

***AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CHERRY
CREEK SPRINGS COMMUNITY***

THIS DECLARATION is effective upon recording.

RECITALS:

A. WHEREAS, Cherry Creek Estates, LLC a Colorado limited Liability Company did cause to be recorded those certain Declaration of Protective Covenants, Conditions, Easements and Charges Cherry Creek Springs, State of Colorado, County of El Paso on October 15, 1997 at Reception No. 97121824. The Declaration was subsequently amended by that certain First Amendment of Declaration of Protective Covenants, Conditions, Restrictions, Easements and Charges Cherry Creek Springs State of Colorado County of El Paso recorded in the real property records of El Paso County on May 4, 2001 at Reception No. 201058294; and that certain Second Amendment of Declaration of Protective Covenants, Conditions, Restrictions, Easements and Charges Cherry Creek Springs State of Colorado County of El Paso recorded in the Real Property Records of El Paso County on September 23, 2002 at Reception No. 202160941; collectively referred to as the Original Declaration;

B. The Owners and the Association desire to amend and restate all provisions of the Original Declaration, as amended and supplemented, by virtue of this Amended and Restated Declaration of Covenants, Condition and Restrictions for Cherry Creek Springs Community (the "Declaration"), and intend, upon the recording of this Declaration, that all prior recorded declarations, amendments and supplements thereto be superseded and replaced by this Declaration;

C. The Original Declaration provides for and allows for this Declaration in Paragraph 41, which provides as follows:

These covenants and restrictions are to run with the land and shall remain in full force and effect for twenty-five years from the date of recording, except that those paragraphs addressing water supply in the augmentation plan, specifically, paragraphs 1, 2, 21, 37, and 38 shall remain in full force and effect in compliance with the Court Decrees, or amendments thereof, or unless otherwise directed by law. After such time covenants shall be automatically extended for successive period of ten (10) years unless an instrument signed by a two-thirds (2/3) majority vote (one vote per lot, including Declarant's lots) of then Owners has been recorded, changing said covenants in whole or in part; however, covenants may be amended at any time by a three-quarters (3/4) majority vote (one vote per lot, including Declarant's lots) all of the then property Owners. All changes shall be legally drawn, be formally recorded in El Paso County, and be in compliance with then local jurisdiction and the Court Decrees of the Water Plan, or amendments thereof. Note specifically that any paragraphs in any way implying or referencing the Water Plan, and the Lot Owners' and Association's responsibilities thereby affected, may not be modified, unless Court and County approved; such

paragraphs include, but are not limited to, the introductory paragraph (“NOW THEREFORE”), Paragraph 1 (“Intent”), Paragraph 2 (“Water Plan”), Paragraph 21 (“Irrigation”), Paragraph 37 (“Water Supply”), and Paragraph 38 (“Water Plan”). Approval of El Paso County is also required for any changes affecting Paragraph 45 (“Floodplain Limitations”), Paragraph 39 (“Three Hundred Year Water Supply”) and Paragraph 26 (“Common Areas, Equestrian Easements & Fencing”).

D. The above Paragraphs 1, 2, 21, 26, 37, 38, 39, and 45 remain unchanged;

E. Pursuant to the Colorado Common Interest Ownership Act, C.R.S. §38-33.3-217(1)(a), the required approval of 75% of the Owners for amendment is now void;

F. Pursuant to the Colorado Common Interest Ownership Act, C.R.S. §38-33.3-217(1)(a), the amendment requirement for this Declaration is now 67% of the Owners;

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

H. The amendments within this Declaration have been prepared and determined by the Association and by the Owners that have approved this Declaration to be reasonable and not burdensome;

I. The purposes of the amendments in this Declaration are to remove unreasonable restrictions on the community, remove developer "boilerplate" language that is no longer applicable to the Community, remove provisions that do not allow the Board to efficiently operate the community or deal with community concerns, remove provisions that do not comply with current state law, add provisions that provide the proper tools for the Association to effectively solve problems, add provisions to provide the Association with sufficient power to create and successfully enforce Rules and Regulations, and add provisions that reflect beneficial state law provisions;

J. The purpose of the Association, as provided in the Declaration, is to preserve Cherry Creek Springs as a high quality residential area of lasting value. Property Owners shall be people who will uphold the letter, spirit and intent of these covenants. In addition, these covenants are established to manage and perform certain obligations attached to the property in conjunction with those certain Court Decrees collectively termed “Water Plan” (Original Declaration Paragraph 1); and

K. At least 67% of the Owners have approved this Declaration, or alternatively, a court order entered by the District Court for El Paso, Colorado pursuant to C.R.S. §38-33.3-217(7), has been entered approving this Declaration.

NOW, THEREFORE, the Original Declaration is replaced and amended and restated as follows:

ARTICLE 1 - SUBMISSION/DEFINED TERMS

Section 1.1 Name and Type.

The type of Common Interest Community is a Single-Family Community. The name of the Community is Cherry Creek Springs. The name of the Association is the Cherry Creek Springs Homeowners Association, Inc.

Section 1.2 Property.

The Community is located in El Paso County, Colorado. The initial Property of the Community is described in *Exhibit A*. The Community may be subject to easements or licenses granted pursuant to this Declaration or granted by authority reserved in any recorded document or established in the Colorado Common Interest Ownership Act, hereinafter referred to as Act. The Community consists of 115 Lots.

Section 1.3 Defined Terms.

Each capitalized term in this Declaration shall have the meaning specified or used in the Act, unless otherwise defined in this Declaration or the context requires otherwise:

a) Act shall mean the Colorado Common Interest Ownership Act, *C.R.S. §38-33.3-101 et. seq.*, as it may be amended.

b) Architectural Review Committee (ARC) means the committee elected, as set forth herein, by the Community for the purpose of implementing the architectural review provisions of this Declaration and architectural guidelines for the Community.

c) Assessment shall include all Common Expense Assessments and any other expense levied to Lots pursuant to this Declaration or the Act, including, but not limited to, interest, late fees, attorney fees, fines, and costs.

d) Association shall mean Cherry Creek Springs Homeowners Association, Inc., a Colorado nonprofit corporation, and its successors and assigns.

e) Board or Board of Directors shall mean the body, regardless of name, designated in the Governing Documents to act on behalf of the Association.

f) Common Area shall mean all real property owned by the Association for the common use and enjoyment of the Owners, if any.

g) Common Expenses shall mean and refer to all expenditures made, and liabilities incurred by or on behalf of the Association, together with any allocation by the Association to reserves.

h) Community shall mean the Single-Family Community known as Cherry Creek Springs, and the real property subject to this Declaration and as further defined by the recorded Plats and the legal descriptions contained in this Declaration, and the Members of the Association.

i) Declarant shall mean the original Declarant, and successors and assigns as provided herein and in the Act.

j) Declaration shall mean and refer to this Amended and Restated Declaration of Covenants, Conditions and Restrictions for Cherry Creek Springs, as amended, recorded in the office of the Clerk and Recorder of El Paso County, Colorado.

k) Governing Documents shall mean this Declaration, the Plat, the Articles of Incorporation, the Bylaws, any Maps and any Policies of the Association, as all of the foregoing may be amended from time to time.

l) Lot shall mean and refer to any plot of land shown upon any recorded Plat of the Property with the exception of Common Areas, if any.

m) Member shall mean any Owner. The terms Member and Owner may be used interchangeably.

n) Owner shall mean the owner of record title, whether one or more persons or entities, to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

o) Pet shall mean and include cats, dogs, birds, reptiles or other household animals, as may be further defined in or supplemented by the Policies.

