

**VAIL HEIGHTS #3 CONDO ASSOCIATION
RULES AND REGULATIONS**

1. There will be no more than two residents residing in any one unit.
2. Common areas may not be used as sleeping quarters at any time. Common bathroom is not to be used as an extra bathroom for guests.
3. The common areas are to be kept locked at all times.
4. The common areas are strictly for the use of association members along with their tenants and/or temporary guests staying in their unit.
5. Each unit has been assigned one storage locker. All items must be contained in this locker or in a condominium. The common areas are not to be used for storage except as voted by a majority of the owners from time to time. (Currently each unit may store up to two bicycles on the rack assigned to that unit in the common room.) The association will attempt to notify the owner of any items stored improperly before disposing of any such items. The association assumes no responsibility for said items.
6. Common area lights are to be turned off and doors shut and locked securely when not in use.
7. Parking is assigned. Each unit has been assigned one numbered parking space along the north wall of the parking lot. Each unit may use a maximum of one additional space on the south side of the lot, when available. The association may enforce this rule with parking tickets and towing as needed.
8. Vehicles must be moved each 24-hour period to allow for proper snow removal. Leave car keys with a neighbor or association management if you leave town for even a day or two. Association management may have any vehicle towed, at the owner's expense, if said vehicle has not been properly moved to allow for snow removal. Removal of snow from assigned parking space is the responsibility of the unit owner or current resident.
9. Short term rentals are not allowed.
10. This is a non-smoking building. Smoking is prohibited inside the units and the common areas of the building due to shared bathroom and kitchen ventilation that permits smoke to travel throughout the building. Violation of smoking rules may result in a fine of \$100 per offense to the unit owner. (adopted Oct. 28, 1988)
11. Smoking of tobacco products is prohibited entirely on the premises including all indoor and outdoor areas, including but not limited to decks, patios, walkways, stairs, driveway, parking lot and grassy areas. (adopted March 28, 2022)
12. Decks and porches are not intended for storage. Structural damage, fire hazards, weather damage and unsightliness are some of the potential problems related to storing excess items on the porches and decks.

13. Gas and electric grills are permitted on the premises. Charcoal grills are prohibited.
14. Quiet time is from 10 p.m. to 9 a.m. daily. Parties, music, hammering, televisions, and other disruptions should be limited to the hours of 9 a.m. to 10 p.m.
15. Owners with pets are responsible for cleaning up after their animals at all times. Renters may not have pets.
16. The laundry room is only for the use of building residents. Remove clothing from washers and dryers in a timely manner. Turn off lights when leaving the room.
17. No trailers, mobile homes, RVs or other powered recreational equipment such as snowmobiles or boats are permitted to be left or stored on the premises.
18. No vehicle shall be repaired, serviced, rebuilt, dismantled or painted on the premises.
19. Active fireplaces must have a metal ash can outside on the porch or deck.
20. Storage of items in lockers is at one's own risk. The association is not responsible for damage to items stored in lockers due to leaking or backed up pipes, or water from any other source.
21. After each use, residents must engage the fasteners on trash and recycling receptacles to prevent wildlife access. It is up to owners to be familiar with, and acquaint tenants with community and trash hauler rules on acceptable items in trash and recycling. Billing for pickup of improper or bulky items will be passed on to the unit owners, plus a \$25 fine. No commercial/business trash or recycling is allowed be disposed of in association containers.
22. Keep unit thermostats at normal room temperature when leaving your condo unit during winter months to prevent pipes freezing. Failure to do so may result in unit owner liability for expenses related to frozen pipes.

Rules adopted in 1988. Amended in 1994 and 2022.

BY-LAWS
OF
VAIL HEIGHTS PHASE III CONDOMINIUM OWNERS' ASSN.

ARTICLE I - OFFICES

The principal office of the Association shall be in Eagle County, Colorado, and the mailing address shall be c/o Laura Fawcett, P. O. Box 818, Eagle, Colorado 81631. The Board of Directors in its discretion may keep and maintain other offices within the State of Colorado wherever the business of the Association may require.

ARTICLE II - OBJECT

1. The purpose for which this non-profit Association is formed is to govern the condominium property situate in the County of Eagle, State of Colorado, which is known as the Vail Heights Phase III Condominiums (hereinafter referred to as the "Project"), and which property has been submitted to the provisions of the Condominium Ownership Act of the State of Colorado by the recorded Condominium Declaration.

2. All present or future owners, tenants and any other person that might use the facilities of the Project in any manner are subject to the regulations set forth in these By-Laws. The mere acquisition or rental of any of the Condominium Units (hereinafter referred to as "Units") of the Project or the mere act of occupancy of any of said Units will signify that these By-Laws are accepted, ratified and will be complied with.

ARTICLE III - MEMBERSHIP, VOTING, QUORUM, PROXIES

1. Membership. Membership in this Association shall be limited to record Owners of the Units and subject to the Condominium Declaration recorded in the Eagle County public records (hereinafter referred to as the "Declaration"). One (1) membership in the Association shall be issued to the record Owner of each Unit. The record Owners of all Units collectively shall constitute all the members. In the event any such Unit is owned by two (2) or more persons, whether by joint tenancy, tenancy in common or otherwise, the membership as to such Unit shall be joint and a single membership for such Unit shall be issued in the names of all Owners, and they shall designate to the Association in writing at the time of issuance, one (1) person who shall hold the membership and have the power to vote said membership. No membership shall be issued to any other person or persons except as they may be issued in substitution for outstanding memberships assigned to new record

Owners of Units. In the event that an Owner is in default in his or her obligation to a first mortgagee, the first mortgagee shall be entitled to act as a member instead of the Unit Owner after first having given written notice to the Association of the fact and nature of the default.

2. Transfer of Membership. A membership in the Association and the share of a member in the assets of the Association shall be not be assigned, encumbered or transferred in any manner except as an appurtenance to transfer of title to the Unit to which the membership pertains; provided, however, that the rights of membership may be assigned to the holder of a mortgage, deed of trust, or other security instrument on a Unit as further security for a loan secured by a lien on such Unit. A transfer of membership shall occur automatically upon the transfer of title to the Unit to which the membership pertains, but the Association shall be entitled to treat the person or persons in whose name of names the membership is recorded on the books and records of the Association as a member for all purposes until such time as evidence of a transfer of title, satisfactory to the Association, has been submitted to the Secretary. A transfer of membership shall not release the transferor from liability for obligations accrued incident to such membership prior to such transfer. In the event of dispute as to ownership appurtenant thereto, title to the Unit, as shown in the records of the County Clerk and Recorder of Eagle County, Colorado, shall be determinative.

3. Voting. Each member being present in person or by proxy shall be entitled to one (1) vote for each Condominium Unit owned by said member.

