

H 208435

Revised
Declaration of
Covenants, Conditions and Restrictions of
Lots 1-3 Sunrise View Subdivision
Hotchkiss, Co
May 30th, 2008
ARTICLE I
PROPERTY RIGHTS

Section 1. Owner's Right of Enjoyment. Every Lot Owner shall have a nonexclusive right to enjoy and use easements located upon the Property and such right shall be appurtenant to and shall pass with the title to every Lot.

Section 2. Delegation of Use. Any Owner may delegate, his right of use to the members of his family, his tenants, or contract purchasers who reside on his Lot.

ARTICLE II
ARCHITECTURAL GUIDELINES

Section 1. Public Knowledge. Copies of all architectural building plans shall be delivered to the other Lot Owners in the Subdivision 8 weeks before starting construction so that your neighbors may make objections to violations of these guidelines. Lot Owners must provide comments within two weeks of receipt of plans.

Section 2. Guidelines for Dwellings:

The dwelling unit on each lot should be permanent and pass U.B.C. guidelines. No buildings shall exceed a height of two stories above ground level, exclusive of roofing, attic or observation room/deck. All pitched roofs shall have a minimum pitch of 6:12; and, should have at least twelve inches (12") of eaves or overhang. The roofs may be architectural metal, shingles, tile, stone or fire resistant shakes or material consistent with adobe/concrete buildings.

All guidelines for dwellings exclude any preexisting structure.

All earth disturbed during construction must be graded, reseeded and re-irrigated within one year of completion of construction.

During construction all building supplies, materials, and debris will be kept orderly.

Section 3. Objections. If any lot owner has objections consistent with these architectural guidelines regarding the building plans of another lot owner, a majority decision vote of Lot Owners shall determine if the architectural guidelines have been violated. All disputes must be ruled on within 2 months of receipt of plans by the Lot Owners, or the submitting owner may proceed with construction per the submitted plan.

05-30-08
JCS

Section 4. Records. The Lot Owners shall maintain written records of all applications for construction, which shall be open to the public. Written notice of building plans will be mailed certified mail to lot owners.

Section 5. Liability. No Lot Owner shall have any liability to any person submitting a request for review or to any Owner, by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove in regard to any matter within its jurisdiction hereunder.

Section 6. Variance. Lot Owners may grant to each other reasonable variances or adjustments from any conditions and restrictions imposed by this Declaration, in order to overcome practical difficulties and prevent unnecessary hardships arising by reason of the application of the conditions and restrictions contained in this Declaration. Such variances or adjustments shall be granted only in case the granting thereof shall not be materially detrimental or injurious to other properties or improvement in the neighborhood and shall not mitigate against the general intent and purpose thereof. No variance shall be allowed for mobile homes.

ARTICLE III RESTRICTIONS

Section 1. General Plan. To build dwellings or hold lots 2 and 3 and any subsequent lots.

Section 2. Restriction Imposed. The Undersigned hereby declares that all of the Property shall be held and shall henceforth be sold, conveyed, used, improved, occupied, owned, resided upon and hypothecated, subject to the following provisions, conditions, limitations, restrictions, agreements, and covenants, as well as those contained elsewhere in this Declaration.

Section 3. Residential Use. All lots shall be used for residential purposes and all uses permitted by applicable county land use regulations. No mobile homes of any type are permitted on any lot within the subdivision.

Section 4. Commercial Land Uses. Home Occupations are permitted as defined by the Delta County Subdivision Regulations.

Section 5. Use. Notwithstanding anything to the contrary contained in this Declaration, it shall be expressly permissible and proper for all lot owners, their employees, agents, contractors, and designees to perform such reasonable activities and to maintain upon a proper portion of the properties such facilities as the lot owner deems reasonably necessary or incidental to the construction or sale of the lots and development of the property, specifically including without limiting the generality of the foregoing maintaining business offices, storage areas, construction yards, and equipment, signs, model units, which shall be located on lot(s) owned by property owners. The lot owners

05-30-08
34
QUA

shall not perform any activity or maintain any facility on any portion of the property in such a way as to unreasonably interfere with or disturb any other owner.

