

BY-LAWS  
OF  
MOUNTAIN MUTUAL WATER COMPANY

ARTICLE I.

Offices

The principal office of the Mountain Mutual Water Company (hereinafter referred to as the "Corporation") shall be located in Cripple Creek, Colorado. The Corporation may have such other offices, as the board of directors may designate or as the business of the corporation may require from time to time.

The registered office of the corporation required by the Colorado Nonprofit Corporation Act to be maintained in the State of Colorado may be, but need not be, identical with the principal office, if in the State of Colorado, and the address of the registered office may be changed from time to time by the board of directors.

ARTICLE II.

Members and Meetings

Section 1. Classes. There may be one class of memberships known as Class A Memberships. Each member must own one platted lot in Cripple Creek Mountain Estates ("Lot") per Class A Membership, as a condition of membership. Where more than one person owns a Lot, one membership shall be issued to those owners collectively. (For purposes of these By-laws, the term "member" shall include any individual member as well as any collective group of persons holding one membership.) There shall be allowed only one membership per Lot.

Section 2. Meetings and Voting. The annual meeting of members shall be held within the first three months of the calendar year, at such time as the Board of Directors may decide, for the purpose of electing directors and for the transaction of such other business as may come before the meeting. If the election of directors shall not be held on the day designated herein for any annual meeting of the members, or at any adjournment thereof, the board of directors shall cause the election to be held at a special meeting of the members as soon thereafter as conveniently may be.

Section 3. Special Meetings. Special meetings of the members may be called for any proper purpose, by the president or the board of directors. Special meetings may be called by the president at the request of the holders of not less than one-tenth of all the outstanding memberships of the corporation entitled to vote at the meeting.

Section 4. Place of Meetings. The board of directors may designate any place in Colorado as the place for any annual or special meeting of members called by the board of directors. A waiver of notice signed by all members entitled to vote at a meeting may designate any place, as the place for such meeting. If no designation is made, or if a special meeting shall be called otherwise than by the board of directors, the place of meeting shall be at the Cripple Creek office.

Section 5. Notice of Meeting. Written or printed notice stating the place, day and hour of the meeting, and, in case of a special meeting, the purposes for which the meeting is called, shall be delivered not less than ten nor more than fifty days before the date of the meeting, either personally or by mail, by or at the direction of the president, or the secretary, or the officer or persons calling the meeting, to each member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member at his address as it appears on the membership books of the corporation, with postage thereon pre-paid. If requested by the person or persons lawfully calling such meeting, the secretary shall give notice thereof, at the Corporation's expense.

Section 6. Closing of Transfer Books or Fixing of Record Date. For the purpose of determining members entitled to notice of or to vote at any meeting of members or any adjournment thereof, or in order to make a determination of members, for any other purpose, the board of directors may provide that the membership books shall be closed for any stated period not exceeding fifty days. If the membership books shall be closed for the purpose of determining members entitled to notice of or to vote at a meeting of members, such books shall be closed for at least ten days immediately preceding such meeting. In lieu of closing such books, the board of directors may fix in advance a date as the record date for any such determination of members, such date in any case to be not more than fifty days and, in case of a meeting of members, not less than ten days prior to the date on which the particular action requiring such determination of members is to be taken. If the membership books are not closed and no record date is fixed for the determination of members entitled to notice of or to vote at a meeting of members, the date on which notice of the meeting is mailed shall be the record date for such determination of members. When a determination of members entitled to vote at any meeting of members has been made as provided in this section, such determination shall apply to any adjournment thereof, except where the determination has been made through the closing of the membership books and the stated period of closing has expired.

Section 7. Voting Lists. The officer or agent having charge of the membership books for members of the corporation shall make, at least ten days before each meeting of members, a complete list of the members entitled to vote at such meeting or any adjournment thereof, arranged in alphabetical order, with the address of and the number of votes to which each is entitled, which list, for a period of ten days prior to such meeting shall be kept on file at the principal office of the corporation and shall be subject to inspection by any member at any time during usual business hours.

Section 8. Quorum. There is no set quorum. The majority of votes present by person or proxy at any annual or special meeting of the Company shall be sufficient to conduct any

business which may come before the meeting except where the By-Laws or Articles specifically provide otherwise.

The members present at a duly organized meeting may continue to transact business and vote on given subjects until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum, where the By-Laws or Articles specifically require a quorum.

