

**2023 AMENDED AND RESTATED DECLARATION OF RESTRICTIONS, COVENANTS, EASEMENTS,  
RESERVATIONS AND ARCHITECTURAL CONTROL**

THIS 2023 AMENDED AND RESTATED DECLARATION OF RESTRICTIONS, COVENANTS, EASEMENTS, RESERVATIONS AND ARCHITECTURAL CONTROL is made on the date hereinafter set forth by SAN JUAN RANCH ESTATES ASSOCIATION, INC., a Colorado nonprofit corporation (“the Association”).

**RECITALS**

1. San Juan Ranch, Inc., as Declarant, submitted certain real property described as:

Lots 1-99, all streets, roads, easements, rights of way and common areas, included within San Juan Ranch Estates – Filing No. 1, according to the official Plat on file and of record with the Clerk and Recorder for Hinsdale County which Plat was subsequently amended and supplemented as recorded with said Clerk

to the San Juan Ranch, Inc. Declaration of Restrictions, Covenants, Easements, Reservations, and Architectural Control, as recorded in the real property records of Hinsdale County, Colorado, in Book 109, Page 714, on May 8, 1978, which has subsequently been amended and restated most recently by that certain Amended and Restated Declaration of Restrictions, Covenants, Easements, Reservations and Architectural Control on June 8, 2011 and recorded in the real property records of Hinsdale County Colorado at Reception No. 98854, (all such are collectively the “Original Declaration”) and are incorporated in this recital for reference, only; and,

2. The Owners of Lots within the San Juan Ranch Estates community desire to amend and restate the Original Declaration in its entirety to be replaced by this document, (the “2023 Amendment”);

3. The minimum number of Owners required to approve each proposed amendment voted, in favor of each proposed amendment.

NOW, THEREFORE, effective this 23<sup>rd</sup> day of August, 2023, all covenants, conditions, reservations, and restrictions effecting the Land are consolidated, amended, as follows:

**ARTICLE I – DEFINITIONS**

1.1 **“Association”** shall mean San Juan Ranch Estates Association, Inc., the nonprofit corporation described in Article VI hereof.

1.2 **“Buildings”** or **“Improvement”** means an improvement constructed upon the Land in furtherance of the plan of development set forth in the preamble hereof and shall include without

limitation, all structures, driveways, decks, patios, sewage and external plumbing systems, external lighting systems, signage, paint/stain and landscaping.

1.3 "**Committee**" shall mean the Architectural Control Committee described in Article VIII hereof.

1.4 "**Common Area**" shall mean any Site, as defined below, or portion thereof which has been conveyed by the Owner thereof to the Association and accepted thereby, or any areas designated as Common Area, Open Space or Roadway on the Plat and reserved on such Plat by the Declarant, including any improvements thereon, which areas exist for common use of all Owners, their guests, and invitees.

1.5 "**Common Expenses**" shall mean the costs and expenses of managing, maintaining, and operating the Common Areas and Common Facilities. Each Owner shall be responsible for his or her assessed share of the Common Expenses as set forth in Section 6.7 hereof.

1.6 "**Common Facilities**" shall mean any water system other utility or other improvement which is located within the Land and which is commonly used or available for common use by all Owners.

1.7 "**Land**" shall mean the real property described in the preamble hereof.

1.8 "**Owner**" shall mean the fee simple title holder of each respective Site or of a subdivision portion thereof as permitted under Article IV hereof.

1.9 "**Plat**" shall mean the plats heretofore filed as referenced above and incorporated herein by reference, subdividing the Land described in the preamble hereof and as filed in the County records of Hinsdale County, Colorado. "Plat" shall also include plats filed by Declarant or an Owner subdividing otherwise affecting one or more Sites in accordance with Section 4.1 hereunder.

1.10 "**Site**" shall mean each separately numbered and designated parcel of land as shown on the Plat, and the improvements thereon, subject, however, to any modifications in Site designation made under Section 4.1 hereof.

1.11 "**Mail**" shall mean and include any and all type of written communication whether transmitted by U.S. Mail or electronic means. Mail, shall be deemed received by the intended recipient when deposited in the U.S. Mail postage prepaid, properly addressed to the intended recipient at the physical address reflected on the records of San Juan Ranch Estates Association, Inc. The Board of Managers may employ electronic mail or other delivery of notice, including posting communications to the website, for any and all notices that are not otherwise required to be mailed to Owner pursuant to Colorado law. Mail by electronic means, shall be deemed received by the intended recipient when sent to the electronic address reflected on the records of San Juan Ranch Estates Association, Inc.

1.12 **“Majority of Owners”** - as used in these Declarations, the term “Majority of Owners” shall mean those owners or designated representatives of more than fifty percent (50%) of the Sites in the Development.

1.13 **“Rules and Regulations”** - as used in these Declarations, the terms “rules” and “regulations” shall include items as specified within the Declarations as well as Policies and Procedures of the Association.

## **ARTICLE II – EASEMENTS**

2.1 **Generally.** Easements shall be as shown upon the Plat subject to any changes in easement location properly approved by any necessary parties. Such approved easement changes shall be binding upon all Owners and upon any other users of such easements. Such easements upon the Land shall be for the purposes of utilities, drainage, walkways, recreation, and access as designated.

2.2 **Interference with Easements.** No improvements, structure or barricade of any kind whatsoever may be erected or placed upon any platted easement without the prior written approval of the Association.

## **ARTICLE III – SETBACKS**

3.1 **Generally.** For the purpose of providing conformity to the Declarant's plan of development, all improvements, including without limitation all buildings and parking areas, shall only be placed within that portion of a Site designated on the Plat as a "Building Site", except that a variance from this limitation may be obtained from the Committee under Section 3.2 hereof.

