

AFTER RECORDING, RETURN TO:  
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**2022 FILING 5 WEST LOTS AMENDMENT TO DECLARATION  
OF CONDITIONS, COVENANTS, RESTRICTIONS, EASEMENTS  
AND CHARGES AFFECTING REAL PROPERTY KNOWN AS  
LOTS 7 THROUGH 13 AND THE WESTERLY PORTION OF LOT  
6 AND LOT 14 IN PINECLIFF NO. 5**

THIS 2022 FILING 5 WEST LOTS AMENDMENT TO DECLARATION OF CONDITIONS, COVENANTS, RESTRICTIONS, EASEMENTS AND CHARGES AFFECTING THE REAL PROPERTY KNOWN AS LOTS 7 THROUGH 13 AND THE WESTERLY PORTION OF LOT 6 AND LOT 14 IN PINECLIFF NO. 5 ("2022 Filing 5 West Lots Amendment" or "this Amendment") is made as of the date on which this document is recorded in the real property records of the El Paso County Clerk and Recorder.

**WHEREAS**, David R. Sellon of David R. Sellon and Company, (the "Declarant"), recorded a Declaration of Conditions, Covenants, Restrictions, Easements and Charges Affecting the Real Property Known as Lots 7 through 13 and the Westerly Portion of Lot 6 and Lot 14 in Pinecliff No. 5 on June 15, 1982 at Book 3576, Page 341 in the real property records of El Paso County, Colorado ("Declaration"). The real property is described in the Declaration and referred to herein as "Filing 5 West Lots."

**WHEREAS**, Declarant recorded an Amended Declaration concerning the Filing 5 West Lots on July 22, 1982 in Book 3590, Page 575 of the El Paso County, Colorado real estate records ("First Amended Declaration") and recorded a 2<sup>nd</sup> Amended Declaration on February 10, 1983 in Book 3673, Page 158 of said records ("2<sup>nd</sup> Amended Declaration"). The Declaration, First Amended Declaration and 2<sup>nd</sup> Amended Declaration are collectively referred to herein as "Amended Declaration".

**WHEREAS**, the Pinecliff Home Owners Association ("Association") was established by Articles of Incorporation dated February 22, 1984. Members of the Association are owners of Pinecliff properties under several filings, including Filing 5. The Association operates under its Articles of Incorporation and Bylaws and pursuant to the Declarations and Policies, Rules and Regulations of the various filings ("Association Governing Documents"). The Association agrees to the amendment as set forth herein.

**WHEREAS**, the Declaration establishes an Architectural Control Committee ("ACC") to, among other things, enforce or delegate enforcement of covenants. By virtue of a Notice of Merger of the Architectural Control Committees Pinecliff Subdivisions, recorded February 8, 1993 in Book 6119, Page 202 of the El Paso County, Colorado real estate records, these ACC functions were merged into a single ACC for the Association. The Association ACC consents to the amendment as set forth herein.

**WHEREAS**, the Declaration provides in Article III, Section 308, that from time to time, Owners of at least two-thirds of the Lots may amend one section of the Declaration or add a new section to the Declaration;

**WHEREAS**, Article III, Section 301 of the Declaration allocates one vote for each Lot owned; and

**WHEREAS**, owners of Filing 5 West Lots owning more than sixty-seven percent (67%) of those Lots have agreed that the Amended Declaration shall be amended to prohibit short term rentals within the Filing 5 West Lots.

**NOW, THEREFORE**, owners of Filing 5 West Lots do hereby amend the Amended Declaration as provided herein and declare the following covenants, terms, provisions and restrictions shall run with the real property described in the Amended Declaration, shall be a burden upon any person or party acquiring, encumbering, owning, leasing or otherwise holding any interest in said real property, and shall be incorporated into the Amended Declaration as originally set forth therein.

1. The following Article I, Single Family Residential Restrictions, Section 101 of the Declaration shall be amended to read as follows:

**Section 101.**

(a) All lots and building sites in the Subdivision shall be used exclusively for private residential purposes. No dwelling erected or maintained within the Subdivision shall be used or occupied for any purpose other than for a single-family dwelling. No business, profession or other activity conducted for gain shall be carried on or within any lot or building site.

