

**Pikes Peak Mountain Estates
Homeowners Association, Inc.**

***DECLARATION
OF AMENDED
COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS***

DECLARATION OF AMENDED COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR PIKES PEAK MOUNTAIN ESTATES

Table of Contents

FORWARD	5
ARTICLE 1--- PRESERVING THE RESIDENTIAL CHARACTER OF THE SUBDIVISION	6
Section 101. Property Uses	6
Section 102. Structures	7
Section 103. Construction Type	7
Section 104. Storage	7
Section 105. Substantial Completion	7
Section 106. Construction Completion	7
Section 107. Drilling Structures and Tanks	8
Section 108. Easement	8
Section 109. Underground Utilities	8
Section 110. Maintenance Agreement	8
ARTICLE 2 --- DENSITY, SETBACK AND QUALITY STANDARDS	8
Section 201. Resubdivision	8
Section 202. Setback Areas	8
Section 203. Dwelling Area Requirements	9
Section 204. Height Restrictions	9
Section 205. Roofs	9
Section 206. Building Material Standards	9
Section 207. Accessory Building and Yard Items	9
Section 208. Antennas	9
Section 209. Fire Resistant Materials	10
Section 210. Owner Maintenance	10
Section 211. Rebuilding or Restoration	10

Section 212. Fences	10
Section 213. Chimneys	11
Section 214. Driveways	11
Section 215. Approval by the Board of Directors	11
Section 216. Relief from Violations	10
Section 217. Compliance with Zoning and other Laws	11
Section 218. Stormwater drainage	12
Section 219. Solar Collectors	12
ARTICLE 3 --- LIVING ENVIRONMENT STANDARDS	12
Section 301. Building and Grounds Conditions	12
Section 302. Garage Doors	12
Section 303. Maintenance Equipment	13
Section 304. Clotheslines	13
Section 305. Refuse	13
Section 306. Nuisances	13
Section 307. Mowing, Pruning, Weeds, Pests and Insects	13
Section 308. Grading Patterns	14
Section 309. Animals	14
Section 310. Trailers, Campers, Boats and Other Vehicles	15
Section 311. Vehicle Violations	16
Section 312. Vehicle Repairs	16
Section 313. Signs	16
Section 314. Mailboxes	17
ARTICLE 4 --- ARCHITECTURAL CONTROL	17
Section 401. Building Approval	17
Section 402. Development Approval	18
Section 403. Forest Management, Inspection and Thinning Programs	18
Section 404. Approval Process	19
Section 405. Variances	19

ARTICLE 5 --- Board of Directors	20
Section 501. Composition of the Board of Directors	20
Section 502. Board Authority	20
Section 503. Delivery of Items	21
Section 504. Non-Liability	21
ARTICLE 6 --- WATER AND LANDSCAPE FEATURES	21
Section 601. Water Augmentation and landscaping	21
Section 602. Landscaping	21
ARTICLE 7 --- COVENANTS FOR ASSESSMENTS	21
Section 701. Assessments	21
Section 702. Purpose of Assessments	22
Section 703. Assessments, Liens and Personal Obligation	22
Section 704. Payment of Assessments	22
Section 705. Limit on Annual Assessments	22
Section 706. Collection of Assessments	23
Section 707. Protection of Lenders	24
ARTICLE 8 --- GENERAL PROVISIONS FOR EFFECT OF THE COVENANTS	24
Section 801. Definitions	24
Section 802. Captions	27
Section 803. Association Resolves Questions of Construction.	27
Section 804. Covenants Run With the Land	27
Section 805. Covenants are Cumulative	27
Section 806. Waivers	27
Section 807. Enforcement	28
Section 808. Duration of Restrictions	28
Section 809. Amendment and Extensions	28
Section 810. Termination	28
Section 811. Severability	28
Section 812. Action in Writing	28

Section 813. Notices	28
ARTICLE 9 --- COMMON AREA	29
Section 901. Title to the Common Area	29
Section 902. Non-Division of Common Area	29
Section 903. Owners' Common Area Easement of Enjoyment	29
Section 904. Extent of Owners' Common Area Easement	29
Section 905. Delegation of Use	31
Section 906. Association Maintenance	31
EXHIBIT A	33
EXHIBIT B	33
EXHIBIT C	34

FORWARD

Pikes Peak Mountain Estates Homeowners Association, Inc. (hereinafter “HOA”) desires to place protective covenants, conditions, restrictions, reservations, liens and charges upon the Subdivision to protect the Subdivision's quality residential living environment and to protect its desirability, attractiveness and value. This document is a continuation of the original Declaration of Covenants, Conditions, Restrictions and Easements for Pikes Peak Mountain Estates recorded June 4, 2002 at Reception # 202090022. Any conflict between this document and the original Declaration shall be resolved utilizing this document.

The legal description of Pikes Peak Mountain Estates is described in Exhibit A attached hereto and incorporated herein by this reference (hereinafter called the "Subdivision").

The Pikes Peak Mountain Estates HOA hereby declares that all of the Subdivision as hereinafter described, with all appurtenances, facilities and improvements thereon, shall be held, sold, used, improved, occupied, owned, resided upon, hypothecated, encumbered, liened, and conveyed subject to the following easements, reservations, uses, limitations, obligations, restrictions, covenants, provisions and conditions, all of which are for the purposes of enhancing and protecting the value, desirability and attractiveness of the Subdivision and all of which shall run with the land and be binding on and inure to the benefit of all parties having any right, title or interest in the Subdivision or any part thereof, their heirs, successors and assigns. References to the Pikes Peak Mountain Estate Homeowners Association’s Board of Directors hereinafter are referred to as the “Board”.

ARTICLE 1--- PRESERVING THE RESIDENTIAL CHARACTER OF THE SUBDIVISION

Section 101. Property Uses.

Single Family Requirement. Each Lot shall be used and/or occupied for single-family residential dwelling purposes only for the Owner and members of his or her family and for occasional guests and for single family tenants. "Single Family" is defined as "one or more persons who are related by blood, marriage, civil union, or legal adoption occupying and/or using the single-family home on the Lot as a single housekeeping unit". No Lot shall be used and/or occupied for non-single family and/or non-residential purposes or any other occupancy or use as determined by the Board in its discretion as stated in this document. Any violation of the restrictions shall allow the Board to impose fines for such violations and/or allow the Board to obtain injunctive relief without the posting of a bond, and the Board shall recover all of its attorney's fees and expenses of enforcement.

Leasing Requirements. No Lot or Dwelling Unit shall be leased, occupied or rented unless the following conditions are met:

- (a) the initial term of any lease or other tenancy shall be at least one (1) year in duration, and thereafter, no tenancy or rental shall be for any period of less than thirty (30) continuous, consecutive days unless subsection (b) below applies.
- (b) unless the Owner resides and is present in the residential dwelling at the same time as the dwelling is rented, rental or occupancy for profit for short-term, vacation, time-sharing, transient or hotel purposes is prohibited.
- (c) If one of the Owners is an active Military member and is ordered to deploy to an area outside of Colorado, that Owner is allowed to rent their home for less than the one-year requirement as stated in Section 101 (a).
- (d) all leases shall be in writing;
- (e) all leases shall provide that the terms of the lease, and the tenant's occupancy of the Lot or Dwelling Unit shall be subject in all respects to the provisions of the Association's Declaration and its Rules;
- (f) the Association's Board may require that an Owner submit a copy of each lease or occupancy agreement to the Board, and to enforce it against the tenant; and
- (g) the Association's Board may make Rules which limit the maximum occupancy permitted upon a Lot.

Home Based Businesses. Residents shall be permitted to conduct business and work from their homes on the condition that the operation of such business or work remains indiscernible to the community, such as an Internet business, or home office function. The home business or work shall not create noise, dust, vibration, smell, smoke, glare, electrical interference, and fire hazard, congestion to traffic flow, parking problems, or any other nuisances or hazards disturbing the peace, quiet and residential nature of the community.