3.2 **Architectural Control of Improvement Location.** Regardless of the establishment of Building Sites by the Plat and under this Article, the Committee shall have and retain the full authority granted to it under Article VIII to control the placement of any improvements on the Sites, and it may permit in appropriate cases that improvements be located outside of a designated Building Site, provided that such variance shall only be given upon satisfaction that such variance will not violate any law, rule or regulation of the State of Colorado or its political subdivisions.

## **ARTICLE IV – SUBDIVISION AND COMBINING**

4.1 **No Subdivision without Approval.** No Site may be subdivided except by submission to the Association of a detailed survey showing the proposed new boundary line, the proposed location or relocation of easements, the proposed location and nature of any improvements, and

any other items requested by the Association. No proposed subdividing shall be effective in any way without prior written approval by the Association, which approval may be withheld if such subdivision would not be in harmony with the overall plan of development or would overtax available water and sewerage resources of the subdivision. Notwithstanding any approval by the Association, no Site may be subdivided until such subdivision has received the approval of all governmental entities who may have authority over such subdivision by virtue of Colorado or Federal law. Any such subdivision shall be limited to relocation of existing Site boundaries between Owners of adjacent Sites and shall not result in the creation of an additional Site.

4.2 **Conveyance of Sites or Units.** A Site may be conveyed or sold under appropriate Colorado or Federal law. No Site may be improved by the Owner thereof without the submission of such plan of improvement to the Committee and approval of such plan by the Committee as provided in Article VIII hereof. Such approval shall not be unreasonably withheld.

#### **ARTICLE V – COMMON AREAS AND FACILITIES**

5.1 **Right to Use; Easements.** Without hindering or encroaching upon the lawful rights of the other Owners, each Owner may use the Common Areas and Common Facilities in accordance with the purpose for which they were intended. Title to the Common Areas and Common Facilities were conveyed to the Association, free and clear of any liens and encumbrances, except the easements and restrictions created hereby, and except for the right of common usage, reserved to the Association with respect to fishing rights along the Lake Fork of the Gunnison River and with respect to the access road between the Land and Colorado Highway 149. Each Owner shall have a right and easement of use and enjoyment of the Common Areas and Common Facilities. Such easement shall apply to the guests of Owners, and such other persons as may from time to time be authorized by the Association. The use of the Common Areas and Common Facilities shall be subject to such rules, regulations, policies and procedures as the Association may prescribe and may be subject to suspension of voting rights and right to use of Common Areas and Common Facilities as provided in the Bylaws of the Association for the failure of an Owner to pay an assessment when due or for a violation of the provisions of this Declaration, Bylaws or such rules, regulations, policies and procedures.

5.2 **Additional Common Areas.** Also conveyed to the Association was the non-exclusive right to fish along a portion of the West bank of the Lake Fork of the Gunnison River, which easement shall be for the benefit of all the Owners as Common Area. The Association may acquire or build additional Common Area and Common Facilities from time to time as it may determine.

5.3 **Expenses.** The Common Expenses associated with the Common Areas and Common Facilities shall be borne by the Association, following conveyance of such to it and shall be prorated as set forth in Article VI hereof and the Bylaws of the Association.



**ARTICLE VI – ASSOCIATION**

6.1 **Creation.** San Juan Ranch Estates Association, Inc., a nonprofit corporation, has been formed under the laws of the State of Colorado.

6.2 **Membership.** The Owner or Owners of each Site including any Site owned by the Association, shall be entitled to one membership in the Association per Site and such membership shall continue as long as such member is an Owner. In the case of subdivision of a Site in accordance with Section 4.1 herein, each subdivided Site created thereby shall be entitled to one membership.

6.3 **Representative of Owner.** The Owner of each Site and, in the event that a Site or subdivided portions thereof are owned by more than one person or entity, then all such Owners or the governing body representing such Owners, as appropriate, shall designate in writing to the Association the person entitled to represent and to cast the vote for such Site.

6.4 **Duties.** The Association shall have the duty of providing management, maintenance, repair, landscaping, and should the same be authorized, improvements for the Common Areas and Common Facilities, set forth in the Plat and described herein, and for all easements described in Article II hereof. It shall be further responsible to provide such insurance as may be necessary of desirable with respect to the Common Areas, Common Facilities and Easements. The Association may but need not, assume additional responsibilities of providing common services to Owners. The Association may employ a managing agent to perform its duties hereunder. Such agent shall have the powers and duties set forth in the Bylaws of the Association.

The Association may adopt rules, regulations, policies, and procedures governing any and all matters relating to the use and occupancy of any portion or all of the Land comprising San Juan Ranch Estates which are not in contravention of the Declaration or Bylaws. Such terms, including the singular of each, shall mean and include the others.

6.5 **Costs of Association.** The Association shall perform its duties and obligations prescribed by this Declaration, or additional duties or obligations which may be assumed by the Association, upon a cost basis and shall have the right to establish appropriate cash reserves to insure the performance of its duties and obligations. The costs of the Association shall be allocated to each Site on an equitable basis taking into consideration the different costs associated with providing water service to Sites and consistent with the past practice of the Association in assessing an additional, separate amount for Sites with water service.

6.6 **Budget.** The Board of Managers of the Association must adopt a budget for the Association's anticipated common expenses, plus reserves, for the fiscal year. Within 90 days of adoption of the budget, the Board must deliver the budget to the Owners within the Community for review. Within a reasonable time thereafter, the Board must schedule and notice a meeting to discuss the budget. The budget is deemed approved unless rejected by a majority (as previously defined) of owners in the Association. Once approved, this budget is the basis for the

Assessments for the fiscal period. If not approved, the existing budget remains in place until such time a new budget is approved.