4. Quorum. The presence either in person or by proxy, of at least fifty-one percent (51%) of the members of record shall constitute a quorum of the Association for all purposes unless the representation of a larger group shall be required by law, by the Articles of Incorporation, or by these By-Laws, and in that event representation of the number so required shall constitute a quorum.

5. Proxies. Votes may be cast in person or by proxy; proxies must be filed with the Secretary before the appointed time of each meeting.

ARTICLE IV - ADMINISTRATION

1. General. The members of the Association will have the responsibility of administering the Project through a Board of Directors as herein provided.

2. Place of Meeting. Meetings of the Association shall be held at such place as the Board of Directors may determine.

3. Annual Meetings. The annual meetings of members of the Association shall be held on the second Tuesday in January after January 1st, or at such other time as the directors may by majority vote approve. At such meeting, members shall be elected to the Board of Directors in accordance with the requirements set forth herein. The members may also transact such other business of the Association as may properly come before them.

4. Special Meetings. Special meetings of the members for any purpose or purposes other than those regulated by statute may be called for by the President as directed by resolution of the Board of Directors or upon a petition signed by a majority of the members of the Association. Such petition shall state the purpose or purposes of such proposed meeting.

5. Notice of Meetings. The President or Secretary shall give or cause to be given notice of the time, place and purpose of holding each annual or special meeting by mailing or hand delivering such notice at least ten (10) days, but not more than twenty (20) days prior to such meeting to each member of the Association at the respective addresses of said members as they appear on the records of the Association.

6. Adjourned Meetings. If the number of members necessary to constitute a quorum shall fail to attend in person or by proxy at the time and place of meeting, the chairman of the meeting, or a majority in interest of the members present in person or by proxy, may adjourn the meeting from time to time until the necessary number of Association members shall be in attendance. At any adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the original meeting.

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

8. Action of Members Without a Meeting. Any action required to be taken, or any 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 all of the Owners and Co-Owners of membership entitled to vote with respect to the subject matter thereof.

ARTICLE V - BOARD OF DIRECTORS

1. Number and Qualification. The Association shall be governed by a Board of Directors consisting of three (3) members of the Association. Where a member of the Association is other than a natural person, one (1) of its officers, principals, partners or agents may be elected to the Board of Directors.

2. Power and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association, and may do all such acts and things as are not by law or by these By-Laws directed to be exercised and done by the members. The powers of the Board of Directors shall include, but not be limited to, all of the rights and duties of the Board of Directors as set forth elsewhere in these By-Laws and the Articles of Incorporation, and in the Declaration applicable to the "Project" described in the Declaration and in Article II above, and shall also include the power to promulgate such rules and regulations pertaining to such rights and duties as may be deemed proper and which are consistent with the foregoing. The Board of Directors may delegate such duties as appear in the best interests of the Association and to the extent permitted by law.

The Board of Directors may, on contract, delegate the routine operation and management of Association affairs to a Managing Agent to be selected by and responsible to the Board of directors. Among the responsibilities which may be delegated to such Managing Agent are the following:

a. Furnishing to the Owners of the Units and their tenants, at the Owner's expense, building janitorial services, trash service, snow removal and related maintenance services.

At each annual meeting the Managing Agent shall submit to the Board of Directors a report on his activities for the preceding year.

3. Election and Term of Office. Members of the Board of Directors shall be elected at the regular annual meetings of the members of the Association by the members.

4. Vacancies. Vacancies on the Board of Directors caused by any reason shall be filled for the unexpired term of office by vote of the majority of the remaining directors even though they may consist of less than a quorum and each member so elected shall be a director until his successor is duly elected by the members of the Association at the expiration of the term.

5. Removal of Directors. At any regular or special meeting of the members, any one (1) or more of the directors may be removed, either with or without cause, at any time by the affirmative vote of seventy-five percent (75%) of the entire membership of record and a successor may then be elected to fill the vacancy thus created. Any director whose removal has been proposed by the members of the Association shall be given an opportunity to be heard at the meeting.

6. Compensation. No compensation shall be paid to directors for their services as directors. No remuneration shall be paid to a director for services performed by him or her for the Association in any other capacity, unless a resolution authorizing such remuneration shall have been unanimously adopted by the Board of Directors before the services are undertaken.

7. Meetings. There shall be a regular annual meeting of the Board of Directors immediately following the annual meeting of the members of the Association, and the Board of Directors may establish regular meetings to be held at such other places and such other times as shall be determined, from time to time, by a majority of the directors. Notice of regular meetings of the Board of Directors shall be given to each director, personally or by mail, telephone or telegraph, at least ten (10) days prior to the day named for the meeting.

8. Special Meetings. Special meetings of the Board of Directors may be called by the President on ten (10) days' notice to each director, given personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice of the written request of at least fifty percent (50%) of the directors.

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

10. Quorum. A majority of the Board of Directors shall constitute a quorum for the transaction of business, but if at any meeting of the Board of Directors there be less than a quorum present, a majority of those present may adjourn the meeting from time to time.

11. Adjournments. The Board of Directors may adjourn any meeting from day to day or for such other time as may be prudent or necessary in the interest of the Association, provided that no meeting may be adjourned for a period longer than thirty (30) days.

12. Action of Directors Without a Meeting. Any action required to be taken, or any action which may be taken, at a meeting of the directors, may be taken without a meeting, if a consent in writing, setting forth the action so taken, shall be signed by all of the directors entitled to vote with respect to the subject matter thereof.

ARTICLE VI - OFFICERS

1. Designation. The principal officers of the Association shall be a President, a Secretary and a Treasurer, all of whom shall be elected by and from the Board of Directors. The directors may appoint an Assistant Secretary and an Assistant Treasurer, and such other officers as in their judgment may be necessary.

2. Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at the regular annual meeting, and shall hold office at the pleasure of the Board of Directors.

3. Removal of Officers. Upon an affirmative vote of a majority of the members of the Board of Directors present at a meeting, any officer may be removed, either with or without cause, and his or her successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board of Directors called for such purpose.

4. President. The President shall be the principal executive officer of the Association and, subject to the control of the Board of directors, shall direct, supervise, coordinate and have general control over the affairs of the Association, and shall have the powers generally attributable to the chief executive officer of a corporation. The President shall preside at all meetings of the members of the Association.

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

6. Secretary. The Secretary shall be the custodian of the records and of the seal of the Association and shall affix the seal to all documents requiring the same; shall see that all notices are duly given in accordance with the provisions of these By-Laws and as required by law, and that the books, reports and other documents and records of the Association are properly kept and filed; shall keep minutes of the proceedings of the members, Board of Directors and Executive Committee; shall keep at the registered office of the Association a record of the names and addresses of the Owners and Co-Owners entitled to vote; and, in general, shall perform all duties incident to the office of Secretary and such other duties as may, from time to time, be assigned to him or her by the Board of Directors or by the President. The Board of Directors may appoint one (1) or more Assistant Secretaries who may act in place of the Secretary in case of his or her death, absence, inability or failure to act.