p) Plat or Map shall mean and refer to the plat(s) and/or map(s) of the Property and improvements that are subject to this Declaration and which are designated in the Plat or Map recorded in the records of the Office of the Clerk and Recorder of El Paso County, Colorado. More than one plat, map or supplement may be recorded, and, if so, then the term Plat or Map shall refer to all plats, maps and supplements thereto.

q) Property shall mean the property described in or which is subject to the Declaration together with all easements, rights, and appurtenances thereto and the buildings and improvements erected or to be erected thereon.

r) Policies shall mean any written instruments, however identified, which are adopted by the Association for the regulation and management of the Community and/or clarification of the Governing Documents, including any amendment to those instruments.

s) Water Plan shall mean those certain Decrees of (a) Water Division 1 Case No. 96-CW-1064; (b) Water Division 2 Case No. 96-CW-230, and (c) Water Division 1, Case No. 93-CW-018, as amended (see Exhibit B) which pertain to certain obligations with respect to ground water management, withdrawal restrictions, and water augmentation (Original Declaration Paragraph 2).

ARTICLE 2 - NAMES & DESCRIPTION OF PROPERTY/EASEMENTS

Section 2.1 Owners' Easements of Enjoyment.

Every Owner shall have a right and easement of enjoyment in and to any Common Area and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- a) The right of the Association to promulgate and publish Policies with which each Owner and their tenants, invitees, licensees and guests shall comply;
- b) The right of the Association to suspend the voting rights and the right to use of any Common Area for a period not to exceed twelve (12) months or during any period of violation of any other provision of the Governing Documents, whichever is greater; provided that suspension of voting and use rights shall be automatic during any period that an Owner is in default in payment of any Common Expense Assessment;
- c) The right of the Association, upon approval of Members holding at least 67% of the total votes entitled to be cast in the Association, to mortgage the Common Area as security for that purpose, provided, that the rights of such mortgagee shall be subordinate to the rights of the homeowners;
- d) The right, power and authority of the Association to grant any easement, right-of-way, license, lease, dedication or similar interest through, over or in the Common Area, or to transfer or convey ownership of any Common Area shall be subject to the prior approval of Members holding at least 67% of the total vote;
- e) The right of the Association to close or limit the use of any Common Area while maintaining, repairing and making replacements in any Common Area; and
- f) The right of the Association to change use of, add or remove improvements to the Common Area.

Section 2.2 Delegation of Use.

Owners may delegate their right of enjoyment to any Common Area to the members of their family, their tenants, and/or guests, who reside at their Lot. If the Owner delegates rights to use the Common Area to tenants who reside at their Lot, the Owner shall not be entitled to use the Common Area.

Section 2.3 Disclaimer of Liability.

The Association and the Architectural Review Committee shall be and remain wholly free and clear of any and all liability to, or claims by, all Owners and all persons and entities, of whatever kind or character, whether sounding in contract or tort, deriving from the occurrence of any injury or damage to any person or property on, or in respect to the use and operation of, the Common Area or any of its improvements, fixtures, and facilities. It shall be the affirmative duty and responsibility of each Owner, and each user of the Common Area, to continuously inspect the same for any defects or perils or other unsafe conditions or circumstances, prior to and during such use or enjoyment thereof; and all users of, and visitors to, the Common Area and its improvements and facilities shall use, enjoy, and visit, the same at their own risk and peril.

Section 2.4 Utility, Map and Map Easements.

Easements for utilities and other purposes over and across the Lots and Common Areas may be as shown upon the Plat or Map of the Community, and as may be established pursuant to the provisions of this Declaration or granted by authority reserved in any recorded document.

ARTICLE 3 - THE ASSOCIATION

Section 3.1 Membership.

Every person who is a recorded Owner of a fee interest in any Lot which is subject to this Declaration shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of such Lot shall be the sole qualification for such membership. Each Lot shall be allocated one vote and shall not be subject to fractional voting. Membership fees shall be payable in proration to length of ownership annually in advance by January 1. The Association is managed according to its Bylaws and Articles of Incorporation, which among other provisions, also provides for an increase in membership fees, if necessary, as required by the Association budget.

Section 3.2 General Purposes and Powers of the Association.

The Association, through its Board of Directors, shall perform functions and manage the Cherry Creek Springs Community as provided in this Declaration so as to protect the value, quality, and desirability of the Cherry Creek Springs Community and the Lots. The Association shall be responsible for the maintenance, repair, replacement and improvement of any Common Area. Any purchaser of a Lot shall be deemed to have assented to, ratified and approved such designation and management. The Association shall have all power necessary or desirable to effectuate such purposes.

Section 3.3 Authority of the Association.

- a) The business affairs of the Community shall be managed by the Association. The Association shall be governed by the Act, this Declaration, the Plat or Map, its Articles of Incorporation and Bylaws, and any Policies adopted by the Board of

Directors. All corporate or other powers of the Association, unless otherwise specified or expressly reserved to the Members in the Governing Documents, shall be exercised by or under the authority of the Board of Directors, and the business and affairs of the Association shall be managed under the direction of the Board of Directors. The Board of Directors may, by written resolution, delegate authority to a managing agent for the Association, provided no such delegation shall relieve the Board of final responsibility.

b) Homeowners Association/Bylaws: Notwithstanding any provision contained in the Bylaws or Articles of Incorporation, the Bylaws may be amended as follows:

- i) By the Board of Directors, without member approval, to comply with any statutory or judicial requirements; and
- ii) By the Owners through an affirmative vote of a majority of the Members present and voting, in person or by proxy, at a regular or special meeting of the Members called for such purpose at which a quorum is present, provided that notice has been sent to all Members pursuant to these Bylaws, and such notice sets forth that the meeting is being conducted for the purpose of amendment.

Section 3.4 Managing Agent.

The Association may employ or contract for the services of a managing agent to whom the Board may delegate certain powers, functions, or duties of the Association, as provided in the Bylaws of the Association. The Board shall not be liable for any omission or improper exercise by a managing agent of any duty, power, or function so delegated by written instrument executed by or on behalf of the Board.

Section 3.5 Right to Notice.

Notice of matters affecting the Community shall be given by the Association or through access to Association records, as further provided in the Bylaws or as otherwise provided by the Board of Directors.

Section 3.6 Indemnification.

To the full extent permitted by law, each officer, director, committee member or volunteer of the Association shall be indemnified by the Association against all expenses and liabilities including attorney fees, reasonably incurred by or imposed upon them in any proceeding to which they may be a party, or in which they may become involved, by reason of being or having been an officer, director, committee member or volunteer of the Association, or any settlements thereof, whether or not they are an officer, director, committee member or volunteer at the time such expenses are incurred; except in such cases wherein such officer, director, committee member or volunteer is adjudged guilty of breaching his or her duty of care (as set forth in the Act) in the performance of his or her duties.

Section 3.7 Education and Training.

As a Common Expense, the Association shall, in accordance with the Act, provide education and training opportunities for Owners, residents, Officers, Directors, and occupants on topics benefitting or contributing to operation or governance of the Community, and the rights and responsibilities of Owners and the Association.

ARTICLE 4 - COVENANT FOR ASSESSMENTS FOR COMMON EXPENSES

Section 4.1 Creation of Association Lien and Personal Obligation to Pay Assessments for Common Expenses.

