

Protective Covenants for Diamond Creek Road Association

WHEREAS, the undersigned is the owner of real property located in the County of Larimer, State of Colorado, known as Section 3, Township 11 North, Range 73 West of the 6th P.M., hereinafter referred to as "the Property" and

WHEREAS, the undersigned desire to provide the maintenance of roads and desire to establish certain standards covering the Property by means of protective covenants to insure the lasting beauty, value, and enjoyment of the Property, and to this end, together with such additions as may hereinafter be made thereto, the covenants, restrictions, easements, charges and liens as hereinafter set forth, and

WHEREAS, the undersigned will incorporate under the laws of the State of Colorado as a non-profit corporation, the Diamond Creek Road Association (hereinafter referred to as "the Association") for the purpose of exercising the functions aforesaid;

NOW, THEREFORE, the undersigned do hereby publish and declare that in addition to the ordinances of the County of Larimer, State of Colorado, the following terms, covenants, conditions, easements, restrictions, reservations, limitations, uses, locations and obligations shall be deemed to run with the land and shall be a burden and benefit to the undersigned, their successors, and assigns, and any persons or entity acquiring or owning an interest in the real property and improvements, their grantees, and their heirs, executors, administrators, devisees, successors, or assigns.

1. Board of Directors and Architectural Control

A. Board of Directors: The governing body of the Association shall be the Board of Directors, as provided in the Articles of Incorporation and the By-Laws of the Association. Unless otherwise stipulated in the Articles of Incorporation or the By-Laws of the Association, the Board of Directors shall serve as the Architectural Control Committee.

B. Architectural Control: No building or other structure, including but not limited to dwellings, sheds, garages, and outbuildings shall be erected, placed or altered on any lot, tract or parcel the Property until the plans and specifications, along with a plot plan (submitted in duplicate) showing the location of the structure have been approved by the Architectural Control Committee, which plans shall, among other things, show the type of exterior material and finish, exterior design, existing structures, if any, and location of the structure with respect to the topography and finished grade, and proximity to property boundaries. Should the Architectural Control Committee or its successors or assigns fail to approve or disapprove the plans and specifications submitted to it by the owner of a lot or tract within thirty (30) days after written requester therefore, then such approval shall not be required and shall be deemed to have been given. However, no building or other structure shall be erected or allowed to remain on any lot or tract which violates any of the covenants or restrictions contained herein.

At the time said plans and specifications are approved, the builder or ownershall proceed diligently with the construction, and the exterior of any such structure shall be completed within eighteen (18) months of the date of approval by the Architectural Control Committee. The Architectural Control Committee may grant an extension beyond the eighteen (18) month construction period for good cause, when such extension is requested by the owner.

Any member of the Architectural Control Committee may designate any other member to act for him. In the event of the death or resignation of any member of the Board of Directors/Architectural Control Committee, the remaining members shall have full authority to designate a successor. An election

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shall be held at the next regularly scheduled meeting of the member of the Association following such death or resignation to designate or re-designate the Board of Directors/Architectural Control Committee. No member of the Board of Directors/Architectural Control Committee shall be entitled to any compensation for services performed pursuant to these covenants.

2. Land Use and Building Type

No parcel of land shall be used for any purpose other than single-family residential. No buildings other than a single-family dwelling with a private attached or unattached garage (if desired) or unattached pump house (if desired), non-residential outbuildings and structures such as a barn, stable or corral for use specifically in connection with the care of livestock permitted under these covenants, or the maintenance of equipment, or two guest houses, shall be erected, placed or permitted to remain on any lot or tract.

3. Building Location and Easements

No building or other structure shall be located so as to interfere with any easement. There shall be a right-of-way easement thirty (30) feet in each direction from the center line of all existing and proposed roads. There shall be twenty (20) foot utility easement adjacent to and parallel with all such road right-of-ways, lot lines, and section lines for boundary fence maintenance. There shall be utility guying easements on all lots or tracts as required by the utility involved. Buildings shall be set at least fifty (50) feet back from any property boundary.

4. Nuisance

Nothing which may become annoying or a nuisance to other lot or tract owners shall be permitted on any lot or tract. No obnoxious or offensive activity or commercial business or trade shall be carried on upon any lot or tract, except that professional offices such as those of a doctor, lawyer, dentist, or engineer may be maintained within the main dwelling. For purposes of this covenant, un-garaged or un-stored inoperative automobiles, machines or other equipment which remain on any lot or tract for longer than ninety (90) days is a nuisance.

Installation of solar panels for heat and/or electricity generation as well as wind powered electricgenerators (e.g. wind turbines) will be subject to a visual nuisance vote by any affected properties. Small scale timbering activities will be exempt as a visual nuisance.

