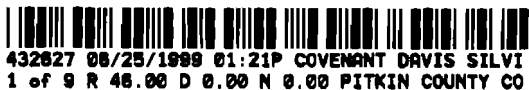


**FIRST AMENDMENT OF PROTECTIVE COVENANTS
FOR OH-BE-JOYFUL ACRES SUBDIVISION**

THIS FIRST AMENDMENT OF PROTECTIVE COVENANTS FOR OH-BE-JOYFUL ACRES SUBDIVISION is made and entered into pursuant to Paragraph 4 of Article XV of the Protective Covenants for Oh-Be-Joyful Acres Subdivision (hereinafter "Covenants"), recorded in Book 631 at Page 568 as Reception No. 327002 in the Office of the Clerk and Recorder of Pitkin County, Colorado. It is the intention of the undersigned property owners, as Members of the Oh-Be-Joyful Acres Home Owners Association, Inc. (hereinafter "Association") to seek amendment of the Covenants, which may be amended by a vote of sixty-six and 66/100 percent (66.66%) of the votes entitled to be cast by the Members of the Association. Pursuant to Paragraph 5. of Article XV of the Covenants, this First Amendment of Protective Covenants for Oh-Be-Joyful Acres Subdivision is executed with the consent of the Pitkin County Board of Commissioners.

The purpose of this First Amendment of Protective Covenants for Oh-Be-Joyful Acres Subdivision is to amend the following provisions:

1. Article I (PURPOSE OF COVENANTS - GENERAL REQUIREMENTS - APPLICATION) of the Covenants, which concerns the purpose of the Covenants, and a definition of the property to which the Covenants shall apply;
2. Paragraph 10. of Article II (AREA DESIGNATIONS - Subdivision) of the Covenants, which provides definitions of area designations within the Oh-Be-Joyful Acres Subdivision;
3. Article V (BUILDING SITES) of the Covenants, which concerns the designation of building areas for dwelling units, accessory buildings, accessory structures, and sewage disposal systems within the Oh-Be-Joyful Acres Subdivision;
4. Paragraph 1. of Article IX (GENERAL RESTRICTIONS - No Further Subdivision) of the Covenants, which addresses further subdivision and lot line adjustments within the Oh-Be-Joyful Acres Subdivision;
5. Paragraph 2. of Article IX (GENERAL RESTRICTIONS - Dogs) of the Covenants, which concerns the limitation of dogs within the Oh-Be-Joyful Acres Subdivision;
6. Paragraph 4. of Article IX (GENERAL RESTRICTIONS - Sewage Disposal Systems) of the Covenants, which concerns the sewage disposal systems within the Oh-Be-Joyful Acres Subdivision;



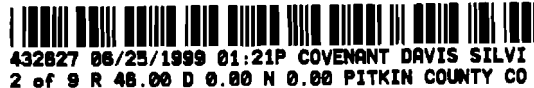
7. Paragraph 10. of Article IX (GENERAL RESTRICTIONS - Resolution of Board of County Commissioners - Subdivision Improvements Agreement) of the Covenants, which identifies appropriate subdivision approval documents to which the Oh-Be-Joyful Acres Subdivision must adhere;
8. Paragraph 5. of Article X (RESTRICTIONS ON LOTS -Trees and Landscaping) of the Covenants, which limits the disturbance to natural vegetation within the Oh-Be-Joyful Acres Subdivision;
9. Paragraph 6. of Article X (RESTRICTIONS ON LOTS - Used or Temporary Structures) of the Covenants, which limits the placement of certain structures on Oh-Be-Joyful Acres Subdivision lots.
10. Paragraph 7. of Article X (RESTRICTIONS ON LOTS - Fences) of the Covenants, which limits the placement and types of fences on Oh-Be-Joyful Acres Subdivision lots.
11. Paragraphs 1. and 5. of Article XV (GENERAL PROVISIONS) of the Protective Covenants, which address the benefits of the Covenants and Pitkin County requirements.