Each Owner, by acceptance of a deed for a Lot, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association Annual Assessments for Common Expenses, Insurance Assessments, and such other Assessments as imposed by the Association. The Association's annual Common Expense Assessments and such other Assessments as imposed by the Association, including fees, charges, late fees, attorney fees, fines and interest charged by the Association, and additional fees charged by the managing agent, including but not limited to, administration and witness fees, and/or any other charges that may be assessed and/or levied or may be agreed to in the process of collecting past due Assessments, including but not limited to, credit card convenience fees from whatever source, shall be a charge on each Lot and shall be a continuing lien upon the Lot against which each such Assessment or charge is made. No Owner may become exempt from liability for payment of the Assessments for Common Expenses by waiver of the use or enjoyment of the Common Area or by abandonment of the Lot against which the Assessments for Common Expenses are made.

Section 4.2 Basis of Assessments.

Common Expense Assessments may be made on an annual basis against all Lots and shall be based upon the Association's advance budget of the cash requirements needed by it to provide for the administration and performance of its duties during such Assessment year. Except as provided in this Declaration, all Assessments for Common Expenses shall be assessed against all Lots equally.

Section 4.3 Annual Assessment.

The budget for annual Assessments shall be submitted to the Owners for approval pursuant to Section 303(4) of the Act and as set forth in the Bylaws, as the Bylaws may be amended from time to time. The budget will be voted on at the annual meeting provided a quorum is present and upon the affirmative vote of a majority of the Owners present and voting at that meeting.

If the budget is not passed by a simple majority of the quorum present, then last approved budget remains in effect. Assessments for Common Expenses shall be due and payable in annual installments, or in any other manner as determined by the Board of Directors. The omission or failure of the Board of Directors to levy the Assessment for any period shall not be deemed a waiver, modification or a release of the Owners from their obligation to pay.

Section 4.4 Special Assessments.

In addition to other authorized Assessments, the Association may levy Special Assessments from time to time to cover previously unbudgeted expenses or expenses in excess of those budgeted, including, without limitation, the costs of any construction, restoration, or unbudgeted repairs or replacements of capital improvements that are not covered by the general reserve fund. The proposed Special Assessment shall be submitted to the Owners for approval pursuant to Section 303(4) of the Act and as set forth in the Bylaws, as the Bylaws may be amended from time to time. Any proposed Special Assessment will be voted on at the annual meeting, or special session, at which a quorum is present, upon the affirmative vote of a majority of the Owners present and voting at that meeting. Special Assessments may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. The Board shall have the right to require that Special Assessments be paid in advance of the provision of the subject services or materials.

Section 4.5 Supplemental Assessments.

The Board, acting on behalf of the Association, shall have the right to add to any Owner's Assessment as provided in this Article the following:

- a) Those amounts expended by the Association for the benefit of any individual Lot or any occupant thereof, including but not limited to: improvement, repair, replacement or maintenance specific to a Lot;
- b) Improvement, repair, replacement or maintenance caused by the negligent or willful acts of any Owner, his or her guest, employee, licensee, lessee or invitee as set forth in this Declaration;
- c) All fines and costs assessed against an Owner pursuant to the Governing Documents; and
- d) Reasonable expenditures or charges that are allocatable to a particular Lot may be charged by the unanimous approval of all Board members.

Section 4.6 Effect of Non-Payment of Assessments.

- a) Any Assessment, charge or fee provided for in this Declaration, or any monthly or other installment thereof, which is not fully paid within 10 days after the due date thereof, as established by the Board of Directors, shall bear interest at the rate established by the Board of Directors, on a per annum basis to accrue monthly from the due date, and the Association may assess a reasonable late fee thereon as determined by the Board of Directors.
- b) Failure to make payment within forty-five (45) days of the due date thereof shall cause the total amount of such Owner's Common Expense Assessment for

the remainder of that fiscal year to become immediately due and payable at the option of the Board.

c) Further, the Association may bring an action at law or in equity, or both, against any Owner personally obligated to pay such overdue Assessments, charges or fees, or monthly or other installments thereof, and may also proceed to foreclose its lien against such Owner's Lot. An action at law or in equity by the Association against an Owner to recover a money judgment for unpaid Assessments, charges or fees, or monthly or other installments thereof, may be commenced and pursued by the Association without foreclosing, or in any way waiving the Association's lien therefor.

d) Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to prevent or otherwise preclude the Association from thereafter again foreclosing or attempting to foreclose its lien for any subsequent Assessment, charges or fees, or monthly or other installments thereof, which are not fully paid when due. The Association shall have the power and right to bid on or purchase any Lot at foreclosure or other legal sale, and to acquire and hold, lease, mortgage, convey or otherwise deal with the same. If a foreclosure action is filed to settle any Assessment lien, and an Owner abandons or leaves vacant his or her Lot, the Board may take possession and apply for the appointment of a receiver for the Lot without prior notice to the Owner. The rights of the Association shall be expressly subordinate to the rights of any holder of a first lien security interest as set forth in its deed of trust or mortgage (including any assignment of rents), to the extent permitted under the Act.

Section 4.7 Lien Priority.

The lien of the Association under this Section is prior to all other liens and encumbrances on a Lot except: (1) liens and encumbrances recorded before the recordation of the Declaration; (2) a first lien security interest on the Lot (except as allowed by the Act with regard to the limited lien priority allowed to the Association); and (3) liens for real estate taxes and other governmental assessments or charges against the Lot. This Section does not affect the priority of mechanics' or materialmen's liens. The lien of the Association under this Article is not subject to the provision of any homestead exemption as allowed under state or federal law. Sale or transfer of any Lot shall not affect the lien for said Assessments or charges except that sale or transfer of any Lot pursuant to foreclosure of any first lien security interest, or any proceeding in lieu thereof, including deed in lieu of foreclosure, or cancellation or forfeiture shall only extinguish the lien of Assessment charges as provided by applicable state law. No such sale, transfer, foreclosure, or any proceeding in lieu thereof, including deed in lieu of foreclosure, nor cancellation or forfeiture shall relieve any Lot from continuing liability for any Assessment charges thereafter becoming due, nor from the lien thereof, provided a quorum of Owners are represented.

Section 4.8 Borrowing.

The Association shall have the power to assign its right to future income, including the right to assign its right to receive Assessments for Common Expenses, but only upon the affirmative vote

of a majority of the Owners present and voting at a meeting called for that purpose provided a quorum of the Owners are represented.

ARTICLE 5 - COVENANTS AND RESTRICTIONS ON USE, ALIENATION AND OCCUPANCY

Section 5.1 Flexible Application of the Subsequent Covenants and Restrictions.

All Lots within the Community shall be held, used and enjoyed subject to the following limitations and restrictions. The strict application of the following limitations and restrictions in any specific case may be modified or waived, in whole or in part, by the Board of Directors or by an appropriate committee (subject to review and approval by the Board of Directors) if such strict application would be unreasonable or unduly harsh under the circumstances. Any such modification or waiver must be in writing.

Section 5.2 Authority.

All provisions of the Governing Documents shall apply to Owners and their guests, tenants, invitees and licensees. Owners and their successors and assigns, by acceptance of a deed to their Lot, acknowledge that they have been given notice, and that:

- a) The ability of Owners to use their Lots may be limited by the provisions in the Governing Documents.
- b) The Board may establish penalties for the infraction of regulations, and Owners will be responsible for fines assessed due to their tenants, guests and invitees for violations of the regulations.
- c) All fines imposed are collectable as Assessments.

Section 5.3 Use/Occupancy.

