

**AMENDED AND RESTATED**  
**DECLARATION OF COVENANTS**  
**OF**  
**THE BACA GRANDE**  
**PROPERTY OWNERS ASSOCIATION**

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**CONTENTS**

ARTICLE I.  
RECITALS

ARTICLE II.  
DEFINITIONS  
Section 2.1 Definitions.

ARTICLE III.  
DECLARATION OF PURPOSES  
*Purposes, nature and applicability of these Covenants*  
Section 3.1 Declaration of Purposes.

ARTICLE IV.  
TERM  
*How long these Covenants will last, and how they may be modified*  
Section 4.1 Perpetual Declaration.  
Section 4.2 Amendment

ARTICLE V.  
THE BACA GRANDE PROPERTY OWNERS ASSOCIATION  
*Establishing the POA and its general duties, and specifying the general rights and obligations of its Property-Owner/ Members*  
Section 5.1 Membership  
Section 5.2 Purposes  
Section 5.3 Management Responsibilities  
Section 5.4 Membership Assessments  
Section 5.5 Use of Assessments  
Section 5.6 Amenities  
Section 5.7 Insurance  
Section 5.8 Indemnification

ARTICLE VI.  
ENVIRONMENTAL AND ARCHITECTURAL COMMITTEE  
*General procedures for building in the Baca Grande Community*  
Section 6.1 Appointment and Purpose  
Section 6.2 Authority of the Board  
Section 6.3 Required Approvals  
Section 6.4 Application Required  
Section 6.5 Committee Action on Applications  
Section 6.6 Committee Discretion on Review of Applications  
Section 6.7 No Waiver  
Section 6.8 Limitations on Liability  
Section 6.9 Records to be Maintained  
Section 6.10 Enforcement

ARTICLE VII.  
OWNERSHIP, USE AND ENJOYMENT OF  
COMMON AREAS, PARKS AND AMENITIES  
Section 7.1 Rights of Use  
Section 7.2 Restrictions on Camping  
Section 7.3 Improvements/Conveyance

---

**CONTENTS**

ARTICLE I.  
RECITALS

ARTICLE II.  
DEFINITIONS  
Section 2.1 Definitions.

ARTICLE III.  
DECLARATION OF PURPOSES  
*Purposes, nature and applicability of these Covenants*  
Section 3.1 Declaration of Purposes.

ARTICLE IV.  
TERM  
*How long these Covenants will last, and how they may be modified*  
Section 4.1 Perpetual Declaration,  
Section 4.2 Amendment

ARTICLE V.  
THE BACA GRANDE PROPERTY OWNERS ASSOCIATION  
*Establishing the POA and its general duties, and specifying the general rights and obligations of its Property-Owner/Members*  
Section 5.1 Membership  
Section 5.2 Purposes  
Section 5.3 Management Responsibilities  
Section 5.4 Membership Assessments  
Section 5.5 Use of Assessments  
Section 5.6 Amenities  
Section 5.7 Insurance  
Section 5.8 Indemnification

ARTICLE VI.  
ENVIRONMENTAL AND ARCHITECTURAL COMMITTEE  
*General procedures for building in the Baca Grande Community*  
Section 6.1 Appointment and Purpose  
Section 6.2 Authority of the Board  
Section 6.3 Required Approvals  
Section 6.4 Application Required  
Section 6.5 Committee Action on Applications  
Section 6.6 Committee Discretion on Review of Applications  
Section 6.7 No Waiver  
Section 6.8 Limitations on Liability  
Section 6.9 Records to be Maintained  
Section 6.10 Enforcement

ARTICLE VII.  
OWNERSHIP, USE AND ENJOYMENT OF  
COMMON AREAS, PARKS AND AMENITIES  
Section 7.1 Rights of Use  
Section 7.2 Restrictions on Camping  
Section 7.3 Improvements/Conveyance

---

ARTICLE VIII.

LAND USE

*Covenants relating to Common Areas and the Community as a whole.*

- Section 8.1 Common Areas/Association Property
- Section 8.2 Overhead Lines
- Section 8.2 Equestrian Travel
- Section 8.3 Mineral exploitation
- Section 8.4 No hunting or harassment of wildlife
- Section 8.5 Limitations or Use of Vehicles
- Section 8.6 Tree Cutting

ARTICLE IX.

LAND USE

*Covenants relating to individual property*

- Section 9.1 Change of Lot boundaries
- Section 9.2 Easements
- Section 9.3 Water and Sewer

ARTICLE X.

LAND USE

*Covenants relating to construction in the Community*

- Section 10.1 Authorization needed for construction and landscaping
- Section 10.2 Chalet Lot/Set backs
- Section 10.3 Grant Lots/Set backs
- Section 10.4 Mobile Home Estates Lots/Set backs
- Section 10.5 Size, height and extent of construction
- Section 10.6 Underground Utility Lines
- Section 10.7 Fire Hazard Mitigation
- Section 10.8 Parking
- Section 10.9 Sanitation
- Section 10.10 Temporary structures
- Section 10.11 Completion requirement
- Section 10.12 Abandoned projects, destroyed homes, removal of structures
- Section 10.13 Mobile homes and trailers
- Section 10.14 Power generation

ARTICLE XI.

LAND USE

*Covenants relating to living in the Community*

- Section 11.1 No offensive or annoying behavior
- Section 11.2 Covenants to prevent unsightly Lots
- Section 11.3 Storage of Volatile Fuels
- Section 11.4 Burning Permits
- Section 11.5 Outdoor lighting
- Section 11.6 Signs
- Section 11.7 Animals
- Section 11.8 Renters, Tenants, Lessees and Guests

ARTICLE XII.

VARIANCES

*How requested exceptions to these Covenants are to be dealt with*

- Section 12.1 Reasonable Variances
-

ARTICLE XIII.

REMEDIES

*How these Covenants are to be enforced*

Section 13.1 Enforcement

Section 13.2 No Waiver

Section 13.3 Compliance Code

ARTICLE XIV.

