THE VINEYARDS AT VISTA SAN JUAN HOMEOWNERS ASSOCIATION I
BUSINESS USE
RULES AND REGULATIONS
Effective [Insert Date]

The following Rules and Regulations have been adopted by The Vineyards at Vista San Juan Homeowners Association I, a Colorado nonprofit corporation (Association), pursuant to authority under the Declaration of Covenants, Conditions, and Restrictions (CC&Rs), recorded April 19, 1993, in Book 851, Pages 424–442, Montrose County, Colorado, and C.R.S. § 38-33.3-106.5, at a regular meeting of the Board of Directors (Board) for the benefit of the Association and its owners or members (Owner(s)).

CC&Rs Source Provision — Article IX, Section 5 (quoted verbatim): “The Property is hereby restricted to residential dwellings for residential use and uses related to the convenience and enjoyment of such residential use. No business activities of any kind whatever shall be conducted on any portion of the Property, except the business activities, signs and billboards, or the construction and maintenance of buildings, if any, of the Declarant, its agents and assigns during the period of construction and sale of the Units, and of the Association, its successors and assigns, in furtherance of its powers and purposes as hereinafter set forth.”

Additional CC&Rs Authority: Article IX, Section 4 (no obstruction of Common Area access); Article IX, Section 7 (nuisance and health prohibition); Article IX, Section 8 (rubbish and debris accumulation); and Article XIII, Section 1 (enforcement).

Superseding State Law — Senate Bill 24-134, C.R.S. § 38-33.3-106.5(1)(l) (effective August 7, 2024): Senate Bill 24-134 prohibits the Association from prohibiting “the operation of a home-based business at a unit by the unit owner or a resident of the unit with the unit owner’s permission,” notwithstanding any provision in the declaration, bylaws, or rules and regulations of the Association to the contrary. Accordingly, the blanket prohibition on business activities in CC&Rs Article IX, Section 5 is superseded by and unenforceable against home-based businesses. The Association expressly retains authority under the same statute to adopt and enforce reasonable rules on architectural control, parking, landscaping, noise, nuisance, and other matters. These Rules and Regulations constitute those reasonable regulations.

Superseding State Law — Licensed Family Child Care Homes, C.R.S. § 38-33.3-106.5(1)(k) (Senate Bill 20-126): The Association shall not prohibit “the operation of a family child care home, as defined in section 26.5-5-303, that is licensed pursuant to part 3 of article 5 of title 26.5.” Section 5 below governs. Where that Section and any other provision of these Rules and Regulations conflict, Section 5 controls.

Note: The Board’s adoption of these Rules and Regulations does not constitute an amendment of the CC&Rs. CC&Rs Article IX, Section 5 remains part of the recorded Declaration and may only be amended by owner vote under CC&Rs Article XIII, Section 3 (70% of Encumbrancers and 70% of Unit Owners).

Purpose: To implement CC&Rs Article IX, Section 5 as modified by C.R.S. § 38-33.3-106.5; to establish the reasonable community-impact regulations the Association is authorized to adopt; and to establish the enforcement procedures required by CCIOA, C.R.S. § 38-33.3-101 et seq.

NOW, THEREFORE, IT IS RESOLVED that the Association does hereby adopt the following Rules and Regulations:

1. **Purpose and Scope:** These Rules and Regulations govern all business activity conducted within units and Common Areas of the Community. They apply to all unit owners, tenants, occupants, and guests. In the event of any conflict between these Rules and Regulations and the CC&Rs, the CC&Rs shall control except where federal or Colorado law supersedes them.