All Lots shall be known, described, and used only as single-family residential lots and shall not be used for more than one custom-built residential home, a private garage, guest house, and barn, all in keeping with the architecture of the principle residence, and subject to the approval of the ARC.

Manufactured housing and mobile homes for use as primary residence or guest house are prohibited. A guest house is a detached structure containing a kitchen, multi-purpose room, and not more than two bedrooms and one bathroom. A guest house may only be used for family members, visitors or guests of the Owner. Guest houses may not be rented.

Section 5.4 Leasing and Occupancy.

Any Owner shall have the right to lease or allow occupancy of a Lot upon such terms and conditions as the Owner may deem advisable, subject to restrictions of this Declaration, subject to restrictions of record and subject to the following:

- a) “Leasing” or “Renting” for the purposes of this Declaration, is defined as regular, exclusive occupancy of a Lot by any person other than the Owner.
- b) Leases shall be for the entire Lot only.
- c) All leases or rental agreements shall be in writing and shall provide that the leases or rental agreements are subject to all terms of the Governing Documents. Owners are required to provide tenants with copies of the current Declaration, Articles of Incorporation, Bylaws and any Rules and Regulations of the Association.
- d) All violations will be assessed against the Owner.
- e) All Owners who reside at a place other than the Lot shall provide to the Association an address and phone number(s) where the Owner can be reached in the case of emergency or other Association business. It is the sole responsibility of the Owner to keep this information current.
- f) A guest house may not be leased or occupied separate and apart from the main Dwelling, such as through AirBnb, HomeAway or other such sites.

Section 5.5 Landscaping, Erosion, and Weed Control.

Weed control per El Paso County ordinances or recommendations is the responsibility of each individual Owner, except that responsibility for weed control in the common area is vested in the Association. Owners are responsible for proper drainage and erosion control across their Lot, and minimizing erosion, as well as maintenance of erosion control measures within their property boundary.

Section 5.6 Restrictions on Pets and Animals.

The Association has established the following policies regarding the keeping of animals:

- a) A total of four (4) hoofed animals (i.e. horses, donkeys, mules, llamas, alpacas, sheep, or goats) can be raised and kept within a fenced area per Lot.
- b) No swine (including potbellied pigs) or bovine of any type, shall be kept within Cherry Creek Springs.
- c) A total of fifteen (15) poultry (chickens, ducks, or geese) may be raised and kept per Lot with the following policies:

- i) There are no roosters, drakes, or ganders (male birds);
 - ii) No more than fifteen (15) chickens;
 - iii) No more than eight (8) ducks and/or geese;
 - iv) An ARC approved structure to provide shelter is to be constructed which provides adequate space for the flock size;
 - v) Poultry have access to a fenced area no larger than 1600 square feet; and
 - vi) Free ranging is not allowed.
- d) Up to four (4) outdoor Pets can be raised or kept on a Lot. Only dogs or cats can be kept as outdoor Pets without Board approval.
- e) Beekeeping is allowed, to a maximum of one (1) hive, subject to member input regarding potential member health and safety concerns, hive location and Board approval.
- f) Animals not specifically addressed above require Board of Director's approval.
- g) Animals shall be under the control of the Owner at all times, including when on the Common Area.
- h) Prior to bringing animals to Cherry Creek Springs, excluding household Pets, the Owner is to submit to the Board of Directors a plan for housing, waste management, controlled grazing, and nuisance avoidance for the purpose of recommendations, guidance and acceptance of the plan.
- i) Structures and fencing require ARC approval.

Section 5.7 Fencing Guidelines and Restrictions.

All fencing requires ARC approval.

Accent fencing consisting of 3 or 4 rail fencing in cedar (standard grade split rail), treated lumber, vinyl, or similar upgraded materials may be constructed. If constructed, the accent fence shall be required to extend for fifty (50) feet on either side of the Lot's driveway or to the nearest Lot corner, whichever is shorter, or as approved by the ARC.

New boundary fencing or cross-fencing is permitted, except where prohibited in Equestrian Easements and Floodplains. New fencing may consist of smooth wire or upgraded materials referenced above, but under no circumstances shall barbed wire fences be constructed. Existing stock fencing along Cherry Creek Springs' perimeter may be maintained in its existing condition. Alternatively, with adjoining property owners' permission, such existing fencing may be removed, replaced, or repaired at Owners' cost to similar or better condition and properly aligned with legal property boundaries.

Privacy fencing shall be allowed up to but not to exceed an enclosed area of twelve thousand (12,000) square feet subject to ARC approval. Allowed privacy fencing materials will be cedar in natural wood color with pickets up to seven (7) feet in height and six (6) inches in width. Painting of privacy fencing will not be allowed, although clear-coat or pigmented staining for weather-protection is encouraged.

No chain link or similar heavy mesh fencing will be allowed in Cherry Creek Springs.

Fences or other improvements which restrict or obstruct free movement through the Equestrian Easement are hereby prohibited.

Fencing, grading, or landscaping within the Floodplain may require written approval by El Paso County Department of Transportation and Storm Water Management and, if required, by the FEMA Floodplain Administrator, unless permitted in the accompanying Notes to the Plat(s). Lot Owners are responsible for obtaining written approval from El Paso County authorities, as required.

Section 5.8 Nuisances.

Nothing shall be done on any Lot which may be or become an annoyance or nuisance to the neighborhood. No noxious odors, irritating noises (i.e. noise pollution), undue vehicle traffic or otherwise offensive activities shall be carried out upon any Lot. Any exterior lighting on any Lot shall either be indirect or of such controlled focus and intensity as not to unduly disturb residents of adjacent or nearby property. No trailbikes, minibikes, mopeds, motorcycles, all-terrain vehicles, snowmobiles, or other such noise causing vehicles shall be operated within Cherry Creek Springs properties, except for maintenance of the Lot or normal transit to and from residences. No hunting of any kind by any form or device, nor the discharge of any type of firearm, explosive, or fireworks device is allowed.

Section 5.9 Vehicular Parking, Screening, Storage, and Repairs.

Parking of trailers, recreational vehicles, property maintenance equipment, and street vehicles:

- a) An Owner may park up to a total of two (2) allowed trailers (utility/cargo trailers or horse trailer) adjacent to an ARC-approved building (e.g., garage, house, barn, privacy fence, etc.) provided the following:
 - i) Maximum length of utility/cargo trailer is 20 feet;
 - ii) Maximum capacity of a horse/stock trailer is four horses, regardless of living/sleeping capacity;
 - iii) Maximum height of 13 feet 6 inches.