Section 6. Livestock. The Lot Owners may keep large livestock (horses, cows, llamas, and etc.) subject to the following limitations: Owners of each lot shall be permitted to keep not more than a total of 1 large animal per 1.5 acres of lot area. The area must be maintained in a clean, orderly and sanitary manner. Livestock shall be managed to not create offensive odors or insects. The areas designed to board and pasture any livestock shall be maintained in a manner to protect the integrity of the subdivision.

Section 7. Noxious Weeds. Each Lot Owner is required to control all noxious weeds (especially fox tail, thistles and bind weed) on their lots through out the growing season. If a lot fails to control noxious weeds, after a 10 day written notice; the other Lot Owners may refer the case to the Delta Co. weed control board.

Section 8. Pets. Pets must be properly controlled or confined to the lot. Pets must not become a nuisance to other owners, or wildlife.

Section 9. Temporary Structures. Temporary structures are to be kept clean, neat, and in good repair so as not to distract from the neighborhood.

Section 10. Miscellaneous Structures.

- A. All signs, advertising, or billboards used by the Lot Owners in connection with the sale or rental of Lots, or otherwise in connection with any development of the Property or other usage, shall be permissible, provided that such use by the Lot Owner shall not unreasonably interfere with any Lot Owner's use and enjoyment of his Lot, or with such Owner's ingress or egress from a public way to his Lot. Signs can not be more then five square feet and can not obstruct other lot owners views.
- B. Except as may otherwise be permitted by the Architectural guidelines, all antennae, shall be installed inside any residence or not to exceed five feet above the roof. Installation of satellite receivers shall be small and unobtrusive. Large dishes are subject to prior approval of the Lot Owners.
- C. No clotheslines, dog runs, woodpiles (other than for domestic firewood) shall be located on any Lots as to be visible from the road.
- D. Any accessory building shall be subject to the Architectural guidelines, excluding temporary building.

Section 12. Nuisances. No nuisance shall be permitted on or within the property, nor any use, activity or practice which is the source of annoyance, or which disturbs, any residents of the property, or which interferes with the peaceful enjoyment or possession and proper use of the property, or any portion thereof, by its residents.

34
0530-08 JWH

Section 13. Underground Utility Lines. Except for existing lines, all electric, television, radio, and telephone line installations shall be placed underground, except that during the construction of any residences that contractor or builder may install a temporary overhead utility line which shall be promptly removed upon completion of construction.

Section 14. No Annoying Light, Sounds or Odors. Hooded lights are required. No light shall be emitted from any Lot, which is unreasonably bright or causes unreasonable glare when viewed from the road and/or adjacent property. No sound shall be emitted from any Lot, which is unreasonably loud or annoying. Owners shall respect the rights of their neighbors to a quiet environment, free from excessively loud music or sounds except security devices. No odor shall be permitted from any Lot, which is noxious or offensive to others.

Section 15. Garbage and Refuse Disposal. No garbage, refuse, rubbish, or cuttings shall be deposited on any road unless placed in a suitable covered container suitably located solely for the purpose of garbage pickup. All containers shall be removed from the street the same day and returned to its screened area. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. No garbage or trash cans or receptacles shall be maintained in an exposed or unsightly manner.

Section 16. Fences. Fences of wood, vinyl, brick, woven wire (deer fences) and stone (but not barbed-wire or similar hazardous materials, excluding already existing fences) may be placed upon any lot line. All fences must be maintained in good repair. All parcels with easements, which will be reflected on the subdivision plat, will be required to make access available to the easement holder for maintenance and/or repair. In the event a fence is placed between lot 2 and Lawhead gulch, a gate shall be installed to permit access to the lower part of the west side of Lawhead gulch, a gate shall be installed to permit access to the lower part of the west side of Lawhead gulch (as specified in this declaration) to owner/occupant of lot 2.

Section 17. Vehicular Parking, Storage and Repairs.

A. No abandoned or inoperable automobiles or vehicles of any kind shall be stored or parked within view from road or any other lots in subdivision. An abandoned or inoperable vehicle shall be defined as any automobile, truck, motorcycle, recreational vehicle or other similar vehicle, which has not been driven under its own propulsion for a period of (1) month or longer, or which does not have an operable propulsion system installed therein, provided however, that otherwise permitted vehicles parked by Lot Owners while on vacation or during a period of illness shall not constitute abandoned or inoperable vehicles. In the event any lot owner shall determine that a vehicle is abandoned or inoperable, then he/she shall have the right to require the owner of the lot where the vehicle is parked to remove the vehicle at the sole expense of the Owner thereof.

