

SECOND REVISED AND AMENDED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR SILVER CREEK LAKES, SAGUACHE COUNTY, COLORADO

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WHEREAS, the original declaration hereof was made and executed on the 11<sup>th</sup> day of March, 1979 by SILVER CREEK RESORT, INC. and was recorded on October 15, 1979 at 10:00 A.M. as Reception No.233872 in Book 389 at Page 267, revised and amended on February 19, 1980 at 10:00a.m. at Reception No. 235239, Book 391, Page 129 of the records of the County Recorder of Saguache County, Colorado and

WHEREAS, said SILVER CREEK LAKES RECREATION ASSOCIATION, Owner of all of the subject property and has revised and amended the original Declaration, as of this 1<sup>st</sup> day of June, 2004.

WITNESSETH:

WHEREAS, SILVER CREEK LAKES RECREATION ASSOCIATION is the owner of real property described and shown in the plat of Silver Creek Lakes Subdivision files in the records of Saguache County, Colorado under Reception Number 173122 on October 8, 1960, hereafter referred to as "Silver Creek Lakes", a subdivision; and

WHEREAS, the Association desires to utilize that portion thereof as shown on Exhibit "A" hereto for the enjoyment and convenience of the persons who wish to live in Silver Creek Lakes with (a) access to it reserved for and restricted to those parties designated in Article IV; and (b) common areas for the use, enjoyment and recreation of those parties designated in Article IV hereof; and

WHEREAS, the Association desires to insure the attractiveness of Silver Creek Lakes, to prevent nuisances, protect and enhance the values and amenities of Silver Creek Lakes and to provide for the maintenance of the Common Areas therein. To accomplish these purposes, the Association desires that an Architectural Control Committee be created.

NOW THEREFORE, the Association hereby declares that the real property in Exhibit "A", and such additions thereto as may hereafter be made, shall be held, transferred, sold, conveyed, improved and occupied subject to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, which shall run with the real property in Silver Creek Lakes and all additions thereto and be binding on all parties having any right, title or interest in Silver Creek Lakes or any additions thereto or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof and hereby further declares that the real property and such additions thereto as may hereafter be made, shall be owned by the Association but dedicated and set aside for the common use, enjoyment and recreation of Owners, pursuant and subject to the non exclusive perpetual easement described in Exhibit "B" attached hereto.

## ARTICLE I

### DEFINITIONS

Section 1. "Association" shall mean and refer to Silver Creek Lakes Recreation Association, its successors and assigns.

Section 2. "Association Property" shall mean all real property and personal property and improvements hereafter conveyed or leased to the Association.

Section 3. "Board" shall mean and refer to the Board of Directors of the Association.

Section 4. "Committee" shall mean and refer to the Architectural Control Committee.

Section 5. "Common area" shall collectively mean and refer to (a) all Association Property; (b) the easement described in Exhibit "B" and such additions thereof as may hereafter be made; may be conveyed or leased to the Association for the common use and enjoyment of the Owners.

Section 6. "Contractor" shall mean and refer to each person who has been selected by the Owner to provide goods, materials or services of any kind for such Owner and who has been authorized by the Committee to enter Silver Creek Lakes for any such purpose.

Section 7. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions, as it may be amended from time to time, applicable to Silver Creek Lakes and recorded in the office of the Clerk and Recorder of Saguache County, Colorado.

Section 8. "Dependent" shall mean and refer to a family member of an Owner who resides in such Owner's primary residence and who is primarily dependent on such Owner or tenant for financial support.

Section 9. "Guest" shall mean and refer to any person who is a visitor or invitee and who is accompanied by an Owner, Dependent, or a tenant.

Section 10. "Improvement" shall mean every structure and all appurtenances thereto of every type and kind including but not limited to buildings, outbuildings, patios, tennis courts, swimming pools, antennas, exterior lights, roads, driveways, parking areas, fences, screening walls, retaining walls, etc., landscaping, plantings, signs, and poles, tanks, reservoirs, pipes, towers and other facilities used in connection with water, sewer, gas, electric, telephone, or cable television or other utilities.

Section 11. "Lot" shall mean and refer to any plot of land shown as a numbered lot upon any recorded subdivision plat of Silver Creek Lakes.

Section 12. "Member" shall mean and refer to every Owner.

Section 13. "Owner" shall mean (a) the person or persons holding a fee simple title interest in a Lot, as the case may be, or (b) the purchaser or purchasers of a fee simple interest in a Lot under an installment sales contract.

Section 14. "Person" shall mean a natural individual or any other entity having the legal right to hold title to real property.

Section 15. "Plans and Specifications" shall mean any and all documents designed to guide or control the Improvement or other proposal in question, including but not limited to those indicating size, shape, configuration or materials, all site plans, excavation and grading plans, drainage plans, elevation drawings, samples of exterior colors, building products and materials, plans for utility services and all other documentation or information relevant to the Improvement or proposal in question.

Section 16. "Repairman" shall mean and refer to each person who has been selected by an Owner to provide goods, materials or services of any kind for such Owner and who has not been authorized by the Committee to enter Silver Creek Lakes for any such purpose.

Section 17. "Unaccompanied Guest" shall mean and refer to any visitor or invitee in Silver Creek Lakes who is not accompanied by an Owner.

Section 18. "Unit" shall mean and refer to a subdivided area of Silver Creek Lakes, which is designated as a Unit on a subdivision plat map.

