

Boulder County Clerk and Recorder:

Index in grantee's index under "Cottonwood Park West" and "Cottonwood Park West Homeowners Association" and in the grantor's index under "Cottonwood Park West Homeowners Association" and the names of each person executing this Declaration.

**AMENDED, RESTATED, AND CONSOLIDATED DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
COTTONWOOD PARK WEST**

Table of Contents

- 1. ARTICLE 1: NAME AND LOCATION..... 1
- 2. ARTICLE 2: DEFINITIONS..... 2
- 3. ARTICLE 3: ASSOCIATION MEMBERSHIP, ALLOCATION OF VOTES, AND ALLOCATION OF LIABILITY FOR COMMON EXPENSES..... 3
- 4. ARTICLE 4: EASEMENTS AND COMMON AREA 4
- 5. ARTICLE 5: ASSESSMENTS 4
- 6. ARTICLE 6: MAINTENANCE RESPONSIBILITY 6
- 7. ARTICLE 7: ARCHITECTURAL CONTROLS 7
- 8. ARTICLE 8: COVENANTS 7
- 9. ARTICLE 9: INSURANCE 10
- 10. ARTICLE 10: AUTHORITY AND ENFORCEMENT 11
- 11. ARTICLE 11: AMENDMENTS 12
- 12. ARTICLE 12: GENERAL PROVISIONS 13

EXHIBIT

- LEGAL DESCRIPTION..... "A"

**AMENDED, RESTATED, AND CONSOLIDATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS FOR
COTTONWOOD PARK WEST**

This Amended and Restated Declaration of Covenants, Conditions and Restrictions for Cottonwood Park West ("Declaration") is made effective upon recording.

RECITALS

- A. The Declaration of Covenants, Conditions and Restrictions for Cottonwood Park West, First Filing, was recorded October 20, 1971, at Reception No. 994272, Boulder County Clerk and Recorder (the "First Filing Declaration") creating a community governed and operated by the Association.
- B. The Declaration of Covenants, Conditions and Restrictions for Cottonwood Park West, Second Filing, was recorded April 12, 1977, at Reception No. 218188, Boulder County Clerk and Recorder (the "Second Filing Declaration") creating a community also governed and operated by the Association. The Second Filing Declaration was amended to add additional property to the Second Filing, which amendment was recorded September 30, 1977, at Reception No. 244558, Boulder County Clerk and Recorder.
- C. The First Filing and Second Filing Declarations established a common scheme and plan for the properties subject to them and to those properties conveyed to Owners consistent with the common scheme and plan.
- D. Article VI, Section 3 of the First Filing Declaration and Article VI, Section 3 of the Second Filing Declaration provide that the respective Declarations may be amended by an instrument signed by 75% of the Lot Owners subject to each Declaration. However, pursuant to C.R.S. Section 38-33.3-217, any Owner approval requirement over 67% is declared void as contrary to public policy. Accordingly, each of the above-referenced Declarations may be amended with the agreement of 67% of the Owners subject to the Declaration.
- E. This Amended, Restated, and Consolidated Declaration does not change the allocated interests of the Lots and does not terminate the Community.
- F. The purposes of the amendments in this Amended, Restated, and Consolidated Declaration include, but are not limited to, the following: to provide for a single Declaration governing both the First and Second Filings for Cottonwood Park West; to delete declarant rights and responsibilities that are no longer applicable; to update the First Filing and Second Filing Declarations to comply with current state law; and to update provisions so as to allow the Association to efficiently operate the Community and deal with Community concerns.
- G. Lot Owners in Filing 1 desire to amend the Filing 1 Declaration, and Lot Owners in Filing 2 desire to amend the Second Filing Declaration and have approved this Amended, Restated, and Consolidated Declaration in writing. Those approving this Amended, Restated, and Consolidated Declaration have determined it to be reasonable and not burdensome.
- H. The First and Second Filing Declarations, as amended, are replaced by this Declaration, provided that if there are any conflicts between the original legal descriptions and supplements, the original legal descriptions and supplements will control.

1. ARTICLE 1: NAME AND LOCATION

- 1.1. **Name.** The type of common interest community is a planned community. The planned community's name is Cottonwood Park West. The Association's name is Cottonwood Park West Homeowners Association.
- 1.2. **Location.** The Community subject to this Declaration and the Act is located in Boulder County, Colorado, as more particularly provided in Exhibit "A" to this Declaration. The Plats relating to the Community are in the records of the Clerk and Recorder of Boulder County, Colorado. The

Plats are incorporated herein by reference as fully as if the same were set forth in their entirety herein.

