

AMENDED AND RESTATED PROTECTIVE COVENANTS

ELK FALLS SUBDIVISION

BLOCK III

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. 351734 in the Office of the Clerk and Recorder for Park 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, its 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.

ARTICLE II LAND USE AND BUILDING TYPES

Section 1. Lots and Dwellings: All Lots shall be known and described as residential Lots and 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. 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 3. Building Location: All residential structures shall be built only within the set-back areas specified in the zoning regulations or sub-division plats.

Section 4. 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 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



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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 5. Animals: 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, horses, livestock, 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.

Section 6. 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 7. 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 8. 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 9. Hunting and Firearms: Hunting and all similar and associated activities, including discharging firearms, are prohibited within the subdivision.

Section 10. Automobiles: 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 equipment shall be kept, maintained, or stored upon the property except within a fully enclosed structure.

Section 11. Signs: For sale, for rent and directional signs may be erected, 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.

Section 12. Lights: The use of all night spotlights shall be forbidden.

Section 13. 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



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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 14. 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.

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.



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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 III 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 is not expanded in any way. In no event will 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 III for a period of (10) years from the date of the recording hereof in the office of the Clerk and Recorder of Park 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 Park 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 NO. 351734 IN THE OFFICE OF THE CLERK AND RECORDER FOR PARK 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.