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**GRASS MESA HOMEOWNERS ASSOCIATION**  
(a Colorado nonprofit corporation)

**RESOLUTION OF THE BOARD OF DIRECTORS**

**No. 2003-03**

The undersigned, being all the members of the Board of Directors of the Grass Mesa Homeowners Association, a Colorado nonprofit corporation (the "Association"), pursuant to the authority vested in the Board as hereinbelow described, acting at its regularly scheduled and duly noticed Road Committee meeting held on the 12<sup>th</sup> day of February, 2003, hereby approves and adopts the following resolution:

**RECITALS:**

WHEREAS, the Grass Mesa Homeowners Association is vested with the authority and duty to enforce the terms and conditions of the Articles, Bylaws and Declaration of Easements, Restrictions and Covenants for Grass Mesa Ranch ("Covenants"), recorded on June 7, 1983 with the Clerk & Recorder for Garfield County, Colorado, in Book 628 at Page 503 as Reception No. 342393 (and all duly approved, executed and recorded amendments thereto); and

WHEREAS, the Board of Directors is authorized to act on behalf of the Association; and

WHEREAS, the Board of Directors has the duty and responsibility to promulgate and from time to time supplement and amend reasonable rules and regulations governing the use of the Association's roads and common easements; and

WHEREAS, a Road Committee was formed for the purpose for advising the Board as to the condition of the existing roads, the necessary repairs and standards necessary to bring the roads to a level of tolerance to allow for excessive weight vehicular traffic, and to advise the Board as to the reasonableness of proposed rules and regulations as proposed;

**NOW, THEREFORE, BE IT RESOLVED:**

1. The undersigned members of the Board of Directors of the Grass Mesa Homeowners Association unanimously agree that the attached rules and regulations regarding the requirements of road standards and maintenance and/or repair fee schedules for excessive weight vehicular use of the Association's roads be implemented.

2. The undersigned members unanimously recommend that the members of the Association ratify and approve such implementation of the rules and regulations, if such implementation requires membership approval.

*Return to: Grass Mesa Homeowners Assn.  
1899 Grass Mesa Rd.  
Rifle, CO 81650*

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IN WITNESS WHEREOF, the undersigned, being all of the duly-elected members of the Board of Directors of the Grass Mesa Homeowners Association, unanimously approve this Resolution No. 2003-03, as of the Effective Date identified above.

Bret Closs

Bret Closs, President and Member,  
Board of Directors

Tere McGuire

Tere McGuire, Member, Board of Directors

John Skellion

John Skellion, Member, Board of Directors

ATTEST:

Cheri Chartier

Cheri Chartier, Secretary/Property Manager  
for the Association



## MEMO

TO: Lot Owners - Grass Mesa Homeowners Association  
FROM: Grass Mesa Homeowners Board of Directors  
DATE: January 25, 2002  
RE: Rules for Road Maintenance and Repair

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Road maintenance and repairs consume the majority of the Grass Mesa Homeowners' Association's ("Association") budget. Due to road damage resulting from heavy use of the road by vehicles of excessive weight and/or carrying loads of excessive weight ("excessive weight vehicles"; see below for further definition), the Board of Directors ("Board") has determined it to be necessary to adopt regulations governing the use of the Association's roads by excess weight vehicles. These regulations will apply to all lot owners within Grass Mesa Ranch, as well as their family members, tenants, guests, licensees, subcontractors, employees, agents and other persons using roadways within Grass Mesa Ranch at the behest, or under the authorization, of a lot owner. For clarification purposes, "the Association's roads" means all roads constructed by the developer of Grass Mesa Ranch in which easement rights (including access) were reserved by the developer for the benefit of the Association and its members. These include the main Grass Mesa Road and all ancillary roads as described in the Bylaws, Articles and Declaration of Easements, Restrictions and Covenants for Grass Mesa Ranch. Additionally, these roads are described on a number of maps and drawings generated by the developer that are now of record with Garfield County.