2. ARTICLE 2: DEFINITIONS

- 2.1. **General.** Terms used in these Governing Documents, as defined below, have their normal, generally-accepted meanings or the meanings given in the Colorado Common Interest Ownership Act or the Colorado Revised Nonprofit Corporation Act, unless the context requires otherwise.
- a. **Act** means the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101, et seq., as may be amended from time to time, to the extent it applies to communities created prior to July 1, 1992.
 - b. **Association** means Cottonwood Park West Homeowners Association, a Colorado nonprofit corporation, and its successors. The Board of Directors will exercise all Association powers and conduct and manage all Association affairs unless a particular power is expressly reserved to the Owners.
 - c. **Association's Rules and Regulations** means any instrument adopted by the Association, as allowed under this Declaration and the Act, for the regulation and management of the Community, Residents, Common Area, and/or Lots, including any amendments or revisions.
 - d. **Board or Board of Directors** means the body responsible for management and operation of the Association. The term has the same meaning as executive board as defined in the Act.
 - e. **Bylaws** mean the Bylaws of the Association.
 - f. **Common Area** means all real property owned by the Association for the common use and enjoyment of the Owners, together with all improvements located thereon, but excluding the Lots. Common Area means the same as common elements in the Act.
 - g. **Common Expenses** mean the expenses and liabilities incurred or anticipated to be incurred by the Association including, but not limited to, those expenses incurred for maintaining, repairing, replacing, and operating the Common Areas, and for fulfilling any of the Association's powers and duties.
 - h. **Community-Wide Standard** means the standard of conduct, maintenance, or other activity generally prevailing within the Cottonwood Park West Community. This standard may be more specifically determined by the Board of Directors in the Association's Architectural Guidelines and Rules and Regulations.
 - i. **Community** means all that property described in Exhibit "A." If there is any discrepancy between the description of the property in the Original Declarations, as amended, and Exhibit "A," the description in the First Filing and Second Filing Declarations will control.
 - j. **Declaration** means this Amended, Restated, and Consolidated Declaration, as may be amended and supplemented from time to time.
 - k. **Electronic Record** means information created, transmitted, received, or stored by electronic means and retrievable in human-perceivable form, such as email, web pages, electronic documents, and facsimile transmissions.
 - l. **Governing Documents** mean this Declaration and its exhibit, the Association's Articles of Incorporation, Bylaws, Plats, Rules and Regulations, and Policies and Procedures, all as may be supplemented or amended from time to time.
 - m. **Improvements** mean every structure and all appurtenances thereto of every type and kind including, but not limited to, buildings, outbuildings, sheds, garages, fixtures, utilities, patios and patio covers, decks and deck covers, porches and porch covers, play structures, sculptures, aeriels, antennas, driveways, parking areas, fences, common walls, landscaping, plantings, planted trees and shrubs, poles, signs, exterior air conditioning units, pumps, tanks, solar collectors, pipes, lines, towers, and other facilities

- used in connection with water sewer, gas, electricity, solar energy, telephone, regular or cable television, or other utilities.
- n. Lot means and refers to any of the separately numbered lots or plots shown upon any recorded subdivision Plat of the Community, together with all appurtenances and improvements, with the exception of the Common Area and any streets or rights-of-way.
 - o. Majority means those eligible votes, Owners, or other group as the context may indicate totaling more than 50% of the total eligible number.
 - p. Member means any Owner. The terms "Member" and "Owner" may be used interchangeably.
 - q. Mortgage means any mortgage, deed to secure debt, deed of trust, or other transfer or conveyance for the purpose of securing the performance of an obligation including, but not limited to, a transfer or conveyance of fee title for such purpose.
 - r. Mortgage Holder means the holder of any Mortgage.
 - s. Owner or Lot Owner means the record titleholder of a Lot within the Community, but does not include a Mortgage Holder.
 - t. Person means any individual, corporation, limited liability company, firm, association, partnership, trust, or other legal entity.
 - u. Plats mean the subdivision plats for the Community as recorded, which plats are a part of this Declaration.
 - v. Policies and Procedures mean any instrument, as a part of any of the Governing Documents and/or separately adopted by the Association, as required under the Act as responsible governance policies, and other policies as may be adopted by the Association. The definition of Policies and Procedures may include Rules and Regulations.
 - w. Resident means any Person staying overnight in a Residence for a total of more than 30 consecutive days in any calendar year, and includes tenants.
 - x. Residence means the dwelling located on the Lot.

3. ARTICLE 3: ASSOCIATION MEMBERSHIP, ALLOCATION OF VOTES, AND ALLOCATION OF LIABILITY FOR COMMON EXPENSES

- 3.1. Mission Statement. The Association and the Governing Documents exist to help maintain the property values and assets of the Cottonwood Park West Community. Other goals are to help promote harmonious community living, preserve the residential, non-commercial, non-industrial character of the neighborhood, and create a sense of fairness and equity among Members. These covenants have been designed to promote voluntary compliance. By fostering positive interaction with one another and working collaboratively on common issues and concerns, the Community will strive to maintain property values and assets.
- 3.2. Membership. Every Person who is a record Owner of a fee interest in any Lot subject to this Declaration is a Member of the Association. Membership is appurtenant to and may not be separated from ownership of any Lot. Ownership of a Lot is the sole qualification for membership. No Owner, whether one or more Persons, will have more than one membership per Lot owned. Membership does not include Persons who hold an interest as security for the performance of an obligation, but granting a security interest will not terminate the Owner's membership.
 - a. Voting. The Owner(s) is entitled to one vote for the Lot. When more than one Person holds an ownership interest in any Lot, the vote for the Lot will be exercised as those Owners determine among themselves; otherwise, the Lot's vote will be suspended if more than one Person seeks to exercise it.
 - b. Common Expenses. Except as provided elsewhere in the Governing Documents, the amount of all Common Expenses will be assessed equally among all Lots.

4. ARTICLE 4: EASEMENTS AND COMMON AREA

- 4.1. **Easements for Use and Enjoyment.** Owners and Residents have a right and non-exclusive easement of ingress and egress, and use and enjoyment in and to the Common Areas, subject to the following provisions:
- The Association's right to grant easements, leases, and licenses across the Common Areas, subject to any requirements of the Act and subsection 4.1(b).
 - Any easement that materially alters the use and enjoyment of the Common Areas by Owners and Residents shall have the assent of 75% of the votes cast, in person or by proxy, at a meeting conducted for such purpose. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, 25% of the votes shall constitute a quorum. All members shall receive reasonable prior notice of a proposed easement pursuant to policies adopted by the Association's Board of Directors.
 - The Association's right to sell all or any portion of the Common Areas subject to approval of Owners holding 67% of the total Association vote.
 - The Association's right to change the use of portions of the Common Areas or to close portions of the Common Areas, subject to any requirements of the Act.
 - Any Owner may delegate the right to use and enjoy the Common Areas and facilities located thereon to the members of the Owner's family, or other Residents and guests. If the Lot is leased, the Owner will be deemed to have delegated these rights to the Residents of the Owner's Lot.
- 4.2. **Easement for Maintenance.** Each Owner will afford to Owners of adjacent Lots an easement as reasonably necessary to perform maintenance, repair, and replacement of Improvements on the adjacent Owner's Lot with prior notice.
- 4.3. **Utilities.** A blanket easement upon, across, over, and under the Lots is shown upon the recorded Plats of the Community, and other easements as may be established pursuant to the provisions of this Declaration or as may be granted by the Board of Directors of the Association.
- 4.4. **Easements Deemed Created.** All conveyances of portions of the Community (including Lots) will be construed to grant and reserve the easements contained in this article, even though no specific reference to the easements or to this article appears in the conveyance.
- 4.5. **Common Areas.** The Common Areas consist of all portions of the Community not located within the boundaries of a Lot that are owned or leased by the Association, which include all Outlots described as Greenways and Park on the recorded Plats of Cottonwood Park West, including all private streets. Each Owner and the Association may use the Common Areas for the purposes for which they are intended, but no use will interfere with the lawful rights of other Owners.

