

REVISED AND RESTATED
DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS
IN PEORIA PARK SUBDIVISION - FILING #1, #2, AND #3
CITY OF AURORA - ARAPAHOE COUNTY, COLORADO

KNOW ALL MEN BY THESE PRESENTS THAT:

RECITALS:

- A. The Declaration of Protective Covenants Conditions and Restrictions in Peoria Park Subdivision - Filing No. 1, Arapahoe County, Colorado (the "Filing No. 1 Declaration"), was executed on September 15, 1978 and recorded on September 18, 1978 in Book 2851 at Page 588, Arapahoe County, Colorado real property records, and is binding upon the real property located in such Filing No. 1.
- B. The Declaration of Protective Covenants Conditions and Restrictions in Peoria Park Subdivision - Filing No. 2 Arapahoe County, Colorado (the "Filing No. 2 Declaration"), was executed on December 14, 1981 and recorded on December 18, 1981 in Book 3548 at Page 534, Arapahoe County, Colorado real property records, and is binding upon the real property located in such Filing No. 2.
- C. The Declaration of Protective Covenants Conditions and Restrictions in Peoria Park Subdivision - Filing No. 3, Arapahoe County, Colorado (the "Filing No. 3 Declaration"), was executed on June 7, 1983 and recorded on June 22, 1983 in Book 3894 at Page 1, Arapahoe County, Colorado real property records, and is binding upon the real property located in such Filing No. 3.
- D. Section 6 (Term and Amendment) of the Filing No. 1 Declaration, the Filing No. 2 Declaration, and the Filing No. 3 Declaration, each provide that the covenants, conditions, restrictions and easements may be amended at any time by an instrument signed by the owners of a majority of the residential lots in the respective Filing of the subdivision. Any amendment must be recorded in the office of the Clerk and Recorder of Arapahoe County, State of Colorado.
- E. The record owners of lots in the Peoria Park Subdivision (the "Owners") desire to revise and restate the Filing No. 1 Declaration, the Filing No. 2 Declaration, and the Filing No. 3 Declaration into one declaration (the "Declaration") governing all of the lots and any other real property lying within all or any portion of the Peoria Park Subdivision Filings No. 1, No. 2, and No. 3 in the City of Aurora, County of Arapahoe, State of Colorado (the "Subdivision"). The lots lying within the Peoria Park Subdivision are subject to the terms of the Declaration.
- F. In the Declaration, the Owners desire to amend the method of selection of the Architectural Control Committee and method of amendment of the Declaration, to provide for payment of costs of actions brought to enforce the Declaration, and to adopt certain other amendments set forth in the Declaration.
- G. Centex Homes Corporation, a Nevada corporation, the owner and subdivider under the Filing No. 1 Declaration, the Filing No. 2 Declaration, and the Filing No. 3 Declaration, no longer owns any lots or other real property in the Peoria Park Subdivision and there is no subdivider under those three declarations. All rights of any subdivider under any or all of the above three declarations have expired.
- H. This instrument shall be the Declaration described above for the Peoria Park Subdivision.

WHEREAS, in order to promote and protect the value, the desirability and development of the Peoria Park Subdivision as an attractive and desirable community, the Owners hereby amend, revise and restate the Filing No. 1 Declaration, the Filing No. 2 Declaration, and the Filing No. 3 Declaration by adopting, approving, and publishing the following declaration of protective covenants for the Peoria Park Subdivision in the City of Aurora, Arapahoe County, Colorado.

DECLARATION:

NOW THEREFORE, the Owners hereby declare that the said subject property, the Subdivision, shall be held, sold and conveyed subject to the following protective covenants, reservations, easements, conditions, and restrictions so that all persons who from time to time own the subject property or any part thereof shall own said land subject to said protective covenants, reservations, easements, conditions and restrictions, all of which shall run with the land and shall inure to the use and benefit of and be binding upon all parties having or requiring any right, title or interest in the subject property, or any part thereof, and shall inure to the benefit of each of the

owners at any time of any of said subject property, their heirs, personal representative, successors and assigns.