Article I of the Protective Covenants for Oh-Be-Joyful Acres Subdivision is modified and amended to read as follows:

These Protective Covenants ("Covenants") shall govern and be applicable to that certain real property situated in Pitkin County, Colorado, known as the Oh-Be-Joyful Acres Subdivision (the "Subdivision") as defined and described in the Plats of the Oh-Be-Joyful Acres Subdivision recorded in Plat Book 25 at Pages 9-11, and in Plat Book 50 at Pages 27-33, of the records of the Clerk and Recorder of Pitkin County, Colorado (collectively "the Plat"). The Oh-Be-Joyful Home Owners Association, Inc. desires to preserve the intention of Robert J. Freeark, M.D. and Ruth N. Freeark (hereinafter referred to, collectively, as the "Declarant"), that the lands within the Subdivision be developed and maintained as a highly desirable, scenic residential subdivision. It is the purpose of these Covenants to establish the appropriate mechanism to assure that the present beauty, views and setting within the Subdivision shall always be protected as much as possible in connection with the uses and structures permitted by this instrument. These Covenants shall be a burden on and run with all the lands within the Subdivision.

Paragraph 10. of Article II of the Protective Covenants for Oh-Be-Joyful Acres Subdivision is modified and amended to read as follows:

10. Subdivision. "Subdivision" as used in these covenants shall mean all of the lands described on and governed by the Plat recorded in Plat Book 25 at Pages 9-11, and in Plat Book 50 at Pages 27-33, in the Office of the Clerk and Recorder of Pitkin County, Colorado.



Article V of the Protective Covenants for Oh-Be-Joyful Acres Subdivision is modified and amended to read as follows:

1. PMH Lots and Lot 8. All development activities on the five (5) PMH lots and Lot 8, including but not limited to dwelling units and accessory buildings and uses, shall be constructed only within the designated building envelopes as described on the Plat recorded in the Office of the Clerk and Recorder of Pitkin County, Colorado, in Plat Book 25 at Pages 9-11 (the "Building Envelopes"), except as may otherwise be provided by these Covenants; provided, however, that the barn now existing on Lot 8 shall be exempted from such requirement. Accessory buildings shall be defined according to the Pitkin County Land Use Code (the "Code") and, to the extent there is no conflict with the Code, may include, but are not limited to, garages, sheds, stables, tennis courts, swimming pools, and other improvements as determined by the Architectural Committee. Driveways, driveway fencing, yard fencing and corral fencing may be constructed outside the building site with approval of the Architectural Committee. To facilitate wildlife movement through the subdivision, all fencing constructed outside the Building Envelopes of the individual lots shall comply with the Pitkin County and Division of Wildlife standard for wildlife fencing. Notwithstanding the foregoing, fencing within the Building Envelopes may also include screen fencing to visually screen structures and such screen fencing need not comply with Pitkin County and Division of Wildlife standard for fencing. The sewage disposal system serving the PMH lots and Lot 8 may be installed outside the Building Envelopes, and the location of sewage disposal systems shall be approved by the Architectural Committee and the Pitkin County Environmental Health Department. To the extent permissible by law, the method of sewage disposal shall be by the least consumptive waste water disposal system permitted, it being the intent to comply with the provisions set forth in Case No. 85CW47, Water Division No. 5, Colorado. Sewage disposal systems serving the PMH lots and Lot 8 may be installed within the agricultural lands in accordance with easements granted to Owners by the Association and as may be approved by the Architectural Committee and the Pitkin County Environmental Health Department.
2. Lots 6 and 7. All development activities on Lots 6 and 7, including but not limited to dwelling units and accessory buildings and uses, shall be constructed only within the designated Building Envelopes as described on the Plat recorded in the Office of the Clerk and Recorder of Pitkin County, Colorado, in Plat Book 50 at Pages 27-33, except as may otherwise be provided by these covenants. Accessory buildings shall be defined according to the Pitkin County Land Use Code (the "Code") and, to the extent there is no conflict with the Code, may include, but are not limited to, garages, sheds, stables, tennis courts, swimming pools, and other improvements as determined by the Architectural Committee. As set forth in Resolution 98-244, paragraph 15, no development shall occur outside the approved Building Envelopes, except for utility and driveway extensions and maintenance; wildfire mitigation; fencing that complies with paragraph 8D of