5. ARTICLE 5: ASSESSMENTS

- 5.1. **Purpose of Assessment.** The Association has the power to levy assessments. Assessments for Common Expenses are used to fulfill the Association's obligations pursuant to this Declaration and to promote the common benefit and enjoyment of the Owners and Residents in the Community, as may be more specifically defined and authorized from time to time by the Association.
- 5.2. **Personal Obligation For Assessments.** Each Owner covenants and agrees to pay to the Association: (a) annual assessments or charges; (b) special assessments; and (c) individual assessments which are established pursuant to the terms of this Declaration. These amounts are also the personal obligation of the Person who owned the Lot when the assessment fell due. The personal obligation to pay any past due sums due the Association does not pass to a successor-in-title unless expressly assumed.
- 5.3. **Lien.** All assessments, together with charges, interest, costs, and reasonable attorney's fees actually incurred (including post-judgment attorney fees, costs and expenses), up to the

maximum amount permitted by law, are a charge and a continuing lien upon the Lot against which each assessment is made. The Association has authority to record a notice of lien in the county's real property records evidencing the Association's lien. The Association's lien under this article is not subject to the provision of any homestead exemption as allowed under law. The lien has the priority set forth in the Act.

- 5.4. **Payment of Assessments.** Assessments will be paid in the manner and on the dates fixed by the Association. No Owner is exempt from liability for or may withhold payment of assessments for any reason whatsoever, including, but not limited to, nonuse of the Common Area, the Association's failure to provide services or perform its obligations, or inconvenience or discomfort arising from the Association's performance of its duties.
- 5.5. **Delinquent Assessments.** All assessments and related charges not paid on or before the due date are delinquent, and the Owner is in default. In such case, the Association will make reasonable efforts to collect the overdue assessment consistent with requirements in state law so that the Association can fund its budget to perform obligations outlined in the Declaration or under state law. This may include the assessing of a late charge and interest, requiring immediate payment of all unpaid installments, suspending the delinquent Owner's right to vote, or bringing a legal action in law or equity, including a lien foreclosure. The remedies available to the Association will be incorporated into the Association's Rules and Regulations and enforcement and collection policies.
- 5.6. **Budget and Annual Assessment.**
 - a. Prior to the beginning of each fiscal year, the Association will prepare a budget covering the estimated costs of operating the community during the coming year, including an annual reserve contribution for replacement of improvements that are the Association's responsibility, and establish the annual assessment or installments for the coming year. The Association will deliver a summary of the budget to each Owner within 15 days after the Board adopts the budget and set a date for an Association meeting to consider the budget, which meeting will occur within a reasonable time after delivery of the budget summary. The Association will also post the proposed budget on the Association's website.
 - b. If the Association fails for any reason to determine the budget for the succeeding year, then until a new budget is determined, the budget in effect for the current year will continue. Following the budget meeting, written notice of any change in the annual assessment will be sent to each Owner. The Association may propose a new budget at any time during the year. The budget will not operate as a limitation on expenditures by the Association but is an estimate of Common Expenses on which the Association bases the annual assessments.
 - c. Except as provided in subsection 5.6(d), the annual assessment increase shall not exceed 6% in any one fiscal or calendar year.
 - d. The Association may request an annual assessment above 6%, provided that such assessment shall have the assent of 75% of the votes cast, in person or by proxy, at a meeting conducted for such purpose. The presence at the meeting of members, in person or by proxy, entitled to cast 25% of the votes shall constitute a quorum. Owners shall receive reasonable prior notice of a proposed annual assessment above 6% pursuant to policies adopted by the Association's Board of Directors.
- 5.7. **Special Assessments.** In addition to the annual assessment provided for above, the Association may, at any time, and in addition to any other rights it may have, propose a special assessment against all Members for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto. The assessment shall have the assent of 75% of the votes cast, in person or by proxy, at a meeting conducted for such purpose. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, 25% of the votes shall constitute a quorum. All members shall receive reasonable prior

notice of a proposed special assessment pursuant to policies adopted by the Association's Board of Directors.

- 5.8. **Working Capital Fund**. Each Owner, upon transfer of a Lot to that Owner, must pay to the Association at the time of the closing of the transfer, a non-refundable working capital contribution in an amount not to exceed 1% of the gross sales price of the transferred real estate. The Board shall establish the fee by written Board resolution, which fee may be modified from time to time by the Board. If the working capital contribution fee is changed, notice to Owners will be posted on the Association's website, sent by email, or otherwise provided in writing to Owners. The statement of assessments prepared in accordance with the Act may include the amount of this working capital contribution to be due and payable to the Association from the Owner taking title to a Lot at the time of the transfer of the Lot to the Owner. The contribution will be collected and transferred to the Association at the time of closing of the sale of each Lot and will be held by the Association for the use and benefit of the Association, including meeting unforeseen expenditures and purchasing additional equipment or services. The contribution to the working capital fund will not relieve an Owner from making regular payments of Assessments as the same become due. Upon the later sale or transfer of the Owner's Lot, an Owner will not be entitled to a credit from the Association for the contribution.
- 5.9. **Statement of Account**. The Association will furnish to an Owner or the Owner's designee, or to a holder of a security interest or its designee, a statement setting forth the amount of unpaid assessments then levied against the Owner's Lot. The Association will deliver the statement personally or by certified mail, first class postage prepaid, return receipt requested to the inquiring party within 14 calendar days after the Association's registered agent receives the request by personal delivery, certified mail, first class postage prepaid, return receipt requested. The information contained in the statement, when signed by the Association's treasurer or managing agent, if any, will bind the Association, the Board, and every Owner as to the person or persons to whom the statement is issued and who rely on it in good faith. The Association may establish a reasonable fee relating to the statement, which may incorporate any fees imposed by a managing agent.
- 5.10. **Surplus Funds and Common Revenues**. Common revenues from whatever source will be applied to the payment of Common Expenses. Any surplus funds remaining after the application of such common revenues to the payment of Common Expenses will, at the option of the Board of Directors, be: (a) added to the Association's capital reserve account; or (b) distributed to the Owners.
- 5.11. **Borrowing**. The Association has the power to borrow money and assign future income, including the right to assign its right to receive Common Expense assessments, but only if (a) the borrowed funds are needed for an emergency repair to the Common Areas that involves the public's health or safety; or (b) a special assessment or annual assessment dues increase has been approved that will fund the repayment of the loan.