Section 1. Incorporation of Recitals; Lands Subject to Declaration

A. The Recitals set forth above are hereby incorporated in this Declaration.

B. All of the lots and real property in the Peoria Park Subdivision shall be subject to the terms of this Declaration.

Section 2. Architectural Control Committee

A. Membership

1. The architectural Control Committee (the "Committee") shall be composed of three members, all of whom shall be record owners of the lots subject to the Declaration.

Pete Caldwell, 11807 E. Atlantic Avenue
Ray Crites, 11664 E. Evans Avenue
Michael Knight, 11303 E. Warren Avenue

2. In the event of death, disability, resignation, or removal of any member of the Committee, the remaining members shall have the full authority, and responsibility to designate a successor or successors.

3. At any time, the Owners of the lots subject to the Declaration, pursuant to Section 11, shall have the power to appoint, remove, or otherwise change the membership of the Committee or to withdraw from or restore to the Committee any of its powers and duties.

Should there be too few members of the Committee, through death, disability, resignation, inactivity, or other reasons, to designate a successor or successors, the duly registered homeowner's association (the "Association") for the lots subject to these Declarations shall appoint a new Committee.

4. An affidavit executed and recorded in the office of the Clerk and Recorder of Arapahoe County by the majority of the members of the Committee shall be sufficient evidence of the membership and of the other recitals therein contained. In the case the Association appoints a Committee; said affidavit may be executed by the Association's Board of Directors, President, or directing officer.

B. Evidence of Action

The Committee's approval or disapproval as required in these covenants shall be in writing over the signatures of any two members of the Committee. In the event the Committee fails to approve or disapprove a proposal within thirty (30) days after plans and specifications have been submitted to it, such approval will not be required, and the related covenants shall be deemed to have been fully complied with.

C. Duties

The Committee shall act upon and approve or disapprove any and all matters to be submitted to the Committee pursuant to any of the provisions of this Declaration and shall have all duties and powers as are hereinafter provided and set forth. No member of the Committee shall be entitled to any compensation for service, nor shall the Committee or any member thereof be liable, in any manner, for any, action or failure of action taken in these premises.

D. Approval of Plans

1. All plans and specifications in connection with the construction or alteration of any fence, wall, driveway, or other structure, any landscaping, any exterior remodeling, or any exterior painting or staining, shall require the approval in writing of the Committee. All fencing visible from a public street shall conform to the fencing as shown in Exhibit A attached, and all other fencing shall be of wood and compatible with fencing shown in Exhibit A.

2. In passing upon such plans, specifications and other requirements, the Committee may take into consideration whether the proposed residence, other improvements and the materials of which it is to be built are reasonably suitable for the lot or site upon which the residence exist, the harmony,

thereof with the surroundings, and the effect of the residence of other structure as planned on the outlook from adjacent or neighboring property. The committee shall, in the exercise of its judgment and determination, use reason and good faith.

3. No residence, fence, wall, driveway, or structure of any kind which has not received such prior approval by the Committee and which does not fully comply with such approved plans and specifications shall be erected, constructed, placed, or maintained upon any lot. No changes or deviations in and from such plans and specifications as so approved shall be made without the prior written consent of the Committee. The Committee shall not be responsible for any structural defects in such plans or specifications or in any building or structure erected according to such plans and specifications.

Section 3. Use of Land.

A. Uniform General Restrictions

Application

The provisions and restrictions of Part A of Section 3 shall apply to and govern all uses within the subdivision, including single family residences and park areas.

Easements

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat for construction, maintenance, repair, replacement and reconstruction of poles, wires, pipes, and conduits for lighting, heating, electricity, gas, telephone, and any other public or quasi-public utility service purposes, and for sewer and pipes of various kinds. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow, obstruct, or retard the flow of water in and through drainage channels and the easements. The easement area and all improvements therein shall be maintained continuously by the property owner, except for those improvements for which public authority or one or more utility companies is responsible.

Water and Sewer

No individual water supply system or sewage disposal system shall be permitted within the subdivision, and all dwellings must attach to such facilities as may be provided by such water and sanitation district as may serve the area.