6.7 **Assessments.** The Common-Expenses incurred by the Association in its operation shall be borne by the Owners upon an equitable assessment basis. Each Owner of a Site (or subdivision thereof) by acceptance of a deed therefor, whether or not so expressed in such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association his or her respective assessment as herein provided. Each Owner shall be responsible for an equitable fractional proportion of the total assessment with the Owners of all other Sites in the development.

The assessments made shall be based upon the Association's cash requirements deemed to be such aggregate sum as the Board of Managers of the Association shall determine is necessary for the payment of all estimated expenses incurred in connection with the maintenance and operation of the Common Areas and Common Facilities, which sum may include, but is not limited to, expenses of operation, management, taxes and special assessments until separately assessed, insurance premiums on Common Areas and buildings thereon (including fire insurance with extended coverage, vandalism and malicious mischief insurance, public liability and other insurance), landscaping and care of grounds, repairs and renovations, trash and garbage collections, wages, common water and sewage service operating expenses and other common utility charges, legal and accounting fees, management fees, expenses and liabilities incurred by the Managing Agent, or Board of Managers, under or by reason of this Declaration, the payment of any deficit remaining from a previous assessment period, the creation of a reasonable contingency or other reserve or surplus fund as well as other costs and expenses relating to the Common Areas and Common Facilities.

Assessments shall also include the costs of exterior maintenance of an Owner's Site if such maintenance is undertaken by the Association pursuant to Article X hereof. The omission or failure of the Board to fix the assessment for any assessment period shall not be deemed a waiver, modification, or a release of the Owners from their obligation to pay. The assessments for estimated Common Expenses shall be due yearly in advance and the Board of Managers or Managing Agent shall prepare and deliver, mail, or digitally deliver to each Owner an itemized statement showing the estimated or actual expenses for the assessment period and the amount due by such Owner. No Owner may exempt him or herself from liability for his or her contribution towards the Common Expenses by waiver of the use or enjoyment of any of the Common Areas or Common Facilities or by abandonment of his or her Site.

6.8 **Lien for Assessment.** All Assessments levied for the Common Expense shall become a lien encumbering a Site. The lien shall have that priority as set forth pursuant to Colorado law, including but not limited to CRS 38-33.3-316 as same now exists or is hereafter amended. Sale or transfer of any Site shall not affect the lien for said Assessments. No such sale, transfer, foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure, nor cancellation or forfeiture shall relieve any Site or Owner from continuing liability for any Assessment charges then or thereafter becoming due, nor from the lien thereof. The Board of

Managers shall have all remedies available to it pursuant to Colorado law which shall be set forth in the Association's policy regarding collection of assessments.

6.9 **Personal Obligation of Owner.** The amount of the common expenses assessed against each Site shall also be a personal obligation of the Owner thereof at the time the assessment is due. Suit to recover a money judgment for unpaid assessments, and any penalties thereon shall be maintainable without foreclosing or waiving the lien securing same.

6.10 **Payment by Encumbrancer.** Any encumbrancer holding a lien on a Site may pay any unpaid assessment payable with respect to such Site, and upon such payment such encumbrancer shall have a lien on such Site for the amounts paid of the same priority as the lien of his or her encumbrance.

#### **ARTICLE VII – LAND USE**

7.1 **Residential Use.** The Land shall be restricted to residential use as defined by Hinsdale County code or Colorado state law, and no commercial enterprise or use shall be permitted. Residential use shall be further restricted within the Land to occupation and use by one family per Site; provided that any Lease, Leases, Leasing, Rental, Rentals (all of which are defined as a lease, rental or use of a site for any type of compensation) of Sites shall be permitted if, and only if, such Leasing will not expand Site use or occupation to more than a single family, and any such Lease must conform to the following:

- (a) Each Lease must be in writing,
- (b) The Lease term must be a minimum of three (3) consecutive months,
- (c) Each Lease must specifically prohibit subleasing, and
- (d) Each Lease must contain a statement that lessee has read and agrees, by his or her signature thereto, to abide by all the terms and conditions of this Declaration, as well as the Association's Bylaws and Policies.

Furthermore, the Association must be furnished an executed copy of each Lease prior to the commencement of the term thereof.

#### 7.2 **Building Restrictions**

(a) **General Description:** All buildings within the Land shall have a pleasing appearance in harmony with the natural features of the Land, surrounding environs and the Association's purposes herein stated. No bright colors or other construction techniques which would unnecessarily call attention to the buildings will be permitted. No construction of improvements shall result in unnecessary loss of trees or other ground cover, and suitable reclamation techniques shall be required to restore the natural appearance of the Site following construction.

(b) **Number:** Only one residential building containing living quarters and one accessory building may be constructed within one Site. An accessory building, unattached to the residential building, may be constructed on a site so long as the total of the gross floor area of the residential building and such accessory building do not, collectively, exceed twelve percent {12%} of the area of the Site itself. Such accessory building must be architecturally identical with the residential building in style and in outside finish. Such accessory building may be used only for parking, storage, and a work/hobby shop for non-commercial purposes. Such accessory building may not be used for living or sleeping purposes. Such accessory building may not be leased or rented separately from the primary residential building and any such rental/lease must follow the rental/leasing restrictions in the Declarations. No other buildings may be constructed within a Site.

(c) **Size:** The gross floor area of the building or buildings located within a Site may not exceed twelve percent (12%) of the area of the Site itself, nor shall the living area within the residential building be less than 1,000 feet of available floor space.

(d) **Height:** No building may exceed 25 feet in height from the ground measured at the grounds highest elevation along the foundation. No television antennas or roof extensions may exceed 35 feet in height measured in the same fashion. The Committee may require one story construction, and thereby reduce maximum height with respect to any site if the committee believes such action is necessary to preserve the view of another Site.

(e) **Mobile/Manufactured Homes:** No mobile or manufactured homes or trailers shall be permitted as residences within the Land, either affixed to the Land or on a temporary basis. Modular or prefabricated house construction shall be permitted by the Committee but only to the extent such conforms to the other building criteria in this Declaration.

