

**ELK STREAM RANCH**  
A Colorado Common Interest Community  
Located in T36N R13W, T35N R13W, T36N R12W and T35N R12W, N.M.P.M  
Montezuma County and La Plata County, Colorado

**AMENDED AND RESTATED  
DESIGN STANDARDS AND REVIEW PROCEDURES  
for the  
ELK STREAM RANCH PROPERTY OWNERS ASSOCIATION, INC.**

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**THESE AMENDED AND RESTATED DESIGN STANDARDS AND REVIEW PROCEDURES** (“Standards and Procedures”) for the Elk Stream Ranch are effective this \_\_\_ day of \_\_\_\_\_, 2010, and promulgated in accordance with the Governing Documents of the Association.

### ARTICLE 1 OBJECTIVES AND AUTHORITY

**1.01 Objectives and Policy Statement.** These Standards and Procedures are designed to maintain the aesthetic nature and promote the economic value of the Elk Stream Ranch by imposing reasonable controls on Improvements and alterations, and to assist Owners during the design review and inspection processes for Improvements as required by the Governing Documents. These Standards and Procedures shall apply to the construction of Improvements on all Parcels within Elk Stream Ranch, as such Improvements are subject to the restrictions contained in the Governing Documents. These Standards and Procedures are established for the purpose of defining certain aesthetic guidelines, construction standards, placement of buildings, landscaping, color schemes, exterior finishes and materials, and similar features, and are designed to maintain harmony with surrounding structures and prevent the construction of Improvements which may be detrimental to the Elk Stream Ranch and the surrounding area.

**1.02 Authority.** The Declaration and Bylaws of the Association provide that all construction of Improvements and any material alteration to the exterior appearance of any Improvement on a Parcel shall require written approval of the Design Review Committee in accordance with adopted DRC Standards and Procedures, or the Board in the absence of the action of the DRC, for the purposes of ensuring compliance with the Declaration and Governing Documents.

**1.03 Definitions.** All terms used in the Standards and Procedures shall have the same meaning as set forth in the Declaration or the Act.

**1.04 Power and Duties.** The DRC shall have the powers and the duties granted to it by the Board to review all proposals for the construction or alteration of Improvements on any Parcel in accordance with the Governing Documents.

**1.05 Appeals.** Any action of the DRC may be appealed to the Board. Any such appeal shall be addressed by the Board in accordance with the Governing Documents.

### ARTICLE 2 DESIGN AND CONSTRUCTION STANDARDS

**2.01 Additional Laws and Regulations.** The DRC Standards and Procedures are applicable IN ADDITION TO other provisions of the Governing Documents AND all applicable land use restrictions, zoning ordinances, laws, rules, and decisions of other governmental and judicial authorities including La

Plata County and Montezuma County. All applicable laws and regulations outside of the Governing Documents must be independently satisfied by the Owner proposing Improvements to any Parcel.

(a) *Owner/Applicant Responsibilities.* The Owner/Applicant shall be responsible for consulting all third party professionals as may be necessary or prudent to involve in the development of a proposal for Improvements submitted to the DRC. ALL safety, structural, performance, natural hazard, etc., issues should be evaluated and designed by qualified professionals and such matters are the sole responsibility of the Owner/Applicant.

**2.02 Declaration Article 9 Covenants, Conditions, and Restrictions.** All proposals for Improvements within the Elk Stream Ranch shall be in compliance with the provisions of Article 9 of the Declaration which includes the Covenants, Conditions and Restrictions applicable to Improvements on Parcels.

**2.03 Common Theme and Style.** All buildings and Improvements proposed for a Parcel must have a common theme and style of architecture. Preferred styles of architecture and building types include: log homes, ranch style, and farm/Victorian. Pre-manufactured homes are discouraged. Greenhouses may not include plastic siding materials.

(a) *Relationship Between Structures.* The DRC will consider the architectural character proposed and the relationship of the main residence to other structures planned within the approved building envelope.

(b) *Architectural Variety.* Within the theme and style chosen by the Owner/Applicant, the DRC will consider changes in the plane of walls and roofs, and other architectural efforts and features intended to provide variety, diversity, and visual interest to the overall effect of the development plan.