7. Treasurer. The Treasurer shall have charge and custody of, and be responsible for, all funds and securities of the Association, shall deposit all such funds in the name of the Association in such depositories as shall be designated by the Board of Directors, shall keep correct and complete books and records of account and records of financial transactions and conditions of the Association and shall submit such reports

thereof as the Board of Directors may, from time to time, require; and, in general, shall perform all the duties incident to the office of Treasurer, and such other duties as may, from time to time, be assigned to him or her by the Board of Directors or by the President. The Board of Directors may appoint one (1) or more Assistant Treasurers who may act in place of the Treasurer in case of his or her death, absence, inability or failure to act.

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

ARTICLE VII - INDEMNIFICATION OF OFFICERS AND DIRECTORS

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

ARTICLE VIII - CORPORATE SEAL

1. The Board of Directors shall provide a suitable corporate seal containing the name of the Association, which seal shall be in the custody and control of the Secretary.

2. The corporate seal shall be in circular form and shall have inscribed thereon the name of the Association and the word "Colorado" in the circle and the word "Seal" in the middle. If and when so directed by the Board of Directors, a duplicate seal may be kept and used by such officer or other person as the Board of Directors shall name.

ARTICLE IX - MISCELLANEOUS

1. Contracts. The Board of Directors may authorize any officer or agent of the Association to enter into any contract or execute and deliver any instrument in the name of the Association, except as otherwise specifically required by the Articles of Incorporation or these By-Laws.

2. Inspection of Books. Financial reports, such as are required to be furnished, and the membership records of the Association shall be available at the principal offices of the Association for inspection at reasonable times by any members, or by any individual or entity holding a first mortgage on a Unit.

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

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

5. Budget. At each annual meeting of the members of the Association the Board of Directors or the Managing Agent shall present for approval thereby a proposed budget for the operation of the Project during the forthcoming year. Said budget shall include such items of expense as shall be determined from time to time by the Board of Directors.

6. Notices. All notices, demands or other notices intended to be served upon the Association, its Board of Directors or Managing Agent, whether pursuant to the Condominium Declaration or not, shall be sent by registered or certified mail, postage prepaid, to the following address: P. O. Box 818, Eagle, Colorado 81631), unless and until this By-Law be amended to the contrary.

ARTICLE X - ANNUAL ASSESSMENTS

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

ARTICLE XI - AMENDMENT OF BY-LAWS

1. Amendment by the Members. These By-Laws may be amended by the affirmative vote of three-fourths (3/4) of the members of the Association present or represented by proxy at any regular or special meeting, provided that a quorum as prescribed in Article IV herein, is present at any such meeting. Amendments may be proposed by the Board of Directors or petition signed by at least fifty-one percent (51%) of the members. A statement of any proposed amendment shall accompany the notice of any regular or special meeting at which such proposed amendment shall be voted upon. These By-Laws may not be amended insofar as such amendment would be inconsistent with the Condominium Declaration.

2. Amendment by the Directors. The directors of the Association by the affirmative vote of three-fourths (3/4) of all of the directors of the Association, may amend or alter the By-Laws of the Association at any regular meeting or at any special meeting provided that no such alteration or amendment by the Board of Directors shall increase the powers of the Board of Directors. The statement of any proposed amendment shall accompany notice of any regular or special meeting at which such proposed amendment shall be voted upon. These By-Laws may not be amended insofar as such amendment would be inconsistent with the Condominium Declaration.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands this 28th day of October, 1988.

BOARD OF DIRECTORS:

Brian E. O'Reilly

Donald Carlson

Laura Fawcett

KNOW ALL MEN BY THESE PRESENTS, that the undersigned Secretary of the Association known as the Vail Heights III Condominium Owners' Association, does hereby certify that the above and foregoing By-Laws were duly adopted by the directors of said Association, as the By-Laws of said Association as of the 28th day of October, 1988, and that they do now constitute the By-Laws of said Association.

ATTEST:

Laura Fawcett
Secretary

VAIL HEIGHTS-FILING NO. 1
PROTECTIVE COVENANTS

KNOW ALL MEN BY THESE PRESENTS, that Vail City Corporation, a Colorado Corporation, being the owner of all of that real estate within the subdivision named Vail Heights-Filing No. 1, in the County of Eagle, State of Colorado, the plat of which was filed for record in the office of the County Clerk and Recorder of Eagle County on June 25, 1959 in Case 2, Drawer No. V, Reception No. 110985, and recorded in Book 215 at Page 483, does hereby impose restrictions and protective covenants as hereinafter set forth.

USAGE: The subject property shall be used only for residences with usual appurtenant garages and other covered structures (which residences, garages and structures may be in the form of condominium or townhouse units), and in no way may be used for any commercial purposes nor for any type or kind of equipment or material storage. Commercial purposes as herein prohibited shall not include the renting of any part or parts of such residences. Further, no temporary structure, basement, tent, garage, barn, or other out-buildings shall be used on any site at any time as a residence, either temporary or permanent. The exterior construction of all buildings must be completed, including treating or painting of wood, before occupancy.

LIVESTOCK: No animals, livestock, horses or poultry (except dogs, cats and other pets for household enjoyment and not for commercial purposes) shall be kept, raised or bred in the subdivision.

ARCHITECTURAL CONTROL: No buildings shall be erected, placed or altered on any site until construction plans and specifications, together with site plan showing location of structure has been approved in writing by the Architectural Committee (as defined herein), as to quality, material, and workmanship, and harmonious design with existing structures. In the event the Architectural Committee fails to act on plans presented for approval within 45 days, then applicant may proceed the same as if the Committee had granted approval.

CONSTRUCTION: All structures must meet specifications and codes of Eagle County, and State of Colorado. Once work has begun on any structure, construction must be pursued to completion with all due diligence, being completed within one year. Further, all exteriors shall be only of stone, stone veneers, brick veneers, wood siding or log siding. No imitation brick siding, metal siding, tar paper, asbestos shingles or concrete blocks will be allowed. Only new construction will be allowed; no older building may be moved onto any site without approval in writing from the Architectural Committee. Living area shall not be less than 650 square feet for single story, single family residences, nor less than 500 square feet per unit for multiple residences. For two story residences, there shall be at least 550 square feet on the first floor and 250 square feet on the second floor, exclusive of attached garages, open porches, and patios.

FIRE PREVENTION: All fireplaces, chimneys, barbeques and incinerators shall be equipped and maintained with spark arresting screens.

LOCATION: All improvements shall be located so as to maintain a minimum front yard set-back of 20 feet; deviations from this regular set-back may be granted by the Architectural Committee.

DRIVEWAYS: All driveways shall be located so as to allow minimum water run-off, and erosion. Culverts of 12 inches in diameter or more shall be installed wherever driveway crosses barrow pits.