(f) **Building Code:** All improvements shall conform to the Uniform Building Code, unless a variance therefrom is granted by the Committee, or unless Hinsdale County or other authority shall regulate the construction of structures by code or regulation, in which case, the governmental authority shall control.

7.3 **Restrictions.** In addition to the foregoing, the following restrictions on use of the Land are imposed:

(a) **General.** No noxious or offensive activities shall be conducted on any Sites within the Land, nor shall anything be done or be caused to be done to any said Sites that shall become or be an unreasonable annoyance or nuisance to any Owner of another Site.

(b) **Animals.** No animals shall be kept or maintained on the Land, except the usual domestic household pets; and in such case, such household pets shall be kept confined to the Owner's Site or attached to a leash so as not to become a nuisance. No animals may be raised for commercial purposes; provided however, that the Common Areas may be utilized by the Association for riding stables and bridle paths.

(c) **Limited Access.** There shall be no access to any Site on the perimeter of the Land except from designated roads within the Land.

(d) **Fences.** No fences, walls, or other barriers shall be permitted for the purpose of enclosing or demarcating Site boundaries. Other fences and the like shall be subject to architectural control under Article VIII.

(e) **Drainage.** Since the Land is situated in mountainous terrain, there will be a substantial amount of natural surface water drainage and runoff flowing over the area. No Owner or other person shall interfere with or redirect the natural course of any such drainage and runoff so as to cause an unnatural flow onto or across the land of another.

(f) **Temporary Structures.** No temporary structure, excavation, basement, trailer, or tent shall be permitted on the Land, except as may be necessary during construction or as authorized by the Committee.

(g) **Water.** Each structure designed for occupancy or use by humans shall connect with water facilities provided for by the Association. No private well shall be permitted on the Land.

(h) **Sewerage.** Sewerage shall consist of individual septic systems. No sewerage facility may be installed without prior certification by a registered professional engineer that the proposed facility is suitable to the site, which shall be submitted to the Committee and Hinsdale County for approval. The sewerage system shall be installed and maintained by the Owner in such a manner as to assure compliance with all state and local standards governing individual septic systems. The Association shall have the right to enforce this provision under Section 10.2 hereof without the necessity of establishing any sewerage system.

(i) **Unsightliness.** No unsightliness shall be permitted on any Site. Without limiting the generality of the foregoing:

i. All unsightly structures, facilities, equipment, objects, and conditions shall be enclosed within an approved structure.

ii. Service areas and facilities for hanging drying, or airing clothing or fabrics shall be enclosed by a structure as approved by the Committee.

iii. Pipes and/or tanks for water, gas, oil, sewer, drainage, or other purposes; wires, poles, utility meters, and other utility facilities; and sewage disposal systems or devices shall be enclosed by an approved structure or shall be below the surface of the ground. If, at the time of the occupancy of any structure, connections to nearby underground electric lines or telephone lines are not available then temporary poles or wires for electric or telephone service, as the case may be, may be installed to a reasonably necessary height provided that they shall be promptly removed at the expense of the Owner after such connections become available.

iv. Subject to applicable law, the size and location of any exterior television or radio antenna shall be subject to prior written approval by the Committee which may, in its discretion, forbid the installation of any such exterior antenna.

v. Portable storage/shipping units/containers may not be placed on any Site except: (a) for no more than three (3) days while being loaded or unloaded with household goods; or, (b) with the approval of and under conditions set by the ACC, during construction, remodel or refurbishment of a residence while used to store construction materials and/or tools/equipment.

(j) **Signs and Flags.** No signs, flags or advertising devices of any commercial nature shall be erected or maintained on any of the Land except as necessary to identify the name or ownership of the particular Site and its address; except as necessary or desirable to give directions, advise of rules and regulations, or caution or warn of danger; and except as may otherwise be necessitated or permitted by law. Signs and flags which are permitted by law shall conform to the Associations Policies including but not limited to placement, size, count, color, and other appearance attributes as determined by the Committee.

(k) **Lawn Watering.** In order to maintain the rustic nature of the Land, watering of lawns or gardens shall not be permitted; provided that rainwater or other precipitation which falls upon the roof of any residence structure properly placed upon a Site may be collected by means of gutters or other drainage utility and piped from thence into legally installed rain barrels or an underground cistern, or water otherwise legally and properly hauled onto the property from outside the premises and placed in such barrels or cistern, which water may be used for the purpose of watering trees or plants of a type native to the immediate region in Hinsdale County (but not lawns) and thus compatible with such existing 'rustic nature of the land,' provided that: 1. no water from the Association's wells may be captured in any such barrels or cistern; 2. No cistern shall exceed 1,250 gallon capacity; and barrels are limited to two legally installed barrels for total 110 gallons. All such water collection facilities and cisterns and the placement thereof shall be subject to approval by the Architectural Control Committee in the same manner as any other improvement or modification provided for hereunder.

(l) **Maintenance.** All Sites, including all improvements thereon, shall be kept and maintained by the Owner thereof in a clean, safe, attractive, and sightly condition and in good repair. Failure to comply with this provision shall subject the Site to the provisions of Article X wherein repairs and maintenance may be made for the Owner at his or her expense. An Owner shall do no act or work that will impair the structural soundness of the building or impair any easement or hereditament.

(m) **Light, Sound and Odors.** No light shall be emitted from any Site which is unreasonably bright or causes unreasonable glare, no sound shall be emitted on any Site which is unreasonably loud or annoying, and no odor shall be emitted on any Site which is noxious or offensive to others.