**2.04 Preservation of Significant Views.** All views are important at Elk Stream Ranch, including views from a Parcel to the mountains, watercourses and stream areas and to significant features beyond, and views to and from surrounding Parcels. Important view corridors shall be preserved to the extent practical and to protect the view planes of all affected Parcels by the construction of any Improvement. The objective is to create as many opportunities for the preservation of important views as possible for both the Owner/Applicant and other Parcels within the constraints posed by the site.

**2.05 Roofs.**

(a) *Slopes.* Roof slopes should be between 5:12 and 12:12.

(b) *Shapes.* The following roof styles are encouraged: partial hip roof, gable roof, full hip roof, and joined shed roof. The following roof types are not allowed: mansard roof, fake mansard roof, gambrel roof, curvilinear roof, domed roof, conical roof and A-frame.

(c) *Overhangs.* Roofs should overhang walls a minimum of 24”.

(d) *Assembly.* Cold roofs are required unless the DRC determines otherwise.

(e) *Roof Surfacing Material.* The following types of roofing materials are encouraged: copper, zinc, Kor-ten steel, Propanel, slate, clay or concrete tile, high-grade asphalt shingles. Other similar roof materials that reflect new technology and products may be allowed. The following roofing materials are not allowed to surface roofs: highly reflective metal, sod, or wood materials. All roof flashing must be of a color harmonious with roof and upper wall surfacing.

(f) *Appurtenances.* Skylights higher than one (1) foot above the roof plane or placed at an angle to the roof plane are not permitted. Wood, stucco, concrete, and masonry-finished flues are permitted. Exposed metal chimneys are not permitted. Solar designs, solar collectors, and windmills may be approved based on the compatibility of such features with the overall design plan for the Parcel and Building Envelope.

**2.06 Building Exteriors.**

(a) *Number of Exterior Wall Materials.* Exterior walls may be surfaced with up to four different materials.

(b) *Color of Exterior Walls.* The color of exterior walls shall be muted earth tones. Bright and dramatic colors may be used for accents based on the compatibility of such features with the overall design plan for the Parcel and Building Envelope.

(c) *Windows.* Windows may be constructed of finished wood, wood covered with color-fast vinyl, painted metal, anodized aluminum or other finishes that may be approved by the DRC.

(d) *Siding Materials.* All exterior siding material shall be of authentic appearance and durable quality. Materials encouraged as exterior siding include: redwood, cedar, stone, log, brick, and stucco. Brick-finished fireplace flues are allowed. Exterior siding materials consisting of concrete block, log-like siding, and T-111 textured siding are not allowed.

(e) *Appurtenances.* Extensive wall decoration, relief or trimmed design work is discouraged except for minor architectural accents that are compatible with the overall architectural design plan and theme for the Parcel and Building Envelope.

(f) *Antennas and Satellite Dishes.* No exterior antenna towers shall be placed upon, erected, or maintained on a Parcel that are significantly visible from the main Elk Stream Ranch roads or other Building Envelopes. Satellite dishes must be located within the Building Envelope and should not be visible as a prominent feature of the building or Improvement to which it is attached. Satellite dishes should be less than forty inches (40") in diameter.

(g) *Utility Transmission Facilities.* All Improvements on a Parcel relating to the transmission of utilities to the Parcel, including power, gas, electric, service access lines, telephone and cable TV and similar facilities, shall be installed and maintained below the surface of the ground to the extent practical, and shall follow the designated driveway to the building site to the extent practical, even if the distance is longer than other possible service routes. All disturbed areas resulting from the construction of such Improvements shall be revegetated immediately after installation. Septic, drain field and domestic well locations may be approved in locations outside of the designated Building Envelopes as a variance by the DRC.

(h) *Exterior Lighting.* Exterior light sources should be shielded, with the principal illumination directed downwards, and the source of light should not be visible from the main Elk Stream Ranch roads. Translucent glass shall be adequate shielding material for exterior lighting. No "mercury vapor light" or similar lighting shall be allowed.

**2.07 Foundation and Retaining Walls.** All retaining walls should be designed by a qualified engineer. All foundation walls or retaining walls with more than twelve inches (12") visible above grade shall have a surface treatment on the surface above the finished grade that is compatible with the established architectural style and which shall constitute one of the exterior wall materials.

**2.08 Fencing.**

(a) *Where Visible From Association Roads.* Fencing that is significantly visible along Association roads shall be of wood post and rail materials except as approved by the DRC. Fence height may not exceed forty-two inches (42").