SIGNS: No signs, billboards or other advertising structure of any kind shall be erected, used or maintained on any lot for any purpose whatsoever, except such commercial signs as have been approved by the Architectural Committee either for identification of residences or places of business or other commercial uses.

WATER: Each structure designed for occupancy or use by human beings shall connect with water facilities made available to the property at any time in the future by public or private utility system. No private wells shall be used as a source of water for human consumption or irrigation, except by written permission of the Vail Village West Water and Sanitation District's Board of Directors.

NUISANCE: No noxious or offensive activity shall be carried on within the subdivision, nor shall anything be done or permitted which shall constitute a public nuisance therein.

TREES AND SHRUBBERY: Natural beauty, wherever possible, shall remain. In no case shall shrubbery, or other growth be maintained in such location as to cause a traffic hazard or to reduce visibility.

WASTE DISPOSAL: Each residence shall maintain a safe, enclosed incinerator for disposal of combustibles. Non-combustibles shall be kept in covered sanitary containers. No area on any site shall be used as a dump for any kind of waste or trash. No septic tanks will be allowed following a period of 60 days after the availability to a site of a public or private system of sewage disposal.

CHANGES OF COVENANTS: These covenants shall run with the land and shall be binding on all parties and all persons claiming under them for a period of 20 years after which time said covenants shall be automatically extended for successive 10 year periods unless an instrument signed by owners of over 50% of land area has been recorded, agreeing to change said covenants in whole or in part.

ENFORCEMENT: Enforcement shall be by proceeding at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

SEVERABILITY: Invalidation of any one or more of these covenants by judgment or court order shall in no way effect any of the provisions, which shall remain in full force and effect.

ARCHITECTURAL COMMITTEE: The Architectural Committee shall be composed of FRANK A. RANDALL, TIBOR C. GARTNER and LOUIS F. LIVINGSTON. In the event any one or more of the committee members shall become incapable of serving for any reason, then a new member or members shall be named by Vail City Corporation.

SUPERIOR AUTHORITY: Notwithstanding anything herein to the contrary, all applicable county and state regulations, standards and statutes shall be controlling where these covenants are less strict or are, by law, superseded in jurisdiction by such county and state regulations, standards and statutes.

IN WITNESS WHEREOF, this document is executed by the undersigned this 7th day of October, 1969.

Vail City Corporation,
a Colorado Corporation

By Frank A. Randall
Frank A. Randall
Vice-President



STATE OF COLORADO)
) ss
County of Arapahoe)

The foregoing instrument was acknowledged before me this 7th day of October, 1969, by Frank A. Randall as Vice-President of Vail City Corporation, a Colorado Corporation.

Witness my hand and official seal.

My commission expires: _____ My Commission expires Sept 15, 1970

Paul Simon VanSoy
Notary Public



111672

STATE OF COLORADO, }
EAGLE COUNTY. } ss:

I hereby certify that this instrument
was filed for record in my office the
10th day of October, 1969 at
120 o'clock P.M., and is duly recorded
in Book 216 Page 153.

Maxwell R. Bary
County Clerk and Recorder

By _____

Fee \$ 450 ^{Duply} 97

CONDOMINIUM DECLARATION

FOR

VAIL HEIGHTS NO. III CONDOMINIUMS

KNOW ALL MEN BY THESE PRESENTS, THAT

WHEREAS, the undersigned Declarant is the owner of that real estate situate in the County of Eagle, State of Colorado and more particularly described in Exhibit "A" attached hereto and made a part hereof by this reference;

WHEREAS, Declarant desires to establish a condominium project under and pursuant to the Condominium Ownership Act of the State of Colorado, as amended; and

WHEREAS, Declarant has constructed a building and other improvements on the subject property which are to be divided into separately designated residential condominium units, and certain common elements; and

WHEREAS, Declarant hereby establishes a plan for (1) ownership of separate fee simple estates consisting of the area or space contained in each of the residential units in the building, and (2) co-ownership of the individual and separate fee owners, as tenants in common, of the remaining real and personal property hereinafter defined and referred to as the general common elements,

NOW THEREFORE, Declarant hereby publishes and declares that the following terms, covenants, conditions, easements, restrictions, uses, limitations and obligations shall be deemed to run with the land, shall be a burden on and a benefit to Declarant, its successors and assigns and any person acquiring or owning an interest in the subject property, their successors, grantees, heirs, executors, administrators, devisees and assigns.

1. DEFINITIONS. Unless the context shall expressly provide otherwise, the following definitions shall apply:

(a) "Individual air space unit" means any space (whether enclosed or otherwise defined on the map) occupying all or part of a floor or floors in a building subject hereto, and which in no case extends beyond the perimeter walls, ceilings, floors, windows and doors thereof as designated on the map.

(b) "Condominium unit" or "unit" means an individual air space unit together with the interests in the general and limited common elements appurtenant to such unit.

(c) "Owner" means a person, firm, corporation, partnership, association, or other legal entity, or any combination thereof, owning one or more condominium units.

(d) "Common elements" means real or personal property owned as tenants in common by owners of units, which ownership is appurtenant to ownership of such units.

(e) "General common elements" means property of any kind used, reserved and owned by the owners as defined above and includes by way of illustration and without limitation on the generality of the foregoing, all of the following:

(1) The land on which the building is located;

(2) Vacant land, parking areas, recreational facilities, yards, gardens, sidewalks or paths;

(3) The foundation, columns, girders, beams, supports, main walls, roofs and stairs of the building;

(4) The installations of central services including water, heating and utilities, flues and chimneys and in general all apparatus, equipment and materials existing for common use incidental to the building;

(5) All other parts of the property and easements and rights necessary or convenient to the building's existence, maintenance and safety, or normally in common use;

(6) Those portions of the property designated on the map as "Common Area", "Mechanical and Electrical Area", "Entrance Area", "Recreation and Landscape Area" and "Utility Chase".

(f) "Limited common elements" means those parts of the general common elements reserved primarily for the use of the owner of a condominium unit, subject to the right of other owners to use the same for reasonable access to their units, and includes those portions of the property designated on the map as "balcony" or "patio".

(g) "Entire premises", "premises", "project", "subject property" or "property" means the land, buildings, all improvements and structures thereon, and all rights, easements and appurtenances thereto.

(h) "Condominium project" means all of the land and improvements submitted to this Declaration.

(i) "Common expenses" means:

(1) All sums lawfully assessed against the general common elements;

(2) Expenses of administration and management, maintenance, repair or replacement of the general common elements;

(3) Expenses declared common expenses by the unit owners.

(j) "Association of unit owners" or "Association" means the Vail Heights No. III Condominium Association, a Colorado non-profit corporation, the Articles of Incorporation and By-laws of which shall govern the administration of this condominium project, and the members of which shall be all of the owners of the condominium units of this condominium project.

(k) "Map" or "plan" means the engineering survey of the subject property locating thereon all of the improvements, the floor and elevation plans and any other drawing or diagrammatic plan depicting a part of or all of the improvements.

