

FALLS CREEK RANCH
PROTECTIVE COVENANTS

Falls Creek Ranch Association Inc., a Colorado non-profit corporation (hereinafter referred to as the "Association"), having established a general plan for the improvement and protection of the property and lots as defined herein, hereby encumbers the hereinafter described property and lots contained thereon with these protective covenants for the benefit of the Association and the present and future owners of the lots.

These covenants shall extend to and run with the land as described in Exhibit "A" attached hereto and incorporated herein as though fully set forth (hereinafter referred to the "Property"), and shall be binding upon present owners, their successors, transferees and assigns.

GENERAL PURPOSE OF THE COVENANTS:

1. These covenants are devised to ensure that development of the Property is carried out in such a manner as to retain its "natural state." Development of roads, placement of homes and other buildings, and the use of materials and methods of construction, must be done in such a manner as to protect the environment of both the lots and the Common Property and to retain the present character of the Property.

DEFINITIONS:

2. The term "association" refers to Falls Creek Ranch Association, Inc., a Colorado non-profit corporation.

3. The term "Board" or "Board of Directors" shall mean the Board of Directors of Falls Creek Ranch Association, Inc.

4. The term "Property" shall refer to all land described on Exhibit "A" attached hereto and incorporated by reference herein. The term "Common Property" shall refer to all said land, excluding the residential lots designated as Lots 1 through 45, inclusive, Falls Creek Ranch Unit I, according to the Plat thereof filed for record in the offices of the La Plata County Clerk and Recorder on April 16, 1973 at Reception No. 376513, and as amended on May 16, 1978 at Reception No. 419809 and as corrected pursuant to the correction Plat for Falls Creek Ranch Unit I, filed for record on September 24, 1979 at Reception No. 43558; Lots 58 through 100, inclusive, Falls Creek Ranch Unit II, according to the Plat thereof filed for record in the offices of the La Plata County Clerk and Recorder on August 22, 1974 at Reception No. 386758; and Lots 46 through 57, inclusive, Falls Creek Ranch Unit III, according to the Plat thereof filed for record in the offices of the La Plata County Clerk and Recorder on August 22, 1974 at Reception No. 386759; or any correction plats pertaining thereto.

5. The term "lot" shall mean any parcel of real property designated for residential use on any subdivision map or plat previously or hereafter filed pertaining to the property, which is subject to these protective covenants.

6. The term "owner" shall mean the holder of legal title to a residential lot in Falls Creek Ranch or a contract purchaser under contract for such lot executed by Falls Creek Ranch, incorporated, as Seller. The term "member" is synonymous with owner.

7. The term "improvements" shall include buildings, out-buildings, roads, driveways, parking areas, fences, screening walls, retaining walls, decks, poles, signs and/or all other structures of every type and kind.

8. The term “fiscal year” shall mean the twelve month period as established by the Board of Directors.

9. The term “single family occupancy” shall mean a group of individuals living together as a family unit, no more than two of whom shall be unrelated by blood, marriage or adoption.

MEMBERSHIP

10. (a) Membership in Falls Creek Ranch Association, Inc. shall be appurtenant to lot ownership and cannot be severed therefrom.

(b) Membership in the Association is limited to a maximum of 100 members.

(c) Each member must be a natural person.

(d) Each lot owner shall be entitled to one membership and each membership shall be entitled to one vote; provided, however, no membership shall be entitled to vote if the owner thereof is delinquent in the payment of any assessment at such time. Joint membership shall be limited to husband and wife only, and such membership shall be limited to a single vote.

(e) Each owner and other person residing with the owner shall be entitled to the rights, and subject to the duties set forth in these covenants, Articles of Incorporation, By-Laws, and the rules and regulations adopted by the Association. Owners and such other persons shall preserve not only the letter but the spirit of these protective covenants.

(f) Membership shall be subject to assessments to cover the costs of operation of the Common Property and facilities as approved in the annual operating budget, and for approved amounts for capital improvements or special assessments.