Section 9. Proxies. At all meetings of members, a member may vote by proxy executed in writing by the member or his duly authorized attorney in fact. Such proxy shall be filed with the secretary of the corporation before or at the time of the meeting. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy.

Section 10. Voting and Memberships. For all purposes, each record holder of a Class A Membership shall have one vote at all meetings of members. No member who is in violation of the Articles of Incorporation, these By-Laws, or rules and regulations of the Corporation, or whose membership is delinquent shall be entitled to vote at any regular or special meeting of members.

Section 11. Voting of Memberships by Certain Holders. Neither treasury memberships nor memberships held by the Corporation in a fiduciary capacity, shall be voted at any meeting or counted in determining the total number of outstanding memberships at any given time.

Memberships in the name of another corporation may be voted by such officer, agent or proxy as the by-laws of such corporation may prescribe, or, in the absence of such provision, as the board of directors of such corporation may determine.

Memberships held by an administrator, executor, guardian or conservator may be voted by him, either in person or by proxy, without a transfer of such memberships into the name of the administrator, etc. Memberships standing in the name of a trustee may be voted by him, either in person or by proxy, but no trustee shall be entitled to vote memberships held by him without a transfer of such memberships and certificates into his name.

Memberships standing in the name of a receiver may be voted by such receiver, and memberships held by or under the control of a receiver may be voted by such receiver without the transfer thereof into his name if authority to do so is contained in an appropriate order of the court by which such receiver was appointed.

A member whose membership is mortgaged, pledged, or otherwise encumbered shall be entitled to vote such membership until the membership and Certificate has been transferred into the name of the holder of the encumbrance, and thereafter such holder shall be entitled to vote the membership so transferred.

Section 12. Informal Action by Members. Any action required to be taken at a meeting of the members, or any other action which may be taken at a meeting of the members, may be taken without a meeting if a consent in writing, setting forth the action so taken is signed by all of the members entitled to vote with respect to the subject matter thereof. Such consent

shall have the same force and effect as a unanimous vote of the members, and may be stated as such in any articles or document filed with the Secretary of State of Colorado under the Colorado Nonprofit Corporation Act.

### ARTICLE III.

#### Board of Directors

Section 1. General Powers. The business and affairs of the Corporation shall be managed by its board of directors, except as otherwise provided in the Colorado Nonprofit Corporation Act or the Articles of Incorporation or these By-laws.

Section 2. Number, Tenure and Qualifications. The number of Directors of the Company shall be FIVE. Each Director will be elected to a three year term with no more than two directorships being elected in any one year. Directors shall be elected at the annual meeting. Each Director shall hold office until his/her successor shall have been elected and qualified. Directors must be members in good standing of the Mountain Mutual Water Company.

Members, spouses and their immediate family who **are not eligible** to be a Director are as follows:

- Immediate families of Active Directors of the Company;
- Current Directors of the Cripple Creek Mountain Estates Property Owner's Association;
- Non-property owners;
- Current Directors for other Water Boards;
- Employees of the Mountain Mutual Water Company and immediate families

Directors shall be removable in the manner provided by the statutes of Colorado.

Section 3. Vacancies. Any director may resign at any time by giving written notice to the president or to the secretary of the Corporation. Such resignation shall take effect at the time specified therein; and unless otherwise specified herein, the acceptance of such resignation shall not be necessary to make it effective. Any vacancy occurring in the board of directors may be filled by the affirmative vote of a majority of the remaining directors, though less than a quorum. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office. Any directorship to be filled by reason or an increase in the number of directors shall be filled by election at an annual meeting or at a special meeting of members called for that purpose.

Section 4. Regular Meetings. A regular meeting of the board of directors shall be held without other notice than this by-law immediately after, and at the same place as, the annual meeting of members. The board of directors may provide, by resolution, the time and place, either within or outside Colorado, for the holding of additional regular meetings without other notice than such resolution.

Section 5. Special Meetings. Special meetings of the board of directors may be called by or at the request of the president or any two directors. The person or persons authorized to call

special meetings of the board of directors may fix any place in Colorado as the place for holding any special meeting of the board of directors called by them.

