

BYLAWS  
OF  
SOUTH CREEK EIGHT HOMEOWNERS' ASSOCIATION

ARTICLE I

Name and Location

The name of the corporation is SOUTH CREEK EIGHT HOMEOWNERS' ASSOCIATION, hereinafter referred to as "Association." The principal office of the Association shall be located at 4800 Riverbend Road, Boulder, Colorado, but meetings of members and directors may be held at such places within the State of Colorado as may be designated from time to time by the Board of Directors.

ARTICLE II

Eligibility for Membership

1. Membership. Every record owner, whether one or more persons or entities, of a fee simple title to any lot in South Creek Eight shall be a member of the Association. The foregoing shall include contract buyers but shall exclude persons or entities who hold such interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of a lot and ownership of a lot shall be the sole qualification for membership.
2. Transfer of Membership. A membership in the Association shall not be assigned, encumbered or transferred in any manner except as an appurtenance to transfer of title to a lot to which the membership pertains; provided, however, the rights of membership may be assigned to the holder of a mortgage, deed of trust or other security instrument on a lot as further security for a loan secured by a lien on such lot. A transfer of membership shall occur automatically upon the transfer of title to the lot to which the membership pertains but the Association shall be entitled to treat the person or persons in whose name or names the membership is recorded on the books and records

of the Association as a member for all purposes until such time as evidence of a transfer of title, satisfactory to the Association, has been submitted to the Secretary.

ARTICLE III

Meetings of Members

1. Annual Meetings. The first annual meeting of the members of the Association shall be held within one year from the date of incorporation of the Association, and subsequent annual meetings shall be held annually thereafter. At such meeting there shall be elected a Board of Directors in accordance with the requirements of Article IV of these Bylaws. The members may also transact such other business of the Association as may properly come before them.

2. Special Meetings. Special meetings of the members for any purposes other than those regulated by statute may be called by the President as directed by resolution of the Board of Directors or upon petition signed by those holding one-fourth of the votes in the Association entitled to be cast by members. Such petition shall state the purpose or purposes of such proposed meeting. No business shall be transacted at a special meeting, except as stated in the notice, unless by consent of four-fifths of the votes entitled to be cast by members present, either in person or by proxy.

3. Notice of Meetings. The President or Secretary shall give or cause to be given written notice of each meeting by mailing or hand delivering such notice at least fifteen days prior to such meeting, unless a different period is required by statute or the Declaration, to each member at the respective addresses of said members as they appear on the records of the Association. The notice shall specify the place, day and hour of the meeting and, in the case of a special meeting, the purpose of the meeting. As used in this paragraph and elsewhere in these Bylaws the word "Declaration" refers to the Declaration of Covenants, Conditions and Restrictions affecting the above described property, which Declaration

was recorded in the records of the Clerk and Recorder of the County of Boulder, State of Colorado, and any amendments thereto.

4. Quorum. The presence, either in person or by proxy, of ten per cent of the votes entitled to be cast by members shall constitute a quorum for all purposes unless the representation of a larger number of votes shall be required by statute, by the Declaration, by the Articles of Incorporation or by these Bylaws and in that event representation of the number so required shall constitute a quorum.

5. Classes of Membership and Voting Rights. The Association shall have two classes of voting members whose designations are as follows:

Class A. Class A members shall be all owners as defined in Article II above with the exception of McStain Enterprises, Inc., and any of its successors or assigns which acquires more than one undeveloped lot for the purpose of development. Each Class A member shall be entitled to one vote for each lot in which it holds the interest required for membership as prescribed by Article II above.

Class B. The only Class B members shall be McStain Enterprises, Inc., and any of its successors or assigns which acquires more than one undeveloped lot for the purpose of development. Each Class B member shall be entitled to four votes for each lot in which it holds the interest required for membership as prescribed by Article II above. Class B membership shall cease to exist and be converted to Class A membership on the happening of either of the following events:

a. When the total number of votes outstanding in Class A membership equals the total number of votes outstanding in Class B membership, or

b. On June 1, 1963.