A trailer will be considered to be parked adjacent to the building/fence if the distance between the wall of the building/fence and the inner edge of the trailer is less than six (6) feet in the instance of a single trailer, or less than fifteen (15) feet for two (2)

trailers. If two (2) trailers are openly parked adjacent to the same building wall/fence, they shall be parked parallel with each other.

b) An Owner may park motorhomes, recreational trailers, recreational vehicles, lot maintenance equipment, tractors, snowmobiles, watercraft, truck campers/toppers, and additional trailers over the two allowed per Section 5.9(a) if screened or enclosed in an ARC-approved structure.

c) An Owner may have a screened area not to exceed 800 square feet, with the longest dimension not to exceed 50 feet, using an ARC-approved screening method. The screened area must be adjacent to an existing structure or as approved by the ARC.

d) All vehicles (including trailers) parked or stored within Cherry Creek Springs must adhere to DMV registration regulations of Colorado and El Paso County and be maintained in operational condition.

e) Equipment used for construction, excavation, farming, ranching or other activities not related to member maintenance of their property, including commercial trucks, may not be parked or stored within Cherry Creek Springs, unless such parking or storage is within a garage on the Lot, is authorized in writing by the Board of Directors, or is otherwise exempted by Colorado law. Commercial trucks used for the primary purpose of transporting the member, or the member's immediate family are exempted.

f) Up to three (3) street legal passenger vehicles may be parked on a driveway or garage apron. Additional vehicles can be approved by the Board of Directors upon request by the Owner.

g) Guests may park a Recreational Vehicle or Recreational Trailer on driveways and parking pads for up to fourteen (14) consecutive days and no more than thirty (30) total days in any calendar year. If parking for a period longer than fourteen (14) consecutive days is desired, or if more than one guest unit is to be parked on the Lot, a request for extended parking shall be submitted to the Board of Directors for review and disposition.

h) No stripped down, partially wrecked or motor vehicle (or part thereof) that cannot be independently moved (under its own power) shall be parked on any Lot in such a manner as to be visible from any neighboring property or street.

i) No maintenance, servicing, minor repair, dismantling or minor touch up painting of any type of vehicle, boat, trailer, camper, motor home, machine or device may be carried on exceeding 48 hours unless within a completely enclosed approved structure that screens the sight and sound of the activity from adjoining property. Any major painting, or extended repair, must be accomplished within said approved structure.

Screening:

The intent of screening is to obscure and break-up the sight lines of the item being screened. Screening will conform to the following guidelines:

- a) The screening approach must screen objects from view from adjacent properties and roadways.
- b) At least 60% of each side of the object, extending to the height of the screened object, will be screened at all times.
- c) The application for screening must include computed screening percentage.
- d) The ARC will verify the screening percentage during the application review as well as the final inspection.
- e) The ARC will establish policy with respect to how screening percentage is determined for various types of screening methods (i.e. fencing, trees, earth berms and combinations thereof).

The Owner will submit an application for screening according to these guidelines prior to construction of screening. The Owner must receive approval from the ARC prior to beginning construction.

Any apparent violation of this regulation is subject to review and enforcement by the Board of Directors and may include demand to remove of any or all of the vehicles and/or equipment at the owner's expense.

Requests for deviations must be submitted to the Board of Directors including proposed storage/parking location and reason for deviation. The Board of Directors will request ARC review of the proposed deviation with regards to aesthetics of the community.

Section 5.10 Common Area, Equestrian Easements, and Flood Plain Limitations.

Each Lot is subject to and encumbered by all easements of record shown upon the plat(s) of Cherry Creek Springs. More specifically, each Lot enjoys an undivided interest in the "Common Area, Open Space, Drainage Easement and Equestrian Riding Area" shown as Parcel "A", "B", "D", and "E" on the final plat(s), as well as Parcel "C" (collectively termed "Common Area"). All Owners agree to keep the Common Area in aesthetically pleasing condition and restoring it to its previous condition after temporary use for picnics or other gatherings. Gatherings of more than twelve (12) people require advance written notification be sent to the Board of Directors. At the discretion of the Board, a refundable clean-up deposit may be charged. Such deposit shall serve as guarantee to restore such previously existing condition and may be expended to affect this intent.

Non-exclusive easements are reserved as shown on the plat(s) for the purpose of hiking/jogging, horseback riding and riding of non-motorized bicycles (the “Equestrian Easement”). Pedestrians will have the right-of-way. Bicycle riders shall yield the right-of-way to pedestrians and horseback riders. Bicycle use is limited to the designated trails.

Motorized vehicles (except as may be utilized for maintenance or permitted pursuant to other overlapping easements), are prohibited in the Equestrian Easement and Common Area. Every resident, including their guests when accompanied by a resident, shall have a right and easement of enjoyment in and to the Equestrian and Common Area.

In no event shall the Common Area be enclosed, fenced upon, excavated, or in any other way encumbered or restricted by any Owner without the express written approval of the Board of Directors.

As indicated on the Final Plat(s), a 100-year Floodplain runs throughout the property affecting various Lots. In addition to the No-Build Zones designated on the plat(s), specific additional restrictions apply to the area within the Floodplain as shown in the accompanying Notes to the plat(s), or as shown herein. Owners are responsible for verifying the currency of Floodplain mapping and restrictions before beginning any construction projects on low-lying or sloping land. (Original Declaration Paragraph 26 & 45)

Section 5.11 Restriction on Signs and Advertising Devices.

All signs, their shape, size, content, and length of time for display must first be approved in writing by the Board of Directors or their designated representative. Real-estate, including both “For Sale” and “For Rent”, and construction/building signs may be placed without approval provided the signs do not exceed four (4) square feet and are not up for longer than three (3) months. Signs erected for more than three (3) months require approval of the Board.

Section 5.12 Outbuildings and Temporary Structures.

An “outbuilding” shall mean an enclosed or covered structure not directly attached to the dwelling it serves. No outbuilding or temporary structure, including sheds, trailers, shacks, barns, or detached garages or carports, shall be allowed on any Lot unless approved in writing by the Board of Directors and the ARC. Further, no outbuilding or temporary structure shall be used on any Lot at any time for residential purposes, either temporarily or permanently.

Section 5.13 Prohibition of Marijuana Distribution and Growing.

No Owner or occupant of a Lot may utilize such Lot to grow or distribute marijuana for business purposes. Personal use is governed by Colorado and El Paso County laws and statutes.

Section 5.14 Trash Removal Restriction.

Rubbish, garbage, trash, refuse, or other waste shall be kept and disposed of in a sanitary manner. All garbage or trash containers shall be kept in an enclosed attached garage or placed in a screened area so that they shall not be visible from other Lots or from public roads. No trash,

litter, or other such items shall be permitted to remain exposed on any area of a Lot that is visible from any other Lot or from public road.

Unscreened dumpsters are allowed for the duration of an approved ARC project. Temporary unscreened dumpsters are allowed for up to 90 days. Permanent dumpsters need to be screened using ARC approved screening approach.

If, after reasonable notice is given, an Owner should repeatedly violate these guidelines concerning refuse and rubbish, in addition to any other remedies, the Association shall have the right to cause such rubbish, trash, or garbage to be removed by any appropriate means and to charge the cost thereof to such Owner.

Section 5.15 Irrigation.

All irrigation and in-house water use from ground water sources is governed, limited and to be managed in accordance with the Water Plan. More specifically, ground water withdrawal from the Dawson aquifer is limited to an average total of 125 AC-FT per year for all uses, and specifically to 1.0 AC-FT per year per Lot for all ground water uses for a projected 100 year pumping period.

Section 5.16 Compliance with Other Laws.

No improper, offensive or unlawful use shall be permitted within the Community or any portion thereof. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction over the Community or a portion thereof shall be observed.

ARTICLE 6 - WATER MANAGEMENT AND MINERAL RIGHTS

Section 6.1 Water Supply.

The source of water supply for each Lot shall be an individual well located on each Lot. Each Owner shall be responsible for obtaining a well-permit directly from the Colorado Division of Water Resources.

Section 6.2 Water Augmentation Plan.