GRANTEE'S ACCEPTANCE

*Property Owner's acceptance of these Covenants*

Section 14.1 Owner Acceptance

Section 14.2 Acknowledged Risks

ARTICLE XV.

MISCELLANEOUS

*General Provisions for Interpreting the Covenants*

Section 15.1. Severability

Section 15.2 Captions

Section 15.3 Interpretation

Section 15.4 Singular Includes the Plural

Section 15.5 Challenge to this Amendment

Section 15.6 Conflict of Provisions

Section 15.7 Notices

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**AMENDED AND RESTATED  
DECLARATION OF COVENANTS  
OF  
THE BACA GRANDE PROPERTY OWNERS ASSOCIATION**

This Amended and Restated Declaration of Covenants of Baca Grande (this "Declaration" or "Declaration of Covenants") is made the date set forth below to be effective upon recording with the Saguache County Clerk and Recorder's office.

**ARTICLE I.  
RECITALS**

- A. The Baca Grande Planned Community (the "Community") was created on May 11, 1971, by the Declaration of Protective Covenants and Restrictions for the Baca Grande, recorded in the real property records of Saguache County ("Original Covenants"). The Original Covenants were established to protect property values for the benefit of all Owners within the Community, to enhance health, well being and safety in the Community, to preserve the natural environment, and to encourage the protection of environmentally sensitive areas such as wetlands, wildlife corridors and stream beds.
- B. The Community is composed of five units, all shown on recorded plats, plus an area known as Tract I in the Mobile Homes Estates Unit One. The five units are Mobile Home Estates Unit One, Chalets Unit One, Chalets Unit Two, Chalets Unit Three, and Grants Unit One, hereinafter referred to as Mobile Home Estates, Chalets and Grants, respectively. These units are divided into Lots which, in the initial governing documents for the Community, were referred to variously as home sites or Lots or single-family residential sites but shall hereinafter be referred to as Lots.
- C. From time to time the Original Covenants have been amended.
- D. The Owners within the Baca Grande Community desire to amend and restate the Original Covenants as set forth in this Amended and Restated Declaration of Covenants (the "Declaration" or "Declaration of Covenants").

Pursuant to the requirements set forth in Article III, Section a., of the Original Covenants, as amended, at least fifty-five percent (55%) of a quorum (set at 30% of the Members) of the Members in Good Standing have voted to amend and restate the Original Covenants, as amended.

NOW THEREFORE, the Original Covenants, as amended, are replaced and superceded by the covenants, servitudes, easements and restrictions in this Declaration as set forth below:

**ARTICLE II.  
DEFINITIONS**

Section 2.1 Definitions. Unless otherwise defined, or the context requires otherwise, the following terms are defined as set forth below:

- (a) "Articles of Incorporation" shall mean the Articles of Incorporation of the Baca Grande Property Association, as amended from time to time, filed with the Colorado Secretary of State.
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(b) "Association" or "POA" shall mean the Baca Grande Property Owners Association, a nonprofit corporation existing under the Colorado Revised Nonprofit Act.

(c) "Association Property" shall mean property which the Association shall own and control, more particularly described as follows:

(i) Common Areas which include certain greenbelt areas, picnic areas and parks as defined in the Bylaws.

(ii) Any other Common Facilities which the Association may own, lease or otherwise control and/or operate for the common use and benefit of the Members as defined in the Bylaws.

(iii) The Association may own and/or lease such real property, equipment and personal property as is reasonably required from time to time by the Association to be used in connection with the Common Facilities. The Association may also own and/or lease other property, whether real or personal, from time to time.

(iv) Other real or personal property that the Association shall acquire from time to time.

(d) "Board" shall mean the Board of Directors of the Association.

(e) "Bylaws" shall mean the Bylaws of the Baca Grande Property Association, as amended from time to time.

(f) "Common Areas" shall mean that portion of the Association Property consisting of greenbelts, including picnic areas and parks, designated as Common Areas in the Declaration or on any plat of the Community.

(g) "Common Facilities" shall mean that portion of the Association Property consisting of facilities and improvements on all property owned by the Association

(h) "Community" shall mean all of the real property subject to the provisions of the Declaration of Covenants. The Community is a Planned Community under applicable provisions of the Colorado Common Interest Ownership Act. "Unit" shall mean separate areas of the Community as enumerated below. The Community has been divided, by the original developer, into the following five units:

- ( i) Mobile Home Estates Unit I
- (ii) Chalets, Unit I
- (iii) Chalets, Unit II
- (iv) Chalets, Unit III
- ( v) Grants Unit I

(i) "Concession" shall mean the right to operate a business on POA property as may be negotiated and granted under contracts of limited duration, that the Board may execute.

(j) "Consolidated Lot" (or the commonly used equivalent term, Plat Vacation) shall mean that two or more previously existing contiguous Lots that have been combined into one Lot, following official Saguache County procedures, and then duly recorded as a new map or plat.

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(k) "Covenants" or "Declaration" or "Declaration of Covenants" shall mean all limitations, restrictions, covenants, terms and conditions set forth in the Declaration of Covenants for the Baca Grande, recorded in the Office of Recorder of the County of Saguache, as may be amended from time to time.

(l) "Governing Documents" shall mean the Declaration, the maps or plats of the properties subject to the Declaration, the Articles of Incorporation, the Bylaws, and any rules and regulations of the Association, as all of the foregoing may be amended from time to time.

(m) "Lot" shall mean any Lot designated on a duly recorded current Community Map or plat, covered by the Declaration of Covenants. In the initial governing documents for the Community, residential Lots were referred to variously as home sites or Lots or single-family residential sites, but shall hereinafter be referred to only as Lots.

(n) "Member" as used herein shall mean any person having legal or equitable title to any Lot.

(o) "Member In Good Standing" is any Owner whose dues, interest, liens, fines, collection fees, late charges, attorney fees and any other assessments are paid up and current. Being a Member in Good Standing is a qualification for eligibility to vote in an Association election or referendum.

