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Jefferson County, Colorado

AMENDED AND RESTATED PROTECTIVE COVENANTS**ELK FALLS SUBDIVISION****BLOCK II**

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Pursuant to C.R.S., §38-33.3-217 and Article IV, Section 5 of the Amended Protective Covenants, as originally recorded at Reception No. 86152672 in the Office of the Clerk and Recorder for Jefferson County, Colorado (the "Declaration"), the Declaration is amended and restated in its entirety, as follows:

**ARTICLE I
DEFINITIONS**

Section 1. "Association" shall be defined as Elk Falls Property Owners' Association, Inc.

Section 2. "Committee" shall be defined as the Elk Falls Property Owner's Association's Control Committee, it successors and assigns.

Section 3. "Lot" shall be defined as any parcel of land, either numbered or lettered, shown on the recorded sub-division plats of Blocks I, II and III, Elk Falls Subdivision.

Section 4. "Owner" shall be defined as the record owner, whether one or more persons or entities, of a fee simple estate in any Lot which is part of the Elk Fall Ranch sub-division.

Section 5. "Improvements" shall be defined as and include a single-family dwelling, outbuildings, fences, masonry walls, hedges, mass plantings, exterior antenna and other usual appurtenances now common to dwelling usage or common thereto during the existence of these covenants.

**ARTICLE II
LAND USE AND BUILDING TYPES**

Section 1. Lots and Dwellings: All Lots shall be known and described as residential Lots and EXCEPT AS PROVIDED IN SECTION 2 BELOW shall be used solely for residential purposes. Except as herein provided, no structures shall be erected, altered, placed or permitted to remain on any Lot, except for one single family dwelling not to exceed three stories in height, a private garage for not more than three cars, and such additional outbuildings incidental to residential use as may be approved by the Committee. There may be no construction upon a Lot prior to the construction of the residence. No older buildings shall be moved onto any Lot. No structure of a temporary character, nor any trailer, mobile home, modular home, basement, tent, shack, garage, barn or other outbuilding shall be used at any time as a residence, either temporarily or permanently, except on written approval of the Committee.

Section 2. Home Occupations Permitted: All home occupations shall be subject to the approval of the Control Committee and the following provisions:

(a) Any occupational use must be located within the dwelling used by such person for his or her home and no external evidence thereof shall be permitted.

(b) Only one assistant not a resident of the premises may be employed at any one time.

(c) Such home occupations may be engaged in by the occupant only, and may not be transferred between ownerships or from Lot to Lot.

(d) Other similar home occupations may be engaged in if not detrimental to other owners if permitted by the Jefferson County Zoning Code and only if such activity is approved by the Architectural Review Committee.

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Section 3. Dwelling Size: The main floor area of any dwelling structure shall contain not less than 1200 square feet of finished living area for a one story or garden level dwelling. A multiple story dwelling shall have a least 1800 square feet of living area with a main floor area of at least 1200 square feet. Each detached guest house or servant quarters shall have at least 600 square feet of finished living area. Finished living areas are exclusive of basements. Any attached or unattached garage shall have a minimum of 400 square feet of enclosed area.

Section 4. Building Location: All residential structures shall be built only within the set-back areas specified in the zoning regulations or sub-division plats.

Section 5. Building Design and Completion: No buildings or other structures shall be constructed on any Lot, nor shall any change or alteration be made to any partially or completely constructed structure or building or improvement unless the plans and specifications comply with all applicable County and State zoning ordinances and building codes. All building permits and County approvals must be obtained prior to commencing construction. Prior to any site clearing or construction, all plans and specifications must be approved in writing by the Committee. The plans must be blueprints of professional quality and should include: floor plans, elevations, plot, grading, driveway, landscaping plans, and location of all structures and improvements. Exterior of buildings must be complete within six months of start of construction. No dwellings shall be occupied unless and until a Certificate of Occupancy has been obtained from the applicable County authority.

