

DECLARATION OF PROTECTIVE COVENANTS  
FOR CHERRY HILLS EAST-THIRD FILING,  
ARAPAHOE COUNTY, COLORADO

KNOW ALL MEN BY THESE PRESENTS: THAT

WHEREAS, the undersigned, CAMPBELL DEVELOPMENT, INC., a Colorado corporation, (hereinafter referred to as the "Company") is the owner of all of that certain Subdivision known as Cherry Hills East-Third Filing, Arapahoe County, Colorado, according to the Plat recorded on June 7, 1966 as Reception No. 1014101 of the records in the office of the Clerk and Recorder of said Arapahoe County (hereinafter sometimes referred to as the "Subdivision"); and

WHEREAS, the Company is desirous of maintaining said Subdivision as a residential district of the highest standard in which each owner of a Site (as hereinafter defined) in said Subdivision shall enjoy maximum livability and freedom with respect to the use of said Site, subject only to due regard to the equal rights of the other owners of Sites in said Subdivision;

NOW, THEREFORE, in consideration of the premises, the Company, for itself, its successors and assigns, and for itself and its grantees, does hereby impose upon said Subdivision the following reservations, conditions, stipulations and protective covenants, all of which shall be deemed to run with the land and inure to the benefit of and be binding upon the owner at any time of any Site in said Subdivision and such owner's heirs, legal representatives, successors or assigns:

DEFINITION

As used in these protective covenants, the term "Building Site" (hereinafter referred to as "Site") shall mean any lot (which term shall exclude an outlier) shown on the recorded Plat of Cherry Hills East-Third Filing.

RESERVATIONS

1. The Company reserves unto itself and its successors and assigns, all right, title and interest in and to Outlots A and G as shown on said Plat of Cherry Hills East-Third Filing, together with the exclusive right to beautify with plantings and otherwise care for said outliers and to erect and maintain thereon such decorative or ornamental improvements for the benefit of said entire Subdivision as the Company or its successors or assigns may deem desirable.

2. The Company further reserves unto itself and its successors and assigns, easements as presently located and existing with respect to the following lots in said Subdivision for the

continued use, maintenance, lighting, repair and replacement of the existing stone lighting piers located on such lots:

Lots 1 and 7 in Block 3;

Lots 1, 3, 9, 18, 21, 25 and 27 in Block 4;

Lots 1 and 5 in Block 5;

Lots 1, 6 and 14 in Block 6; and

Lots 1, 2, 7, 11, 12 and 18 in Block 7.

3. Easements and rights-of-way as shown on the Plat of said Subdivision (other than and subject to the six foot easements for gas mains granted and shown on said Plat) are also hereby reserved unto the Company and its successors and assigns for poles, wires, pipes and conduits and heating, lighting, electricity, gas, telephone, sewer, drainage, water or any other utility service purposes, together with the right of ingress and egress for the purpose of further construction, maintenance and repair. To the extent reasonably practicable, all utilities shall be placed underground in such easement areas.

4. An easement or right-of-way for ingress and egress to and from Lots 11 and 12 in Block 4 as shown on the Plat of said Subdivision is hereby reserved to the Company and its successors and assigns. An easement or right-of-way for ingress and egress to and from Lots 15 and 16 in Block 4 as shown on the Plat of said Subdivision is further hereby reserved to the Company and its successors and assigns. An easement or right-of-way for ingress and egress to and from Lots 23 and 24 in Block 4 as shown on the Plat of said Subdivision is also hereby reserved to the Company and its successors and assigns.

#### GENERAL CONDITIONS, STIPULATIONS AND PROTECTIVE COVENANTS

The following general conditions, stipulations and protective covenants are hereby imposed upon all Sites in said Subdivision:

1. All Sites in said Subdivision shall be for residential purposes only and no building shall be erected or placed on any Site other than a private, single family dwelling, together with a private garage and such outbuildings as are customarily appurtenant to such a dwelling. An "outbuilding" as the word is used herein is intended to mean an enclosed covered structure not directly attached to the dwelling which it serves.