By
05-30-08 [Signature]

B. All but minor personal maintenance, repair rebuilding, dismantling, repainting, or servicing of any kind of vehicles, trailers or boats shall be performed or conducted on or within a completely enclosed structure(s) which screens the sight and sound of the activity from the road and adjoining Lot Owners.

Section 18. Utility Lines. All electric, natural or propane gas, domestic water, television, radio, and telephone installations shall be installed by the Owners at their expense from the utilities provided to the lot lines. Easements shown on the plat shall permit any lot owner to run utility lines to their home in the easement including the easement to be added along the N./S. boundary line between lots 2 + 3 to the SE corner of lot 1. In addition, the platted easements may be used to run water lines to Marshall pond for accessing irrigation water as provided by the water rights thereto accorded each lot owner in their respective deed.

Section 19. Wells & Irrigation Water Rights to Marshall Pond. All normal legal procedures for obtaining a well must be followed.

Each lot owner with irrigation water rights to Marshall Pond shall have access to the pond via the platted easements and directly along the drainage of Lawhead Gulch south of North Rd. A Lot Owner with irrigation water rights may place at his/her expense a pump and water lines to Marshall Pond, which is located just south of North Rd. in Lawhead Gulch. If two or more Lot Owners desire to access the water in Marshall Pond, then they shall cooperate and share the cost of installing and maintaining a pump and any common water lines. No lot owner may use more than the amount of water deeded to them subject to the legal rights in the deed.

Water lines shall be run in easements whenever possible. Lot Owners shall permit other Lot Owners to run said water lines to their lots even if there is not a specific easement for doing so along a reasonably short path to be designated by the owner of the lot across which the line is running. Notwithstanding the aforesaid, it is anticipated that running from the pond under the road to the North at the point where Lawhead Gulch goes under north Rd., and from there along the North/South easement running the length of the boundary between lot 2 and lot 3 to the southern boundary of lot 1 shall be the default placement where irrigation water lines may be run to each lot from Marshall pond unless other mutually agreeable locations are agreed to by the Lot Owners.

Section 20. Drainage. The drainage pattern for the Lots as established in connection with the approval of the final plat applicable to the property is an important feature of the subdivision. No improvement, landscaping or condition shall alter or interfere with the drainage design, except to the extent such alteration in drainage pattern is approved in writing by any public authorities having jurisdiction.

Section 21. Outside Storage. Furniture, fixtures, appliances or other goods and chattels not in active use, shall be stored in a building or in such manner that such material is not visible from a neighboring subdivision lot.

By
05-30-08 JCH

Section 22. Hunting. No hunting, shooting, trapping, or otherwise killing or harming wildlife shall be permitted on any lot. "Wildlife" as used herein shall not include rodents, insects or other pests inside any structure on the lot.

Section 23. Rules and Regulation. Rules and regulations concerning and governing the property or any portion thereof may be adopted, amended or repealed, from time to time by unanimous consent of the Lot Owners.

Section 24. No Mining or Drilling. No mining, drilling, quarrying, digging or excavation for the purpose of testing for the existence of, or extraction oil, gas, coal or minerals of any kind shall be performed upon or within the property.

Section 25. Set-Back and Easements. No structure of any kind, except fences, shall be placed within 25 feet of any boundary line (setback) of any lot within the subdivision excluding existing buildings. Easements for the installation and maintenance of utilities, irrigation and drainage facilities are reflected on the recorded plat of Sunrise View Subdivision. No Structure or other material shall be placed or permitted within such easements in a manner which may damage or interfere with the installation and maintenance of utilities, change the direction of flow or drainage channels in the easements, or obstruct or retard the flow of water through such drainage channels. The owner of each lot shall maintain all easement areas and improvements upon or within each lot.

Section 26. Wildlife Mitigation. All lots are located in a critical wildlife habitat area. The following are contained in the restrictive covenants and have been implemented to help mitigate any future impacts on wildlife:

1. Controlling noxious weeds can benefit wildlife.
2. Bear proof trash containers, cleaning BBQ grills and storing them inside and storing food and feeding pets inside the dwelling or in a building are recommended to lessen bear/human conflicts.
3. Dogs shall be controlled at all times.

