

OFFICIAL RECORD

Requested By:

MOUNTAIN GLEN HOMEOWNERS

ASSN

Douglas County - NV  
Karen Ellison - Recorder

Page: 1 Of 29 Fee: 42.00  
BK-0111 PG-2830 RPTT: 0.00



After Recording, Mail to:

✓ Mountain Glen II Homeowners  
Association  
P.O. Box 1698  
Minden, NV 89423

Mail Tax Statements to:

Same as above

---

The undersigned affirms that this document does not contain the social security number of any person. (NRS 239B.030).

**AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS OF  
MOUNTAIN GLEN SUBDIVISION PHASE II**

Per NRS 111.312, the legal description herein was previously recorded at Book 1094 in Page 4508 as Document Number 349406 on October 26, 1994.

The remainder of this page intentionally left blank

**AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS OF  
MOUNTAIN GLEN SUBDIVISION PHASE II**

THIS AMENDED AND RESTATED DECLARATION, made on the date hereinafter set forth, by Mountain Glen II Homeowners Association Inc. fully amends and restates that certain Declaration of Covenants, Conditions and Restrictions of Mountain Glen Subdivision Phase II recorded on October 26, 1994 in Book 1094 at Page 4508 as Document Number 349406 in the Official Records of the Douglas County Recorder, State of Nevada, by Green Valley Properties, a Nevada Corporation referred to hereinafter as "Declarant", and that certain First Amendment to the Declaration of covenants, Conditions & Restrictions, Mountain Glen Subdivision Phase II recorded on August 9, 2002 as Document Number 0549209, by Mountain Glen II Homeowners Association

WITNESSETH:

WHEREAS, Declarant was, at the time of the original Map recording, the owner of certain property in Douglas County, State of Nevada, more particularly described in Exhibit A attached and incorporated by this reference.

NOW THEREFORE, Declarant declared that all of the properties described above shall be bought, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of and which shall run with the real property and be binding on all parties having any right, title, or interest in the described Properties or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each Owner thereof.

**ARTICLE I. DEFINITIONS**

**Section 1.01 Association** "Association" shall mean The Mountain Glen II Homeowners Association Inc, its successors and assigns.

**Section 1.02 Board of Directors** "Board" and "Board of Directors" shall mean the governing body of the Association.

**Section 1.03 Common Area** "Common Area" shall mean all real property (including the improvements thereon) owned by the Association for the common use and enjoyment of the Owners and any additions thereto by annexation pursuant to Section 11.04 of this Declaration The Common Area to be owned by the Association at the time of the conveyance of the first Lot is that certain property as shown on the Map not shown as a lot with a designated lot number. Common Area shall include all facilities and improvements located within the Common Area, including but not limited to, open spaces, private roads, open parking spaces, fences, planted and landscaped areas, drainage, facilities, sewer lines, walkways, water and other pipes, conduits,

wires, and other utility installations to the outlets and all other improvements which may be placed upon or located in the Common Area.

**Section 1.04 Declarant** "Declarant" shall mean Green Valley Properties, a Nevada Corporation, its successors and assigns, if such successors or assigns should acquire more than one (1) undeveloped Lot from the Declarant for the purpose of development.

**Section 1.05 Dwelling Unit** "Dwelling Unit" shall mean any portion of a structure situated upon a Lot designed and intended for use and occupancy as a residence by a single family and shall include the land thereunder. The adjoining property line for dwelling units with a shared party wall adjoining another dwelling unit shall be the center of the space between the two individually constructed walls constituting the party wall. The balance of the dwelling property line shall be defined by the balance of the foundation, not included in party walls extending to the street-side edge of the garage doors, in the case of garages.

**Section 1.06 Improvement** "Improvement" shall mean any structure or appurtenance thereto of every type and kind, including but not limited to buildings, outbuildings, walkways, sprinkler pipes, recreational facilities, roads, driveways, open parking areas, fences, screening walls, retaining walls, stairs, decks, landscaping, antennae, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs and water softening fixtures or equipment.

**Section 1.07 Lot** "Lot" shall mean any residential lot of land or parcel of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area and further defined in Section 1.05 Dwelling Unit above.

**Section 1.08 Map** Article I, Section 1.08 deleted, First Amendment 2002

**Section 1.08 Map Second Amendment 2011** "Map" shall mean the final subdivision maps entitled COTTAGES IN MOUNTAIN GLEN recorded August 9, 2002, and MOUNTAIN GLEN PHASE II recorded September 28, 1989, and the HAMER TRUST AND THE MOUNTAIN GLEN II HOMEOWNERS ASSOCIATION, INC. Boundary Line Adjustment recorded February 12, 2010 (converting said Lots from townhomes owned by Class A Members to cottages owned by Class B Members).

**Section 1.08.1 Member**, Second Amendment 2011 "Member" shall mean every Owner of a Lot subject to assessment.

**Section 1.09 Mortgage** "Mortgage" shall include a deed of trust as well as a mortgage.

**Section 1.10 Mortgagee** "Mortgagee" shall include a beneficiary or a holder of a deed of trust as well as a mortgagee.

**Section 1.11 Mortgagor** "Mortgagor" shall include the trustor of a deed of trust as well as a mortgagor.

Section 1.12 Owner "Owner" shall mean the record owner, whether one (1) or more persons or entities, of a fee simple title to any lot which is a part of the Properties, including purchasers under an installment sale contract, but excluding contract sellers and those having such interest merely as security for the performance of an obligation.

Section 1.12.1 Party Wall Second Amendment 2011 "Party Wall" is defined as set forth in Section 7.01 herein below.

Section 1.13 Properties "Properties" shall mean that certain real property herein before described in Section 1.08 "Map" and in Exhibit A hereto. The Properties shall include such additions thereto as may hereafter be brought within the jurisdiction of the Association by annexation pursuant to Section 11.04 to this Declaration.

Section 1.14 Subdivision Interest "Subdivision Interest" shall mean Lot ownership, and 1/39th undivided interest in Common Area by virtue of Lot ownership and the ownership of one share of stock in the Association.

Section 1.15 Restricted Common Area "Restricted Common Area" shall mean those portions of the Common Area set aside for exclusive use of a unit Owner, pursuant to Section 2.06 and defined herein. The fenced rear yard patio and lawn areas laying within Common Areas are reserved for the exclusive use of the Owner of the Dwelling Unit adjacent and appurtenant thereto, except that the Owner shall grant the Declarant, the Association, or their designees the right of access for fire and life safety, maintenance and inspection purposes. The Owner shall indemnify and hold completely harmless the Declarant and the Association from all liability losses occurring from acts taking place in the fenced rear yard and patio areas adjacent and appurtenant to their respective Dwelling Units for actions not related to fire and life safety, maintenance, and inspection purposes by the Declarant, Association or their designees.

## ARTICLE II: PROPERTY RIGHTS

Section 2.01 Owners' Easements of Enjoyment Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provision.

The right of the Association to sell, dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of Members agreeing to such dedication or transfer has been recorded and unless prior written consent has been obtained from the public entity to which the property is sold, dedicated, or transferred.

Section 2.02 Title to Common Area The Declarant shall convey Common Area described particularly in Section 1.03 hereof to the Association, free and clear of all liens and financial encumbrances after the construction period.