2. No trade, business or activity shall be conducted, carried on or practiced on any Site or in a residence

or dwelling constructed thereon and the owner of said Site shall not suffer or permit any residence or dwelling erected thereon to be used or employed for any purpose that will constitute a nuisance in law or that will detract from the residential value of said Site or the other Sites in said Subdivision.

3. No cows, pigs, horses, chickens, poultry, rabbits or other livestock shall be raised, grown, bred, maintained or cared for upon any Site; provided, however, that nothing herein contained shall prevent any owner of any Site from maintaining, keeping and caring for domestic, household pets not for commercial purposes; and provided further, however, that nothing herein contained shall prevent any owner of Lot 18 in Block 7 or Lot 19 in said Block 7 as shown on the Plat of said Subdivision from maintaining a stable for horses on either of said lots and keeping and caring for horses but not for commercial purposes.

4. These general conditions, stipulations and protective covenants, as indicated hereinabove, are to run with the land and shall be binding on all parties and all persons claiming under them until February 1, 1986 at which time said covenants shall automatically be extended for successive periods of ten years unless an instrument is recorded, signed by the owners of a majority in area of the lands, excluding streets and cutlots, shown on the Plat of Cherry Hills East-Third Filing agreeing to change said covenants in whole or in part.

5. If any grantee or his heirs, legal representatives, successors or assigns shall violate any of these general conditions, stipulations and protective covenants, any other owner of real property in said Subdivision may lawfully prosecute any proceeding in law or in equity against such person or persons, either to prevent him or them from so doing, or to restrain any violation hereof by perpetual injunction and to recover such damages as may ensue by virtue of such violation.

6. Invalidity of any one or more of these general conditions, stipulations and protective covenants by judgment or court order shall in no way affect any of the other of said covenants which shall remain in full force and effect.

#### SPECIAL CONDITIONS, STIPULATIONS AND PROTECTIVE COVENANTS

The following special conditions, stipulations and protective covenants are hereby imposed upon all Sites in said Subdivision:

1. No building, fence, wall or other structure shall be commenced, erected or maintained until the plans and specifications showing the nature, kind, shape, height, materials,

floor plans, exterior color scheme and location of such structure and the grading plan and finished grade elevations of the Site to be built upon shall have been submitted to and approved by the Architectural Control Committee hereinafter described and a copy thereof as finally approved lodged permanently with said Committee. No landscaping on any Site shall be done until a landscaping plan shall have been submitted to and approved by such Committee. Such Committee shall have the right to refuse to approve any such plans or specifications or grading or landscaping plans which are not suitable or desirable in the Committee's opinion, for aesthetic or other reasons, and in so passing upon such plans, specifications and grading and landscaping plans, the Committee shall have the right to take into consideration the suitability of the proposed building or other structure and of the materials of which it is to be built, to the Site upon which it is proposed to erect the same, the harmony thereof with the surroundings, the topography of the land and the effect of the building or other structure as planned on the outlook from the adjacent or neighboring property. All subsequent additions to or changes or alterations in any building, fence, wall or other structure, including exterior color scheme and all subsequent additions to or changes or alterations in any grading or landscaping plans shall be subject to the prior approval of the Architectural Control Committee. All buildings in the Subdivision shall be one-story buildings having a maximum roof elevation of eighteen feet above such grade line as the Architectural Control Committee may approve for the particular Site involved, provided, however, that the Architectural Control Committee may approve either split-level or two-story plans. The Architectural Control Committee shall have sole discretion in determining what is or is not a split-level residence.

No plans shall be approved nor shall any construction be commenced on any building until soil tests have been made by a reputable qualified Soil Engineer or Company on the Site on which the building is to be erected and the proper footings and foundation to be used are designed by a professional licensed Engineer and said design filed with the Architectural Control Committee.