Section 6. Notice. Notice of any special meeting of the board of directors shall be given at least four days prior to such meeting, by written notice delivered personally or mailed to each director at his home or business address, or by notice given at least two days prior to such meeting by telegraph or fax. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon paid. If notice shall be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any director may waive notice of any meetings. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board of directors need be specified in the notice or waiver of notice of such meeting.

Section 7. Quorum. A majority of the number of directors fixed by section 2 shall constitute a quorum for the transaction of business at any meeting of the board of directors, but if less than such majority is present at a meeting, a majority of the directors present may adjourn the meeting without further notice.

Section 8. Manner of Acting. The act of the majority of the directors present at a meeting at which [a] quorum is present shall be the act of the board of directors, unless a greater number is required by law, the Articles of Incorporation, or these By-laws.

Section 9. Compensation. By resolution of the board of directors, any director may be paid any one or more of the following: his expenses, if any, of attendance at meeting; a fixed sum for attendance at each meeting; or a stated salary as director. No such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor.

Section 10. Presumption of Assent. A director of the Corporation who is present at a meeting of the board of directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the secretary of the corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

Section 11. Executive Committee. The board of directors, by resolution adopted by a majority of the number of directors fixed by section 2 may designate two or more directors to constitute an executive committee, which shall have and may exercise all of the authority of the board of directors or such lesser authority as may be set forth in said resolution. No such delegation of authority shall operate to relieve the board of directors or any member of the board from any responsibility imposed by law.

Section 12. Informal Action By Directors. Any action required or permitted to be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors entitled to vote of the directors, and may be stated as such in any articles or document filed with the Secretary of State of Colorado under the laws of Colorado.

Section 13. Rules and Regulations. The Board of Directors may approve rules and regulations for the management of the Corporation and the provision of services to members, as it may from time to time deem appropriate. No member or non-member customer who is in violation of any of these By-laws or rules and regulations of the Corporation shall receive or be entitled to receive any water or water service for any purpose.

#### ARTICLE IV.

##### Officers and Agents

Section 1. General. The officers of the Corporation shall be a president, one or more vice presidents, a secretary and a treasurer. The board of directors may appoint such other officers, assistant officers, committees and agents, including a chairman of the board, assistant secretaries and assistant treasurers, as they may consider necessary, who shall be chosen in such manner and hold their offices for such terms and have such authority and duties as from time to time may be determined by the board of directors. The salaries of all the officers of the corporation shall be fixed by the board of directors. The same person may not hold the offices of president and secretary. In all cases where the duties of any officer, agent or employee are not prescribed by the by-laws or by the board of directors, such officer, agent or employee shall follow the orders and instructions of the president.

Section 2. Election and Term of Office. The officers of the Corporation shall be elected by the board of directors annually at the first meeting of the board held after each annual meeting of members. If the election of officers shall not be held at such a meeting, such an election shall be held as soon thereafter as conveniently may be. Each officer shall hold office until the first of the following to occur: until his successor shall have been duly elected and shall have qualified; or until his death; or until he shall resign; or until he shall have been removed in the manner hereinafter provided.

Section 3. Removal. Any officer or agent may be removed by the board of directors whenever in its judgments the best interests of the Corporation shall be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not in itself create contract rights.

Section 4. Vacancies. A vacancy in any office, however occurring, may be filled by the board of directors for the unexpired portion of the term.

Section 5. President. The President shall, subject to the direction and supervision of the board of directors, be the chief executive officer of the Corporation and shall have general and active control of its affairs and business and general supervision of its officers, agents and

employees. He shall, unless otherwise directed by the board of directors, attend in person or by substitute appointed by him, or shall execute on behalf of the Corporation written instruments appointing a proxy or proxies to represent the Corporation, at all meetings of the stockholders or any other corporation in which the Corporation shall hold any stock. He may, on behalf of the Corporation, in person or by substitute or by proxy, execute written waivers of notice and consents with respect to any such meetings. At all such meetings and otherwise, the president, in person or by substitute or proxy as aforesaid, may vote the stock so held by the corporation and may execute written consents and other instruments with respect to such stock and may exercise any and all rights and powers incident to ownership of said stock subject however to the instructions, if any, of the board of directors. The president shall have custody of the treasurer's bond, if any.

Section 6. Vice Presidents. The vice presidents shall assist the president and shall perform such duties as may be assigned to them by the president or by the board of directors. In the absence of the president, the vice president designated by the board of directors or, (if there be no such designation) designated in writing by the president shall have the powers to perform the duties of the president. If no such designation shall be made, all vice presidents may exercise such powers and perform such duties.