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3 of 9 R 46.00 D 0.00 N 0.00 PITKIN COUNTY CO

432827 06/25/1999 01:21P COVENANT DAVIS SILVI
4 of 9 R 46.00 D 0.00 N 0.00 PITKIN COUNTY CO

Resolution 98-244; irrigation; well and water line easement to Lot 6 only; and agricultural activities within historically irrigated pastures as designated on the amended plat/site plan. Such uses outside of the approved Building Envelopes are subject to review and approval by the Architectural Committee. To facilitate wildlife movement through the subdivision, all fencing constructed outside the Building Envelopes of the individual lots shall comply with the Pitkin County and Division of Wildlife standard for wildlife fencing. Notwithstanding the foregoing, fencing within the Building Envelopes may also include screen fencing to visually screen structures and such screen fencing need not comply with Pitkin County and Division of Wildlife standard for fencing. The sewage disposal systems serving Lots 6 and 7 must be located within the Building Envelopes; provided, however that the existing sewage disposal systems on Lots 6 and 7 shall be permitted to remain so long as they comply with applicable Environmental Health regulations. If the existing sewage disposal systems on Lots 6 or 7 are ever required to be replaced or expanded, and such replacement or expansion is proposed in an area outside of the Building Envelope and in an area greater in size than the current system occupies, all necessary Pitkin County land use and Environmental Health approvals shall be required. The location of sewage disposal systems on Lots 6 and 7 shall be approved by the Architectural Committee and the Pitkin County Environmental Health Department. To the extent permissible by law, the method of sewage disposal shall be by the least consumptive waste water disposal system permitted, it being the intent to comply with the provisions set forth in Case No. 85CW47, Water Division No. 5, Colorado.

Paragraph 1. of Article IX of the Protective Covenants for Oh-Be-Joyful Acres Subdivision is modified and amended to read as follows:

1. No Further Subdivision. The five (5) PMH lots, Lot 8, and the common open space described on the Plat recorded in the Office of the Clerk and Recorder of Pitkin County, Colorado in Plat Book 25 at Pages 9-11 shall not be further subdivided into smaller lots, or conveyed or encumbered in any less than the full dimensions as shown on the Plat. Lots 6 and 7 shall not be further subdivided into small lots, or conveyed or encumbered in any less than full dimensions as shown on the Amended Plat, recorded in the Office of the Clerk and Recorder of Pitkin County, Colorado in Plat Book 50 at Pages 27-33. Conveyance or dedications of easements for utilities may be made for less than all of any individual lot or the common open space. Notwithstanding the foregoing, a lot line adjustment between two (2) lots in the subdivision, or between a lot and the common open space shall be deemed a permitted subdivision, subject however, to any reviews or approvals that may be required by the Pitkin County Land Use Code. A lot line adjustment shall not result in the removal of any additional productive agricultural lands.

Paragraph 2. of Article IX of the Protective Covenants for Oh-Be-Joyful Acres Subdivision is modified and amended to read as follows:

3. **Dogs.** No dogs shall be permitted to be kept on or to visit any Lot, except as specifically authorized by existing zoning; provided, however, pursuant to Resolution No. 98-244, three (3) dogs shall be permitted on each of Lots 6 and 7 within the Subdivision provided, such dogs are under physical restraint. For purposes of this paragraph, "physical restraint" shall include any permanent structure or device which prevents the dogs from free roam beyond the perimeter of the building envelopes. Acceptable physical restraint devices include permanent fencing, and dog kennels or runs. Alternative physical restraint devices may be used on Lots 6 and 7 upon approval by the Pitkin County Wildlife Biologist. Dogs shall be permitted on all areas of Lots 6 and 7 under leash control. Voice control of dogs shall not be deemed "physical restraint" or "leash control" under this paragraph.