Section 19. "Voting Member" shall mean and refer to any member of the Association who has paid all assessments due the Association.

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION

Section 1. EXISTING PROPERTY: The real property which initially is, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration is the real property described in Exhibit "A", the easement described in Exhibit "B", and the structure commonly referred to as the "Recreation Center".

## ARTICLE III

### SILVER CREEK LAKES RECREATION ASSOCIATION

Section 1. ORGANIZATION: The Silver Creek Lakes Recreation Association is a Colorado Non-Profit Corporation created for the purposes, charged with the duties, and invested with the powers prescribed by law or set forth in its Articles of Incorporation, By-Laws and in this Declaration. Neither the Articles nor By-Laws shall for any reason be amended or otherwise changed or interpreted except in accordance with this Declaration.

Section 2. MEMBERSHIP: Every Owner shall be a member of the Association. If any property interest is held jointly or in common, the owners of such interest shall, at the time of purchase, designate for the Association one address to which all notices to such joint or common owners shall be sent. No property interest may be held jointly, in common, or by legal entity owned, by unrelated persons.

Section 3. TRANSFER OF MEMBERSHIP: An Owner will not transfer, pledge or alienate his membership in the Association in any way except upon the sale or encumbrance of his Lot, and then only to the purchaser or Mortgagee of his Lot.

Section 4. CLASSES OF MEMBERSHIP: The Association will have one class of voting membership, composed of all Owners.

Section 5. VOTING RIGHTS: All members will be entitled to vote on Association matters on the basis of one vote for each member regardless of the number of Lots owned.

When more than one person holds an interest in any Lot, all such persons will be Members. However, the vote for such Lot may be exercised by one person or alternative persons as the Owners among themselves determine. If more than one of the multiple Owners is present at a meeting in person or by proxy, the vote allocated to their Lot may be cast only in accordance with the agreement of a majority in interest of the Owners. There is majority agreement if any one of the multiple Owners casts the vote allocated to his Lot without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Lot.

Section 6. PROXIES: A Member may cast an eligible vote in person or by proxy at any meeting of the Members.

Section 7. COMPLIANCE WITH ASSOCIATION DOCUMENTS OF SILVER CREEK LAKES RECREATION ASSOCIATION: Each Owner will abide by and benefit from the provisions, covenants, conditions, and restrictions contained in the Association Documents and the Silver Creek Lakes Recreation Association.

#### ARTICLE IV

##### DUTIES AND POWERS OF ASSOCIATION

Section 1. DUTIES OF THE ASSOCIATION: The Association shall have and perform each of the following duties for the benefit of its Members:

(a) To accept, own, operate and maintain all Association Property together with all Improvements of whatever kind and for whatever purpose, which may be located thereon.

(b) To pay over or convey, upon dissolution of the Association, the assets of the Association to one or more exempt organizations of the kind described in the Internal Revenue Code of 1954, as amended from time to time.

(c) To maintain in good repair and condition the Common Areas and all Improvements and facilities now or hereafter located thereon and all interior and access roads and culverts on such roads.

(d) To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to Association Property. The Association shall have all rights granted by law to contest the legality and the amount of such taxes and assessments.

(e) To obtain and maintain in effect policies of insurance adequate, in the opinion of the Board, in kind and amount. Without limiting the generality of the preceding sentence, such policies of insurance shall include fire, and extended coverage insurance on all Improvements, bodily injury and property damage liability insurance, workman's compensation insurance and such other insurance, including indemnity and other bonds, as the Board shall deem necessary.

(f) To make, establish, promulgate, and in its discretion to amend or repeal and reenact, such rules and regulation, not in contradiction of this Declaration, as it deems proper covering any and all aspects of its functions, including the use and occupancy of the Common Areas. Each Member shall be entitled to examine such rules and regulations upon written request.

(g) To appoint and remove members of the Architectural Control Committee as provided in Article VII hereof, and to insure that at all reasonable times there is available a duly constituted and appointed Architectural Control Committee.

(h) To enforce, in its own behalf and in behalf of all Owners, all of the covenants, conditions and restrictions set forth in this Declaration and to perform all other acts, whether or not anywhere expressly authorized, as may be reasonably necessary to enforce any of the provisions of the Architectural Control Committee and the Articles of Incorporation and the By-Laws of the Association.

Section 2. POWERS OF THE ASSOCIATION: The Association shall have the following powers in the exercise of its duties in accordance with this Declaration:

(a) The right and power of the Association to levy general, special and transfer Assessments against all Members in Silver Creek Lakes in accordance with the provisions of Article V of this Declaration.

(b) The right of the Association to suspend any Member's right and easement of use and enjoyment of the Common Areas and any Improvement or facility thereon (1) for any period during which an assessment against a Member remains unpaid and (2) for a period not to exceed one hundred eighty (180) days for each infraction of the provisions of this Declaration or the rules and regulations of the Association by Owner or an Owner's Guest, Agent or Employee.

(c) The right of the Association to charge reasonable admission and other fees for the use of Association Property and Improvements thereon except roads.

(d) The right of the Association to allow the general public, or certain segments thereof to use all or portions of the properties described in Exhibit "B", and, in the discretion of the Board to charge use or other fees therefor.

(e) The right of the Association to make, establish, promulgate, and in its discretion to amend, repeal and reenact, as it deems proper, rules and regulations covering any and all aspects of its functions, including the use and occupancy of the Common Areas.