Oil and Mining Operations

No oil drillings, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any lot.

Compliance with Laws

Nothing shall be done or kept on any property within the subdivision in violation of any law, ordinance, rule, or regulation of any government authority having jurisdiction.

Walls and Fences

No wall or fence may be erected or maintained within the subdivision unless prior written approval is obtained from the Committee, except for fences and walls which are in conformance with the architectural guidelines may be constructed without Committee approval. The Committee shall consider, among other things, the height of the proposed wall or fence, its location, interference with sight lines, and the materials proposed for use in construction.

Each Owner of a Lot shall be responsible for maintaining, repairing, and replacing, in a reasonably attractive manner, any fence located on such Owner's Lot. If a fence, or a portion thereof, is located on the common lot line separating two or more adjoining Lots, then the Owners of such adjoining Lots shall be responsible for repairing, replacing and maintaining such common fence in a reasonably attractive condition and in proportion to each such Owner's proportionate ownership of such common fence. If a fence, or portion thereof, is located on a lot line separating a Lot from an adjoining public right-of-way, street or other property which is not an adjoining Lot, then the

Owner of such Lot shall be responsible for maintaining, repairing and replacing, in a reasonable attractive manner, such fence or portion thereof.

"Reasonably attractive" shall include, but not be limited to replacing and/or fixing broken or warped slats, leaning fences, or mismatched painting, where applicable.

Nuisance

No activity which is noxious or offensive by reason of emission of dust, odor, gas, smoke, fumes, or noise, shall be carried on within the subdivision, nor shall anything be done therein which may be or may become an annoyance or nuisance in the neighborhood.

Equipment Enclosures

All clotheslines, equipment, garbage cans, service yards, or storage piles shall be fenced or walled in or otherwise concealed from the view of other residential lots and streets. Plans for all enclosures of this nature must be approved by the Committee prior to construction, except for fences and walls which are in conformance with the architectural guidelines may be constructed without committee approval. The Committee shall consider, among other things, the size and height of the proposed enclosure, its location, and the materials proposed for use in construction.

Trucks, Trailers, and Vehicles

No trucks larger than 2 axle, trailers, motor homes, boats, campers, buses, or other similar vehicles or equipment of any kind shall be permitted to be parked on the streets of the subdivision for a period of more than four hours, unless the same is present for construction or repair of buildings located on the land. No trucks (other than $\frac{3}{4}$ ton or smaller pick-up trucks not used for commercial purposes) shall be parked overnight on the streets of the subdivision. No trucks larger than 2 axle, trailers, motor homes, boats, campers, buses, or other similar vehicles or equipment of any kind shall be kept on a residential lot for more than 48 hours except when stored within a closed garage or within an enclosed area screened from view from outside the lot approved by the Committee. No vehicles of any kind shall be permitted to be parked, when visible from the street, on any area except the street or paved residence driveway.

Refuse.

No trash, ashes, or other refuse may be thrown or dumped on any vacant lot or otherwise, in the subdivision and no lot shall be used in whole or in part for the storage of rubbish of any character nor for the storage of any property or thing that will cause such lot to appear in an unclean or untidy condition. This shall not prohibit temporary accumulation of construction materials by a builder, when approved by the Committee. Burning of trash or garbage within the subdivision is prohibited except in an approved incinerator housed inside a building.

Signs

All entrance signs and other signs within the subdivision shall be subject to the control of, and prior approval of, the Committee. The construction or maintenance of "for sale" signs for any product, signs larger than 6 square feet, poster boards, or advertising structures of any kind within the subdivision, except those approved by the Committee are prohibited. Standard-size "house for sale" signs shall be allowed for a reasonable time necessary to sell the owner's house.

Antennas

No radio, short-wave, television or other antennas for receiving or sending shall be erected within the subdivision or on the roof of any structure, with the exception of "DSS" style, and similarly sized, antennas. Any other proposed antenna must be approved by the Committee. No antenna of any kind shall be mounted on the front of an owner's house, facing the street, unless approved by the Committee.