(p) "Owner" shall mean the person or entity holding the legal or equitable title to a Lot, which term shall include but not be limited to purchasers under an Acceptance and Agreement or purchase contract.

(q) "Person or Entity" shall mean and include any individual, corporation, partnership, association or other legal entity recognized by the laws of the State of Colorado.

**ARTICLE III.  
DECLARATION OF PURPOSES**

*Purposes, nature and applicability of these Covenants.*

Section 3.1 **Declaration of Purposes.** All real property in the Community, except those specifically excluded below, is and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved subject to the Covenants, terms and provisions of this Declaration, which covenants, terms and provisions are hereby established for the purpose of enhancing and protecting the value, desirability and attractiveness of that real property. This Declaration shall run with the land and shall be binding upon and inure to the benefit of all parties having or acquiring any right, title or interest in and to the real property or any part or parts thereof.

Property excluded from this Declaration is as follows:

1. Tract A;
  2. Any properties that were excluded from coverage under the Community's original Covenants by the lawful actions of the original developer, as recorded in the records of the Saguache County Clerk and Recorder's Office, including the recording made on February 26, 1987, Reception 268465, Book 434, page 541. Excluded properties are indicated on maps and records maintained and located at the Association's office.
  3. Elk Park Community, plat recorded in Saguache County on March 18, 1998, reception #322590.
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**ARTICLE IV.**

**TERM**

How long these Covenants will last, and how they may be modified.

Section 4.1. **Perpetual Declaration.** This Declaration shall affect and run with the land, subject to the Original Covenants, properties as added to the Community, and properties as expressly described in this Declaration, and shall exist and be binding upon all parties, and all persons claiming under them, in perpetuity.

Section 4.2 **Amendment.** This Declaration may only be changed, in whole or in part, by a vote of fifty-five percent of the quorum (which quorum shall be thirty percent of all eligible Members). An eligible Member is a Member in Good Standing whose ballot is received by the deadline set for ballot return.

**ARTICLE V.**

**THE BACA GRANDE PROPERTY OWNERS ASSOCIATION**

Establishing the POA and its general duties, and specifying the general rights and obligations of its Property-Owner/Members.

Section 5.1 **Membership.** Every person acquiring legal or equitable title to any Lot in the Community covered by the Original Covenants and this Declaration is automatically a Member of the Baca Grande Property Owners Association, which is a Colorado nonprofit corporation, herein referred to as the "Association" or "POA." Every such person, by virtue of his or her ownership of a Lot, becomes subject to the requirements and limitations imposed in this Declaration and to the regulations and assessments of the Association. Any person or entity who holds an interest in any Lot merely as security for the performance of an obligation to pay money, (e.g., mortgages, deeds of trust, or real estate contract purchases) shall not be a Member unless and until such a person or entity should obtain title to the Lot through foreclosure, termination of the contract for sale, or other means of realizing upon the security and become the Owner of the Lot. At this time, the person or entity acquiring title to the Lot shall then be a Member and shall continue to be subject to all the requirements and limitations imposed in this Declaration.

Section 5.2 **Purposes.** The general purpose of the Association is to further and promote the welfare of the Owners in the Community and to preserve, protect and enhance the value and desirability of the Lots and the Community. More specifically the purposes, as stated in the Articles of Incorporation of the Association, are to serve the Owners of property in the Baca Grande Planned Community, in Saguache County, Colorado by acting to preserve, protect, and enhance property values within the Planned Community, to operate and manage the Planned Community known as Baca Grande ("Community") and to operate and manage the Real Estate, Lots and properties included within the Community, situated in the County of Saguache, State of Colorado, subject to the Declaration, Bylaws, and such Rules and Regulations, for the purposes of preserving, protecting and enhancing the value of the Community for the benefit of the members, to enhance health, well being and safety in the Community, to manage and maintain Association Property for the benefit of all Owners, and generally to exercise all the usual and necessary powers and responsibilities of property owners associations in accordance with applicable Colorado law.

Section 5.3 **Management Responsibilities.** The business affairs of the Community shall be managed by the Association. The Association shall be governed by the Act, this Declaration, the recorded plats, its Articles of Incorporation and Bylaws, and any rules and regulations adopted by the Board. The Board may, by written resolution, delegate authority to a manager or managing agent for the Association, provided no such

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delegation shall relieve the Board of final responsibility. The Association shall be responsible for the maintenance, upkeep and repair, and the establishment and enforcement of rules and regulations concerning the operation and use of all of the Association Property, including, but not limited to, greenbelt areas (Tract B), park areas, and Tract I in Mobile Home Estates, Unit One, Common Areas and Common Facilities. Additionally, the Association shall be responsible for the maintenance, management and possible development of certain other real property that it shall from time to time acquire to be used as community service areas, commercial service areas or as other property.

**Section 5.4 Membership Assessments.** The Association shall have all the powers set out in this Declaration, its Articles of Incorporation and Bylaws, and all other powers that belong to it by operation of law, and in particular, under applicable provisions of the Colorado Common Interest Ownership Act and the Colorado Revised Nonprofit Act, including (but not limited to) the power to assess and collect from every Member of the Association annually, a uniform charge per Lot within the Community, which charge may be collectible in annual, bi-annual, quarterly or other installments at the discretion of the Board. The amount of such charge is to be determined by the Board of Directors of the Association, for the purposes for which the Association is formed, based on a budget of the cash requirements of the Association, as determined by the Board of Directors from time to time, but at least annually. Membership Assessments shall be used to cover expenses incurred in maintaining, landscaping, protecting, operating and improving any of the property of the Association, and in providing health and safety services. However, no charge or assessment may be assessed by the Association against the Water and Sanitation District that serves the Community, nor the Baca Grande Property Owners Association.

Membership Assessments are assessed on each Lot and are due and payable January first of each year, unless otherwise determined by the Board of Directors. If such payment is not made on or before March 31, it shall bear interest established by the Board and within limits set by state law. Interest will not be charged if the assessment is paid on or before March 31. Membership Assessments not paid on or before March 31 will accrue interest from the date the assessment was levied. Until paid, such charges together with collection cost and reasonable attorney's fees required to secure payment thereof, shall constitute a perpetual lien on and against the property charged. A lien may be filed against the property in the real property records of Saguache County if Membership Assessments are not paid by June 30. The Association may publish the name of a delinquent Member and may foreclose the lien in accordance with the laws of the State of Colorado.