(f) The right of the Association to enter, without being liable to any Owner, upon any Lot or onto any Common Area, for the purpose of enforcing by peaceful means the provisions of this Declaration and the restrictions contained herein or for the

purpose of maintaining or repairing any area, Improvement or other facility, if for any reason whatsoever the Owner thereof fails to maintain or repair any such area as required by this Declaration.

(g) The right of the Association with respect to Association Property to use and reserve or to grant and convey to any person real property and interests therein, including fee title, leasehold estate, easements, rights of way, mortgages and deeds of trust, out of, in, on, over or under such property for the purpose of constructing, erecting, operating or maintaining thereon, therein or thereunder:

- (1) Parks, parkways or other recreational facilities;
- (2) Roads, streets, walks, driveways, trails, and paths;
- (3) Lines, cables, wires, conduits, pipelines, or other devices for utility purposes;
- (4) Sewers, water systems, storm water drainage systems, sprinkler systems and pipelines; and
- (5) Any similar improvements or facilities.

No transfer or dedication of Association properties comprising any part of the Common Areas shall be made for any purposes other than those purposes stated above except with the approval of not less than two-thirds (2/3) of Voting Members. The effect of any transfer or dedication for purposes other than those above-stated shall be the termination of the application of this Declaration to the property transferred.

(h) The right of the Association to provide watchman, guards or police at points of entry onto Silver Creek Lakes and at such other places and for such other purposes as the Board shall determine.

(i) The right of the Association to construct, own, operate, maintain and repair Improvements and all types of facilities for recreation on Association Properties.

(j) The right of the Association to indemnify any person who was or is a party to any action, suit or proceeding whether civil, administrative or investigative (other than an action by or in the right of the Association) by reason of the fact that he is or was a Director, Officer, Employee or Agent of the Association against expenses (including attorney's fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Such determination shall be made (1) by the Board by a majority vote of a quorum consisting of directors who are not parties to such action, suit or proceeding, or (2) if such a quorum is not attainable, or, even if obtainable, a quorum of disinterested directors so direct, by independent legal counsel in a written opinion; provided, however, that if a Director, Officer, Employee or Agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to above, or in defense of any claim, issue or matter therein, then, to the extent that the Association has elected to provide indemnification, he shall automatically be indemnified against expenses (including attorneys' fees) actually and

reasonably incurred by him in connection therewith without the necessity of any such determination that has met the applicable standard of conduct set forth above.

(k) The right of the Association, if necessary, to include in its annual Assessments the cost of compensatory pumping of water, augmentation, or other water related fees and/or expenses.

(l) The right of the Association to delegate any of its rights, duties or responsibilities to any committee or entity the Board may choose to form.

## ARTICLE V

### ASSESSMENTS

Section 1. LEVY OF ASSESSMENTS AND LIEN: The Association shall have the right to levy and collect general, annual, special, transfer and construction impact assessments in accordance with the provisions of this Article V against all Members. No person shall be personally liable for any assessment however, the annual and special assessments, together with interest, costs of collecting the same, and reasonable legal fees, shall be a charge on each Member and shall be a continuing lien on each Lot owned by the Member. Such lien shall be prior to any declaration of homestead.

Section 2. PURPOSE OF ASSESSMENT: All amounts realized from assessments levied by the Association shall be used as determined by the Board for any lawful purpose consistent with this Declaration and the Articles of Incorporation and By-Laws of the Association, including, but not by way of limitation, the following, (a) to promote the recreation, health, safety, and welfare of the Members, (b) for the restoration, improvement, and the maintenance of the Common Areas; (c) for all services, equipment and facilities relating to the use and enjoyment thereof, including the operation of an entrance gate; (d) for the payment of taxes, insurance, other costs and expenses on Association Properties, including attorney's fees; (e) for any and all water related issues; and (f) for construction related impact to the Association properties.

Section 3. ANNUAL ASSESSMENT: The current annual assessment shall be \$750.00 per Member. Thereafter such annual assessments may be increased or decreased as follows:

(a) The annual assessment may be increased or decreased annually above or below the assessment for the preceding Fiscal Year by the affirmative vote of not less than two-thirds (2/3) of the eligible Member vote in person or by proxy at the annual meeting or at a meeting called for that purpose. The Association shall fix the amount of the annual assessment for the next fiscal year at the annual meeting;

(b) Neither the Association nor its Board may increase or decrease the annual assessment except as provided above.

(c) The annual assessment for all Members shall commence on the first day of the first month following the acquisition of a Lot, by fee simple conveyance. Thereafter, the annual assessment shall be due on the first day of May of each year without notice.

The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Member has been paid.

Section 4. SPECIAL ASSESSMENTS: In addition to the annual assessments authorized above, the Association may levy in any Fiscal Year, a special assessment for any purpose identified in Article V Section 2, provided, however, that all special assessments shall be approved by the majority vote of the Member votes in person or by proxy at the annual meeting or at a meeting called for that purpose.

Any special assessments shall be applicable to all Members and are subject to the obligation for annual assessments. The due date of any special assessment under this Section 4 hereof shall be fixed in the resolution authorizing such special assessment.

Section 5. TRANSFER ASSESSMENT: In addition to the annual and special assessments authorized above, the Association may levy a transfer assessment against all Lots in Silver Creek Lakes. The transfer assessment shall be equal to \$250.00 or one percent (1%) of the sale price of any Lot, including improvements, whichever is greater; provided the transfer assessment shall not exceed \$4,000.00 per transaction. The transfer assessment shall be due from the Seller upon conveyance of a property right in a Lot, whether improved or unimproved, to a non-member, and shall be payable at closing.

