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DECLARATION OF  
PROTECTIVE COVENANTS, RESTRICTIONS,  
EASEMENTS, CHARGES AND LIENS  
FOR A PORTION OF

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PEYTON PINES FILING NO. 4

Peyton Pines, Ltd., a partnership (herein called "Subdivider"), the owner of the real property duly platted as Lots 227 through 248, 250 and 251, 253 through 257, Peyton Pines Filing No. 4, a subdivision in El Paso County, Colorado, which plat is recorded under Reception No. 00785849 in the office of the Clerk and Recorder of said county, (hereinafter referred to as the "Property") hereby makes the following declaration of limitations, restrictions and uses upon said property as restrictive and protective covenants to bind and inure to the benefit of Subdivider and its successors and assigns and of all future owners of any part of said property.

ARTICLE I - PURPOSE OF COVENANTS

Subdivider desires to provide for the development, installation, extension, operation and maintenance of a central water system, and, to this end, desires to submit and subject the Property to the covenants, restrictions, easements, assessments, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of the Property and each owner thereof; and

Subdivider has deemed it desirable, for the efficient preservation of the values and amenities in said community to create an agency to which should be delegated and assigned the powers of installing, developing and owning the central water system, maintaining and administering the community property and facilities and administering and enforcing the covenants and restrictions and collecting utility fees, assessments and charges hereinafter created; and

Subdivider has incorporated the Peyton Pines Filing 4 Water Association, Inc. (the "Association"), under the Nonprofit Corporation Laws of the State of Colorado for the purposes of exercising the aforesaid functions.

ARTICLE II

DEFINITIONS

The following words when used in this Declaration or any Supplemental Declaration hereto shall, unless the context otherwise prohibits, have the meanings set forth below:

A. "Association" or "Corporation" shall mean and refer to the Peyton Pines Filing 4 Water Association, Inc., a Colorado nonprofit corporation.

B. "Water System" shall mean and refer to all easements for wells, well sites, storage tanks, pump houses, water lines and other facilities used in the water system as described and reserved in Article IV hereof.

C. "Lot" shall mean and refer to all platted lot units for single-family residential housing situated within the Property.

D. "Owner" shall mean and refer to the record owner of fee simple title to any lot, including the Developers with respect to an unsold unplatted lot. Every lot owner shall be treated for all purposes as a single owner for each lot held, regardless of whether such ownership is joint or common tenancy. Where such ownership is joint or common, the vote(s) of such owners shall be as hereinafter provided or as provided in the Articles of Incorporation and Bylaws of the Association.

E. "Member" shall mean and refer to each holder of membership interests in the Association, as such interests are set forth in Article III hereof.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

The Association shall have one class of membership interests which shall be: All owners (including Developers with respect to unsold platted lots) of platted lots situated within and upon the Properties comprising a part of the Subdivision who have connected to the Water System as defined in Article IV. Each member shall be entitled to one (1) vote in the Association for each lot owned by that member.

### ARTICLE IV

#### THE WATER SYSTEM

Section 1 - Wells and Water Lines. Declarant has drilled water wells, placed storage tanks, pump houses and other facilities on certain of the Lots and intends to drill additional wells and place storage tanks, pump houses and other facilities on other Lots. Declarant also has constructed main water lines in utility easements on the Lots and in the road right-of-way and service lines to service certain Lots, and intends to construct additional main and service lines so as to provide a complete water system to provide service to all the Lots within the Property.

Section 2 - Temporary Reservation of Easements to complete Water System. (a) Until all wells on the Lots have been completed and tested the number and location of the additional wells to be drilled on Lots and the location of storage tanks and water lines will be uncertain. Therefore, Declarant reserves unto

itself a license, easement, right, and privilege of a right-of-way in, through, over, under, and across any of the Lots for the purpose of completing and placing on the Property the wells, storage tanks, water lines, pump houses and other facilities necessary to complete the water system for the Property.

(b) This reservation of easements shall expire on November 30, 1983. Declarant also may terminate this easement, license, and right-of-way as to a Lot or portion thereof upon request of a Lot owner. Until November 30, 1983, no construction shall be commenced on a Lot without permission of Declarant, who shall have the right and the duty to approve or disapprove construction sites. Unless there is a conflict with a projected location for water system facilities the site shall be approved.

Section 3 - Permanent Easements for Water System. Declarant hereby reserves to itself and for the benefit of the Association a perpetual easement, license, right, and privilege of a right-of-way for the wells, well sites, storage tank, pump houses, water lines, and other facilities previously drilled, constructed, or installed on Lots 227, 228, 241, 242, 246, 247, 248, 250 and 251, and for access thereto for the purpose of inspection, maintenance, repair and replacement of the facilities. Declarant further reserves to itself and for the benefit of the Association, a perpetual easement for the wells, well sites, storage tanks, pump houses, water lines, and other facilities to be drilled or installed on the balance of the Lots in order to complete the water system for the Property and for access thereto and ingress therefrom for the purpose of inspection, maintenance, repair and replacement of the facilities. It shall not be necessary for Declarant or the Association to record a description or further declaration of easement to evidence these reservations but Declarant and the Association shall cooperate with any Lot owner wishing to obtain a survey of the location of easements affecting a Lot at such owners expense.

Section 4 - Title to the Easements and Facilities. Declarant shall convey title to the water system to the Association without consideration therefor and shall assign to the Association all warranties provided to it by any drillers, installers or other contractors. Title shall be free and clear of all liens and encumbrances except general property taxes for the year of conveyance, encumbrances created by any other covenants on the Property, encumbrances created by this Declaration, and except for the lien of a construction or acquisition loan deed of trust previously placed on the Property by Declarant which Declarant will pay and will obtain release thereof. The conveyance of title may be all inclusive or it may be by several conveyances.