Only persons residing in the home may be employed by a home business at the location of the home business. A home business that includes the coming and going of workers, clients, customers and other persons shall not be permitted, including childcare facilities.

The storage or display of materials, goods, supplies or equipment related to the operation of a home business shall not be allowed anywhere in public view. There shall be no signs, marked parking spaces, or any structures supporting or indicating the presence of a home business.

Vehicles that are visibly in support of a home business shall be parked in the garage if at all possible. If this is not possible, only one such vehicle, not exceeding $\frac{3}{4}$ ton capacity, may be parked in the driveway at the location of the home business at any time. Homeowners may appeal to the Board for variations and or waivers to Section 101.

Section 102. Structures. No structures shall be erected or placed within the Subdivision except single-family dwellings and those accessory buildings and other structures which have been reviewed and approved by the Board by using the Pikes Peak Mountain Estate Design Guide which is attached to this document. Other than a dwelling, no structure, no trailer, tent or other similar or dissimilar temporary quarters may be used for living purposes.

Section 103. Construction Type. All construction shall be new. No building previously used at another location nor any building or structure originally constructed as a mobile dwelling or manufactured housing may be moved onto a lot, except as expressly hereinafter provided for temporary buildings.

Section 104. Storage. No building materials shall be stored on any lot-except temporarily during continuous construction of a building or its alteration or improvement.

Section 105. Substantial Completion. A structure shall not be occupied in the course of original construction until substantially completed and approved for occupancy by the appropriate governmental authorities.

Section 106. Construction Completion. The construction of all buildings or other structures must be completed within one year after the commencement of construction except where such completion is impossible or would result in great hardship due to strikes, fires, national emergency or natural calamities. If not so completed, or if construction shall cease for a period of sixty days without permission of the Board, the Board will give the owner thereof due notice of such fact. If construction on such structure is not diligently commenced within thirty days after such notice, the unfinished structure or unfinished portion thereof shall be deemed a nuisance and shall be removed forthwith by and at the cost of the owner. In the event of a catastrophic loss due to fire, the Lot owner may appeal to the Board for an extension to this requirement.

Section 107. Drilling Structures and Tanks.

No lot within the community Area shall be used in any manner to explore for or to remove any oil or other hydrocarbons, minerals of any kind, gravel, earth or any earth substance of any kind. The foregoing is not intended to prohibit temporary drilling to obtain samples in connection with the investigation of soils or temporary drilling necessary in the construction of improvements.

Section 108. Easement. There are hereby reserved to Pikes Peak Mountain Estates HOA, its successors and assigns, perpetual, alienable, divisible and releasable easements and the right from time to time to grant such easements to others over, under, in and across each of the fifteen foot strips within each lot along and adjoining each and all lot lines of each lot lines for use of all or part of such areas for lines for transmission of electric current or impulses or electronic signals, for heat and fuel lines, for utility lines, for water lines supporting fire hydrants, for drainage and for other similar or dissimilar facilities and purposes, and for any one or more of such purposes.

Section 109. Underground Utilities. All utilities, except lighting standards and customary service devices for meters, transformers, access, control or use of utilities, shall be installed underground.

Section 110. Maintenance Agreement. The Association hereby adopts the Road Maintenance Agreement referred to in these Covenants as Maintenance Agreement Recorded at Reception No. 201161503 of the records of the El Paso County Clerk and Recorder and said Maintenance Agreement is incorporated herein by this reference. The Maintenance Agreement applies to every Lot within the Subdivision.

ARTICLE 2 --- DENSITY, SETBACK AND QUALITY STANDARDS

Section 201. Resubdivision. No more than one dwelling Structure, and an attached garage for not more than four cars, shall be erected within any Lot. Appeals to Section 201 can be made to the HOA. Lots are to be no less than two and one half (2 ½) acres.

Section 202. Setback Areas. Structures and buildings, including Accessory Buildings shall generally be placed or erected at least twenty-five (25) feet from any Lot Line. Variances from the setback guidelines must be approved by the Board of Directors, but in no case shall setbacks be less than required by El Paso County. Setbacks shall be measured perpendicularly from property line to the foundation line for any building. Except with approval of the Board of Directors, no building, porch, eaves, overhang, projection or other part of a building shall be located closer to Lot Lines than permitted by these Covenants or governmental requirements. The Board of Director's approval may be given for (a) fireplace projections integral with the building; (b) eaves and overhangs; and (c) construction which extends less than one foot into the setback area and which the Board of Directors determines to be minor in nature and to be consistent with the Lot's shape, topography and in the interest of superior design.

Section 203. Dwelling Area Requirements. All dwelling area requirements shall be the same as those required by the Pikes Peak Mountain Estate Design Guide which is attached to this document.

Section 204. Height Restrictions. No dwelling or other Structure shall exceed thirty (30) feet in height or be more than two stories high. Height shall be measured from the highest finished grade contour at any point adjoining the foundation perimeter of the Structure to the highest point on the Structure exclusive of standard chimneys. Finished grade contour shall mean the ground contour established by the Board during development of the Lots and existing immediately prior to commencement of construction of any dwelling or other Structure, or such other finished grade as may be approved by the Board.

Section 205. Roofs. All roof requirements shall be the same as those required by the Pikes Peak Mountain Estate Design Guide which is attached to this document.

Section 206. Building Material Standards. All Building Materials requirements shall be the same as those required by the Pikes Peak Mountain Estate Design Guide which is attached to this document.

Section 207. Accessory Building and Yard Items. Accessory Buildings or Structures such as storage sheds and yard items, whether movable or immovable, including without limitation, children's play or swing sets, basketball hoops, equipment or appliances, fountains, yard ornaments, stone figures, or above ground swimming pools, shall be permitted only if approved by the Board in its sole discretion.

Section 208. Antennas. No aerial or antenna or other device for reception or transmission of commercial radio, HAM (amateur radio) or Citizens Band ("CB") radio shall be maintained on the roof of any building. From the date of these amended covenants forward, any satellite dishes, TV antennas or wireless cable antennas installed by a homeowner must be less than 1 meter (3.28 feet) in diameter. It is preferred that any satellite dish installed will be installed in such a manner as to be reasonably screened from the site of other homeowners.

Section 209. Fire Resistant Materials.

- a. All roofing material shall be non-combustible or fire resistive Class A, B, or C rated.
- b. All exterior walls shall have a fire resistance rating as required by applicable governmental requirements. Materials such as stucco, rock and brick shall be encouraged.
- c. All under-eaves vents shall be located near the roofline rather than near the wall. All eaves shall be boxed.

- d. All windows and patio doors shall be in accordance with current building codes.
- e. Masonry patios and/or one-hour fire rated decks shall be encouraged to create a setback safety zone.

Section 210. Owner Maintenance. Each Owner shall maintain the exterior of the dwelling and any Accessory Building and all other Structures, lawns and landscaping, walks and driveways, in good condition as determined by the Board, shall cause dead or diseased landscaping (to include removal of dead trees and underbrush as well as removal of trees with mistletoe and/or signs of presence and/or damage from pine beetles) to be promptly replaced and shall cause such other items to be repaired or replaced as the effects of damage or deterioration become apparent. Exterior building surfaces and trim shall be repainted, sealed or stained periodically and before the surface has a weather-beaten or worn appearance as determined by the Board.

Section 211. Rebuilding or Restoration. Any dwelling or building which may be destroyed in whole or in part by fire, windstorm or from any other cause or act of God must be rebuilt or all debris must be removed and the Lot restored to a sightly condition; such rebuilding or restoration shall be completed with reasonable promptness and in any event within twelve months from the time the damage occurred. Exceptions to this policy may be appealed to the Board.

Section 212. Fences and Dog Runs. No fences, other than those stated herein, shall be erected on any Lot or elsewhere in the Community Area, except in accordance with plans and specifications approved in advance by the Board. Temporary landscaping fencing is permitted around new plantings for the purpose of safeguarding the planting from wildlife until the planting no longer needs the fencing for protection.