Section 6. CONSTRUCTION IMPACT ASSESSMENT: In addition to the assessment provided for in Sections 3, 4, and 5, the Architectural Committee may levy a construction assessment against any Lot prior to the beginning of construction upon said Lot. The amount assessed shall be the same for all Members subject to an assessment. The current construction impact assessment is \$1,000.00, payable to the Association prior to commencement of construction.

Section 7. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 3, 4, 5, AND 6: Written notice of the time and location of any meeting called for the purpose of taking any action authorized under Sections 3, 4, 5, and 6 of this Article shall be sent not less than thirty (30) days nor more than sixty (60) days in advance of the meeting to all Voting Members eligible to vote as of the date of the notice. At the first meeting called, Voting Members present in person or by proxy entitled to cast sixty (60%) percent of the votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. If a meeting is untimely, written notice with two thirds (2/3) approval through mailed, signed ballots is required.

Section 8. UNIFORM RATE OF ASSESSMENT: Both annual and special assessments shall be fixed at the same amount for each Member regardless of number, size, price, or value of Lots. Annual assessments and special assessments, if any, may be collected on a semi-annual or annual basis as set by the Board.

Section 9. EFFECT OF NONPAYMENT OF ASSESSMENTS REMEDIES OF THE ASSOCIATION: Any assessment not paid within sixty (60) days after the due date shall be delinquent and shall bear interest from the due date at the rate of ten (10%) percent annum. The Association may, if any assessment remains delinquent for ninety (90) days, foreclose the lien against the property in the same manner as is provided in the



laws of Colorado for the foreclosure of mortgages on real property. No Member shall be exempt from liability for the assessments provided for herein because of a Member's non-use of the Common Areas.

Section 10. MORTGAGE PROTECTION: Notwithstanding any other provisions of this Declaration, no lien under this Article V or under any other article of this Declaration, nor any lien arising by reason of any breach of this Declaration, nor the enforcement of any provision of this Declaration or of any supplemental declaration shall defeat or render invalid the rights of the beneficiary under any recorded mortgage or deed of trust of first, and senior priority now or hereafter upon a Lot made faith and for value. However, after the foreclosure of any such mortgage or deed of trust or after any conveyance in lieu of foreclosure, such Lot shall remain subject to this Declaration and shall be liable for all regular annual assessments and all special assessments levied subsequent to completion of such foreclosure or delivery of such conveyance in lieu of foreclosure, and to all installments of all regular annual and special assessments levied prior to completion of such foreclosure or delivery of such conveyance, but falling due after such completion or such delivery. Sale or transfer of any Lot will not affect or extinguish the assessment lien; however, the repossession of any Lot pursuant to the delinquency or default under an installment sales agreement with the Association shall extinguish the lien of such assessments as to payments, penalties or interest which became due prior to such repossession shall relieve such Lot from liability for any assessments thereafter becoming due on the next assessment date or the lien thereof.

No amendment of this Section 10 shall affect the rights of any mortgagee or beneficiary of any deed of trust or mortgage whose mortgage or deed of trust has the first and senior priority as above provided and who does not join in the execution of any such amendment, provided that his mortgage or deed of trust is recorded in the real property records of Saguache County, Colorado, prior to the recordation of such amendment, provided, however, that after foreclosure or conveyance in lieu of foreclosure, the property which was subject to such mortgage or deed of trust shall be subject to such amendment.

Section 11. SUBORDINATION: By subordination agreements executed by the Association, the benefits of preceding Section 10 may, in the sole and absolute discretion of the Board, be extended to beneficiaries not otherwise entitled thereto.

## ARTICLE VI

### PROPERTY RIGHTS OF OWNERS AND USE RESTRICTIONS

Section 1. OWNER'S EASEMENT OF ACCESS AND ENJOYMENT: The Association and every Member shall have a right and easement of ingress and of use and enjoyment in the Common Areas including any Improvements and Recreational Facilities thereon, subject to the powers of the Association set forth in Article IV Section 2.

Section 2. UNACCOMPANIED GUESTS: An Owner shall have the authority to issue permits to Unaccompanied Guests authorizing their entry into Silver Creek Lakes subject to this Declaration, the Bylaws, and the rules and regulations applied by the Association. Unaccompanied Guests shall use only those roads in Silver Creek Lakes that provide the most direct route from the entry gate to a specified Lot or dwelling. An Unaccompanied Guest shall be categorized as a Daily Invitee or an Overnight Invitee.

(a) Daily Invitee: A Daily Invitee may be permitted to use the Common Areas for one calendar day, subject to this Article VI and the rights of Association Members.

(b) Overnight Invitee: An owner may lease or rent his Lot to an Overnight Invitee provided such Lot contains a dwelling house and provided such lease or rental is not created more frequently than once every two weeks. The Overnight Invitee may be permitted to use the Common Areas subject to this Article VI and the rights of Association Members.

(c) Obligation of Owner: Any Owner permitting an Unaccompanied Guest, whether a Daily Invitee or an Overnight Invitee, access to Silver Creek Lakes, shall be responsible for informing them of the use restrictions in this Declaration and the Association rules and regulations, and shall be responsible for any and all damage to Association property or other Owners' property caused by the Unaccompanied Guest. Said Owner shall indemnify the Association and other Owners from any claim of liability for any reason whatsoever, resulting from an Unaccompanied Guest's access to and use of Silver Creek Lakes.