Section 6. Animals: Except for Horses: Only such animals as are commonly recognized as domestic household pets may be kept on any portion of the property. Animals not permitted include, but are not limited to, livestock, sheep, goats, mules, donkeys, poultry, etc. Rabbits are permitted as pets. Household pets must be kept at all times within the Owner's property lines unless accompanied by and under the Owner's control. No animal including horses and/or household pets may be maintained for commercial purposes.

Section 7. Horses: Two horses per acre, up to a maximum of four horses per Lot, may be quartered on any Lot in fenced corrals. In addition to the limitations contained in these covenants, use of Lots for the maintenance of horses shall also be subject to Jefferson County Zoning Regulations which *inter alia* presently limit the number of such horses as follows:

- 1) On legal, non-conforming lots or parcels of 1 acre or less in size, the following is the density per acre limitation for horses, mules, donkeys, sheep, cattle, goats, swine, buffalo, beefalo and other large domesticated animals:
- 2) The minimum square footage of open lot area, not including the dwelling, shall be 9,000 square feet for the first animal and 6,000 square feet for each additional animal. The total number of such animals that may be kept shall not exceed 4 per 1 acre.
- 3) Offspring of animals on the property may be kept until weaned.

Said corral shall be maintained so as not to create a nuisance to any other lot owner. One horse barn per lot shall be permitted, provided that its exterior design and appearance is compatible with the exterior design and appearance of the residence on said Lot. Said corrals and barns shall be situated on any Lot so that they are set back more than 100 feet from any adjacent property line or public roadway. Approval for construction of the corral and horse barn shall be obtained from the Control Committee as provided in Section 5 above.

Section 8. Fences and Outbuildings: Prior to construction, the designated erection of all fences and outbuildings, including all garages, guest houses, servant quarters, permanent storage facilities, must be approved in writing by the Committee. No barbed wire fences are permitted.

Section 9. Landscaping: All Owners of Lots are encouraged to practice restoration of the natural terrain, including replacement and stabilization of top soil, revegetation, and reforestation. All natural areas disturbed or changed by construction or otherwise should be returned to a condition harmonious with the surrounding areas. It shall be the duty of each Owner to either spray or remove insect infested plants or trees from said Owner's Lot. In addition, the Association may enter any Lot at any reasonable time to inspect for insect infestation or other plant diseases. The Association may spray or remove trees or other infected plants, or take any other measure that it deems necessary to control and prevent the spread of disease. Anticipation or commencement of action by the Association shall not relieve the Owner of responsibility to exercise the proper care for the plant life on the Owner's Lot. Expenses incurred by the Association under this section shall be billed to the Owner and if not paid within 30 days shall become a lien upon the Lot or Lots involved.

Section 10. Utilities: Sewage disposal system: Each owner shall be responsible for the design, construction, operation and maintenance of sewage disposal system adequate to serve all structures on said Owner's Lots. Written approval of all appropriate County authorities must be obtained prior to construction or installation of any sewage system.

Section 11. Hunting and Firearms: Hunting and all similar and associated activities, including discharging firearms, are prohibited within the subdivision.

Section 12. Inoperative and Commercial Vehicles or Equipment: No inoperative automobile or other vehicles or machinery without valid license plates shall be placed upon any Lot for longer than ten days unless stored in a garage or similar structure approved by the Committee. No commercial vehicle or equipment shall be kept, maintained or stored upon any Lot, road or private drive in such a manner that such vehicle or equipment is visible from neighboring Lots or public roads. The provisions of this paragraph shall not apply to temporary construction shelters or facilities maintained during and used exclusively in connection with the construction of any dwelling or other improvement permitted by these covenants.