(b) *Wire Fencing.* Wire fencing shall be allowed on portions of Parcels not significantly visible from Association roads.

(c) *Electric Fencing for Large Animals.* Electric fencing materials for controlling large animals may be approved by the DRC in accordance with the Association's Policy on Temporary Electric Fences.

(d) *Other Fencing.* The DRC may approve any other proposals by Owners for fencing for purposes of wildlife management, snow management, erosion control and other stated purposes.

**2.09 Landscaping.** Landscaping on Parcels that compliments the natural geographic setting of the Elk Stream Ranch is encouraged. Landscaping proposals shall be based on the following general parameters:

(a) *Native Vegetation.* The native vegetation shall be preserved to the extent practical in all areas outside of the Building Envelope.

(b) *Outside of Building Envelope.* Landscaping in open meadows is prohibited except for the use of native grasses, trees and shrubs. The addition of certain trees is encouraged, including species such as spruce, pine, fir, mountain ash, maple, aspen and birch. Trees such as Russian Olive, Tamarisk and Eucalyptus are considered noxious and undesirable and are not allowed. If any such species exist on a Parcel they should be eliminated. Temporary watering systems may be allowed until any allowed landscaping is stabilized subject to the terms of an approved landscaping plan.

(c) *Within Building Envelope.* Landscaping in areas within Building Envelopes shall be based on an approved landscaping plan. Landscaped areas within Building Envelopes should provide a gentle transition to the surrounding natural character of the Parcel. Changes in landscaping over time, in general accordance with the character of an approved landscaping plan do not require DRC approval.

(d) *Landscaping Materials.* The use of native trees, shrubs and grasses in landscaping plans is preferred and encouraged. Sod shall be allowed only within the Building Envelope areas. Sprinkler systems designed for agricultural use, above-ground sprinkler systems, and wheel lines or center pivot systems shall not be permitted.

(e) *Defensible Space.* Owners are encouraged to establish adequate defensible space around structures and other Improvements regarding the high forest fire potential in the area, in accordance with the provisions of the Elk Stream Ranch CWPP.

(f) *Solar Access.* Landscaping shall not reduce or block solar access or scenic views to adjacent properties.

**2.10 Driveways.** Driveways shall be constructed based on the following parameters:

(a) *Driveway Corridor.* All driveways shall be constructed within the area designated as the driveway corridor on approved site plans, and shall be located so as to create the least disturbance to the landscape, considering all relevant locational factors.

(b) *Locational Factors.* In designating the location of a driveway corridor, the DRC may consider factors such as the relationship of the location of the Building Envelope to the main road, traffic and sight considerations regarding the main road, topography and geographic challenges, and orientation regarding sun and light.

(c) *Natural Grade.* Driveways shall be at or near the natural grade where possible, and cut and fill disturbances shall be held to a minimum and in no case shall exceed 4 to 1 slopes. Where it is necessary for a driveway to alter the natural grade, the driveway shall have ditches and culverts, and other features as needed to allow free flow of drainage water to other drainage and watercourse elements and prevent erosion and other hazards or nuisances.

(d) *Driveway Materials.* Driveways may be constructed of decomposed granite, asphalt, concrete, bricks or masonry pavers and gravel.

(e) *Maintenance.* All driveways shall be maintained in good condition by the Parcel Owner.

**2.11 Animal Control.** All animals that are allowed under the Declaration shall be kept under the control of the Owner or tenant at all times. Improvements may be proposed for structures and facilities to ensure the proper control of allowed animals. Large animals must be contained in fenced areas with fencing materials sufficient to adequately control and manage any large animals. Electric fencing materials may be approved by the DRC in accordance with the Association's Policy on Temporary Electric Fences. Any animal found at large within the Elk Stream Ranch, other than cattle or other livestock as may be allowed under any Association-approved grazing lease, shall constitute a nuisance. All Owners are responsible for fencing out any livestock that may be located within the Property due to a grazing lease, whether or not the Owner elects to allow grazing on its Parcel. All dog runs and farm animal enclosures for animals other than large animals must be located within the building envelope.