There shall be no dog runs installed on any property unless such dog run receives prior proper approval from the HOA Board as described in this document.

Section 213. Chimneys. All fireplaces and chimneys or other devices for open flames will be equipped with a spark arresting screen or other similar device acceptable to the Board.

Section 214. Driveways. All drives, driveways and walks for vehicular or pedestrian ingress and egress shall be constructed of black asphalt, or concrete.

Section 215. Approval by the Board of Directors. Home plans shall be subject to review and approval by the Board, which may require that a \$100 non-refundable filing fee be paid with each submission, plus a \$500 refundable compliance fee. No home may begin construction until plans are approved in writing by the Board and erosion control Structures are in place.

Section 216. Relief from Violations. If any object, including without limitation, aerial, antenna, solar collection, satellite dish or other device or any fence, accessory building, or improvement, is installed or placed without the approval of the Board or any action taken in violation of these Covenants, the Board shall have the right after Due Notice, but not the obligation, to enter the Lot in question and remove the object or correct the action. The Board shall not be liable for any losses, costs or damages to any Owner of the Lot on account of such removal of the offending object or correcting action, except for any such loss, cost or damage caused by the Board' gross negligence or willful misconduct. The Board may delegate their entry and removal rights hereunder to agents and independent contractors. In the event the Board elects to remove an object or correct the action pursuant to this section, the Board will submit to the Owner of the Lot from which the object was removed, a written statement of the costs incurred by the Board in removing the object or action corrected. These costs shall be paid to the Board within twenty days after receipt of such notice. If the costs of the Board have not been paid after expiration of this twenty-day period, the Board may thereafter record a lien against the Lot involved for all costs (including without limitation reasonable attorneys' fees) incurred by the Board in removing the object or correcting the action and in collecting such costs and foreclosing upon the lien, which lien shall be junior to all other liens or encumbrances of records with respect to the Lot on the date this lien is recorded. This lien may thereafter be foreclosed upon in the manner provided by Colorado law for foreclosing upon real estate mortgages. This lien shall provide that all sums expended by the Board in foreclosing the lien and collecting the amount due the Board (including reasonable attorneys' fees and other expenses) shall be additional indebtedness secured by the lien.

Section 217. Compliance with Zoning and other Laws. In the construction or any Structure or use of any Lot, the Owner shall comply with all federal, state and local laws and regulations, all of which are incorporated herein by this reference and may be enforced as part of these Covenants. Such laws and regulations shall include without limitation the notes and restrictions or the recorded Plat and the subdivision regulations of El Paso County. All construction must also conform to the building codes, zoning codes and subdivision regulations of El Paso County and the Regional Building Department, which regulations may vary from the provisions of these Covenants; in the event of any conflict, the most restrictive requirements shall prevail and control.

Section 218. Stormwater Drainage. Owners of Lots that include roadside drainage ditches, culverts under driveways, and detention areas must maintain these features so that they remain free of debris and in operable condition. Detention areas are recessed areas on the uphill side of a storm drainage pipe that crosses a street and are present on Lots 3,4, 11, 13, 14, 15, and 18. Ditches, culverts under driveways, and detention areas must be kept clear of obstruction from landscaping, trash or other objects to maintain the free flow of storm water. If an owner fails to properly maintain a drainage ditch, culvert under a driveway or detention area, the HOA shall have the right to but not the obligation to maintain the feature to ensure the flow of storm water through the system. The HOA is hereby granted an easement to maintain and repair each drainage ditch, culvert, or detention area.

Section 219. Solar Collectors. Any type of “renewable energy generation device or solar energy device”, as defined in C.R.S. 38-32.5-100.3, shall not be prohibited. However, the installation and maintenance of such a device shall fall under the provisions of Article 4 of this document. As it relates to renewable energy generation device or solar energy device and Article 4, the Board may impose aesthetic provisions that impose reasonable restrictions on the dimensions, placement, or external appearance of such a device as long as those restrictions do not:

1. Significantly increase the cost of the device or
2. Significantly decrease its performance or efficiency.

Given the nature of these devices and their ever-expanding associated technology, the Board will make their determinations on a case-by-case basis.

The Board shall impose bona fide safety requirements such as the device must be installed utilizing the most current appropriate building code(s) and/or the latest recognized electrical safety standard(s) that will provide the utmost protection of persons and property.

ARTICLE 3 --- LIVING ENVIRONMENT STANDARDS

Section 301. Building and Grounds Conditions. Each Owner shall prevent the development of any unclean, unsightly or unkempt conditions or building or grounds on their Lot, which tends to substantially decrease the beauty of the neighborhood as determined by the Board in its sole discretion.

Section 302. Garage Doors. All garage doors shall be equipped with automatic remote control openers and shall be kept closed for security purposes except when owners are actively entering or exiting the garage or working in the vicinity of the garage

Section 303. Maintenance Equipment. All maintenance equipment shall be stored in an enclosed building or otherwise adequately screened so as not to be visible from neighboring property or adjoining streets.

Section 304. Clotheslines. All outdoor clothes poles, clotheslines or other facilities for drying or airing of clothing or household goods are prohibited, unless reasonably screened from view on adjoining Lots and public streets. All such items will fall under the authority of the Board as per Article 4. There are no restrictions or prohibition of any type of retractable clothesline. See C.R.S. § 38-33.3-106.7 (1)(b)(V)

Section 305. Refuse. No ashes, trash, rubbish, garbage, grass or shrub clippings, scrap material or other refuse, or receptacles or containers therefore, shall be stored, accumulated or deposited outside the residential dwelling or Accessory Building or so as to be visible from any neighboring property or street, except for refuse collection.

Section 306. Nuisances. No noxious or offensive activity shall be carried on upon any Lot or anything done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to the neighborhood.

- a. No offensive or hazardous activities may be carried on any Lot or in any living unit.
- b. No annoying sounds or odors shall be permitted to emanate from any living units. Complaints from residents about annoying sounds or odors may be submitted to the Board for review and an appropriate response.
- c. No floor lights, spotlights or other bright lights shall be allowed which shine beyond the boundaries or are visible from the roads or other Lots; indirect lighting (Dark Sky Compliant) shall be required.
- d. No Owner or guest of an Owner shall drive on the roadways of Pikes Peak Mountain Estates HOA property at speeds exceeding 20 m.p.h.

Section 307. Mowing, Pruning, Weeds, Pests and Insects.

- a. All yards and open spaces and the entire area of every Lot whether or not a Structure has been constructed thereon, shall be kept free from plants, thistle or weeds infected with noxious insects or plant diseases and from weeds or thistle, which in the reasonable opinion of the Board or as specified by governmental authorities, are likely to cause the spread of infection or weeds to neighboring property.
- b. The Association will mow or spray as necessary for noxious weeds in the Common Area and will require Owners to control noxious weeds on their Lots. The Association and the Owners shall notify the owners in Pikes Peak Mountain Estates prior to any spraying.

According to the Colorado Noxious Weed Act, a noxious weed is an alien plant or parts of an alien plant that have been designated by rule as being noxious or has been declared a noxious weed by a local advisory board, and meets one or more of the following criteria:

1. Aggressively invades or is detrimental to economic crops or native plant communities;
2. Is poisonous to livestock;
3. Is a carrier of detrimental insects, diseases, or parasites;
4. The direct or indirect effect of the presence of this plant is detrimental to the environmentally sound management of natural or agricultural ecosystems.