6. Adjournment of Meeting. Subject to the limitations set forth in the Declaration, if the number of members necessary to constitute a quorum shall fail to attend in person or by proxy at the time and place of meeting, the Chairman of the meeting, or a majority in interest of the members present in person or by proxy,

may adjourn the meeting from time to time without notice other than an announcement at the meeting until the necessary number or members shall be in attendance. At any adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the original meeting.

7. Proxies. At all meetings of members, each member may vote in person or by proxy. A member may appoint as proxy only a spouse, a joint owner, a partner in the event of partnership ownership, or an officer of a corporation in the event of corporate ownership. Should the terms of a deed of trust or mortgage so provide, the mortgagee or beneficiary of said deed of trust may be appointed as proxy. All proxies shall be in writing and filed with the Secretary before the time of each meeting or upon the calling of the meeting to order. Every proxy shall be revocable and shall cease automatically upon conveyance of his lot by a member.

8. Waiver of Notice. Any member at any time may waive any notice required to be given under these Bylaws, or by statute or otherwise. The presence of a member in person at any meeting of the members shall be deemed such a waiver.

#### ARTICLE IV

##### Board of Directors

1. Number and Qualification. The business, property and affairs of the Association shall be managed, controlled and conducted by a Board of Directors consisting of not less than three and not more than seven members, the exact number to be determined by the members of the Association at the annual meeting. Only members of the Association shall serve on the Board of Directors.

2. Nomination of Directors. Nominations for election to the Board of Directors to be elected at the first annual membership meeting shall be made from the floor at said meeting. Thereafter, nominations shall be made by a Nominating Committee and may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a chairman who shall be a member of the Board of Directors, and two or more members of the Association. Said

Committee shall be appointed by the Board of Directors prior to each annual membership meeting, to serve from the close of such annual meeting until the close of the next annual meeting, and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies to be filled.

3. Election and Term of Office. At the first annual meeting of Members, the Members shall elect the number of Trustees they have agreed upon as provided in paragraph 1 of this article IV. The Trustees shall be divided into three classes so that terms of one-third of the Trustees shall expire in 1981, the terms of one-third of the Trustees shall expire in 1982, and the terms of the remaining Trustees shall expire in 1983. If one-third of the Trustees is a number which includes a fraction, the fraction shall be dropped for purposes of computing how many Trustees shall be elected. At each annual meeting thereafter a number of Directors equal to that of those whose terms have expired or such lesser number as the membership may determine shall be elected for a term of three years. At the expiration of any term of three years, any Director may be reelected.

4. Powers and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association, and shall exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by statute, other provisions of these Bylaws, the Articles of Incorporation or the Declaration. Such powers and duties shall include, but not be limited to, the power to:

- a. Adopt and publish rules and regulations governing the use of the Common Area and facilities;
- b. Suspend the voting rights and right to use of the recreational facilities of a member during any period in which he is in default in the payment of any assessment levied by the Association;
- c. Employ a manager, an independent contractor or such other employees as it deems necessary and to prescribe their duties;

- d. Cause to be kept a complete record of all its acts and corporate affairs and present a statement thereof to the members at their annual meeting or at any special meeting when such a statement is requested by those holding one-fourth of the votes in the Association entitled to be cast by members;
- e. Supervise all officers, agents and employees of the Association and see that their duties are properly performed;
- f. Fix the amount of the annual assessment against each lot, give notice of such assessment and have all rights with respect to failure to pay such assessment all as more fully provided in the Declaration;
- g. Issue or caused to be issued, upon demand by any person, a certificate stating whether or not any assessment has been paid;
- h. Procure and maintain adequate liability and hazard insurance on the Association's property;
- i. Cause the Common Area to be maintained.

The Board of Directors may delegate such duties as appear to be in the best interests of the Association to the extent permitted by law.

5. Vacancies. Vacancies on the Board of Directors caused by any reason shall be filled by vote of a majority of the remaining directors even though they may consist of less than a quorum and each person so elected shall be a director until his successor is elected by the members at the next annual meeting.

6. Removal of Directors. At any regular or special meeting of the members, any one or more of the directors may be removed with or without cause at any time by the affirmative vote of a majority of all votes entitled to be cast by the entire membership of record and a successor may then be elected to fill the vacancy thus created. Any director whose removal has been proposed by the members shall be given an opportunity to be heard at the meeting.