2. **Residential-Use Restriction (CC&Rs Article IX, Section 5):** The Property is restricted to residential use. No commercial business activity may be conducted on any portion of the Property except as expressly permitted by C.R.S. § 38-33.3-106.5 (home-based businesses under Section 3, and licensed family child care homes under Section 5) or as otherwise authorized by these Rules and Regulations. The following remain prohibited under CC&Rs Article IX, Section 5 and are not protected by C.R.S. § 38-33.3-106.5(1)(l):

   (a) Retail storefronts: Operation of any retail business that generates or requires walk-in customer traffic to the unit. This does not reach a licensed family child care home, which is separately protected under Section 5;

   (b) Commercial manufacturing or production: Manufacturing, fabrication, assembly, or industrial production of goods at the unit;

   (c) Exterior commercial signage: Installation or display of any signage, banners, or commercial advertising on the exterior of the unit, in windows visible from Common Areas, or in any Common Area (CC&Rs Art. IX, Sec. 7). Non-commercial signs are protected by C.R.S. § 38-33.3-106.5(1)(c) and are governed by the Nuisance Rules and Regulations;

   (d) Common Area business use: Use of any Common Area — including parking areas, walkways, or greenbelt — for business operations, storage of business inventory or equipment, or client access (CC&Rs Art. IX, Sec. 4), except ordinary pedestrian passage to and from a unit; and

   (e) Activities requiring commercial zoning: Any activity that requires commercial zoning, a commercial building permit, or a variance from residential land-use designation under applicable law.

3. **Home-Based Businesses — C.R.S. § 38-33.3-106.5(1)(l):** Notwithstanding CC&Rs Article IX, Section 5, each Owner may operate a home-based business — defined as a business for which the main office is located at, or the business operations primarily occur at, the Owner's unit — subject to the reasonable community-impact standards in Section 4 below. The Association may not

prohibit such a business. The Owner may also permit a resident of the unit, with the Owner's written consent, to operate a home-based business within the unit on the same terms.

4. **Community-Impact Standards for Home-Based Businesses:** C.R.S. § 38-33.3-106.5(1)(l) expressly authorizes the Association to adopt reasonable rules governing architectural control, parking, landscaping, noise, nuisance, and other matters. All home-based businesses must comply with the following standards, adopted pursuant to that authority and CC&Rs Article IX, Sections 7 and 8:

   (a) Noise and disturbance (CC&Rs Art. IX, Sec. 7): Business operations must not create noise or other conditions that unreasonably disturb any Owner or resident of any unit;

   (b) No exterior signage (CC&Rs Art. IX, Sec. 7): No exterior commercial signage, commercial advertising, or commercial display visible from outside the unit or from Common Areas is permitted;

   (c) No Common Area use (CC&Rs Art. IX, Sec. 4): Common Areas may not be used for business operations, storage of business materials, or client waiting or gathering. Ordinary pedestrian passage to and from a unit is not a violation;

   (d) Non-resident employees: Business operations must be conducted solely by residents of the unit; non-resident employees, workers, or contractors may not regularly work from the unit for business purposes. This standard does not apply to a licensed family child care home operating under Section 5;

   (e) Waste and debris (CC&Rs Art. IX, Sec. 8): All business-related waste must be regularly removed and must not accumulate on the premises; and

   (f) Hazardous materials (CC&Rs Art. IX, Sec. 7): No hazardous, flammable, or toxic materials may be stored, used, or disposed of in quantities that endanger the health of any Owner or resident.

   Client-visiting businesses: A home-based business whose clients or customers come to the unit must, in addition: (i) carry general liability insurance covering the business activity and provide proof on request; (ii) manage client arrivals so that guest parking and Common Area walkways are not obstructed; and (iii) bear sole responsibility for compliance with any obligation the Americans with Disabilities Act imposes on the business, including 28 C.F.R. § 36.207, which extends to the entryway and access route used by clients. The Association will not unreasonably withhold consent to an accessibility improvement to a Common Area access route required for that purpose, at the operator's expense.