(l) "Building" means a building improvement occupying and comprising a part of the subject property.

2. CONDOMINIUM MAP. The Map shall be filed for record or recorded prior to the first conveyance of any condominium unit. Such Map shall set forth and depict (1) the surface of the land and its legal description, with designation of general common elements; (2) the linear measurements and location, with reference to the exterior boundaries of the land, of the building and all other improvements built or to be built on said land by Declarant; (3) floor plans and elevation plans of any building thereon showing location, unit designation and linear dimensions of each unit; similar information with respect to limited common elements; (4) the elevation of the unfinished interior surfaces of the floors and ceilings, and linear measurements showing the thickness of perimeter walls.

The Map shall contain or be accompanied by a certificate of registered architect or licensed professional engineer certifying that such Map fully and accurately depicts the layout, measurements and location of all improvements, general common elements, unit designations, and the dimensions of such unit and the elevation of the floors and ceilings.

In interpreting the Map, the existing physical boundaries of each unit as constructed shall be conclusively presumed to be its boundaries.

Declarant reserves the right to amend the Map, from time to time, to conform same to the actual physical location of the constructed improvements and to any changes, modifications or alterations.

3. DIVISION OF PROPERTY INTO CONDOMINIUM UNITS. The real property and improvements constructed thereon are hereby divided into the following fee simple estates:

Twelve fee simple estates, each such estate consisting of (1) an individual air space, and (2) an appurtenant undivided interest in and to the general common elements, such interest being shown on Exhibit "B", attached hereto, and hereby made a part hereof.

Each such condominium unit shall be identified on the Map in the same manner as on Exhibit "B".

The general common elements shall be held in common by the owners of the air space units subject hereto, in such propositions as Exhibit "B" provides.

4. INSEPARABILITY OF A CONDOMINIUM UNIT. Each individual air space and the appurtenant undivided interests in general common elements shall be inseparable and may be conveyed, leased, encumbered, devised or inherited only as a condominium unit.

5. DESCRIPTION OF A CONDOMINIUM UNIT. Every deed, lease, mortgage, trust deed, will, or other instrument may legally describe a condominium unit by its identifying unit number (shown on Exhibit "B"), followed by the words, "Vail Heights No. III Condominiums", with further reference to the recorded Declaration and Map. Every such description shall be deemed good and sufficient for all purposes to convey, transfer, encumber or otherwise affect the general common elements and the limited common elements reserved for use with such condominium unit, and also to convey the right of ingress and egress to and from said unit and the limited common elements adjacent thereto.

6. SEPARATE ASSESSMENT AND TAXATION - NOTICE TO ASSESSOR. Declarant shall give written notice to the Eagle County Assessor of the creation of condominium ownership of this property, as is provided by law, so that each unit and its appurtenant undivided interest in the general common elements shall be deemed a separate parcel and subject to separate assessment and taxation.

7. TITLE. A condominium unit may be held and owned by more than one person as joint tenants or as tenants in common, or in any real property tenancy relationship recognized under the laws of Colorado.

8. NONPARTITIONABILITY OF GENERAL COMMON ELEMENTS. The general common elements shall be owned in common by all of the owners of undivided interest therein and shall remain undivided, and no owner shall bring any action for partition or division of the general common elements. Nothing contained herein shall be construed as a limitation of the right of partition of a condominium unit between the owners thereof, but such partition shall not affect any other condominium unit.

9. USE OF GENERAL AND LIMITED COMMON ELEMENTS. Each owner shall be entitled to exclusive ownership and possession of his air space unit. Each owner has the primary right to use the limited common elements appurtenant to his unit, except that he shall permit reasonable access thereover for other owners, their guests and families. Each owner may use the general common elements in accordance with the purpose for which any such elements are intended without hindering or encroaching upon the lawful rights of the other owners.

10. USE AND OCCUPANCY. All condominium units shall be used and occupied principally for residential purposes by the owner, by the owner's family or the owner's guests and tenants.

Declarant and its employees, representatives, agents, and contractors may on the subject property maintain a business and sales office, construction facilities and yards, model units and other facilities required during the construction and sales period.

11. EASEMENTS FOR ENCROACHMENTS. If any portion of the general common elements now or hereafter encroaches upon an air space unit or units, a valid easement for the encroachment and for the maintenance of same so long as it stands, shall and does exist. If any portion of an air space unit now or hereafter encroaches upon the general common elements, or upon an adjoining air space unit or units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. For title or other purposes, such encroachments and easements shall not be considered or determined to be encumbrances either on the general common elements or the condominium units.

12. TERMINATION OF MECHANIC'S LIEN RIGHTS AND INDEMNIFICATION. Subsequent to the completion of the improvements described on the Map, no labor performed or materials furnished and incorporated in an air space unit with the consent of or at the request of the owner thereof or his agent or his contractor or subcontractor shall be the basis for filing of a lien against the unit of any other owner not expressly consenting to or requesting the same, including the

general common elements owned by such other owners. Each owner shall indemnify and hold harmless each of the other owners and the Association from and against all liability arising from the claim of any lien against the unit of any other owner, including the general common elements for construction performed or for labor, material, services or other products incorporated in or otherwise attributable to the owner's condominium unit at such owner's request.

13. ADMINISTRATION AND MANAGEMENT. The administration and management of this condominium property shall be governed by the Articles of Incorporation and By-laws of Vail Heights No. III Condominium Association, a non-profit Colorado corporation, hereinafter referred to as the "Association". An owner of a condominium unit, upon becoming an owner, shall be a member of the Association and shall remain a member for the period of his ownership. No person shall be a member unless he is an owner. An exclusive agent for the operation and management of this condominium project may be appointed by the Association.

14. RESERVATION FOR ACCESS - MAINTENANCE, REPAIR AND EMERGENCIES. The owners shall have the irrevocable right, to be exercised by the managing agent or Board of Directors of the Association, to have access to each unit from time to time during reasonable hours as may be necessary for the inspection, maintenance, repair or replacement of any of the general common elements therein necessary to prevent damage to the general or limited common elements or to another unit or units.

Damage to the interior of any part of a unit resulting from the maintenance, repair, emergency repair or replacement of any of the general common elements or as a result of emergency repairs within another unit at the insistence of the Association shall be a common expense of all of the owners; provided, however, that if such damage is the result of the negligence of a unit owner, then such unit owner shall be responsible for all of such damage. Restoration of the damaged improvements shall be to substantially the same condition as that of such improvements prior to the damage.

15. OWNER'S MAINTENANCE RESPONSIBILITY OF UNIT. For purposes of maintenance, repair, alteration and remodeling, an owner shall be deemed to own the windows, doors, interior non-supporting walls, the materials (such as but not limited to plaster, gypsum dry walls, paneling, wallpaper, brick, stone, paint, wall and floor tile, and flooring, but not including the subflooring) making up the finished surfaces of the perimeter walls, ceilings and floors within the air space unit and the unit doors and windows. The owner shall not be deemed to own any utilities running through his air space unit which serve more than one unit except as a tenant in common with the owners of such other units. Such right to repair, alter and remodel shall carry the obligation to replace any finishing materials removed with similar or other types or kinds of finishing materials of equal or better quality.