6. ARTICLE 6: MAINTENANCE RESPONSIBILITY

- 6.1. **By the Owner**. Each Owner is obligated to maintain and keep in good repair all portions of the Owner's Lot consistent with the Architectural Guidelines and Rules and Regulations. This maintenance responsibility includes, but is not limited to the following:
- Improvements. Each Owner is responsible for maintenance, repair, and replacement of the property and all improvements located within their Lot boundaries as specified in the Association's Architectural Guidelines and Rules and Regulations.
 - Each Owner must perform the Owner's obligations in a manner that does not unreasonably disturb other Owners and Residents. Any maintenance or repair performed on or to the Common Areas by an Owner or Resident (including, but not limited to, landscaping of Common Areas) is not allowed without prior written approval of the Association.

- 6.2. **By the Association.** The Association will maintain and keep in good repair as a Common Expense the Common Areas of the Community to the best of its ability. The foregoing maintenance will be performed consistent with the Community-Wide Standard. Pursuant to procedures adopted by the Board, if the Association determines that the need for maintenance, repair, or replacement of the Common Areas is caused through the willful or negligent act of any Owner or Resident or their family, guests, lessees, or invitees, the Association may assess the cost of that maintenance, repair, or replacement against the Owner's Lot, which cost will become the Owner's personal obligation, a lien against the Lot, and collected as provided in this Declaration and the Association's collection policy:
- 6.3. **Failure to Maintain.** If the Association determines that any Owner has failed or refused to properly discharge their maintenance, repair, or replacement obligations as provided in the Governing Documents, the Association will give the Owner written notice of the Owner's failure or refusal and action required to cure the violation in accordance with the Association's covenant and rule enforcement policy. If the failure to maintain creates an urgent or severe health or safety risk to community residents, the Association may report the issue to Boulder County Code and Compliance authorities, or the Association may take immediate action to mitigate the issue and assess the homeowner for reimbursement.
- 6.4. **Maintenance Standards and Interpretation.** The maintenance standards and the interpretation of maintenance obligations under the Governing Documents are governed by the Association's Architectural Guidelines and Rules and Regulations which may be changed from time to time.
- 6.5. **Damage to or Destruction of Residences on Lots.** In the event of damage to or destruction of structures on a Lot, the Owner will promptly repair or reconstruct the damaged structure in a manner consistent with the original construction or plans approved in accordance with this Declaration, unless the Owner elects not to rebuild in cases of substantial damage or destruction. If the structure is substantially destroyed and the Owner determines not to rebuild or reconstruct, the Owner will promptly clear the Lot of all debris and continue to maintain the Lot in a neat and attractive condition consistent with this Declaration.

7. ARTICLE 7: ARCHITECTURAL CONTROLS

- 7.1. **Architectural Review Committee.** The Architectural Review Committee ("ARC") consists of three or more members appointed by the Board of Directors, and at least one member of the committee must be a Board of Directors member. If the Board of Directors does not appoint committee members, the Board will serve as the ARC.
- 7.2. **Approval Required.** Improvements to property which require approval by the ARC will be determined by the Association's Architectural Guidelines and Rules and Regulations. No Owner will commence, place, erect, alter, or demolish any Improvement to property upon any portion of the Cottonwood Park West Community without prior written approval, except for those changes that do not require approval per the Association's Architectural Guidelines and Rules and Regulations.
- 7.3. **Limitation of Liability.** Neither the Association, nor its directors, officers, committee members, or agents will bear any responsibility for the design, quality, structural integrity, or soundness of approved construction or modifications, nor for compliance with building codes, zoning regulations, and other governmental requirements. The Association, its directors, officers, committee members, and agents are not liable for any injury, damages, or loss arising out of the manner, design, or quality of approved construction on or to modifications to any Lot. No lawsuit, action, or claim may be brought against any of the foregoing for any injury, damage, or loss.

8. ARTICLE 8: COVENANTS

- 8.1. **Owner Responsibility for Compliance.** Each Owner is responsible for ensuring that the Owner's family, guests, and Residents comply with all provisions of the Governing Documents.

Each Owner and Resident will endeavor to observe and promote the purposes for which the Association was established. In addition to any rights the Association may have against the Owner's family, guests, or Residents as a result of the person's violation of the Governing Documents, the Association may take action under this Declaration against the Owner.

8.2. Use of Lots.

- a. **Residential /Business Use.** Except as provided below, each Lot will be used for residential purposes only. Unless otherwise expressly authorized by the Act and subject to its terms, no trade or business of any kind may be conducted in or from a Lot or any part of the Community, except that the Owner residing in the Residence, or the Resident, may conduct ancillary business activities within the Lot so long as the business activity:
- does not involve visitation of the Lot by employees, clients, customers, suppliers, or other business invitees in greater volume than would normally be expected for guest visitation to a Residence without business activity;
 - is legal and conforms to all requirements of the Boulder County Land Use Code in Suburban Residential Zoning as may be further addressed in the Association's Rules and Regulations;
 - does not increase traffic or demand for parking in the Community in excess of what would normally be expected for Residences in the Community without business activity (other than by a reasonable number of deliveries by couriers, express mail carriers, parcel delivery services, and other similar delivery services);
 - is consistent with the Community's residential character and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other Residents, as determined by the Association; and
 - does not result in a materially greater use of the Common Area or Association services.