Section 7. The Secretary. The secretary shall: (a) keep the minutes of the proceedings of members, executive committee and the board of directors; (b) see that all notices are duly given in accordance with the provisions of these by-laws or as required by law; (c) be custodian of the corporate records and of the seal of the corporation and affix the seal to all documents when authorized by the board of directors; (d) keep at its registered office or principal place of business within or outside Colorado a record containing the names and addresses of all members and the number of memberships held by each; and (e) in general perform all duties as from time to time may be assigned to him by the president or by the board of directors. Assistant secretaries, if any, shall have the same duties and powers, subject to supervision by the secretary.

Section 8. Treasurer and Assistant Treasurers. The treasurer shall be the principal financial and accounting officer of the Corporation. He shall have the care and custody of all funds, securities, evidences of indebtedness and other personal property of the corporation and shall deposit the same in accordance with the instructions of the board of directors. He shall receive and give receipts and acquittance for monies paid in on account of the corporation, and shall pay out of the funds on hand all bills, payrolls and other just debts of the corporation of whatever nature upon maturity. He shall perform all other duties incident to the office of treasurer, and, upon request of the board, shall make reports to it as may be required at any time. He shall, if required by the board, give the corporation a bond in such sums and with such sureties as shall be satisfactory to the board, conditioned upon the faithful performance of his duties and for the restoration to the Corporation of all books, papers, vouchers, money and other property of whatever kind in his possession or under his control belonging to the corporation. He shall have such other powers and perform such other duties as may be from time to time prescribed by the board of directors or the president. The assistant treasurers, if any, shall have the same powers and duties, subject to the supervision of the treasurer.

## ARTICLE V.

## Memberships

Section 1. Certificates. The Corporation shall issue Certificates of Membership, which must be signed by the President and attested to by the Secretary under the seal of the Corporation, to such person or persons as shall subscribe therefor and pay the price thereof, or to such persons, who as of \_\_\_\_\_, 1996 have current memberships that are not delinquent, forfeited, in the process of being forfeited, foreclosed, in the process of being foreclosed, or otherwise sold.

Section 2. Transferability of Memberships. All applications for transfer, lease, or assignment of Certificates and memberships, shall require the affirmative consent of the Board of Directors. The Board may refuse to approve any such application if, in the Board's sole discretion, the requested transfer may cause injury to the Corporation, its facilities, or other members, or if any assessments, charges, or debts owed the Corporation are delinquent. Upon consenting to a transfer, the board of directors shall authorize the Secretary to transfer Certificates and memberships on the books of the Corporation after proof that the Lot has been permanently transferred, and upon surrender of the original certificate, and its cancellation, and to issue a new Certificate, according to the direction of the holder presenting the same for transfer.

No member shall transfer his/her membership and Certificate without also transferring the associated Lot. Any membership and Certificate that is not transferred when the associated Lot is transferred is subject to automatic transfer to the new owner of the Lot, at the discretion and order of the Board of Directors, and to refusal of the Corporation to supply water and water service to either the member or the associated Lot.

Obligations of the transferring member for unpaid assignments, assessments, charges, or other debts owed to the Corporation, including any such assessments or other charges accrued prior to a sale of the Lot for unpaid real property taxes or other liens, shall remain unimpaired by the transfer of the Lot, or the Certificate and membership. The Corporation shall not be obligated to supply water or water service to the new member until all obligations of the old member to the Corporation have been satisfied. Until all assessments, charges, and other debts owed the Corporation are paid in full, the membership shall not be considered current and in good standing.

Section 3. Encumbering Memberships. If the real property with which a particular membership is associated, is to be encumbered to secure a loan, the borrower is authorized to pledge his membership and Certificate as security for said loan, subject to the provisions of Sections 1 and 2 above.

Section 4. Rights of Members Upon Dissolution.

Upon dissolution of the Corporation, assets shall be distributed as required by the laws of the State of Colorado for nonprofit corporations. Any asset, the distribution of which is not specifically provided for by such laws, shall be distributed equally among members at the time of

dissolution, whose memberships are current and in good standing and are not delinquent, in proportion to the number of memberships owned.