The Association shall share its authority herein with Pitkin County or Pitkin County Animal Control and both shall be the enforcement agents for these Covenants and Regulations promulgated hereunder. Any assessments, fees, fines, or other costs of dog control services assessed against an owner shall constitute a lien against such owner's lot until such fees, fines, assessment, and costs are paid. This lien may be collected and enforced and shall have the same priority as provided with respect to the liens for nonpayment of Association assessment provided for in Article XV, below. In addition, if an owner fails to pay such fees, assessments, fines, or costs of services, the County may or the Association shall revoke the owner's permit to keep a dog at the owner's lot.

In the event the Association fails to collect any fees, assessments, fines, or costs for enforcement attributable to an owner, Pitkin County Animal Control shall have the right to enforce collection of said sums directly against the owner and any such costs of enforcement and collection including attorney's fees shall be borne by that owner.

Paragraph 4. of Article IX of the Protective Covenants for Oh-Be-Joyful Acres Subdivision is modified and amended to read as follows:

- 4.1 The Free-Market Lots shall be serviced by individual sewage disposal systems which shall be constructed and maintained by the individual Owners pursuant to Article V of the Covenants. Due to soil or slope conditions on some Lots, additional expense may be incurred in the construction of engineered sewage disposal systems meeting the sewage disposal regulations of the Pitkin County Environmental Health Department. Sewage disposal areas shall be revegetated at Owner's expense no later than the next growing season following installation. It is recommended all sewage disposal systems be designed by a qualified registered engineer with local experience.

432627 06/25/1998 01:21P COVENANT DAVIS SILVI
5 of 8 R 48.00 D 0.00 N 0.00 PITKIN COUNTY CO

- 4.2 PMH lots 1 through 5 shall be serviced by a common sewage disposal system which shall be maintained by the Association at the expense of the owners of PMH lots 1 through 5.

Paragraph 10. of Article IX of the Protective Covenants for Oh-Be-Joyful Acres Subdivision is modified and amended to read as follows:

10. Resolution of Board of County Commissioners — Subdivision Improvements Agreement. All owners shall adhere to the requirements set forth by the Pitkin County Board of Commissioners in granting subdivision approval to the subdivision as set forth in Resolutions 89-120 and 90-101 in Book 609 at Page 770 and in Book 631 at Page 559, respectively; detailed submission Resolution 90-NA; final plat Resolution 90-101 in Book 631 at Page 559; the Subdivision Improvements Agreement between Declarant and the Pitkin County Board of Commissioners in Book 631 at Page 597; and in Resolution 98-244, recorded as reception number 426527 in the Office of the Clerk and Recorder for Pitkin County, Colorado, and any duly enacted amendments thereto which may be made.

Paragraph 5. of Article X of the Protective Covenants for Oh-Be-Joyful Acres Subdivision is modified and amended to read as follows:

5. Trees and Landscaping. There shall be no cutting or altering of trees or bushes or native vegetation outside the Building Envelopes within the subdivision; provided, however, such limitation shall not be construed to impair or prevent historical agricultural or ranching activities on the free market lots, nor shall such limitation be construed to prevent any Owner from removing trees, bushes or native vegetation which require removal due to wildfire mitigation requirements. The removal, damaging or destroying of any riparian vegetation or trees within 20 feet of the mean high water mark of Capitol and Snowmass Creeks is prohibited. All areas disturbed by construction outside the Building Envelopes shall be revegetated with native vegetation to limit water consumption and additional runoff within one growing season of project completion. This paragraph shall not impair or prevent any Owner from replacement of native vegetation within the free market Building Envelopes, nor shall it be construed to prevent Owner compliance with wildfire mitigation standards as required pursuant to Resolution 98-244 and the Pitkin County Code.

Paragraph 6. of Article X of the Protective Covenants for Oh-Be-Joyful Acres Subdivision is modified and amended to read as follows:

6. Used or Temporary Structures. No used or previously erected or temporary house, structure, mobile home trailer, or nonpermanent outbuilding shall ever be placed, erected or allowed to remain on any lot except during construction periods, and no dwelling unit shall be occupied in any manner prior to its completion. The limitations of this paragraph 6. shall not be construed to deny the owner of Lot 6

432627 08/25/1999 01:21P COVENANT DAVIS SILVI
6 of 9 R 46.00 D 0.00 N 0.00 PITKIN COUNTY CO

the ability to preserve any existing structure, including but not limited to the existing home and caretaker mobile home unit, within the building envelope identified on the Amended Plat, provided however that the condition of paragraph 14 of Resolution 98-244 must be satisfied. No motor homes shall be parked or stored on any lot for more than thirty (30) days of any calendar year unless it is stored in an enclosed garage or other allowed and approved storage building.