7. Compensation. no compensation shall be paid to directors for their services as directors and no compensation shall be paid to a director for services performed by him for the Association in any other capacity, unless a resolution authorizing such compensation shall have been unanimously adopted by the Board of Directors.

8. Organization Meeting. The first meeting of a newly elected Board of Directors shall be held within ten days of its election at such time and place as shall be fixed at the meeting at which such directors were elected, and no notice shall be necessary to the newly elected directors in order legally to constitute such meeting, provided a majority of the whole Board shall be present.

9. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors, but at least two such meetings shall be held during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each director, personally or by mail, telephone or telegraph, at least three days prior to the day named for the meeting.

10. Special Meetings. Special meetings of the Board of Directors may be called by the President or by two of the directors on three days' notice to each director, given personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting.

11. Waiver of Notice. Before or at any meeting of the Board of Directors, any director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

12. Quorum. A majority of the Board of Directors shall constitute a quorum for the transaction of business, but if at any meeting of the Board there is less than a quorum present, a majority of those present may adjourn the meeting from time to time. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as an act of the Board.

13. Adjournments. The Board of Directors may adjourn any meeting from day to day or for such other time as may be prudent or necessary in the interests of the Association, provided that no meeting may be adjourned for a period longer than thirty days.

14. Fidelity Bonds. The Board of Directors may require that all officers and employees of the Association handling or responsible for association funds furnish adequate Fidelity Bonds. The premiums on such bonds shall be paid by the Association.

15. Executive Committee of Board of Directors. The Board of Directors, by resolution adopted by a majority of the Directors in office, may designate and appoint an Executive Committee of the Board. The number of members of the Executive Committee and the persons who shall be members thereof shall be determined by the Board but the number of such members shall not be fewer than two. Unless limited by resolution of the Board, the Executive Committee shall have and exercise all the authority of the Board of Directors except that such Committee shall not have the authority of the Board of Directors with reference to amending, altering or repealing the by-laws, electing, appointing or removing any member of such Committee or any Officer or Director of the Association; amending the Articles of Incorporation; restating the Articles of Incorporation; adopting a plan of merger or adopting a plan of consolidation with another association; authorizing the voluntary dissolution of the Association or revoking proceedings therefor; adopting a plan for the distribution of assets of the Association; or amending, altering or repealing any resolution of the Board of Directors. All of the provisions in these By-laws with respect to Notice of Meetings of Directors, quorum at such meetings, voting at such meetings and Waivers of Notice of such meetings shall be applicable to the meetings of the Executive Committee.



ARTICLE V

Officers

1. Designation and Qualifications. The principal officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected by and from the Board of Directors. Any person may hold two offices except that the President shall not also hold the office of Secretary. The directors may appoint an Assistant Secretary and an Assistant Treasurer, and such other officers as in their judgment may be necessary.
2. Election and Term of Office. The officers of the Association shall be elected annually by the Board of Directors at the organization meeting of each new Board, and each shall hold office for a period of one year, unless he shall sooner resign, be removed, or otherwise be disqualified to serve.
3. Resignation and Removal. Any officer may resign at any time by giving written notice of said resignation to the Board, the Secretary or the President. Any officer may be removed from office, with or without cause, upon an affirmative vote of a majority of the members of the Board of Directors, and his successor elected at any regular meeting of the Board or at any special meeting called for that purpose.
4. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer so appointed shall serve for the remainder of the term of the officer he replaces.
5. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the members and of the Board of Directors. He shall have all of the general powers and duties which are normally vested in the office of the president of an association, including, but not limited to, the power to appoint committees from among the members, from time to time, as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association.
6. Vice President. The Vice President shall take the

place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors.

7. Secretary. The Secretary shall keep the minutes of all meetings of the members, shall have custody of the seal of the Association, shall have charge of the membership books and such other books and papers as the Board of Directors may direct and shall, in general, perform all the duties incident to the office of Secretary.

8. Treasurer. The Treasurer shall have the responsibility for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit, of the Association in such depositories as may from time to time be designated by the Board of Directors.