All downspouts from gutters must have an extension or a splash block at the bottom carried out from the wall of the residence at least five feet, said extensions or splash blocks to be installed simultaneously with the downspouts.

2. At any time that plans and specifications, grading plans and location have been approved, then the construction of the same shall be carried out forthwith and completion effected within twelve months from the date construction is commenced, provided, however, that the time limit on completion of construction may be extended by the Architectural Control Committee

if unusual circumstances or delay beyond the control of the grantee occur.

3. No dwelling shall be permitted or erected on any Site with a fully enclosed ground floor area devoted to living purposes, exclusive of porches, patios, terraces, garages and other out-buildings of less than 2200 square feet for one-story dwellings or 1600 square feet for two-story or split-level dwellings. A garage shall be required and shall be of a size at least large enough to enclose two passenger automobiles, be at least twenty feet deep and twenty-five feet wide and contain a minimum of 500 square feet. Any garage shall be attached to and be a part of the single family dwelling erected or placed on any Site. Garage doors shall not open toward the street except with the consent of the Architectural Control Committee.

No outbuilding shall exceed the dwelling to which it is appurtenant in height or number of stories. Every outbuilding shall correspond in style and architecture to the dwelling to which it is appurtenant and shall be of the same materials as said dwelling.

Buildings erected on each Site shall have a front setback of not less than twenty-five feet and a rear setback of at least twenty-five feet and sideline setbacks of at least fifteen feet. All setback distances are to be measured from property lines. When two or more adjoining Sites in common ownership shall be combined into a single Site for one dwelling, these setbacks shall apply only to the perimeter of the combined Site and not to the property lines which formerly divided the combined Site into separate Sites. If any dispute arises as to what constitutes a front, rear or sideline, the decision of the Architectural Control Committee shall be final.

4. No well of any kind or for any purpose shall be commenced or drilled until the proposal of the well and specifications shall have been submitted to and approved by the Architectural Control Committee and a copy thereof as finally approved lodged permanently with said Committee.

5. No radio, short wave or television antenna shall extend beyond the highest roof line of the individual residence unless approved by the Architectural Control Committee.

6. Each residence must contain a garbage disposal unit and each Site upon which a residence is constructed must have a sunken can and trash container (the top of which shall be at ground level) and which such container shall be located in close proximity to and be readily accessible from either a public street or private driveway. No such container shall be permitted above ground level in said Subdivision. Only indoor incinerators shall be permitted in said Subdivision.

7. No elevated tanks of any kind shall be erected, placed or permitted upon any Site. Any tank for use in connection with any residence on any Site, including any tank for the storage of gas, fuel oil, gasoline or oil, must be buried or kept screened by adequate planting to conceal the same from the view of neighboring Sites or from the street.

8. All clotheslines, equipment, service yards, wood piles or storage piles shall be kept screened by adequate planting so as to conceal the same from the view of neighboring Sites or from the street.

9. No temporary house, trailer, tent or other out-building shall be placed or erected on any Site and no dwelling shall be occupied in any manner at any time prior to completion.

10. The construction or maintenance of billboards, "For Rent" or "For Sale" signs larger than six square feet, poster-boards or advertising structures of any kind, except those belonging to the Company or its duly authorized agent, on any Site in said Subdivision is prohibited.

11. All Sites in said Subdivision shall be subject to and bound by Public Service Company of Colorado 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 said Subdivision, together with rates, rules and regulations therein provided and subject to all future amendments and changes thereto. The owner or owners of a Site in said Subdivision shall pay as billed a portion of the cost of public street lighting in said Subdivision according to Public Service Company of Colorado rates, rules and regulations, including future amendments and changes on file with the Public Utilities Commission of the State of Colorado.

