

**2010 AMENDED AND RESTATED DECLARATION OF  
RESERVATIONS, RESTRICTIONS, AND COVENANTS IN SECTIONS A AND B  
MOUNT PRINCETON HOT SPRINGS SUBDIVISION  
CHAFFEE COUNTY, COLORADO**

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RECITALS

- A. This 2010 Amended and Restated Declaration is made by the owners of the real property referred to as Mount Princeton Hot Springs (“MPHS”) Subdivision, Sections A and B, according to plats filed in the office of the Clerk and Recorder of Chaffee County, Colorado, respectively on May 26, 1960, and November 16, 1965, all of which, taken together, shall be called “Property” herein. All recording and filing information is recorded or filed in the office of the Clerk and Recorder of Chaffee County, Colorado.
- B. Reservations, Restrictions and Covenants in Mount Princeton Hot Springs, Section A, were recorded May 26, 1960, beginning in Book 313, at Page 98.
- C. Declaration of Reservations, Restrictions and Covenants in Sections A and B, Mount Princeton Hot Springs Subdivision, Chaffee County, Colorado, was recorded March 28, 1985, beginning in Book 470, at Page 788.
- D. Agreement (between Mount Princeton Home Owners Association, Inc. (“MPHOA”) and Dennis L. Osborn and Mt. Princeton Hot Springs, Inc.) was recorded August 15, 1985, beginning in Book 473, at Page 688.
- E. Declaration of Reservations, Restrictions and Covenants in Sections A and B, Mount Princeton Hot Springs Subdivision, Chaffee County, Colorado, was recorded March 26, 1996, at Reception No. 283879.
- F. Declaration of Reservations, Restrictions and Covenants in Sections A and B, Mount Princeton Hot Springs Subdivision was recorded March 15, 1999 at Reception No. 302662, hereinafter referred to as the “1999 Declaration.”
- G. The 1999 Declaration, at paragraph 36, provided for its modification by a three-quarters majority of the owners of lots within the Property on the second anniversary of the 1999 Declaration’s recording (March 15, 2001) or within one year thereafter (until March 15, 2002).
- H. The lots within the Property include those lots numbered I through 69 within MPHS Subdivision and road areas and reserved plot area are as depicted on applicable recorded plats.
- I. The owners of the lots within the Property amended and restated the 1999 Declaration and all of its predecessors by the Amended and Restated 2002 Declaration by complying with Colorado law, including, but not limited to the Colorado Common Interest Ownership Act (“CCIOA”), specifically Colorado Revised Statutes, Section 38-33.3-207(7), together with Grant of Petition and Approval of Amendment by the District Court of Chaffee County, Colorado, in Case number 03CV95 on September 4, 2003, which Amended and Restated

2002 Declaration was recorded on September 8, 2003, at Reception Number 338218.

- J. On June 27, 2005, a second document labeled Amended and Restated 2002 Declaration was recorded at Reception Number 35162, but is null and void because it was adopted by an incorrect amendment procedure.

Now, therefore, for the purpose of providing orderly development of the Property, for maintaining the value of the lots within the Property, and for the mutual benefit of owners of the lots and their successors in title to the lots, the owners of the lots within the Property do hereby further amend and restate the Amended and Restated 2002 Declaration. Each and every lot and parcel of real property embraced within the boundaries of the Property as described in this 2009 Declaration shall be used, held, transferred, and conveyed subject to this 2009 Declaration, as amended, which shall hereinafter be referred to as "Declaration."

1. Residential Lots

All lots within the Property shall be known and designated as residential building sites. The lot owners and the lots shall be subject to the jurisdiction of the MPHOA as stated in this Declaration and the governing documents as described herein. No structures shall be erected, altered, placed, or permitted to remain on any lot other than one detached single-family residence not to exceed two stories in height, or a maximum of 28 feet measured from the average original grade level of the land adjoining the structure (pre-existing, natural land from before any excavation), to the apex of the roof. Additional structures which are permissible are a private garage, either attached or detached, and other outbuildings incidental to residential use of the lot all of which are to be constructed according to the MPHOA Architectural Rules and Regulations, as amended (hereinafter referred to as "Architectural Rules and Regulations"). It is the responsibility of the lot owner or lot owner's representative to obtain and review the most recent version of the Architectural Rules and Regulations.

2. Architectural Control

2.1 No building, structure, or improvement (hereinafter "improvement") shall be erected, placed, or externally altered in any manner on any lot in the Property until the building plans, specifications, and site plan showing the location of such

improvement have been approved in writing by the Architectural Control Committee (“Committee”).