Section 13. Signs: No signs whatsoever shall be permitted within any Lot, with the exception of those listed below:

- 1) Signs required by legal proceedings.
- 2) Residential identification signs constructed of materials which are compatible with the architecture of the area, and these shall be subject to the approval of the Control Committee prior to erection thereof. Such signs shall not exceed a total face area of two square feet.
- 3) Signs of the type usually used by contractors, subcontractors and tradesmen may be erected during the authorized time of construction, provide those signs do not exceed a total face area of six square feet.
- 4) For sale, for rent and directional signs may be erected upon a Lot, provided that no more than one sign is erected and that such sign does not exceed a total face area of six square feet unless otherwise approved in advance in writing by the Control Committee. Additional signs may be erected for open houses, but must be removed at the end of the day.
- 5) No sign shall exceed a height of four feet from grade.

Section 14. Lights: The use of all night spotlights shall be forbidden.

Section 15. Nuisances: No noxious or offensive activity shall be carried on on any Lot, nor shall anything be done which is or may become a nuisance, or cause unreasonable embarrassment, disturbance or annoyance to other Owners in the enjoyment of their Lots.

Section 16. Re-subdivision: No Lot shall be re-subdivided into smaller Lots, nor conveyed or encumbered in any less than the full, original dimension as originally conveyed. Nothing in this covenant shall prevent the dedication or conveyance of portions of Lots for public or private easements.

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Section 17. Use of Wells: Wells constructed on Lots in this subdivision shall be used solely for household purposes not including irrigation, and the return flow from such use shall be returned to the same stream system in which such well is located. Any well constructed for use in accordance with these covenants shall be presumed to be non-injurious to the vested water rights of others or any other existing well.

Section 18. State Statutes and County Regulations: To the extent that the applicable state statutes, county regulations, or other governmental rules or laws are more restrictive in their allowable land utilization than these covenants, they shall supersede these covenants and govern at all times.

Section 19. Miscellaneous Provisions: Refuse, garbage, and trash shall be kept at all times within enclosed containers and other necessary receptacles for its temporary storage and collection. All such receptacles shall be screened from the view of neighboring properties and kept in a clean and sanitary condition.

- 1) During construction, trees cut down or pushed over for clearing a site must be immediately disposed of by cutting and stacking, removing limbs and stumps. No building materials may be stored on site unless construction is in progress. All trash and other refuse generated by construction must be placed in trash containers and must have a minimum of weekly pick-up.
- 2) Bare metal or concrete block chimney stacks must be covered with a decorative material in keeping with the exterior of the residence.

Section 20. Variances: The Committee may authorize variances from compliance with any of the foregoing restrictions, conditions, and covenants, with the exception of the restriction on sewage systems. The grant of variance from any particular condition, restriction or covenant shall not be a waiver of compliance with any other condition, restriction or covenant contained herein, by the Owner or any subsequent Owner from compliance with the condition. Subsequent Owners may rely on and shall be bound by any restrictions, covenants or conditions contained herein unless released in writing from compliance by the Committee.

ARTICLE III EASEMENTS

These are hereby reserved for the purpose of installing and maintaining public, quasi-public, and/or other private utilities, certain easements, which easements are reserved as described on the recorded plat of Elk Falls Ranch sub-division.

ARTICLE IV THE ELK FALLS PROPERTY OWNERS' ASSOCIATION, INC.

Section 1. The Elk Falls Property Owners' Association, Inc.: The purchaser of any Lot, upon taking title to said Lot, automatically becomes a member (or if title is taken by more than one person, said membership shall be prorated in accordance with membership) of the Elk Falls Property Owners' Association, Inc., hereinafter referred to as EFPOA. Purchasers of tracts understand and agree, by taking title, that membership in EFPOA is an absolute requisite for every purchaser and owner of a Lot or Lots. The purposes of EFPOA are to assume control of, and responsibility for, the common areas within the sub-division; to provide surveillance over the property, to include, but not be limited to enforcement of protective covenants; and to attend to such other matters as may be determined necessary by the EFPOA Board of Directors. Lot purchasers understand and agree that payment of dues to EFPOA in such amount as have been established as annual dues by the Board of Directors, are requirements concomitant with Lot purchase and ownership; and that periodic dues will be required which must be promptly paid, in that nonpayment of such dues will cause a recorded lien for the arrearages of such dues to be placed against the non-paying member's Lot, which lien shall be enforceable as any other valid lien against real property.