Every person who shall become the legal or equitable Owner of any Lot in the Community by any means, is, by the act of acquiring such title, or by the act of contracting to acquire such title, held to have agreed to pay the Association all Membership Assessments and charges that the Association shall make in accordance with this Declaration.

The Association shall, according to the provision of the Colorado Revised Nonprofit Corporation Act, and the Colorado Common Interest Ownership Act, furnish a list of Members who have paid such assessment or of such Members who are then delinquent in the payment of such assessment, within five working days of such a request.

Membership Assessments shall include fees, charges, late charges, attorney fees, fines and interest charged by the Association against an individual Lot and shall be the personal obligation of any Owner of such Lot from the time when the assessment or other charges became or fell due.

**Section 5.5 Use of Assessments.** The fund accumulated as a result of the charges levied by the Association shall be used exclusively for the general purposes of the Association, including promoting the recreation, health, safety and welfare of the Members of the Association, and the maintenance and management of the Association Property.

**Section 5.6 Amenities.** The Association shall fund and support the basic Community amenities of road maintenance, emergency medical service and fire protection until and unless the maintenance of such services is assured by other entities, public or private. Additionally the Association, at the discretion of its Board, may support and fund other amenities to enhance lifestyle and recreational options for its members.

**Section 5.7 Insurance.** The Association is required to maintain adequate insurance coverage to cover potential liability of the Association itself, its directors, officers and employees, to protect its assets, and to cover the interests and liabilities of its membership. Such insurance coverage must also be extended to cover appointed volunteers working for the benefit of the Association, and in particular, volunteer fire fighters and emergency medical technicians. The Association shall maintain, at all times, policies for general liability, hazard, directors and officers liability, and such other insurance as deemed necessary and desirable by the Board of Directors. The Association is not required to carry, and does not carry, hazard insurance on or for improvements Owners construct or maintain on their Lots. Owners are advised to carry and maintain hazard insurance on the improvements on their Lot(s).

**Section 5.8 Indemnification.** To the full extent permitted by law, each officer and director of the Association shall be and are hereby indemnified by the Lot Owners and the Association against all expenses and liabilities including attorney fees, reasonably incurred by or imposed upon them in any proceeding to which they may be a party, or in which they may become involved, by reason of being or having been an officer or director of the Association, or any settlements thereof, whether or not they are an officer or director of the Association at the time such expenses are incurred; except in such cases wherein such officer or director is adjudged guilty of willful misfeasance or malfeasance in the performance of his or her duties; provided that in the event of a settlement the indemnification shall apply only when the Board approves such settlement and reimbursement as being in the best interests of the Association.

#### ARTICLE VI.

##### ENVIRONMENTAL AND ARCHITECTURAL COMMITTEE

*General procedures for building in the Baca Grande Community*

**Section 6.1 Appointment and Purpose.** The Environmental and Architectural Committee (the "Committee", or "E&AC"), is appointed by the Board of Directors of the Association. The primary purpose of the Environmental and Architectural Committee shall be to review and approve/disapprove all plans and specifications of any structure or improvement whatsoever made on property subject to this Declaration, following policies and procedures approved by the Board.

**Section 6.2 Authority of the Board.** The Environmental and Architectural Committee shall serve under the direct authority of the Board. The Board may adopt policies and procedures that this Committee proposes. The Board will have the power to grant or deny variances to Owners requested by, from or through the E&AC. The Board may also

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delegate to the E&AC the power to grant certain basic or simple variances, in accordance with policies approved by the Board.

**Section 6.3 Required Approvals.** All plans and specifications for any structure or improvement whatsoever to be erected on or moved upon or to any portion of the real property, and the proposed location thereof, the construction material, the roofs and exterior color schemes, and any later changes or additions thereto, shall be subject to, and shall require written approval of the Committee before any such work is commenced. Grading, excavation, alteration of drainage patterns and tree, shrub and vegetation removal also require E&AC permission, even if they are not part of a building application.

**Section 6.4 Application Required.** An application, on forms provided by the Association, together with two (2) complete sets of plans and specifications for any and all proposed improvements, the erection or alteration of which is desired, shall be submitted to the E&AC prior to commencement of construction. This application shall include copies of relevant permits from local, county and state authorities. No structures or improvements of any kind shall be erected, altered, placed or maintained upon any Lot unless and until the final plans, elevations, and specifications therefore have received such written approval as provided in this Declaration. The Committee shall set the requirements for the plans to be submitted. A reasonable filing fee will be required to defray Committee expenses.

**Section 6.5. Committee Action on Applications.** Upon submission of complete application, the Committee shall approve or disapprove plans, specifications and details within sixty (60) days from the receipt thereof. One (1) set of said plans and specifications and details, with the approval or disapproval endorsed thereon, shall be returned to the person submitting them and the other copy thereof shall be retained by the Committee for its permanent files. The Committee shall advise the applicant of the reason for any disapproval and suggest changes.

Committee decisions are to be primarily based upon the general purposes of the Community and the Association, on aesthetics, as subjectively determined by the Committee and or any policies and procedures adopted by the Board of Directors of the Association. In case of a disagreement between a property Owner and the Committee, the Committee's decision may be appealed to the Board of Directors, pursuant to appeal procedures adopted by the Board, whose decision in the matter shall be final and binding.

**Section 6.6 Committee Discretion on Review of Applications.** The Committee shall have the right to disapprove any plans, specifications or details submitted to it in the event the same are not in accordance with all of the provisions of this Declaration; if the design or color scheme of the proposed buildings or other structure is not in harmony with the general surroundings of the real property or with the adjacent buildings or structures; if the plans and specifications submitted are incomplete; or in the event the Committee deems the plans, specifications or details, or any part thereof, to be contrary to the interests, welfare or rights of all or any part of the real property subject to the Declaration, or the Owners thereof.