2.2 The Committee shall be composed of three members, each appointed for a three-year term by the Board of Directors of MPHOA. The terms of the Committee members shall be staggered so that one member is appointed each year. If a Committee member resigns or is otherwise unable to complete his or her full three-year term, the Board shall appoint a replacement member to serve the balance of the term. The members of the Committee shall not be entitled to any compensation for services performed pursuant to this Declaration, but may be reimbursed for reasonable expenses incurred in discharging their duties.

2.3 The Committee shall determine if the improvement is in conformity and harmony of external design with existing improvements in the Property including, but not limited to, such factors as color and texture of exterior and location of the improvement with respect to topography and finished grade elevation. Approval of an improvement will be granted only when it has been ascertained that the building plans, specifications, and site plan presented are in conformity with all covenants and also with the provisions set forth in the Architectural Rules and Regulations. In the event the Committee fails to approve or disapprove within 30 days after said plans, specifications, and site plan have been submitted to it, said plans, specifications, and site plan shall be deemed approved for all purposes.

2.4 Any person choosing to appeal a ruling of the Committee must do so by written notice to the Board of Directors of MPHOA no later than 30 days after the Committee ruling. The Board shall, within 30 days of such written notice, give written Board approval or reversal of the Committee’s decision. The Board’s approval shall be by a simple majority vote of a quorum of the Board. If the Board does not approve the Committee ruling, the Committee shall have an additional 30 days to adjust its ruling in writing. The Board approval of the Committee ruling is final disposition of the matter. If at any time during the Committee and Board process, any part of the proposed improvement is not approved, the person proposing the improvement may modify the plans, specifications, and site plan to conform to any direction of the Committee or Board and resubmit to request the required approval.

2.5 Once an improvement receives architectural approval, the improvement must be commenced within the time stated in the approval or, if not stated, within six months of approval and completed as required in Section 15 below.

3. Set-Back Distances

No building shall be located on any lot nearer to the property line than 25 feet, except any lot coinciding with the external boundary of the subdivision. For the purpose of this paragraph, appurtenances such as eaves, steps, and open porches shall not be considered as part of the building, provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot. In any event, no such appurtenances shall come closer than 10 feet to the property line.

4. Minimum Size of Residence

Each detached single-family residence erected or placed on any lot shall contain an area of not less than 1,000 square feet on the main level, exclusive of appurtenances listed in paragraph 3 above.

5. Easements

Easements for the installation and maintenance of utility and drainage facilities are reserved on the MPHOA Easement Plan as filed in the Chaffee County records. Within the 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 of drainage channels in the easements, or which may obstruct or retard the flow of water through well defined drainage channels. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible. The roads on the Property are titled in MPHOA with the exception of Cottonwood Lane, which is titled in the adjoining lot owners who have granted an easement to MPHOA, and all roads may be repaired or improved by MPHOA. Buried utilities may be placed in or adjacent to the right-of-way of these roads (as long as vehicular travel is not impaired other than for a short duration during construction or repair). There also exists an additional easement of up to 10 feet into any lot adjacent to the road for use by a buried utility in the event the road

easement is inadequate. No detached garage or other outbuilding shall be permitted in the easements reserved for utilities. A 30-day notice to the lot owner shall precede any temporary construction on a lot for utility or road use. After said construction, the surface of the lot shall be restored as close as feasible to its previous condition.

6. No Visible Business, Short-term Rental, or Nuisance to Others

No business, trade or related activity shall be carried on upon any lot so that it is visible or apparent to an outside observer or tends to alter the residential nature of the Property. This prohibition shall include, among other activities, the specific prohibition of short-term rental of any residence or lot which means rental for a term of less than six months in duration. Upon rental of a lot or residence, the lot owner shall promptly provide to the tenant/renter copies of the governing documents of the Association and to the Association a copy of the lease or a summary of the lease to include, at a minimum, the name(s) and phone number(s) of the tenants. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be an annoyance or nuisance to the neighborhood.

7. Certain Structures, Vehicles, Equipment Prohibited

No structure of a temporary character, mobile home, trailer, basement, shack, tent, garage, barn, or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently. No trucks larger than pickups or similar vehicles, construction equipment, or machinery of any kind shall be stored on any lot either temporarily or permanently other than in connection with necessary construction or maintenance work for said lot. Motor homes, camping trailers, boats, boat trailers, and other recreational vehicles must be screened from public view. Screening, if man made, must be approved by the Architectural Control Committee. If screening is to be by natural vegetation, then it must be sufficient to be effective to screen completely upon installation and be maintained to be an effective screen at all times.