Section 27. Individual Sewage Disposal Systems (ISDS) Management and Maintenance. Each lot owner will be required to maintain their own septic or other sewage system and keep accurate records to comply with the requirements of the Delta County Health Department. A copy of the records shall be maintained by each lot owner.

Section 28. Area between Property Line and Edge of County Roads. The area between the property line and the edge of the pavement shall be kept weed and trash/rubbish free. It is the responsibility of the adjacent Lot owner to maintain the weeds and keep trash and rubbish from accumulating in the area. The DMEA easement along the county roads shall also be available for other utilities and irrigation and domestic water lines for any Lot Owner.

Section 29. Day Use of Lower West side of Lawhead Gulch by Lot 2 and 3 Owners. It is the intention of this Declaration to provide for the shared enjoyment of the

06-30-08 [Signature]

lower west side of Lawhead Gulch by the owners of lot 2 as well as lot 3 for purposes of day recreation. The gulch is a natural area and shall be kept free of construction of buildings in the southern (lower) third on the West side of the waterway from North Rd. 150 feet north to a line intersection approximately where the fence crosses the lot boundary. This area may be used by both Lot Owners for walking, sitting, picnicking etc. so long as the owner of lot 3 is not disturbed by noise etc.

ARTICLE IV GENERAL PROVISIONS

Section 1. Enforcement. Enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges and other provision contained in this covenant, of the subdivision, as amended, shall be by any proceeding at law or in equity against any person or persons, including without limitation, violating or attempting to violate any such provision. Any aggrieved Owner shall have the right to institute, maintain and/or prosecute any such proceedings. The prevailing party shall be entitled to recover its costs and reasonable attorneys' fees incurred pursuant thereto, as well as any and all other sums awarded by the court. Failure by any Lot Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any of the covenants, restrictions or other provisions contained in this Declaration by judgment or court order shall in no way affect or limit any other provisions which shall remain in full force and effect.

Section 3. Easements. Easements for the installation and maintenance of driveways, power, water, (both domestic and irrigation water lines) and drainage are reserved as shown on the recorded plat of the Property, or any portion thereof, or other duly recorded instruments(s). Within these easements including the easement along North Road and Rim Rock Rd, no structure, or other improvements shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of the utilities. There shall be an easement between lots 2 + 3 along the boundary between lots 2 & 3 from North Rd. to the boundary with lot 1, which is intended for utilities for all lots and vehicle access to the western portion of lot 3 and not as an entrance to lot 2. However, if Delta County allows, then a secondary emergency access to lot 2 may be permitted with the intention of providing a means by which fire trucks may egress from lot 2.

Section 4. Conflict of Provisions. The laws of Delta County shall govern where there appears to be any conflict with this Declaration.

Section 5. Duration, Revocation, and Amendment. Each and every provision of this covenant shall run with and bind the land for a term of twenty (20) years from the date of recording of this Declaration, after which time this Declaration shall be automatically extended for successive periods of ten (10) years each. This Declaration may be amended during the twenty (20) year period, during subsequent extensions

05-30-08
B4
JOK

thereof, by any instrument approved in writing by not less than 100% of the Lot Owners. Such amendment shall be effective when duly recorded in Delta County, Colorado.


Section 6. Registration by Owner of Mailing Address. Each Owner shall register his mailing address with the other Lot Owners, and except for statements and other routine notices, all other notices or demands intended to be served upon an Owner shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. However, if any Owner fails to so notify the other owners of a registered address, then any notice or demands may be sent to such Owner at the address of such Owner's Lot.

By
05-30-08 [Signature]

thereof, by any instrument approved in writing by not less than 100% of the Lot Owners. Such amendment shall be effective when duly recorded in Delta County, Colorado.

Section 6. Registration by Owner of Mailing Address. Each Owner shall register his mailing address with the other Lot Owners, and except for statements and other routine notices, all other notices or demands intended to be served upon an Owner shall be sent by either registered or certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. However, if any Owner fails to so notify the other owners of a registered address, then any notice or demands may be sent to such Owner at the address of such Owner's Lot.

SH

A handwritten signature in black ink, appearing to be the initials 'SH' with a stylized flourish.