**Section 6.7. No Waiver.** The approval or consent of the E&AC to any application for approval shall not be deemed to constitute a waiver of any right to hold or deny approval or consent by the E&AC as to any application or other matters subsequently or additionally submitted for approval or consent.

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**Section 6.8 Limitations on Liability.** The E&AC and the members thereof, as well as any representative of the Board designated to act on its behalf, shall not be liable for damages to any person submitting requests for approval or to any approval, or failure to approve or disapprove in regard to any matter within its jurisdiction under these covenants. Neither the E&AC nor the Association, its employees, agents or appointees, shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications, nor for errors in the on-site location of any construction. The E&AC shall not be responsible or liable for reviewing the plans and specifications for engineering or structural soundness or compliance with any applicable governmental regulations.

**Section 6.9 Records to be Maintained.** The E&AC or the Association's Manager shall maintain reasonable written records of all applications submitted to it and of all actions taken by it with respect thereto. Such records shall be open and available for inspection by any interested party during business hours of the Association.

**Section 6.10 Enforcement.** Enforcement of the covenants, restrictions, charges and other provisions in this Article, as amended, may be sought by the Association through any proceeding at law or in equity against any person or persons violating or attempting to violate any such provision. The Association shall have the right but not the obligation to institute, maintain and prosecute any such proceedings. In any action instituted or maintained under this Section, the Association shall be entitled to recover its costs and reasonable attorneys' fees incurred pursuant thereto, as well as any and all other sums awarded by the court. Failure of the Association to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**ARTICLE VII.  
OWNERSHIP, USE AND ENJOYMENT OF  
COMMON AREAS, PARKS AND AMENITIES**

**Section 7.1 Rights of Use.** All Association Property within the Community is private and owned by the Association. All Common Areas and Common Facilities shall be for the use and enjoyment of Members of the Association, to residents of rental properties, other classifications of persons as may be designated by the Association, and to the guests of such Members of the Association subject to the provisions of this Declaration, and the provisions of the Bylaws, and the following:

- (a) Members shall be entitled to the use and enjoyment of all Common Facilities and Common Areas within the Community subject to the rules adopted by the Board and subject to such use or other fees as may be determined by the Board.
  - (b) Each Member shall have the right to designate Members of his or her family who reside with the Member who may use and enjoy the Common Areas and Common Facilities within the Community.
  - (c) The invitees and guests of a Member shall have the right to use and enjoy the Common Facilities and Common Areas within the Community, to the extent the Common Facilities and Common Areas permit, as determined by the Board.
  - (d) The Board shall have the right to suspend the use and enjoyment of Common Facilities and Common Areas for the failure of a person to comply with such rules and regulations and Covenants, provided, however, that such suspension shall
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only be imposed after such person has been notified in writing and has been offered a reasonable opportunity to be heard.

(e) The Association shall have the right, power and authority to grant any easement, right-of-way, license, lease, dedication, transfer or conveyance or grant of any similar interest affecting the Common Area or Common Facilities, to the extent permitted by the Act.

(f) The Association shall have the right to close or limit the use of the Common Area or Common Facilities while maintaining, repairing and making replacements.

**Section 7.2 Restrictions on Camping.** There shall be no overnight camping or lodging in parks, on greenbelts or other Association Property within the Community, except at campgrounds designated and maintained by the Association.

**Section 7.3 Improvements/Conveyance.** The Association retains the right to improve and/or convey property that it owns, for the common good of the Community and the Association, except that this right does not apply to greenbelts (Tract B).

#### **ARTICLE VIII. LAND USE**

Covenants relating to Common Areas and the Community as a whole.

##### **Section 8.1 Common Areas/Association Property.**

- (a) The greenbelts (Tract B) shall continue to forever remain open and clear for the enjoyment of all Owners of the Community.
- (b) No Owner, renter or guest shall create a nuisance or violate accepted principles of ecological preservation while using any Association Property.

**Section 8.2 Overhead Lines.** No overhead utility lines shall be permitted in the Community.

**Section 8.3 Equestrian Travel.** Persons riding, or otherwise using or in charge of horses shall respect all private lands and keep their horses under control at all times. Horse riding or other use is permitted on easements platted for this purpose between Lots in the Grants unit. Equestrian travel should not impede vehicular traffic on public or private roadways.

**Section 8.4 Mineral exploitation.** No oil or natural gas drilling, refining, quarrying or mining operations of any kind shall be permitted upon or in any Association Property or Lot and no derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any Association Property or Lot.

**Section 8.5 No hunting or harassment of wildlife.** No hunting or harassment of wildlife by trapping, baiting, shooting or use of other weapons, is allowed in the Community. Members shall not permit the harassment of wildlife by their dogs or other animals under the Member's control.

**Section 8.6 Limitations or Use of Vehicles.** No motorized vehicles are permitted on greenbelts in Common Areas that are designated by the Association as roadless.

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Section 8.7 **Tree Cutting.** No wood cutting and/or all tree removal, including removal of dead trees, shall occur on any Association Property without the approval of the E&AC.

**ARTICLE IX.  
LAND USE**

Covenants relating to individual property.

Section 9.1 **Change of Lot boundaries.** There shall be no re-subdivision of any Lot into smaller Lots. Lots presently, or previously existing, may be consolidated into a single larger Lot, pursuant to the procedures and requirements of local government. Upon satisfaction of the requirements of local government for Lot consolidation, and the recording of a plat or other indication of consolidation of Lots into a single larger Lot, that single larger Lot shall be and will thereafter be considered a single Lot for all purposes under this Declaration, the Articles of Incorporation and Bylaws of the Association. Consolidated Lots shall be entitled to one (1) vote regardless of the number of previous Lots consolidated into that Lot.

Section 9.2 **Easements.** All Lots in the Community are subject to easements as shown on the recorded plat. A general easement is assumed for every Lot that gives Owners the right of access from the nearest road in the Community.