Section 2.03 Delegation of Use Any Owner may delegate, in accordance with the By-laws of the Association, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants or contract purchasers who reside on the property.

Section 2.04 Utility Easements Through Lots and Dwelling Units Utility service equipment and facilities may be installed on or through Lots or Dwelling Units to serve other Lots or Dwelling Units in the Properties as required by utility companies serving the Properties, and said utility companies shall have a right of access, upon reasonable notice to the Owner, to all Lots and Dwelling Units to perform necessary maintenance and repair.

Section 2.05 Easement Over Common Area for Repair, Maintenance and Eaves Encroachment There shall be an easement of three feet (3') for repairs and maintenance, and for drain and drainage purpose over the Common Area adjacent to a Dwelling Unit for the benefit of the Owner of the Dwelling Unit. In addition, there is specifically reserved upon the Common Area for the benefit of the adjacent Dwelling Unit Owner, an eighteen inch (18") easement for eaves encroachment, and for the encroachment of rain gutters, drain pipes, and rights incident thereto. Any damage from the use of these easements shall be repaired at the expense of the Owner causing the damage.

Section 2.06 Restricted Common Area Portions of the Common Area, referred to as "Restricted Common Areas", are hereby set aside and allocated for the exclusive use of the Owner of each Unit. The said Restricted Common Area shall consist of the following:

An exclusive easement to each Owner to use the driveway which provides vehicular access from the private streets within the Properties to the garage of the Owner's Dwelling Unit. Unit Owner shall be responsible for keeping the Restricted Common Area to which he has an exclusive easement free of litter and oil spills.

### ARTICLE III: MEMBERSHIP AND VOTING RIGHTS

Section 3.01 Membership Every Owner of a Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 3.02 Voting Classes Article III, Section 3.02 , First Amendment 2002  
The Association shall have two classes of voting membership. In order to achieve approval of items voted upon, approval of the required percentage of Members must be obtained from both Class A members and from Class B members. Members shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any one (1) Lot.

- A. Class A. Class A members shall be all Owners of Lots with a Party Wall.
- B. Class B. Class B members shall be all Owners of Lots without a Party Wall.

Section 3.03 Vesting of Voting Rights Except where there is an approved subsidization plan which provides otherwise voting rights attributable to Subdivision Interest shall not vest until assessments against those interests have been levied by the Association.

Section 3.04 Votes Upon Annexation Article III, Section 3.04 deleted First Amendment 2002

Section 3.05 RESERVED

Section 3.06 MAP Article III, Section 3.06 is added First Amendment 2002,  
Article III, Section 3.06 is deleted Second Amendment 2011

#### ARTICLE IV: COVENANT FOR MAINTENANCE ASSESSMENTS

Section 4.01 Creation of Lien and Personal Obligation of Assessments The Declarant for each Lot owned within the Properties hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (1) annual assessments or charges, (2) assessments for capital improvement and other purposes, and (3) special assessments, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the Lot and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be a personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 4.02 Purpose of Assessment The assessments levied by the Association shall be used exclusively to promote the health, safety, and welfare of residents of the Properties, for the improvement and maintenance of the Common Area, for the exterior maintenance of Dwelling Units pursuant to Article V hereof; and for all landscaping of the Properties.

Section 4.03 Vacant Lot Exemption The Declarant, and its successor in interest, is an Owner subject to the payment of regular and special assessments for each Lot owned within the Properties, provided, however, that the Declarant and any other Owner of a Lot which does not include a Dwelling Unit shall be exempted from the payment of that portion of any assessment which is for the purpose of defraying expenses and reserves directly attributable to the existence and use of the Dwelling Unit. This exemption for payment of regular and special assessments shall include, but not by way of limitation, the assessments relating to the following items: (1) roof replacements, (2) exterior maintenance of Dwelling Units, (3) walkway and carport lighting, (4) refuse disposal, and (5) cable television. This exemption shall be in effect only until a notice of completion of the Dwelling Unit has been recorded for the particular Lot or until one hundred and twenty (120) days after the issuance of a building permit for the Dwelling Unit, whichever first occurs.

**Section 4.04 Maximum Annual Assessment Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be the sum indicated in the final budget for each Phase.**

A. Without Vote. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than twenty percent (20%) above the actual assessment for the previous year without a vote of the membership.

B. With Vote. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above twenty percent (20%) by the vote or written assent of a majority of the total voting power of each class of membership.

**Section 4.05 Assessments for Capital Improvements and Other Purposes Article IV, Section 4.05, First Amendment 2002 .**

In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, or for other purposes, provided, however, that any such assessment in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year, shall required the vote or written assent of a majority of the total voting power of each class of membership. Assessments shall be payable monthly.

**Section 4.06 Special Assessments** The Association shall levy a special assessment against any Owner or Owners as a result of whose acts or failure or refusal to act, or otherwise comply with this Declaration of the rules and regulations of the Association, moneys where expended by the Association. Such assessment shall be in the amount so expended, shall include reasonable costs and attorney's fees, if any, and shall be due and payable to the Association when levied, or in such installments as the Association shall designate. Prior to the levy of such a special assessment the Board shall hold a hearing to determine the validity and amount of the assessment upon at least thirty (30) days notice to the Owner to be assessed at which hearing such Owner shall be given an opportunity to be heard.

**Section 4.07 Notice and Quorum for Any Action Authorized Under Sections 4.04 and 4.05** Any action authorized under Section 4.04 or 4.05 shall be taken at a meeting called for that purpose, written notice of which shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. The presence of Members or proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum for such meeting. If a quorum is present and the proposed action is favored by a majority vote of the Members present at such meeting, but such vote is less than the requisite majority of each class of Members, Members who are not present in person or by proxy may give their assent in writing provided the same is obtained by the Board not later than thirty (30)

days from the date of such meeting.

**Section 4.08 Rate of Assessment** Article IV, Section 4.08 , First Amendment 2002

**Class A Members.** Both annual and special assessments must be fixed at a uniform rate for all Lots owned by Class A Members, as defined in Article III, Section 3.02.

**Class B Members.** Both annual and special assessments must be fixed at a uniform rate for all lots owned by Class B Members, as defined in Article III, Section 3.02.

**Section 4.09 Exceptions to Sections 4.04 and 4.08** The voting requirements of Section 4.04 and the provisions of Section 4.08 shall not apply in cases where the special assessment against an Owner is a remedy utilized by the Association to reimburse the Association for costs incurred in bringing the Owner and his Subdivision Interest into compliance with provisions of this Declaration of the rules and regulations of the Association pursuant to Section 4.06.

**Section 4.10 Date of Commencement of Assessments** Dues Dates: The annual assessments provided for herein shall commence as to all Lots in a phase on the first day of the month following the closing of the sale of the first Lot in such phase. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period, written notice of all assessments shall be sent to every Owner subject thereto. The dues dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance. Each assessment, or installment thereof, shall become delinquent if not paid in thirty (30) days after its due date.

**Section 4.11 Right to Enforce** The right to collect and enforce assessments is vested in the Board of Directors of the Association or its authorized representative acting by or on behalf of the Association. The Board or its authorized representative can enforce the obligations of the Owners to pay assessments provided for in this Declaration according to the provisions of Section 10.01 hereof, or the Board may foreclose by judicial proceedings or through exercise of the power of sale pursuant to Section 4.12 to enforce the lien rights created. Suit to recover a money judgment for unpaid assessments together with all amounts described in Section 4.01 shall be maintainable without foreclosing or waiving the lien rights.