**2.12 Signs.** No sign of any kind shall be displayed on a Parcel except for political signs as allowed or required by law and "For Sale" or "For Lease" signs. Allowed signs not more than 18 inches by 24 inches shall not require DRC approval unless they remain posted for excessive periods or become weathered to the point of constituting an unsightly nuisance. Address signs shall require the approval of the DRC. No signs shall be placed within the road or utility easements within the Elk Stream Ranch by any person or entity other than the Association.

**2.13 Antennas and Satellite Dishes.** No antennas or satellite dishes may be installed on the exterior of any Improvement without the prior written consent of the DRC, except those satellite dishes less than forty inches (40") in diameter and installed on an approved Improvement shall not require DRC approval unless any other Owner objects to such placement within sixty (60) days of the installation.

**2.14 Temporary Construction Facilities and Site Maintenance.** Temporary facilities related to the construction of Improvements shall be reviewed by the DRC in the review process. Such facilities, as may be necessary regarding the nature and scope of the Improvement, shall include adequate provisions for water, electricity, toilet facilities, dumpsters and temporary housing facilities. The general contractor shall maintain the construction site in an orderly condition and all construction materials shall be located within the Building Envelope during the construction process.

**2.15 Clustering of Improvements.** Owners are encouraged to cluster buildings and major structures to preserve the open space character of the Elk Stream Ranch. If terrain or other conditions prevent effective use of the designated Building Envelope or allowed site impact area, the DRC may allow modifications as may be appropriate and in accordance with the Governing Documents. Major modifications or relocations of Building Envelopes or site impact areas shall require an amendment of the Declaration and Maps.

**2.16 Order of Construction.** The primary single family residential structure or residence shall be the first structure built on a Parcel. An existing residential structure shall be converted to another qualifying use structure such as a guest house or barn prior or in conjunction with the approval of a new single family residential structure on a Parcel.

### ARTICLE 3 VARIANCES

**3.01 Variances.** Upon the request of the Owner, the DRC may authorize variances from strict compliance with any of the DRC Standards and Procedures and other applicable conditions, covenants, and restrictions of the Governing Documents regarding the construction of Improvements on a Parcel, as long as such variances are in reasonable compliance with the Governing Documents and the Act.

(a) *Owner Request.* Owners may request variances to alter the review procedures based on timing considerations, or alter certain design standards, including restrictions upon height, size, floor area, set backs or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental consideration may require.

(b) *Review.* Such requests for variances may be processed within the context of any Improvement proposal made by an Owner.

(c) *Effect of Approval.* If any requested variance is granted, with or without conditions, the approval will not result in a violation of the Declaration or Governing Documents. The granting of any such variance shall not operate to waive any of the terms and provisions of the Declaration for any purpose except as to the particular Parcel and particular provisions covered by the approved variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the proposed use of the Parcel including, but not limited to, the Act, zoning ordinances, the Parcel set-back lines, or requirements imposed by any governmental or municipal authority.

(d) *Significant Modifications.* The DRC may deny any request for a variance or require the approval of the Board prior to further consideration of a proposal for Improvements submitted by the Owner/Applicant.

**3.02 Criteria.** In reviewing a request for a variance, the DRC shall consider the following:

- (a) whether special conditions exist;
- (b) whether strict enforcement would result in a hardship to the Owner;
- (c) whether the variance would not be contrary or detrimental to the Association and the spirit and intent of the Governing Documents are respected;
- (d) whether adverse impacts would result to other Owners, Parcels, or the Association; and
- (e) whether the request was made to procure a special privilege, profit or convenience solely benefitting the Owner.

**3.03 Variance Requests.** Variance requests may be made within the context and review of a proposal for Improvements in accordance with these Standards and Procedures, or made as an independent request and submittal to the DRC. Variance requests shall include the following information:

- (a) a completed DRC application form;
  - (b) a description and citation of the specific provisions for which a variance is being requested;
  - (c) the nature and scope of the variance requested;
  - (d) the relevant facts that the Owner/Applicant believes would justify a waiver or variance, including conditions of hardship;
  - (e) the identification of any adverse impacts that might result from the approval of the variance;
- and
- (f) any other relevant information for consideration of the DRC.

**3.04 Review Procedure.** Unless declined or referred to the Board, requests for variances shall be reviewed by the DRC according to the procedures of Article 4 and/or Article 5 herein as may be appropriate to the nature of the request.

