

DECLARATION OF RESTRICTIVE COVENANTS

(Tenant's Primary Residence)

KNOW ALL MEN BY THESE PRESENTS, that _____ and _____ ("Owner[s]"),
[name of owner(s)] whose legal street address is _____, is (are) the owner(s) of
record of the real property situated in the County of Summit and State of Colorado, more
particularly the legal property description (available at www.co.summit.co.us, Real Property &
Maps) is

_____ (hereinafter "Property"), and by this Declaration of Restrictive Covenants Owner(s) adopt(s) and
place(s) the following restrictions upon the Property.

RECITALS

WHEREAS, the Property is within the Upper Blue Sanitation District ("District") and
the District provides wastewater collection and treatment services to the Property; and

WHEREAS, the District assesses, inter alia, a monthly service fee for the wastewater
collection and treatment services that it provides the Property and, given the configuration of the
Property's connection to the District's facilities, the District is able to bill the Owner directly for
such services; and

WHEREAS, the monthly service fee for the Property is based, in part, on the conversion
of the Property into an appropriate number of single family equivalents ("SFE's"); and

WHEREAS, since the Property is within an apartment, townhouse, multiplex, or
condominium project, the District has converted the Property using the "apartments, townhouses,
multiplexes, and condominium units" category in the District's Single Family Equivalent
Conversion Schedule which is generally applicable; and

WHEREAS, the District has determined that when a particular unit within the "apartments,
townhouses, multiplexes, and condominium units" category is used as a primary residence, it
may be more appropriate to convert that particular unit into SFE's (for monthly service fee
purposes) using the "single-family residences and manufactured homes" category; and

WHEREAS, the District has no way of controlling the use of a particular unit within an
apartment, townhouse, multiplex, or condominium project, but is willing to convert such unit
into SFE's (for monthly service fee purposes only and only for so long as the District is able to
continue to bill that unit directly for the District's wastewater collection and treatment services)
using the "single-family residences and manufactured homes" category if there is recorded
against that particular unit an enforceable covenant that restricts that particular unit to use as a
primary residence; and

FOR OFFICE USE ONLY

___/___/___ to ___/___/___ Revert ___/___/___
Adj. _____ ☐ C&R # Pages _____
☐ Current List ☐ Comment ☐ DocLog
___/___/___ . . . SC ___/___/___

WHEREAS, in order to obtain the benefit of the "single-family residence and manufactured homes" category conversion for monthly service fee purposes, Owner(s) is (are) willing to restrict the Property to use as a primary residence and is hereby recording this Declaration of Restrictive Covenants against the Property as an enforceable covenant running with the Property with the intent that this Declaration of Restrictive Covenants will assure that the Property will be used in its entirety as a primary residence as that term is hereinafter defined.

RESTRICTIONS

NOW, THEREFORE, in consideration of the above-recited premises, the Owner(s) adopt(s) and place(s) the following restrictions upon the Property:

1. Occupancy Restriction. The Property shall only be used as a primary residence, and no other purpose. To demonstrate that the Property is used as a primary residence for the purposes of this Declaration of Restrictive Covenants, the Owner(s) must provide the following documentation to the District at least biannually:

(a) An affidavit of the Owner(s) certifying that the Owner(s) has have, during the prior twelve (12) months, leased the Property to a resident of Summit County, Colorado pursuant to a Lease Agreement whose term is a minimum of twelve (12) months in duration;

(b) An affidavit of the Owner(s) certifying that the Owner(s) shall, during the duration of this Declaration of Restrictive Covenants, lease the Property to a resident of Summit County, Colorado pursuant to a Lease Agreement whose term is a minimum of twelve (12) months in duration;

(c) An affidavit of the Tenant (who is, or will be, residing at the Property) certifying that the Tenant shall occupy and reside at the Property during the term of the Lease Agreement between the Tenant and the Owner(s), said Lease Agreement having a term that is a minimum of twelve (12) months in duration; and

(d) **Proof that the Tenant is registered to vote in a municipal election held in Summit County, Colorado, or proof that the tenant has a valid Colorado driver's license which shows that the Tenant resides (or will reside) at the Property address.**

Without limiting the generality of the foregoing, the Property shall not be occupied by any person(s) who do not meet the requirements defined herein, excluding the Tenant's spouse, minor children or other dependents.