Each Owner is responsible for a) managing water withdrawals and use in accordance with requirements stipulated in applicable court decrees and the stipulation and agreement between Cherry Creek Estates LLC and El Paso County, b) maintaining the well and totalizing water flow meter for the permitted well in good working order, and c) recording and reporting totalizing water flow meter readings in accordance with Association policies. The Association is responsible for a) developing and implementing policies for the management and administration of requirements stipulated in applicable court decrees and the stipulation agreement between Cherry Creek Estates LLC and El Paso County, and b) collecting, recording, and reporting aggregated and individual Lot water usage as required by Water Division 1, Water Division 2, State Engineer and El Paso County, as applicable. The Water Plan complying to Colorado State

requirements are stipulated in the referenced water court decrees. Per these decrees, total withdraws for the Association is not to exceed 12,500 acre feet over 100 years starting May 30, 1997 (the date the decree was entered). Therefore, an annual average amount of 1.0 acre foot per Lot (approximately 892 gallons per day) is permissible from each well including all stock watering, all lawn and garden irrigation and all domestic uses. Water rights for the Laramie-Fox-Hills Aquifer have been deeded by the original declarant and duly recorded to the benefit of the Association to meet any post pumping demand for an additional 200 years. Such water rights may be used to augment deficiencies, if any. Notice is hereby given that under the Water Plan and Court Degrees, the Association may have the obligation to construct a Laramie-Fox -Hills well in the future to replace stream depletions which occur after pumping from the Dawson aquifer ceases. Administration and maintenance, including initial and ongoing costs, for such augmentation is the association's responsibility. The Association has authority to enforce an Owner's compliance with the Water Plan. Failure of either Owners or the Association to comply with the terms of the Water Plan may result in sanctions by the Division of Water Resources against the Association and/or the Owner.

Section 6.3 300-Year Water Supply.

El Paso County requires a 300-year water supply. Such supply was provided to each individual Owner by quit claim deed at closing in the form of an individual 1/125 interest in the 300-year water supply, consisting of a total of 37,500 acre feet of Dawson Aquifer water. The Water Plan addresses augmentation of county requirements in the 95th year following recording of the first final plat and operation of the plan for augmentation under the decrees of the Water Plan. The Association may initiate steps required under El Paso County policies and regulations and/or state law to ensure an augmentation plan is put in place, if applicable court establishes the necessity for augmentation of the water supply beyond the initial 12,500 acre feet of Dawson Aquifer water withdrawal. The Stipulation and Agreement of Cherry Creek Estates LLC and El Paso County (November 21, 2000) stipulates that the aggregated, average, annual amount of water withdrawn by permitted wells within Cherry Creek Springs (as a whole) be limited to approximately 0.67 acre feet per year per Lot, so as to ensure that generated return water flows will be adequate to replace modeled stream depletions for 300 years.

Section 6.4 Mineral Rights.

No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind, shall be permitted upon or in Cherry Creek Springs, nor shall oil wells, tanks, tunnels or mineral excavations or shafts, derrick or other structures designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon the project.

ARTICLE 7 - ARCHITECTURAL REVIEW

Section 7.1 Establishment of the Architectural Review Committee.

The Architectural Review Committee (ARC), responsible to the Board of Directors, shall consist of five (5) members elected by the Association membership at the Annual Meeting. Term of office shall be three (3) years, beginning on January 1 following their election. Terms of office

for ARC members are staggered, so that one (1) or two (2) ARC members may have their terms expire in any one year.

An ARC member who is unwilling or unable to effectively fulfill the roles and responsibilities of the position may be removed from the ARC by the Board of Directors.

Section 7.2 Required Approval.

No structures, including residences, outbuildings, accessory buildings, antennas (except as otherwise permitted in this Declaration), flag poles (except as otherwise permitted by the Act), fences, walls, or any other improvements shall be constructed, erected, relocated, or installed on a Lot, nor shall any change in paint color alteration or change to the exterior of the improvements, the exterior of a residence, to a Lot or to any structure or any attachment to the exterior of a residence (including paint, awnings, decks, or shutters) be commenced unless complete plans and specifications shall have been first submitted to and approved in writing by the ARC as may be outlined in the Rules and Regulations. The ARC may require that applications, plans and specifications show exterior design, height, materials, color, location of the structure or addition to the structure or proposed improvement (plotted horizontally and vertically), location and size of driveways, walls, windbreaks and grading plan, as well as materials and information as may be specified by the ARC. Disapproval of plans and specifications may be for purely aesthetic reasons, as determined by the ARC. The ARC shall have approval authority over harmony of external design with existing structures; location with respect to other structures planned, topography, and finished grade/elevation; and consistency of workmanship and materials with community standards.

Section 7.3 Application and Approval Procedures.

The Board of Directors is responsible for developing and implementing a policy for ARC application and approval procedures.

Section 7.4 Meetings.

Three of five members constitute a quorum of the ARC, and when duly assembled are legally authorized to transact business, including the formal approval or disapproval of construction applications.

Section 7.5 Acknowledgment of Owners.

Owners acknowledge, accept and agree to the following:

- a) Owners will not commence construction or installation of an improvement until they have submitted improvement plans and specifications and received written approval from the ARC.
- b) Owners shall immediately comply with any request by the Association for additional information relating to an improvement prior to the ARC's approval of a

request and/or prior to the completion of an improvement. Failure to comply with such a request by an Owner may result in potential violations.

c) Owners, by submitting an application for approval, hereby certify: (i) they will construct or modify improvements located only on their own Lot or upon Property which they have permission to construct, modify or improve; and (ii) they will not violate any easements, rights-of-way, or other rights appurtenant to such Property.

d) Owners shall notify the ARC of completion of the improvement's installation or construction within 14 business days of such completion.

e) Upon completion of an improvement, Owners authorize the ARC or its representative(s) to enter onto the Lot for exterior inspection in accordance with Association policies.

f) Failure of an Owner to notify the ARC of completion of an approved improvement, or refusal to allow inspection may result in a violation.

g) If the improvement as built does not conform to the improvement as approved by the ARC, this may result in a violation. Owners shall, at their own expense and cost, promptly bring the improvement into compliance with the approved plans and specifications.

Section 7.6 Architectural Criteria.

The ARC shall exercise reasonable judgment to the end that all attachments, improvements, construction, excavation, and alterations to improvements on a Lot or excavation of a Lot shall comply with the requirements set forth in this Declaration. The approval of the ARC on matters properly coming before it shall not be unreasonably withheld, and actions taken shall not be arbitrary or capricious. Approval shall be based upon conformity and harmony of the exterior appearance of structures with neighboring structures, effective location and use of improvements on nearby Lots, preservation of aesthetic beauty, and conformity with the specifications and purposes generally set out in this Declaration.

Section 7.7 Architectural Guidelines.

The ARC may propose architectural guidelines from time to time for approval by the Board of Directors, and included in or with any Rules and Regulations of the Association.

Section 7.8 Conditions of Approval.

At the discretion of the ARC or request by the Board, an Owner may be required to enter into a written agreement establishing the approval of the application in recordable form acknowledged by the Owner on behalf of himself or herself and all successors-in-interest. As a condition of approval for a requested architectural change, modification, addition or alteration, an Owner, on behalf of himself or herself and his or her successors-in-interest, affirms and shall assume, unless

otherwise agreed in writing, all responsibilities for maintenance, repair, replacement and insurance to and on such change, modification, addition or alteration.

Section 7.9 Commencement and Completion of Construction.

Owners are required to submit a project plan including an expected start and end date with the ARC application. If the project is not commenced within one year, the approval shall be deemed revoked and the Owner shall be required to resubmit prior to commencement of any construction.

Section 7.10 Variances.

The Board of Directors may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Declaration in order to overcome practical difficulties and unnecessary hardships arising by reason of the application of the conditions and restrictions contained in this Declaration or in architectural guidelines.

Section 7.11 Right to Appeal.