(n) **Refuse.** No refuse, including without limitation trash, garbage, lumber, grass, shrub or tree clippings, plant waste, compost, ashes, metals, bulk materials, and scrap materials shall be allowed to accumulate on any Site. Each Owner shall provide suitable covered noiseless receptacles for the collection of such refuse in preparation for regularly scheduled periodic pickup. Refuse shall be stored for such pickup in such containers which shall, in turn, be enclosed in an approved structure so as to be screened from public view and protected from disturbance. No refuse may be thrown or dumped on any of the Land. The burning of refuse out of doors shall not be permitted. No incinerators or other devices for the burning of refuse indoors shall be constructed, installed, or used by any person except as approved by SJRE.

(o) **Parking and Storage:** Parking and storage of items within San Juan Ranch shall be governed by a policy adopted by the Board of Managers in accordance with the Policy of San Juan Ranch Estates Association, Inc. Regarding Procedures for Adoption Of Policies, Procedures, Rules, Regulations, or Guidelines. Such policy shall be known as the "Parking and Storage Policy" and, as it exists from time to time, is incorporated herein by this reference for all purposes as if copied at length herein, without further action by the Owners and/or Board of Managers. Violations of the Parking and Storage Policy may be enforced by the Association or an Owner, in accordance with ARTICLE X-ENFORCEMENT hereof.

(p) **Hazardous Activities:** No activities shall be conducted on any Site, and no improvements shall be constructed on any Site which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon the Land. Open fires are a hazardous activity and shall be governed by a policy adopted by the Board of Managers in accordance with the Policy of San Juan Ranch Estates Association, Inc. Regarding Procedures for Adoption Of Policies, Procedures, Rules, Regulations, or Guidelines. Such policy shall be known as the "Hazardous Activity/Open Fires Policy" and, as it exists from time to time, is incorporated herein by this reference for all purposes as if copied at length herein, without further action by the Owners and/or Board of Managers. Violations of the Hazardous Activity/Open Fires Policy may be enforced by the Association or an Owner, in accordance with ARTICLE X-ENFORCEMENT hereof.

(q) **Occupancy.** No portion of any Site shall be used for residence, living, or sleeping purposes other than rooms designed for such purposes in a completed structure. No living or sleeping room in any structure shall be used for living or sleeping purposes by more persons than it was designed to accommodate.

(r) **Mining and Drilling.** No Site shall be used for the purpose of mining, quarrying, drilling, boring, exploring for, or removing water, oil, other hydrocarbons, minerals, rocks, stones, gravel or earth.

**ARTICLE VIII – ARCHITECTURAL CONTROL**



8.1 **Establishment of Committee.** The construction of any and all improvements (as previously defined) of whatever type within the Land, including alteration, modifications, and additions to any existing improvements, shall be forbidden, unless prior written approval by the Architectural Control Committee has been obtained with respect to such construction. Specifically, and without limitation, the Committee shall approve the exact location of all improvements and the construction design thereof, including exterior building materials, the color of the exterior coating thereof, the ground floor area, the height, and the number of rooms in all structures, and the number of, and arrangement of, parking spaces as well as the design of vehicular access thereto.

8.2 **Membership.** The Committee shall consist of four members of the Association, appointed by the President of the Board of Managers. An architect or engineer may be employed by the Committee on a limited basis to assist in its consideration of architectural control. The President may designate one or more alternate members for each regular Committee member to act in place of an absent member.

8.3 **Rules and Procedures.** The Committee may in its discretion set forth guidelines for the assistance of Owners regarding particular aspects of the architectural control to be exercised under this Article. Further, the Committee shall adopt and reduce to writing a uniform set of rules and procedures for processing the materials submitted to it for approval. It will also list the items which will be required to be submitted to the Owner for any proposed improvements and the time(s) for such submissions. Such guidelines, rules, procedures, and lists shall be made available to all Owners and prospective Owners through the secretary of the Committee. No rule or procedure of the Committee shall conflict with the requirements of this declaration.

8.4 **Submissions to Committee.** The Committee may require any Owner or prospective Owner to submit any or all of the following Materials. This list shall not be deemed to limit the Committee in requiring any other materials.

- (a) A preliminary report indicating the general nature of the proposed project.
- (b) Preliminary plans and specifications for the proposed improvements.
- (c) Except for the original improvements, the erection of a skeleton outline of the proposed improvement so as to determine the over-all effect of the proposed improvement with respect to height, view, and general harmony.
- (d) A detailed survey with contour intervals of not less than two feet, showing the location of proposed improvements, including without limitation, all structures, drives, and parking. The survey shall show all trees exceeding four inches in diameter or eight feet in height and any general wooded area, all substantial shrubs, the larger rocks, and such other detail as the Committee may require.
- (e) Detailed working drawings prepared by an architect or engineer to such scale as requested by the Committee and with such elevations as the Committee may deem necessary.

(f) A list of exterior materials to be used and the proposed exterior colors.

(g) Certified copies of all approvals of state or local government, or their agencies which may be required by law, rule, or regulation with respect to the proposed improvement.

8.5 **Committee's Decisions/Expiration.** The ACC shall have a period of twenty (20) days from the receipt of a completed application which it may request within which to approve or disapprove the proposed improvements, whether in part or in whole. The Owner or proposed Owner, his or her architect, engineer, and/or contractor, shall meet with the ACC, upon reasonable notice of such meeting, to facilitate the processing and approval of improvement plans. The failure of the ACC to approve or disapprove plans within the period described in this paragraph shall constitute evidence of Committee approval. Any approval or disapproval by the ACC shall be in writing, or submitted via electronic means (e.g. email, website), to the last known address of the Owner or proposed Owner. Approval of a completed application shall expire twelve (12) months after the date of approval unless such time is extended for a specific number of days by the ACC for good cause shown; or work to undertake the approved improvements is commenced and continues before the expiration of such original or extended time. A request to extend the initial or any extended time period must be made to the ACC before the expiration of the then existing approved time period. Any extension of approval may not be for longer than six (6) months. No more than two (2) extensions may be granted.