8. Animals, Pets

With the exception of pets as stated in the following sentence, no animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot. Dogs, cats, and household pets may be kept provided they are not kept, bred or maintained for any commercial

purpose. Each pet must be under direct control of its owner at all times or be confined to the residence or lot of its owner.

9. Signs

No sign of any kind shall be displayed to public view on any lot except one sign of not more than five square feet advertising the property for sale or providing a builder's designation during construction. This does not exclude the use of well-designed name signs or plates of less than four square feet installed by a lot owner to identify the residence or the lot.

10. No Further Subdivision

No lot as now subdivided shall be re-subdivided into more than one residential building site.

11. Water Service

Water service is covered by a separate agreement and all lot owners within the Property are subject to the terms and conditions of this Water Service Agreement (W.S.A.). Each lot owner shall make the payments to MPHOA as stipulated in the "W.S.A."

12. Roads and Bathhouse

The MPHOA shall assess and collect fees upon all lots within the Property and contract for services and privileges for all lot owners for each of the following:

12.1 Roads. The MPHOA will negotiate a contract for grading of roads as needed. Snow removal will be performed on a call basis as needed for winter access. Costs of these services shall be determined by the Board of Directors of MPHOA and included in the annual MPHOA assessment.

12.2 Hot Springs Bathhouse/Pool. The MPHOA, by formal agreement recorded August 15, 1985, by and between MPHOA and the owner of the bathhouse/pool, agrees to bill lot owners an assessment of \$25.00 per year which allows the lot owners to use the bathhouse and pool. In this formal agreement, the bathhouse/pool owner agrees to use those assessments for pool improvements. MPHOA shall assess the lot owners this assessment, as it may be amended lawfully.



The use of the pool pass is limited to owners of record and members of their immediate families.

12.3 Water system maintenance expenses.

13. Litter and Trash

No trash, ashes, or other refuse may be thrown, placed, or dumped upon any vacant lot in the Property. No trash, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber, or other building materials shall be permitted to remain exposed on any lot so as to be visible to any neighboring lot or land parcel or road, except as is necessary during the period of construction.

14. Fences and Walls

No fence or wall or similar enclosure of any type or nature whatsoever shall be constructed, erected, placed, or maintained forward of the front building limit or set-back line on each lot, provided, however, that it is not the intention of this paragraph to exclude the use of evergreens or other shrubbery to landscape front yards. The Committee may, in its discretion, waive in whole or in part the restrictions in this paragraph as to fences, walls, and enclosures, provided such waiver must be in writing.

15. Duty to Complete Residence

Any residence constructed on a lot shall be completed within one year from the date construction commences unless failure to do so is caused by fire or an act of God or unless this paragraph is specifically waived by the Architectural Control Committee.

16. Trees

Each lot owner shall maintain the trees on the owner's lot in accordance with approved forestry practices for protection of the owner's trees and trees on adjoining lots.

17. Tanks, Heating and Cooling Equipment

No permanent elevated tanks of any kind shall be erected, placed, or permitted upon any part of the Property. Any permanent tanks to be used in connection with any residence constructed on any lot, including tanks for the storage of gas, oil, or water must be below ground unless otherwise provided in this paragraph. All types of refrigerating, cooling, or heating equipment must be concealed. Propane tanks may be

installed if enclosed by an approved fence upon written approval of the Architectural Control Committee. Visible alternative energy devices must have written approval by the Architectural Control Committee. Elevated public water supply tanks are permitted above ground only with written approval by the Architectural Control Committee.

18. Parking

Each lot owner shall construct and maintain a minimum of four parking spaces on the owner's lot which spaces must be suitable and adequate for parking of owner's vehicles and parking of the owner's guests' vehicles so that said vehicles when parked shall not obstruct or interfere with vehicular travel on any of the roadways in the Property.

