

BY-LAWS OF
MILL CREEK ASSOCIATION

ARTICLE I

Purposes: Principal Office: Seal

1. This nonprofit corporation, (herein: The "Corporation") is formed to govern the property situate in the County of Larimer, State of Colorado, known as the Mill Creek Association, (herein: the "Association").

2. The principal office and place of business of the Corporation shall be at 1076 Tupelo Dr., Loveland, Colorado 80538 or at such other location as may be established from time to time by resolution of the Board of Directors.

3. The seal of the Corporation shall have inscribed thereon the name of the Corporation, the year of its incorporation, and the words "Colorado" and "Seal" and shall be in such form as may be approved by the Board of Directors, which shall have power to alter the same at pleasure.

ARTICLE II

In amplification of the purpose for which the corporation has been formed as set forth in the Articles of Incorporation, the purposes and objects are as follows:

(a) To develop a road system designed for safe travel and recreation facilities designed for healthful and harmonious living;

(b) to promote the collective and individual property interests and rights of all persons, firms, and corporations owning property in Mill Creek Development as designated on Exhibit "A" hereto attached and by reference made a part hereof;

(c) To improve and generally maintain primary access roads as designated on Exhibit "A" attached hereto and by reference made a part hereof, gateways and parking areas, as designated by the Board of Directors, within the area known as Mill Creek Development;

(d) To maintain, stock, and generally care for lakes (as defined on Exhibit "A" attached hereto and by reference made a part hereof), as designated by the Board of Directors, within the area known as Mill Creek Development, for the recreational purposes of the residents and guests of the residents of said development;

(e) To cooperate with the owners of all parcels of land now existing or that shall hereafter exist in the area designated as Mill Creek Development and aid such owners in maintaining their individually owned parcels in good order and condition; to prevent

such parcels from becoming a nuisance or a detriment to the beauty of the development; to take collective action with reference to any such parcel as may be necessary or desirable in maintaining the quality and desirability of the development.

(f) To aid and cooperate with the members of this corporation and all property owners in the development and the enforcement of such conditions, covenants, and restrictions on and appurtenant to their property as are now in existence, as well as any other condition, covenants, and restrictions as shall hereafter be approved by a majority vote of the members of the corporation, and to counsel with the Larimer County Planning Office and Larimer County Commissioners in relation to any zoning that may affect any portion of the subject property;

(g) In general, but in connection with the foregoing, to do any and all things necessary to promote the general welfare of the residents and owners of any portions of said development and their property interests therein;

(h) To acquire, own, or lease such real and personal property as may be necessary or convenient for the transaction of its business and the fulfillment of its purposes and objects, and to exercise all rights, powers, and privileges of ownership to the same extent as natural persons might or could do;

(i) To exercise any and all powers that may be delegated to it from time to time by the owners of real property in the tract.

ARTICLE III

Membership and voting

1. Members. The qualifications and rights of members shall be as follows:

(a) Every legal or beneficial owner, as distinguished from a security owner, of a Designated Parcel in Mill Creek Development in the County of Larimer, State of Colorado, as herein particularly described, shall be a member of the corporation. "Designated Parcels" shall consist of separate tracts, each containing 35 acres or more, as set forth in the map attached hereto as Exhibit "A" of these By-Laws.

(b) Membership shall include an undertaking by the applicant to comply with and be bound by the Articles of Incorporation, the By-laws and amendments thereto, and the policies, rules and regulations as from time to time adopted by the corporation.

(c) Membership in this corporation shall terminate on such member's ceasing to be legal owner of a Designated Parcel within the property described herein.

2. Voting rights. Every person or entity who is a record owner of a fee, or undivided fee, interest in any Designated Parcel, as set forth in the map attached hereto as Exhibit "A",

which is subject to the protective covenants, shall be a member of the Association and entitled to one (1) vote; provided, that any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a member.

In the event that any unit is owned by two (2) or more persons or entities, whether by joint tenancy, tenancy in common or otherwise, there shall only be one (1) vote per unit and the several owners of any one (1) unit must designate to the Association in writing which of the co-owners, or in the event of a corporation or other such association which of its representatives, shall be entitled to vote.

