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CINDY HILL, RECORDER
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COVENANTS 68.00
OR Book 593 Page 509 - 520

DEER PARK SUBDIVISION

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

This Revision of August 2018, revises and replaces the previous Declaration,
June 13, 1988, and recorded October 17, 1988 and the Revision dated March 28, 2005.

Instrument Book Page
201800433964 OR 593 509

STATE OF COLORADO

COUNTY OF RIO GRANDE

KNOW ALL PERSONS BY THESE PRESENTS: The Deer Park Owners Association, Inc., a Colorado Corporation, hereinafter call the Declarant, has as its members the owners of that certain real property located in Rio Grande County, Colorado, known as Deer Park Subdivision according to the plat thereof filed in the records in the office of the Rio Grande County Clerk and Recorder.

WHEREAS, original Covenants of Deer Park Subdivision were filed by the Developer/Declarant at Book 420, Pages 967 to 978; and

WHEREAS, the Covenants were amended by a majority of the lot owners approving and signing the amendments and filed at Book XXX, Pages XXXX to XXXX; and

WHEREAS, a majority of the lot owners have approved these Second Amended Covenants to the Deer Park Subdivision evidenced by their signatures and filing of this document in the Real Property Records of Rio Grande County and these Second Amended Covenants will supersede all previous Covenants;

THEREFORE, each contract or deed which has been or may be hereafter executed with regard to any of the lots in the subdivision shall conclusively be held to have been executed, delivered and accepted subject to the following (regardless of whether or not the same are set out in full or by reference in said contract or deed.)

ARTICLE I

Instrument Book Page
201800433964 OR 593 510

DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases when used in this declaration shall have the meanings hereinafter specified.

- 1.01 "Association" shall mean Deer Park Owners Association, Inc., a Colorado non-profit corporation.
- 1.02 "Lot" shall mean those portions of the Property designated on the recorded plat.
- 1.03 "Architectural Review and Environmental Control Committee" (hereinafter sometimes referred to as the Architectural Committee) shall mean the committee created pursuant to Article III hereof.
- 1.04 "Board" shall mean Deer Park Owners Association, Inc. Board of Directors, as elected pursuant to the By-Laws for the Association.
- 1.05 Architectural Committee Rules shall mean the rules adopted by the Architectural Committee pursuant to this declaration.
- 1.06 Declaration shall mean this instrument and any future amendments thereto.
- 1.07 Developer shall mean South Fork Development Corporation, a Colorado Corporation, or its successor or interest, herein sometimes referred to as the SFDC.
- 1.08 Improvement shall mean every structure and all appurtenances thereto of every type and kind, including but not limited to buildings, outbuilding, patios, garages, fences, walls, stairs, decks, landscaping, poles, pumps, towers, meters, antennas, radio and television receiving equipment.
- 1.09 Owner shall mean any person, persons or legal entity holding the recorded fee simple interest in a lot or lots in the subdivision.
- 1.10 Subdivision shall mean that parcel of land which has been shown on the final subdivision plat recorded in the office of the Rio Grande County Clerk and Recorder know as the "Deer Park Subdivision."

ARTICLE II

HOMEOWNERS ASSOCIATION

2.01 Members of the Deer Park Owners Association, Inc. "the Association" shall consist of all lot owners in the Deer Park subdivision. The Association will be operated pursuant to the Articles of Incorporation, and By-Laws of the Association, and any Rules, if any, defined below adopted by the Association ("Authority Documents").

- A. Every owner will automatically be a member of the Association with one vote per Lot. (See 3.03, combined lots.) No owner will be allowed any vote if declared delinquent by the Association in the payment of any special assessment or annual dues. The Association will have an election of Board members annually and these Board members may call a meeting whenever considered necessary but no less than once a year or as set forth in the Association By-Laws. The Board has the right to set fees, disperse funds, hire help, etc., as they deem necessary. It is intended that regular annual assessments will not exceed \$300.00 per lot.
- B. The Association shall have authority to:
 - Assess annual dues and special assessments. Any unpaid dues or assessments, charges, fees or other sums assessed against an Owner or his/her Lot (along with any attendant legal fees) shall be a continuing lien, in favor of the Association, upon the Lot against which each such assessment, fee or other sum is made.
- C. The Association shall own and have the duty and authority to operate the community water distribution system in accordance with applicable regulations.
- D. The Association shall have the duty and power to enforce these covenants, conditions, and restrictions. The Association shall have the power to represent all property owners in matters of mutual interest.
- E. In consideration of many years of services rendered and out of pocket expense by SFDS to the benefit of other lot owners, it is herein stipulated that until the Association Board decides otherwise, no annual assessments will be levied on vacant lots owned by SFDS and said lots will not hold voting privilege as stated in "A" above.