8.6 **Majority Approval.** Committee approval shall be by a majority of the Committee.

8.7 **No Construction Without Approval; Title Documents.** No work with respect to the construction of improvements shall be commenced unless and until written approval of the Committee has been given or through the lapse of time following submission of material as above provided. No such work shall be undertaken except in strict compliance with the written conditions contained in the Committee's approval, and in strict conformity to the plans and specifications submitted by the Owner or proposed Owner. The Committee shall have the further right to enforce compliance with its rules and procedures by the filing of documents affecting title to any particular Site; by requesting that the appropriate governmental authorities not grant building or other required permits or licenses; by court action for a prohibitive or mandatory injunction; or by such means as it may deem necessary or advisable.

8.8 **Variance.** The Committee, for good cause, may waive any of its requirements and may permit variances from the requirements of this Declaration to the extent permitted by this Declaration.

8.9 **Liability.** The Committee and its members shall not be liable for any action taken by it in good faith and shall be held harmless by all persons dealing with it, or by the SJRE for any actions, except gross negligence or willful misfeasance or malfeasance.

#### **ARTICLE IX – CONSTRUCTION OF IMPROVEMENTS**

9.1 **Period of Construction.** All approved improvements must be substantially complete within twenty-four (24) months from the date of approval and any extension thereof. As used herein, the term “substantial completion” means that the improvement is sufficiently complete on the exterior to reflect a completed home and is in compliance with all plans submitted to and approved by the Association. All improvements must be finally completed within thirty (30) months from the date of approval and any extension thereof unless construction is delayed by strike, war, riot, or acts of God. The term “finally completed” means that the improvement is complete in all material respects in accordance with the plans approved by the ACC. If the approved plans are for interior work only, to the extent it is reasonably possible, all equipment, tools and materials must be stored inside the structure or otherwise screened from view from the adjoining road and neighboring lots. In order to assure compliance with the provisions hereof, the Association may require such assurances as it may deem advisable from the Owner, from the general contractor and/or subcontractors, and/or from the interim or permanent lender financing the cost of any improvements. At the discretion of the Association, such assurance may be a completion and construction bond with the Association named as an obligee thereunder, a per diem dollar amount of penalty for failure to make timely completion, or any other device or method commonly used to assure completion of improvements.

9.2 **Failure To Complete:** Upon failure to achieve substantial completion of the improvements within the approved time period established by the Committee, the Association may take such action as the Association deems necessary or desirable, including but not limited to the following: cancelling any previously granted approvals by the Committee and/or the Board of Managers; suspend the owner’s privilege to use the common areas (including but not limited to fishing, any use of the river, pond, pavilion and fire/BBQ pit), impose a fine in accordance with the Association policy; enter upon the property and remove all material, tools and equipment, and any incomplete improvement and return the property to its pre-construction condition as nearly as possible; and, take any action allowed by Colorado law to compel completion of the improvements. The owner shall be liable to the Association for all costs of whatever kind and type incurred by the Association resulting from a failure to complete the improvements within the approved time period. Such costs shall include, but not be limited to: costs to enter upon the property and remove all material, tools, equipment, improvement work items in place, disposal fees, returning the property to its pre-construction condition, court costs, witness fees and expenses, attorney’s fees and expenses, employee time and travel, Committee and Board of Manager’s travel. All such costs shall be a lien upon the property. The Association shall give the owner not less than sixty (60) days’ notice, by electronic means and/or U.S. mail and/or by personal delivery and/or posting on the site, before beginning action as provided above.

Prior to exercising any remedies herein to remove any or all materials, tools, equipment, and any incomplete improvement and return the property to its pre-construction condition as nearly as possible, the Association shall comply with all mandates of Colorado law and the Association’s policy regarding enforcement of covenants. Upon completion of such procedures, the Association shall seek relief from a court of competent jurisdiction authorizing such remedial steps and

actions as the court shall deem appropriate. Seeking relief from a court shall not be necessary in the event the actions taken, or sought to be taken, by the Association are to remedy an immediate danger to the health, safety and welfare of any person, the public, or any property within or bordering the subdivision.

9.3 **Waiver.** During the period of construction of improvements, the restrictive provisions of this Declaration will be waived only to the extent necessary to permit completion of construction and only upon the assurance that there will be no such violation of any provision of this Declaration following completion of construction.

#### **ARTICLE X – ENFORCEMENT**

10.1 **By Whom.** The provisions of this Declaration may be enforced by the Association or by any Owner. An Owner shall have the right to enforce the provisions of this Declaration, and any policy, rule, regulation or procedure adopted by the Board of Managers, only after giving the Association notice of an alleged violation of the provisions of such and upon failure of the Association to initiate remedial action as hereinafter provided within thirty days after receipt of such notice. The right of enforcement conferred upon an Owner shall not be effective as to any waiver granted by the Association or the Committee under the provisions of this Declaration.

10.2 **Enforcement by Correction.** The Association shall have the right to enforce all of the conditions of this Declaration relating to appearance and maintenance of any Site or the improvements thereon by going upon the Site and correcting any violation. Any such action shall be taken in the following manner:

(a) Upon receiving notice of any violation, the Association shall verify the fact by an inspection of the Site.

(b) Upon verification of a violation, notice in writing shall be given to the Owner(s) of such Site, which notice shall identify the Site and the Owner thereof and shall describe the violation and shall require the Owner to correct such violation within thirty days following such notice.

(c) Upon failure to correct any violation or to assure the Association that such violation will be corrected within the thirty-day period, the Association may cause the violation to be corrected. Such correction may include, but shall not be limited to, repair of any sewerage system, decorating or repairing improvements, removal of unsightly objects, landscaping, and removal of any vehicle or object violating the parking or storage restrictions under Section 7.3 hereof and any policy adopted pursuant thereto.