2. Recording and Filing: Covenant Running with the Land.

A. This Declaration of Restrictive Covenants shall be placed of record in the real property records of Summit County, Colorado, and shall run with the Property; and the burdens shall bind and the benefits shall inure to, as applicable, the Owner(s) and the Owner's(s') heirs, successors, assigns, and legal representatives, and all entities and/or persons who subsequently acquire an ownership, leasehold, or other interest in the Property, and the District, its successors and assigns.

B. The Owner hereby agrees that any and all requirements of the laws of the State of Colorado to be satisfied in order for the provisions of this Declaration of Restrictive Covenants to constitute a restrictive covenant running with the Property shall be deemed to be satisfied in full, and that any requirements of privity of estate are intended to be satisfied; or, in the alternative, that an equitable servitude has been created to insure that the provisions of this Declaration of Restrictive Covenants run with the Property. During the term of this Declaration of Restrictive Covenants, each and every contract, deed or other instrument hereafter executed conveying the Property, or any portion thereof, shall expressly provide that such conveyance is subject to this Declaration of Restrictive Covenants; provided, however, that the restrictive covenants contained herein shall survive and be effective as to successors and/or assigns of all or any portion of the Property regardless of whether such contract, deed or other instrument hereafter executed conveying the Property, or any portion thereof, provides that such conveyance is subject to this Declaration of Restrictive Covenants.

3. Owner's(s') Covenant of Title and Authority. Owner(s) covenant(s), represent(s) and Warrant(s) to the District that Owner has good and marketable title to the Property and full and complete legal authority to execute and record this Declaration of Restrictive Covenants against the Property.

4. No Conflicting Agreement. Owner(s) covenant(s), represent(s) and warrant(s) to the District that the execution and recording of this Declaration of Restrictive Covenants will not violate any agreement now existing with respect to the Property. Owner(s) shall not execute any other agreement with provisions contradictory to, or in opposition to, the provisions of this Declaration of Restrictive Covenants, and in any event, it is agreed that the provisions of this Declaration of Restrictive Covenants are paramount and controlling as to the rights, obligations and limitations herein set forth and shall supersede any other provision in conflict herewith.

5. Term of Covenant. **The term of this Declaration of Restrictive Covenants shall be for a period of two (2) years, commencing the quarter the Declaration of Restrictive Covenants is executed.** This Declaration of Restrictive Covenants is recorded with the Clerk and Recorder of Summit County, Colorado. This Declaration of Restrictive Covenants may be sooner terminated in accordance with Paragraph 8. **Owner(s) to initial** _____

6. Records; Inspection; Monitoring.

A. The Owner's(s') records with respect to the use and occupancy of the Property shall be subject to examination, inspection and copying by the District or its authorized agent upon reasonable advance notice. The District or its authorized agent shall also have the right to enter the Property for the purpose of determining compliance with the provisions of this Declaration of Restrictive Covenants; provided, however, that the District or its agent shall first attempt to secure the permission of any occupants of the Property prior to making entry.

B. The Owner(s) shall submit any information, documents or certificates requested from time to time by the District with respect to the occupancy and use of the Property which the District reasonably deems necessary to substantiate the Owner's(s') continuing compliance with the provisions of this Declaration of Restrictive Covenants.

