

AFTER RECORDING RETURN TO:
Altitude Community Law P.C.
555 Zang Street, Suite 100
Lakewood, CO 80228
Attn: DAF

LIMITED AMENDMENT TO THE
DECLARATION OF PROTECTIVE COVENANTS SKYLAND, INITIAL FILING

THIS AMENDMENT is made this 4 day of April, 2024.

RECITALS

A. Skyland Properties, A Colorado limited partnership, Jack D. Blanton, Nancy Blanton, Bud F. Garland, Dolores Garland, and Gary F. Garland, hereafter termed "Declarants created SKYLAND COMMUNITY ASSOCIATION ("Community") by recording a Declaration of Covenants, Conditions and Restrictions of Skyland Community Association, in the real property records of the County of Gunnison, State of Colorado, at Reception No. 363853, on November 17, 1981 as may be amended from time to time (the "Declaration").

B. Skyland Community Association, is a successor Master Declarant as defined under the Colorado Common Interest Ownership Act; and

C. The Declaration provides for and allows for this Limited Amendment to the Declaration of Covenants, Conditions, and Restrictions of Skyland Community Association (the "Amendment") in Article XI, Section 3, which provides as follows:

The conditions, restrictions, stipulations, agreements, and covenants herein contained, as well as the recorded plat of Skyland, Initial Filing, and any supplemental plats as specified in Article II hereof, shall not be waived abandoned, terminated or amended except by an instrument setting forth the written consent of the then Owners of seventy-five percent (75%) of the lots and tracts within the subdivision, which instrument shall be duly executed, acknowledged and recorded in Gunnison County, Colorado.

D. Pursuant to the terms and conditions of C.R.S. 38-33-3-217(1) the seventy-five percent (75%) approval threshold is void as against public policy and is automatically reduced to sixty-seven percent (67%).

E. All Owners are aware of the provisions of the Declaration allowing for amendment, by virtue of the record notice of the Declaration, by acts and disclosures, newsletters or notices of the Association and by other means.

F. This Limited Amendment has been prepared and determined by the Association and by the Owners that have approved this Limited Amendment to be reasonable and not burdensome.

G. The purpose of this Limited Amendment is to amend Article VII, Paragraph 19 to allow limited exterior fire pits.

H. On April 1, 2024, the District Court for Gunnison County, Colorado granted the Association's Petition for Court Approval of Proposed Declaration Amendment pursuant to the requirements of C.R.S. §38-33.3-217(7). A copy of this Order is attached and incorporated by reference as Exhibit "A" hereto.

I. Pursuant to C.R.S. §38-33.3-217(7), upon recordation of this Limited Amendment and the Court Order approving this Limited Amendment, the Declaration, as amended, shall be effective as if all of the approval requirements set forth in the Declaration were met.

J. As amended by this Limited Amendment, this Limited Amendment shall become part of and incorporated into the "Declaration."

NOW THEREFORE,

I. Amendment. Article VII Paragraph 17 of the Declaration is deleted in its entirety and replaced as follows:

17. Exterior Fires. Gas fireplaces or fire pits fueled by natural gas or propane tanks shall be permitted. Permanent solid fuel fire pits are permitted so long as they are fully enclosed with spark arrestors. All exterior improvements must be approved by the Design Review Committee prior to installation or construction.

II. No Other Amendments. Except as specifically amended herein, the Declaration shall remain unamended and shall remain in full force and affect.

IN WITNESS WHEREOF, this Amendment is executed by the undersigned.

SKYLAND COMMUNITY ASSOCIATION, a Colorado nonprofit corporation

By: Carol Ann May
President

STATE OF COLORADO)
) ss.
COUNTY OF Gunnison)

The foregoing was acknowledged before me this 4th day of April, 2024, by Carol Ann May, as President of Skyland Community Association.

Witness my hand and official seal.
My commission expires: 08/28/2026

NOLA J OBEROSLER
Notary Public
State of Colorado
Notary ID # 20024027873
My Commission Expires 08-28-2026

Nola J. Oberosler
Notary Public

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Gunnison County, CO

EXHIBIT A
COURT ORDER

Attached.