The Colorado Noxious Weed List is separated into four categories; Lists [A](#), [B](#), [C](#), and the "[Watch List](#)." The lettered lists consist of regulated species with management plans varying according to list. The "Watch List" is an unregulated list of species that may be considered noxious in Colorado once more is known about the biology and behavior of the plants. See ag.colorado.gov/conservation/noxious-weeds/faq

- c. Homeowners are responsible to control pests and insects on their lots.
- d. The Owner of any Lot whether or not a Structure has been constructed thereon, shall mow, cut, prune, clear and remove from the Lot any unsightly brush, weeds and other unsightly growth and shall remove any trash that may collect or accumulate on the Lot to minimize fire danger. The Board has the right (but not the duty) to enter any Lot and perform this work after Due Notice to the Owner, at such Owner's expense.

Section 308. Grading Patterns. Any material change to the ground level, slope, pitch or drainage patterns of any Lot must be approved by the Board. Erosion control Structures shall be required prior to commencement of construction. Any proposed plot plans or plot plan changes must be reviewed and approved by a registered professional engineer for proper on-site drainage. Following any changes to the original plot plans, the engineer must certify to the County that the changes proposed were complied with.

Section 309. Animals

- a. No animals, livestock or poultry of any kind may be housed, raised or kept on any lot except that commonly accepted domestic household pets may be kept. No animals shall be kept, bred or maintained within the Subdivision for any commercial purposes. No farm animals shall be permitted. The Association may adopt reasonable rules and regulations that regulate, restrict or prohibit particular animals or animal related activities within the Subdivision. No animal of any kind shall be permitted which in the opinion of the Board makes an unreasonable amount of noise, odor or is a nuisance. A maximum of five pets per household is permitted.
- b. Animals must be kept under control to preserve the public's health and safety. Dogs must either be physically restrained on a leash or similar tether, or in a kennel, fence, invisible fence, or trained to immediately respond to voice, whistle, or hand commands. Dogs are not permitted to run at large.
- c. Incessant dog barking is disturbing to the peace and quiet of the neighborhood and is a violation of county ordinances. If a resident's dog(s) barks, bays, howls, or otherwise excessively disturbs the peace and quiet of the neighborhood it will be considered a covenant violation.
- d. All dogs and cats residing in the Subdivision shall have rabies shots per Colorado law. Dogs must be licensed in El Paso County per county ordinance. Licensing of cats is strongly recommended. Owners are encouraged to have microchips implanted in their dogs and cats.
- e. Pet owners who walk their dogs in the neighborhood must remove their pet's solid waste from common areas, neighborhood streets, and other neighbor's lots so as not to create a health hazard or public nuisance. Pet owners are also encouraged to remove pet waste

from their own lots to reduce odors and health hazards for themselves and their neighbors.

- f. For problems or issues with animals that have been reported, the HOA will respond initially to the homeowner of such animals. If the problem or issue cannot be resolved between the owner and the HOA, it will be referred either to the Humane Society or the applicable County authority responsible for the issue.

Section 310. Trailers, Campers, Boats and Other Vehicles. No boat, trailer, camper (on or off supporting vehicles), tractor, commercial vehicle, mobile home, motor home, recreational vehicle, motorcycle, any towed trailer unit or truck, excepting only pickup trucks solely for the private use of the residents of a dwelling, shall be parked for more than five days, as determined by the Board in its sole discretion, on any street or within any Lot, except in a completely enclosed Structure.

If any such vehicle is not removed from the Subdivision or placed in a completely enclosed Structure, within three days after Due Notice is delivered to the Owner of the Lot on or adjacent to which the offending vehicle is parked, then the Board shall have the right, but not the obligation to enter the Lot in question, remove or cause to be towed the offending vehicle and may store the same; any expenses thereof, including without limitation, reasonable attorneys' fees shall be paid by the owner of the offending vehicle. The Board shall not be liable from any losses, costs or damages to any Owner of the Lot or the owner of the vehicle on account of such removal of the offending vehicle, except for any such loss, cost or damage caused by the Board's gross negligence or willful misconduct.

Section 311. Vehicle Violations. No stripped down, abandoned, unlicensed, partially wrecked or junk motor vehicle or part thereof, as determined by the Board in its sole discretion, shall be permitted to be parked on any street or on any Lot in such a manner as to be visible from any neighboring property or street.

Section 312. Vehicle Repairs. No maintenance, servicing, repair, dismantling or repainting of any type of vehicle, motorcycle, boat, machine or device may be carried on within the Subdivision except within a completely enclosed Structure which screens the sight and sound of the activity from the street and from adjoining property.

Section 313. Signs. The only signs permitted on any Lot or Structure shall be:

- a. One sign of a maximum of five (5) square feet for offering the signed property for sale or for rent;
- b. One sign of a maximum of three square foot for identification of the occupant and address of any dwelling;

- c. Two security system signs;
- d. Signs as may be necessary to advise of rules, regulations, caution or warn of danger; as well as notice of HOA events;
- e. Political signs shall not be placed prior to six weeks before an election and shall be removed the day after the election. As used herein the term “political sign” means a sign that carries a message intended to influence the outcome of an election by supporting or opposing the election of a candidate, the recall of a public official, or the passage of a ballot issue. Such a sign shall be no larger than six (6) square feet in area.
- f. Such signs as may be required by law;
- g. Signs approved by the Board. Except for permitted signs, there shall not be used or displayed on any Lot or Structure any signs or any banners, streamers, lights or other devices calculated to attract attention whether for sale or rental or otherwise unless approval thereof is granted by the Board. All permitted signs must be professionally painted, lettered and constructed.
- h. Nothing in this paragraph shall restrict a Resident from displaying the American flag as long as the Resident abides by the Freedom to Display the American Flag Act of 2005, Pub.L. No. 109-243, 120 Stat. 572 and the United States Flag Code, 4 USC § 5.

Section 314. Mailboxes. Mailboxes for the community will be in one location which is outside the entrance gate on Pikes Peak Highway. The mailboxes will be installed in accordance with the U.S. Post Office design specifications and will be maintained by the HOA

ARTICLE 4 --- ARCHITECTURAL CONTROL

Homeowners Association. The Association shall operate as a Colorado nonprofit corporation pursuant to its Articles of Incorporation and By-laws, which may include, without limitation, provisions for the indemnification of officers and directors. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Members shall have the right to cast votes on all matters to be voted on by the members, as provided in the Association's Articles of Incorporation and Bylaws. Each Lot shall be entitled to one vote.

The Association's Board shall appoint itself as provided by Section 501 of these Covenants. The Association's Board may adopt rules and regulations, including without limitation,

construction, use and design standards and procedures for architectural control appeals from the Board, and fines for violations of rules and these Covenants, to supplement and interpret these Covenants and any rule or decision of the Board shall be final, conclusive and binding on all Owners and other persons or parties. Pursuant to C.R.S. 38-33.3-116, the Association and the Property shall be subject only to C.R.S. 38-33.3-105 (38-33.3-105. Separate titles and taxation), 38-33.3-106 (Applicability of local ordinances, regulations, and building codes) and 38-33.3-107 (Eminent domain), and no other sections of said Article 33.

Section 401. Building Approval. No Structure, as defined in Section 801 (1), construction or improvement shall be commenced, erected or placed on any Lot, permitted to remain on any Lot or altered in any way so as to materially change the Lot's previously existing exterior appearance, except in accordance with plans, specifications and other information submitted to the Board and approved by the Board no more than one year before start of the construction, alteration or installation. Matters which require the approval of the Board include but are not limited to: the exterior appearance, material, color, height and location of each Structure, construction or improvement on any Lot. In granting or withholding approval, the Board shall consider among other things: the adequacy of the materials for their intended use, the harmonization of the external appearance with the surroundings, the proper relation of the Structure, construction or improvement to the environment and to surrounding uses, the degree to which the proposed Structure preserves existing natural vegetation, the degree, if any to which the proposed Structure or covering will cause intrusions of sound, light or other effect, including without limitation, any blockages of view corridors established by the Board on neighboring sites beyond those reasonably to be expected in a quality residential area from considerate neighbors. Notwithstanding the foregoing or any provision of these Covenants, the houses and improvements, which exist on the Property when these Covenants are recorded, shall not be subject to architectural review and standards hereunder, but any modifications or additions thereto shall be.