Paragraph 7. of Article X of the Protective Covenants for Oh-Be-Joyful Acres Subdivision is modified and amended to read as follows:

7. All fences erected within the Subdivision shall be in harmony with the development and the nature setting of the Subdivision. No fence may be erected unless the written approval of the Architectural Committee has first been obtained along with any necessary Pitkin County approvals or permits. To facilitate wildlife movement through the ranch, all fencing constructed outside the Building Envelopes of the individual Lots shall comply with the Pitkin County and Division of Wildlife standard for wildlife fencing and shall comply with condition 8D as set forth in Resolution 98-244.

Paragraphs 1 and 5 of Article XV of the Protective Covenants for the Oh-Be-Joyful Acres Subdivision is modified and amended to read as follows:

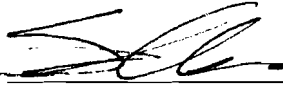
1. Covenants to Run. All of the Oh-Be-Joyful Subdivision shall be held, used, sold and conveyed subject to the Covenants contained in this instrument, which shall run with all the lands in the Subdivision and be binding on all parties having any right, title, or interest in the lands of the Subdivision, their heirs, personal representatives, successors and assigns, and shall inure to the benefit of the Owners of the lands in the Subdivision and Pitkin County.
5. Pitkin County Requirements. Notwithstanding anything herein contained to the contrary, the following listed portions of these Covenants which were required to be contained herein by approvals obtained by Declarant from Pitkin County for Subdivision, or other required approvals, may not be amended or terminated without the consent of the Pitkin County Board of County Commissioners:

Article IV, Section 4; all of Articles V, VI, VII, and VIII; Article IX, Sections 1, 2, 4, 5, 9 and 10; Article X, Sections 1, 3, 4, 5, 6, 7 and 8; all of Articles XI, XII, XIII, and XV.

432827 06/25/1999 01:21P COVENANT DAVIS SILVI
7 of 9 R 48.00 D 0.00 N 0.00 PITKIN COUNTY CO

IN WITNESS WHEREOF, this First Amendment of Protective Covenants for Oh-Be-Joyful Acres Subdivision have been executed as of this 22nd day of June, 1999.

OH-BE-JOYFUL ACRES HOME
OWNERS ASSOCIATION, INC.


By: 
President

With consent from: PITKIN COUNTY BOARD
OF COMMISSIONERS

By: 
Vice Chairman

Attest:

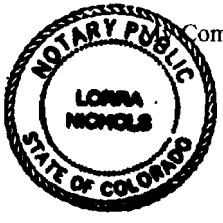



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8 of 9 R 46.00 D 0.00 N 0.00 PITKIN COUNTY CO

STATE OF COLORADO)
) ss.
COUNTY OF PITKIN)

Acknowledged, subscribed and sworn to before me this 22nd day of June, 1999, by Scott Writer, as President of Oh-Be-Joyful Acres Home Owners Association, Inc.

WITNESS my hand and official seal.



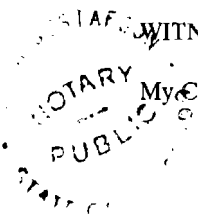
Commission expires: 6-28-99

Lorna Nichols
Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF PITKIN)

Acknowledged, subscribed and sworn to before me this 22 day of June, 1999, by Stellie Roy Harper, as ^{VICE} Chairman of the Pitkin County Board of Commissioners.

WITNESS my hand and official seal.



My Commission expires: 3-24-2000

Stellie Roy Harper
Notary Public

432627 06/25/1999 01:21P COVENANT DAVIS SILVI
9 of 9 R 48.00 D 0.00 N 0.00 PITKIN COUNTY CO