**Section 4.12 Creation of Lien** If there is a delinquency in the payment of any assessment, or installment thereof on a Lot, as described in Section 4.10, any amounts that are delinquent, together with any late charge, interest at the rate of ten percent (10%) per annum, and all costs incurred by the Association or its authorized representative in the collection of the amounts, including reasonable attorney's fees, shall be a lien against such Lot upon the recordation in the Office of the County Recorder of Douglas County of a notice of assessment as provided in the Nevada Revised Statutes 117.070. The notice of assessment shall be recorded by the Board or its



authorized representative after a written notice of delinquency and demand for payment has been delivered to the delinquent Owner or Owners, and such delinquency has not been cured within fifteen (15) days after delivery of such notice of delinquency. The lien shall expire and be void unless, within one (1) year after recordation of the notice of assessment, the Board or its authorized representative records a notice of default as provided in this Declaration or institute judicial foreclosure proceedings.

**Section 4.13 Notice of Default, Foreclosure** Not more than one (1) year nor less than ten (10) days after the recording of the notice of assessment, the Board or its authorized representative shall record a notice of default and shall cause the Lot to be sold in accordance with Nevada Revised Statutes 117.070 and 117.075, or through judicial foreclosure. As soon as the sixty (60) day time period described in NRS 117.075 has expired, the Board or its authorized representative may sell the Lot described in the notice of default to satisfy said assessment, cost and fees specified in the notice of default, and the costs incurred in connection with the sale, including the cost of a search of title and additional attorney's fees, after first giving notice of the time and place of such sale in the manner provided by the laws of the State of Nevada for the sale of real property under writ of execution; except that a notice of sale shall be mailed on or before the first publication or posting required by NRS 21.130 by certified or registered mail to the owner or to his successor in interest at his address, if such address is known, otherwise to the address of the condominium unit. In connection with any such sale, pursuant to the powers granted herein, the Board is authorized to appoint the manager, its attorney, an officer or director or any title insurance company authorized to do business in Nevada as trustee for purposes of conducting the sale. The Association shall have the power to purchase at the said sale. The Association upon such sale, shall, without warranty, execute and after due payment made, deliver to purchaser at the said sale a deed conveying the unit so sold, which shall convey to the purchaser all of the title of the delinquent record owner. Proceeds of the sale shall be applied first to the payment of the cost of the sale, then to the sums described in the notice of default. The balance then remaining shall be applied to the delinquent record owners or to his heirs, executors, administrators or assigns. The deed given by the Association to the purchaser at such sale shall be effectual and conclusive against the delinquent record owner of the unit so sold, his heirs and assigns. Prior to the sale, if the owner cures such delinquency together with all fees and costs incurred by the Association as chargeable thereunder, the Board or its authorized representative shall cause to be recorded in the office of the recorder of Douglas County a certificate setting forth the satisfaction of such claim and release of such lien.

**Section 4.14 Waiver of Exemptions** Each Owner to the extent permitted by law, waives, to the extent of any liens created pursuant to this Article IV, the benefit of any homestead or exemption laws of the State of Nevada in effect at the time any assessment or installment becomes delinquent or any lien is imposed.

**Section 4.15 Exempt Property** All properties dedicated to and accepted by a local public authority shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessment.

**ARTICLE V: DUTIES, POWERS AND LIMITATIONS OF THE ASSOCIATION**

**Section 5.01 Duties** In addition to the duties enumerated in its by-laws or elsewhere provided in this Declaration, and without limiting the generality thereof, the Association shall perform the following duties:

A. **Common Area Maintenance.** The Association shall maintain, repair, replace, restore, operate, and manage all of the Common Area and all facilities, improvements, furnishings and equipment thereon, including but not limited to private roads, common open space areas, parking spaces on the Common Area, fences, sewer lines, water lines, drainage facilities, and landscaping, and all property that may be acquired by the Association. In addition, the Association shall insure the permanent maintenance of the landscape areas pursuant to the Map. Maintenance shall include, without limitation, painting, maintaining, repairing and replacing all Common Areas and landscaping. The responsibility of the Association for maintenance and repair of the Common Areas shall extend to repairs or replacements arising out of or caused by the willful or negligent act or neglect of an Owner or his guests, tenants, or invitees. However, the cost of repairs or replacements resulting from such acts shall be the obligation of the responsible Owner, and assessed as a Special Assessment as set forth in Section 4.06.

As provided in Section 6.4, there shall be no on-street parking anywhere on the Properties. Enforcement of this provision is the primary responsibility of the Association.

B. **Insurance.** Article V, Section 5.01 B (2), (6) First Amendment 2002

The Association has the authority to maintain the following policies of insurance:

(1) The Association, through its Board of Directors or its duly authorized agent, shall have the authority to and shall obtain insurance for the Common Area, improvements thereto, and personal property located thereon. Such policies shall provide that insurance proceeds payable on account of loss of, or damage to, such property shall be adjusted with the carrier(s) by the Association. Such insurance proceeds shall be applied to repair or restore the property as hereinafter provided. All such insurance policies shall provide that coverage may not be canceled by the carrier without first giving the first mortgagee, if any, ten (10) days written notice of cancellation. All policies shall contain, if obtainable, a waiver of the right of subrogation against the Association, its officers, agents, and employees, as well as a waiver of any "pro rata" clause.

(2) In addition to casualty insurance on the Common Area, the Association must maintain a master or blanket policy of fire and casualty insurance, for the full insurable value for all Dwelling Units on Lots with a Party Wall. The insurance must be kept in full force and effect and the full replacement value of the insured property must be redetermined on an annual basis.

Depending on the nature of the insured property and the requirements, if any, imposed by institutional Mortgagees having an interest in such property, the policies maintained by the Association pursuant to this subsection must contain (1) an agreed amount endorsement or its

equivalent, (2) an increased cost of construction endorsement or a contingent liability from operation of building laws endorsement or the equivalent, (3) an extended coverage endorsement, (4) vandalism, malicious mischief coverage, (5) loss or damage by fire coverage, (6) other standard extended coverage risks and all other perils customarily covered in projects similar in construction, location and use, including all perils normally covered by the standard "all risk" endorsement, and (7) a special form endorsement and a clause to permit cash settlements for full insurable value in case of partial destruction, if available.

(3) A policy or policies of comprehensive public liability insurance insuring the Association, Declarant, the Board, Owners, and any appointed manager, against any liability to the public or to the Owners incident to the Ownership and/or use of the Properties and to protect against any liability to the public or to any Owner incident to the use of, or resulting from any accident or intentional act occurring in or about any Dwelling Unit, Lot or the Common Area. The minimum limits of such insurance shall be determined by the Board and established to provide such coverage and protection as is customarily carried by prudent owners of similar property in Douglas County, Nevada. The Board shall review the limits and coverage of such insurance at least every year and shall increase or adjust the same, if necessary, to provide adequate coverage and protection to the Association, Declarant, the Board, Owners, and any appointed manager. Such policy or policies shall provide cross liability endorsements or severability of interest endorsements insuring each insured against the liability of each other insured.