Section 402. Development Approval. No Structure as defined Section 801 (1), construction or improvement shall be commenced, erected, or placed on any Lot nor shall any land be graded or otherwise disturbed for purposes of development or any other purpose unless such disturbance is undertaken in accordance with a plan submitted to Board and approved by the Board no more than one year before start of the disturbance and erosion control Structures are in place. The requirements for the plans, including grading plan, erosion control and reclamation, and landscaping plans, and any other requirements, may be set forth in rules and design standards adopted by the Association's Board and must be consistent with the laws and regulations of El Paso County. The Lots shall be maintained in a state compatible with the natural forest surroundings, except as approved by the Board and except that a reasonably sized lawn and/or garden may be planted around the house. The objectives of such plans are to conserve the unique natural features and aesthetic qualities of the subdivision;

- a. To minimize land disturbance;
- b. To protect natural plant and animal communities;

- c. To minimize water runoff and soil erosion problems incurred in adjustment of the terrain to meet development needs.
- d. To assure proper restoration of disturbed areas.
- e. To avoid or reasonably mitigate visual impacts upon offsite areas. Mitigation measures may include, but are not limited to:
 - i. Alternative-locating of Structures so that there is a mount or hillside backdrop to the Structure from areas where the Structure is visible. However, this shall not preclude placing of Structures on ridgelines when an alternate site is not available.
 - ii. Use of existing vegetation to soften structural mass when building sites are located in highly visible areas.
 - iii. Use of supplementary native landscaping to soften structural mass when building sites are located in highly visible areas.
 - iv. Use of visually compatible stabilization measures for cuts and fills.

Section 403. Forest Management, Inspection and Thinning Programs.

a. The trees within the Subdivision are an important asset to the entire community. Therefore, the Lot Owners should be responsible for an ongoing and perpetual program or inspection to identify potential insect and disease problems in a timely manner. For the benefit of all Lot Owners, the Board shall provide educational materials related to the process of properly thinning trees to achieve National Fire Protection Association (NFPA) standards for better wildfire control, to promote a healthy growth of existing trees, to maintain views, and to provide for the growth of new trees to perpetuate the forest. The thinning process is not intended to create a "tree farm" look or to replicate perfect fire protection recommendations. The object is to create a natural look to assist nature and promote an environment as healthy, beautiful and safe as possible.

Given that the end result for our community complying with NFPA standards is the safety and wellbeing of all of our homes, it is asked that Lot Owners will voluntarily comply with such standards.

The Board does encourage Lot Owners to access the information on the NFPA's website for other educational materials and links for the latest standards and updates. That website is <https://www.nfpa.org/Public-Education>

Additionally, the Board has included as an Exhibit to this document a set of voluntary procedures for Lot Owners related to wildfire mitigation.

Section 404. Approval Process. All action required or permitted to be taken by the Board shall be in writing and any such written statement shall establish the action of the Board and shall protect any person relying on the statement. If the Board does not execute and acknowledge such a statement within sixty days (60) after delivery of all the required materials to the Board, the materials so delivered shall be deemed approved for the purpose of these Covenants. The Board may charge reasonable fees to cover expenses incurred in review of plans, samples and materials submitted pursuant to these Covenants, exclusive of reimbursement to the members of the Board for their services. The Board shall be entitled to retain one copy of all approved plans as part of its files and records.

Section 405. Variances. The Board shall have the authority to grant a variance from the terms of these Covenants, subject to terms and conditions which may be fixed by the Board and which will not be contrary to the interests or the Owners and residents of the Subdivision where, owing to exceptional and extraordinary circumstances, literal enforcement of any section will result in unnecessary hardship.

Following an application for a variance:

- a. The Board shall, within sixty days (60) after the request for the variance was delivered, determine whether to grant or deny the variance. If the Board fails to act on the request for a variance within this sixty day (60) period, the variance will be deemed granted.
- b. A variance granted there under shall run with the Lot for which granted.
- c. A variance shall not be granted unless the Board shall find, in its sole discretion, that all of the following conditions exist:
- d. The variance will not authorize the operation of a use other than private, single family residential use;
 - i. Owing to the exceptional and extraordinary circumstances, literal enforcement of the section above enumerated will result in unnecessary hardship.
 - ii. The variance will not substantially or permanently injure the use of other property in the Subdivision;
 - iii. The variance will not alter the essential character of the Subdivision;
 - iv. The variance will not weaken the general purposes of these Covenants;
 - v. The variance will be in harmony with the spirit and purpose of these Covenants;
 - vi. The circumstances leading the applicant to seek a variance are unique to the Lot

or its Owner and are not applicable generally to lots in the Subdivision or their Owners.

- e. If the Board denies the request for a variance, the applicant may request a meeting of the Owners be held to reconsider the denial. In this case, the Board shall call a meeting of Owners of lots in the Subdivision, to be held after Due Notice at the Board's principal office, at which meeting all Owners shall have an opportunity to appear and express their views. Whether or not anyone appears at the meeting in support or not in opposition to the application for variance, the Board shall within one week after the meeting either grant or confirm its denial of the variance. The decision to grant or deny the variance shall always rest with the Board.
- f. If a variance is denied, another application for a substantially similar variance for the same lot may not be made for a period of one year after submittal of the original request.

Section 406. Firepits: No Owner or guest of the Owners shall have any open wood fires including campfires unless in a containment vessel or structure (fire pit) which must be placed no less than 15 feet away from any structure, combustible vegetation, or other combustible material. An approved container shall be made of a non-combustible material such as steel, concrete, or stone and be equipped with a spark arrester (screen) covering the top with openings not exceeding ¼ inch in width. When an outdoor wood fire is burning an adult must be present, the spark arrester screen must be in place, and a fire extinguisher and/or a working water hose must be kept within 15 feet of the fire.

Owners and their guests must obey all state and county fire orders. Violations of state or county fire orders will be referred to the El Paso County Sheriff's Office.

ARTICLE 5 --- Board of Directors

Section 501. Composition of the Board of Directors. The Board of the Association may, by majority vote, appoint or change the membership of the Board so long as the members of the Board are Owners of Lots within the Subdivision. Whenever a member shall be deceased, unwilling, or unqualified to act, the Board of the Association shall appoint an Owner of a lot within the Subdivision as a member of the Board to fill the existing vacancies.

Section 502. Board Authority. The Board is empowered to approve or disapprove in writing all matters delegated to it under these Covenants, including without limitation, all plans for construction, site locations, clearing, plantings, fencing, additions to existing Structures, remodeling that alters the exterior, replacement of natural environment of Lots or appearance of homes in the subdivision. Disapproval of submissions by the Board may be based upon any grounds, including purely aesthetic grounds. If such submissions are disapproved, the Board shall give written reason for said requirements of the applicant including, but not limited to,

submission of additional plans, specifications, and material samples, and may require such changes as it deems necessary to conform to the overall intent as herein expressed.

The Board shall have the right to alter site locations as shown on the submitted site plan, or deny construction if, in the opinion of the Board, the proposed site locations will unduly interfere with adjoining Lots as to view, intrusions or sound or light, sanitation, proximity or type of construction, actual or proposed, or unduly damaged the natural growth and terrain.

The Board may prohibit the construction of fences, Structures, houses or any other improvements to any Lot, and is empowered to order their removal if written application was not made by the Owner, or if approval was not granted in accordance with these Covenants, or if actual construction is different from the approved plans.

The Board shall be the sole and exclusive judge of whether or not plans or Structures comply with these Covenants. It is the intent of these Covenants that the Board shall exercise broad discretionary powers hereunder. The Association's Board shall resolve all questions and interpretations of these Covenants which shall be interpreted in accordance with their general purpose and intent as herein expressed; the Board's decisions shall be final and conclusive.

Section 503. Delivery of Items. Any item required or permitted to be delivered to the Board shall be deemed properly delivered when actually received by the Board at such address as it may from time to time designate.