## ARTICLE VII

### ARCHITECTURAL CONTROL COMMITTEE

Section 1. CREATION OF ARCHITECTURAL CONTROL COMMITTEE: There shall be an Architectural Committee consisting of three (3) persons appointed by the Board to exercise the controls and powers assigned it in this Declaration. If no Architectural Committee is appointed, it will consist of the acting (3 member) Board.

Section 2. COMMITTEE CONTROL OF PLANS AND SPECIFICATIONS: Excepting any prior or future construction by the Association, no Improvements shall be commenced, installed, built or erected upon a Lot nor shall any exterior addition to or change or alteration thereon be made until all Plans and Specifications shall have been submitted to and approved by the Committee. The Committee shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Declaration, and perform such other duties assigned to it by this Declaration or as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with Plans and Specifications approved by the Committee. The Committee shall approve Plans and Specifications submitted for its approval only if it deems that the construction, alternations or additions contemplated thereby in the locations indicated will not be detrimental to the surrounding area of Silver Creek Lakes as a whole, and that the appearance of any structure affected thereby will be in harmony with the surrounding structures. The Committee may condition its approval of Plans and Specifications on such changes therein as it deems appropriate and may require submission of additional Plans and Specifications or other information prior to approving or disapproving the materials submitted. The Committee may also issue rules or guidelines regarding anything relevant to its function, including but not limited to minimum standards and procedures for the submission of Plans and Specifications for approval. The Committee may require such detail in Plans and Specifications submitted for its review and other information, as it deems proper. Until receipt by the Committee of all required Plans and Specifications and other information, the Committee may postpone review of anything submitted for approval. In the event the Committee fails to notify a Member of its approval or disapproval of such Plans and Specifications in writing by certified mail within

sixty (60) days after all Plans and Specifications and any other required information has been submitted to it, either in person or by certified mail, approval of the Committee shall be deemed to have been fully obtained.

Section 3. NO WAIVER OR FUTURE APPROVAL: The approval or consent of the Committee to any Plans or Specifications for any work done or proposed or in connection with any other matter requiring the approval or consent of the Committee shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any Plans or Specifications or other matter whatsoever subsequently or additionally submitted for approval or consent by the same or different Owner.

Section 4. REIMBURSEMENT OF MEMBER: The members of the Committee shall be entitled to reimbursement for expenses incurred by them in the performance of their duties hereunder.

Section 5. MEETINGS OF THE COMMITTEE: The Committee shall meet from time to time as necessary to perform its duties hereunder. The Committee may from time to time by resolution unanimously adopted in writing designate one of its members to take any action or perform any duties for and on behalf of the Committee except the granting of variances. In the absence of such designation, the vote of a majority of all of the members of the Committee or the written consent of a majority of all of the members of the Committee taken without a meeting shall constitute an act of the Committee.

Section 6. INSPECTION OF WORK: Upon the completion of any Improvement for which approved Plans and Specifications are required under this Declaration, the Owner shall give written notice of completion to the Committee. Within such reasonable time as the Committee may set in its rules, but not to exceed fifteen (15) days thereafter, the Committee or its duly authorized representative may inspect such Improvement. If the Committee finds that such work was not done in strict compliance with all approved Plans and Specifications submitted or required to be submitted for its prior approval, it shall notify the Owner in writing of such non-compliance within such period, specifying in reasonable detail the particulars of non-compliance and shall require the Owner to remedy the same. If upon the expiration of thirty (30) days from the date of such notification the Owner shall have failed to remedy such non-compliance, the Committee shall notify the Board in writing of such failure. Upon notice and hearing, the Board shall determine whether there is a non-compliance and, if so, the nature thereof and the estimated costs of correcting or removing the same. If the non-compliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days from the date of announcement of the Board's ruling. If the Owner does not comply with the Board's ruling within such period, the Board, at its option, may either remove the non-complying improvement or remedy the non-compliance, and the Owner shall reimburse the Association upon demand for all expenses incurred in the connection therewith. If such expenses are not promptly repaid by the Owner to the Association, the Board shall levy an assessment against the Owner and the improvement in question and the land on which the same is situated for reimbursement and the same shall constitute a lien upon such land and improvement and be enforced as in this Declaration provided. The Committee may inspect all work in progress and give notice of non-compliance as provided above. If the Owner denies that such non-compliance exists, the procedures set out above shall be followed, except that no further work shall be done, pending resolution of the dispute, which would hamper correction of the non-compliance if the Board shall find that such non-compliance exists.

Section 7. NON-LIABILITY OF COMMITTEE MEMBERS: Neither the Committee nor any member thereof nor the Board nor any member thereof shall be liable to the Association or to any Owner or to any other person for any loss, damage or injury arising out of or in any way connected with the performance of the Committee or the Board's respective duties under this Declaration unless due to the willful misconduct or bad faith of the Committee or its member or the Board or its member as the case may be. Except insofar as its duties may be extended with respect to a particular area by the Association, the Committee shall review and approve or disapprove all Plans and Specifications submitted to it for any proposed improvement including the construction, alteration or addition thereof or thereto, solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the surrounding area and Silver Creek Lakes generally. The Committee shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, exterior finishes and materials and similar features, but shall not be responsible for reviewing nor shall its approval of any Plans and Specifications be deemed approval thereof from the standpoint of structural safety, engineering soundness or conformance with building or other codes.