The terms "business" and "trade," as used in this section, have their ordinary, generally accepted meanings, and include, without limitation, any occupation, work, or activity undertaken on an ongoing basis that involves provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) the activity is engaged in full or part-time; (ii) the activity is intended to or does generate a profit; or (iii) a license is required for the activity.

- b. **Occupancy.** If an Owner is a corporation, partnership, trust, or other legal entity, the entity will designate in writing to the Association the name(s) of the natural person(s) who will occupy the Lot. The designated person(s) to occupy the Lot may not be changed more frequently than once every 30 days without the express written consent of the Association.

8.3. Leasing. The Community is intended to be an owner-occupied community. However, any Owner has the right to lease or allow occupancy of a Lot upon terms and conditions the Owner deems advisable, subject to restrictions of this Declaration, any other restrictions of record, and the following:

- a. "Leasing" for the purposes of this Declaration is defined as regular, exclusive occupancy of a Lot by any Person other than the Owner, with or without consideration.
- b. Leases will be for the entire Lot. There will be no subleasing of Lots or assignment of leases without prior written Association approval.
- c. Owners using their properties as short-term (30 days or less) rental properties are required to provide to the Association a copy of the official Boulder County Short-Term Rental License.
- d. All leases will be in writing and will provide that the lease is subject to the Governing Documents. The Association has the authority to require a particular lease form or addendum to implement the provisions of this section. Owners are required to provide

Residents with copies of the current Declaration and the Association's Rules and Regulations.

- e. Each Owner who leases their Lot will provide the Association, upon request, a copy of the current lease (lease amount may be redacted) and tenant information, including the names of all Residents, and any other information reasonably requested by the Association or its agents.
 - f. All leases will state that failure of the Resident or guests to comply with the Governing Documents is a default of the lease and this Declaration.
 - g. All Owners who reside at a place other than the Lot will provide to the Association an email address, physical address, and phone number(s) where the Owner can be reached in the case of emergency or other Association business. The Owner is solely responsible to keep this information current.
- 8.4. **Use of Common Areas.** There will be no obstruction of the Common Areas, nor will anything be kept, parked, or stored on or removed from any part of the Common Areas without the prior written consent of the Association, except as specifically provided herein. The Association may remove unattended personal property from Common Areas. Prohibited activities in the Common Areas will be as specified in the Association's Rules and Regulations.
- a. Costs incurred by the Association from damage or vandalism to Common Areas may be levied as an assessment against the Owner's Lot, which cost will be assessed as an Individual Assessment that is the Owner's personal obligation, a lien against the Lot, and will be collected as provided in this Declaration and the Association's enforcement and collection policies.
 - b. Owners are responsible for their actions and the actions of their family members, guests, and pets, and Owner's tenants and their family members, guests, and pets. The Association will not be liable to any Lot Owner or Resident, guest, or family, for loss or damage, by theft or otherwise, of any personal property which may be stored in or upon any of the Common Areas or for the removal of such property or for any injuries incurred on the Common Areas. The Association may adopt additional guidelines regarding the Common Areas in its Rules and Regulations.
- 8.5. **Association's Rules and Regulations.** The Board of Directors may adopt, amend, and repeal rules and regulations concerning and governing the Residences, Lots and Common Areas to further the provisions of this Declaration and the general plan of development.
- 8.6. **Temporary and other Structures.** No temporary house trailer, garage, or outbuilding will be placed or erected upon a Lot, except with the Association's prior written approval.
- 8.7. **Vehicles and Parking.**
- a. **Vehicles on Lots.** No vehicles of any kind may be stored or parked on the Lot except in a garage, on the driveway, or on an approved hardscaped parking area. Additional restrictions on vehicle parking and storage may be included in the Association's Rules and Regulations, including reporting of violations of Boulder County land use codes.
 - b. **Vehicles on Totara Place and Miro Court.** Vehicle parking on HOA-owned roads shall be regulated by the Association's Rules and Regulations in order to ensure ease of ingress and egress for drivers and pedestrians and maximize the safety of residents and guests.
 - c. **Vehicles on Common Areas.** Vehicles are allowed temporarily on Common Areas for the purpose of serving any Lot or the Common Areas. The Association's Rules and Regulations shall set terms and conditions governing access by vehicles in the Common Areas.
- 8.8. **Additional Covenants.**
- a. **Common Expenses:** Without the prior written consent of the Board of Directors, nothing will be done or kept on a Lot or in the Community that would be in violation of any statute, rule, ordinance, regulation, permit, or other validly imposed requirements of any governmental body, or that would increase the Common Expenses.

- b. Nuisance: Noxious, destructive, offensive, or unsanitary activities may not be carried on within the Community. No Owner or Resident may use or allow the use of the Lot or any portion of the Community at any time, in any way, that may endanger persons or property, unreasonably annoy, disturb, or cause embarrassment or discomfort to other Owners or Residents, or constitute a nuisance, including, but not limited to, light, sound, or odor from a Lot that would reasonably be found by other Residents to be noxious or offensive.
- c. Pets: The Association may regulate the type, purpose, control and responsibilities of pet owners via its Rules and Regulations.
- d. Unsightly Articles, Trash Removal, Lights and Sound Devices: The Association may adopt Rules and Regulations to regulate unsightly articles, trash removal and lights and sound devices.
- e. Signs: Signs and flags/banners on Lots are permitted as provided by Colorado law and subject to the Association's Rules and Regulations regarding the size, number and location of signs and flags/banners. The Board has the right to erect reasonable and appropriate signs on behalf of the Association.
- f. Antennas and Satellite Dishes: The Association may adopt Architectural Guidelines and Rules and Regulations regarding installation and location of permitted antennas, subject to limitations of federal law.
- g. Hazardous Activities: The Association may adopt Rules and Regulations to restrict activities and improvements on Lots and Common Areas that are, or might be, unsafe or hazardous to any person or property.