Section 5. Lost Certificates. No new certificate shall be issued in case one is stated to be lost except as provided by the provisions of Colorado Revised Statutes, Sections 7-42-101 et seq.

## ARTICLE VI.

### Service.

Section 1. Charges for Water Service. Each membership which is current and in good standing shall entitle each holder of record on the books of the corporation, to take water for beneficial purposes, upon the rate-paying basis established by the board of directors and subject to conditions and limitations in the Articles of Incorporation, these By-laws, and rules and regulations of the Corporation. In times of scarcity, the directors may adopt such means of conserving use of water as to them seem appropriate in the circumstances, including the curtailing of water use by members.

Section 2. Service to non-members. The Corporation reserves the right to supply water and water service to non-members, on a case-by-case basis, within the sole discretion of the Corporation, and subject to the terms and limitations of these By-laws, rules and regulations of the Corporation, and any other terms and limitations the Corporation deems appropriate.

Section 3. Use. Water supplied by the Corporation may be used only for domestic use in single family dwellings on the member's associated Lot, or in the case of non-member customers, for domestic uses in single family dwellings on such property as the Corporation shall designate.

Section 4. Lien. This corporation shall have a perpetual lien upon all memberships and Certificates or parts thereof, and the water rights (if any) represented by the same, for any and all assessments, charges of any type, and all other debts owed the Corporation, until the same are fully paid.

Section 5. Delinquent charges. All charges or assessments imposed by the Corporation become delinquent 30 days after the date fixed for payment thereof. Interest shall be charged at the rate of 1½% per month on all unpaid balances from the date of delinquency. A Member or non-member customer shall not be entitled to water, water service, to vote at meetings of members, or to be a director or officer until he/she has paid all delinquent assessments or charges, including any accrued interest and any attorneys' fees and costs which the Corporation may have incurred to collect the delinquent assessment or charges.

In addition to any other remedies provided for in these By-laws or by law, the Corporation may have the following remedies for delinquent assessments and charges: 1) The Corporation may sue for the amount due; 2) The Corporation may foreclose its lien in the manner provided by law; and 3) Memberships and Certificates of any member who becomes

delinquent in the payment of any assessment or other charge due the Corporation may be forfeited to the Corporation and/or sold, after demand has been made for the amount due, either in person or by written or printed notice duly mailed to the last known address of such member at least thirty days prior to the time the forfeiture is to take effect. The remedies provided in this section for collecting delinquent assessments and charges and forfeiting memberships and Certificates are cumulative and shall not be deemed to take away or affect any other right which the Corporation now or may hereafter have relative to the collection of delinquent assessments and charges and foreclosure of any lien against any membership.

The delinquent member may at any time before forfeiture and/or sale of the membership and Certificate have the privilege of paying all amounts due plus all costs in the matter, including attorneys' fees, to prevent the forfeiture and/or sale of the membership and Certificate.

## ARTICLE VII.

### Miscellaneous.

Section 1. Waivers of Notice. Whenever notice is required by law, by the Articles of Incorporation or by these By-laws, a waiver thereof in writing signed by the director, member or other person entitled to said notice, whether before, or after the time stated therein, or his appearance at such meeting in person or (in the case of a member's meeting) by proxy, shall be equivalent to such notice.

Section 2. Seal. The corporate seal of the Corporation shall be circular in form and shall contain the name of the corporation "Seal -Colorado."

Section 3. Fiscal Year. The fiscal year of the Corporation shall be the calendar year.

Section 4. Amendments. The board of directors shall have power to make, amend and repeal the By-laws of the corporation at any regular meeting of the board or at any special meeting called for the purpose.

Section 5. Metering. All water service shall be metered unless otherwise specified by the board of directors.

Section 6. Rates. Water rates, tap charges, and all other charges for water service shall be established by the Board of Directors from time to time.

Section 7. Fire Protection Service. The Corporation may install fire plugs; however, the Company takes no responsibility for the adequacy of fire protection.

Section 8. Storm Sewers. The Corporation may install storm sewers adequate in the opinion of the directors, to supply reasonable storm drainage to the platted areas; however, the Corporation takes no responsibility for the adequacy of such protection; the Corporation may make charges for storm sewer service.

Section 9. Recognition of Disclaimer. By accepting membership in the Company and by accepting the benefits thereof, each member accepts and agrees to be bound by the disclaimer of responsibility appearing in these By-laws.