ARTICLE III

GENERAL RESTRICTIONS

- 3.01 **Use.** None of the lots or the improvements thereon shall be used for anything other than single-family, private residential purposes. No commercial or business uses are permitted. No short-term rentals (less than 28 days) will be permitted.
- 3.02 **Subdividing.** No lot shall be re-subdivided without the specific approval of the Town of South fork Board of Trustees and the Architectural Committee.
- 3.03 **Combined Lots.** If more than one lot is owned and they are contiguous and deeded to one ownership and if they are considered by the owner to be one homesite, the combined area will be considered as one lot for this declaration and all governing laws and the owner will be allowed to build on the common lot lines but otherwise must comply with 3.07 **Minimum Yards** herein. Once the owner has opted to consider multiple contiguous lots to be one homesite, that determination will continue in force for the duration of that ownership. Homesite, for this purpose is defined as a lot or lots containing a house. In this circumstance, there will be one dues and assessments and one vote. In the case of one owner owning non-contiguous lots, each lot will be entitled to one vote and each will have a separate dues and assessments. (Example: One owner owns two non-contiguous lots; that owner will have two votes and be subject to two dues and assessments.)
- 3.04 **Antennas.** No antenna, satellite receiving dish, aerial, or similar devices, being larger than 36" in diameter, for the transmission or reception of television, internet or radio signals, shall be erected, used or maintained outdoors without the specific approval of the Architectural Committee; and when approved, must be located no nearer than 8 feet from any other property line; and so that it is not unsightly, offensive, or detrimental to any other lot in the Subdivision. The committee shall be the sole judge of these requirements.
- 3.05 **Signs.** No signs (including, but without limitations, commercial, political, and similar signs) which are visible from neighboring lots or streets shall be erected or maintained on any lot except:
- (1) Such signs as may be required by legal proceedings.
 - (2) During the time of construction of any residence, one job identification sign having a maximum face area not larger than three (3) square feet.
 - (3) No more than one "For Sale" sign having a maximum face area of three (3) square feet.
 - (4) A carved or routed wooden sign with the lot owners name may be erected on any lot only after specific approval of the sign and location of same by the Architectural Committee.
 - (5) Such signs as deemed necessary by SFDS until all remaining lots owned by said corporation as of the date of this Declaration have been sold. The Architectural Committee may cause to be removed any unauthorized sign remaining on any lot more than twenty-four hours after notice to the owner without liability for trespass or otherwise.

- 3.06 Fencing. All fences must receive written approval of the Architectural Committee before installation. Type, height, and location must be submitted in writing or on a drawing for approval. Lots 7 through 17, in block 4 and lots 1 through 14 in block 5, cannot fence out access to the river.
- 3.07 Minimum Yards. Measurement for yards will be made from the outer extremity of any buildings or structure including overhangs to the nearest property lines.
- (1) The minimum front yard setback shall be (25) twenty-five feet.
 - (2) The minimum rear yard set back shall be (15) fifteen feet.
 - (3) The minimum side yard set back shall be (8) eight feet. (May be reduced to (5) five feet provided it is done in compliance with Town Code.)
 - (4) For cul-de-sac fronting lots and corner lots, street frontage lines shall be considered front lot lines.
- 3.08 Building set back on River lots. No building shall be built within 10 feet horizontally of the high-water mark on any lot which lies on the river. These are inclusive of lots 7 through 17 in Block #4 and lots 1 through 15 in Block #5.
- 3.09 Structures. No more than one residential structure containing not less than one thousand (1000) square feet of living area on one floor may be constructed on any lot that is not bordering the river. If a two-story house is built, area shall not be less than eight hundred (800) square feet on the first floor. For lots 5, 7, 10, 11, 12, 15, and 16, block 2, the following minimums apply: No more than one residential structure containing no less than one thousand two hundred fifty (1250) square feet of living area on one floor shall be constructed; such structure must also have an enclosed garage, in addition to the above minimum space. All construction must be on site. For those lots lying on the river, the minimum residential structure shall not be less than sixteen hundred (1600) square feet of living area on one floor and if a two-story house is built, area shall not be less than one thousand (1000) square feet on the first floor except for lot 13, Block 5, and the minimum area may be as for those off the river. Additionally, one garage or out building may be constructed with same roof materials and color and the same exterior wall materials and colors as the primary structure. An owner may make a request from the Architectural Committee for a third structure based on a hardship situation. The Committee has the authority to approve such structure only if it deems it to be in harmony with the existing structure and with the neighborhood. It is expected that such approval will be rare. All structures erected in the subdivision shall be of a pleasing design and appearance. Exterior walls shall be either log, wood siding, glass, stone, masonry or stucco. Roof materials shall be wood, metal, composition, or fiber glass. All exterior materials and colors must be approved by the Architectural Committee. No mobile homes, modular homes or UBC-approved frame-less modular homes shall be permitted.