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| <p>DISTRICT COURT, COUNTY OF GUNNISON, STATE OF COLORADO</p> <p>Court Address: 200 E. Virginia Avenue Gunnison, CO 81230</p> <p>Phone Number: 970-642-8300</p> <hr/> <p>Petitioner:</p> <p>Skyland Community Association, a Colorado nonprofit corporation</p> | <p>DATE FILED: April 1, 2024 3:15 PM CASE NUMBER: 2024CV30003</p> <p style="text-align: center;">▲ COURT USE ONLY ▲</p> <hr/> <p>Case Number: 2024CV30003</p> <p>Div.: 2</p> |
| <p>ORDER APPROVING DECLARATION AMENDMENT, PURSUANT TO C.R.S. §38-33.3-217(7)</p> | |

THIS MATTER comes before the Court for hearing on April 1, 2024. After reviewing the pleadings filed in the matter and considering the statements of Counsel, the Court makes the following Findings of Fact and Conclusions of Law and Orders:

Findings of Fact and Conclusions of Law

- 1) Skyland Community Association ("Association") seeks to amend the Declaration of Protective Covenants Skyland, Initial Filing recorded in the real property records of Gunnison County, Colorado at Reception No. 363853 ("Declaration") by means of a proposed Limited Amendment to the Declaration of Protective Covenants Skyland, Initial Filing (the "Proposed Declaration Amendment").
- 2) The Association notified its Owners of the Proposed Declaration Amendment in the Summer 2023 Community Newsletter and via notices and correspondence mailed to all Owners on June 1, 2023, and July 9, 2023.
- 3) The Members of the Association discussed the Proposed Declaration Amendment (as submitted to the Court in the Petition filed herein) at the annual meeting of the Association held on July 9, 2023.

4) Based on the foregoing, the Association has complied with the notice and meeting requirements set forth in Section 38-33.3-217(7)(a)(I) and (II).

5) More than half of the Members required by the Declaration to approve the Proposed Declaration Amendment have voted for the Proposed Declaration Amendment, pursuant to C.R.S. §38-33.3-217(7)(a)(III).

6) Based on the Petition filed in this case, the Association has not obtained the required consent and approval of the Proposed Declaration Amendment from the requisite number of Owners required by the existing Declaration, and so, has filed its Petition and caused this matter to come before the Court, as allowed for by state statute.

7) Based on the Certificate of Mailing filed in this case, the Notice of the Petition and Hearing was mailed to all of the Owners within the Association and to the others indicated in a Certificate of Mailing filed in this case.

8) The notice given is in compliance with the requirements of the applicable state statute.

9) A hearing regarding the petition was held, as referred to above, on April 1, 2024, before this Court.

10) The Association has satisfied all of the requirements of C.R.S. §38-33.3-217(7).

11) Neither 33% or more of the Owners nor the declarant have filed written objections with the Court prior to the hearing.

12) Neither the Federal Housing Administration nor the Veterans Administration nor any lenders are entitled to vote on the Proposed Declaration Amendment.

13) The Proposed Declaration Amendment presented to the Court does not terminate the Declaration. The preponderance of the evidence and application of plain language of the Declaration indicates that the Proposed Declaration Amendment is an amendment, and not a termination.

14) The Proposed Declaration Amendment presented to the Court does not change the allocated interests of the Owners.

15) The Period of Declarant control has expired and approval of the Declarant is not required for the Proposed Declaration Amendment.

16) Based upon these Findings of Fact and Conclusions of Law and pursuant to the requirements of C.R.S. §38-33.3-217(7)(e) and (f), it is hereby:

ORDERED that the Proposed Declaration Amendment is approved by this Court and shall be binding upon all Owners in the Skyland community and shall have the same legal effect as if were adopted pursuant to the amendment requirements set forth in the Declaration upon the recording of the Limited Amendment to the Declaration of Protective Covenants Skyland, Initial Filing, with this Order attached, with the Clerk and Recorder's office for the County of Gunnison, State of Colorado.

IT IS FURTHER ORDERED that the Association record a copy of the approved Limited Amendment to the Declaration of Protective Covenants Skyland, Initial Filing together with a copy of this Order with the Clerk and Recorder's office for the County of Gunnison, State of Colorado.

DONE this _____ day of _____, 2024.

BY THE COURT: DATED April 1, 2024



DISTRICT COURT JUDGE