5. **Licensed Family Child Care Homes — C.R.S. § 38-33.3-106.5(1)(k):** The Association shall not prohibit the operation of a family child care home, as defined in C.R.S. § 26.5-5-303, that is licensed pursuant to part 3 of article 5 of title 26.5. This protection controls over Sections 2(a), 4(c), and 4(d) of these

Rules and Regulations, and children, parents, and guardians attending a licensed family child care home may cross the Common Areas to reach the unit. The Association retains the following authority, and only the following:

- **(a) Insurance:** The Association may require the operator to maintain liability insurance at reasonable levels naming the Association as an additional insured, and to provide a certificate of insurance on request;
- **(b) Fencing:** Any fencing requirement the Association imposes is subject to reasonable accommodation of the operator's licensing obligations, and a fence required by the operator's license shall be approved under the architectural control process on that basis;
- **(c) Parking, noise, landscaping, and architectural control:** The Association retains its ordinary rules on these matters, applied on the same terms as to any other unit; and
- **(d) Licensing:** The operator remains solely responsible for obtaining and maintaining the state license, and shall provide the license number on the notification form in Exhibit A. This Section applies only to a licensed home; an unlicensed child care operation is governed by Sections 3 and 4.

Exception: This Section does not apply to housing for older persons qualifying under the federal Housing for Older Persons Act of 1995. This Community is not such a community.

6. Owner Notification: Owners who operate, or who permit a resident to operate, a home-based business or a licensed family child care home must notify the Association in writing prior to commencing operations, or within thirty (30) days of the adoption of these Rules and Regulations if a business is already in operation. Notification must include:

- **(a)** Owner name and unit address;
- **(b)** Name and nature of the home-based business;
- **(c)** Name of the resident operator if different from the Owner;
- **(d)** Brief description of activities conducted at the unit and expected frequency of any client or customer visits; and
- **(e)** For a family child care home, the state license number.

Notification is required for informational purposes only. It is not an approval process. The Association may not deny the right to operate a home-based business or a licensed family child care home. Failure to notify is itself a violation of these Rules and Regulations subject to fines as set out in Section 8.

7. Short-Term Rentals: The CC&Rs do not expressly address short-term rentals (rentals of generally less than 30 days through platforms such as Airbnb or VRBO). Colorado courts have held that short-term rentals constitute a "residential use" of property and are not "commercial use" for purposes of residential-use-only covenant restrictions. See Houston v. Wilson Mesa Ranch Homeowners Ass’n (Colo. App. 2015). Accordingly, CC&Rs Article IX, Section 5’s restriction to “residential use” does not, by itself, prohibit short-term rentals under current Colorado law, and the Board may not prohibit them by rule. The Association has not adopted a CC&Rs amendment to restrict short-term rentals at this time. The Board reserves the right to seek such an amendment by owner vote under CC&Rs Article XIII and CCIOA § 38-33.3-217, which requires the affirmative vote of owners holding at least sixty-seven percent of the votes to change the uses to which a unit is restricted, or the higher percentage the Declaration specifies. Regardless of rental type, all rentals remain subject to CC&Rs Article IX (Use Restrictions), including the nuisance, waste, and Common Area access provisions, and all applicable Association rules. Unit owners remain fully responsible for their tenants’ and guests’ compliance.

8. Enforcement, Notice, and Violations (CC&Rs Article XIII, Section 1; CCIOA §§ 38-33.3-209.5 and 38-33.3-302):

Notice of Violation: The Association shall issue a written Notice of Violation specifying the violation, the required corrective action, and the cure period. For non-health/safety violations the notice shall be sent by certified mail, return receipt requested, as required by C.R.S. § 38-33.3-209.5(1.7)(b)(III).

Cure periods — ordinary violations: Non-health/safety violations carry a thirty (30) day cure period. If the Association does not receive notice from the Owner that the violation has been cured, it shall inspect within seven (7) days after the cure period expires. If the violation has not been cured, a second thirty (30) day cure period commences. The Association shall grant two consecutive thirty-day cure periods before taking legal action. C.R.S. § 38-33.3-209.5(1.7)(b)(III)(B) and (V).

Cure period — health and safety violations: Health and safety violations carry a seventy-two (72) hour cure period following written notice. After an inspection establishing that the violation was not cured, the Association may impose a fine no more often than every other day until the violation is cured. C.R.S. § 38-33.3-209.5(1.7)(b)(II).