Section 504. Non-Liability. Members of the Association's Board shall not be liable to any party whatsoever for any act or omission unless the act or omission is in bad faith and amounts to wanton and willful misconduct.

ARTICLE 6 --- WATER AND LANDSCAPE FEATURES

Section 601. Landscaping. The Common Area shall be landscaped and maintained to enhance the attractiveness of the Subdivision as a residential area and to preserve the enjoyment of the appearance and open space afforded by said Common Area.

ARTICLE 7 --- COVENANTS FOR ASSESSMENTS

Section 701. Assessments. The Association shall assess lot Owners for the costs of common expenses as determined by the Association's Board. The assessments shall be imposed equally upon each Lot and each Owner.

Section 702. Purpose of Assessments. Assessments may also be levied by the Association's Board of Directors for promoting the health, safety, property values, welfare and convenience of the members, including the enforcement of these Covenants, and to pay for the costs of the ownership, maintenance, watering, mowing, fertilization and landscaping the

Common Area, and any other common expenses as determined by the Association's Board including without limitation, maintenance, administrative, legal and insurance, including without limitation, insurance on the Common Area and Association activities, which insurance shall, to the fullest extent reasonably available and practical, meet the requirements of C.R.S. 38-33.3-313 (Insurance), as now existing or hereafter amended, the common fences, property boundary fences, monument signs and related landscaping, street signs, maintenance and repair of drainage and detention facilities within the Common Area, tree inspection and thinning programs, as it may relate to the Board and other activities of the Association. The Association shall perform any obligations required of it under the recorded Maintenance Agreement with El Paso County recorded at Reception No. 201161503 of the records of the El Paso County Clerk and Recorder.

Section 703. Assessments, Liens and Personal Obligation. Each Owner, by acceptance of a conveyance of his/her Lot, whether or not it shall be so expressed in the conveyance, shall be deemed to agree to pay Association annual assessments and other assessments authorized by these Covenants. Each such assessment and charge, together with the interest thereon and costs of collection, shall be a continuing lien upon the Lot against which it is made and shall also be the personal obligation of the person who owned the Lot at the time the assessment or charge fell due.

Section 704. Payment of Assessments. The foregoing assessments shall be payable in advance in annual or other installments as the Association's Board may fix. The Board may set the annual assessment in any amount which does not exceed the maximum set forth in Section 705 hereof. The Association's Board shall give each member written notice of each assessment at least ten (10) days in advance of the due date. Such notice shall state the amount of the assessment and if the assessment is payable in other than in a single payment, the amount and due dates of each installment as fixed by the Association's Board. Failure to give such notice shall not affect or impair the assessment, but shall postpone its effective date.

Section 705. Limit on Annual Assessments. The maximum annual assessment may be increased by the Association's Board at a rate not to exceed five percent (5 %) per year, provided however, that notwithstanding any contrary provision, the annual average common expense assessment of each Lot, exclusive of any optional user's fees and any insurance premiums paid by the Association, shall never exceed \$300.00 per year, or such higher limit as may be allowed now or hereafter by C.R.S. 38-33.3-116 for homeowner associations which are not subject to said Act. It is the Board's stated intent that these Covenants, the Property and the Association will not be subject to the Colorado Common Interest Ownership Act, except for Sections 38-33.3-105, 38-33.3-106, 38-33.3-107, as provided in Section 38-33.3-116. Any references herein to said Act are only for the purposes of describing or imposing similar rights and duties and do not make said Act generally applicable hereto.

Section 706. Collection of Assessments.

a. **Personal Liability.** Any assessment which is not paid when due shall be delinquent, and the Association may impose a late charge for each month any assessment is delinquent, and may also collect the attorney's fees, costs and expenses of any collection. Additionally, the Association may bring an action at law against any Owner personally obligated to pay any assessment and, in the event of any lawsuit, the delinquent Owner shall pay all attorney's fees, court costs and any expenses of such lawsuit.

b. **Late Fee Assessments.** If any assessment is not paid when due, the Association may impose a late fee of twenty-five (\$25) for each month, or portion thereof, the assessment remains unpaid. If any assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, and/or may foreclose the lien against the property, and/or exercise any other rights or remedies, and in the event of any delinquency the Association shall be entitled to collect interest on the assessment as above provided, and a reasonable attorney's fee, together with the expenses and costs of collection.

c. **Lien.** Any such unpaid assessment, together with all expenses of collection and attorney's fees, shall be a continuing lien upon the Lot against which such assessment was made. The Association may enforce such lien by filing with the Clerk and Recorder of El Paso County a statement of lien with respect to said Lot, setting forth such information as the Association may deem appropriate. Said lien shall run with the land and shall additionally secure all assessments and expenses which become due after its filing. Said lien may be foreclosed by the Association in the manner provided for foreclosures of mortgages under the laws and statutes of the State of Colorado. All rights and remedies of the Association are cumulative, and foreclosure of the lien shall not prevent a lawsuit against the Owner personally liable therefore whether taken before, after or during such foreclosure. Said lien may be released by recording an appropriate document executed by an officer or agent of the Association. Such lien is in addition to any statutory lien allowed to the Association by law or statute. Said lien shall be superior and prior to any homestead rights or similar exemption now or hereafter provided under state or federal law to any Owner, whose acceptance of a deed to a Lot shall constitute a waiver of such homestead or other rights.

d. **Payment Plan.** If a Lot owner is having financial difficulty, he/she/they may petition the Board to avail themselves of a payment plan for delinquent dues.

e. **Written Notice of Delinquent Accounts.** Before Pikes Peak Mountain Estates HOA forwards a delinquent account to an attorney or collection agency, the HOA will provide a notice to the Owner specifying:

1. The total amount due, including an accounting;
2. The name and contact information that the Owner may contact to request a copy of the ledger to verify the amount due;

3. The Owner must take action to cure the delinquency and;
4. Failure to cure the delinquency within 30 days may result in the account being turned over to a collection agency, a lawsuit being filed against the Owner, the filing and foreclosure of a lien against the Owner's property and other remedies available under Colorado law.

Section 707. Protection of Lenders. The lien for any assessment provided for herein shall be subordinate to the lien of a First Mortgage recorded before the delinquent assessment was due. Sale or transfer of any Lot shall not affect the lien for said assessment except that sale or transfer of any Lot pursuant to foreclosure of any such First mortgage or any proceeding in lieu thereof, including deed in lieu of foreclosure, shall extinguish the lien of any assessment which became due prior to any acquisition of title to such Lot by the First Mortgagee pursuant to any such sale or transfer or foreclosure, of any proceeding in lieu thereof including, without limitation, any deed in lieu of foreclosure. No such sale, transfer, foreclosure or any above-described proceeding in lieu thereof, shall relieve any Lot from liability for any assessment becoming due after such acquisition of title, nor from the lien thereof, nor the personal liability or the Owner of such Lot for assessments due during the period of their ownership.

ARTICLE 8 --- GENERAL PROVISIONS FOR EFFECT OF THE COVENANTS

Section 801. Definitions. The following words and expressions used in these Covenants have the meanings indicated below unless the context clearly requires another meaning:

- a. **Accessory Building.** Detached garages, patios, swimming pools, covers, enclosures, dressing rooms or other similar Structures, spas, hot tubs, gazebos, recreation facilities and other buildings customarily used in connection with the single family residence.
- b. **Approving Authority.** The architectural review board established pursuant to Section 501 of these Covenants.
- c. **Association/HOA.** The Pikes Peak Mountain Estates Homeowners Association, Inc., a Colorado nonprofit corporation, which has been organized under the laws of the State of Colorado, its successors and assigns.
- d. **Building Site.** The location within a Lot on which a Structure may be erected with the prior written approval of the Approving Authority, including the "building envelope" described herein.