Each owner shall maintain and keep the interior, including the fixtures, of his own unit in good taste and repair. All fixtures and equipment installed within the unit commencing at a point where the utility lines, pipes, wires, conduits or systems (which for brevity are hereinafter referred to as "utilities") enter the unit shall be maintained and kept in repair by the owner thereof.

No owner shall do any act or any work that will impair the structural soundness or integrity of the building or impair any easement or hereditament.

16. COMPLIANCE WITH PROVISIONS OF DECLARATION AND BY-LAWS.

Each owner shall comply strictly with the provisions of this Declaration, the provisions of the Articles of Incorporation and By-laws of the Association, and the decisions and resolutions of the Association adopted pursuant thereto as the same may be lawfully amended from time to time. Failure so to comply shall be grounds for an action to recover sums due and for damages or injunctive relief or both, maintainable by the managing agent or Board of Directors in the name of the Association on behalf of the owners or, in a proper case, by an aggrieved owner.

17. REVOCATION OR AMENDMENT TO DECLARATION. This

Declaration shall not be revoked nor shall any of the provisions herein be amended unless (1) sixty-six and two-thirds percent or more of the owners of condominium units (based on aggregate ownership in the project measured by one vote for each unit), and (2) all of the holders of any recorded mortgages or deeds of trust covering or affecting any or all units unanimously consent and agree to such revocation or amendment by instrument(s) duly recorded; provided, however, that the percentage of the undivided interests in the general common elements appurtenant to each unit, as stated in Exhibit "B", shall have a permanent character and shall not be altered without the consent of all of the unit owners as expressed in a duly recorded amendment to this Declaration.

18. ASSESSMENT FOR COMMON EXPENSES. The assessments made

upon the owners by the Association shall be based upon cash requirements estimated by the managing agent or Board of Directors of the Association from time to time as payable by all owners, including Declarant, to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the general common elements. Said sum may include among other things, the following: expenses of management; taxes and special assessments, unit separately assessed; fire insurance with extended coverage and vandalism and malicious mischief insurance with endorsements attached in the amount of the maximum replacement value of all units and common elements; casualty and public liability and other insurance premiums; landscaping and care of grounds; snow removal; common lighting and heating; repairs and renovations; garbage collection; wages; water charges; legal and accounting fees; management fees; expenses and liabilities incurred by the managing agent or Board of Directors under or by reason of this Declaration; the payment of any deficit remaining from a previous period; the creation of a reasonable contingency or other reserve or surplus fund as well as other costs and expenses relating to the general common elements. The omission or failure of the Board to fix the assessment for any month shall not be deemed a waiver, modification or release of the owners from their obligation to pay.

19. INSURANCE. The managing agent or Board of Directors

shall obtain and maintain at all times insurance of the type and kind provided hereinabove, and protection for such risks as are deemed advisable by the Board of Directors and are from time to time customarily covered with respect to other apartment or condominium buildings, similar fixtures and equipment and personal property similar in construction, design and use, issued by responsible insurance companies authorized to do business in the State of Colorado. The basic fire and extended coverage insurance on condominium units and the general common elements insurance shall be carried in blanket policy form naming the Association as the insured, which policy or policies shall identify the interest of each unit owner and which shall provide for a standard, non-contributory mortgagee clause in favor of each first mortgagee, and shall further provide that it cannot be cancelled by either the insured or the insurance company until after ten days' prior written notice to each first mortgagee. The managing agent or Board of Directors shall, upon request of any first mortgagee, furnish a certified copy of such blanket policy and the separate certificate identifying the interest of the mortgagor.

All policies of insurance shall provide that the insurance thereunder shall be invalidated or suspended only in respect to the interest of any particular owner guilty of a breach of warranty, act, omission, negligence or non-compliance with any provisions of such policy, including payment of the insurance premium applicable to that owner's interest, or who permits or fails to prevent the happening of any event, whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy, but the insurance under any such policy, as to the interests of all other insured owners not guilty of any such act or omission, shall not be invalidated or suspended and shall remain in full force and effect. Determination of maximum replacement value of all condominium units for insurance purposes shall be made no less frequently than bi-annually by one or more written appraisals, copies of which shall be furnished forthwith to each mortgagee of a condominium unit. In addition, each owner shall be notified of such appraisals.

20. **LIABILITY FOR ASSESSMENTS.** All owners shall be obligated to pay the estimated assessments imposed by the Board of Directors or managing agent of the Association to meet common expenses. Except for insurance premiums for basic fire and extended coverage insurance on condominium units and general common elements, assessments shall be made equally against the owners of each unit based on the interest of each in and to the general common elements appurtenant to such unit as defined in Exhibit "B".

Assessments for insurance premiums for the basic fire and extended coverage insurance on condominium units and general common elements shall be based upon that proportion of the total premiums that the insurance carried on a unit bears to total coverage. Assessments for the estimated common expenses, including insurance, shall be due monthly in advance on the first day of each month, and shall draw interest at twelve percent (12%) per annum if not paid within fourteen (14) days of such due date. The managing agent or Board of Directors shall prepare and deliver or mail to each owner an itemized quarterly statement showing such owner's share of actual expenses for common expenses and also itemizing accumulations for estimated future expenses. Contributions for monthly assessments shall be prorated if the ownership of a unit commences on a day other than the first day of a month.

Any first mortgage, upon request, shall be given written notice by the Association or managing agent at any time mortgagor fails to pay any such assessment within fourteen (14) days of the due date.

No owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the general common elements or by abandonment of his unit.

21. **LIEN FOR NONPAYMENT OF COMMON EXPENSES.** All sums assessed but unpaid for the share of common expenses chargeable to any unit, including interest, shall constitute a lien thereon superior (prior) to all other liens and encumbrances except:

(a) Tax and special assessment liens in favor of any assessing unit; and

(b) All sums unpaid on a first mortgage or first deed of trust of record, including all unpaid obligatory sums as may be provided by such encumbrance thereon prior to the attachment of such a lien.

To evidence such a lien, the Board of Directors or managing agent may, but shall not be required to, prepare a written notice setting forth the amount of such unpaid indebtedness, the name of the owner of the unit and a description of the unit. Such notice shall be signed by one of the Board of Directors or by the managing agent and may be recorded in the office of the Clerk and Recorder of the County of Eagle, State of Colorado. Such lien for the common expenses shall attach from the date of the failure of payment of the assessment, and may be enforced by foreclosure on the defaulting owner's unit by the Association in like manner as foreclosure on a mortgage or deed of trust on real property. In any such foreclosure, the owner shall be required to pay the costs and expenses of such proceedings, the costs and expenses for filing the notice or claim of lien and all reasonable attorney's fees. The owner shall also be required to pay the Association a reasonable rental for the unit during the period of foreclosure, and the Association shall be entitled to a receiver to collect the same. The Association shall have the power to bid in the unit at foreclosure sale and to acquire and hold, lease, mortgage and convey same.