9. ARTICLE 9: INSURANCE

- 9.1. **Insurance on the Lots.** Each Owner will obtain property and liability insurance covering loss, damage, or destruction by fire or other casualty to the improvements installed or made to their Lot and any injuries occurring to the persons while on a Lot. The Association will not be liable for the failure of any Owner to maintain insurance.
- 9.2. **Insurance to be Carried by the Association.** The Association will 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. Insurance coverage includes the following and will be provided by financially responsible and able companies duly authorized to do business in the State of Colorado.
 - a. Property Insurance on Common Areas. The Association will obtain property insurance covering loss, damage, or destruction by fire of Common Areas and improvements on the Common Areas.
 - b. Association Comprehensive/General Liability Insurance. The Association will obtain comprehensive/general liability insurance to address claims involving bodily injury or property damage.
 - c. Association Fidelity Insurance. The Association will obtain fidelity coverage to protect against dishonest acts on the parts of its officers, directors, trustees, and employees, and on the part of all others who handle or are responsible for handling the funds of the Association, including persons who serve the Association with or without compensation.
 - d. Directors' and Officers' Personal Liability Insurance. The Association will obtain directors' and officers' personal liability insurance to protect the officers, directors, Committee members, and any other individuals acting at the Board's direction from personal liability in relation to their duties and responsibilities in acting on the Association's behalf.
 - e. Other Insurance. The Association may obtain other insurance against other risks of similar or dissimilar nature as it deems appropriate with respect to its responsibilities and duties.

- 9.3. **Miscellaneous Terms Governing Insurance Carried by the Association.** The Association will maintain, to the extent reasonably available, insurance policies with the following terms or provisions.
- a. All insurance policies will provide that each Owner is an insured under the policy with respect to liability arising out of the Owner's membership in the Association.
 - b. All insurance policies will contain waivers of subrogation against any Owner or member of the Owner's household.
 - c. All insurance policies will contain waivers of subrogation and waivers of any defense based on invalidity arising from any acts of an Owner.
 - d. If requested, duplicate originals of all policies and renewals, together with proof of payments of premiums, will be delivered to all holders of first lien security interests at least ten days prior to the expiration of the policies.
 - e. All liability insurance will cover the Association, the directors and officers, the manager or managing agent, if any, holders of first lien security interests, their successors and assigns, and Owners with respect to Owner's liability arising out of Association membership.
 - f. All Association insurance policies will be primary if there is other insurance in an Owner's name or managing agent's name covering the same risk.
- 9.4. **Insurance Premium.** Insurance premiums will be a Common Expense included as a part of the Association's annual assessments.
- 9.5. **Insurance Review.** The Board may periodically review the insurance carried by the Association to determine the amount of insurance required and the service capabilities of the current carrier.
- 9.6. **Claims and Adjustments by the Association.** Any loss covered by an Association insurance policy will be adjusted by the Association. The insurance proceeds for a loss will be payable to the Association and not to any holder of a first lien security interest.
- 9.7. **Condemnation and Property Insurance Allocations and Distributions.** In the event condemnation proceeds or property insurance proceeds are distributed to the Owners, the distribution will be as the parties with interests and rights are determined or allocated by record and pursuant to the Act.
- 9.8. **Responsibility for Payment of Deductible Amount.** Whether the Board, in its discretion, submits a claim under the Association's insurance policies or not, the Association will pay or absorb the deductible amount for any work, repairs, or reconstruction for damage to property that is the Association's maintenance responsibility, unless the damage is caused by the negligent or willful act or omission of an Owner, the Owner's family, guests, or invitees, in which case the Association will seek reimbursement of the deductible amount as an individual assessment in compliance with and under the terms of the Declaration.
- 9.9. **Insurance Assessments.** If the insurance proceeds are not sufficient to defray the costs of reconstruction and repair for any reason, including the allocation of deductibles, the deductible or additional cost will be a Common Expense.

10. ARTICLE 10: AUTHORITY AND ENFORCEMENT

- 10.1. **Compliance With and Enforcement of Governing Documents.**
- a. **Compliance Required.** Every Owner and Resident will comply with the applicable provisions of the Governing Documents. Any aggrieved Owner or Resident has the right to request that the Board take action to enforce the terms of the Governing Documents against another Owner or Resident.
 - b. **Association Remedies.** The Association may enforce all applicable provisions of the Governing Documents and may impose sanctions for their violation. Sanctions may include, without limitation:

- imposing reasonable monetary fines, after notice and opportunity for a hearing in accordance with the Association's covenant and rule enforcement policy, which will be a lien upon the violator's Lot;
 - suspending Owner voting rights;
 - suspending any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than 30 days delinquent in paying any assessment or other charge owed to the Association;
 - requiring an Owner, at the Owner's expense, to cease any construction of any modification that has not been approved, or to remove any structure or improvement in the Lot or the Common Areas in violation of the Governing Documents and to restore the Lot or Common Areas to its previous condition;
 - recording in the real property records a notice of violation identifying any uncured violation of the Governing Documents; and
 - other remedies provided for in this Declaration or by applicable law.
- c. **Emergencies and Legal Action.** In addition, the Association may take the following enforcement procedures to seek compliance with the Governing Documents:
- exercising self-help in any emergency situation; and/or
 - instituting any civil action to enjoin any violation or to recover monetary damages, or both.
- d. **Remedies Are Cumulative.** All remedies set forth in the Governing Documents are cumulative of any remedies available at law or in equity.
- e. **Costs Incurred by Association.** If the Association exercises any of its rights pursuant to this section, all costs will be assessed against the violating Owner or Resident and will be a lien against the Lot. Additionally, subject to the Act, the Association will also be entitled to reasonable attorney's fees actually incurred, which will be collected as an assessment.
- 10.2. **Failure to Enforce.** The Board will have the discretion to determine whether enforcement action in any particular case will be pursued; provided that the Board will exercise judgment, be reasonable, and not be arbitrary and capricious. Notwithstanding the above, no right of action will exist against the Association for failure of enforcement where: (i) the Board determines that the Association's position is not strong enough to justify taking enforcement action; (ii) a particular violation is not of such a material nature as to be objectionable to a reasonable person or justify the expense and resources to pursue; or (iii) the Owner or party asserting a failure of enforcement possesses an independent right to bring an enforcement action at law or in equity and has failed to do so. A decision of the Association not to pursue enforcement action will not be construed as a waiver of the Association's right to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other provision of the Governing Documents.

