

DECLARATION OF PROTECTIVE COVENANTS

FOR

ELK CREEK HIGHLANDS SUBDIVISION, FILING NO. FIVE

TATUM-REESE DEVELOPMENT CORPORATION, ("Grantor"), a Colorado corporation, is the owner of all that real property within the subdivision named Elk Creek Highlands, Filing No. 5, in Park County, Colorado, the plat of which was filed with the Clerk and Recorder of Park County, Colorado, on May 4, 1970, under reception number 180872 and filed in the Map Book.

Grantor hereby makes and declares the following limitations, restrictions and uses upon and of such real property as restrictive and protective covenants running with the land, and as binding upon Grantor and upon all persons claiming under Grantor and upon all future owners of any part of such real property, so long as these restrictive and protective covenants shall remain in effect:

1. DEFINITIONS: As used herein, the following words and terms shall have the following meanings:

Subdivision: Elk Creek Highlands, Filing No. Five

Lot: A lot within Elk Creek Highlands, Filing No. Five which may be used for residential purposes.

Multiple Family Residential Lot: A lot which can be used for residential purposes only and upon which only one dwelling building, containing not more than two apartments, together with one outbuilding may be constructed.

Outbuilding: An enclosed, covered building to be used as a garage or for other storage purposes not directly attached to the main structure which it serves.

2. GENERAL PURPOSES: These covenants are made for the purpose of creating and keeping the subdivision, insofar as possible, desirable, attractive, beneficial and suitable in architectural design, materials and appearance; and guarding against fires and unnecessary interference with the natural beauty of the subdivision; all for the mutual benefit and protection of the owners of lots in the subdivision.

3. USES: Each lot in the subdivision shall be a multiple family residential lot; provided, however, that upon any four adjacent lots a condominium, townhouse or other apartment building may be constructed if written approval of Grantor is first obtained.

4. APPROVAL OF CONSTRUCTION PLANS: No building or other structure shall be constructed, erected or maintained on any lot, nor shall any addition thereto or change or alteration therein be made until the complete plans and specifications (including, but not limited to, the floor, elevation, plot and grading plans; the specifications of principal exterior materials, color schemes and the location, character and method of utilization of all utilities) have been

submitted to Grantor and by it approved in writing.

At the time plans and specifications are submitted to Grantor for its approval, the person or persons submitting such plans and specifications shall also submit to Grantor evidence satisfactory to Grantor that the Public Health Department of the State of Colorado or the appropriate official of Park County, Colorado has approved the complete plans and specifications of such person or persons for an individual sanitary sewage disposal system.

Each building or other structure shall be constructed, erected and maintained in strict accordance with the approved plans and specifications.

In passing upon all such plans and specifications, Grantor shall take into consideration the suitability of the proposed building or other structure and the materials of which it is to be built to the lot upon which it is to be erected, the harmony thereof with the surroundings and the effect of the building or other structure, as planned, on the outlook from adjacent or neighboring lots. Grantor agrees to use reasonable judgment in passing upon all such plans and specifications, but Grantor shall not be liable to any person for Grantor's actions in connection with submitted plans and specifications, unless it be shown that Grantor acted with malice or wrongful intent.

5. EASEMENTS: Easements and rights of way are hereby reserved as shown or described on the recorded plat of the subdivision. There are in addition easements reserved in the right of way of each road for water and all other utilities.

6. FENCES: No fence, wall or similar type barrier of any kind shall be constructed, erected or maintained on any lot, except such fences or walls as may be approved by Grantor as an integral or decorative part of a building to be erected on a lot.

7. SIGNS: No signs, billboards or other advertising structure of any kind shall be erected, constructed or maintained on any lot for any purpose whatsoever, except such commercial signs as have been approved by Grantor for identification of residences.

8. WATER: Each structure designed for occupancy or use by human beings shall connect with water facilities made available at any time in the future by Grantor or any public utility or other water service company. Until such water facilities are available, private wells may be used as a source of water for human consumption or irrigation.