An Owner whose plans have been disapproved or conditionally approved by the ARC may appeal any decision of the ARC to the Board of Directors.

Section 7.12 Waivers.

The approval of the ARC of any application for an architectural improvement shall not be deemed to constitute a waiver of the ARC's right to review and/or deny approval of any subsequent, related applications by the Owner or other members. Nor does initial ARC approval of a project relieve the applicant from the need to submit changes and additions to the original application for further review.

Section 7.13 Liability.

The ARC and the members thereof, as well as any representative of the Board designated to act on its behalf, shall not be liable in damages to any person submitting requests for approval or for any approval, or failure to approve or disapprove in regard to any matter within its jurisdiction under these covenants. Neither the Board nor the ARC shall bear any responsibility for ensuring the design, quality, structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes, zoning regulations and other governmental requirements. The Association will not make any investigation into title, ownership, easements, rights-of-way, or other rights appurtenant to Property with respect to architectural requests and shall not be liable for any disputes relating to the same.

Section 7.14 Enforcement.

Enforcement of these covenants, restrictions, charges and other provisions, as amended, may be by any proceeding at law or in equity against any person or persons violating or attempting to

violate any such provision. The Association shall have the right, but not the obligation, to institute, maintain and prosecute any such proceedings. In any action instituted or maintained under this Section, the Association may be entitled to recover its costs and reasonable attorney fees incurred pursuant thereto, as well as any and all other sums awarded by the court. Failure of the Association to enforce any covenant or restriction contained in this Section shall in no event be deemed a waiver of the right to do so thereafter. In addition, or in the alternative, the Association shall have all other enforcement rights as set forth in this Declaration.

ARTICLE 8 - INSURANCE/CONDEMNATION

Section 8.1 Insurance to be Carried by the Association.

The Association shall obtain and maintain in full force and effect, to the extent reasonably available and at all times, the insurance coverage set forth in this Declaration and as set forth in the Act, which insurance coverage shall include the following terms and shall be provided by financially responsible and able companies duly authorized to do business in the State of Colorado.

Section 8.2 Hazard Insurance on Common Area.

To the extent commercially available, the Association shall obtain hazard insurance covering loss, damage or destruction by fire or other casualty to any insurable improvements installed or made to any Common Area and the other property of the Association.

Section 8.3 Association Liability Insurance.

The Association shall obtain public liability and property damage liability insurance covering any Common Area, in such limits as the Board may determine from time to time, and in all cases covering all claims for bodily injury or property damage. Coverage shall include, without limitation, liability for personal injuries and operation of vehicles or equipment on behalf of the Association.

Section 8.4 Directors' and Officers' Personal Liability Insurance.

The Association shall obtain directors' and officers' personal liability insurance to protect the officers, directors, committee members and any person acting at the discretion of the Board from personal liability in relation to their duties and responsibilities in acting as officers and directors on behalf of the Association.

Section 8.5 Insurance Premium.

Insurance premiums for insurance provided by the Association shall be a Common Expense to be included as a part of the annual Assessments levied by the Association.

Section 8.6 Annual Insurance Review.

The Board shall review the insurance carried by and on behalf of the Association at least annually, for the purpose of determining the amount of insurance required.

Section 8.7 Damage to or Destruction on Lots.

In the event of damage to or destruction of structures or improvements on a Lot, the Owner shall communicate to the Board of Directors (within 90 days of the incident) plans to repair or to reconstruct the damaged structure and improvements in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with this Declaration, unless a determination not to rebuild is made by the Owner in cases of substantial damage or destruction. If the structure is substantially destroyed and a determination is made not to rebuild or to reconstruct, the Owner shall clear the Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction, and, thereafter, the Owner shall continue to maintain the Lot in a neat and attractive condition consistent with this Declaration.

ARTICLE 9 - DISCLOSURES AND WAIVERS

Section 9.1 View Impairment.

Notwithstanding anything to the contrary contained in this Declaration or any other Governing Documents, the Association makes no warranties or representations whatsoever that any scenic view or vista from any Lot will be preserved without impairment. In that regard, each Owner acknowledges and agrees that any scenic view or vista existing at any time may be lost as a result of construction of new buildings, structures or other improvements on any portion of the Property (whether or not such building, structure, or improvement is part of the Community) or any adjacent area of modification of existing buildings, structures or other improvements, or as a result of the growth of trees, plants or other landscaping or as a result of any other cause and that scenic views or vistas may be impaired by actions of another party.

Section 9.2 No Representations or Warranties.

No representations or warranties of any kind, express or implied, shall be deemed to have been given or made by the Association or its agents or employees in connection with any portion of the Community, its physical condition, zoning, compliance with applicable laws, fitness for intended use, or in connection with the Community, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, unless and except as shall be specifically set forth in this Declaration. ANY AND ALL WARRANTIES WITH RESPECT TO ANY PORTION OF THE COMMUNITY OR ANY IMPROVEMENTS THEREON, EXPRESS OR IMPLIED, WHETHER ARISING UNDER FEDERAL OR STATE LAW (INCLUDING BUT NOT LIMITED TO ALL IMPLIED WARRANTIES OF MERCHANTABILITY, HABITABILITY OR FITNESS FOR A PARTICULAR PURPOSE) ARE HEREBY SPECIFICALLY DISCLAIMED. THE ASSOCIATION DISCLAIMS ANY OBLIGATION REGARDING THE SECURITY OF ANY PERSON OR SUBDIVISION WITHIN THE SUBDIVISION. BY

ACCEPTING A DEED TO A LOT, AN OWNER AGREES THAT THE ASSOCIATION IS ONLY OBLIGATED TO DO THOSE ACTS SPECIFICALLY ENUMERATED AND MADE MANDATORY IN THIS DECLARATION AND THE ASSOCIATION DOCUMENTS, AND IS NOT OBLIGATED TO DO ANY OTHER ACTS WITH RESPECT TO THE SAFETY OR PROTECTION OF PERSONS WITHIN THE COMMUNITY. To the greatest extent permitted by applicable law, the Association, the Board of Directors and its members, and any member, agent, employee, officer, director, or representation of any of them shall not be liable to any person or entity for any action or failure to act under this Declaration if the action or failure to act was in good faith and without malice.

ARTICLE 10 - GENERAL PROVISIONS

Section 10.1 Compliance and Enforcement.

a) Every Owner and occupant of a Lot shall comply with the Governing Documents, and each Owner shall have the right to enforce the covenants and restrictions via the existing Covenant Enforcement Policy, as set forth in this Declaration.

b) The Association may enforce all applicable provisions of this Declaration, and may impose sanctions for violation of the Governing Documents. Such sanctions may include, without limitation:

- i) imposing reasonable monetary fines, after notice and opportunity for a hearing, which fine shall constitute a lien upon the violator's Lot;
- ii) suspending the right to vote and the right to use Common Area;
- iii) exercising self-help (including, but not limited to, performing such maintenance responsibilities which are the Owner's responsibility under this Declaration and assessing all costs incurred by the Association against the Lot and the Owner as an Assessment) or taking action to abate any violation of the Governing Documents;
- iv) requiring an Owner, at the Owner's expense, to remove any structure or improvement on such Owner's Lot in violation of the Governing Documents and to restore the Lot to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed, at the Owner's expense, and any such action shall not be deemed a trespass, with all fees and costs in connection with such removal and restoration to be assessed to the Owner as an Assessment under the terms of this Declaration;
- v) without liability to any person, the Association precluding any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to

comply with the terms and provisions of this Declaration from continuing or performing any further activities in the Community;

- vi) levying specific Assessments to cover costs incurred by the Association to bring a Lot into compliance with the Governing Documents; and
 - vii) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.
- c) In addition to any other enforcement rights, if an Owner fails to comply with the Governing Documents, the Association may record a notice of violation against the Owner and the Lot.
- d) All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, the prevailing party shall be entitled to recover all costs, including, without limitation, attorney fees and court costs, reasonably incurred in such action.
- e) The decision of the Association to pursue enforcement action in any particular case shall be left to the Board's discretion, subject to the duty to exercise judgment and be reasonable, as provided for in this Declaration, and further restricted in that the Board shall not be arbitrary or capricious in taking enforcement action. A decision of the Association to pursue enforcement action shall not be construed as a waiver of the Association's right to enforce such provisions at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule.