PROTECTIVE COVENANTS:

11. All buildings to be erected, altered, placed or permitted to remain on any lot shall be for one single family dwelling and the necessary out-buildings for the convenience of the lot owner. These may include a garage for not more than three (3) cars, one (1) guest house, and one (1) servants' quarters. Owners may not rent their primary residential structure, or any portion thereof, except during periods of the owners' absence. All leases shall be for single family occupancy as herein defined. Any rental shall be subject to termination by the Association upon ten (10) days written notice to the owner and the tenant in the event the tenant fails to abide by these protective covenants or rules or regulations established by the Board of Directors. Leases may not be subleased or assigned. Tenants shall enjoy the privileges of owners if such privileges are extended to tenants by the owner; in which case, the owner may not exercise privileges pertaining to the leased property during the term of the lease. Such assignment of privileges shall be specified in said lease agreement. The right to vote remains with the owner and cannot be assigned or transferred to tenants. An executed copy of the lease agreement, clearly stipulating tenant's privileges and obligations and tenant's knowledge of restrictive covenants and regulations, shall be provided to the secretary of the Association on or before the date of commencement of such lease.

12. All residential construction and improvements shall be confined to lots.

13. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out-building shall be erected or used on any lot at any time as a residence, either temporarily or permanently, except during the time of actual construction of a permanent residence for a period of time not to exceed six (6) months. The Board may grant extensions of additional six (6) month periods, but no more than two (2) such extensions shall be granted. This covenant shall not preclude lot owners or contract purchasers from camping on their sites

temporarily, not to exceed three (3) weeks annually. Trailers and mobile homes more than sixty (60) feet long or twelve (12) feet wide shall not be permitted on the Property.

14. Every lot owner shall be obligated to connect to the water service provided. A connection fee of \$1,000 shall be assessed to lot owners, and is payable to the developer of Falls Creek Ranch at the time of connection to the water system.

Each owner shall construct a sewage disposal facility at the owner's expense, with the design and construction to be carried out in full compliance with the standards, rules, and regulations of the Colorado Department of Health. The owner shall obtain approval for any such sewer system from the Architectural Control Committee prior to construction.

15. All utility, service, and transmission lines shall be placed underground. Location of proposed utility lines shall be approved by the Board of Directors or its designated agent, and no excavation of any kind shall be commenced until such approval has been obtained.

16. Prior to starting construction of any structure or improvement to be erected or moved upon any lot, or any exterior additions, changes, remodeling or reconstruction of such structure or improvement, preliminary site plans and specifications for such work shall be submitted in writing to, and be approved in writing by the Architectural Control Committee and the Board. Preliminary site plans and specifications shall include exterior treatment, location, exterior elevations (including overall height), excavation, tree and brush clearing, and access, but need not include any interior detail. Any such plans and specifications submitted and not approved or disapproved within thirty (30) days after submission shall be deemed approved, and no action of any kind shall thereafter be brought or threatened with respect to structures built or improvements constructed pursuant to such plans and specifications. Any disapproval shall specify in writing the reasons for disapproval and include suggestions for correction to satisfy architectural standards.

17. The Architectural Control Committee shall be established in accordance with the By-Laws of Falls Creek Ranch Association, Inc.

18. Unless allowed by the standards and policies adopted by the Board of Directors regarding fire control, no standing trees or brush shall be cut on lots without approval by the Architectural Control Committee, or on Common Property without approval by the Common Property Committee. Any required approvals shall be obtained in writing in advance of any cutting and shall specify what may be cleared.

19. In the event of damage or destruction of Common Property caused by an owner or any of his guests, tenants, licensees, agents, or members of his family, the Association shall notify the owner in writing of the damage and request its prompt repair or replacement, or compensation for irreparable damage. If the owner fails to comply within thirty (30) days after written notification, the owner, by such failure, thereby authorizes the Association to repair or replace said damage. The cost of such repair or replacement may be collected from the owner by the Association in the same manner as provided elsewhere in these covenants for collection and enforcement of assessments.

20. No business or commercial usage shall be allowed, except that a home occupation may be carried on in a residence provided it is expressly approved by the Board of Directors, does not interfere with the residential character of the dwelling or neighborhood, is secondary to the use of the residence as a dwelling place, causes no undue parking, traffic, or telephone problems, and has no outward appearance of business or commercial use.