Owner notice of cure: If the Owner cures the violation within the cure period, the Owner may notify the Association, and if the Owner sends visual evidence of the cure with that notice, the violation is deemed cured on the date the notice was sent. C.R.S. § 38-33.3-209.5(1.7)(b)(IV).

Fine schedule (C.R.S. § 38-33.3-209.5(1.7)): All fines are consistent with the Association’s Enforcement Policy and may only be assessed after the applicable cure period has expired and the Owner has been given an opportunity for a hearing. For violations that do not threaten public health or safety, the total amount of fines imposed for the violation may not exceed five hundred dollars ($500.00). Fines may never be imposed on a daily basis. C.R.S. § 38-33.3-209.5(1.7)(b)(I) and (III).

Violations not threatening public health or safety (total fines for the violation capped at $500):

Violation (Source)	1st	2nd	3rd	4th+
Use of unit or Property for prohibited commercial purpose (CC&Rs Art. IX, Sec. 5)	Warning	$100	$250	$500
Exterior commercial signage or advertising on unit or Common Area (CC&Rs Art. IX, Sec. 7)	Warning	$100	$250	$500 + required removal
Use of Common Area for business operations, storage, or client gathering (CC&Rs Art. IX, Sec. 4)	Warning	$100	$250	$500
Business activity unreasonably disturbing residents — noise, traffic, or similar impact (CC&Rs Art. IX, Sec. 7)	Warning	$100	$250	$500
Failure to notify Association of home-based business operations (Sec. 6)	Warning	$100	$250	$500
Non-resident employees regularly working from unit (Sec. 4(d))	Warning	$100	$250	$500
Rubbish, waste, or debris accumulation from business activity (CC&Rs Art. IX, Sec. 8)	Warning	$100	$250	$500

Violations threatening public health or safety — written notice, 72-hour cure, then fines no more often than every other day (C.R.S. § 38-33.3-209.5(1.7)(b)(II)):

Violation (Source)	Amount per assessment	Frequency
Storage, use, or disposal of hazardous, flammable, or toxic materials beyond residential quantities (CC&Rs Art. IX, Sec. 7)	Up to $500.00	No more often than every other day until cured
Business activity creating condition that endangers health of any resident (CC&Rs Art. IX, Sec. 7)	Up to $500.00	No more often than every other day until cured

No foreclosure based on fines: The Association shall not pursue foreclosure of an assessment lien where the debt securing the lien consists only of fines, or only of collection costs or attorney fees associated with fines. C.R.S. § 38-33.3-209.5(8)(c).

CC&Rs Enforcement (CC&Rs Article XIII, Section 1): The Association or any Owner may enforce these Rules and Regulations by any proceeding at law or equity. Failure to enforce shall not be deemed a waiver of the right to enforce thereafter.

9. Hearing Rights (CCIOA § 38-33.3-209.5(2)): Any Owner who receives a fine has the right to a hearing before the Board:

- **(a) Request:** Written request within thirty (30) days of receipt of the fine notice;
- **(b) Notice:** Board provides at least fourteen (14) days' advance written notice of the hearing;
- **(c) Process:** Conducted before an impartial decision maker; Owner may present evidence and argument;
- **(d) Decision:** Written decision within thirty (30) days of the hearing; and
- **(e) No fine during pendency:** No fine shall be imposed during the pendency of a timely-requested hearing.

10. Owner Responsibility for Tenants: Owners remain responsible for compliance with these Rules and Regulations by their tenants, occupants, and guests. Fines for violations by tenants shall be assessed against the unit owner of record. The Association is not a party to any lease agreement between an Owner and a tenant.

11. Relationship to Local Ordinances and Licensing: These Rules and Regulations supplement but do not replace applicable Montrose County zoning ordinances, business licensing requirements, noise ordinances, and nuisance regulations. Where local ordinances are more restrictive, the more restrictive standard applies. Owners are solely responsible for obtaining all required local, county, and state business licenses, permits, and tax registrations. The Association makes no representation that compliance with these Rules and Regulations satisfies any applicable county or municipal licensing, zoning, or tax requirement.