Any person or entity on becoming an owner of a unit subject to the protective covenants shall automatically become a member of this Association and be subject to these By-Laws. Such membership shall terminate without any formal Association action whenever such owner ceases to own such parcel, but such termination shall not relieve or release any such former owner from any liability or any obligation incurred under or pursuant to the terms of these By-Laws or the protective covenants.

3. Assignment of rights. A beneficial or legal owner who is a member of the corporation may not assign his membership rights to a tenant residing on the land or using the land.

ARTICLE IV

Meetings of Members

1. Annual Meeting. An annual meeting of the members for the purpose of hearing reports from all officers and standing committees and for electing directors shall be held in Larimer County, Colorado, during the first quarter of each year. The time and place shall be fixed by the directors.

2. Special Meetings. Special meetings of the members, for any purpose or purposes, unless otherwise prescribed by statute, may be called by the president or the Board of Directors and shall be called with twenty (20) days by the president if requested by not less than twenty percent of the members having voting rights.

3. Place of Meeting. The annual meeting, and any other meetings of the membership shall be held at a place designated by the Board of Directors in Fort Collins, Colorado, as indicated in the notice of the meeting.

4. Notice of Meeting. Written or printed notice stating the place, day and hour of the meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) nor more than fifty (50) days before the date of the meeting, either personally or by mail, by or at the direction of the president, or the secretary, or the officer or persons calling the meeting, to each member of record entitled to vote at such meeting. If mailed, the notice shall be addressed to the member at his

address as it appears in the books of the Association, with postage thereon prepaid.

5. Quorum. Members holding fifty percent (50%) of the votes entitled to be cast, represented in person or by proxy, shall constitute a quorum. A majority of the votes entitled to be cast by the members present or represented by proxy at a meeting at which a quorum is present shall be necessary for its adoption.

6. Record Date. The record date for determination of members entitled to notice of or to vote at a meeting of the membership shall be ten (10) days prior to the date on which notice of the meeting is mailed or otherwise delivered.

7. Voting Lists. The officer or agent having charge of the books and records of the Association shall make, at least ten (10) days before each meeting of the members, a complete list of the members entitled to vote at such meeting, or any adjournment thereof, together with the address of such members, which list, for a period of ten (10) days prior to such meeting, shall be kept on file at the principal office of the Association and shall be subject to inspection by any member at any time during the usual business hours. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any member during the whole time of the meeting.

8. Proxies. At all meetings of the members, a member may vote by proxy executed in writing by the member or his duly authorized attorney-in-fact. Such proxy shall be filed with the secretary of the Association before or at the time of the meeting. No proxy shall be valid after six (6) months from the date of execution, unless otherwise provided in the proxy.

If so required by his first mortgagee, any owner shall constitute such mortgagee the beneficiary of his interest in the Association and his attorney-in-fact to vote such interest by proxy; this proxy to become automatically effective upon the filing of notice by said beneficiary with the secretary of the Association and only at such time or times as the beneficiary hereunder shall deem the security in jeopardy by reason of the failure, neglect, or refusal of the Association or management agent or the members of the Association to carry out their duties as set out and required by these By-Laws, the Articles of Incorporation, or the Declaration of Covenants, Conditions, Restrictions of Mill Creek Association. Nothing herein contained shall be construed to relieve the grantor herein of his duty as a member of the Association or to impose upon the beneficiary the duties and obligation of such membership.

9. Informal Action by Members. Any action required to be taken at a meeting of the members, or any other action which may be taken at a meeting of the members, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by a majority of members entitled to vote with respect to the subject matter thereof.

ARTICLE V

Board of Directors

The business and affairs of the Association shall be managed by a board of managers hereinafter referred to as the Board of Directors.

1. General Powers. The management responsibilities and powers shall include those functions and powers as set forth in the Declaration, specifically referring to those provisions thereof relating to obtaining and maintaining insurance, making and collecting assessments, and acting as attorney-in-fact in the event of damage or obsolescence. Not by way of limitation, but as an expression of additional powers which the Board of Directors may utilize, are set forth the following specific powers:

- a) All powers set forth in the Declaration;
- b) To make and amend reasonable rules and regulations respecting the use of the individual units and the general common elements; provided, however, that all such regulations and amendments thereto shall be approved by a majority of the voting membership of the Association;
- c) To employ personnel to perform the services required for proper operation of the Association.

