

SECOND AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS OF OVERLOOK AT CHERRY CREEK

RECITALS:

- A. The Declaration of Covenants, Conditions, and Restrictions of Overlook at Cherry Creek were recorded in the office of the Arapahoe County Clerk and Recorder on October 9, 2001 at Reception Number B1172388.
- B. It is the desire of the Owners of at least 67% of the Lots within the Project to amend the Declaration to change the restrictions on the use and leasing of the Lots and Dwelling Units.
- C. Pursuant to Article XII, Section 12.3 of the Declaration of Covenants, Conditions and Restrictions of Overlook at Cherry Creek the Owners may amend the covenants and restrictions of the Declaration at any time by an instrument signed by not less than sixty-seven percent of the Owners of Lots recorded with the Clerk and Recorder of Arapahoe County, Colorado.
- D. Amendments may be executed by counterparts, provided that such recorded document shall also contain a certification of the Secretary of the Association that all counterparts, as executed, are part of the whole.

ACTION:

As amended by this Amendment, the Declaration of Covenants, Conditions and Restrictions of Overlook at Cherry Creek is referred to as the "Declaration".

Capitalized terms in this Amendment shall have the same meaning as set forth in the Declaration of Covenants, Conditions, and Restrictions of Overlook at Cherry Creek or as otherwise defined below.

Sections 9.3 and 9.7 are superseded and the Declaration is amended so that Sections 9.3 and 9.7 of Article IX read as follows:

Section 9.3. Business and Occupancy Use Restrictions: Subject to the Special Declarant Rights reserved under Article V, the Board shall have the power to promulgate and enforce architectural guidelines and Rules regarding business and occupancy use restrictions, provided, however, that business, trade, professional or commercial Improvement or building devoted to business, trade, professional, commercial or public enterprises may be erected or used on any Lot only if the existence or operation of such activity or use is not apparent or detectable by sight, sound, or smell from the exterior of the Lot, does not materially increase traffic or increase the insurance obligation or premium of the Association, and does not violate zoning resolutions.

No house within the Overlook community shall be used for any purpose other than as allowed by the Aurora, Colorado zoning codes as amended from time to time.

Each house shall be restricted to use as a single family residence. The term "single family" is further defined as one of the following:

- (1) A group of persons related by blood, marriage, or adoption, living together as a single housekeeping unit and normally consisting of two parents and their children.
- (2) Persons living together in a relationship and for the purpose of guardian, ward, or foster family or receiving home care who may not necessarily be related by blood or marriage to the head of the household, but live together as a single housekeeping unit but shall not include group or correctional homes.
- (3) Living arrangements wherein one person is providing care to another occupant who is not related by blood or marriage, provided they neither maintain separate cooking or laundry facilities nor advertise the premises for rent.
- (4) A group of not more than four unrelated individuals living as a single housekeeping unit.

Family shall not include any group for which any members is required to register as a sex offender pursuant to Section 18-3-412.5 C.R.S. or a group living arrangement as a result of criminal offenses.

Section 9.7 Restrictions on Leasing: Upon leasing a Rentable Unit, the Qualified Owner shall advise the Association of the name and phone number of the tenant, and whether the tenant has the right to use the Common Elements. All leases shall include a provision that the lease is subject to the terms of the Documents. Failure of the tenant to comply with the terms of the Documents shall constitute a default enforceable by either the Association, the Owner, or by both. The tenant will recognize and attorn to the Association as landlord, solely for the purpose of having the power to enforce a violation of the provisions of the Documents against the tenant, provided the Association gives the Owner of the Rentable Unit notice of its intent to so enforce and a reasonable opportunity to cure the violation directly, prior to the commencement of an enforcement action.

The following terms shall be defined as follows:

- (1) Qualified Owner shall mean and refer to any Owner who has owned and occupied the Rentable Unit for a period of 24 consecutive months prior to leasing the Dwelling Unit.

(2) Rentable Unit shall mean and refer to a Dwelling Unit within the Property owned by a Qualified Owner.

Qualified Owners may lease their Rentable Unit subject to the following provisions:

Any Qualified Owner leasing his/her Rentable Unit shall provide the Board with a copy of the current lease agreement.