Samples of the type and color of all exterior walls and roof materials must be submitted to the Architectural Committee for approval prior to starting any construction.

Except as allowed in paragraph 3.12 below, no trailer, mobile home, recreational vehicle, tent, shack, or any other type of outbuilding or structure of a temporary character shall be used at any time as a residence, or for storage purpose, be it either temporary or permanent; nor shall any such structure ever be used in any way or moved on to or permitted to remain on any lot except during and for construction of a permanent structure. With reasonable diligence and in all events any permanent structure shall be completed as to its exterior and all temporary facilities shall be removed within six (6) months from the commencement of construction. Any exceptions to this paragraph can be granted only by the Architectural Committee.

- 3.10 Height of Improvements. No improvement may be constructed or erected on any lot that is greater than thirty-five (35) feet in height.
- 3.11 Unightly Articles. No article deemed to be unsightly by the Architectural Committee shall be permitted to remain on any lot so as to be visible from adjoining lots or streets. Without limiting the generality of the foregoing, snowmobiles, trailers, mobile homes, recreational vehicles, graders, trucks (other than pickups), boats, tractors, buses, motorcycles, and garden maintenance equipment shall be kept at all times, except when in actual use, in an enclosed structure or screened from view and no repair of maintenance work shall be done on any of the foregoing, or on any automobile (other than minor emergency repairs) except in an enclosed garage or other structure. With regard to ATV's, boats, snowmobiles, and motorcycles, any two (and only two) of these may be temporarily stored outside in view for a period of not more than 14 days per year. This is allowed for purposes of loading, preparing for usage, etc. No vehicles of any kind which are not operational will be allowed to remain in view. Facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view. Liquid propane gas, oil, gasoline, and other exterior tanks shall be kept within an enclosure or permanently screened from view.
- 3.12 Parking. The owner of each lot shall provide adequate space for off the street parking for all vehicles of the owner, tenants, visitors, and occupants of the premises of said lot. A motor home, travel trailer, pop-up camper trailer or similar recreational vehicle may be parked on an owner's improved lot (not on the street) for no more than a total of thirty (30) days in any calendar year. (Note that such parking is not permitted on undeveloped lots; i.e., those without completed homes.)
- 3.13 Noise. No noise shall originate from any lot so as to be offensive or detrimental to any other lot or its occupants.
- 3.14 Trash. All garbage, rubbish, and trash shall be placed and kept until removed from the site, in covered containers of a type and style which are both slightly and sanitary.
- 3.15 Animals. No kennel or other facility for raising or boarding dogs or other animals for commercial purposes shall be kept on any lot. No horses, cows, poultry or livestock of any kind shall be kept on any lot or raised for commercial sale or consumption. The keeping of ordinary household pets such as dogs and coats is allowed; however, no breeding, raising or boarding of such pets for commercial purposes is permitted. Pets shall be kept under control at all times and shall be restrained by a leash or under direct control of the owner. No pet shall be allowed to roam or run at large.
- 3.16 Public Fishing. The public will be allowed to fish the river along Lots 7 through 17, Block 4 and Lots 1 through 15, Block 5 and will be allowed to walk in the water, only to the middle of the river. The public access to the water will be on Lot 15, Block 5 and at the Cul-de-sac. The public will not be allowed on dry land at any other point. The river in this Gold Medal Fishing area will be stocked with trout by the Colorado Division of Wild Life.