2. Number, Tenure, Qualifications and Selection. The number of Directors shall not be less than three (3) nor more than seven (7), all of whom must be members of the Association, or designated representatives of a member of the Association. The term of office shall be three (3) years. Each director shall hold office for the term for which he is elected or appointed and until his successor has been elected or appointed and qualified. Directors shall be elected at the annual meeting.

3. Regular Meeting. The Board of Directors shall meet regularly at least quarterly, at a time and place it shall select.

4. Special Meetings. A special meeting of the Board of Directors may be called by or at the request of the president or any two (2) directors.

5. Notice, Waiver. Before or at any meeting of the Board of Directors any director, in writing, may waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the board shall be a waiver of notice by him of the time and place thereof. If all the directors are present at any meeting of the board, no notice shall be required and any business may be transacted at such meeting. To the extent permitted by law, any lawful action of the Board of Directors may be taken without a meeting if written consent to such action is signed by all the directors and filed with the minutes of the board.

6. Quorum. Fifty percent (50%) of the directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, but if less than fifty percent (50%) are present at a meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

7. Manner of Acting. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

8. Vacancies. Any vacancy occurring in the Board of Directors may be filled by the affirmative vote of a majority of the remaining directors though less than a quorum of the Board of Directors. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office. Any directorship to be filled by reason of an increase in the number of directors shall be filled by election at an annual meeting or a special meeting of members called for that purpose.

9. Compensation. No member of the Board of Directors shall be paid any compensation for his services as a director.

10. Presumption of Assent. A director of the Association who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the secretary of the Association immediately after the adjournment of the meeting. Such right of dissent shall not apply to a director who voted in favor of such action.

11. Removal of directors. At a meeting called expressly for that purpose, directors may be removed in the manner provided in this section. The entire Board of Directors or any lesser number may be removed, with or without cause by a vote of the majority of the members then entitled to vote at an election of directors.

ARTICLE VI

Officers

1. Number. The officers of the Association shall be a president, one (1) or more vice presidents (the number thereof to be determined by the Board of Directors) a secretary and a treasurer, each of whom shall be elected by the Board of Directors. Such other officers and assistant officers as may be deemed necessary may be elected or appointed by the Board of Directors. Any two or more offices may be held by the same person, except the offices of president and secretary.

2. Election and Term of Office. The officers of the Association shall be elected annually by the Board of Directors. Each officer shall hold office until his successor shall have been duly elected and shall have qualified or until his death or until

he shall resign or shall have been removed in the manner hereinafter provided.

3. Removal. Any officer elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the Association would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

4. Vacancies. A vacancy in the office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

5. President. The president shall be the principal executive officer of the Association and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the Association. He shall, when present, preside at all meetings of the members and the Board of Directors. He may sign, with the secretary or any other property officer of the Association authorized by the Board of Directors, any instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these By-Laws to some other officer or agent of the Association or shall be required by law to otherwise be signed or executed; and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the Board of Directors from time to time.

6. Vice President. In the absence of the president, or in the event of his death, or inability or refusal to act, the vice president (or in the event there be more than one (1) vice president, the vice presidents in the order designated at the time of their election, or in the absence of any designation, then in the order of their election) shall have all the powers of and be subject to all restrictions upon the president. Any vice president shall perform such other duties as from time to time may be assigned to him by the president or by the Board of Directors.

7. Secretary. The secretary shall: (a) keep the minutes of the members' meetings and of the Board of Directors' meetings in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these By-Laws as required by law; (c) be custodian of the corporate records and of the seal of the Association and see that the seal of the Association is affixed to all documents, the execution of which on behalf of the Association under its seal, is duly authorized; (d) keep a register of the post office address of each member; (e) shall issue certificates of membership, or membership cards, if any, of the Association, the issuance of which shall have been authorized by resolution by the Board of Directors; (f) in general perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him by the president or by the Board of Directors.

All minutes of the Association and other records shall be available upon reasonable request at reasonable hours for examination of the same by any of the members.