12. No Defense or Offset: An Owner may not withhold payment of any assessment, fine, or fee on the basis of any unrelated dispute with the Association.

13. HOA Information and Resource Center: Pursuant to C.R.S. §§ 12-10-801 and 38-33.3-209.5, owners are directed to the Colorado HOA Information & Resource Center at dre.colorado.gov/hoa-center for information on their rights and responsibilities under CCIOA.

14. Annual Registration: The Association shall register annually with the Colorado Division of Real Estate under C.R.S. § 38-33.3-401. Effective October 1, 2025, HB 25-1043 expanded the information required to be reported; the Board shall ensure annual registration filings reflect these requirements.

15. Supplement to Law: These Rules and Regulations supplement the CC&Rs and Colorado law and do not replace them. In any conflict with the CC&Rs or Bylaws, the CC&Rs and Bylaws control except where federal law or Colorado law (including C.R.S. § 38-33.3-106.5 and CCIOA) supersedes them. If any provision is found invalid, the remaining provisions continue in full force.

16. **Modification:** The Board may amend or repeal these Rules and Regulations at any time subject to Governing Document limitations. Amendments take effect thirty (30) days after adoption and shall be distributed to all owners. The Board shall review these Rules and Regulations annually.

17. **Definitions:** Capitalized terms carry the meanings assigned by the Declaration. Home-Based Business means a business for which the main office is located at, or the business operations primarily occur at, a unit in the Community, as provided in C.R.S. § 38-33.3-106.5(1)(l). Family Child Care Home has the meaning assigned by C.R.S. § 26.5-5-303.

18. **Replacement:** These Rules and Regulations supersede all prior business use policies adopted by the Board.

19. **Mailing Address:** Owner notifications, correspondence, and inquiries regarding these Rules and Regulations shall be submitted to:

    The Vineyards at Vista San Juan Homeowners Association I
    P.O. Box 966, Montrose, CO 81402

The Vineyards at Vista San Juan Homeowners Association I

By: ____
[Name] [Position]

These Rules and Regulations were adopted by the Board of Directors on [Insert Date], and attested to by the Secretary of The Vineyards at Vista San Juan Homeowners Association I.

____
Secretary

EXHIBIT A
HOME-BASED BUSINESS NOTIFICATION FORM
The Vineyards at Vista San Juan Homeowners Association I

A fillable version of this form is posted on the Association's website and is available from the Secretary on request. The posted form and this Exhibit are the same form. If they ever differ, this Exhibit controls.

Pursuant to Section 6 of the Business Use Rules and Regulations, owners who operate or who permit a resident to operate a home-based business or a licensed family child care home must notify the Association. This is an informational notification only — it is not an approval process. The Association may not deny the right to operate a home-based business or a licensed family child care home. C.R.S. § 38-33.3-106.5(1)(l) and (1)(k).

Unit Address: ____

Owner Name: ____

Owner Phone / Email: ____

Resident Operator Name (if different from Owner):
____

Business Name: ____

Type / Nature of Business: ____

Is this a licensed family child care home? ☐ Yes ☐ No

If yes, state license number: ____

Do clients or customers come to the unit? ☐ Yes ☐ No

If yes, attach proof of general liability insurance (Section 4).

Description of Activities Conducted at Unit:

____

Expected Client / Customer Visit Frequency (if any):

____

Expected Start Date of Operations:

____

By signing below, I confirm: (a) all information is accurate and complete; (b) I have read and agree to comply with the Business Use Rules and Regulations; (c) I will notify the Association in writing of any material change to my home-based business operations within thirty (30) days of such change; and (d) I am solely responsible for obtaining all required local, county, and state business licenses, permits, and tax registrations.

Owner Signature: ____ Date: _________________

Printed Name: ____