#### **ARTICLE 4 INFORMAL REVIEW OF PROPOSED IMPROVEMENTS**

**4.01 Informal Introductory Meetings.** Prior to the submittal of an application for a proposed Improvement to the DRC, an Owner/Applicant may schedule an introductory meeting with Owner and/or the Owner's representative and the DRC to informally discuss the proposal. This is a free service offered by the Association to assist Owners/Applicants in preparing to make Improvements on their Parcel within the Elk Stream Ranch and to understand the applicable standards and requirements. Owner/Applicants are strongly encouraged to take advantage of this opportunity.

(a) *Class A applications.* Class A applications consist of the proposed construction of a residence or guesthouse, and shall be reviewed informally by the DRC board.

(b) *Class B Applications.* Class B applications consist of the proposed construction of other buildings, structures or major Improvements, and may be reviewed informally by the chair of the DRC or by the DRC board, at the discretion of the chair of the DRC.

(c) *Class C Applications.* Class C applications consist of minor Improvements and may be reviewed informally by the chair of the DRC or at any scheduled meeting of the DRC board.

**4.02 Informal Meeting Submittals.**

(a) *Purposes.* The purposes of informal meetings and submittals is to allow the DRC an opportunity to review proposed Improvements at an early stage regarding elements such as the concept, compatibility and layout of the proposal, and to make sure that the Owner is aware of the applicable Standards and Procedures and other applicable provisions of the Governing Documents.

(b) *Submittal Information.* There are no requirements for specific information to be submitted to the DRC for informal review meetings, however, the Owner is encouraged to provide any information that may assist the DRC in understanding the nature and scope of the proposal either prior to or at the informal meeting.

**4.03 DRC Action.** Any statements made by the DRC or its chair at an informal meeting shall be advisory only, and shall not represent in any way either the chair's or the DRC's future actions on any Owner's formally submitted proposal for an Improvement on a Parcel.

#### **ARTICLE 5 APPLICATION AND REVIEW PROCEDURE FOR PROPOSED IMPROVEMENTS.**

**5.01 Application and Submittal.** Following the informal meeting with the DRC or the DRC chair, if held, an Owner may submit a completed application form, applicable fees, and four (4) sets of documents including the following information:

(a) *Location Map.* At a scale of not less than 1" = 400' showing the location of the proposed Improvement and the impact of the proposed Improvement on the principal view corridors of all neighboring

dwellings or unimproved building envelopes located on any Parcels adjacent to the exterior boundaries of the Parcel for which approval is sought.

(b) *Site Plan*. At a scale of not less than 1" = 100', including the following information as may be applicable to the proposed Improvement:

- (i) property lines and dimensions;
- (ii) location of any existing Improvements;
- (iii) site impact area and location;
- (iv) setbacks;
- (v) building envelope (as shown on the Map);
- (vi) proposed location of the proposed Improvement and its relationship to the site impact area boundary and building envelope and property lines;
- (vii) grading or drainage plan at a scale not less than 1" = 100' for the Parcels at a contour interval of not greater than forty feet (40'), and 1" = 50' for the Building Envelope at a contour interval of not greater than two feet (2'). The site plan shall show all existing and proposed watercourses, drainage channels and patterns, swales, culverts, catch basins, and subsurface drainage systems. The site plan shall clearly indicate any drainage or watercourses that may be altered or modified by the proposed project and how such watercourse or drainage will be managed;
- (viii) location of elevation benchmark used to set all finish elevations, if applicable. This benchmark shall be tied to the topography plan;
- (ix) prominent site features within the building envelope or site impact area such as rock outcroppings and existing vegetation;
- (x) driveway location, width, grades and proposed surface material, proposed turnarounds and parking areas, and all areas intended for removal or storage of snow; and
- (xi) all existing maintenance, utility, and snow storage easements on or adjacent to the subject property including septic and drain fields and wells.

(c) *Construction Drawings*. Construction Drawings shall include:

- (i) *Floor Plans*. Floor plans at a scale of not less than 1/8" = 1' and showing all floors, basements, lofts, and spaces intended to be used or occupied. Square footage of each floor shall be indicated.
- (ii) *Exterior Materials*. Exterior materials shall be called out on the plans specifying color, type of materials and finish or siding, trim, doors, windows, roof, exposed foundation, skylights, decking, handrails, and all attached or recessed lighting. Color chips may be required.
- (iii) *Exterior Elevations*. At a scale of not less than 1/8" = 1' showing elevations of the proposed Improvement with texture and direction of surface materials clearly delineated. All proposed finish grades relative to each elevation as indicated on the grading plan shall be shown.
- (iv) *Exterior Lighting*. Exterior lighting will be clearly delineated on the plans indicating location, type, height, and type of light source.