(d) The correction of any violation made by the Association in accordance with these provisions shall be at the expense of the Owner. The expense shall be deemed to include not only the costs actually expended, but also a normal percentage for overhead and any and all other costs of management, including reasonable attorney's fees.

(e) The Association shall have a lien for any amounts expended hereunder, which lien may be filed and enforced in a manner similar to the lien of the Association for unpaid assessments as provided in Section 6.8 hereof.

10.3 **Enforcement by Law.** The enforcement of the provisions of this Declaration may also be by a proceeding in law for a prohibitive or mandatory injunction or by a suit or action to recover damages. A judgment in any action at law or in equity shall include reasonable attorney's fees. In addition thereto, the Association may exclude any Owner or the guests of any Owner from the use and enjoyment of the Common Areas and any Common Facilities thereon.

10.4 **Effect of Violation.** No violation of, or failure to comply with any provision of this Declaration nor any action to enforce such provision shall affect, defeat, render invalid, or impair any mortgage, deed of trust, or other lien on any portion of the Land which was taken in good faith and for value and perfected by recording with the Clerk and Recorder of Hinsdale County, Colorado, prior to the time of recording of a notice of violation which shall identify such portion of the Land and the Owner(s) thereof and shall describe the nature of such violation or failure to comply. No such violation, failure to comply, nor action to enforce shall affect, defeat, render invalid, or impair the title or interest of the holder of, or the purchaser upon foreclosure under, any such mortgage, deed of trust, or other lien or result in any liability, personal or otherwise, to any such holder or purchaser. Any such purchaser upon foreclosure shall, however, take subject to this Declaration except that any violation of, or failure to comply with, any provision of this Declaration which occurred prior to the vesting of the fee simple title in such purchaser shall not be deemed a violation hereof or a failure to comply herewith with respect to such purchaser, his or her heirs, representatives, successors, and assigns. Nothing contained in this Section 10.4 shall be deemed to relieve any Owner of personal liability for assessments, costs, expenses, and fees accruing or owed under this Declaration and pertaining to his ownership of a portion of the Land. The Association shall have the right to obtain personal judgment against any such Owner for such liability through any court of competent jurisdiction.

#### **ARTICLE XI – MAINTENANCE AND REPAIR OF IMPROVEMENTS**

11.1 **By Owner.** An Owner shall maintain and keep in good repair all that part of the Land and Improvements thereon contained on such Owner's Site not required to be maintained and kept in good repair by the Association. It is the responsibility of each Owner to keep adequate fire, casualty and public liability insurance coverage on his or her Site.

(a) Every Owner must perform promptly at his or her own expense all maintenance and repair work on the Owner's Site. An Owner shall not do an act of any work that will impair the structural soundness or integrity of the building or impair any easement or hereditament.

(b) All repairs of installations on a Site, including but not limited to water service lines beginning at the connection to the water main, shall be at the Owner's expense.



(c) An Owner shall be obligated to reimburse the Association promptly upon receipt of its statement for any expenditures incurred by it in repairing or replacing any Common Areas or Common Facilities damaged by his or her willful act, omission, or negligence or by the willful act, omission or negligence of the Owner's tenants, invitees or agents.

11.2 **Right of Entry.** Each owner hereby grants to the Association the right of entry to their Site during reasonable hours for access : (a) to a Common Area as may be necessary for maintenance, repair or replacement of any Common Area or Association property; and, (b) as may be necessary to make emergency repairs to prevent damage to a Common Area, Association property, another site, or the water system or its operation.

#### **ARTICLE XII – MISCELLANEOUS**

12.1 **Effect and Duration of Covenants.** The provisions of this Declaration shall be for the benefit of and binding upon the Land, each Site, each Owner, and his or her successors, heirs, representatives, and assigns. Such provisions shall continue in full force and effect until January 1, 2030, at which time they shall be automatically extended for five successive terms of ten years each unless, at any time after January 1, 2030, the Owners of two-thirds of the Sites shall, at a meeting duly called for such purpose, vote for the termination of the provisions of this Declaration. At any such meeting, each Site shall have one vote.

12.2 **Estoppel Certificate.** Upon payment of current published fee and upon written request of any Owner or any person with any right, title, or interest in a Site, or intending to acquire any right, title, or interest in a Site, the Association shall furnish a written statement setting forth the amount of any unpaid assessments, charges, fines, or penalties, if any, due or accrued under this Declaration with respect to any Site or portion thereof. Such statement shall, with respect to the party to whom it is issued be conclusive against the Association and all other parties that no greater or other unpaid amounts were then due or accrued.

12.3 **Limited Liability.** Neither the Association nor any member of the Board of Managers, agent or employee thereof shall be liable to any party for any action or for any failure to act with respect to any matter under this Declaration if the action taken or failure to act was in good faith or was without malice. The Association shall not be liable, in any civil action brought by or on behalf of a member, for bodily injury occurring to a member on the Common Areas or any Common Facilities thereon. This grant of immunity from liability shall not be effective if the Association causes bodily injury to the member on the Common Area by its willful, wanton, or grossly negligent act of commission or omission.

12.4 **Severability.** Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity or enforceability of any other provision or any valid and enforceable part of any provision.

12.5 **No Waiver.** Failure to enforce any provision of this Declaration shall not operate as a waiver of any such provision nor of any other provision hereof.

12.6 **No Partition.** The Common Areas shall be owned by the Association and shall remain undivided, and no Owner shall bring action for partition or division of the Common Areas.