(4) Worker's Compensation to the extent necessary to comply with all applicable laws of the State of Nevada or the regulations of any governmental body or authority having jurisdiction over the Properties.

(5) A fidelity bond in a commercial blanket fidelity bond form, obtained at the discretion of the Board naming such persons as may be designated by the Board as principals, and the Owners as obligees; in an amount to be determined by the Board in its absolute discretion.

(6) Each Owner of a Lot without a Party Wall is required to obtain a homeowners fire, casualty and liability policy that will insure against losses from all acts, intentional or not, occurring in or to the Owner's Dwelling Unit. The amounts of the policy coverage shall be adequate to replace the Owner's Dwelling Unit and adequate liability coverage to replace adjacent units in the event of complete loss. The Association may lien Owners or their Lots for the amount of any insurance coverage described herein. Proof of insurance must be provided to the Association at the close of purchase escrow and semi-annually thereafter.

Nothing in this Subsection B shall restrict or prohibit the Board from maintaining such additional policies of insurance as it, in its absolute discretion, shall deem reasonable and necessary.

Any insurance acquired by the Board may be taken in the name of the Board as trustee, for the use and benefit of the Board and all Owners.

Premiums for insurance master or blanket policy of fire and casualty insurance for the fully insurable value for all Units on Lots with a Party Wall obtained by the Board of Directors, shall be a common expense and paid as part of the annual assessment imposed on all Lots owned by Class A members, pursuant to Article IV hereof.

All insurance policies shall be reviewed at least annually by the Board of Directors in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the property which may have been damaged or destroyed.

C. Discharge of Liens. The Association shall discharge by payment, if necessary, any lien against the Common Area, and assess the cost thereof to the Owner or Owners responsible for the existence of such lien.

D. Assessments. The Association shall fix, levy, collect and enforce assessments as provided in Article IV hereof.

E. Payment of Expenses. The Association shall pay all expenses and obligations incurred by the Association in the conduct of its business including, without limitation, all licenses, taxes or governmental charges levied or imposed against the Property of the Association.

F. Utility Service. Article V, Section 5.01 (F) First Amendment 2002

The Association shall obtain and pay all utility services for the benefit of the Common Area. No changes shall be made to the covenants represented to the Minden-Gardnerville Sanitation District for approval at the December 7, 1993 meeting that shall in any way adversely impact the Minden-Gardnerville Sanitation District without the expressed written approval of the sanitation district under penalty of forfeiture of any sewer hookup approvals.

G. Exterior Maintenance of Dwelling Units. Article V, Section 5.01 (G) First Amendment 2002

In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Lot with a Party Wall, as follows: paint, repair, replacement and care of roofs, gutters, down spouts, walks, exterior building surfaces, all landscaping, and other exterior improvements. Such exterior maintenance shall not include glass surfaces or window or skylight screens. The Association shall provide exterior maintenance upon each Lot without a Party Wall as follows: maintain front yard landscaping, except that the Owners of such Lots are responsible to replace or repair plants and components of sprinkler systems.

In the event that the need for maintenance or repair of a Lot or the improvements thereon is caused through the wrongful or negligent acts of its Owner, or through the willful or negligent acts of the family, guests or invitees of the Owner of the Lot needing such maintenance or repair, the cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

**Section 5.02** In addition to the powers enumerated in its by-laws or elsewhere provided herein , and without limiting the generality thereof, the Association shall have the following powers:

**A. Manager.** The Association shall have the authority to employ a manager or other person and to contract with independent contractors or managing agents to perform all or any part of the day-to-day management duties and responsibilities of the Association, each of whom shall be subject to the direction and control of the Board, provided that any contract with a firm or person appointed as manager or managing agent shall not exceed a one (1) year term.

**B. Adoption of Rules.** The Association may adopt reasonable rules not inconsistent with the Declaration relating to the Common Area and all facilities thereon, and the conduct and use thereof, and the conduct of Owners and their tenants and guests with respect to the Properties and other Owners.

**C. Access.** For the purpose of performing the maintenance authorized herein or for any other purpose reasonably related to the performance by the Association or the Board of their respective responsibilities, the Association's contractors, agents, or employees shall have the right, after reasonable notice to the Owner thereof, to enter any Dwelling Unit or to enter any portion of the Common Area at reasonable hours. Except in the case of emergency, twenty four (24) hours advance notice shall be given to the Owner or occupant prior to any entry of a Dwelling Unit.

**D. Assessments, Liens and Fines.** The Association shall have the power to levy and collect assessments in accordance with the provisions of Article IV and Section 11.01.

**E. Acquisition of Property.** The Association shall have the power to acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use, or otherwise dispose of real or personal property in connection with the affairs of the Association.

**F. Loans.** The Association shall have the power to borrow money, and only with the consent (by vote or written consent) of two-thirds (2/3) of each class of members, to mortgage, to pledge, encumber or hypothecate any or all of its real or personal property as security for moneys borrowed or debts incurred.

**G. Contract.** The Association shall have the power to contract for goods and/or services for the Common Area facility and interests or for the Association, subject to any limitations set forth in this Declaration.

**H. Delegation.** The Association shall have the power to delegate its authority and powers to committees, officers, employees or designees of the Association.

**Section 5.03 Limitations on Contracts** Any of the following actions shall require a majority vote of the Members and a majority vote of the Members excluding the Declarant.

**A. Term Longer Than One (1) Year.** A majority vote of the Members and a majority vote of Members excluding Declarant shall be required before the Association may contract for the furnishing of goods and services for the Common Area or for the Association for a term longer than one (1) year with the following exceptions:

(1) A management contract, the terms of which have been approved by the Federal Housing Administration or the Veterans Administration if such agency is financing or making a guarantee of financing of the project or of individual units.

(2) A contract with a public utility if the rates charged for the materials or services are regulated by the Public Service Commission of Nevada, provided that the term of contract shall not exceed the shortest term for which the supplier will contract at the regulated rate.

(3) Prepaid casualty or liability policies of not to exceed three (3) years duration provided that the policy permits short rate cancellation by the insured.

**B. Capital Expenditures.** A majority vote of the Members shall be required prior to incurring aggregate expenditures for capital improvements to Common Area in any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year, excluding the Declarant during construction period.

**C. Sale of Property.** A majority vote of Members and a majority vote of Members excluding Declarant shall be required prior to the sale of property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

**D. Compensation to Directors.** A majority vote of Members and a majority vote of Members excluding Declarant shall be required prior to paying compensation to members of the Board or officers for services performed in the conduct of the Association's business provided that the Board may cause a member or officer to be reimbursed for expenses incurred in carrying on the business of the Association.

## **ARTICLE VI: USE OF RESTRICTIONS**

**Section 6.01 Single Family Residential Unit** No Dwelling Unit shall be occupied and used except for single family residential purposes by the Owners, their tenants, and social guests and no trade or business shall be conducted therein, except that Declarant and the successors or assigns of Declarant may use any Dwelling Unit or Units in the Properties owned by Declarant for a model home site or sites and display and sales office until the last Lot in the last phase is sold by Declarant.