Section 8. VARIANCES: The Committee may authorize variances from compliance with any of the architectural provisions of this Declaration, including restrictions upon height, bulk, size, shape, floor area, land area, placement of structures, setbacks, colors, materials or similar restrictions when circumstances such as topography, natural obstructions, hardship or aesthetic or environmental consideration may, in its sole and absolute discretion, warrant. Such variances must be evidenced and must be signed by at least a majority of all of the members of the Committee. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provision and in the particular instance covered by the variance.

Section 9. OBLIGATIONS WITH RESPECT TO ZONING AND SUBDIVISIONS: The Committee shall require all persons to comply fully with the zoning ordinances and subdivision regulations, if any of Saguache County, Colorado, insofar as the same are applicable and as they may hereafter be amended.

Section 10. COMMITTEE CONTROL OF CONTRACTORS; COMMITTEE POWER TO GRANT TEMPORARY INGRESS AND EGRESS: The Committee shall have the power to approve or disapprove any Contractor to be used for any of the purposes approved in Section 2 above, provided, however, that the Committee shall only disapprove a Contractor for a reasonable cause stated in writing. The Committee shall approve or disapprove a Contractor in writing within seven (7) days of the time the Committee is informed of the contractor's identity.

The Committee shall have the power to grant temporary licenses permitting ingress and egress over specified roads in Silver Creek Lakes to a Contractor and shall only grant such licenses to a Contractor for a specific period of time. The Committee may withdraw such licenses at any time such Contractor (a) uses non-specified roads, (b) does not diligently pursue the work to be done, or (c) violates any of the Protective Covenants hereinafter set forth.

Section 11. OTHER COMMITTEE POWERS: The Committee shall have the power to approve, control, permit, license and regulate such other activities and matters as the Board may from time to time determine.

## ARTICLE VIII

### PROTECTIVE COVENANTS

The following restrictions, conditions and covenants, collectively, called "Protective Covenants", are imposed upon all the Lots and Common Areas without limiting or altering the provisions of Article VII:

(a) Any tank for the storage of gas or liquid shall be hidden from the view of other Lots and the Common Areas.

(b) No kennel or other facility for raising or boarding dogs or other animals for commercial purposes shall be kept in Silver Creek Lakes. No animals of any kind shall be raised, bred, or kept in Silver Creek Lakes except a reasonable number of dogs, cats or other ordinary household pets. No dog or cat shall be allowed to run loose. Pets shall be on a leash at all times when off Owner's Lot.

(c) All refuse, rubbish, trash, garbage or waste shall be kept, disposed of or removed in a sanitary manner. All household refuse and rubbish, trash, garbage or waste shall be kept in closed containers inside a building or other approved enclosure until taken to a disposal place operated or licensed by the proper authority for such disposal. Non-household refuse, rubbish, trash, garbage or waste, other than dead leaves and fallen limbs shall not be permitted to remain exposed on a Lot.

(d) Any vehicle, whether self-propelled or not, permitted to remain on any Lot or Common Area shall be kept in a licensed and operable condition. Any vehicle, whether self-propelled or not, shall be parked in such a manner that it is not a nuisance, aesthetically or otherwise, to other Members. A truck larger than three-quarter (3/4) ton rating shall not be kept on a Lot except during any period of authorized construction. A vehicle shall not be parked on that part of any road normally used by vehicles being driven on such road. The provisions of this paragraph shall not apply to the Association during time of construction of roads.

(e) Noxious, obnoxious, noisy, unsightly or otherwise offensive objects or activities, specifically including vehicle repairs, barking dogs and littering shall not be permitted nor shall anything be permitted that may be an unreasonable annoyance or nuisance to other Owners.

(f) A professional quality sign of not more than four (4) square feet in area shall be allowed to be displayed on a Lot for identification and one (1) additional sign of not more than four (4) square feet in area shall be allowed to be displayed for advertising such Lot or improvement thereon for sale.

(g) A structure of a temporary or mobile nature, motorhome, mobile home, camper truck, travel trailer, camping trailer, other vehicle used or designed for camping shall not be placed on a Lot except that the Committee may grant a permit (1) for any of the above to be placed on a Lot and used for one (1) three-month (3) period during construction of a dwelling diligently pursued. Subject to the prior written approval of the Association with respect to the real property described in Exhibit "B" the Board may designate a part of the Common Area as a storage for all vehicles that are prohibited from being placed on a Lot.

(h) Septic Systems. All septic system installations shall be constructed in conformation with the standards and requirements of state and county health and building authorities. All septic systems will be installed by licensed contractors, licensed for this purpose. All systems must be further approved by the architectural committee.

(i) Any outdoor fire shall be made in a facility or a receptacle having a properly operating spark screen. All fireplaces whether inside a building or outdoors shall have an operational approved spark screen covering the top of the chimney. Any condition that creates a fire hazard shall not be permitted on a Lot.

(j) No single-family residence, exclusion of open porches, garages and carports, shall be less than one thousand (1000) square feet in main floor area. No more than one (1) single-family residence may be erected on a Lot. No commune, cooperative or similar type living arrangement shall be permitted anywhere in Silver Creek Lakes.

