

267766 DRAWER 28 CARD 347A

AMENDED DECLARATION OF PROTECTIVE COVENANTS

FLYING CLOUD ESTATES
Teller County, Colorado
according to the recorded
plat thereof

TO WHOM IT MAY CONCERN:

The undersigned, FRED A. GLAETH, ARTHUR R. KIDDER, JR., and OTTO K. HILBERT, doing business as FLYING CLOUD ESTATES, as the owners in fee simple of the following described real property situate in Teller County, Colorado, to-wit:

Lots 1 through 28, inclusive, as shown and described on the plat of Flying Cloud Estates as recorded in Book H at pages 33 and 34, under Reception No. 266675 in the records of Teller County, Colorado

hereby make the following amended declaration (amending in their entirety the declaration of protective covenants, which was recorded in Drawer 24, Card 417 of the records of Teller County) as to restrictions, covenants and limitations of use as to all lots contained within said subdivision of real property, for the benefit of and limitation upon all present and future owners of said lots, this amended declaration of protective covenants being designated for the purpose of protecting present and future property values of said lots which are contained therein, and in order to develop said property in accordance with a common plan, scheme, and design, and any person, corporation, or other entity acquiring any said lot or any interest therein, either by purchase, gift, inheritance, foreclosure or otherwise, shall acquire the same, subject to the following protective covenants, and by acceptance of any interest in said property specifically agrees to be bound by said protective covenants and to conform to the same.

(1) The property shall not be subdivided, and shall be used only for residential purposes.

(2) The only buildings or structures that may be erected or placed on any Lot shall be one single-family dwelling, one garage and one additional structure, not to exceed 800 square feet.

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(3) The residence constructed on any Lot shall contain a minimum of 1,300 square feet of finished interior living area.

(4) Once construction of any building is started, the owner must pursue with reasonable diligence the completion of said structure and no building shall be permitted to continue in an uncompleted status. All exterior surfaces shall be completed within six months after construction is initiated.

(5) No building shall be constructed to project beyond a line parallel to and thirty-five feet back from any of the property lines.

(6) Trees, bushes, native grasses and other ground cover shall be preserved in the natural state to the maximum practical extent.

(7) Each residence shall have an individual domestic sewage treatment facility consisting of an individual septic tank and leaching field buried below the normal root zone or some other non-evapotranspirative sewage disposal system in strict compliance with State and County laws and regulations. Each such facility shall be designed to return the maximum practical percentage of processed water into the ground; evapotranspiration systems for disposing of septic tank effluent shall be prohibited. To insure compliance with this provision, the site location and design of each sewage treatment facility must be approved, in writing, before construction by the architectural control committee.

(8) The owner of any lot shall be entitled to drill a water well, at its sole expense, which complies with State and County laws and regulations. The water from said well shall be used solely for in-house domestic purposes only. No irrigation or other outside uses of any kind shall be permitted at any time.

(9) Architectural Control. No building shall be erected, placed, or altered on any lot until the construction plans, specifications and a plot plan showing the location of the structure shall have been approved by the Architectural Control Committee, as hereinafter provided, as to:

- a) Quality of workmanship and materials;
- b) Harmony of exterior design with both the subdivision and existing structures;
- c) Interference with natural drainage;
- d) Location with respect to topography and finished grade elevation.

(10) Architectural Control Committee.

Membership - The Architectural Control Committee is composed of FRED GLAETH, ART KIDDER and OTTO HILBERT. A majority of the Committee may designate a representative to act for it. In the event of death, resignation or failure to act on the part of any member of the Committee, the remaining

members shall have full authority to designate a successor or successors. Neither the members of the Committee, nor its designated representatives shall have or be entitled to any compensation for services performed pursuant to this covenant.

Procedure of Architectural Control Committee - The Committee's approval or disapproval, as required in these covenants, shall be in writing. In the event the Committee, or its designated representatives, fails to approve or disapprove within 30 days after the plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

(11) Signs. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder, developer or subdivider to advertise the property during the construction, development and sales period.

(12) Temporary Residences. No structure of temporary character, trailer, basement, tent, shack, barn or other out-building shall be used on any lot at any time as a residence, either temporarily or permanently, and no used structure of any sort shall be moved onto any lot.

(13) Easements. Easements for installation and maintenance of all utilities, fire protection, and drainage facilities, which generally consist of a 20-foot utility easement along all boundary lines of the subdivision and a 10-foot utility easement on each side of all common lot lines, except that two contiguous lots may be treated as one where a building is constructed over the dividing line prior to actual use of said utility easement, are reserved as shown on the plat which is recorded. Within these easements no structure, plantings or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, on which may obstruct or retard the flow of water through any drainage channels which may be contained in the easements.

(14) Livestock and Poultry. No person shall be allowed to keep breed or raise roosters, turkeys, cattle, sheep, goats, swine or fowl on any lot. This restriction shall not be construed to prohibit any person from keeping dogs, cats or other household pets on any lot, provided they are not kept, bred or raised for any commercial purpose.

(15) Commercial Enterprises. No manufacturing or commercial enterprises shall be conducted or maintained upon, in front of, or in connection with any lot or lots, nor shall said lot or lots in any way be used for other than strictly residential purposes; except, that professional offices may be maintained within the main dwelling upon specific approval by the Architectural Control Committee in each case.

(16) Unightly Objects. Refuse piles or other unsightly objects or materials shall not be allowed to be placed or to remain upon the premises or easements. The Architectural Control Committee shall have the right to enter upon said lands and remove such refuse piles or other unsightly objects or materials at the expense of the owner and such entry shall not be deemed a trespass.

(17) Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

(18) No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or on any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

(19) A culvert having a minimum diameter of 18 inches shall be installed in ditch of driveway to lot by purchaser, where required for adequate drainage.

(20) Term of Covenants. These covenants are to run with the land and shall be binding on all parties and on all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, after which time said covenants will and shall be automatically extended for successive periods of ten years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

(21) Enforcement of Covenants. In the event of a breach of any of the foregoing covenants or conditions on behalf of any of the grantees, their heirs or assigns, it shall be lawful for the grantors as well as the owner or owners of any lot or lots in the area to institute, maintain and prosecute any proceedings at law, or in equity against the person or persons violating or attempting to violate any of the covenants or restrictions contained herein for injunctive relief and specific execution thereof, or to recover damages for the violation thereof.

(22) Severability of Covenants. Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall

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remain in full force and effect, and failure to insist upon the enforcement of any one or more of the covenants or restrictions herein set forth shall not constitute a waiver of that covenant or any of the remaining covenants or restrictions.

IN WITNESS WHEREOF, the said FRED A. GLAETH, ARTHUR R. KIDDER, JR., and OTTO K. HILBERT, have caused their names to be subscribed hereunto on this 1st day of September, 1978.

FRED A. GLAETH

~~ARTHUR R. KIDDER, JR.~~

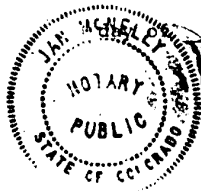
OTTO K. HILBERT

STATE OF COLORADO)
) ss
COUNTY OF EL PASO)

I, W. B. DILL, a Notary Public in and for said El Paso County, in the State of Colorado, do hereby certify that FRED A. GLAUCH, ARTHUR R. KIDDER, JR., and OTTO K. HILBERT, who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and notarial seal this
September, 1978.

My Commission expires: June 30, 1982



Notary Public