Section 9.3 **Water and Sewer.** Water and sewer services for the Mobile Home Estates and for the Chalets must be obtained from the Water and Sanitation District that serves these areas. Individual Owners in the Grants are responsible for their own wells and individual sewage disposal. Wells and sewage disposal systems are to be installed in accordance with applicable local, county, state and federal laws and regulations.

**ARTICLE X.  
LAND USE**

Covenants relating to construction in the Community.

Section 10.1 **Authorization needed for construction and landscaping.**

(a) No grading, excavation, tree removal, or the construction or installation of permanent or temporary structures, affixed or not, or other similar modification or improvement on any Lot, shall be started without prior written approval of the Environmental and Architectural Committee. (see other provisions of this Declaration for details of this approval procedure).

(b) The Environmental and Architectural Committee must approve, as part of the building site approval, the removal of any trees or tree limbs located more than six feet away from the building envelope. An Owner may also prune any tree limbs on their property that are within four feet of the ground (a recommended procedure for fire hazard mitigation), and may also trim or remove trees or shrubs, as the Association may determine, from time to time, in Rules and Regulations or adopted policies.

Section 10.2 **Chalet Lot/Setbacks.** The minimum front setback line in the Chalets shall be 25 feet. The minimum sideline setback shall be 10 feet. The minimum rear set back shall be 15 feet. All setbacks are from the Lot line. Provided, however, that the Board may grant a waiver to these requirements in the event that rigid adherence to these setbacks would work undue hardship on the Owner.

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**Section 10.3 Grant Lots/Setbacks.** The minimum front setback line in the Grants shall be 35 feet. The minimum sideline setback shall be 25 feet. The minimum rear setback line shall be 20 feet in addition to any easement shown. All setbacks are from the Lot lines, provided, however, that the Board may grant a waiver to these requirements in the event that rigid adherence to these setbacks would work undue hardship on the Owner.

**Section 10.4 Mobile Home Estates Lots/Setbacks.** The minimum front setback in the Mobile Home Estates shall be 20 feet. The minimum sideline setback shall be 10 feet. The minimum rear setback shall be 15 feet. All setbacks shall be from the Lot lines, provided, however, that the Board may grant a waiver to these requirements in the event that rigid adherence to these setbacks would work undue hardship on the Owner.

**Section 10.5 Size, height and extent of construction.**

(a) Minimum home size in the Mobile Home Estates shall be 720 square feet living space; minimum home size in the Chalets and Grants shall be 900 square feet. This minimum size is defined as the floor space measured to the outside of the main walls of the home (i.e. the footprint of the home).

(b) The Maximum roof height in the Chalets shall be 30 feet; the maximum roof height in the Grants shall be 24 feet; the maximum roof height in the Mobile Home Estates (Casita Park) shall be 16 feet. Maximum height is to be measured from the average natural grade adjacent to the dwelling to the highest point of the roof.

(c) Disturbed Land. To preserve the natural features of the land, a maximum of 30% of the lot surface may be disturbed or altered through construction on a lot. Disturbed land is defined as the area within a 4-foot perimeter around any structure plus all excavated or graded areas including driveways and parking areas.

**Section 10.6 Underground Utility Lines.** Except as expressly permitted in easements and on plats bordering the Community and to the extent to which it is reasonably possible, all utility lines and other cables shall be placed underground.

**Section 10.7 Fire Hazard Mitigation.** The Environmental and Architectural Committee may require the use of fire-resistant roofing materials; and may suggest and, in cases of extreme fire hazard, may require, other minimal fire hazard mitigation measures in and around any new construction.

**Section 10.8 Parking.** Each Lot in the Chalet and Grant Units shall provide for on site parking of a minimum of two automobiles, with provision for at least one on site automobile parking space in the Mobile Home Estate.

**Section 10.9 Sanitation.** No outside toilet shall be constructed on any Lot. Any well or septic facilities in the Grants shall comply with all requirements of the Health Department of the State of Colorado, and other levels of government (such as Saguache County) having jurisdiction thereof. All plumbing fixtures, dishwashers or toilets shall be connected to the central sewage system (for Lots in the Mobile Home Estates and in the Chalets) or individual septic systems (for Lots in the Grants) as permitted above.

**Section 10.10 Temporary structures.** No temporary house, trailer, tent, garage, or other outbuilding shall be placed or erected on any Lot, provided, however, that the Committee may grant permission for any such temporary structure for storage of materials during



construction. Hard shell trailers, campers or RVs may be approved by the Committee as a temporary dwelling place during the building period only provided the Committee has approved the building application, received the designated set-up fee and conducted a site visit approving siting and fire safety and sanitation/electrical hook-ups (if applicable), of such temporary dwelling.

**Section 10.11 Completion requirement.**

(a) Once construction of improvements is started on any Lot, the improvements must be substantially completed in accordance with plans and specifications, as approved, within 18 months. "Substantially Complete" means a building that is completely closed in, windows and outside doors installed, outside walls completed and finished to approved building plans and final roof installed; in addition, final grading and any planned tree removal must be completed and the Lot must be cleared of construction debris, and the Owner or builder must provide proof of applicable plumbing and electrical final inspections.

(b) Extensions of the above time limit for building completion may be approved by the E&AC. Extensions will be granted in 6-month blocks, for a fee that will double with each new 6-month extension as a disincentive to prolong the construction process indefinitely.

**Section 10.12 Abandoned projects, destroyed homes, removal of structures.**

(a) Abandoned building projects are uncompleted projects where no visible progress, as determined by the Environmental and Architectural Committee, in its reasonable discretion, has been made after the 18-month construction period (plus any extensions) has elapsed. The E&AC may require that such abandoned projects be removed and the site restored to its original condition at the owner's expense. If the owner has taken no action for 6 months after receiving such a directive, then the POA may carry out such actions. All costs incurred by the POA for such cleanup shall be charged to the owner and if not paid when due a lien shall be filed on the property.