(k) No mobile, manufactured, or pre-built home shall be constructed on or attached to any Lot. All construction shall be onsite construction, stick-built, log, or other construction form approved by the Committee of Architecture.

(l) All water derived from wells permitted by the State Engineer of the State of Colorado pursuant to the provisions of Decree of the District Court in and for Water Division No. 3, State of Colorado, shall be used for domestic use only.

(m) No commercial enterprise shall be operated on any Lot or upon the Common Areas, including but not limited to commercially guided fishing trips.

(n) Building materials shall not be placed on a Lot nor shall foundation work be started for any improvement unless such improvement has previously been approved by the Committee. Once approval is obtained, such improvement must be completed within twelve (12) months after building materials are first place on such Lot or foundation work is begun.

(o) A wire fence shall not be permitted on a Lot except one such fence enclosing not more than 200 square feet for the purpose of enclosing household pets.

(p) Hunting shall not be permitted.

(q) Firearms, B-B guns, explosives, fireworks or arrows shall not be used, shot or discharged except in such areas as may be designated by the Association for such use, shooting or discharging.

(r) Explosives shall not be used for construction purposes unless such has been approved by the Committee.

(s) Excessively noisy motorized vehicles of any kind, as determined by the Committee, shall not be used anywhere in Silver Creek Lakes.

(t) Chain saws shall not be used without a proper spark arrester on the exhaust and chain saws or other noise equipment shall not be operated before 8:00 A.M. or after 5:00 P.M.

(u) All telephones, electrical power, and other receiving or transmission lines shall be placed underground except that such lines on poles shall be permitted (1) in the case of major lines to areas as the Association deems appropriate and (2) where the Committee determines underground lines are unreasonably expensive or otherwise impractical.

(v) Existing tree lines on all Lots shall not be disturbed or altered and, wherever practicable, all improvements shall be placed a reasonable distance behind such tree lines as determined by the Committee.

(w) Any tree having a diameter at the base greater than four (4) inches shall not be cut down without prior approval of the Committee.

(x) A Lot shall not be subdivided except to reduce the total number of Lots.

(y) Motorcycles, recreational vehicles or snowmobiles shall not be operated except in transit upon existing roadways or in areas as the Association may designate from time to time.

(z) Any vehicle requiring its operator to have an operator's license under the laws of the State of Colorado shall be operated only by a person having a valid operator's license.

(aa) All improvements shall be maintained in such a manner that they do not become (1) unsightly, (2) in disrepair, (3) unsanitary or (4) a fire hazard.

(bb) No guesthouse, unattached garage, carport or other outbuilding shall be constructed on any Lot, without prior Committee approval.

(cc) No camping shall be allowed within the Silver Creek Lakes area.

(dd) No outboard motor shall be used on any lake or pond except for maintenance or in an emergency.

(ee) All fences and other structures will be designed and constructed to allow fishing and recreation access.

(ff) Fishing shall be regulated by specific rules and regulations adopted by the Association or the Board on behalf of the Association.

(gg) Use of the Recreation Center shall be regulated by specific rules and regulations adopted by the Association or by the Board on behalf of the Association.

(hh) No owner shall lease or rent their Lot, whether improved or unimproved, except as allowed by Article VI Section 2(b).



## ARTICLE IX

### GENERAL PROVISIONS

Section 1. REVOCATION: This Declaration revokes and replaces all prior Declarations affecting the property identified on Exhibit "A" and Exhibit "B". Nothing contained in this Article IX Section 1 shall relieve any Member from the obligation to pay any assessment, which may have accrued, and remains in arrears, pursuant to the prior Declaration.

Section 2. GRANDFATHER CLAUSE: Any Lot currently held by a Member in good standing, which does not conform to this Declaration prior to the enactment of this Declaration on May 31, 2004, shall be grandfathered in and shall not be held to violate this Declaration or any amendments thereto, whether or not the Lot conformed to the prior Declarations.

Section 3. ENFORCEMENT: The Association, the Board or any Member, at his own expense, shall have the right to enforce, by any proceeding at law or in equity, the following (a) all restrictions, conditions, covenants, reservations, easements, liens and charges now or hereafter imposed by the provisions of this Declaration; and (b) all rights, conditions, and obligations of the easement for recreational use set forth in Exhibit "C". Any monies received by any Member from any other Member or former Member on account of assessments levied by the Association, less all reasonable enforcement costs, shall be paid by such enforcing Member to the Association. Failure by the Association or by any Member to enforce any provisions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 4. VIOLATION A NUISANCE: Every act or omission whereby any provision of this Declaration or any rules and regulations promulgated by the Association or the Committee is violated in whole or in part is hereby declared to be a nuisance and, may be enjoined or abated by any Member, at his own expense, or by the Board.

Section 5. SEVERABILITY: Invalidation of any one of the provisions of this Declaration by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 6. LIFE OF DECLARATION: The covenants and restrictions of this Declaration, as they may be amended from time to time, shall run with and bind the property now or hereafter subjected to this Declaration for a term of fifteen (15) years from the date of this Declaration, after which time they shall be automatically extended for successive periods of fifteen (15) years, unless extinguished by a written instrument executed by at least three-fourths (3/4) of the Members of the Association and recorded in the Saguache County, Colorado, real property records.

Section 7. AMENDMENTS: This Declaration may be amended by an affirmative vote of at least two-thirds (2/3) of the votes of Voting Members. All amendments shall be recorded.