19. MPHOA Assessments

Upon becoming record owner of a lot, all lot owners within the Property are members of MPHOA. Assessments shall be made by MPHOA in accordance with its governing documents, which shall include this Declaration and the articles of incorporation, bylaws, and rules and regulations of MPHOA. The MPHOA annual assessment shall be uniform for all improved lots and uniform for all unimproved lots. Previously subdivided half lots shall be assessed at one half the improved or unimproved rates. Except as the MPHOA assessment lien may have limited priority over a first mortgage or deed of trust as provided in CCIOA, the lien of any MPHOA assessment is subordinate only to the lien of a first mortgage or a first deed of trust. The lien of the MPHOA assessments shall be superior to any homestead or other exemption as is now or may hereafter be provided by Colorado or federal law. The acceptance of a deed to a lot in the Property shall constitute a waiver of such exemptions as against said MPHOA assessment lien. The MPHOA Board of Directors may adjust the annual assessments, with no more than a five-percent increase over the prior year's rate, in its sound discretion with reasonable notice to the owners regarding the budget and assessments to meet the budget. To increase annual assessments more than five percent over the prior year or to levy a special assessment shall require the approval of owners of a majority of the lots at a regular or special meeting of MPHOA, upon proper notice and in compliance with MPHOA governing documents and Colorado law, including, but not limited to CCIOA and the Colorado Revised Nonprofit Corporation Act. Each lot is entitled to one vote and each half lot is entitled to a half vote. All owners of

each lot and each half lot must sign any proxy or written ballot. Charitable and nonprofit organizations are not exempt from assessments.

20. If Assessments Are Not Paid

If an assessment is not paid on the date when due, then such an assessment shall become delinquent and shall, together with such late charge, interest, and cost of collection thereof, including attorney fees, thereupon become a continuing lien on the lot which shall bind the then lot owner, the owner's heirs, legal representatives, successors, and assigns. In addition to the lien rights, it shall be the personal obligation of the then owner to pay such assessment and such personal obligation shall continue even though the owner's interest in the lot shall be transferred. A notice of lien may be recorded with the Chaffee County Clerk and Recorder. If the assessment is not paid within 30 days after the due date, the assessment shall be subject to a late charge as determined from time to time by the Board of MPHOA, bear interest from the due date at the rate of 18 percent per annum, and MPHOA may bring legal action against the owner personally obligated to pay the same or foreclose the lien against the lot in a court foreclosure and there shall be added to the amount of such assessment all cost of collection incurred by MPHOA in foreclosing the lien or in collecting the personal judgment owed, including attorney fees.

21. Variance, No Waiver

Mount Princeton Homeowners Association, Inc. shall have the right to grant a reasonable variance or adjustment of the covenants, conditions, and restrictions in this Declaration to overcome practical difficulties, to accept pre-existing conditions, and to prevent unnecessary hardship arising by reason of the application of the restrictions contained herein. Such variance or adjustment shall be granted only when such grant shall not be materially detrimental or injurious to other property or improvements of the neighborhood. Any grant of variance shall not be deemed to be a waiver of any restriction, condition, or covenant contained herein. Failure by MPHOA or by any owner to enforce any of the provisions herein contained shall in no event be deemed a waiver of the right to do so thereafter. The MPHOA Board of Directors is authorized to grant said variances or adjustments only by a three-quarters or greater majority of the Board.

## 22. Interpretation

In the event any one or more of the provisions, conditions, restrictions, or covenants contained herein shall be held by any court of competent jurisdiction to be null and void, all remaining provisions, conditions, restrictions, and covenants herein set forth shall remain in full force and effect. The paragraph headings in this document are for convenient reference only and do not limit or expand the meaning of the text within the paragraphs. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

## 23. Enforcement

In addition to the provisions above for collection of assessments, in the event of a violation of any provision contained herein, MPHOA or any other lot owner may apply to any court having jurisdiction over the Property or persons for an injunction or proper relief to enforce this Declaration. In addition to any damages or other remedy, the court shall award the prevailing party all reasonable costs for the action, including court costs and attorney fees. No delay on the part of MPHOA or any other person in the exercising of any right, power, or remedy contained herein shall be construed as a waiver thereof or an acquiescence therein. No legal action shall be commenced or maintained to enforce the terms of any building restriction contained in this Declaration or the MPHOA bylaws, articles, or rules and regulations or to compel the removal of any building or improvement because of the violation of the terms of any such building restriction unless the action is commenced (suit actually filed in court) within one year from the date from which the person commencing the action knew or in the exercise of reasonable diligence should have known of the violation for which the action is sought to be brought or maintained. The rights and remedies of all persons hereunder shall be cumulative, and any lot owner may use any and all of said rights without in any way affecting the ability of MPHOA or any other property owner to use or rely upon or enforce any other right. MPHOA shall have all the duties, rights, and powers under Colorado law to enjoin violations or seek damages or do both from any person violating this Declaration. In addition, after giving an alleged violator notice and an opportunity to be heard in accordance with its rules, MPHOA, through its Board, shall have the right to

assess a fine against any person violating the governing documents for the Property or MPHOA. Said fine shall become a lien against the lot owned by the violator, or the lot to which the violator is related, enforceable in the same manner as an assessment and the assessment lien provided elsewhere in this Declaration.