- e. **Common Area.** All real property and improvements deeded or otherwise transferred to the Association for the use and benefit of its owners, which may include easements, erosion control and drainage Structures. Tract A as shown on the Plat shall be part of the Common Area.
- f. **Covenants.** These Covenants and the provisions contained in it, and any amendments thereto.
- g. **Declarant.** The ATV Partners, L.L.C., a Colorado limited liability company, its agents, employees, contractors, successors and assigns to whom it expressly transfers all or any part of its rights as Declarant hereunder. The Pikes Peak Mountain Estates Homeowners Association and/or the Board of Directors are the valid successors to the Declarant.
 - a. **Due Notice.** Due Notice means written notice sent by the United States mails either first class or certified mail, return receipt requested, or by hand delivery to the Lot or the Owner at least ten days prior to the action required by the notice.
 - b. **Easements.** A right held by one property owner (in this case Pikes Peak Mountain Estates HOA) to make use of the land of another for a limited purpose, as a right of passage or for a public benefit such as placing utility lines.
 - c. **Enumeration's Inclusive.** A designation which describes parcels or other things as from one number, letter or other designation to another includes both such numbers, letters or other designations and all in between.
 - d. **Gender and Number.** Whenever the context permits, Owner or Owners shall be deemed to refer equally to persons of both sexes and to entities or corporations, singular to include plural and plural to include singular.
 - e. **Group homes.** Any use of a dwelling for other than a single family home.
 - f. **Lot.** Each area designated as a Lot in any recorded Plat of the Subdivision.
 - g. **Lot Lines.** Front, side and rear Lot Lines shall be the same as defined in the zoning regulations of El Paso County in effect from time to time. In the absence

of such a definition, a front Lot Line is each boundary line (whether one or more) between the Lot and any public street. A side Lot Line is any boundary line that meets and forms an angle with a public street except that for a corner Lot with two front Lot Lines, the side Lot Line is the boundary that forms an angle with the street that affords the principal access to the Lot.

- h. **Mortgagee/First Mortgagee.** Any person or entity, or any successor or assign thereof, which holds or owns a deed of trust, mortgage or similar encumbrance. The term shall also include the Administrator of the Department of Veterans Affairs, an office of the United States of America, and their assigns under any executed land sales contract wherein the said Administrator is identified as the seller, whether such contract is recorded or not but if not recorded, then written notice thereof shall be delivered to the Board. "First Mortgage" shall mean a mortgage upon a Lot having priority of record over all other recorded encumbrances and liens thereon, except those governmental liens made superior by statute (such as general ad valorem tax liens and special assessments). "First Mortgagee" means a mortgagee whose encumbrance is a First Mortgage.
- i. **Multi-family homes.** No dwelling within the subdivision shall house more than one family unit.
- j. **Owner.** Person or entity having fee simple legal title to a Lot. If more than one person has such title, all such persons are referred to collectively as "Owner" and shall exercise their rights as an Owner through such one of them as they may designate from time to time. A vote of Owners shall be determined on the basis of one vote for each Lot.
- k. **Plat.** The plat that has been or will be recorded for this Subdivision.
- l. **Structure.** Anything or device, including related improvements, such as Accessory Buildings, painting, fences, trees and landscaping, the placement of which upon any Building Site might affect its architectural appearance, including by way of illustration and not limitation, any dwelling, building, garage, porch, shed, greenhouse, driveway, walk, patio, swimming pool, tennis court, fence, wall, tent, covering, antenna, mailbox, solar collector, wind turbine, or outdoor lighting. Structure shall also mean an excavation or fill the volume of which exceeds five cubic yards or any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface waters upon or across any Lot or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel upon or across any Lot.
- m. **The Subdivision.** The area described in Exhibit A hereto and any property added subsequently by the Association as provided in these Covenants.

n. ***Vacation Rentals.*** No dwelling within the Subdivision shall be used for a vacation rental.

Section 802. Captions. Captions, titles and headings in these Covenants are for convenience only and do not expand or limit the meaning of the section and shall not be taken into account in construing the section.

Section 803. Association Resolves Questions of Construction. If any doubt or questions shall arise concerning the true intent or meaning of any of these Covenants, the Association's Board shall determine the proper construction of the provision in question; the Board may set forth its decision in written instruments duly acknowledged and filed for record with the Clerk and Recorder of El Paso County; those decisions will thereafter be binding on all parties so long as they are not arbitrary or capricious.

Section 804. Covenants Run with the Land These Covenants shall run with the land and shall inure to and be binding on each Lot and upon each person or entity hereafter acquiring ownership or any right, title and interest in any Lot in the Subdivision.

Section 805. Covenants are Cumulative. Each of these Covenants is cumulative and independent and is to be construed without reference to any other provision dealing with the same subject matter or imposing similar or dissimilar restriction. A provision shall be fully enforceable although it may prohibit an act or omission sanctioned or permitted by another provision. Any and all rights and remedies of the Association and the Board are distinct and cumulative to any other right or remedy hereunder or afforded by law or equity and may be exercised concurrently, independently or successively without affect or impairment upon one another.

Section 806. Waivers. Except as these Covenants may be amended or terminated in the manner hereinafter set forth, they may not be waived, modified or terminated and a failure to enforce shall not constitute a waiver or impair the effectiveness or enforceability of these Covenants. Every person bound by these Covenants is deemed to recognize and agree that it is not the intent of these Covenants to require constant, harsh or literal enforcement of them as a requisite of their continuing vitality and that leniency or neglect in their enforcement shall not in any way invalidate these Covenants or any part of them, nor operate as an impediment to their subsequent enforcement and each such person agrees not to plead as a defense in any civil action to enforce these Covenants that these Covenants have been waived or impaired or otherwise invalidated by a previous failure or neglect to enforce them.

Section 807. Enforcement. These Covenants are for the benefit of the Owners, jointly and severally, the Association, and the Board and may be enforced by action for damages, suit for injunction, mandatory and prohibitive, and other relief, and by any other appropriate legal remedy, instituted by one or more Owners, the Association, or the Board, or any combination

of these. All costs, including reasonable attorneys' fees, incurred by the Association or by the Board in connection with any successful enforcement proceeding initiated by them (alone or in combination with Owners) shall be paid by the party determined to have violated these Covenants. Any party exercising its right to enforce these Covenants shall not be required to post any bond as a condition to the granting of any restraining order, temporary or permanent injunction or other order. The rights and remedies for enforcement of these Covenants shall be cumulative, and the exercise of any one or more of such rights and remedies shall not preclude the exercise of any of the others.

Section 808. Duration of Restrictions. Unless sooner terminated as provided in Section 809, the restrictions and other provisions set forth in these Covenants shall remain in force until January 1, 2030 and shall be automatically renewed for successive periods of ten years unless before the end of any ten year extension, there is filed for record with the Clerk and Recorder of El Paso County an instrument stating that extension is not desired, signed and acknowledged by Owners of at least two-thirds (2/3's) of the Lots in the Subdivision. However, the provisions of Section 601 shall not terminate except by order of the Water Court, which may amend, modify or change such provisions by judicial order.

Section 809. Amendment and Extensions. From time to time any one section of these Covenants (except Sections 109 and 601) may be amended or a new section may be added to these Covenants by an instrument signed and acknowledged by the Association's Board certifying approval by Owners of at least two-thirds (2/3's) of the Owners which are filed of record with the Clerk and Records of El Paso County.

Section 810. Termination All sections of these Covenants (except Sections 109 and 601) may be terminated at any time by an instrument signed and acknowledged by the Association's Board certifying approval by Owners of at least two-thirds (2/3's) of the Lots as filed of record with the Clerk and Recorder of El Paso County.

Section 811. Severability. If any of these Covenants shall be held invalid or become unenforceable, the other Covenants shall not be affected or impaired but shall remain in full force and effect.

Section 812. Action in Writing Notices, approval, consents, applications and other action provided for or contemplated by these Covenants shall be in writing and shall be signed on behalf of the party who originates the notice, approval, consent, applications or other action.

