

WEST CHASE
DECLARATION OF COVENANTS AND RESTRICTIONS

Dated: _____
Arvada, Jefferson County, Colorado

**WEST CHASE
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WEST CHASE
DECLARATION OF COVENANTS AND RESTRICTIONS

This Declaration, made this _____ day of _____, 1987, by GENESEE ASSOCIATES, LTD., a Colorado corporation, hereinafter called the Developer or the Declarant.

WITNESSETH:

WHEREAS, Developer is the owner of the real property described in Article II of this Declaration and desires to create thereon a residential community with certain common areas and facilities for the benefit of the said community; and

WHEREAS, Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of such common areas and facilities; and to this end, desires to subject the real property described in Article II to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof.

WHEREAS, Developer 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 maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Developer has incorporated under the laws of the State of Colorado, as a non-profit corporation, West Chase Homeowners' Association, Inc., for the purpose of exercising the functions aforesaid;

NOW THEREFORE, the Developer declares that the real property described in Article II is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "Covenants and Restrictions") hereinafter set forth.

ARTICLE I
DEFINITIONS

Section 1. The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

- (a) "Architectural Control Committee" shall mean the committee appointed by the Board of Directors of the Association as provided in Article VI hereof.

- (b) "Association shall mean and refer to West Chase Homeowners' Association, Inc., its successors and assigns.
- (c) "Common Area" shall mean all real property, if any, plus entry features and signage, mail box facilities and all other property, if any, owned by the Association for the common use and enjoyment of the Owners.
- (d) "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Property with the exception of Common Area.
- (e) "Member" shall mean and refer to every person or entity who holds membership in the Association.
- (f) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
- (g) "Property" shall mean and refer to all such property as is subject to this Declaration.

**ARTICLE II
PROPERTY SUBJECT TO THIS DECLARATION**

The real property which is, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration is located in the City of Arvada, County of Jefferson, State of Colorado, and is more particularly described on Exhibit A which is attached hereto and made a part hereof, all of which real property shall hereinafter be referred to as the "Property."

**ARTICLE III
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION**

Section 1. Membership. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot shall be a Member. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Such ownership of a Lot shall be the sole qualification for membership.

Section 2. Voting Rights. The Association shall have two classes of voting membership.

Class A. Class A Members shall be all those Owners as defined in Section 1 of this Article III with the exception of the Developer. Class A Members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Section 1 of this Article III. When more than one person holds such interest or interests in any Lot all such persons shall be Members, and the vote for such Lot

shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot.

Class B. The Class B Member shall be the Developer. The Class B Member shall be entitled to three votes for each Lot in which it holds the interest required for membership by Section 1 of this Article III, provided that the Class B membership shall cease and become converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) December 31, 1994.

ARTICLE IV PROPERTY RIGHTS IN THE COMMON AREA

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 3 of this Article IV, every Member shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every Lot.

Section 2. Title to Common Area. The Developer agrees to convey to the Association title to the Common Area, if any, free and clear of all liens and encumbrances prior to the conveyance of any Lot.

Section 3. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

- (a) The right of the Association, as provided in its Certificate of Incorporation and Bylaws, to suspend the voting rights of a Member for any period during which any assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations;
- (b) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Board of Directors of the Association;
- (c) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and in aid thereof to mortgage such Common Area, provided that the rights of such mortgagee in such Common Area shall be subordinate to the rights of the Members;
- (d) The right of the Association, in accordance with its Articles and Bylaws, to charge and collect fees for review of applications and other activities undertaken by the Architectural Control Committee; and

- (e) The right of the Association, in accordance with its Articles and Bylaws, to retain a management company and to delegate to such management company any or all of its duties and obligations.

Section 4. Delegation of Right of Enjoyment. Members may delegate, in accordance with the Bylaws, their right of enjoyment to the Common Area to their tenants or contract purchasers who reside on such Members' Lots.

ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of Lien and Personal Obligation of Assessments and Special Assessments. Declarant, for each Lot owned by it, shall be deemed to covenant and agree, and each owner of any Lot, except those exempt under Section 11 of this Article, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association monthly assessments or charges and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, and said amounts shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment or special assessment is made. Each such assessment and special assessment, together with such interest thereon, cost of collection and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment or special assessment fell due. The personal obligation for delinquent assessments or special assessments shall not pass to such person's successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety, and welfare of the residents of the Property and in particular for the improvement and maintenance of Property, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area and the homes situated upon the Property.

Section 3. Basis and Maximum of Annual Assessments. Each Lot shall, as of the date set under Section 8 hereof, be subject to a monthly assessment of not more than Ten Dollars (\$10.00).

- (a) From and after January 1 of the year immediately following the date set under Section 8 hereof, the maximum annual assessment specified above may be increased effective January 1 of each year without a vote of the membership in conformance with the rise, if any, of the Consumer Price Index (published by the Department of Labor, Washington, D.C.) for the preceding month of July.
- (b) From and after January 1 of the year immediately following the date set under Section 8 hereof, the maximum annual assessment may be increased above that

established by the Consumer Price Index formula by a vote of the members for the next succeeding year and at the end of each such year, for each succeeding year, provided that any such change shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting. The limitations hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

- (c) The Board of Directors shall fix the monthly assessment within the maximum amount and may raise or lower said monthly assessment amount within said maximum as it deems necessary in its discretion. The initial monthly assessment is established at Two Dollars (\$2.00) for each Lot.

Section 4. Change in Basis and Maximum of Annual Assessments. The Association may change the maximum assessment fixed by Section 3 hereof provided that any such change shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any calendar year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, provided, that, any such assessment shall have the assent of at least two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting.

Section 6. Uniform Rate of Assessment. Both monthly and special assessments must be fixed at a uniform rate for all Lots, provided that the rate set for the Lots owned by Developer shall be fixed at one-third (1/3) the assessment rate for the other Lots.

Section 7. Quorum for any Action Authorized Under Sections 4 and 5. The quorum required for any action authorized by Sections 4 and 5 hereof shall be as follows: At the first meeting called, as provided in Sections 4 and 5 hereof, the presence at the meeting of Members, or of proxies, entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a

quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirements set forth in Sections 4 and 5, and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 8. Date of Commencement of Monthly Assessments; Due Dates. The monthly assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance by Developer of any Lot. The Board of Directors shall fix the amount of the monthly assessment at least 30 days in advance of each such commencement date and any change in the monthly assessment must be fixed by the Board of Directors at least 30 days in advance of the commencement of the changed assessment amount. Written notice of the assessment shall thereupon be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. 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 Lot have been paid. Such certificate shall be conclusive evidence of the facts stated herein.

Section 9. Effect of Non-Payment of Assessment; Personal Obligation of Owners; Lien Remedies of Association. If any assessments are not paid on the date when due (being the dates specified in Section 8 hereof), then such assessments shall be delinquent and shall, together with interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the Lots of the respective Owners which shall bind such Lots in the hands of the then Owners, their heirs, devisees, personal representative and assigns. The personal obligation of the then Owners to pay such assessments, however, shall remain such Owners' personal obligations for the statutory period and shall not pass to such Owners' successors in title unless expressly assumed by them.

If any assessment is not paid within 30 days after the due date, the assessment shall be subject to a late charge established by the Board of Directors of the Association from time to time and shall bear interest from the due date at a rate per annum established by the Board from time to time. The Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the Lot, and there shall be added to the amount of such assessment the cost of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorneys' fee to be fixed by the court, together with the costs of the action.

No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of such Owners' Lot.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage and to any executory land sales contract owned by the Veterans Administration or its assigns, wherein