24. Special Owner Approval

Any action by the MPHOA which could affect the lot owners' rights to use roads or easements (i.e., mortgage, encumbrance, conveyance, or dedication of the roads or easements, or annexation, merger, or consolidation of the association) must have the assent of owners of not less than two-thirds of the lots in the Property.

25. MPHOA Assets on Dissolution

On dissolution of the MPHOA, its assets must be transferred or conveyed to another entity, organization, or agency having similar purposes. MPHOA assets shall not be distributed among the lot owners.

26. Insurance

Lot owners are not required to maintain hazard insurance on residences and MPHOA mandatory assessments shall not be used to pay premiums on such insurance. Participation in any group or blanket insurance program is voluntary.

27. No MPHOA Water or Sewer Plant

27.1 The MPHOA will not own or operate a water or sewage treatment plant. If a plant is to be owned by the users, a separate organization with independent assets will be formed. If only a master meter system is used, the fees collected by the MPHOA for this purpose will not be commingled with other funds.

27.2 In order for MPHOA owners, who have been connected to the central water system, to have drinking water which meets state and federal mandated water quality standards, it has been determined that each and every household shall have installed one State approved point-of use (POU) treatment approach. This entails the installation of a Reverse Osmosis (RO) unit at the kitchen sink of every residence. (If there is an automatic ice-making machine, that water supply as well must come through

the RO unit. The installation charge to allow water input to the icemaker must be paid by the lot owner.)

27.3 Lot owners must provide adequate space for this installation. Lot owners are responsible for the costs of this work as well as the costs for replacement filters and RO membrane replacements. Each household must also make arrangements to provide timely access to the dwelling for installation, maintenance, and State-required monitoring by the professional contracted to do this work.

27.4 MPHOA will provide routine monitoring (for example, bacteria testing 12 times per year and fluoride testing four times per year) and record keeping. A complete list of responsibilities and contact numbers in regard to the ongoing care of these units shall be provided to each lot owner at the time of installation. Lot owners shall report any deficiencies and/or problems. MPHOA shall not be responsible for leaks, water damage, or any costs, including but not limited to testing associated with a deficiency or malfunction of a RO unit.

#### 28. MPHOA Books and Records

The books and records of the MPHOA shall be available for inspection by the members at reasonable times upon reasonable notice to the MPHOA.

#### 29. Binding Effect, Amendment

The provisions contained herein are for the benefit of each and every lot in the Property, and shall inure to the benefit of and be binding upon current lot owners and their respective heirs, legal representatives, successors in title, successors, and assigns. Each purchaser of a lot, by acceptance of record title to a lot, shall be subject to each and every restriction, condition, covenant, provision, and agreement contained herein and to the jurisdiction, right, and powers of MPHOA. By such acceptance, each owner, for the owner and the owner's heirs, legal representatives, grantees, invitees, guests, tenants, successors, and assigns, covenants and agrees to keep, observe, comply with and perform said restrictions, covenants, conditions, provisions, and agreements contained herein. All provisions contained herein shall touch and concern the land and shall constitute covenants running with the land as to all lots within the Property. This Declaration shall be amended only by a written document executed by owners of no

less than two-thirds of the lots within the Property and recorded in the office the Clerk and Recorder of Chaffee County, Colorado.

30. Roads, Water, Pool Agreement

Any proposed modification of the agreement between MPHOA, Dennis L. Osborn, and Mt. Princeton Hot Springs, Inc., dated July 26, 1985, recorded in Book 473 at Pages 686-692 in the records of Chaffee County, Colorado, respecting roads, water distribution system, water supply, repair of water supply facilities, pool, conveyances, and assignments, shall become effective only upon written approval by owners of no less than three-quarters of the lots within the Property.

31. Approval

This 2010 Amended and Restated Declaration has been approved by the owners of no less than two-thirds of the lots within the Property, as evidenced by the attached signature pages and shall be effective when duly recorded in the office of the Clerk and Recorder of Chaffee County, Colorado.

Signature: *Martha L Eshelman*

Date: June, 22, 2010