Rentable Units shall be leased only in their entirety, and no fraction or portion of a Dwelling Unit may be leased. All leases shall be in writing and delivered to the Association for verification of the requirements contained herein. There shall be no subleasing of Rentable Units or assignment of leases without prior written Board approval. All leases must be for an initial term of not less than 12 months, except with written Board approval, which shall not be unreasonably withheld in cases of undue hardship. Within 10 days after executing a lease agreement for the lease of a Rentable Unit, the Qualified Owner shall provide the Board with a copy of the lease, the name of the tenant, all other people occupying the unit, and whether the tenant has the right to use the Common Elements. The Qualified Owner may redact financial terms of the lease. The Qualified Owner must provide the tenant copies of the Documents, as that term is defined in Article I, Section 1.19 of the Declaration.

Each Qualified Owner covenants and agrees that any lease of a Rentable Unit shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant, and the tenant, by occupancy of the Rentable Unit, agrees to the applicability of this covenant and incorporation of the following language into the lease.

The tenant shall comply with all provisions of the Documents adopted pursuant thereto and shall control the conduct of all other occupants and guests of the Rentable Unit in order to ensure such compliance. The Qualified Owner shall cause all occupants of his/her Rentable Unit to comply with the Documents adopted pursuant thereto, and shall be responsible for all violations by such occupants, notwithstanding the fact that such occupants of the Rentable Unit are fully liable and may be sanctioned for any such violation. If the tenant, or a person living with the tenant, violates the Documents for which a fine is imposed, notice of the violation shall be given to the Qualified Owner and the tenant. A fine may be assessed against the Qualified Owner after both parties are provided notice and an opportunity for a hearing before the Board. Unpaid fines shall constitute a lien against the Rentable Unit.

Any violation of the Documents by the tenant, any occupant, or any guest of the tenant, is deemed to be in default under the terms of the lease and authorizes the Qualified Owner to terminate the lease without liability and to evict the lessee in accordance with Colorado law. If the Board requests that the Qualified Owner evict the tenant based on the terms of this Declaration and the owner fails to commence such action within 30 days of the date of the Board's notice, the Board may commence eviction proceedings.

Upon failure by the Qualified Owner to comply with the Board's request to evict the tenant, the Qualified Owner hereby delegates and assigns to the Association the power and authority to evict the tenant as attorney-in-fact on behalf of and for the benefit of the Qualified Owner for breaches resulting from the violation of the Documents. If the Association evicts the tenant, any cost, including but not limited to reasonably attorney fees actually incurred and court costs associated with the eviction shall be the personal obligation of the Qualified Owner and a lien against the Rentable Unit.

Certification of the Secretary of the Association

I, _____, the Secretary of Overlook at Cherry Creek Homeowners Association, Inc. certify that the executed counterparts are part of the whole Second Amendment to the Declaration of Covenants, Conditions, and Restrictions of Overlook at Cherry Creek.

Dated: _____, _____,
as Secretary of Overlook at Cherry Creek Homeowners Association, Inc.

**COUNTERPART APPROVAL OF AMENDMENT OF SECTIONS 9.3 AND 9.7 OF
ARTICLE IX OF THE DECLARATION OF COVENANTS, CONDITIONS, AND
RESTRICTIONS OF OVERLOOK AT CHERRY CREEK**

_____ and _____ (Owner(s)) ,
as record owner(s) of real estate subject to the Declaration of Covenants, Conditions,
and Restrictions of Overlook at Cherry Creek and any and all Supplements,
Annexations, and Amendments thereto ("Declaration") generally known by the address
of: _____, Aurora,
Colorado 80015 do for myself (ourselves), my (our) heirs, successors, and assigns in
interest in the property approve the Amendment of the Declaration of Covenants,
Conditions, and Restrictions of Overlook at Cherry Creek. This approval shall bind and
inure to the benefit of the undersigned, my (our) heirs, successors, and assigns.

Dated _____, 201__

Signature

Printed Name

Signature

Printed Name

STATE OF _____)
COUNTY OF _____) ss.

Acknowledged before me this ____ day of _____, 201_, by

My commission expires:

(Seal)

Notary Public