11. ARTICLE 11: AMENDMENTS

- 11.1. Except where a higher vote is required for action under any other provision of this Declaration or by the Act, in which case such higher vote will be necessary to amend such provision, this Declaration may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the Owners holding at least 50% of the total Association membership.
- 11.2. Notice of any meeting at which a proposed amendment will be considered will state the fact of consideration and the subject matter of the proposed amendment. The Association may seek approval of an amendment by mail ballot in accordance with the procedures outlined in the Bylaws. No amendment will be effective until certified by the President and Secretary of the Association, or such other officers as designated by the Board, and recorded in the Boulder County, Colorado real property records.
- 11.3. Notwithstanding the foregoing, the Board of Directors, without the necessity of a vote from the Owners, may amend this Declaration to correct any scrivener's errors, comply with any

applicable state, city, or federal law, and/or to bring the Community into compliance with applicable rules and regulations of the Federal National Mortgage Association ("Fannie Mae"), the Department of Housing and Urban Development ("HUD"), and the Veterans Administration ("VA") pursuant to federal law.

- 11.4. Any action to challenge the validity of an amendment adopted under this article must be brought within one year of the effective date of such amendment. No action to challenge such amendment may be brought after such time.

12. ARTICLE 12: GENERAL PROVISIONS

- 12.1. **Security.** The Association may, but will not be required to, from time to time, provide measures or take actions which directly or indirectly improve security and public safety in the Community; however, each Owner, for themselves and their family members, tenants, guests, licensees, and invitees, acknowledges and agrees that the Association is not a provider of security, and the Association will not have a duty to provide security in the Community. Furthermore, the Association does not guarantee that non-residents will not gain access to the Community and commit criminal acts in the Community, nor does the Association guarantee that criminal acts in the Community will not be committed by other Owners or Residents. It will be each Owner's and Resident's responsibility to protect themselves and their property, and all responsibility to provide such security lies solely with each Owner. The Association will not be held liable for any loss or damage resulting from failure to provide adequate security or ineffectiveness of measures undertaken.
- 12.2. **Implied Rights.** The Association may exercise any right or privilege given to it expressly by this Declaration, the Bylaws, the Articles of Incorporation, any use restriction or rule, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it or reasonably necessary to effectuate any of its rights or privileges.
- 12.3. **Electronic Records, Notices and Signatures.** Notwithstanding any other portion of this Declaration, records, signatures, and notices will not be denied validity or effectiveness hereunder solely on the grounds that they are transmitted, stored, made, or presented electronically. The relevant provisions of the Bylaws will govern the giving of all notices required by this Declaration.
- 12.4. **Duration.** The covenants and restrictions of this Declaration will run with and bind the property perpetually unless otherwise terminated as provided in C.R.S. § 38-33.3-218.
- 12.5. **Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order or otherwise will in no way affect the application of such provision to other circumstances or affect any other provision(s), which will remain in full force and effect.
- 12.6. **Public in General.** The rights and burdens created in this Declaration do not, are not intended to, and will not be construed to create any rights and burdens in or for the benefit of the general public.
- 12.7. **Conflicts.** In the event of a conflict between this Declaration and the Articles of Incorporation or Bylaws, this Declaration will control. In the event of a conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation will control.

IN WITNESS WHEREOF, the undersigned officer of Cottonwood Park West Homeowners Association hereby certifies that this Amended, Restated, and Consolidated Declaration was adopted by the Members of the Association or that the District Court of Boulder County has entered an order approving this Amended, Restated, and Consolidated Declaration.

This 4th day of June, 2025

COTTONWOOD PARK WEST HOMEOWNERS ASSOCIATION

By: James M. Fudge

STATE OF COLORADO
COUNTY OF

The foregoing Amended, Restated, and Consolidated Declaration was acknowledged before me by James M. Fudge, President of the Association, on this 4th day of June, 2025.

Vicki M. Maurer
Notary Public

My commission expires: 03/22/2026

VICKI M MAURER
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 19944002621
MY COMMISSION EXPIRES MARCH 22, 2026

EXHIBIT "A"

Legal Description of Community

Cottonwood Park First Filing, as more particularly described on the plat for the First Filing in the records of the Boulder County Clerk and Recorder.

Cottonwood Park Second Filing, as more particularly described on the first and second replat for the Second Filing recorded in the records of the Boulder County Clerk and Recorder.

DISTRICT COURT, COUNTY OF BOULDER, STATE OF COLORADO Court Address: 1777 6 th Street Boulder, CO 80302 Phone Number: 303-441-1776		DATE FILED June 3, 2025 10:16 AM CASE NUMBER: 2025CV30289
Petitioner: COTTONWOOD PARK WEST HOMEOWNERS ASSOCIATION , A Colorado nonprofit corporation.		▲ COURT USE ONLY ▲
ATTORNEYS FOR PETITIONER: Attorney: Kelly K. McQueeney, No. 45175 Candyce D. Cavanagh, No. 32944 Firm: ORTEN CAVANAGH HOLMES & HUNT, LLC Address: 1445 Market St., Suite 350 Denver, CO 80202 Telephone: (720) 221-9780 Fax: (720) 221-9781 Email: kmcqueeney@ochhoalaw.com Matter ID # 2064.0014		Case Number: Div.: Ctrm.:
ORDER APPROVING AMENDED, RESTATED, AND CONSOLIDATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR COTTONWOOD PARK WEST PURSUANT TO C.R.S. § 38 33.3 217(7)		