The amount of the common expenses assessed against each unit shall also be a debt of the owner thereof at the time the assessment is made. Suit to recover a money judgment for unpaid common expenses, costs and reasonable attorney's fees shall be maintainable without foreclosing or waiving the lien securing same.

Any encumbrancer holding a lien on a unit may pay any unpaid common expenses payable with respect to such unit, and upon such payment such encumbrancer shall have a lien on such unit for the amounts paid of the same rank as the lien of his encumbrance.

22. **LIABILITY FOR COMMON EXPENSE UPON TRANSFER OF CONDOMINIUM UNIT.** Upon payment of a reasonable fee not to exceed fifteen dollars and upon the written request of any owner or any mortgagee or prospective owner or mortgagee of a unit, the Association, by its managing agent or Board of Directors, shall issue a written statement setting forth the amount of the unpaid common expenses, if any, with respect to the subject unit, the amount of the current monthly assessment, the date such assessment becomes due, and any credit for advance payments or for prepaid items, including but not limited to insurance premiums; such statement shall be conclusive upon the Association in favor of all persons who rely thereon in good faith. If such statement of indebtedness is not issued within ten days of the request, all unpaid common expenses with respect to the subject unit due prior to the date of such request shall be subordinate to the interest of the person requesting such statement.

Except as above provided, the grantee of a unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his proportionate share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. The provisions of this paragraph shall not apply upon the initial transfer of units by Declarant.

23. **MORTGAGING A CONDOMINIUM UNIT - PRIORITY.** Any owner shall have the right from time to time to mortgage or encumber his interest by deed of trust, mortgage or other security instrument. A first mortgage shall be one which has first and paramount priority under applicable law. The owner of a unit may create junior mortgages on the following conditions: (1) Any such junior mortgages shall always be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, liens for common expenses, and other obligations created by this Declaration, the Articles of Incorporation and the By-laws of the Association; (2) The mortgagee under any junior mortgage shall release, for the purpose of restoration of any

improvements upon the mortgaged premises, all of his right, title and interest in and to the proceeds under all insurance policies upon said premises which insurance policies were placed upon the mortgaged premises by the Association. Such release shall be furnished forthwith by a junior mortgagee upon written request of the Association.

24. ASSOCIATION AS ATTORNEY-IN-FACT. This Declaration hereby makes mandatory the irrevocable appointment of an attorney-in-fact to deal with the property upon its destruction or obsolescence.

Title to any unit hereunder shall be expressly subject to the terms and conditions hereof, and acceptance by any grantee of a deed from the Declarant or from any owner shall effect appointment of the attorney-in-fact herein provided. All of the owners irrevocably constitute and appoint Vail Heights No. III Condominium Association, a Colorado non-profit corporation, their true and lawful attorney in their name, place and stead, for the purpose of dealing with the property upon its destruction or obsolescence as is hereafter provided. As attorney-in-fact, the Association, by its duly authorized officers from time to time, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or any other instrument necessary or appropriate to exercise the powers herein granted with respect to the interest of any unit owner. Repair and reconstruction of the improvements as used in the succeeding subparagraphs means restoring any such improvements to a condition substantially the same as prior to the damage, with each unit and the general and limited common elements having the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be available to the Association for the purpose of repair, restoration or replacement unless the owners of the building affected and all affected first mortgagees agree not to rebuild in accordance with the provisions set forth hereafter.

(a) In the event of destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvements, shall be applied by the Association, as attorney-in-fact, to such reconstruction and the improvements shall be promptly repaired and reconstructed. The Association shall have full authority, right and power, as attorney-in-fact, to cause the repair and restoration of the improvements.

(b) If the insurance proceeds are insufficient to repair or reconstruct the improvements, and if such damage rendered not more than one half of the previously existing number of units destroyed or seriously damaged, upon the unanimous approval or consent of every first mortgagee affected, such damage or destruction shall be promptly repaired and reconstructed by the Association, as attorney-in-fact, using the proceeds of insurance and the proceeds of an assessment to be made against all of the owners and their units. Such deficiency assessment shall be a common expense made according to the fractional interests in the building shown on Exhibit "B", and shall be due and payable within thirty days after written notice thereof. The Association shall have the authority to cause the repair or restoration of the improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an owner to pay the assessment. The assessment provided for herein shall be a debt of each owner and a lien on his unit and may be enforced and collected as is provided in paragraph 21.

In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the unit of any owner refusing or failing to pay such deficiency assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the unit of the delinquent owner shall be sold by the Association. The proceeds derived from the sale of such unit shall be used and disbursed by the Association, as attorney-in-fact, in the following order:

- (1) For payment of the balance of the lien of any first mortgage;
- (2) For payment of tax and special assessment liens in favor of any assessing entity;
- (3) For payment of unpaid common expenses;
- (4) For payment of junior liens and encumbrances in the order of and to the extent of their priority; and
- (5) The balance remaining, if any, shall be paid to the prior unit owner.

(c) If more than one-half of the previously existing number of units are destroyed or seriously damaged, and if the owners of one-half of the number of units, or more, do not voluntarily, within one hundred days thereafter, adopt a plan for reconstruction, which plan must have the unanimous approval or consent of every first mortgagee, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association, the entire remaining premises shall be sold by the Association, as attorney-in-fact, for all of the owners, free and clear of the provisions contained in this Declaration, the Map and the By-laws. The insurance settlement proceeds shall be collected by the Association, and such proceeds shall be divided by the Association according to each unit owner's interest (as such interest appears on the policy or policies), and such divided proceeds shall be paid into a separate account representing each unit. Each such account shall be in the name of the Association, and shall be further identified by the number of the unit and the name of the owner. From each separate account, the Association, as attorney-in-fact, shall use and disburse the total amount of each of such funds, without contribution from one account to another, toward the partial or full payment of the lien of any first mortgage against the unit represented by such separate account. There shall be added to each account the apportioned amount of the proceeds derived from the sale of the entire property. Such apportionment shall be based upon the fractional interests shown on Exhibit "B". The total funds of each account shall be used and disbursed, without contribution from one account to another by the Association, as attorney-in-fact, for the same purposes and in the same order as provided in subparagraph (b) (1) through (5) of this paragraph.