9. TRASH: No trash, ashes or other refuse shall be thrown or dumped on any land within the subdivision. There shall be no burning or refuse out of doors except in incinerators installed with the approval of Grantor. Each property owner shall provide suitable receptacles for the temporary storage and collection of refuse and all such receptacles shall be screened from public view and protected from disturbance.

10. LIVESTOCK: No animals, livestock, horses or poultry (except dogs, cats and other pets for household enjoyment and not for commercial purposes) shall be kept, raised or bred in the subdivision.

11. TREES: Trees naturally existing upon a lot, except to the extent necessary for construction purposes, shall not be cut, trimmed or removed from the properties, except that Grantor may approve some thinning or trimming if it seems desirable.

12. SET BACK REQUIREMENTS: There shall be no general rule for the location of improvements with relation to property lines, but all actual

construction sites shall receive the advance approval of Grantor.

13. LANDSCAPING: All surface areas disturbed by construction shall be returned promptly to their natural condition and replanted in native grasses; but Grantor may approve construction of gardens, lawns and exterior living areas.

14. TEMPORARY STRUCTURES: No temporary structure, excavation, basement, trailer or tent shall be permitted in the subdivision, except as may be determined to be necessary during construction and specifically authorized in writing by Grantor.

15. CONTINUITY OF CONSTRUCTION: All structures commenced in the subdivision shall be prosecuted diligently to completion and shall be completed within twelve months of commencement unless some exception is granted in writing by Grantor.

16. NUISANCE: No noxious or offensive activity shall be carried on within the subdivision, nor shall anything be done or permitted which shall constitute a public nuisance therein.

17. EFFECT AND DURATION OF COVENANTS: The conditions, restrictions, stipulations, agreements and covenants contained herein shall be for the benefit of and binding upon each tract in the subdivision, and each owner of property therein, his successors, representatives and assigns and shall continue in full force and effect until January 1, 1999, at which time they shall be automatically extended for five successive terms of ten years each.

18. AMENDMENT: The conditions, restrictions, stipulations, agreements and covenants contained herein shall not be waived, abandoned, terminated, or amended except by written consent of the owners of 75% of the privately owned land included within the boundaries of the subdivision.

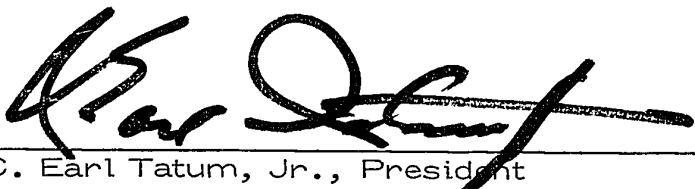
19. ENFORCEMENT: If any person shall violate or threaten to violate any of the provisions of this instrument, it shall be lawful for any person or persons owning real property in the subdivision to institute proceedings at law or in equity to enforce the provisions of this instrument, to restrain the person violating or threatening to violate them, and to recover damages, actual and punitive, together with reasonable attorney's fees, for such violations.

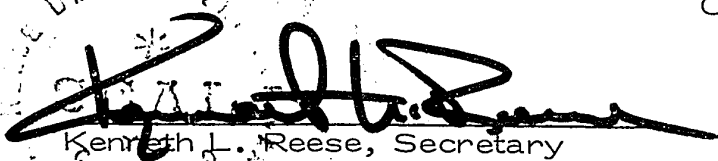
20. SEVERABILITY: Invalidation of any one of the provisions of this instrument by judgment or court order or decree shall in no wise affect any of the other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, this declaration of protective covenants is made and executed this 4th day of May, 1970.

TATUM-REESE DEVELOPMENT CORPORATION

ATTEST:

By   
C. Earl Tatum, Jr., President

  
Kenneth L. Reese, Secretary

STATE OF COLORADO )  
 )  
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this  
4th day of May, 1970, by C. Earl Tatum, Jr.  
as President, and Kenneth L. Reese, as Secretary of TATUM-REESE  
DEVELOPMENT CORPORATION, a Colorado corporation.

Witness by hand and official seal.

My commission expires February 3, 1971.

  
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Notary Public