**Section 6.02 Nuisances** No noxious or offensive activities (including but not limited to the repair of motor vehicles) shall be carried on upon the Properties. No horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of a Dwelling Unit and its contents, shall be placed or used in any such Dwelling Unit. No loud noises, noxious odors, noisy or smoky vehicles, large power equipment or large power tools, unlicensed off-road motor vehicles or items which may unreasonably interfere with television or radio reception of any Owner in the Properties, shall be located, used or placed on any portion of the Properties, or exposed to the view of other Owners, without the prior written approval of the Board of Directors of the Association which shall have the right to determine if any noise, odor or activity producing such noise or odor constitutes a nuisance. No Owner shall permit or cause anything to be done or kept on the Properties which will increase the rate of insurance thereon, result in the cancellation of such insurance, or obstruct or interfere with the rights of other Owners. No Owner shall commit or permit any nuisance on the Properties. Each Owner shall comply with all of the requirements of the local or state health authorities and with all other governmental authorities with respect to the occupancy and use of a Dwelling Unit. Each Owner shall be accountable to the Association and other Owners for the conduct and behavior of children visiting his Dwelling Unit and other family members or persons residing in or visiting his Dwelling Unit. Any damage to the Common Areas, the personal property of the Association, or the property of another Owner, caused by such children or other family members, shall be repaired at the sole expense of the Owner with whom such children or other family members or persons are residing or visiting.

**Section 6.03 Signs** No signs shall be displayed to the public view on any Lots or Dwelling Units or any portion of the Properties except signs as are approved by the Board. "For Sale" or "For Rent" signs shall be allowed provided they do not exceed four (4) square feet in size and that they are posted at such locations as may be designated by the Board, provided, however, that Declarant, its agents or assigns, may erect and maintain such signs and other advertising devices or structures as it may deem necessary or proper in connection with the conduct of its operations for the development, improvement, subdivision and sale of the Lots.

**Section 6.04 Animals** No animals, other than standard household pets, shall be kept on the Properties. No animals of any kind shall be bred and raised for commercial purposes. The Board of Directors shall have the right to prohibit maintenance of any household pet which, in the opinion of the Board, causes or creates a nuisance or unreasonable disturbance. Any Owner shall be absolutely liable to each and all other Owners, their families, guests, tenants and invitees for any damage to person or property caused by any animals brought or kept upon the Properties by an Owner or by members of his family, his tenants or his guests.

**Section 6.05 Garbage and Refuse Disposal** All Owners, except Declarant during the construction period, shall subscribe to a garbage collection service for the removal of all rubbish, trash and garbage from the Owner's Lot on a weekly basis. Trash, garbage, and other waste shall not be kept or allowed to accumulate, except in sanitary containers. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. All equipment, garbage cans, wood piles, or storage piles shall be kept screened and concealed from view of

other Dwelling Units, streets and Common Areas. Garbage containers may be placed at the street on and only on days of garbage pickup.

**Section 6.06 Declarant's Use of Properties During Construction and Sales** Declarant, its successors and assigns may use any of the Lots owned by Declarant for model home sites and display and sales offices, and may use such Lots for the erection and maintenance of dwellings and other structures, displays, exhibits and signs as may be deemed necessary and convenient by Declarant during the construction and sales period for ingress and egress in connection with the construction upon and the sale of lands owned by Declarant which are contiguous to the Properties.

**Section 6.07 Compliance with Law** No activity shall be conducted nor any use be made of the Properties in violation of any public law, statute, ordinance or regulation.

**Section 6.08 Drilling and Mining** No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any portion of the Properties, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted thereon. No derrick or other structure designed for use in boring for water, oil or natural gas shall be erected, maintained, or permitted upon the Properties.

**Section 6.09 Air Conditioners** No cooler, air conditioner, fan or similar device shall be installed or maintained in such manner as to project outward from any exterior surface of the building to which it is attached if such device is visible at eye level from any point on the front street property line of the Lot upon which such building is situated.

**Section 6.10 Radio and Television Cables, Antennae, Masts and Towers** No alteration to or modification of a central radio and/or cable television system, as developed by Declarant and as maintained by the Association, shall be permitted, and no Owner may be permitted to construct and/or use and operate his own external radio and/or television antenna or satellite dish without the consent of the Board, nor shall any mast or tower or similar structure be erected or maintained on or about any Dwelling Unit or any building or any portion of any improvement thereon, within the Properties unless the construction and use of such structure is in compliance with the rules of the Federal Communications Commission.

**Section 6.11 Draperies** All draperies or curtains visible from the street or Common Areas shall bear colors and/or patterns which are subject to the approval of the Board or its authorized committee.

**Section 6.12 Clothes Lines** No exterior clothes lines shall be erected or maintained and there shall be no outside laundering or drying of clothes. Further, no clothes washers, clothes dryers, refrigerators, or freezers may be kept, stored, or operated on any balcony, patio, porch or other exterior area.

**Section 6.13 Power Equipment** No power equipment, hobby shops or car maintenance



(other than emergency work) shall be permitted on the Properties except with prior written approval of the Board. Approval shall not be unreasonably withheld and in deciding whether to grant approval the Board shall consider the effects of noise, air pollution, dirt or grease, fire hazard, interference with radio or television reception, and similar objections.

**Section 6.14 Parking Restrictions** No non passenger or commercial vehicles shall be parked, stored or kept anywhere on the Properties, including driveways, except on an emergency basis or except to the extent necessary for normal commercial deliveries. The above prohibition shall include but not be limited to buses, recreational vehicles, farm vehicles or equipment, trailers, trucks with three (3) or more axles, six (6) or more wheels, or used as other than a private vehicle, motor homes, mobile homes or any other similar equipment or vehicle including any vehicle deemed a nuisance by the Board. No inoperable vehicle shall be stored anywhere on the Properties, except in an enclosed garage. No repair, restoration, or detailing work shall be performed to any vehicle anywhere on the Properties, except when performed in an enclosed garage. However, washing, waxing, cleaning and similar light maintenance work and loading and unloading of recreational vehicles in preparation for a trip shall be allowed on the Properties.

In addition, there shall be no on-street parking anywhere on the Properties, excepting those areas specifically designated for parking without prior administrative approval of the Association.

**Section 6.15 Temporary Buildings** No outstanding building, basement, tent, shack, shed or other temporary building or improvement of any kind shall be placed on any portion of the Properties, either temporarily or permanently. No garage, trailer, camper, motor home or recreational vehicle shall be used as a residence in the Properties, either temporarily or permanently. During the construction period, the Declarant, Association, or their designees are allowed to use trailers for storage and offices.

**Section 6.16 Inspection** During reasonable hours and after reasonable notice, any agent of Declarant, so long as it is an Owner of at least twenty-five percent (25%) of the Lots, or the Association, shall have the right to enter upon and inspect Lots for the purpose of ascertaining whether or not the provisions of this Declaration are being complied with and shall not be deemed guilty of trespass by reason thereof.

**Section 6.17 Color of Dwelling Units** All Dwelling Units shall be painted gray and white or a similar earth tone color.

**Section 6.18 Use of Common Area** Private street areas, driveways and walks shall be used only for vehicular and pedestrian circulation within the Properties.

**Section 6.19 Fences, Hedges, and Walls** Without the specific written approval of the Board, unless part of original construction, no fence, hedge, or wall of any type shall be erected or permitted on any Lot. No fire protection walkway may be obstructed in any way.