Section 813. Notices Any notice or writing described in these Covenants, including but not limited to any communication from the Board to an Owner, shall be sufficiently served if delivered by mail or otherwise: (a) to the dwelling situated on the Lot owned by the Owner; or (b) if there is no dwelling, then to the address furnished by the Owner to the Board and if the Owner has not furnished an address, then to the most recent address of which the Association has a record.

ARTICLE 9 --- COMMON AREA

Section 901. Title to the Common Area. The Association shall hold title to the Common Area that may include drainage areas and Structures, entry areas and signs, and other areas. The Common Area shall be maintained and insured by the Association, which shall also maintain, repair and replace the common fences, common signs and all other maintenance described in Section 702 hereof. Subject to the limitations and restrictions of these Covenants, title to the Common Area shall be conveyed by Declarant to the Association in fee simple or granted by easement.

Section 902. Non-Division of Common Area. The Common Area shall remain undivided and shall not be subject to partition by the Owners. By the acceptance of their deed or other instrument of conveyance or assignment, each Owner specifically waives their right to institute and/or maintain a partition action or any other action designed to cause a division of the Common Area. Each Owner specifically agrees not to institute any action therefore. Further, each Owner agrees that this Section may be pleaded as a bar to the maintenance of such an action. A violation of this provision, or any other provision of these Covenants, shall entitle the Association to personally collect, jointly and severally, from the parties violating the same, the actual attorney fees, costs and other damages the Association incurs in connection therewith. It is agreed by all Owners that the foregoing restrictions are necessary to preserve the rights of all Owners regarding the operation and management of the Common Area.

Section 903. Owners' Common Area Easement of Enjoyment Subject to the limitations and restrictions of these Covenants, every Owner shall have an equal, nonexclusive right and easement of enjoyment in and to the Common Area, and such easement shall be appurtenant to and shall pass automatically with the title to every Lot without the necessity of additional reference.

Section 904. Extent of Owners' Common Area Easement The rights and easements of enjoyment created hereby in the Common Area shall be subject to the following:

- a. The right of the Association to enforce the restrictions contained in these Covenants and to promulgate and publish rules and regulations with which every Owner, their family members, guests, and tenants shall strictly comply including, but not limited to, the right of the Association to establish reasonable charges for the use of all or a portion of the Common Area if deemed necessary;
- b. The right of the Association, as provided in its Articles or Bylaws, to suspend an Owner's voting rights and the right to the use of the Common Area for any period during which such Owner is in default under these Covenants, including without limitation the non-payment of any assessment levied by the Association,

and to make such suspensions for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

- c. The right of the Association to close or limit the use of the Common Area while maintaining, repairing and making replacements in the Common Area;
- d. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes, subject to such conditions as may be imposed by the public entity; for example, if any drainage Structures are private and have not been built to County specifications and so might not be accepted by them;
- e. The rights of the Association as set forth in the Association's Articles of Incorporation and Bylaws, including, without limitation, to borrow money for the purpose of improving the Common Area and to mortgage said property as security for any such loan;
- f. The right of the Association to take such steps as are reasonably necessary to protect the Common Area against foreclosure;
- g. The right of the Pikes Peak Mountain Estates Homeowners Association to construct improvements on the Common Area, and notwithstanding any provision of these Covenants to the contrary, Declarant reserves the right to create, grant and transfer non-exclusive easements in, under, over, across, through, and upon the Property for the purpose of installing, maintaining, repairing and replacing any utilities or related services, including but not limited to any gas, electric, water or sewer line, wells, mains or laterals, any telephone and cable television lines, any heating or cooling installations, any master television antenna system, any drainage or retention areas, or for other public purposes consistent with the intended use of the Property under these Covenants.
 - i. The foregoing easements shall include, without limitation, the right of ingress and egress, the right to erect and maintain the necessary pipes, wires, poles and other equipment and the right to enter into agreements relating to such utility service and casements; all of which shall be binding upon the Association and the Owners.
 - ii. Should any person or party furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, The Board shall have the right to grant such easement on the Property without conflicting with the terms hereof. The foregoing easements shall be in addition to any other recorded casements on the Property, including, but not limited to, any easements granted in the recorded subdivision map.

- h. The Association hereby reserves easements across the Common Area to enable the Association to access, construct, maintain and use wells on the Common Area as may be desirable for the Association in conjunction with the Association's reserved water rights, and as may be necessary in support of the administration of the Augmentation Plan.

Section 905. Delegation of Use. Any owner may delegate, in accordance with the Bylaws, their right enjoyment to the Common Area and facilities to the member of their family, their tenants and his/her guests, who reside on their Lot. Each Owner shall, to the maximum extent permitted by law, be liable for any damage done to the Common Area by his/her family, tenants, and guests and for any breach of the Association's rules and regulations by such persons.

Section 906. Association Maintenance. The Association shall provide all repair, replacement, improvement and maintenance of the Common Area and all improvements located thereon, including without limitation, if applicable, any landscaping, sprinkler system, any wells, parking, roadways, driveways, utility lines, ponds, recreational areas, trail easements, any drainage Structures or facilities or public improvements to the extent applicable and any light fixtures, sidewalks, and pathways, or other improvements located on the Common Area. The Association shall maintain and be responsible for keeping the common drainage areas and Structures clear and free of silt to insure the areas drain properly. The Association shall advise the El Paso County Highway Department when maintenance of drainage areas and Structures is needed, under the terms of the Maintenance Agreement, and shall notify the owner of the Ranch Property.

These changes and amendments to the Covenants for Pikes Peak Mountain Estates Homeowners Association supersede the original Covenants recorded July 4th, 2002 at Reception # 202090022. These changes and Amendments were approved by the required 2/3rd's majority of the Owners at the 2021 Annual Meeting.

IN WITNESS WHEREOF, the Pikes Peak Mountain Estates, Inc has executed these Covenants this _____ day of _____, 2022

Pikes Peak Mountain Estate Homeowners
Association, a Colorado Non-Profit Corporation

By: _____
Title: _____

STATE OF COLORADO)
) SS.
COUNTY OF EL PASO)

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said
Association this _____day of_____, 2022.

Secretary

EXHIBIT A

REAL PROPERTY

The legal description of Pikes Peak Mountain Estates is as follows:

See Exhibit A1 attached hereto.

EXHIBIT B

Pikes Peak Mountain Estate Design Guide

See Exhibit B1 attached hereto

EXHIBIT C

Voluntary Wildfire Mitigation Guide

Wildfire Mitigation. All dwelling Structures should have a thirty-foot (30) safety zone or primary fuel break in all directions. All combustible material within three - five (3-5) feet of the dwelling Structure should be removed and replaced with an irrigated greenbelt (including grasses, shrubs and/or flowers) or non-combustible materials such as rock or gravel mulches. All large trees on the entire lot shall be thinned to eliminate overlapping crowns. All trees over 30 ft. in height should be pruned up to 8 feet above ground. Trees shorter than 30 feet in height should always have at least two-thirds of the green branches remaining after trimming. All branches which extend over or under the eaves of the roof should be removed. Owners should keep grasses trimmed and well-watered; keep roofs and gutters clear of pine needles and leaves, stack firewood beyond the 30' zone, and remove dead limbs, leaves, and grass clippings from all areas.

- a. All driveways should be readily identifiable and maintained unobstructed at all times and shall be constructed in a manner acceptable to governmental authorities. All house addresses shall be clearly visible from the street.
- b. All chimneys should be equipped with a mesh spark arrestor and inspected and cleaned on a regular basis. On-site burning of trash, leaves and weeds shall be prohibited.

- c. Fireworks of any kind shall be prohibited.
- d. All motor vehicles shall be parked on non-combustible surfaces.
- e. All dwelling Structures should be equipped with operational smoke detectors and a minimum of one 2.5-pound fire extinguisher maintained in accordance with the manufacturer's recommendations.