(d) *Landscape Drawings*. The landscape drawings at a scale of 1" = 100' shall include, but not be limited to, the following:

- (i) *Landscape Plan*. The landscape plan shall show for the 50-foot area surrounding the house the arrangement of principal trees, shrubs, lawn areas, natural areas, and areas to be revegetated after final grading and construction clean-up.
- (ii) *Landscape Features*. Landscape features such as decks, patios, retaining walls, privacy screens, awnings, canopies, gazebos, benches, steps, etc. shall be clearly delineated on the plans in sufficient detail to adequately demonstrate finished appearance.

(e) *Other Submittals*. The Owner shall also submit any other information reasonably requested by the DRC or reasonably necessary for the DRC to review the proposed Improvement.

**5.02 Application and Review Procedure Fees.** The DRC application form and applicable review fees shall be submitted with the application submittal materials. The Owner/Applicant shall submit four (4) copies of all submitted materials. The review fees shall be according to the following review fee schedule:

(a) *Class A Applications*. A fee of \$500.00 will be charged for a DRC plan review for a house and/or guesthouse.

(b) *Class B Applications.* A fee of \$120.00 will be charged for the review of other buildings, structures or major Improvements.

(c) *Class C Applications.* A fee of \$60.00 will be charged for the review of all other improvements requiring DRC approval.

### **5.03 Review Procedure.**

(a) *Forward to Board.* Upon receipt of an application, the DRC shall forward one (1) set of all submitted materials and the review fees to the Board.

(b) *Posting on Website.* Upon receipt of an application, the DRC shall post on the Association's website a notice consisting of the general nature of the submitted proposal and the identification of the Parcel and Owner/Applicant, and a notice regarding how to obtain additional information or arrange for a review of the submitted materials.

(c) *Determination of Complete Application.* The DRC chair shall review the submitted materials for completeness and inform the Owner/Applicant of any deficiencies and any additional materials necessary for the DRC review. Until receipt by the DRC of all plans and specifications required by the DRC rules, the DRC may postpone review of any plan submitted for approval.

(d) *Items Requiring Variances.* At any time during the DRC review procedure that an item or element of a proposal for an Improvement is identified as being outside of the scope of the Design and Construction Standards contained in Article 2 herein, the Owner/Applicant may amend the application or continue to seek approval of the element as a variance, in accordance with the provisions of Article 3, herein.

(e) *Hearing.* When the DRC chair determines that the application is complete, a meeting of the DRC will be scheduled at a time convenient to the DRC and the Owner/Applicant for a hearing regarding the proposed Improvements. The hearing will be conducted in accordance with the Association's Policy #4. A notice of the hearing will be posted on the website.

(e) *Administrative Functions.* Prior to taking any final action on an application for an Improvement, the DRC may address review functions administratively in accordance with the provisions of Section 6.04 of the Bylaws of the Association.

(f) *DRC Action.* The DRC may act on the proposal at the scheduled hearing, or, if necessary, continue the hearing to another date for further consideration and review.

(g) *Site Meeting.* The DRC may require a site meeting at which the DRC and the Owner/Applicant can review, on site, the general parameters of the proposed development. In advance of the meeting the Owner/Applicant may be asked to stake or mark corners, Building Envelopes, and the location of major features to facilitate the visualization of the proposed Improvement on the Parcel. A site meeting shall be deemed to be a worksession of the DRC but any interested Owner may attend upon request made to the DRC.

(h) *Decisions of the DRC.* All approvals, disapprovals or other final actions of the DRC shall be in writing to the Owner and the Board. Any decision or action of the Design Review Committee may be appealed by the Owner to the Board, and upon such appeal the Board shall control and resolve the disputed matter. The Owner of the Parcel may not initiate any legal action against the Association regarding the disputed matter unless it has appealed the matter to the Board.

(i) *Posting on Website.* A summary description of all final actions of the DRC shall be posted on the Association's website, and any interested party may inspect and copy any document associated with such final action in accordance with the Association rules and policies regarding inspection of documents.