**ARTICLE VII: PARTY WALLS AND DIVISION FENCES**

**Section 7.01 Party Walls** Each wall, including its supporting foundations, which is built as part of the original construction of the Dwelling Units upon the Properties and placed immediately adjacent to or on the dividing line between Lots shall constitute a Party Wall, and to the extent not inconsistent with the provisions of this Article, the general rules of law, regarding Party Walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

**Section 7.02 Sharing of Repair and Maintenance** The cost of reasonable repair and maintenance of a Party Wall shall be shared equally by the coterminous Lot Owners.

**Section 7.03 Alterations of Party Walls** there shall be no alterations, impairments of, or permanent structural attachments made to any Party Wall by the adjacent Lot Owners thereof unless consented to by each of such Lot Owners. The Party Wall is a four hour fire protection barrier, approved by Douglas County fire authorities and Party Walls may not be penetrated in any way.

**Section 7.04 Destruction by Fire or Other Casualty** If a Party Wall is destroyed or damaged by fire or other casualty, any Owner whose property is affected thereby may restore it and the other Owner whose property is adjacent thereto shall contribute equally to the cost of restoration thereof without prejudice (if blanket liability insurance is not maintained by the Association).

This provision is subject to the right of an Owner(s) to call for a larger contribution from the other or a third party under any rule of law regarding liability for negligence or willful acts or omissions.

**Section 7.05 Weatherproofing** Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the Party Wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

**Section 7.06 Right to Contributions Runs with Land** The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title or interest.

**Section 7.07 Arbitration** In the event of any dispute arising concerning a Party Wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

**Section 7.08 Property Line** Should minor variations between exterior walls of Dwelling Units and the property line occur, the finished wall of the completed structure shall take

precedence over the building plans and shall be accepted by the Owners, their heirs or assigns as being the true property line.

**Section 7.09 Division Fences** Section VII Section 7.09 Second Amendment 2011

The fence separating or constructed on the dividing line between Lots shall constitute a "Division Fence". The fences to be constructed and designated Restricted Common Area for the use of the parcels identified as APNs 1320-30-813-048 and 1320-30-813-049, as allowed in the HAMER TRUST AND THE MOUNTAIN GLEN II HOMEOWNERS ASSOCIATION, INC. Boundary Line Adjustment recorded February 12, 2010 are hereby designated as Division Fences for all purposes. The new fenced area for said parcels identified as APNs 1320-30-813-048 and 1320-30-813-049 shall be constructed so as to allow a minimum ten feet (10') wide access to other Common Area and shall conform in materials, durability and appearance with other Division Fences.

**Section 7.10 Repair and Maintenance of Division Fences** Section VII Section 7.10 Second Amendment 2011

The cost of reasonable repairs and maintenance of the Division Fence shall be shared equally by the coterminous Lot Owners; except that the Owners of those parcels identified as APNs 1320-30-813-048 and 1320-30-813-049, as allowed in the HAMER TRUST AND THE MOUNTAIN GLEN II HOMEOWNERS ASSOCIATION, INC. Boundary Line Adjustment recorded February 12, 2010, shall be solely responsible for the construction, repairs, restoration (if necessary) and maintenance of the Division Fences defining the Restricted Common Area of which they each have exclusive possession.

**Section 7.11 Alterations of Division Fences** There shall be no alterations, impairment or permanent structural attachments made to any Division Fence by the adjacent Lot Owners thereof unless consented to by each of such Lot Owners and approved by the Board.

**Section 7.12 Destruction of a Division Fence** If a Division Fence is destroyed or damaged by fire or other casualty, any Owner whose property is affected thereby may restore it, and the other Owner whose property is adjacent thereto shall contribute equally to the cost of restoration thereof without prejudice (if blanket liability insurance is not maintained by the Association). This provision is subject to the right of any Owner(s) to call for a larger contribution from the other or a third party under any rule of law regarding liability for negligence or willful acts or omissions.

**Section 7.13 Miscellaneous** To the extent not inconsistent with the provisions of this Article the general rules of law regarding division fences and liability for property damage due to negligence or willful acts or omissions shall only apply to those portions of the property constituting Division Fences.

**ARTICLE VIII: DAMAGE, DESTRUCTION AND CONDEMNATION**

**Section 8.01 Damage and Destruction** In the event of damage or destruction by fire or other casualty to all or any portion of the Common Area or Improvements thereto covered by insurance payable to the Association, the Board shall, with the concurrence of mortgagees, if any, upon receipt of the proceeds, contract to rebuild or repair such damaged or destroyed portions of the property to as good condition as formerly. All such insurance proceeds shall be deposited in a bank or other financial institution with the provision that such funds may be withdrawn only by signature of at least three (3) Directors, or by a duly authorized agent of the Board. The Board shall obtain bids from at least three (3) reputable contractors, and then may negotiate with any such contractor, who may be required to provide a full performance bond for the repair or reconstruction of the property. In the event that insurance proceeds are insufficient to pay all the costs of repairing and or rebuilding, the Board shall levy a special assessment provided in Article IV hereof against all Owners equally.

**Section 8.02 Recovery of Damages for Damage or Destruction** The Association is authorized to commence or maintain actions for the recovery of any damages caused if all or any portion of the Common Areas is damaged or destroyed. Such action may be maintained in the name of Owners, may be joined with the action of Owners, may be prosecuted or settled by the Association as it sees fit and this provision shall survive the termination of these restrictions and any recovery minus costs advanced by the Association shall be used as provided for insurance proceeds under this Article.

**Section 8.03 Eminent Domain** The term "Taking" as used in this Section shall mean condemnation by eminent domain or sale under threat of condemnation. In the event of a threatened taking of all or any portion of the Common Area, the Members hereby appoint the Board and such persons as the Board may delegate to represent all of the Members in connection with the taking. The Board shall act in its sole discretion with respect to any awards being made in connection with the taking and shall be entitled to make a voluntary sale to the condemner in lieu of engaging in a condemnation action. Any awards received on account of the taking shall be paid to the Association. No Owner or mortgagee shall be entitled to participate as a party or otherwise, in any proceedings relating to such taking of the Common Area unless the association fails or refuses to act, such right of participation being herein reserved exclusively to the Association.

In the event of a threatened taking of all or any portion of Lots, wherein it appears that the threatened taking may result in severance damages to the Common Area, the Members hereby appoint the Board and such persons as the Board may delegate to represent all of the Owners in connection with severance damages to the Common Areas or Lots.

Notwithstanding anything to the contrary in this Section 8.03, the distribution of any award or awards for a taking of all or any portion of the Common Area, or for severance damages to the Common Area, shall be subject to the prior rights of mortgagees.

**ARTICLE IX: MORTGAGE PROTECTION**

**Section 9.01 Mortgage permitted** Any Owner may encumber his Lot with a mortgage.

**Section 9.02 Subordination** Any lien created or claim under the provisions of this Declaration is expressly made subject and subordinate to the rights of any first mortgage that encumbers any Lot, made in good faith and for value, and no such lien shall in any way defeat, invalidate or impair the obligation or priority of such mortgage unless the mortgagee expressly subordinates his interest in writing to such lien.