### AUTHORITY:

The Articles of Incorporation for the Association filed with the Colorado Secretary of State's office on June 13, 1983 state:

1. Article III, Paragraph A.1. The purposes and powers of the Homeowners Association are "To enforce the Declaration of Easements..."
2. Article III, Paragraph A.2., "To protect and maintain the area known as Grass Mesa Ranch... according to the legal description thereof contained in the Declaration of Easements..."
3. Article III, Paragraph A.6. "To establish, maintain and enforce all necessary and reasonable rules and regulations concerning the use of all lands and interest in lands held by the corporation."
4. Article III, Paragraph B.3. "To charge, collect and assess such fees or sums as may be set by the Board of Directors for the acquisition, construction, maintenance or repair of properties owned or operated by the corporation."

The Bylaws of the Grass Mesa Homeowners Association dated June 14, 1983 state:

1. Article III, Paragraph 2, "The powers of the Board of Directors shall include, but not be limited to, all of the rights and duties of the Board of Directors as set forth elsewhere in these by-laws, the articles of incorporation and in the protective



2. Article V, Paragraph 1, "The Board of Directors, in its uncontrolled discretion, may set aside from time to time those sums it deems expedient as a reserve fund to meet contingencies for maintaining any property of the Association and for any other purpose."

The Declaration of Easements, Restrictions and Covenants for Grass Mesa Ranch recorded with the County at Book 628, Page 503 on June 7, 1983 state:

1. Article II, Paragraph 3, Duties and Responsibilities of the Association, subparagraph (a), "To promulgate and from time to time supplement and amend reasonable rules and regulations governing the use of the Association's roads, common easements and water rights, which rules and regulations shall be consistent with the rights and duties established in this Declaration."
2. Article II, Paragraph 3(d), "To... enjoin or seek damages from the owners for violation of the covenants contained herein or the Rules and Regulations as promulgated hereunder."

Finally, the Colorado Common Interest Ownership Act ("CCIOA"), Section 38-33.3-101, et seq., C.R.S. also provides for the powers and duties of an Association. The CCIOA was adopted by the Association members on September 18, 1999, and is of record with the County by instrument recorded in Book 1153 at Page 264.

1. § 38-33.3-302(1)(a) "Adopt and amend bylaws and rules and regulations."
2. § 38-33.3-302(1)(f) "Regulate the use, maintenance, repair, replacement and modification of common elements;
3. § 38-33.3-302(1)(j) "Impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements..."
4. § 38-33.3-302(1)(q) "Exercise any other powers necessary and proper for the governance and operation of the association."
5. § 38-33.3-307(1) "Except to the extent provided by the declaration... the association is responsible for maintenance, repair, and replacement of common elements..." "If damage is inflicted, or a strong likelihood exists that it will be inflicted, on the common elements... the unit owner responsible for the damage, or expense to avoid damage,... is liable for the cost of prompt repair."

Therefore, the Homeowners Association, through its Board of Directors, has the duty, responsibility and right to create rules and regulations for the protection of the Association's common elements (i.e., roads).

The Board has considered the necessity and appropriateness of such regulations and, to date, recommends the following:

#### ROAD STANDARDS:

In order to be used for any purpose other than residential traffic (e.g., passenger vehicles, pickup trucks, utility vehicles, recreational vehicles, and other vehicles not constituting excess weight



vehicles as defined in this regulation), the roads or portions thereof to be used by excess weight vehicles (as defined below) must be improved to the following minimum standard before use by such vehicles:

1. 20' wide roadway (10' on either side of the centerline of the existing roadway) to include an 18' driving surface (9' on either side of the centerline).
2. A minimum of 6" of 3" road base and 6" of  $\frac{3}{4}$ " road base applied to the driving surface.
3. Bar ditches along both sides of the roadways constructed at a minimum of 18" deep and 18" wide.

An "excess weight vehicle" means any vehicle weighing in excess of 75,000 pounds (loaded or unloaded) and wider than 8 feet. For the safety of all Association members, if any road or portion of a road utilized by an excessive weight vehicle does not meet the above standard, it will be the responsibility of the lot owner(s) responsible for the presence of the excess weight vehicle(s) to bring the road to the above standards prior to use by such excessive weight vehicle(s). A comprehensive, written plan for construction of necessary road improvements must be submitted to the Board and the Road Committee for approval prior to commencement of construction.