(b) Any dwelling or outbuilding on any Lot in the Community which may be destroyed in whole or in part by fire, windstorm or for any other cause, or Act of God must be rebuilt or all debris removed and the Lot restored to a sightly condition with reasonable promptness, provided, however, that in no event shall such debris remain longer than one hundred twenty (120) days.

(c) E&AC must be notified before an owner can remove or demolish an existing structure. The E&AC shall set requirements and/or recommendations for the restoration of the site at the owner's expense.

**Section 10.13 Mobile homes and trailers.** No mobile homes, house trailers, RVs or similar sorts of movable housing (as determined by the Association) shall be used as permanent dwellings in the Grants or the Chalets. RVs may not be used as permanent dwellings in the Mobile Home Estates. This section and restrictions in it do not apply to factory built dwellings or so-called modular homes, designed to be placed on permanent foundations and finished to look like permanent dwellings.

**Section 10.14 Power generation.** Electrical power generation is permitted in the Subdivision. Wind generators can be used as an alternative source of power in the Grants,

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if they conform to rules and guidelines of the Association. Diesel, propane or gasoline powered generators may be used only for emergency backup purposes.

**ARTICLE XI.  
LAND USE**

Covenants relating to living in the Community.

**Section 11.1 No offensive or annoying behavior.** No noxious, offensive or illegal activities shall be carried out on any Lot. Nothing shall be done on any Lot that shall be or become an unreasonable annoyance or nuisance to the neighborhood.

**Section 11.2 Covenants to prevent unsightly Lots.**

(a) Every outdoor receptacle for ashes, trash, rubbish or garbage shall be screened or so placed and kept as not to be visible from any street or Common Areas within the Community at any time except during refuse collections. Such receptacles must be maintained so that they do not attract bears or other wildlife.

(b) No Owner of a Lot shall be permitted to store unlicensed or inoperable motor vehicles on a Lot or any street.

(c) No trash, ashes, garbage or other refuse, including construction debris, shall be dumped or stored or accumulated on any Lot or be thrown into or left on any of the Common Areas in the Community.

(d) All Lots, whether occupied or unoccupied, and any improvements placed thereon, shall at all times be maintained in such manner as to prevent their becoming unsightly by the accumulation of rubbish or debris thereon.

(e) Owners are responsible for the maintenance, repair and replacement of the improvements and properties located within their Lot boundaries. Each Lot shall, at all times, be kept in a clean, sightly, and wholesome condition consistent with the Community appearance as a whole. The Association has the authority to enter, replace, maintain, repair and clean up Lots which do not conform to the provisions of this Section, after written notice (of at least sixty days) and after opportunity to the Owner for a hearing, and, after notice and the opportunity for a hearing, the Association may charge and collect from the Owner all reasonable costs as an assessment.

**Section 11.3 Storage of Volatile Fuels.** Propane tanks, installed pursuant any governmental requirements and the Association's rules and regulations, are permitted in the Community. Gasoline and other flammable fuel storage tanks are prohibited.

**Section 11.4 Burn Permits.** A burn permit must be obtained from the Association for outdoor or controlled burning within the Community and/or on any Lot. Prior to the scheduled burn, an approval to burn must be secured from the fire department before commencement of burning. For the safety of the Community, all outdoor burning may be prohibited by federal, state, or local governmental authorities and/or the Association. When outdoor burning is prohibited a burning permit is suspended until which time it is reinstated by the Association.

**Section 11.5 Outdoor lighting.**

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(a) All outdoor lighting must be fully shielded or hooded so that the light is cast downward, and must, at a minimum, conform to county outdoor-lighting codes. (Motion-activated lights are highly recommended).

(b) Outdoor lights may not directly illuminate areas beyond the Owner's property.

(c) There shall be no mast-mounted or pole-mounted outdoor lights on Lots.

**Section 11.6 Signs.** Except as otherwise provided, no sign in excess of one and one-half square feet in area shall be permitted on a Lot. Only one real estate sign for resale or otherwise may be displayed on a Lot. Signs reasonably required by law are acknowledged. The Committee may waive this requirement where in its opinion the public health or safety is concerned, such as a sign for a doctor's home or other emergency facilities.

**Section 11.7 Animals.**

(a) Household pets may be kept on any Lot. Dogs are not allowed off their Owners' Lots unless they are under their Owner's control.

(b) Horses for personal use may be kept on Grant Lots.

(c) Small non-domestic, non grazing animals (e.g. rabbits and poultry) may be kept on any lot for personal, non-commercial use only, if adequately fenced and caged, but only provided that the owner has obtained written permission from all immediately neighboring landowners (i.e. owners of all adjacent lots and lots directly across any adjacent road). These written permissions must be submitted to the Environmental and Architectural Committee prior to final approval by the Committee before such small animals are permitted on the property. These animals must be maintained and cared for in such a way that they do not become a neighborhood nuisance in which case, permission to keep such animals may be revoked by the Environmental and Architectural Committee.

(d) Non-domestic grazing or browsing animals (e.g. goats, llamas, etc.) may be kept for personal non-commercial use only if they are adequately fenced on at least one acre of land, and if their owner has obtained written permission from all immediately neighboring landowners (i.e. owners of all adjacent lots and lots directly across any adjacent road). These written permissions must be submitted to the Environmental and Architectural Committee prior to final approval by the Committee before such animals are permitted on the property. These animals must be maintained and cared for in such a way that they do not become a neighborhood nuisance, in which case permission to keep such animals may be revoked by the Environmental and Architectural Committee.

**Section 11.8 Renters, Tenants, Lessees and Guests.** All covenants and restrictions in this Declaration relating to the activities of Owners in the Baca Grande shall apply equally to the actions of the renters, tenants, lessees and guests of Owners. Owners shall be responsible that their renters, tenants, lessees and guests comply with this Declaration.

**ARTICLE XII.  
VARIANCES**

How requested exceptions to these Covenants are to be dealt with.