**Section 9.03 Restrictions on Certain Changes** Unless first mortgagees representing seventy-five percent (75%) of Lots have given their prior written approval, based upon one vote per mortgage held, neither the Association nor the Owners shall be entitled:

A. Abandonment. By act or omission to seek to abandon or terminated the Properties, except for abandonment provided by statute in case of substantial loss to the Lots and the Common Area.

B. Assessments. To change the prorata obligations of any Lot for purposes of levying assessments or charges.

C. Transfer. By act or omission to seek to abandon, partition, divide, encumber, sell or transfer the Common Area. Granting of easements for public utilities or for other purposes consistent with the intended use of the Common Area by the Association or the Owners shall not be deemed a transfer within the meaning of this sub paragraph.

D. Insurance Proceeds. To use hazard insurance proceeds for losses to Dwelling Units or Common Area for other than the repair, replacement or reconstruction of improvements, except as provided by statute in the case of substantial loss to the Dwelling Units or Common Area of the Properties.

**Section 9.04 Right to Examine Books and Records** First mortgagees may examine the books and records of the Association and may require the submission of financial data concerning the Association, including annual audit reports and operating statements as furnished to Owners.

**Section 9.05 Distribution of Insurance and Condemnation Proceeds** No owner, or any other party, shall have priority over any right of first mortgagees of Lots pursuant to their mortgages in case of distribution to Owners of insurance proceeds or condemnation awards for losses to or taking of Lots or Common Area. Any provision to the contrary in this Declaration or in the by-laws or other documents relating to the Properties is to such extent void.

All applicable fire and all physical loss or extended coverage insurance policies shall contain loss payable clauses acceptable to the affected mortgagees naming the mortgagees, as their interests may appear.

**Section 9.06 Notice to Mortgagees of Record** On any loss to any Dwelling Unit covered by a mortgage, if such loss exceeds one thousand dollars (\$1,000), or on any loss to the Common Area, if such loss exceeds five thousand dollars (\$5,000), or on any taking of the Common Area, notice in writing of such loss and taking shall be given to each mortgagee of record. If any Owner of a Dwelling Unit is in default under any provision of this Declaration or any other provision of the by-laws or rules and regulations adopted by the Association, which default is not cured within thirty (30) days after written notice to such Owner, the Association shall give to the mortgagee of record of such Owner written notice of such default and of the fact that said thirty (30) day period has expired.

**Section 9.07 Effect of Breach** No breach of any provision of this Declaration shall invalidate the lien of any mortgage in good faith and for value, but all covenants, conditions and restrictions shall be binding on any Owners whose title is derived through foreclosure sale, trustee's sale, or otherwise.

**Section 9.08 Foreclosure** If any Lot is encumbered by a mortgage made in good faith and for value, the foreclosure of any lien created by any provision set forth in this declaration for assessments, or installments of assessments shall not operate to affect or impair the lien of the mortgage. On foreclosure of the mortgage, the lien of assessment, or installments, that have accrued up to the time of foreclosure shall be subordinate to the lien of the mortgage, with the foreclosure-purchaser taking title to the Lot free of the lien for assessments, or installments that have accrued up to the time of the foreclosure sale. On taking title to the Lot, the foreclosure-purchaser shall only be obligated to pay assessments or other charges levied or assessed by the Association after the foreclosure-purchaser acquired title to the Lot. The subsequently levied assessments or other charges may include previously unpaid assessments provided all Owners, including the foreclosure-purchaser, and his successors and assigns, are required to pay their proportionate share as provided in this section.

**Section 9.09 Appearance at Meetings** Because of its financial interest in the properties, any mortgagee may appear at meetings of the Members and the Board to draw attention to violations of this Declaration that have not been corrected or made subject to remedial proceedings or assessments.

**Section 9.10 Right to Furnish Information** Any mortgagee may furnish information to the Board concerning the status of any mortgage.

**Section 9.11 Inapplicability of Right of First Refusal to Mortgagee** No right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey the Owner's Lot shall be granted to the Association without the consent of any mortgagee of the Lot. Any right of first refusal or option to purchase a lot that may be granted to the Association (or

other person, firm or entity) shall not apply to any conveyance or transfer of title to such Lot, whether voluntarily or involuntarily, to a mortgagee who acquires title to or ownership of the Lot pursuant to the remedies provided in its mortgage or by reason of foreclosure of the mortgage or deed (or assignment) in lieu of foreclosure.

**ARTICLE X: GENERAL PROVISIONS**

**Section 10.01 Enforcement** The Association shall enforce the terms of this Declaration.

A. Authority. The Association shall have the power, authority and duty to enforce this Declaration.

B. Penalties and Disciplinary Action. The Association may impose fines or take disciplinary action against any Owner for failure to pay assessments or for any violation of any provision of this Declaration, the by-laws, the Articles, or the rules and regulations of the Association provided that the Association complies with the procedures set forth below in this paragraph and, provided further that Members have received a copy of these procedures. Penalties may include but are not limited to: fines, temporary suspension of voting rights, or other appropriate discipline. No penalty shall be imposed unless the accused Member is given at least fifteen (15) days written notice thereof. The notice shall describe the penalty to be imposed, the reasons therefore, and shall give the accused Member an opportunity to be heard at least five (5) days prior to the date on which the penalty is to take effect.

Notwithstanding the powers set forth in this sub paragraph B, the Association shall have no power to cause a forfeiture or abridgment of an Owner's rights to the full use and enjoyment of his individually owned Subdivision Interest on account of a failure by the Owner to comply with provisions of this Declaration, the by-laws, the Articles or the rules and regulations of the Association except where the loss of forfeiture is the result of the judgment of a court or a decision arising out of arbitration or on account of a foreclosure or sale under power of sale for failure of the Owner to pay assessments levied by the Association.

C. Proceeding at Law or in Equity. The Association, or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, assessments, liens, penalties and charges now or hereafter imposed by the provisions of this Declaration, and in such action shall be entitled to recover reasonable attorney's fees as are ordered by the court. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**Section. 10.02 Severalty** Invalidation of any one (1) of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

**Section 10.03 Term and Amendment** The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended only by the affirmative vote of not less than seventy-five percent (75%) of each class of the Association Members, if the two class voting structure is still in effect. Under the single class voting structure, amendment of this Declaration shall require both the affirmative vote of seventy-five percent (75%) of the total voting power of the Association and at least a bare majority (51%) of the votes of Members other than Declarant. However, the percentage of voting power necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. All such amendments must be recorded and shall become effective upon being recorded in the Recorder's Office of Douglas County.

**Section 10.04 Annexation** Additional residential properties may be annexed to the Property described in Exhibit A.

**A. Other Properties.** Additional residential property and Common Area property may be annexed to the Properties with the consent of two-thirds (2/3) of each class of Members.

**B. Declarant. Annexation by Declarant without Approval of Members.** Additional residential property and Common Area Property within the area described in Exhibits B and C attached hereto and incorporated by reference herein may be annexed by Declarant without the consent of the Members, provided that:

(1) The annexation occurs within three (3) years of the sale of the first Lot in the first phase of the development.

(2) The Federal Housing Administration determines that the annexation be in accord with the general plan of phased development heretofore approved by it.