Pets and Animals

No area or improvement within the subdivision shall be used for the keeping, housing, or raising of poultry, cows, horses, or other animals or livestock, except an aggregate maximum of two dogs or cats.

No Auxiliary Residence or Business

No trailer, motor home, or vehicle of any sort shall at any time be used as a residence, temporarily or permanently, and no room or rooms in any residence or parts thereof may be rented or leased and no paying guests shall

be quartered in any residence. Nothing contained in this section, however, shall be construed as preventing the renting or leasing of an entire residence as a single unit to a single family.

Except as provided below in this paragraph, no business or profession shall be conducted in or on any residence or lot in the Subdivision, or anywhere else in the Subdivision. Any business or profession permitted as provided below shall be subject to all of the provisions of this Declaration except as expressly provided below. Only those businesses and professions strictly complying with the following provisions may be conducted in the Subdivision: (i) the residents of the residence in which the business or professional activity is conducted shall be the only persons who are engaged in the business or professional activity in such residence; (ii) the business or professional activity shall be conducted solely within the residence and must be incidental and secondary to the primary purpose of the residence as a single-family residence; (iii) there shall be no external evidence of such business or professional activity which, in any way, shall advertise or evidence the conduct of such business or profession; (iv) in no way shall the general public be invited or solicited upon the premises; (v) in no way shall such business or professional activity increase vehicular or pedestrian traffic in the Subdivision; and (vi) in no way shall such business or profession jeopardize the health, safety, or welfare of the residents of such residence, the other residents of the Subdivision, or surrounding neighborhoods. In-home child day care is a permitted business in the Subdivision, provided that it strictly complies with items (i) through (vi) above except that an in-home child day care business: (a) may use the back yard of such residential lot for child day care recreational purposes if such use is not visible from the street, and (b) a normal volume of vehicular and pedestrian traffic for the drop-off and pick-up of children at such residence is permitted.

Minor agricultural pursuits incidental to residential use of a lot (gardening) shall be permitted, provided that such pursuits may not include the raising of crops intended for marketing or sale to others.

Street Lighting

All lots and other areas in the subdivision are subject to and bound by tariffs which are now and may in the future be filed with the Public Utilities Commission of the State of Colorado relating to street lighting in this subdivision, together with rates, rules and regulations therein provided and subject to all future amendments and changes thereto.

B. SINGLE FAMILY RESIDENCES

Application

In addition and supplemental to the Uniform General Restrictions, the following restrictive covenants and requirements shall apply to and govern all residential lots within the subdivision.

Building Type

None of said lots may be improved, used or occupied for any purpose other than one private single family residence, and no building of any kind whatsoever shall be erected or maintained thereon except private, single family dwelling houses which are not to exceed 35' in height. Each residence shall be detached from any other residence, and shall be designed for occupancy by a single family.

Dwelling and Size

The ground floor area of the main structure, exclusive of one-story porches and garages, shall not be less than 800 square feet for one-story structures, and the main floor and top level of tri-levels, and 725 square feet for two-story structures and mid-entry, homes (both exclusive of basements).

New Construction

All construction within the subdivision shall be new construction and no previously erected building, structure, or improvement shall be moved and set upon any lot from any other location.

Height

The ridge heights of the residence on any site shall be subject to approval by the Committee. The Committee shall be guided by the provisions and procedures set forth in these covenants.

Roofs

The covering of each roof shall be of a material satisfactory to the Committee. The Committee shall be guided in its decision by the provisions and procedures set forth in these covenants.

Exterior Materials

The exterior materials of any residence or outbuilding shall be of material satisfactory to the Committee. The Committee shall be guided in its decision by the provisions and procedures set forth in these covenants.

Outbuildings and Garages

No outbuildings shall be permitted on any lot. All garages shall be part of, or attached directly to the residence or attached thereto by arbor or breezeway. Every garage shall correspond in style and architecture to the residence to which it is attached.