THIS MATTER comes before the court for hearing on June 3, 2025, 2025, at 10 a./p.m. After reviewing the pleadings filed in this matter and considering the statements of Counsel, the Court makes the following Findings of Fact and Conclusions of Law and Orders:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Cottonwood Park West, a Colorado nonprofit corporation (“Association”) is a common interest community that seeks to amend and consolidate the Declaration of Covenants, Conditions and Restrictions for Cottonwood Park West recorded October 20, 1971, at Reception No. 994272 (“First Filing Declaration”), and the Declaration of Covenants, Conditions and Restrictions for Cottonwood Park West recorded April 12, 1977, at Reception No. 218188 and Declaration of Covenant Condition and Restriction recorded September 30, 1977, at Reception No. 244558 (collectively “Second Filing Declaration”), by means of a proposed Amended, Restated, and Consolidated Declaration of Covenants, Conditions, and Restrictions for Cottonwood Park West (hereafter referred to as the “Amended, Restated, and Consolidated Declaration”).

2. The Association has complied with the notice and meeting requirements set forth in C.R.S. § 38-33.3-217(7) by fulfilling the following requirements:

(a) Notices. The Association has met the requirement to send at least two notices of the proposed amendments to all Lot Owners who are entitled by the First Filing Declaration and Second Filing Declaration to vote on the proposed Amended, Restated, and Consolidated Declaration. Notices were sent as follows: (i) Notice of Special Owners Meeting for October 2, 2024, with Board letter and summary of changes, mailed to all Owners on or around September 17, 2024; and (ii) Notice of Special Owners Meeting reminder notice emailed or mailed to all Owners on or around September 27, 2024.

(b) Meetings. The Association discussed the proposed Amended, Restated, and Consolidated Declaration at a Special Owners Meeting prior to the final voting draft on October 2, 2024.

(c) Results of Vote Taken. C.R.S. § 38-33.3-217(7)(b), requires that unit Owners to which are allocated more than 50% of the number of approvals that would be required under the Declaration to adopt proposed amendments have voted in favor of the proposed amendments. The First Filing Declaration requires consent of Owners of at least 75% of the First Filing Lots, and the Second Filing Declaration requires consent of at least 75% of the Second Filing Lots.

There are 137 Lots in the Cottonwood Park West community consisting of 46 Lots in the First Filing and 91 Lots in the Second Filing. Each Lot is allocated one equal vote. Owners of 27 Lots in the First Filing (58.6% of all First Filing Lots) voted. Of the 27 votes cast, 26 Owners (56.5%) approved and one Owner (2.2%) opposed the proposed Amended, Restated, and Consolidated Declaration. Owners of 49 Lots in the Second Filing (53.8% of all Second Filing Lots) voted. Of the 49 votes cast, 41 Owners (45%) approved and 8 Owners (8.8%) opposed the proposed Amended, Restated, and Consolidated Declaration. Owners representing approximately 55.5% of the total Association vote have approved the proposed Amended, Restated, and Consolidated Declaration of Covenants, Conditions, and Restrictions for Cottonwood Park West, (56.5% of First Filing Owners and 45% of Second Filing Owners), thereby exceeding the 37.5% requirement.

3. Notice of the Petition was sent to all Lot Owners as required by C.R.S. § 38-33.3-217(7)(d) as evidenced by the Certificate of Mailing filed in this case. There were no lenders entitled to receive notice.

4. No notice was sent to the declarant as it has no reserved rights or entitlement to vote under the Declaration.

5. No notice was sent to mortgagees as no mortgagees are entitled to vote.

6. No notice was sent to the Federal Housing Administration or the Veterans Administration since they have no voting rights in the proposed Amended, Restated, and Consolidated Declaration.

7. Pursuant to the terms of C.R.S. § 38-33.3-217(7)(c), a hearing regarding the petition was held before this Court on June 3, 2025.

8. Not more than 33% of the Owners in either the First Filing or the Second Filing filed written objections with the Court prior to the hearing.

9. The proposed Amended, Restated, and Consolidated Declaration of Covenants, Conditions, and Restrictions for Cottonwood Park West presented to the Court does not terminate the Declaration of Covenants, Conditions and Restrictions for Cottonwood Park West, First Filing or the Declaration of Covenants, Conditions and Restrictions for Cottonwood Park West, Second Filing. The preponderance of the evidence and application of plain language indicates that the proposed Amended, Restated, and Consolidated Declaration is an amendment and restatement and consolidation of the First Filing and the Second Filing Declarations, and not a termination of either Declaration.

10. The proposed Amended, Restated, and Consolidated Declaration presented to the Court does not change the allocated interests of the Owners.

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

ORDERED that the proposed Amended, Restated, and Consolidated Declaration of Covenants, Conditions, and Restrictions for Cottonwood Park West is approved by this Court, shall be binding upon all Owners subject to the Declaration of Covenants, Conditions and Restrictions for Cottonwood Park West, First Filing and the Declaration of Covenants, Conditions and Restrictions for Cottonwood Park West, Second Filing, and shall have the same legal effect as if it were adopted pursuant to the amendment requirements set forth in the First Filing Declaration and Second Filing Declaration for Cottonwood Park West, upon the recording of the proposed Amended, Restated, and Consolidated Declaration of Covenants, Conditions, and Restrictions for Cottonwood Park West, with this Order attached, with the Clerk and Recorder’s office for Boulder County, Colorado.

IT IS FURTHER ORDERED that the Association record a fully executed copy of the approved Amended, Restated, and Consolidated Declaration of Covenants, Conditions, and Restrictions for Cottonwood Park West, together with a copy of this Order, in the office of the Clerk and Recorder for Boulder County, Colorado.

DONE AND SIGNED this 3rd day of June, 2025.

BY THE COURT:



DISTRICT COURT JUDGE

Nancy W. Salomone