7. District Authority to Enforce. The restrictions, covenants and limitations created herein are for the benefit of the Owner(s) and the District, and the District is given the sole power and authority to enforce this Declaration of Restrictive Covenants in the manner herein provided. In the event of any failure of the Owner(s) to comply with the provisions of this Declaration of Restrictive Covenants, the District shall have the right, without notice, to declare a default under this Declaration of Restrictive Covenants effective on the date of such declaration of default; and the District shall then assess a monthly service fee against the Property on the basis of the then current generally applicable conversion factors for units like the Property. In addition, the District shall have the right to assess a penalty in the amount of \$1,000 plus the difference between the monthly service fee that would have been assessed against the Property using the generally applicable conversion factors for units like the Property in effect on the date of declaration of default and the monthly service fee actually assessed against the Property from the date the District determines, in its sole discretion, that the Owner(s) first failed to comply with the provisions of this Declaration of Restrictive Covenants. The penalty assessed hereunder shall constitute a first and perpetual lien on and against the Property which the District may collect, together with any fees and costs incurred in such collection (including attorneys' and expert witness fees), through foreclosure proceedings. The District may, in addition to collecting said penalty, fees, and costs through lien foreclosure, discontinue service to the Property until the same are paid in full.

8. Waiver; Termination; Modification of Covenant. The restrictions, covenants and limitations created herein may be waived, terminated or modified with the written consent of both the Owner(s) of the Property and the District. Except as provided in Paragraph 7, no such waiver, modification, or termination shall be effective until the proper instrument in writing shall be executed and recorded in the office of the Clerk and Recorder of Summit County, Colorado.

9. Notices. Except as otherwise provided, all notices provided for or required for under this Declaration of Restrictive Covenants shall be in writing, signed by the party giving the same and shall be deemed properly given when actually received or three (3) days after mailed, postage prepaid, certified, return receipt requested, addressed to the following:

If to the Owner(s): _____

If to the District: Upper Blue Sanitation District
P.O. Box 1216
Breckenridge, Colorado 80424
Attention: District Manager

Each of the above, by written notice to the other may specify any other address for the receipt of such instruments or communications.

10. Applicable Law. This Declaration of Restrictive Covenants shall be interpreted in all respects in accordance with the laws of the State of Colorado.

EXECUTED as of the _____ day of _____, 20_____

OWNER:

By _____

Title _____

STATE OF _____)
) ss.
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20_____, by _____ as the owner of the property more particularly described on Page 1 of this document.

WITNESS my hand and official seal.

Notary Public

EXECUTED as of the _____ day of _____, 20_____

OWNER:

By _____

Title _____

STATE OF _____)
) ss.
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20_____, by _____ as the owner of the property more particularly described on Page 1 of this document.

WITNESS my hand and official seal.

Notary Public

AFFIDAVIT OF PRIMARY RESIDENCE

STATE OF COLORADO)
) ss.
County of Summit)

(TENANT)

being of lawful age and being first duly sworn according to law, depose(s) and say(s) that:

1. I/we are the owner(s) of record of the real property and improvements located at _____, Town of _____ (Property Description/Street Address) _____, County of Summit, State of Colorado (hereinafter "Property") and I/we reside at the Property.

2. The Property is my/our primary residence and I/we have occupied and resided at the Property as my/our primary residence for a minimum of twelve (12) months.

3. I/we have recorded a Declaration of Restrictive Covenants against the Property which is intended to restrict the Property to use as my/our primary residence in order to obtain the benefit of a more favorable single-family equivalent conversion of the Property by the Upper Blue Sanitation District for monthly service fee purposes, said recorded Declaration being in substantially the form of Pages 1-5 attached hereto; and I/we hereby certify that I/we shall occupy and reside at the Property as my/our primary residence during the duration of said Declaration, and that the Property shall only be used as the primary residence for me/us, my spouse, and my/our minor children or other dependents.

4. I/we acknowledge that the Upper Blue Sanitation District's willingness to use a more favorable single-family equivalent conversion of the Property for monthly service fee purposes is based, in large part, on the statements made in this Affidavit, and I/we acknowledge that the Property and I/we are subject to substantial penalties for any false or misleading statement in this Affidavit.

(TENANT)

SUBSCRIBED AND SWORN to before me on this _____ day of _____
20_____, by _____ the Tenant.

Notary Public