Grades and Retaining Walls

All grades and elevations shall be set by the Committee, and in cases where the owner or a contractor raises or lowers the elevation of the ground and establishes the finished grade elevations at any exterior property line of an adjoining lot, said contractor or owner must erect a retaining wall, at his cost, to prevent the dirt from falling or washing down to the adjoining property.

Landscaping

When a dwelling shall be constructed upon any residential lot, the owner of such lot on which said dwelling is constructed shall, within one year after issuance of the certificate of occupancy, cause all of such lot to the edge of the street surface, to be seeded, suitably planted and maintained, excepting however, such part of the lot as shall be constructed as and used for driveways and parking space, or other landscaping purposes approved by the Committee. It shall be the duty of each owner to keep the grass properly irrigated, cut and neat in appearance at all times; and to keep all trees, shrubs, and other plantings properly trimmed, neat in appearance, and not obstructing the sidewalk, street, or any portion thereof. Dead or dying landscape materials shall be replaced as soon as possible, taking into account weather conditions affecting the planting of replacement landscaping.

In addition to Covenant requirements stated herein, landscaping must meet the requirements of the City of Aurora.

Mailboxes

All mailboxes and supports shall be well-maintained (free of large dents, rust, corrosion, with straight-standing supports: not leaning), and meet U. S. Postal Service requirements. Mailboxes shall be set back so that the front of the mailbox is near, but does not overhang, the sidewalk.

Maintenance, Repairs, and Improvements

No property within the subdivision shall be permitted to fall into disrepair, and all property with the subdivision, including any fences, improvements and landscaping thereon, shall be kept and maintained in a clean and attractive condition and in good repair. Maintenance, repair, and upkeep of each Lot shall be the responsibility of the Owner of the Lot.

Restoration in the Event of Damage or Destruction

Except as may otherwise be provided in this Declaration, in the event of damage or destruction of any improvement on any Lot, the Owner thereof shall cause the damaged or destroyed improvement to be restored or replaced in a timely manner to its original condition or such other condition as may be approved in writing by the Committee, or the Owner shall cause the damaged or destroyed improvement to be demolished and the Lot to be suitably landscaped, subject to the approval of the Committee.

Temporary exterior repairs, including, but not limited to painting, patching, or supporting, of such property will be permitted for a period of one week, unless a longer period is approved by the Committee. Any exterior maintenance, repairs, or improvements must be completed within one month of start date, unless a long period is approved by the Committee.

Section 4. Enforcement

A. The Committee or any Owner shall have the right to enforce, by any proceeding at law or in equity, the provisions of this Declaration.

B. No right of action shall accrue nor shall any manner of action be brought or maintained by anyone whatsoever against the Association

for or on account of its failure to bring any action on account of any breach of these covenants, conditions, or restrictions, or for imposing restrictions and covenants herein which may not be enforceable.

- C. Failure by the Committee or by any Owner to enforce any covenant or restriction contained in this Declaration at the time of its violation shall in no event be deemed a waiver of the right to do so thereafter.
- D. In any action brought to enforce this Declaration, whether formal or informal, court-sanctioned or private, the reasonable costs of such action, including attorneys' fees, shall be borne by the party found to be at fault in such action.

Section 5. Zoning

Zoning resolutions, rules and regulations are considered to be a part hereof, and to any extent that these covenants might establish minimum requirements which are less than minimum requirements established by said zoning resolutions, rules and regulations, the latter shall prevail. If any provision of these protective covenants would require or constitute a violation of any present or future zoning laws, ordinances or regulations, such zoning laws, ordinances, or regulations shall be controlling with respect to the provisions in question.

Section 6. Duration, Revocation, and Amendment

Each and every provision of this Declaration shall run with and bind the land for a term of twenty (20) years from the date of recording of this Declaration, after which time this Declaration shall be automatically extended for successive periods of ten years each. Except as otherwise provided herein, this Declaration may be amended during the first twenty (20) year period, and during subsequent extensions thereof, by an instrument approved pursuant to Section 11 below. Such amendment shall be effective when duly recorded in the County of Arapahoe, Colorado.