Section 8. NOTICES: Any notice permitted or required to be given by this Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered on the third day (including Sundays or holidays) after a copy of the same has been deposited in the United

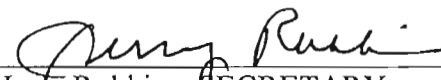


States mail, postage prepaid, addressed to the person at the address given by such person to the Association for the purpose of service of notices, or to the residence of such person if no address has been given to the Association. Such address may be changed from time to time, by notice in writing given by such person to the Association.

SILVER CREEK LAKES RECREATION ASSOCIATION

BY

  
MARK A KENNEDY - PRESIDENT

  
Jerry Robbins, SECRETARY

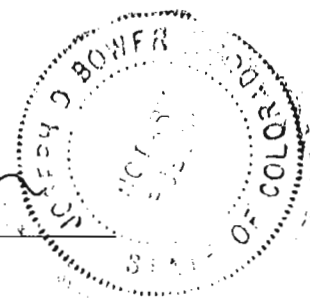
STATE OF COLORADO    )  
  ) ss.  
COUNTY OF PUEBLO    )

The foregoing instrument, consisting of 17 pages of Covenants, etc. and 2 pages of Exhibits, was acknowledged before me this 6 day of September, 2004, by Mark A. Kennedy, President of SILVER CREEK LAKES RECREATION ASSOCIATION.

Witness my hand and official seal.

My Commission expires: 4/28/06

  
Notary Public

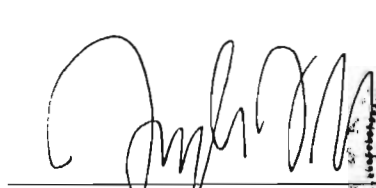


STATE OF COLORADO )  
  ) ss.  
COUNTY OF SAGUACHE )

The foregoing instrument, consisting of 17 pages of Covenants, etc. and 2 pages of Exhibits, was acknowledged before me this 6 day of September, 2004, by Jerry Robbins, Secretary of SILVER CREEK LAKES RECREATION ASSOCIATION.

Witness my hand and official seal.

My Commission expires: 4/28/06

  
Notary Public

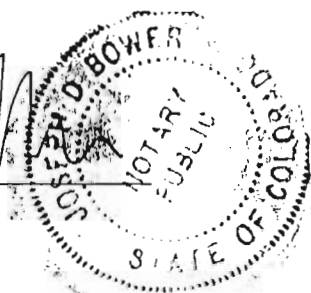


EXHIBIT "A"

A parcel of land established and duly consumated in conformity to law, for the H.E. Survey No. 55, embracing a portion of Sections 24, 25 and 26, in Township 48 North of Range 7 East of the New Mexico Principal Meridian, more particularly bounded and described as follows:

Beginning at corner No. 1 from which U.S. Location Monument H.E.S No.55 bears North 29°36' East 5 and 74/100 chains distant;  
Thence South 24°46' East 9 and 4/10 chains to corner No. 2;  
Thence South 60°19' West 46 and 7/100 chains to corner No. 3;  
Thence South 81° West 11 and 58/100 chains to corner No. 4;  
Thence South 66°30' West 23 and 2/100 chains to corner C-1;  
Thence North 14°30' West 5 and 42/100 chains to corner C-2;  
Thence North 55°46' East 4 and 38/100 chains to corner No. 7;  
Thence North 72°15' East 29 and 28/100 chains to corner No. 8;  
Thence North 56°12' East 46 and 22/100 chains to corner No. 1;  
Expressly including Lot 49 of said Subdivision located within the above-described parcel of land, including the Recreation Center on that respective lot.  
The place of beginning.

County of Saguache, State of Colorado.

EXHIBIT "B"

EASEMENT

SILVER CREEK LAKES RECREATION ASSOCIATION, A Colorado Non-Profit corporation ("Association"), authorizes a perpetual non-exclusive easement, over, across and upon the lands described in Schedule A attached hereto and made a part of hereof (hereinafter referred to as "said lands"), for the uses and purposes and subject to the terms, conditions, restrictions and reservations hereinafter set forth and set forth in the Declaration of Covenants, Conditions and Restrictions for Silver Creek, Saguache County, Colorado (hereinafter referred to as the "Declaration"), as the same may be amended from time to time, which Declaration is recorded in Saguache County, Colorado.

1. The Easement hereby granted is for the use and benefit of all Owners (and Dependents) of Lots in Silver Creek Lakes.

2. Said lands shall be used only for recreational and related activities and uses including but not by way of limitation, hiking, fishing, swimming, canoeing, non-power boating, skiing, picnicking and bicycling.

3. All uses and activities on said land for the foregoing purposes shall be subject to the following conditions, restrictions and reservations:

(a) Neither the Association nor any person entitled to the use of said lands shall do any acts or things, which would interfere with or disturb the Association's use of such lands.

(b) No hunting of any kind shall be permitted on said lands.

(c) The wildlife on said lands shall not be molested or disturbed and the Association shall cooperate in maintaining said lands as a habitat for wildlife.

(d) No firearms shall be carried and no explosives, including fireworks, shall be discharged on said lands except in such areas as the Association may designate from time to time for such purposes.

SCHEDULE A OF EXHIBIT "B"

All that property described in Exhibit "A" hereto; excluding all Lots and Tracts as shown on the amended plat of Silver Creek Lakes Subdivision files of record in Saguache County, Colorado under Reception Number 173122 on October 8, 1960.