8. Treasurer. If required by the Board of Directors, the treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the Board of Directors shall determine. He shall: (a) have charge and custody of and be responsible for all funds and securities of the Association; receive and give receipts for moneys due and payable to the Association from any source whatsoever, and deposit all such moneys in the name of the Association in such banks, trust companies, or other provisions of Article VII of these By-Laws; and (b) in general, perform all the duties incident to the office of treasurer and such other duties as from time to time may be assigned to him by the president or Board of Directors.

9. Assistant Secretary and Assistant Treasurers. The assistant secretaries, when authorized by the Board of Directors, may sign with the president or a vice president, certificates of membership, if any, which shall have been authorized by resolution of the Board of Directors. The assistant treasurers shall respectively, if required by the Board of Directors, give bonds for the faithful discharge of their duties in such sums and with such sureties as the Board of Directors shall determine. The assistant secretaries and assistant treasurers, in general, shall perform such duties as shall be assigned to them by the secretary or treasurer, respectively, or by the president or the Board of Directors.

10. Salaries. When the offices of Secretary and Treasurer are held by the same person, he/she may receive a salary or fee as determined by the membership at the annual meeting. In such case the Secretary-Treasurer shall not be a member of the board of Directors. No officer shall receive a salary because of his position as an officer; provided that this shall not prevent the Association from paying a reasonable salary or fees to other employees or independent contractors retained by the Association for his work in such capacity.

ARTICLE VII Indemnification of Officers and Directors

The Association shall indemnify every director or officer, his heirs, personal representatives and administrators, against all loss, costs and expenses, including counsel fees, reasonably incurred by him in connection with any action, suit or proceeding to which he may be made a party by reason of his being or having been a director or officer of the Association, except as to matters as to which he shall be finally adjudged in such action, suit or proceeding to be liable for gross negligence or willful misconduct. In the event of a settlement, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Association is advised by counsel that the person to be indemnified has not been guilty of gross negligence or willful misconduct in the performance of his duty as such director or

officer in relation to the matter involved. The foregoing rights shall not be exclusive of other rights to which such director or officer may be entitled. All liability, loss, damage, costs and expenses incurred or suffered by the Association by reason or arising out of or in connection with the foregoing indemnification provisions shall be treated and handled by the Association as a common expense; provided, however, that nothing in this Article VII contained shall be deemed to obligate the Association to indemnify any member or owner of a parcel who is or has been a director or officer of the Association with respect to any duties or obligation assumed or liabilities incurred by him under and by virtue of the Declaration of Covenants, Conditions, and Restrictions of Mill Creek Association, as a member or owner of a parcel covered thereby.

ARTICLE VIII

Contracts, Loans, Checks and Deposits

1. Contracts. The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances.

2. Loans. No loans shall be contracted on behalf of the Association and no evidence or indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances. Loans shall be contracted only for extremely unusual instances that require immediate funding.

3. Checks, Drafts, Etc. All checks, drafts or other orders for the payment of money, notes, or other evidences of indebtedness issued in the name of Association shall be signed by such officer or officers, agent or agents of the Association and in such manner as shall from time to time be determined by resolution of the Board of Directors.

4. Deposits. All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies, or other depositories as the Board of Directors may select.

ARTICLE IX

Year

The Association shall operate either upon a fiscal year basis or a calendar year basis, as may be selected by its Board of Directors.

ARTICLE X

Fees, Dues, Assessments and Collections

1. Annual Dues. The annual dues shall be established at the annual meeting by the members of the Association. The annual dues may not be increased by more than fifteen percent (15%) over the dues for the preceding year or more than thirty percent (30%) over the dues for the prior two years without a vote of the members. The annual dues shall be determined on the same basis as voting rights.

2. Special Assessments. Special assessments may be levied and assessed by the Board of Directors from time to time so long as the special assessment does not exceed \$50.00 per parcel of land for that operation year and provided that the special assessment is not to cover expenses normally paid from annual dues. In the event that the special assessment exceeds \$50.00 per year, this special assessment must be submitted to a vote of the members.