**5.04 Conditions of Approval.** The DRC may place conditions on the approval of any proposal for an Improvement, which may include any of the following:

(a) *Conditions.* Conditions regarding specific aspects of the application.

(b) *Completion and Payment Surety Bond.* The DRC may, as a condition to any consent or approval, require an Owner to enter into a written agreement with the Association containing such covenants, conditions and restrictions as the DRC deems necessary or appropriate, which may include a requirement for a completion and payment surety bond for the benefit of the Association for failure to comply with the conditions of approval or with the Governing Documents.

(c) *Duration of Approval.* An approval issued by the DRC shall be valid for a period relevant to the nature of the Improvement and the timing of the commencement of construction. Generally, DRC approvals for major construction projects will be for a period of eighteen (18) months. An Owner/Applicant may request a design approval in advance of and separate from a construction approval. If the approved Improvements are not initiated or completed within the allowed period of time, upon the request of the Parcel Owner the DRC may determine whether to extend the approval or require a new review of the proposed Improvement. If the Owner does not request an extension the approval shall lapse and any portion of the Improvements constructed that are not complete shall be deemed to be a violation of the Governing Documents.

## ARTICLE 6 CONSTRUCTION INSPECTIONS

### 6.01 Inspection of Approved Improvements and Noncompliance.

(a) *Monitoring of Construction.* The DRC or its designated representative may monitor any approved project to the extent required to ensure that the construction or work on such project complies with the Declaration and Governing Documents. The DRC or its designated representatives may enter any Parcel at any reasonable time or times to inspect the progress, work status or completion of any approved project. In addition to available remedies regarding violations, the DRC may withdraw approval of any project and require all activity at such project to be stopped, if deviations from the approved plan are not corrected or reconciled within twenty-four (24) hours after written notification to the Owner specifying such deviations, or other reasonable time as may be included in the notice.

(b) *Completion of Work.* The Owner shall give written notice of completion of construction to the DRC upon the completion of the approved proposal.

(i) *DRC Inspection.* Within thirty (30) days after the DRC receives notice of the completion of the work from the Owner, the DRC or its duly authorized representative may inspect such Improvement. If the DRC finds that such work was not done in substantial compliance with the approved plans, it shall notify the Owner in writing of such noncompliance within thirty (30) days of the date of the DRC inspection, specifying the particulars of noncompliance, and shall require the Owner to remedy the same.

(ii) *Noncompliance.* If upon the expiration of thirty (30) days from the date of a notification of noncompliance, and if the Owner shall have failed to remedy such noncompliance, the DRC shall notify the Board in writing of such failure. Upon such notice to the Board, the Board shall schedule a hearing in accordance with the Governing Documents, at which the Board shall determine whether there is a noncompliance. If at the hearing a noncompliance is found to exist, the Owner shall remedy the noncompliance as directed by the Board.

(iii) *Approval by Default.* If the DRC fails to notify the Owner of any noncompliance within sixty (60) days after the receipt of said written notice of completion from the Owner, the Improvement shall be deemed to be in accordance with approved plans.

**6.02 Inspections for Class A and Class B Improvements.** The DRC shall conduct on-site inspections during the course of construction of a Class A or Class B Improvement according to the following schedule and requirements:

(a) *Submittals.* Prior to the commencement of any construction the Owner shall submit to the DRC:

- (i) a copy of the county building permit; and
- (ii) the estimated start date of the construction.

(b) *Construction Submittals.* The Owner shall be responsible for submitting to the Design Review Committee the following:

(i) *Foundation and Grade Survey.* Within three (3) weeks after the foundations are completed an as-built survey of the foundation prepared by a licensed surveyor to determine whether the foundation is in the correct place as approved on the plans. An elevation benchmark, or the Base Elevation

where applicable, that has been established and installed by a licensed surveyor, shall be set for use in determining that approved heights have been adhered to.

(i) *Rough Opening and Roof Height Certification.* Within one (1) week after the roof structure is in place and all openings have been framed, a statement signed by a registered architect that the exterior of the structure is in compliance with the approved plans and that the roof system does not exceed the height shown on the approved plans.