The imposition of these rules and regulations will include a bond requirement and nonrefundable fee payable by each lot owner utilizing Association roads for excessive weight vehicles. The bond will serve to assure payment for repairs to the Association roads when such repairs necessitated by the excessive weight vehicle traffic. The nonrefundable fee will be used by the Association to maintain the Association roads as needed and when needed.

No less than ten (10) days prior to the utilization of the road by one or more excess weight vehicle(s), the lot owner(s) for whose benefit such vehicles are to be used shall provide the Board with information concerning the number of vehicles expected, the number of roundtrips per vehicle, the size and weights of said vehicles (loaded and unloaded) and the dates and approximate time(s) of day when these vehicles can be expected on the roads. This will allow the Board to timely advise the residents of Grass Mesa Ranch of such traffic or to delegate notice responsibilities to the responsible lot owner.

In addition, each lot owner utilizing Association roads for excess weight vehicles will be required to furnish the Association with a bond and pay the following fees:

1. For every excess weight vehicle (except for those used in the maintenance and/or repair operations on the road or any vehicle used for emergency purposes, such as fire engines, etc.), a bond of \$5,000.00 per vehicle round trip shall be posted for the purpose of security payment for the cost of repairs, if any, necessitated by such excess weight vehicles. The bond must specify that the Association, through its Board, has the ability to draw on the bond in the event road repairs are necessary as the result of the excess weight vehicle for which the bond was posted. Said bond(s) shall be purchased and in effect prior to the use of the Association roads and shall be used by the Association for road and roadway repairs including, but not limited to, surface, ditch and culvert repairs and/or replacement. Documentary proof of such bond shall be provided to the Board immediately upon issuance of the bond.
2. In addition, ten percent (10%) of the total bond(s) price shall be paid directly to the Association as a non-refundable fee prior to the road use. This fee will be used by the Association to maintain the roads as needed and when needed. Maintenance shall include, but not be limited to, application of dust mitigation material, grading, rolling



and watering as needed and in a timely manner.

3. The Association roads have a posted speed limit of 15 m.p.h. All roads within the Association's jurisdiction shall be traveled at speeds not to exceed 15 m.p.h.

#### ROAD COMMITTEE:

A five member Road Committee will be created by the Board to assist the Board in determining what maintenance and/or repairs are needed. Members of the Road Committee will be appointed at meetings held by the Homeowners Association and will be ratified by those members in attendance. Vacancies of a Committee member may be replaced by the Board.

The Association's Road Committee shall determine the level of damage, if any, caused by excess weight vehicle traffic, and the maintenance and/or repairs as the result thereof. The lot owner(s) responsible for such excess weight vehicle(s) will be advised as to the date and time the Committee will inspect the roads and may participate in any discussions of the issues raised by the Committee at that time. If an agreement cannot be reached between the responsible lot owner(s) and the Road Committee as to the repairs needed no later than five (5) calendar days after the inspection date, a third-party consultant with expertise in road maintenance and repair will be retained by the Committee and the responsible lot owner(s) at a cost split equally between the Association and the lot owner(s). The lot owner(s) and the Association shall each designate a proposed consultant within ten (10) calendar days after the road inspection date described above in this paragraph and the consultant with the lowest bid shall be chosen to determine the needed maintenance and/or repairs. Failure to timely designate a consultant shall constitute a waiver of the right to do so. The third-party consultant's suggested repairs will be those performed at the expense of the responsible lot owner(s).

#### INDEMNITY:

The lot owner(s) responsible for excess weight vehicle traffic shall indemnify, defend, and hold harmless the Grass Mesa Homeowners Association from any and all damages and/or claims or assertions of damage arising, or alleged to arise from the use of excess weight vehicles on the Association's roads.

The purpose of these regulations is to serve as a means of assuring the safety, integrity and structure of the roads reserved by the developer of Grass Mesa Ranch for the common use of its members. The Association does not, under any circumstance, hold itself out as an expert on heavy vehicles, road standards or road safety standards and is not responsible for loss or damage caused by road conditions.

The Board of Directors reserves the right to make amendments to these Rules and Regulations as needed.

#### EFFECTIVE DATE:

All lot owners will receive a copy of the regulation prior to the effective date.