9. Compensation. No compensation shall be paid to officers for their services as officers. No compensation shall be paid to an officer for services performed by him for the Association in any capacity, unless a resolution authorizing such compensation shall have been unanimously adopted by the Board of Directors.

#### ARTICLE VI

##### Association Seal

The Board of Directors shall provide a suitable Association seal containing the name of the Association, which seal shall be in the custody and control of the Secretary. The Association seal shall be in circular form, shall have inscribed thereon the name of the Association and the word "Colorado" in the circle and the word "Seal" in the middle. A duplicate seal may be kept and used by such officer or other person as the Board of Directors shall name.

## ARTICLE VII

### Indemnification of Officers and Directors

The Association shall indemnify every Director or officer, his heirs, executors, administrators and representatives against all loss, costs and expenses, including counsel fees, reasonably incurred by him in connection with any action, suit or proceeding to which he may be made a party by reason of his being or having been a Director or officer of the Association, except as to matters as to which he shall be finally adjudged in such action, suit or proceeding to be liable for gross negligence or willful misconduct. In the event of a settlement, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Board of Directors may determine that the person to be indemnified has not been guilty of gross negligence or willful misconduct in the performance of his duty as such manager or officer in relation to the matter involved. The foregoing rights shall not be exclusive of other rights to which such manager or officer may be entitled. All liability, loss, damage, costs and expense incurred or suffered by the Association by reason of, arising out of, or in connection with the foregoing indemnification provisions shall be treated and handled by the Association as common expenses; provided, however, that nothing in this Article VII shall be deemed to obligate the Association to indemnify any member or Owner of a lot, who is or has been a Director or officer of the Association, with respect to any duties or obligations assumed or liabilities incurred by him under and by virtue of the Declaration as a member or Owner of a lot covered thereby.

## ARTICLE VIII

### Miscellaneous

1. Books and Accounts. Books and accounts of the Association shall be kept under the direction of the Treasurer and in accordance with reasonable standards of accounting procedure and prudence.
2. Inspection of Books. Financial reports and membership records of the Association shall be available at the principal

offices of the Association for inspection at reasonable times by any members.

3. Execution of Association Documents. with the prior authorization of the Board of Directors, all notes, checks and contracts or other obligations shall be executed on behalf of the Association by any officer or director of the Association.

4. Fiscal Year. The fiscal year of the Association shall be determined by the Board of Directors and shall be subject to change by the Board of Directors should Association practice subsequently necessitate such change.

5. Annual Assessments. The Board of Directors shall fix, levy and collect assessments in the manner and for the purposes specified in the Declaration and the members shall pay assessments as therein provided.

#### ARTICLE IX

##### Amendment of the Bylaws

→ 1. Amendment by the Members. These Bylaws may be amended by the affirmative vote of three-fourths of the votes entitled to be cast by members present or represented by proxy at any regular or special meeting if a quorum as described in paragraph 4, Article III herein, is present at any such meeting. Amendments may be proposed by the Board of Directors or by petition signed by members holding a majority of the votes entitled to be cast at any meeting. A statement of any proposed amendment shall accompany the notice of any regular or special meeting at which such proposed amendment shall be voted upon.

2. Amendment by the Directors. By the affirmative vote of three-fourths (3/4) of the directors of the Association, the directors may amend or alter the Bylaws of the Association at any regular meeting or at any special meeting, provided that no such alteration or amendment by the Board of Directors shall increase the powers of the Board of Directors. The statement of any proposed

amendment shall accompany notice of any regular or special meeting at which such proposed amendment shall be voted upon.

3. Limitations. These Bylaws may not be amended insofar as such amendment would be inconsistent with any statutes, the Declaration or the Articles of Incorporation. In the event of any conflict between the Declaration and these Bylaws, the Declaration shall control; in the event of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control.

IN WITNESS WHEREOF, the undersigned, constituting all of the Directors of the Association, have hereunto set their hands this \_\_\_\_\_ day of \_\_\_\_\_, 1979.

\_\_\_\_\_  
Thomas R. Hoyt

\_\_\_\_\_  
Caroline Hoyt

\_\_\_\_\_  
Jeannie Shermerhorn