- 3.17 **Public Rafting.** The public will have access in and out of the river on Lot 15, Block 5 only. The owner/owners, (their heirs, successors or assigns forever) of Lot 15, Block 5 will be held harmless of any liability on this lot and the liability will be assumed by the Colorado Division of Wild Life's easement agreement. If this easement agreement with the Colorado Division of Wild Life should cease for any reason, whether because of the owner building a home on or:
- (1) Selling this Lot for someone to build a home on or
 - (2) Subdividing Lot 15 into smaller lots if and when the Railroad should ever abandon the Railroad lines along this subdivision this number 3.17 under Article III would cease to be in effect.
- 3.18 **Removal of Vegetation on River Lots.** Each Lot owner in Block #4, Lots 7 through 17 and in Block #5, Lots 9 through 14, will be allowed to remove a maximum of 10% of the total vegetation on each of these lots, currently in place. Each lot owner in Block #5, Lots 1 through 8, will be allowed to remove a maximum of 30% of the total vegetation on each of these lots currently in place.
- 3.19 **Water.** The Subdivision is served by a central water system. Each lot owner will have in house water use and will be allowed to water a 500 square foot area (yard or garden) outside. Owners of multiple and fractional lots will be allowed to water pro-rata areas. The Water System is owned by the Association who will be responsible for operation and maintenance of the system and lines to the point of private taps to the water mains. Each owner will be responsible for any maintenance from the tap to the house.
- 3.20 **Fire Hydrants.** If a fire breaks out in the Subdivision, because of the need for water at the fire hydrants, it would be expected by all land owners to shut off the water on their property.
- 3.21 **Drainage.** There shall not be interference with the established drainage patterns over any property within the Subdivision, except by Grantor, unless adequate provision is made for proper drainage and approved by the Architectural Committee.
- 3.22 **Repair of Buildings.** All improvements hereafter constructed upon any lots in the Subdivision shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the owners thereof.
- 3.23 **Improvements and Alteration.** Any construction, other than repairs, which in any way alters the exterior appearance of any improvement or the removal of any improvement, shall be performed only with the prior written approval of the Architectural Committee.

ARTICLE IV

ARCHITECTURAL AND ENVIRONMENTAL CONTROL COMMITTEE

The Committee.

- 4.01 The Architectural Committee shall consist of three (3) lot owners, to be elected annually. Each lot shall be entitled to one vote during this election except as stated in Article II, 2.01 herein. Vacancies between elections shall be filled, by appointment, by the Association Board. Termination of ownership in the subdivision will automatically terminate membership on the committee.
- 4.02 Adoption of Rules. The architectural Committee may adopt such procedural and substantive rules, not in conflict with this declaration, as it may deem necessary or proper for the performance of its duties.
- 4.03 Powers and Duties. The Architectural Committee shall have all the powers and duties conferred upon it by the declaration and all inherent powers necessary or proper in the performance of its duties. In addition, thereto, and with limitation, the Architectural Committee shall have the following specific powers and duties.
- (1) To approve all plans and specifications for any improvements in the subdivision. (A copy of all written approvals, plans, waivers, etc. by both the owner and the Architectural Committee shall be provided to the Board of Directors Secretary/Treasurer for historical reference.)
 - (2) To prescribe design or construct criteria for driveways, fences, walls, landscaping, or other improvements.
 - (3) To specify types, colors, and quality of roofing materials.
 - (4) To insure for all owners, harmony of aesthetic values of exterior design with existing structures.
 - (5) To prescribe and charge reasonable fees to cover its expenses.
- 4.04 Review of Proposed Construction. Whenever in this declaration, the approval of the Architectural Committee is required; it shall have the right to consider all of the plans and specifications for the improvements or proposal in question and all other facts which, in its sole discretion, are relevant. Prior to commencement of any construction of any improvements in the subdivision, the plans and specifications therefore shall be submitted to the Architectural Committee, and construction thereof may not commence unless and until the committee has approved such plans and specifications in writing. The committee shall consider and act upon any all submittals and give written notice of its actions within thirty (30) days of the receipt of each submittal. The committee may inspect construction in progress or completed to assure its conformance with this declaration and the plans and specifications which were approved. The committee may review and approve or disapprove all plans and specifications submitted to it for any proposed improvement, including the construction, alteration or addition thereof or thereto, solely on the basis of aesthetic consideration and the overall benefit or detriment which would result to the subdivision.