21. No animals, fowl, poultry or livestock, other than a reasonable number of generally recognized domestic household pets, shall be maintained or permitted on any lot; and then only if

they are kept, bred, or raised thereon solely as household pets and not for commercial purposes. All pets shall be kept within the boundary line of the lot or otherwise under the direct control of the owner, and not be permitted to run at large or otherwise become a nuisance.

A limited number of horses may be kept on the Common Property, subject to rules and restrictions approved by the Board and expressly subject to availability of facilities and grazing areas as determined by the Board. No horses may be kept or maintained upon any lot.

22. No owner of any lot may do or permit to be done any act, which is or may become a nuisance to others. These possible nuisances include but are not limited to exterior speakers, horns, whistles, bells or other sound devices, barking or howling dogs, the use of motorized vehicles without adequate mufflers and exterior floodlights.

23. All lots shall be maintained in an orderly manor, with waste and refuse kept in closed sanitary containers. All vehicles of whatever nature parked upon lots must be currently licensed and operable on public roads. Trailers of any kind, recreational vehicles, motor homes, and storage tanks shall, whenever possible, be placed in a manner to minimize visibility from common roadways and adjacent lots.

24. No snowmobiles or motorcycles shall be operated anywhere upon the Property.

25. No hunting or trapping of any kind shall be allowed on the Property. Discharge of any firearms on the Property is prohibited.

Burning of slash or trash on the Property is prohibited unless authorized by the Board. No open campfires shall be allowed on the Property except in areas designated and approved by the Board, and then only if attended by an adult.

All fireworks are prohibited on the Property.

26. There shall be no use made or authorized of the Common Property that will interfere with the rights of any and all members unless otherwise delineated in these covenants. Any proposed improvements that change the character of the Common Property, in whole or in part, shall not be made unless approved by the Board of Directors and two-thirds (2/3) of the members entitled to vote.

EASEMENTS:

27. Falls Creek Ranch Association, Inc. shall grant, where necessary, a non-exclusive easement over Common Property for the purposes of utilities and road access to each lot, and shall grant in addition such non-exclusive easements as may be necessary for meeting applicable health requirements for the location of individual sewage disposal systems.

FUNDS AND ASSESSMENTS:

28. Annual Assessments: At least thirty (30) days prior to the commencement of each fiscal year, the Board shall estimate the operating cost and expenses to be incurred by the Association during such fiscal year, including reasonable provisions for contingencies and replacements, and shall subtract from such estimate an amount equal to the anticipated balance in the operating fund at the start of such fiscal year, exclusive of any reserves, which is attributable to fees and assessments received for the prior year. The foregoing computations shall be made for the purposes of determining the operating budget, which shall be presented to the members at the annual meeting of the Association or at any special meeting called for such purposes. At said meeting, the approval or disapproval of the operating budget in the form of an annual assessment shall be determined by a majority of the votes entitled to be cast by the members present at said meeting, in person or by proxy.

Approved annual assessments shall be levied against each lot in Falls Creek Ranch and against each owner individually. Any assessment not paid with thirty (30) days after the due date thereof shall become delinquent and shall bear interest from the due date at a rate determined by the Board of Directors or at the highest lawful rate, whichever shall be less. The assessment, interest, and any cost of collection thereof shall constitute a lien on the property against which it is assessed. In addition thereto, the assessment shall be the personal obligation of the property owner, his heirs, devisees, personal representatives, successors and assigns, and such personal obligation shall continue even though the owner's interest in the property may be thereafter transferred.

The Association may bring legal action against the owner personally obligated to pay the delinquent assessment or foreclose the lien against the lot. In this event, there shall be added to the amount of such assessment all costs incurred by the Association in foreclosing the lien or in collecting the amount owing, including any reasonable attorney's fees.

The amount of assessments against lots in Falls Creek Ranch may vary from year to year as determined by the Board, and annual assessments within a given fiscal year may vary between improved and unimproved lots. For purposes of such determination, an improved lot is defined to be any lot on which excavation, utility connections, site clearing, or site preparation has occurred.