3. Multiple Owner. If more than one owner owns land included in Mill Creek Association, there will be a multiple owner assessment of thirty percent (30%) of the annual dues for each additional owner after the first owner. One owner will pay the standard annual dues and each additional owner owning a lot will be assessed thirty percent (30%) of the one owner annual dues. Multiple ownership will be based upon deeds. Owners from the same household (i.e. husband and/or wife and/or children residing in the same house) are not considered multiple owners. "The same household" shall be the key phrase for determining multiple ownership.

4. Payment of Dues. The annual dues shall be due and payable in full on or before April 1 of each year. If the annual dues have not been paid by said date, the dues are considered delinquent.

5. Delinquent Dues. If dues are not paid by April 1 for the year the assessment is due, a late penalty charge of ten percent (10%) of the amount of the dues shall be added to the amount payable. This late penalty charge shall not be waived except by a resolution of the Board of Directors after the member has established valid mitigating circumstances for the waiver of such late payment penalties.

If such annual dues and late payment penalty are not paid by June 15 of the year for which the dues are assessed, the member shall be liable for all costs of collection, including reasonable attorney fees and filing fees. The secretary shall send one letter advising the member of the total amount due and that such amount must be paid on or before July 15 of that year. If the amount is not paid, a lien against the property shall be filed for the unpaid dues, penalties, interest, and collection costs. A copy of the filed lien shall be sent to the owner of the property. If the amount is not paid within 45 days after the lien has been filed, the matter shall be referred to the Board of Directors to decide whether foreclosure proceedings should begin. Regardless, if the amount has not been paid within one year from the date that the

lien has been placed on record, the Association shall begin foreclosure proceedings for the collection of all dues, penalties and collection charges owing unless sufficient mitigating circumstances warrant delay of such foreclosure proceeding.

In addition to the foregoing, if any member shall fail to pay his assessment on or before June 15 of the year they are due, such member shall forfeit all privileges of membership in the Association until dues, etc., are paid.

ARTICLE XI

Miscellaneous

1. Guests. Whenever a member permits a guest to use his facilities or to camp on the land, the member must be present for the guest to have hunting and fishing privileges.

2. Multiple Ownership. When more than one party owns a parcel of land, the multiple owners must advise the Association who to contact and deal with. The Association is obligated only to deal with one owner when there are multiple owners. If the owners have not designated which owner the Association is to deal with, the treasurer shall have the right to pick one owner and deal exclusively with that owner.

3. Assignment of Dues. In the event any member whose dues are paid but sells his or her interest in the property during the year, such selling member may assign his or her rights in the Association to the new member and make proper adjustment between the parties for any prepaid dues. However, the Association shall have no obligation to refund the dues that are prepaid.

4. Change of Owners. Upon the sale of an interest in the land, the seller's rights will terminate for his or her right to use the facilities at the time his or her interest is sold. The secretary and treasurer of the Association are to be advised of any change of ownership.

5. Cattle Guards. In order to maintain and promote unimpeded travel by Mill Creek Association members and their guests over Association roads and access easements, all fences that cross or may be constructed to cross such Association roads/access easements will be required to provide a cattle guard type of crossing for the road as well as a gate for heavy equipment that cannot use the cattle guard crossing. The cattle guard shall be installed at the expense of the person or entity responsible for implementing the fence. Where any fence may have been installed by the State of Colorado, the Association may choose to implement a cattle guard at its own expense.

The cattle guards will be of comparable design and quality as those required by the National Forest Service or the Bureau of Land management. Specifications for cattle guards will be on file with the Association secretary. Specifically excluded from this requirement are the following gates:

1. The entrance to the Mill Creek Association from the

Cherokee park road (County Rd 59)

2. Association roads that terminate at a boundary to non-association property outside of the contiguous Association properties and included forest service sections 4, 6, 8, 10, 16, 32, 34 that do not ordinarily carry traffic.

3. Existing fences that cross Association roads and accesses, but which remain open at all times. If any of these are to be closed, for grazing or other purposes, they must have a cattle guard installed, as per this amendment.

ARTICLE XII

Amendments

These By-Laws may be altered, amended or repealed at the annual meeting of the membership or at any special meeting of the membership called for that purpose. A two-thirds majority of the total voting membership is required to make such a change.

The above By-Laws approved and accepted by the membership on January 24, 1992.

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Lois G. Illick, Secretary