- 4.05 **Meetings.** The Architectural Committee shall meet from time to time as necessary to perform its duties hereafter. The committee may by resolution adopted in writing, designate a representative to act for it in all matters arising hereunder. In the absence of such designation, the vote of a majority of the members shall constitute an act of the committee.
- 4.06 **No Waiver of Future Approvals.** The approval or consent of the Committee to any plans and specifications for any work done or proposed or in connection with any other matter requiring the approval or consent of the Committee shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any plans and specifications, or other matter whatever, subsequently or additionally submitted for approval or consent by the same or a different person.
- 4.07 **Inspection of Work**
- (1) **Completed Work.** Upon the completion of any improvement for which approved plans and specifications are required, the owner shall give written notice of completion to the Committee. Within (30) thirty days thereafter, the Committee or its duly authorized representative may inspect such improvement. If the Committee finds that such work was not done in strict compliance with all approved plans and specifications, it shall notify the owner in writing of such noncompliance within fifteen (15) days, specifying in reasonable detail the particulars of noncompliance, and shall require the owner to remedy the same. If upon the expiration of thirty (30) days from the date of such notification, the owner shall have failed to remedy such noncompliance, the committee shall proceed to enforce the provisions of this declaration as set forth in Article V, 5.01. If for any reason after receipt of said written notice of completion from the owner, no inspection is made, or any noncompliance is found within the period provided, the improvement shall be deemed to be in accordance with said approved plans and specifications.
- (2) **Work in Progress.** The committee may inspect all work in progress and give notice of noncompliance as provided herein above. If the owner denies that such noncompliance exists, then no work shall be done, pending resolution of the dispute, which would hamper correction of the noncompliance.
- 4.08 **Non-liability of Committee Members.** Neither the committee, nor any member thereof, shall be liable to any owner or to any other person for any loss, damage or injury arising out of their being in any way connected with the performance of the Committee's duties under this declaration.

ARTICLE V

MISCELLANEOUS

5.01 **Violation of Declaration.** In any case of violation of any part of this Declaration by an owner, his/her family, guest, lessees, or licensees, the Board shall then be authorized to avail itself of any one or more of the following remedies:

- (1) The imposition of a special charge not to exceed one hundred dollars (\$100.00) per violation or
- (2) The right to cure or abate such violation and to charge the expense thereof, if any, to such owner or
- (3) The right to seek injunctive or any other relief provided or allowed by law against such violation and to recover from such owner all its expenses and costs in connection therewith, including, but not limited to attorneys' fees and court costs.

Before the Board of Directors may invoke such remedies provided above, it shall give written notice of such alleged violations to the owner and shall afford the owner a hearing before the Board. If, after the hearing, a violation is found to exist, the Board's right to proceed with the listed remedies shall become absolute. Each day a violation continues shall be deemed a separate violation.

5.02 **Liens.** The Board of Directors shall have the right, when appropriate in its judgment, to claim or impose a lien upon any lot in order to enforce any right or effect compliance with this Declaration.

5.03 **Utility easements.** The Declarant reserves the right to locate, construct, erect and maintain or cause to be located, constructed, erected and maintained in and on the areas indicated on the Plat as "easement" or such other areas as may be deemed by the Declarant to be necessary, pipe lines, conduits, wires and any public utility function beneath the surface of the grounds, or above the surface, with the right of access to the same at any time for the purposes of repair and maintenance. All utility services, through its proper agents and employees shall at all times have right of access to all easement ways shown on the plat for the purpose of installing, maintaining, removing, or replacing any portion of the underground utility facilities located on this property and shall prevent the alteration of grade or any construction activity which may interfere with said utility facilities.

5.04 **Covenants Running with the Land.** All of the covenants and restrictions herein proved for and adopted, apply to each and every lot in the subdivision; and shall be covenants running with the land. The owner of any lot or lots in the Subdivision shall have the right either to prevent breach of any such covenant or restriction or to enforce the performance thereof.

5.05 **Partial Invalidity.** Invalidation of any covenant or restriction (by court judgment or otherwise) shall not affect, in any way, the validity of all other such covenants or restrictions all of which shall remain in full force and effect.

5.06 **Amendment.** This declaration may be amended by an instrument signed by the then owners of a majority of the lots in the Subdivision and recorded in the office of the Rio Grande County Clerk and Recorder, agreeing to amend said declaration in whole or in part.

5.07 Duration of Declaration. The covenants and restriction herein provided for and adopted shall remain in effect, unless amended as provided herein, until January 1, 2019. At the end of this term, and at the end of each ten (10) years extension hereby provided, this Declaration shall be automatically renewed and extended for succeeding periods of ten (10) years each.

The foregoing Third Amended Declaration of Covenants, Conditions and Restrictions (consisting of 12 pages) are hereby agreed to and adopted as evidenced by my (our) signature(s) below.

KL R
Signature

Block 2: Lots 1 & 2
Block and Lot #'s

Zany Cove
Signature

9-14-18
Date