29. **Special Assessments:** Should the Board of Directors determine that additional funds are essential for the maintenance of the health, safety or welfare of members of Falls Creek Ranch or for the protection of corporate property, the Board may issue notice to the members of the need to levy a special assessment. Approval of the special assessment shall be determined by the membership at an annual meeting, or at a special meeting called for the express purpose of considering the need for a special assessment for the purposes stated in the notification submitted by the Board of Directors. The authorization to levy a special assessment shall be determined by an affirmative vote of the greater of either (1) the majority of members entitled to vote on such issue, or (2) two-thirds (2/3) of the members present at an annual meeting or special meeting called for such purpose, provided a quorum is present at such meeting, in person or by proxy, when the vote is taken. In addition to authorizing the levy of a special assessment, the members shall also determine in their vote the date upon which such assessment is due, and the penalties and interest that shall be applicable for delinquent payment.

30. **Subordination of Assessment Lien:** The lien of any assessment provided for herein shall be subordinate to the lien of any mortgage or deed of trust now or hereafter placed upon the lot subject to assessment; provided, however, such subordination shall apply only to the assessments which have become due and payable prior to the sale and transfer of such foreclosure. The sale or transfer of any lot at Falls Creek Ranch shall not release such lot from liability for any assessment then due and owing nor from the lien of any subsequent assessment.

ENFORCEMENT OF COVENANTS:

31. These covenants, conditions and restrictions may be enforced as provided hereinafter by the Association, or by separate action by any individual owner or member after notification to the Board. In the event that any covenant shall be violated, the offending party shall be notified in writing by certified mail, return receipt requested, by any enforcing party as defined above. Such notification shall identify the covenant which has been violated, and shall notify the offending party that he shall have a maximum of five (5) days to remedy such violation, or alternatively, in the event such violation cannot be remedied within five (5) days, he shall have a

period of five (5) days within which to initiate procedures calculated to remedy such violation, and shall thereafter be required to diligently pursue such action until the violation has been remedied. In the event the violation continues and no action is taken to remedy such violation within the aforementioned five (5) day period, enforcement may be by any proceeding at law or in equity, and may seek an order to restrain the violation or to recover damages, including reasonable attorney's fees. Failure by the Association, or any owner or member, to enforce any covenant or restriction contained herein shall not be deemed a waiver of the right to do so thereafter.

AMENDMENT OF COVENANTS:

32. Falls Creek Ranch Association, Inc. shall have the power and authority to waive or alter these protective covenants only upon approval of three-fourths (3/4) of its members. No such waiver or amendment shall be effective until a document evidencing such waiver or amendment has been recorded in the offices of the La Plata County Clerk and Recorder.

RE-SUBDIVISION:

33. No commercial development or further re-subdivision of the Property encumbered by these protective covenants shall be permitted.

TERM OF COVENANTS:

34. The covenants described herein shall run with and bind the land described in Exhibit "A" attached hereto and by this reference incorporated herein, and shall be binding upon all present and future owners of any interest in the property described on Exhibit "A" attached hereto, for a period of twenty-five (25) years from the date of the recording of these covenants. After the expiration of twenty-five (25) years, these covenants shall automatically be extended for consecutive periods of ten (10) years each until or unless three-fourths (3/4) of the members of Falls Creek Ranch Association, Inc. shall cause to be recorded in the offices of the La Plata County Clerk and Recorder an instrument rescinding these protective covenants. Such instrument shall designate the total number of members and shall be signed and acknowledged, with notarization, by three-fourths (3/4) of the total number of members as reflected in such instruments.

SEVERABILITY:

35. Invalidation of any one of these covenants by judgment or court decree shall not affect or impair the terms, provisions and conditions of any other covenants contained herein, which covenants shall remain in full force and effect.

PRIOR COVENANTS REPEALED:

36. Those certain covenants, conditions and restrictions contained within the document designated as Protective Covenants for Falls Creek Ranch Unit I previously adopted and subsequently recorded in the offices of the La Plata County Clerk and Recorder on the 20th day of September, 1974, at Reception No. 387340 and subsequently amended by instruments recorded in the offices of the La Plata County Clerk and Recorder on the 9th day of September, 1975, at Reception No. 394457 and on the 9th day of May, 1981, at Reception No. 483017, are hereby repealed in their entirety.