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EFPOA will operate as a non-profit corporation, and its books may be examined at any reasonable time by members, and copies of its bylaws will be provided to each member upon request. EFPOA will not create an unreasonable burden, requirements, or costs for property owners in the sub-division.

EFPOA shall have the duty, obligation, and standing to enforce these protective covenants, including but not limited to, institution and maintenance of any legal action necessary to compel compliance with these covenants by any Lot owner. In the event that EFPOA is required to bring any action in court to compel compliance with these protective covenants, and if such action results in enforcement of said covenants, whether as a result of trial or voluntary compliance following institution of suit, EFPOA shall be entitled to recover from the previous noncomplying Lot owner all of the attorneys fees, costs, and other expenses it has incurred to bring and maintain said action.

Section 2. Owners Responsibility for Renters: In the event that any Lot owner causes or permits a tenancy to exist with respect to the Lot or Lots owned, said Owner shall be under an obligation to require all tenants to comply with these protective covenants, and said Owner shall be subject to any action necessary to compel compliance with these protective covenants, or to be answerable in damages for noncompliance.

Section 3. Noise Restrictions: Any frequently recurring noise which can be heard by adjacent or nearby property owners shall be subject to abatement at the insistence or action by such adjacent or nearby property owners or by the Association.

Section 4. Nonconforming Use: The provisions of these amended covenants shall be effective as of the date that they are recorded, however to the extent that on such date any Lot within Block II for which these covenants are recorded is being utilized in conformity with the original protective covenants applicable to said Block, but in conformity with these amended covenants, that existing use shall be permitted to continue providing that such nonconforming use be permissible by any subsequent owner of the Lot.

Section 5. Terms of Covenants: Each of these amended covenants, restrictions, and reservations set forth herein shall run with the land and shall be binding upon all Lot owners in Block II for a period of (10) years from the date of the recording hereof in the office of the Clerk and Recorder of Jefferson County, Colorado and shall automatically be continued thereafter for successive periods of ten (10) years each; provided, however, that the Owners of sixty-five percent (65%) of the Lots which are subject to these covenants may change or modify any one or more of said restrictions, by executing and acknowledging an appropriate agreement or agreements in writing for such purposes and recording the same in the office of the County Clerk and Recorder of Jefferson County, Colorado.

ACCORDING TO C.R.S., §38-33.3-217 AND ARTICLE IV, SECTION 5 OF THE AMENDED PROTECTIVE COVENANTS, AS ORIGINALLY RECORDED AT RECEPTION NUMBER 86152672 IN THE OFFICE OF THE CLERK AND RECORDER FOR JEFFERSON COUNTY, COLORADO, THE DECLARATION MAY BE AMENDED BY ANY INSTRUMENT SIGNED BY NOT LESS THAN SIXTY-FIVE PERCENT (65.0%) OF THE OWNERS OF THE LOTS COVERED BY THE DECLARATION AT THE TIME OF THE AMENDMENT; AS OF THE DATE OF THIS AMENDMENT, THE UNDERSIGNED HEREBY CERTIFIES THAT THE AFOREMENTIONED AMENDMENTS TO THE DECLARATION HAVE BEEN DULY AUTHORIZED AND APPROVED BY NOT LESS THAN SIXTY-FIVE PERCENT (65.0%) OF THE OWNERS OF THE LOTS COVERED BY THE DECLARATION AT THE TIME OF THE AMENDMENT.

The Elk Falls Property Owners' Association, Inc.


By: Tom Schuster, Its President

Dated this 8 day of July, 2005.