**C. Conveyances of Common Area.** Prior to the conveyance of any Lot within the real property annexed pursuant to paragraphs A or B of this Section 10.4 to the purchaser thereof for residential purposes, fee simple title to the Common Area within said annexed real property shall be conveyed to the Association, free and clear of all liens and financial encumbrances.

**D. Declaration of Annexation.** Each addition authorized under paragraph A and B of this Section 10.04 shall be made by filing of record a declaration of annexation with respect to the additional property described therein and thereupon said real property shall become and constitute a part of Mountain Glen II, become subject to this Declaration and encompassed within the general plan and scheme of the covenants, conditions and restrictions contained herein, and become subject to assessment by the Association and to the functions, powers and jurisdiction of the Association and the Owners of Lots in said real property shall automatically become Members of the Association.

Such declaration of annexation may contain such additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the



different character if any, of the added real property, or as Declarant may deem appropriate in the development of such real property, and as are not inconsistent with the general plan and scheme of this Declaration. In no event, however, shall such declaration of annexation revoke, modify or add to the covenants, conditions and restrictions established by this Declaration as the same pertain to the Properties described in Exhibit A hereto.

E. Effect of Annexation on Voting Provisions. Following annexation of additional properties pursuant to Paragraphs A or B of this Section 10.04, and all provisions of this Declaration requiring a quorum, vote.

Section 10.05 FHA/VA Approval As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: (1) annexation of additional properties, (2) dedication of Common Area, and (3) amendment of the Declaration of Conditions, Covenants, and Restrictions.

Section 10.06. Special Provision for Bond Enforcement When improvements to Common Areas which are included in the subdivision offering have not been completed and the Association is an obligee under a bond or other arrangement, hereinafter referred to as the "Bond" to secure performance of the commitment of the Declarant or other person to complete the improvements, the following provisions shall apply.

A. Vote in enforcement. The Board is required to consider and vote on the question as to whether the Association shall enforce the obligations under the Bond with respect to any improvement for which a Notice of Completion has not been filed within sixty (60) days after the completion date specified for that improvement in the Planned Construction Statement appended to the Bond. If the Association has given an extension in writing for the completion of any Common Area improvement, the Board is required to consider and vote on the question, if a notice of completion has not been filed within thirty (30) days after the expiration of the extension.

B. Failure to Vote. If the Board fails to consider and vote on the question as to whether the Association shall enforce the obligation under the Bond as set out in Subsection (a) above, or if the Board decides not to initiate action to enforce the obligations under the Bond, Members representing not less than five percent (5%) of the total voting power of the Association may call a special meeting of the Association's Members by presenting a petition demanding such a meeting signed by such Members to the Board or to the President or Secretary of the Association.

On receipt of such petition, the President or Secretary shall call a special meeting of the Members to be held not less than thirty-five (35) days or more than forty-five (45) days after receipt of the petition.

C. Vote by Members. At the meeting called for in Section 10.06(B) above, the Members shall consider and vote on the questions that the Board is required to consider in Section 10.06(A) above.

D. Association Decision. If a majority of the voting power of the Association residing in Members other than the Declarant vote to take action to enforce the obligations under the Bond, that vote shall be deemed to be the decision of the Association and the Board shall thereafter implement this decision by initiating and pursuing appropriate action in the name of the Association.

**Section 10.07. Owner's Right and Obligations to Maintain and Repair** Except for those portions of the Properties that the Association is required to maintain and repair, each Owner shall at his sole cost and expense maintain and repair his Dwelling Unit and Lot, keeping the same in good condition. In the event that an Owner fails to maintain his Lot, Dwelling Unit or any other improvements situated upon his Lot in a manner which the Board deems necessary to preserve the appearance and value of the property, the Board may notify the Owner of the work required and request that it be done within sixty (60) days from the giving of such notice. In the event the Owner fails to carry out such maintenance within the sixty (60) day period, and after approval by two-thirds (2/3) vote of the Board, the Association shall have the right through its contractors, agents and employees to enter upon said Lot and to repair, maintain, and restore the Lot and the exterior of the buildings and any other improvements erected thereon. The Association shall especially assess the cost thereof to such Owner and following notice and hearing, if necessary, place a lien on his Lot for the amount thereof.

**Section 10.08. Entry for Repairs** The Board or its contractors, agents or employee may enter any Dwelling Unit or Lot when necessary in connection with any maintenance, repair or construction which the Association determines to perform pursuant to Section 10.07. Such entry shall be made with as little inconvenience to Owner as is practicable and any damage caused thereby shall be repaired by the Board at the expense of the Association. Except in the case of any emergency, twenty-four (24) hour advance notice shall be given to the Owner or occupant prior to any such entry.

**Section 10.09. Notices** Any notice permitted or required by this Declaration or by By-laws may be delivered either personally or by mail. If delivery is by mail, it shall be deemed to have been delivered forty-eight (48) hours after a copy of the same has been deposited in the United States Mail, postage prepaid, addressed to each person at the current address given by such person to the Secretary.

**Section 10.10 Liability of Members of Board** No member of the Board shall be personally liable to any Owner, or to any other person, including Declarant, for any error or omission of the Association, its representatives and employees, or the manager provided, however, that such member has with the actual knowledge possessed by him, acted in good faith.

**Section 10.11 Conflicts in Governing Documents** In the event of any conflict between this Declaration and the Articles of Incorporation or By-laws of the Association the provisions of this Declaration shall control.

**Section 10.12 Number and Gender** The singular and plural number and masculine, feminine and neuter gender shall each include the other whether the context requires.



**CERTIFICATION**

We, the undersigned, certify:

1. We are the duly elected and qualified officers of the Mountain Glen II Homeowners Association.

2. This Amended and Restated Declaration of Covenants, Conditions and Restrictions was duly approved on January 5, 2011, by the Mountain Glen II Homeowners Association in accordance with the procedures for amendment as set forth in Section 10.03 of the Declaration of Covenants, Conditions and Restrictions.

Dated: January 13, 2011

MOUNTAIN GLEN II HOMEOWNERS ASSOCIATION, INC.

By: Judy Bray  
Judy Bray, President

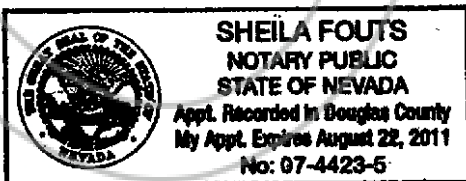
By: Dennis A. Rowell  
Dennis Rowell, Secretary

**ACKNOWLEDGMENT**

STATE OF NEVADA )  
 ) : ss.  
COUNTY OF DOUGLAS )

On January 13, 2011, before me, Sheila Fouts, Notary Public, personally appeared Judy Bray and Dennis Rowell, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.



[Signature]  
NOTARY PUBLIC

**EXHIBIT "A"**

**A portion of land located within portions of Sections 30 and 31, Township 13 North, Range 20 East, M.D.B. & M., Douglas County, Nevada, described as follows:**

**Lots 13 through 26 in Block B, and Lots 1 through 34 in Block C, as set forth on the Final Map of MOUNTAIN GLEN, PHASE 2, filed for record in the office of the County Recorder of Douglas County, State of Nevada on September 28, 1989, in Book 989, Page 3823, as Document No. 211874.**