**Section 12.1 Reasonable Variances.** Reasonable variances and adjustments of the covenants and restrictions in this Declaration may be granted by the Board of Directors,

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or by the Committee at the direction of the Board, in order to overcome practical difficulties and prevent unnecessary hardships in the application of the provisions contained herein. Variances may only be granted in conformity with the intent and purposes of the Community, as set forth in this Declaration, and provided also that in every instance such variance or adjustment will not be materially detrimental or injurious to other property or improvements in the Community.

**ARTICLE XIII.  
REMEDIES**

How these Covenants are to be enforced.

**Section 13.1 Enforcement.** The Association, the Committee or any party to whose benefit the covenants and restrictions of this Declaration inure, may proceed at law or in equity to prevent the occurrence, continuation or violation of any of the covenants and restrictions of this Declaration; provided, however, that it is expressly understood that neither the Committee, nor the Association shall be liable for damages of any kind to any part for failing to either abide by, enforce, or carry out any of the covenants and restrictions of this Declaration.

**Section 13.2 No Waiver.** No delay or failure on the part of an aggrieved party to invoke an available remedy by that party of (or an estoppel of that party to assert) any right available to him, with respect to a violation of any of the covenants and restrictions of this Declaration, shall be held to be a waiver recurrence or continuation of said violation or the occurrence of a different violation.

**Section 13.3 Compliance Code.** When violations in compliance with these Covenants are brought to the attention of the Association, the matter shall be dealt with by following the procedures outlined in a Compliance Code adopted by the Board to communicate with the owner who is out of compliance and rectify the situation. A series of due-process steps shall be followed as prescribed by the Compliance Code. The goal of these procedures is not punitive, but rather to bring Members back into compliance with the Covenants. Infractions, however, may be fined according to a fine schedule contained in the Compliance Code. If there is a disagreement over the eventual action taken in regard to a violation of the Covenants, the Member may appeal such action to the Compliance Violation Appeals Panel whose decision will be final.

**ARTICLE XIV.  
GRANTEE'S ACCEPTANCE**

Property Owner's acceptance of these Covenants.

**Section 14.1 Owner Acceptance.** Each Owner, as grantee in any deed or conveyance of an ownership interest, is and shall be subject to this Declaration by acceptance of a deed or other instrument conveying title, or the execution of a contract for purchase. Every Owner shall be deemed to have accepted this Declaration and each and all of the covenants and the agreements herein contained, and also the jurisdiction, rights and powers of the Committee and of the Association. By such acceptance, each Owner has and shall continue to, for himself, his heirs, personal representatives, successors and assigns covenant, consent and agree to and with the Committee, the Association and to and with the grantees and subsequent Owners of each of the Lots within the Community to keep, observe, comply with and perform the covenants and agreements of this Declaration.

**Section 14.2 Acknowledged Risks.** Each Owner also agrees, by such acceptance of this Declaration, to assume, for their heirs, successors or assigns, all the risks and hazards of

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ownership or occupancy attendant to such Lot, including but not limited to its proximity to Common Areas.

**ARTICLE XV.  
MISCELLANEOUS**

General Provisions for Interpreting the Covenants.

**Section 15.1 Severability.** Each of the covenants and restrictions contained in this Declaration are hereby declared to be independent of, and severable from the rest of the Covenants and of and from every other one of the covenants and of and from every combination of these Covenants. Therefore, if any of the covenants and restrictions of this Declaration shall be held to be invalid or to be unenforceable, that holding shall be without effect upon the validity or enforceability, of any other covenant or restriction.

**Section 15.2 Captions.** All captions, titles and subtitles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any paragraph, section or article hereof.

**Section 15.3 Interpretation.** The provisions of this Declaration shall be liberally construed to effectuate their purposes of creating a uniform plan for the development of the Lots and of promoting and effectuating the fundamental concepts as set forth in the recitals of this Declaration. This Declaration shall be construed and governed under the laws of the State of Colorado.

**Section 15.4 Singular Includes the Plural.** Unless the context otherwise requires, the singular shall include the plural, and the plural shall include the singular, and each gender referral shall be deemed to include the masculine, feminine and neuter.

**Section 15.5 Challenge to this Amendment.** All challenges to the validity of the amendments must be made within one (1) year after the date or recording of this document. The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity.

**Section 15.6 Conflict of Provisions.** In case of conflict between this Declaration and the Articles or Bylaws, this Declaration shall control. In the case of conflict between the Articles and Bylaws, the Articles shall control.

**Section 15.7 Notices.** Any notice required to be sent to any Owner under the provisions of the Governing Documents shall be deemed to have been properly sent when mailed by first class mail, postage prepaid, to the address of the Lot owned within the Association unless the Owner notifies the Association of another address. Unless otherwise specified, notice shall be deemed to be received fourteen (14) days after mailing.

In Witness Whereof, the undersigned, being the President and the Secretary of Baca Grande Property Owners Association, Inc., hereby certify that the Association has obtained written approval of this Amended and Restated Declaration from at least fifty-five percent (55%) of a quorum (30% of the Members) of the Members in Good Standing, as evidenced by written instruments filed with the records of the Association.

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Baca Grande Property Owners Association, Inc.

By:

Nancy Van Donselaer  
President

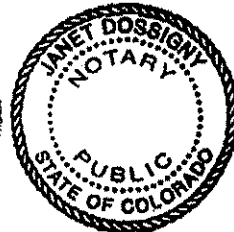
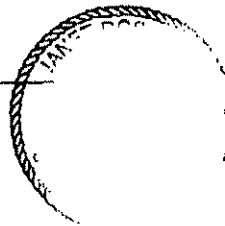
ATTEST:

[Signature]  
Secretary

STATE OF COLORADO )  
 ) ss.  
COUNTY OF SAGUACHE )

The foregoing Declaration was acknowledged before me  
by Nancy Van Donselaer  
as President and by Michael Miller as Secretary, of  
Baca Grande  
Property Owners Association, Inc., a Colorado nonprofit corporation, on  
this 13<sup>th</sup> day of April, 2001.

[Signature]  
Notary Public  
My commission expires: 4-22-04



My Commission Expires 04/22/2004

My Commission Expires 04/22/2004