(c) *NOTE: ANY CHANGE OR DEVIATION IN CONSTRUCTION OF ANY IMPROVEMENT, OR ANY PORTION THEREOF, OR DEVIATION FROM ANY APPROVED PLAN WITHOUT PRIOR WRITTEN APPROVAL OF THE COMMITTEE WILL RESULT IN THE OWNER BEARING THE COST OF CORRECTIONS REQUIRED TO BRING THE WORK INTO COMPLIANCE WITH THE APPROVED PLANS.*

(d) *Landscape Inspection.* Performed to determine a reasonable start date for implementation of the landscape program, including but not limited to the driveways, paving and/or other hard-surfaced areas. This inspection is generally performed once the Improvement is substantially complete.

(e) *Final Inspection.* Performed after final installation of all items on the approved architectural, site, and landscape plans to determine whether such work is in compliance with the approved plans. As set forth in the Construction Agreement, it is the sole responsibility of the Owner to notify the Committee in writing, at least five (5) days ahead of the required inspection, when the Parcel or Improvement is ready to be inspected.

(f) *Release of Surety Bond.* If the Improvement was completed in compliance with the DRC approval, the DRC shall, within thirty (30) days after the final inspection, request the Association to refund the deposit to the Owner. If, based on the final inspection, the Improvement was not completed in compliance with the DRC approval, the DRC shall notify the Board of the deficiencies which shall be addressed by the Board as a violation of the Governing Documents, and the surety bond shall remain in place until such a time as the matter of compliance is resolved.

**6.03 Final Disposition.** A summary of the final disposition of any proposed Improvement review procedure addressed by the DRC shall be posted on the Association's website.

## ARTICLE 7 GENERAL PROVISIONS

**7.01 Severability.** If any section, subsection, paragraph, sentence, clause, or phrase of these Standards and Procedures is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of these Standards and Procedures.

**7.02 Non-Waiver.** Consent by the DRC to any matter proposed to it or within its jurisdiction, or failure by the DRC or the Association to enforce any violation of these Standards and Procedures, shall not be deemed to constitute a precedent or waiver impairing the DRC's right to withhold approval as to any similar matter thereafter proposed or submitted to it for consent or to enforce any subsequent or similar violation of these Standards and Procedures.

**7.03 Non-Conforming Uses.** If any Owner shall have any Improvement located on a Parcel which is not in compliance with these Standards and Procedures as adopted or hereafter amended, except when said Improvement existed prior to the adoption of these Standards and Procedures, the Owner shall have six (6) months from the date of notification by the DRC to comply with these Standards and Procedures, provided, however, that each Owner shall not be required to expend more than two (2) times the then prevailing annual dues of the Elk Stream Ranch Property Owners Association, Inc., per violation if said non-complying Improvement existed prior to the adoption of these Rules or prior to the adoption of any applicable amendment to these Standards and Procedures.

**7.04 Amendment.** These Standards and Procedures may be amended in accordance with the Associations Policy #1-2010 - Adoption and Amendment of Policies, except that amendments to the Design Standards and

Review Procedures, Article 2: Design and Construction Standards, and shall further require the approval of fifty percent (51%) of the Members of the Association at a regular meeting or a special meeting of the members called for that purpose.

**KNOW ALL MEN BY THESE PRESENTS**, that the undersigned Board of Directors of the Elk Stream Ranch Property Owners Association do hereby certify that the above and foregoing Amended and Restated Design Standards and Review Procedures were duly adopted at a meeting of the Owners held on the \_\_\_\_\_ day of \_\_\_\_\_, 2010, at which a quorum was present, called for the purpose of amending the Association's Design Standards and Review Procedures, by the affirmative vote of the Owners representing no less than fifty percent (50%) of the Members of the Association, the results of which are on file in the Association records, as a complete replacement for the Association's previous Design Standards and Review Procedures, and that the above and foregoing Amended and Restated Design Standards and Review Procedures now constitutes the Design Standards and Review Procedures of the Association.

**ELK STREAM RANCH PROPERTY OWNERS ASSOCIATION, INC.,**  
a Colorado nonprofit Corporation

ATTEST:

\_\_\_\_\_  
By: Stephen M. Boone  
Its: President and member of the Board of Directors

\_\_\_\_\_  
By: W. Alan Scott  
Secretary/Treasurer and member of the Board of  
Directors

\_\_\_\_\_  
By: Barry N. Stone  
Vice President and member of the Board of Directors