(b) Leasing. Any Owner may lease his or her Lot or building site, but only if the leasing complies with the provisions and restrictions of this Amendment and the Association Governing Documents, including the following:

(i) "Leasing" or "Renting" for the purposes of this Amendment is defined as regular, exclusive occupancy of a Lot by any Person other than the Owner; provided, however, for the purposes of this Amendment, persons who do not pay rent and reside with the Owner, a guest or invitee of an Owner or a roommate of the Owner, where the Owner occupies the Lot as the Owner's primary residence, are not considered tenants and their occupancy does not constitute leasing.

(ii) Short-term occupancies and rentals of less than one hundred eighty (180) days of Lots, including transient, hotel, bed-and-breakfast or vacation-type rentals including VRBO, Airbnb, and similar arrangements, are prohibited. Any of the uses set forth in the preceding sentence shall be prohibited on any Lot even if such use is determined to be a residential use. Upon the expiration of any lease of at least one hundred eighty (180) days, the Owner may thereafter extend that lease on a month-to-month basis. All leases shall be for the entire Lot without the subdivision of dwelling units for leasing purposes. Subleasing, meaning the leasing or rental of a leased Lot from the tenant under the lease to another person, is prohibited.

(iii) Existing short-term occupancy or rental bookings and arrangements shall be allowed for ninety (90) days after the recording of this Amendment but after said ninety (90) days, such short-term occupancy or rental shall be prohibited thereafter as provided by this Amendment.

(iv) All leases or rental agreements shall be in writing and shall provide that the leases or rental agreements are subject to all terms of the Association Governing Documents, including this Amendment. Owners are required to provide tenants with copies of the current Association Governing Documents.

(v) Each Owner who leases his or her Lot shall provide the Association and/or the ACC, upon request, with a copy of the current lease and tenant information, including the names of all occupants, vehicle descriptions, including license plate numbers, number and type of pets, and any other information reasonably requested by the Board or their agents. Each owner is strongly encouraged to conduct full background checks, including credit and criminal reports, for each lease applicant.

(vi) All occupancies, leases and rental agreements of Lots shall state that the failure of the tenant, lessee, renter or their guests to comply with the terms of the Association Governing Documents shall constitute a default of the occupancy, lease or rental agreement and of this Amendment and the Declaration, and such default shall be enforceable by either the landlord, the Association, ACC or as otherwise provided in the Association Governing Documents.

(vii) All occupancies or rentals of Lots shall be subject to the right of the Association and/or the ACC to remove and/or evict the occupant for failure to comply with the terms of this Amendment and the Association Governing Documents.

(viii) If the Association or ACC requests the Owner evict the Owner's tenant based on the terms of this Amendment, and the Owner fails to commence such action within thirty (30) days of the date of such request and notice, the Association or ACC may commence eviction proceedings. Upon failure by the Owner to comply with the request to evict, the Owner delegates and assigns to the Association, acting through the Board, and/or the ACC the power and authority to evict the lessee as attorney-in fact.

(c) **Enforcement.** Enforcement of these terms shall be as provided in the Declaration, Article II, Section 204 and Article III, Section 306, and as otherwise provided in the Association Governing Documents. The Owner shall be responsible for the conduct of any and all occupants and guests at the Unit, including the Tenant and the Tenant's family, guests and others on the premises with Tenant's consent ("Tenant's Guests") in order to assure their compliance with the Association's Governing Documents and shall indemnify and hold the Association, the ACC and owners harmless from failure to comply by such occupants or guests. Owner and Tenant agree that violation by the Tenant or Tenant's Guests of the Association's Governing Documents shall constitute a default under the Tenant's lease and may also

2. Other than this Amendment as set forth herein or otherwise, the remaining provisions in the Amended Declaration are affirmed. Notwithstanding any provision of the Amended Declaration or Association Governing Documents, the provisions of this Amendment shall supersede and control over any conflicting provisions of the Amended Declaration or Association Governing Documents.
3. This 2022 Filing 5 West Lots Amendment is hereby incorporated in the Amended Declaration as if originally stated therein, and shall run with the land and be binding upon all parties as provided therein. The Recitals above are incorporated herein as part of the text hereof. The terms "include" or "including" shall mean "include without limitation" and "including without limitation".

APPROVED BY THE UNDERSIGNED:  
Pinecliff Home Owners Association  
Architectural Control Committee

By: James E. Breckner  
Its: Chairman

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of May, 2022, by James Breckwold as Chairman of Pinecliff Architectural Control Committee.

WITNESS my hand and official seal.

Notary Public

My Commission expires: 7/26/25