Section 7. Validity--Severability

If any of the covenants, easements, reservations or other provisions of this Declaration and Agreement are invalidated by any law, rule, regulations, judgment, court order, or otherwise, it shall in no way affect any of the other covenants, reservations, easements or provisions which shall remain in full force and effect.

Section 8. Effective Date

This Declaration shall be effective, upon recordation with the Clerk and Recorder of Arapahoe County, Colorado, and shall bind by its terms and provisions all property within the "Peoria Park Subdivision," as defined within the Declaration.

Section 9. Section and Paragraph Headings

The section and paragraph headings are inserted only as a matter of convenience and for reference and are not to be construed as limiting the meaning of the section or paragraph, or used in the interpretation of the section or any part thereof.

Section 10. Gender

The use of any gender shall be applicable to all genders.

Section 11. Owner Approval and Actions

Actions taken pursuant to this Declaration which require approval by the record owners shall be deemed effective when taken pursuant to the requirements of paragraph A or B below:

- A. A meeting (the "Meeting") held (i) In a location within three miles of any of Peoria Park Subdivision - Filings No. 1, No. 2, and No. 3, or the unified filing; (ii) Pursuant to at least 10 days, but not more than 30 days, notice posted at or mailed to each residence; (iii) With attendance of at least one Owner of at least thirty percent (30%) of the lots subject to these covenants; (iv) Where one vote is allotted to each lot subject to these covenants, regardless of the number of individuals who are record owners of such lot; and (v) approved by a simple majority.

A collection of notarized signatures (collected within 30 days time) of the Owners of a simple majority of the lots subject to these covenants, provided that written notice of the action to be approved by the collection of signatures (including a copy of any amendment, modification, or revocation of all or any portion of the Declaration for which approval is sought by the collection of signatures) has been delivered to each residence in the Subdivision via hand delivery or first class U. S. Mail, postage prepaid, at least 10 days, but not more than 30 days, prior to the commencement of the collection of such signatures.

IN WITNESS WHEREOF, The record owners of the residential lots as listed below, being the owners of a majority of the residential lots in the respective filings of the Subdivision, subscribe to and attest to this Revised and Restated Declaration of Protective Covenants, Conditions, and Restrictions. (See attached Signature Pages hereby incorporated in this instrument.)

SIGNATURE PAGE
REVISED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND
RESTRICTIONS FOR PEORIA PARK SUBDIVISION

Each of the undersigned hereby approves and adopts the foregoing Revised and Restated Declaration of Protective Covenants, Conditions and Restrictions for the Peoria Park Subdivision.

Lot _____, Block _____, Peoria Park Subdivision Filing No. _____

STREET ADDRESS: _____, Aurora, CO 80014

Date: _____

Name: _____ Name: _____

Subscribed and affirmed before me this _____ day of _____, 2003, in the county of Arapahoe, State of Colorado.

Signature of Notary

Lot _____, Block _____, Peoria Park Subdivision Filing No. _____

STREET ADDRESS: _____, Aurora, CO 80014

Date: _____

Name: _____ Name: _____

Subscribed and affirmed before me this _____ day of _____, 2003, in the county of Arapahoe, State of Colorado.

Signature of Notary

Lot _____, Block _____, Peoria Park Subdivision Filing No. _____

STREET ADDRESS: _____, Aurora, CO 80014

Date: _____

Name: _____ Name: _____

Subscribed and affirmed before me this _____ day of _____, 2003, in the county of Arapahoe, State of Colorado.

Signature of Notary

Lot _____, Block _____, Peoria Park Subdivision Filing No. _____

STREET ADDRESS: _____, Aurora, CO 80014

Date: _____

Name: _____ Name: _____

Subscribed and affirmed before me this _____ day of _____, 2003, in the county of Arapahoe, State of Colorado.

Signature of Notary

Lot _____, Block _____, Peoria Park Subdivision Filing No. _____

STREET ADDRESS: _____, Aurora, CO 80014

Date: _____

Name: _____ Name: _____

Subscribed and affirmed before me this _____ day of _____, 2003, in the county of Arapahoe, State of Colorado.

Signature of Notary