If the owners of one-half of the number of units, or more, adopt a plan for reconstruction, which plan has the unanimous approval of all first mortgagees, then all of the owners shall be bound by the terms and other provisions of such plan. Any assessment made in connection with such plan

shall be a common expense and made pro rata according to the fractional interest shown on Exhibit "B" and shall be due and payable as provided by the terms of such plan, but not sooner than thirty days after written notice thereof. The Association shall have the authority to cause the repair and restoration of the improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an owner to pay the assessment. The assessment provided for herein shall be a debt of each owner and a lien on his unit and may be enforced and collected as is provided in paragraph 21. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the unit of any owner refusing or failing to pay such assessment within the time provided; and if not so paid, the Association shall cause to be recorded a notice that the unit of the delinquent owner shall be sold by the Association. The proceeds derived from the sale of such unit shall be used and disbursed by the Association, as attorney-in-fact, for the same purpose and in the same order as provided in subparagraphs (b) (1) through (5) of this paragraph.

(d) Owners of three quarters or more of the number of units, upon the unanimous approval or consent of all affected first mortgagees, may agree that the general common elements of the property are obsolete and that the same should be renewed or reconstructed. In such instance, then such renewal or reconstruction shall be instituted and the expense thereof shall be payable by all of the owners of such general common elements as common expenses; provided, however, that any owner not agreeing to such renewal or reconstruction may give written notice to the Association of non-acquiescence and his unit shall be purchased by the Association for the fair market value thereof. If such owner and the Association can agree on the fair market value thereof, then such sale shall be consummated within thirty days thereafter. If the parties are unable to agree, the date when either party notifies the other that he or it is unable to agree with the other shall be the "commencing date" from which all periods of time mentioned herein shall be measured. Within ten days following the commencing date, each party shall nominate an appraiser in writing, and shall give notice of such nomination to the other party; and such appraiser shall be a realtor and qualified to make appraisals of condominium and similar property in Eagle County, Colorado. If either party fails to make such nomination, the appraiser nominated shall, within five days after default by the other party, appoint and associate with him another similarly qualified appraiser. If the two appraisers designated by the parties, or selected pursuant hereto in the event of the default of one party, are unable to agree, they shall appoint another similarly qualified appraiser to be arbitrator between them, if they can agree on such person. If they are unable to agree on such arbitrator, then the matter shall be settled pursuant to the rules of the American Arbitration Association. The decision of the appraisers as to the fair market value, or in the case of their disagreement, then such decision of the arbitrator shall be final and binding. The expenses and fees of such appraisers or arbitrator or both shall be borne equally by the Association and the owner. The sale shall be consummated within fifteen days thereafter, and the Association, as attorney-in-fact, shall disburse such proceeds as is provided in subparagraphs (b) (1)

through (5) of this paragraph.

(e) Owners of three quarters of the number of affected units may agree that the general common elements of the property are obsolete and that the same should be sold. Such agreement must have the unanimous approval of every affected first mortgagee. In such instance, the Association shall forthwith record a notice setting forth such facts, and upon the recording of such notice by the Association, the entire affected premises shall be sold by the Association, as attorney-in-fact, for all of the affected owners, free and clear of the provisions contained in this Declaration, the Map and the By-laws. The sale proceeds shall be apportioned between such owners on the basis of each owner's percentage interest in the general common elements, and such apportioned proceeds shall be paid into separate accounts representing each unit. Each such account shall be in the name of the Association, and shall be further identified by the number of the unit and the name of the owner. From each separate account, the Association, as attorney-in-fact, shall use and disburse the total amount of such accounts, without contribution from one account to another, for the same purposes and in the same order as is provided in subparagraphs (b) (1) through (5) of this paragraph.

25. PERSONAL PROPERTY FOR COMMON USE. At such time as its development program no longer requires the use thereof, Declarant shall transfer to the Association all items of personal property located on the premises and furnished by Declarant, which property is intended for the common use and enjoyment of the unit owners and occupants. The Association shall hold title to such property for the use and enjoyment of the unit owners and occupants. No owner shall have any other interest or right thereto and all such right and interest shall absolutely terminate upon the owner's termination of ownership of his unit.

26. MAILING OF NOTICES. All notices, demands or other notices intended to be served upon an owner shall be sent by ordinary or certified mail, postage prepaid, addressed in the name of such owner in care of the unit number and building address of such owner. All notices, demands or other notices intended to be served upon the managing agent or the Board of Directors of the Association shall be sent by ordinary or certified mail, postage prepaid, to:

James C. Craig
P. O. Box 114
3120 Booth Falls Court
Vail, Colorado 81657

Such agent and address may be changed by subsequently recorded document or by written notice to all affected parties.

Any owner may, by notice in writing, provide the Association with a different address for mail to such owner which shall be used by the Association in lieu of such address above provided.

Any first mortgagee, upon written request, shall be entitled to notice from the Association or managing agent under the same circumstances as its mortgagor, at such address as such mortgagee shall provide by such notice.

27. ARBITRATION REQUIRED FOR ANY CLAIM HEREUNDER. Except as otherwise herein provided, any controversy or claim arising out of or relating to this Declaration, or the breach thereof, shall be settled by arbitration in accordance with the rules of the American Arbitration Association, and judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

28. PERIOD OF CONDOMINIUM OWNERSHIP. The separate condominium estates created by this Declaration and the Map shall continue until this Declaration is revoked pursuant to paragraph 17 of this Declaration or until terminated pursuant to subparagraphs (c) and (e) of paragraph 24 of this Declaration.

29. GENERAL.

(a) If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word, or the application thereof in any circumstances be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

(b) The provisions of this Declaration shall be in addition and supplemental to the Condominium Ownership Act of the State of Colorado as amended and to all other provisions of law.

(c) Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

Dated this 26 day of January, 1977.

By: James C. Craig
James C. Craig

STATE OF COLORADO)
) ss.
County of Eagle)

The foregoing instrument was acknowledged before me this 26th day of January, 1977, by James C. Craig.

Witness my hand and official seal.

My commission expires: February 8, 1977

Ray S. Peterson
Notary Public

EXHIBIT "A"

TO

CONDOMINIUM DECLARATION

FOR

VAIL HEIGHTS NO. III CONDOMINIUMS

Lot 16, Vail Heights, Filing No. 1, a subdivision in the County of Eagle, State of Colorado.

EXHIBIT "B"
TO
CONDOMINIUM DECLARATION
FOR
VAIL HEIGHTS NO. III CONDOMINIUMS

<u>Unit No.</u>	<u>Appurtenant interest in general common elements</u>
1	1/12
2	1/12
3	1/12
4	1/12
5	1/12
6	1/12
7	1/12
8	1/12
9	1/12
10	1/12
11	1/12
12	<u>1/12</u>
	1.00

148358

STATE OF COLORADO }
County of EAGLE } ss.

I hereby certify that this instrument was
Filed for record in my office on

JAN 26 1977

at 1⁰⁰ o'clock P and recorded
in Book 252 Page 76
MAXWELL A. BART, County Clerk & Recorder
By Steve Hall Deputy

\$ 30.00

Return:

Jay K. Peterson
Box 1408

Dail, Colo. 81657