Section 10.2 Attorney Fees.

If an Owner fails to pay any Assessment as provided in this Declaration, the Association may require reimbursement for reasonable attorney fees and costs without the necessity of commencing a legal proceeding. If an Owner or an Owner's family member, guest, tenant, invitee or licensee fails to comply with any other provision of the Governing Documents, the Association may seek reimbursement for reasonable attorney fees and costs incurred as a result of such failure to comply, without the necessity of commencing a legal proceeding. In a legal proceeding in any way related to the Governing Documents or the Community, the court shall award to the party prevailing on each claim the prevailing party's reasonable attorney fees and costs incurred in asserting or defending the claim. Such reasonable attorney fees and costs, if awarded against an Owner shall be charged as an Assessment and shall constitute a lien against the Lot.

Section 10.3 Severability.

Each of the provisions of this Declaration shall be deemed independent and severable. If any provision of this Declaration or the application thereof to any person or circumstances is held

invalid, the invalidity shall not affect other provisions or applications of this Declaration which can be given effect without the invalid provisions or applications.

Section 10.4 Term of Declaration.

The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity.

Section 10.5 Amendment of Declaration by Owners.

Any provision, covenant, condition, restriction or equitable servitude contained in this Declaration may be amended, revised, removed or repealed, and new provisions, covenants, conditions, restrictions or equitable servitudes may be added, at any time and from time to time upon approval of Members holding at least 67% of the total votes in the Association and with the written consent of the Association. Notice of any meeting at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. The amendment or repeal shall be effective upon the recordation in the office of the Clerk and Recorder of a Colorado limited liability company of a certificate setting forth the amendment in full and certifying that the amendment has been approved as set forth above, and containing the written consent and approval of the Association.

Section 10.6 Captions.

All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any paragraph, section or article hereof.

Section 10.7 Interpretation.

The provisions of this Declaration shall be construed to effectuate their purposes of creating a uniform plan for promoting and effectuating the fundamental concepts as set forth in this Declaration. The Board of Directors shall have the authority to resolve ambiguities contained in this Declaration. This Declaration shall be construed and governed under the laws of the State of Colorado.

Section 10.8 Singular Includes the Plural.

Unless the context otherwise requires, the singular shall include the plural, and the plural shall include the singular, and each gender referral shall be deemed to include the masculine, feminine and neuter.

Section 10.9 Challenge to this Amendment.

All challenges to the validity of this amendment or any future amendments must be made within one year after the date of recording of this document. The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity.

Section 10.10 Non-Waiver.

Any forbearance or failure to enforce any provisions of this Declaration shall not operate as a waiver of any such provision or of any other provision of this Declaration or of any subsequent enforcement of such provision.

Section 10.11 Conflict of Provisions.

In case of conflict between this Declaration and the Articles or Bylaws, this Declaration shall control. In the case of conflict between the Articles and Bylaws, the Articles shall control. The undersigned, being the President and the Secretary of Cherry Creek Springs Homeowners Association, Inc., hereby certify that the Association has obtained written approval of this Declaration from Owners of Lots to which at least 67% of the votes in the Association have approved this Declaration, or alternatively, a court order entered by the District Court for a Colorado limited liability company, Colorado pursuant to C.R.S. §38-33.3-217(7), has been entered approving this Declaration. Approvals obtained shall remain in effect until this Declaration is approved unless approval is expressly revoked in writing.

The undersigned, being the President and the Secretary of Cherry Creek Springs Homeowner's Association, Inc., hereby certify that the Association has obtained written approval of this Declaration from Owners of Lots to which at least 67% of the votes in the Association subject to the Original Declaration have approved this Declaration, or alternatively, a court order entered by the District Court for a Colorado limited liability company, Colorado pursuant to C.R.S. §38-33.3-217(7), has been entered approving this Declaration. Approvals obtained shall remain in effect until this Declaration is approved unless approval is expressly revoked in writing.

**Cherry Creek Springs Homeowner's
Association, Inc.,**
a Colorado nonprofit corporation,

By: 
President

ATTEST:

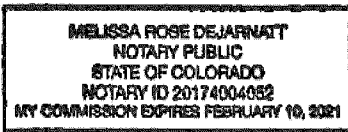

Secretary

STATE OF COLORADO)
) ss.
COUNTY OF El Paso)

The foregoing Declaration was acknowledged before me by Norman Habermehl, as President of Cherry Creek Springs Homeowner's Association, Inc. on this 12th day of March, 2020.

Witness my hand and official seal.

My commission expires: Feb. 10, 2021



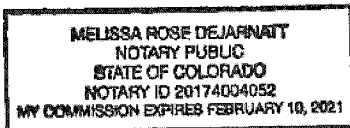
Miss Rose DeJett
Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF El Paso)

The foregoing Declaration was acknowledged before me by Joy Griffin, as Secretary of Cherry Creek Springs Homeowner's Association, Inc. on this 12th day of March, 2020.

Witness my hand and official seal.

My commission expires: Feb. 10, 2021



Miss Rose DeJett
Notary Public

EXHIBIT A
DESCRIPTION OF PROPERTY

Lots 1 through 42, inclusive, Cherry Creek Springs, Filing One, as depicted on the Plat recorded on 11/3/97 at Reception No. 097128907 in the El Paso County Clerk and Recorder's Office;

TOGETHER WITH Lots 43 through 85, inclusive, Cherry Creek Springs, Filing 2, as depicted on the Plat recorded on 5/21/01 at Reception No. 201066973, as amended by the Plat recorded on 8/24/05 at Reception No. 205131660 and the Plat recorded on 6/13/16 at Reception No. 216713786, all in the El Paso County Clerk and Recorder's Office;

AND

TOGETHER WITH Lots 86 through 115, inclusive, Cherry Creek Springs, Filing No. 3, as depicted on the Plat recorded on 9/7/04 at Reception No. 204151194, as amended by the Plat recorded on 8/24/05 at Reception No. 205131659 all in the El Paso County Clerk and Recorder's Office.

EXHIBIT B
WATER DECREES

Decree of Water Division 1, Case No. 96-CW-1064 entered on May 30, 1997 and as recorded September 15, 1997 in El Paso County, Colorado, at Reception No. 97107718 is hereby included by reference and is made part of this document.

Decree of Water Division 2, Case No. 96-CW-230 entered on July 10, 1997 and as recorded September 15, 1997 in El Paso County, Colorado, at Reception No. 97107719 is hereby included by reference and is made part of this document. S

Decree of Water Division Case No. 93-CW-010 entered-on-March 17, 1995 and as recorded September 15, 1997 in El Paso County, Colorado, at Reception No. 97107720 is hereby included by reference and is made part of this document.