12.7 **Mechanic's Lien Rights and Indemnification.** Subsequent to the completion of any improvements, no labor performed, or materials furnished and incorporated on a Site with the consent or at the request of an Owner or his or her agent or his or her contractor or subcontractor shall be the basis for the filing of a lien against any other Site not expressly consenting to or requesting the same, or against the Common Areas. Each Owner (indemnitor) 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 Land of any other Owner or against the Common Areas for construction performed or for labor, materials, services or other products.

12.8 **Right to Mortgage.** Any Owner shall have the right from time to time to mortgage or encumber his or her interest by deed of trust, mortgage, or other security instrument. A first mortgage or encumbrance shall be one securing an indebtedness to a lending institution chartered by the United States or by the State of Colorado, which has first and paramount priority under applicable law. The Owner of a Site may create junior mortgages on the following conditions: (i) that any such junior mortgage shall always be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, lien for common expenses, and other obligations created by this Declaration and by the Bylaws of the Association; (ii) that the mortgagee under any junior mortgage shall release, for the purpose of restoration of any improvements upon the mortgaged premises, all of his or her right, title, and interest in and to the proceeds under all insurance policies upon the said premises which insurance policies were effected and placed upon the mortgaged premises by the Association. Such release shall be furnished forthwith by a junior mortgagee upon written request of the Association and if such request is not granted, such release may be executed by the SJRE as attorney-in-fact for such junior mortgagee.

12.9 **Destruction or obsolescence.** Each owner upon becoming an owner of a Site, thereby grants his or her power of attorney in favor of the Association, irrevocably appointing the Association his attorney-in-fact to deal with the owner's Site upon its damage, destruction, or obsolescence

#### **ARTICLE XIII – AMENDMENTS**

13.1 **Amendment.** The Owners acting through the Association shall have the right to amend, delete, or supplement any provision of this Declaration by means of any affirmative vote given by the greater of 51% of all of the Owners of the Sites, or 67% of the Owners of the Sites voting, either in person or by proxy provided that any such amendment, deletion or supplement shall not have a materially adverse effect upon any vested right of an Owner under this Declaration. Such vote shall be taken at a meeting of the Association called for such purpose. At any such meeting, each Site shall have one vote.



13.2 **Certification.** No amendment shall be effective until an appropriate Certificate of Amendment, setting forth the terms of amendment and results of the vote, if any, shall be certified by the Association and recorded by the Hinsdale County Clerk and Recorder.

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20 of 21 RS110 DS0 N\$0 S\$3 M\$0 E\$0 Hinsdale Co.

Signed and dated at Lake City, Colorado, as of the date first above written.

SAN JUAN RANCH ESTATES ASSOCIATION, INC.



Terry M. Huey, President

ATTESTED:



Karen C. Shaw, Secretary

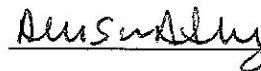
STATE OF COLORADO

COUNTY OF HINSDALE

The foregoing Amended and Restated Declaration of Restriction Covenants, Easements, Reservations and Architectural Control was acknowledged before me this 23<sup>rd</sup> day of August, 2023 by Terry M. Huey and Karen C. Shaw as President and Secretary, respectively, of San Juan Ranch Estates Association, Inc.

Witness my hand and official seal.

My Commission expires: 2-15-27



Notary Public

**EXHIBIT A**

All of the water and water rights, ditches and ditch rights, and reservoirs and reservoir rights used on or which are appurtenant to the subject matter described in Exhibit "A", which includes the following specifically described water, ditch and reservoir rights:

**THE SEELEY DITCH NO. 1, being Ditch No. 222**

Not to exceed 3.70 cfs of water decreed under Priority No. 347, with an appropriation date of May 1, 1913, and a decree date of March 30, 1960; and not to exceed .30 cfs of water decreed under Priority 394 with an appropriation date of November 2, 1949, and a decree date of March 30, 1960, both out of the Lake Fork of the Gunnison River.

**THE SEELEY DITCH NO. 2, being Ditch No. 268**

Not to exceed 3.00 cfs of water decreed under Priority No. 416, with an appropriation date of August 3, 1953, and a decree date of March 30, 1960, out of Percy Gulch, a tributary of the Lake Fork of the Gunnison River.

**THE SEELEY DITCH NO. 3, being Ditch No. 223**

Not to exceed 1.0 cfs of water decreed under Priority No. 348, with an appropriation date of May 1, 1913, and a decree date of March 30, 1960, out of the Lake Fork of the Gunnison River. This decree provides that when Priorities 348 and 394 are being diverted in conjunction with the irrigation often acres of land also irrigated by Priority No. 348, no more than a combined diversion of 1.0 cfs of water shall be made at one time.

All of the water decreed to the Seeley Ditches above described are direct flow for the purpose of irrigation.

**THE SEELEY RESERVOIR NO. 1**

Not to exceed 2.3 acre feet of water decreed thereto for irrigation, fish culture, recreation and wildlife procreation, with an appropriation date of June 1, 1880 and a decree date of September 11, 1972, under Case No. W-537. State Permit No. 19543.

**THE SEELEY RESERVOIR NO. 2**

10.8 acre feet of water decreed thereto for irrigation, fish culture, recreation and wildlife procreation, with an appropriation date of June 1, 1946, and a decree date of September 11, 1972, under Case No. W-538. State Permit No. 19543.

Both of said reservoirs are supplied water from the Lake Fork of the Gunnison River.

**THE UPHAM RESERVOIR**

6.0 acre feet of water decreed thereto for irrigation, domestic, fish culture, recreation and wildlife procreation, with an appropriation date of June 30, 1959, and a decree date of September 11, 1972, under Case No. W-539. Said reservoir is supplied water from Perry Gulch, a tributary of the Lake Fork of the Gunnison River. State Permit No. 19544.

All of the water decreed to the above-described reservoir storage decrees.

All of the foregoing water rights are situated in Hinsdale County, old Water District No. 62, Water Division No. 4, State of Colorado.