12. Each owner in said Subdivision covenants and agrees to contribute and pay, upon demand, to the Company, or its successors or assigns, such owner's prorata share of such sum as the Company, or its successors or assigns, from time to time may pay or may be required to pay for the cost of the care, maintenance and repair of the decorative or ornamental improvements, plantings, landscaping and other beautification features which the Company either has located or may locate on Outlots D and G, together with the cost of supplying water and electricity thereto and therefor, as well as the cost of effecting the collection of all rubbish, trash or garbage which cannot be disposed of by means of the garbage disposal or indoor incinerator required to be installed hereunder, provided, however, that the Company, or its successors or assigns, shall always conduct such operations under this covenant on a strictly nonprofit basis. This covenant, just as the other covenants contained herein, shall constitute a covenant running with the land but shall not constitute a lien, charge or encumbrance of any kind or nature upon the land. Enforcement of this covenant shall rest solely with the Company and its successors and assigns and the Company, or its successors or assigns, may lawfully prosecute any proceedings in law against such person or persons who violate this covenant and may recover such damages as may ensue because of such violation, including costs of suit and attorney fees. The Company, and its successors and assigns, covenants that when all

of the S½SE¼ of Section 6, Township 3 South, Range 67 West of 6th P.M., Arapahoe County, Colorado, has been subdivided and the subdivided sites therein sold, or at such earlier time as the Company may elect so to do, then the Company, or its successors or assigns, will convey Outlots D and G and the reserved easements with respect to the stone lighting piers enumerated in paragraph 2 hereinabove under "Reservations" and transfer the operations under and the enforcement with respect to the covenant contained in this paragraph to a mutual improvement and maintenance association which will be organized among owners of Sites in said S½SE¼ of said Section 6, either formally or informally; it being understood that any such association shall be operated and conducted on a strictly cooperative and nonprofit basis.

13. Enforcement of paragraphs 1 to 10, both inclusive, of these Special Conditions, Stipulations and Protective Covenants shall rest solely with the Architectural Control Committee and the right to amend, alter, revoke or modify said paragraphs 1 to 10 of these Special Conditions, Stipulations and Protective Covenants by executing, acknowledging and recording an appropriate instrument in writing for such purpose, is hereby expressly granted to the Architectural Control Committee as well as the right to approve any one or more sets of plans, specifications, grading and landscaping plans; provided, however, that nothing herein contained shall be construed as giving to the Architectural Control Committee the right to amend, alter, revoke or modify the General Conditions, Stipulations and Protective Covenants imposed in accordance with the plan of general development.

14. All of these Special Conditions, Stipulations and Protective Covenants shall bind all grantees, their heirs, legal representatives, successors or assigns and all persons claiming under them until February 1, 1976 at which time said covenants shall automatically be extended for successive periods of ten years unless an instrument is recorded signed by the owners of a majority in area of the lands, excluding streets and outlots, shown on the Plat of Cherry Hills East-Third Filing, agreeing to change said covenants in whole or in part.

15. The Architectural Control Committee may lawfully prosecute any proceedings in law or in equity against such person or persons who may violate any covenant contained in paragraphs 1 to 10, both inclusive, of these Special Conditions, Stipulations or Protective Covenants in any particular and may restrain such violation by perpetual injunction and may recover such damages as may ensue because of such violation including costs of suit and attorney fees.

16. Invalidity of any one or any part of any one of these Special Conditions, Stipulations and Protective Covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