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1 - Creation of the Lien and Personal Obligation. The Developers, for each Lot owned by them within the platted portion of the Properties, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be expressed in any such deed or other conveyance, hereby covenant, and shall be deemed to covenant and agree, to pay to the Association such assessments as are fixed by the Association's Board of Directors and assessed to the Members as hereinafter provided. All sums assessed by the Association but unpaid, together with interest and costs of collection, shall be a charge on the land and shall be a perpetual and continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest and costs of collection, as hereinafter provided and stated as well in the Articles of Incorporation and Bylaws of the Association, shall be a personal obligation of the person who was the Owner of such property at the time when the assessment fell due, provided that no owner shall have any obligation for an assessment or dues until he becomes a Member.

Section 2 - Assessments. The Association's Board of Directors shall, from time to time, but at least annually, fix and determine the estimated budget representing the sum or sums necessary and adequate for the continued operation of the Association and shall send a copy of the budget and any supplement to the budget to each Member prior to assessing such members thereon. The Board shall determine the total amount required, including the operational items such as insurance, repairs, reserves, maintenance and other operating expenses, as well as charges to cover any deficits from prior years and capital improvements approved by the Board. The total annual requirements and any supplemental requirements shall be allocated equally among, assessed to and paid by the Members.

Section 3 - Limitations on Capital Improvements. Except as otherwise provided herein with respect to the development, installation and extension of the central water system and electric service in Article V hereof, no capital improvement(s) shall be approved by the Board of Directors, nor shall any monies be expended for capital improvement(s) which result in any assessment therefor in any one (1) year of greater than an aggregate of \$150.00 per lot unless approved by sixty-six and two-thirds (66 2/3%) percent of the Members entitled to vote.

Section 4 - Utility Charges. All charges of the Association for utility services provided by it shall be metered (or where impractical, a flat fee charged therefor). In the event flat fees are charged the Board of Directors may establish such rates

in its rules and regulations in any reasonable method which may be fairly and adequately applied to estimate the usage of water by the Member.

Section 5 - Due Dates; Duties of the Board of Directors.

All assessments shall be based as nearly as possible on the estimated budget, and shall be payable monthly in advance as ordered by the Board of Directors, and utility charges shall be payable, ten (10) days after billing therefor at the greater of a minimum monthly charge or a metered charge, for consumptive use for the one (1) month last preceding, provided however, that the Association may adopt a quarterly or annual billing system.

Section 6 - Effect of Non-Payment of Assessment; The Personal Obligation of the Member; The Lien; Remedies of the Association.

If an assessment is not paid on the date when due, as fixed by the Board of Directors then such assessment shall become delinquent and, together with interest and costs of collection, including reasonable attorney's fees, shall become a continuing lien on the Member's Lot which shall bind such property in the hands of the Member, his heirs, devisees, personal representatives and assigns. Such lien shall be prior to all other liens except tax or assessment liens of any governmental authority, and all sums unpaid on any first mortgage or trust deed of record encumbering the Lot.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum and the Association may sue for collection and foreclose the lien against the property in the same manner as a mortgage foreclosure.

Section 7 - Lien Statement. The Association may file for record a Statement of Lien for all assessments and/or utility charges unpaid thirty (30) days after the delinquency date thereof.

Section 8 - Discontinuance of Utility Service for Non-Payment. In addition to the foregoing, the Association shall have the right to disconnect utility and other services provided by it to the Lot of any Member whose assessment (for utilities or common expenses) shall not be paid within thirty (30) days of the delinquency date, and to keep the same disconnected until the same shall have been paid in full with interest and costs of collection as above provided.

ARTICLE VI

AGRICULTURAL USE OF WATER ON LOTS

A Member shall be permitted only to apply water to a single contiguous area with no more than an aggregate of one-half acre of a Lot for agricultural purposes, and then only during the

months of May through September, inclusive, and subject to the availability of ample water for the domestic needs of the Sub-division. The Member shall designate the area on a sketch to be filed with the Association, if requested to do so by the Board.

## ARTICLE VII

### GENERAL PROVISIONS

Section 1 - Duration and Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Declarant, the Association, any Member, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, personal representatives, successors, and assigns. This Declaration may be amended or terminated only upon written consent of the Owners representing seventy five (75%) percent aggregate ownership interests in the Property.

Section 2 - Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly given when mailed postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 3 - Administration. The administration of the Association shall be in accordance with the provisions of the Association Bylaws which have been adopted by the Board of Directors.

Section 4 - Severability. Invalidation of any of the covenants, limitations or provisions of this Declaration by judgment or court order shall in nowise affect any of the remaining provisions hereof, and the same shall continue in full force and effect.

PEYTON PINES, LTD.  
a Colorado limited partnership  
Ambrose Development Company  
Managing General Partner

By   
H. Lee Ambrose, President

STATE OF COLORADO )  
CITY AND COUNTY OF DENVER ) ss.

The foregoing instrument was acknowledged before me this  
22nd day of December, 1982, by H. Lee Ambrose, President  
of Ambrose Development Company, Managing General Partner of Peyton  
Pines, Ltd., a Colorado limited partnership.

Witness my hand and official seal.

My commission expires: July 28, 1984



*Theresa M. Sparos*  
Notary Public

650 17th Street, Suite 1200  
Address  
Denver, Colorado 80202