owner. An owner shall be required to first seek enforcement of the covenants and restrictions by the Committee before commencing an independent enforcement action. If the Committee fails or refuses to act and an owner elects to take enforcement action against another owner as a result of the violation of any covenant or restriction, the enforcing owner shall give the violating owner written notice of such intent. The notice shall identify the particular covenants or restrictions which have been violated as a condition precedent to the right to bring an enforcement action. The owner shall respond to the notice within 10 days with objections to the alleged violation, or shall be deemed to have waived them. No hearing shall be required.

**Section 8.3 - Method:** Enforcement of these covenants and restrictions may be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction. Such action may be either to restrain violation and/or to recover damages, or against the land, to enforce any lien created by these covenants or both. Failure by the Committee or any owner to enforce any covenant or restriction herein contained in no event shall be deemed a waiver of the right to do so thereafter. No bond shall be required of the Association for any injunctive action. Owners of lots agree by acceptance of the deed that violation of the covenants will cause irreparable damage to the rest of the property.

**Section 8.4 - Procedure:** Before the Committee or any other party elects to take enforcement action upon the violation of any covenant or restriction, the following process shall be followed.

- (a) **Notice.** The enforcer shall provide written notice of the violation to the owners of the lot at issue and that the violation(s) must be corrected within 20 days or a hearing demanded by the alleged violator before the committee to contest the existence of the violation.
- (b) **Hearing.** If the alleged violator desires a hearing to contest the violation they shall make a demand for the same in writing,

delivered to the enforcer on or before ten (10) days from the date of the mailing of the notice of violation.

- (c) The hearing shall be informal in nature and shall be conducted by the Committee or its designee at a date and time chosen by the Committee, usually at its next regularly scheduled meeting.
- (d) The Committee shall provide written notice of the date and time set for hearing to the person(s) requesting the hearing.
- (e) Decision. Within a reasonable time after the conclusion of the hearing the Committee shall render a determination as to the existence or nonexistence of the violation. If the Committee determines there is a violation or an attempted violation of any covenant the committee, may proceed to enforce the covenant as set forth herein.
- (f) At its discretion, the Committee may extend the period for compliance with a covenant if it believes reasonable steps are being taken to correct the violation.
- (g) If the violation is one of failure to maintain the premises, the Committee may enter and take possession of the violator's premises without liability therefore and without seeking court approval and correct the violation at the violator's expense. The expense shall be a delinquency, due upon presentation of a bill.
- (h) In the event any proceeding at law or in equity is brought and successfully prosecuted by the committee or any Owner to enforce these Covenants, the committee or owner shall also be entitled to recover their costs incurred in enforcement, including, but not limited to reasonable attorney fees. The Committee shall be entitled to recover damages incurred in enforcement, including liquidated damages in the amount of \$25.00 per day beginning three days after the violator was given notice of violation. Under no circumstances shall a party bringing an action to enforce these Covenants be liable for any costs, attorney fees, or expenses incurred by a defending party.
- (i) Any Judgment against a violator for damages, costs, or attorney fees shall be a lien against the lot or lots which are the subject of the proceedings and shall be a continuing lien against the lot and an obligation of the Owner and may be enforced as provided by law.
- (j) Where the context requires it, the term Committee, enforcer, board or association may be interchangeable.

**Section 8.5 – Indemnification:** Each owner against whom an action to enforce this Declaration is taken, whether by the DECLARANT, Committee or another owner, and each owner taking an independent enforcement action against another owner, shall indemnify defend, and hold harmless the DECLARANT and the Board and its members agents and employees from all claims, liability, causes of action, demands and costs (including reasonable attorney's fees) arising out of or resulting from such enforcement action.

**Section 8.6 - Duration:** The covenants and restriction set forth in this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Committee, Board, or the owners of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns. These covenants and restrictions shall be effective for a term of 20 years from the date this Declaration is recorded. The term of these covenants and restrictions shall be automatically extended for successive periods of 10 years unless an instrument signed by the then owners of two-thirds of the lots within the properties has been recorded in the records of the Sheridan County Clerk agreeing to void these covenants and restrictions.

## ARTICLE IX

### MISCELLANEOUS

**Section 9.1 - Water Rights:** Water rights appurtenant to the Properties and transferred by the DECLARANT to the Properties shall be held by the Association for use in common areas and for common ponds and streams. in no event shall water rights be divided among individual lots.

**Section 9.2 - Amendment or Modification:** This Declaration may not be revised, amended or supplemented except pursuant to a written, recorded amendment as follows:

- (a) The DECLARANT or any successor may, prior to transferring the authority to appoint members of the Board to the owners pursuant to this Declaration modify any of the provisions of this Declaration or any Supplemental Declaration for the purposes of clarification, by recorded Supplemental Declaration; provided no such modification shall change the

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basic substantive provisions of this Declaration or any Supplemental Declaration or unilaterally alter the rights of any owner established by any such document.

- (b) The owners may, at any time after the recording of this Declaration, modify any of the provisions of this Declaration or any Supplemental Declaration by recorded Supplemental Declaration, to further the purposes set forth, upon the vote of the owners of two-thirds of the lots within the properties.

Section 9.3 - Severability: Invalidation of any one of these covenants or restrictions by judgment or court order in no way shall affect any other provision, which shall remain in full force and effect.

#### ARTICLE X

#### DELEGATION OF RESPONSIBILITIES

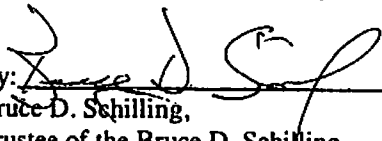
The board of Directors may in its discretion appoint a Management Committee composed of three (3) or more representatives, at least one of whom shall be a Board Member to act in its stead. It may hire employees, and agents and generally take any action allowed in its bylaws.

Wherefore Declarant has set his hand this 19<sup>th</sup> day of May, 2009.

ASPEN GROVE DEVELOPMENT LLC.

By:   
Bruce D. Schilling,  
Trustee of the Bruce D. Schilling  
Revocable Trust, Manager

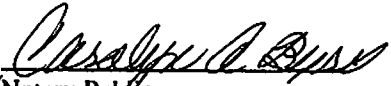
These covenants are accepted and approved by:  
Cloud Peak Management Group LLC

By:   
Bruce D. Schilling,  
Trustee of the Bruce D. Schilling  
Revocable Trust, Manager

STATE OF WYOMING     )  
  )     §  
COUNTY OF SHERIDAN    )

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day  
of May, 2009, by Bruce D. Schilling, Trustee of the  
Bruce D. Schilling Revocable Trust who did swear and affirm that he is the  
acting manager of Aspen Grove Development, LLC and Cloud Peak  
Management Group LLC. and has full authority of the company to sign  
these covenants.

Witness my hand and official seal.

My commission expires: 7-25-2011  Notary Public