ARCHITECTURAL CONTROL COMMITTEE

The Architectural Control Committee shall be composed originally of three members, consisting of a representative of the Company selected by the President of the Company, a land planner selected by the President of the Company and an architect selected by the President of the Company. Initially, E. J. Campbell shall serve as the representative of the Company, Robert M. O'Donnell as the land planner and Jerome K. Nagel as the architect. Such representative of the Company, land planner or architect may be removed at any time by the President of the Company and in the event of such removal or the death, incapacity or resignation of any one of such three members, the President of the Company shall have full authority to designate a successor who, in like manner, may be removed at any time by the President of the Company. The President of the Company may designate a person to serve on the Committee during the temporary absence from the State of Colorado of any one of such three members. The removal of members, the appointment of successor members and the designation of such temporary members of such Committee shall all be made by the President of the Company by the execution, acknowledgment and recording of an appropriate instrument in writing for any such purpose. Such representative of the Company shall not be entitled to any compensation for services performed pursuant to this Declaration of Protective Covenants. The land planner member and the architect member of the Committee shall, however, each be entitled to charge a sum not exceeding \$50.00 for each set of plans and specifications submitted to the Company for approval. Such charges shall be paid by the person or persons submitting such plans and specifications for approval and shall compensate such land planner and such architect for their services on such Committee. A quorum at any meeting of such Committee shall consist of all three of the members thereof and any decision shall be reached by the affirmative vote of a majority of such members. Whenever reference is made to the President of the Company in this paragraph, such reference shall be to the present occupant of such office as well as any successor occupant thereof. When all of the Sites in said Subdivision have been sold then the owners of a majority in area of the lands, excluding streets and outlots shown on the Plat of Cherry Hills East-Third Filing shall have the power through a duly recorded instrument to change the membership of the Architectural Control Committee.

The Committee's approval or disapproval, as required by any provision of this Declaration of Protective Covenants, shall be in writing. In the event the Committee fails to approve or disapprove within thirty days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and there will be deemed to have been full compliance with the related covenants.

EXCEPTIONS

Notwithstanding anything contained herein to the contrary, there shall be excepted from the operation of both the above "General Conditions, Stipulations and Protective Covenants" and the above "Special Conditions, Stipulations and Protective Covenants" any playground, swimming pool, bathhouse or other community recreational facility. Notwithstanding anything contained herein to the contrary, it is further understood that the

owner of any Site in said Subdivision may construct a private swimming pool provided that said swimming pool shall use circulating water and provided further that the prior consent of the Architectural Control Committee to the construction of such private swimming pool is first had and obtained.

IN WITNESS WHEREOF, CAMPBELL DEVELOPMENT, INC. has caused its corporate name to be hereunto subscribed by its President and its corporate seal to be hereunto affixed, attested by its Secretary as of the first day of February, 1967.

CAMPBELL DEVELOPMENT, INC.

(CORPORATE SEAL)

ATTEST:

By

President

Richard E. Walther  
Asst. Secretary

STATE OF MISSOURI )  
 ) ss.  
COUNTY OF JACKSON )

The foregoing instrument was acknowledged before me this 1st day of February, 1967, by M.C. Sperry Assistant as President and Richard E. Walther as Secretary of CAMPBELL DEVELOPMENT, INC., a Colorado corporation.

WITNESS my hand and notarial seal.

My Commission Expires Dec. 21, 1969

My commission expires

Notary Public

(Notarial Seal)

#### RATIFICATION

As the holder of that certain Deed of Trust recorded on February 19, 1964 in Book 1497 at Page 509 of the records in the office of the Clerk and Recorder of Arapahoe County, Colorado, the undersigned McPike, Inc., a Missouri corporation, hereby fully ratifies, confirms and approves the within and foregoing Declaration of Protective Covenants.

EXECUTED as of the first day of February, 1967.

McPIKE, INC.

By

President

ATTEST:

Richard E. Walther  
Assistant Secretary

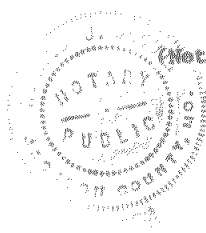
BOOK 1700 PAGE 400

STATE OF MISSOURI )  
COUNTY OF JACKSON ) ss.

The foregoing instrument was acknowledged before me  
this 1st day of February, 1967 by M.C. Sperry Assistant  
as President and Richard E. Walther as Secretary of  
McPike, Inc., a Missouri corporation.

WITNESS my hand and notarial seal.

My commission expires My Commission Expires Dec. 21, 1969



(Notarial Seal)

Paul H. Smith  
Notary Public