5. Temporary Residence

No structure of a temporary character, trailer, mobile homes, basements, tent, or accessorybuilding shall be used on any lot or tract as a residence. However, a pickup camper, camper trailer, or motor home, may occupy a lot if the lot has a permanent residential structure thereon. A pickup camper or camper trailer may occupy a lot for a period not to exceed eighteen (18) months for construction purposes during the construction of the initial residential structure. In addition, a camper trailer, tent, or pickup camper may occupy a lot or tract for a period not to exceed one hundred eighty (180) days per calendar year. The Architectural Control Committee may grant relief from this provision when good cause is shown.

6. Refuse and Rubbish

Rubbish, refuse, garbage and other wastes shall be kept within sealed containers, shall not be allowed to accumulate on the Property, and shall be disposed of in a sanitary manner. No tract or easement shall be used or maintained as a dumping ground for such materials. All containers shall be kept in a neat, clean, sanitary condition.

7. Livestock

Any lot or tract may be used for the grazing of livestock such as cattle, horses, and sheep. Overgrazing is prohibited; the livestock shall not be permitted to run loose and shall be properly cared for with adequate maintenance, food, and shelter. It shall be the responsibility of the owner to fence the lot or tract when livestock are to be maintained on such lot or tract.

8. Fences

Fences shall be permitted on individual lots or tracts provided, however, that any fence shall be so constructed as to not interfere with the easements required for access to adjoin lands, unless cattle guards are installed in place of gates, and in the event of a cattle guard, a bypass gate shall be installed. Fences shall be designed to maximize use of native material or to blend in with the surroundings to the fullest extent possible, and have consideration to minimize any potential negative impacts to wildlife.

9. Roads

All roads within or providing access to the Property shall be considered as private roads for the private use of the members of the Association and their guests. The maintenance of said roads shall be the responsibility of said Association.

10. Road Maintenance

The following Road Maintenance Agreement shall be and becomes a covenant up on the land and running therewith.

A. All owners of any lot or tract shall be members of the Association and shall be obligated to maintain the roads and to bear the costs thereof from and after January 1, 1982. The amount of the costs which shall be paid by each lot or tract owner shall be determined by dividing the total costs of maintenance by the total number of lot or tracts within the Property, and the owner or owners of each lot or tract shall pay his proportionate percentage share of said cost. For purposes of this determination and for determining the membership of said Association, persons owning a lot or tract in joint tenancy or tenancy in common shall be considered to be the owner of one (1) lot or tract of land and entitled to one (1) vote, and each unit of land shall be considered as one (1) unit in prorate share of expense. If a person or persons own more than one (1) lot or tract, he or they shall nonetheless be responsible for payment of the costs allocated to one lot or tract only. In the event any lot or tract is re-subdivided, each person or persons purchasing a portion of any such subdivided lot or tract shall be an owner for the purposes of this Road Maintenance Agreement and shall be obligated to maintain the roads and to bear the costs thereof as herein provided.

B. At no time shall any owner of any lot or tract be obligated to pay more than five hundred dollars in any one (1) year for road maintenance. This provision may be waived by the express consent of any tract owner who wishes to pay in excess of this amount in any one (1) year. This limit may be revised as future needs dictate by the Association as provided in the By-Laws or Articles of Incorporation of the Association.

C. In the event that an expense is incurred for road maintenance, repair, or development, any lot or tract owner may enforce the terms and conditions of this Agreement in any court of law or equity and may obtain a judgment therefore.

D. It is covenanted and agreed that the terms and conditions of this Agreement shall be for the mutual use and benefit of all the present and future lots or tract owners and that this Agreement shall constitute covenants that run with and are attached to the land.

E. All payments are to be made to the Associations, in the event that said Association shall fail or refuse to act, then the owners of the lots or tracts themselves may, by a two-thirds (2/3) majority vote of their number, determine to whom payments shall be made and the manner and time of payment.

11. Enforcement

Enforcement of these covenants shall be by appropriate proceedings at law or in equity against those persons violating or attempting to violate any covenant or covenants. Such judicial proceedings shall be for the purpose of removing a violation, restraining a future violation, for recovery of damages for any violation, for recovery of assessments due, or for such other and further relief as may be available. The failure to enforce or to cause the abatement of any violation of these covenants shall not preclude or prevent the enforcement thereof of a further or continued violation of these covenants whether said violation shall be of the same or a different provision within these covenants. The statute of limitations applicable now or in the future is hereby waived for said enforcement purposes.

12. Severability

Should any part or parts of these covenants be declared invalid or unenforceable by any Court of competent jurisdiction, such decisions shall not affect the validity of the remaining covenants.

13. Duration and Alteration of Protective Covenants

The herein included agreements, covenants, restrictions, and conditions shall run with the land, shall be binding upon all persons owning lots, tracts, or parcels of the Property and shall be in effect for a period of thirty (30) years from and after the date of these covenants, after which period said covenants shall cease to be and be of no further force and effect unless the owners of a majority of the lots or tracts, shall elect, in writing, a duly filed, to extend said covenants for an additional period or periods. Provisions for maintenance of the roads shall not be permitted to lapse with the other covenants unless other provisions are made for continuation of said road maintenance.

These protective covenants may be altered in whole or in part at any time the then record owners of two-thirds (2/3) of the lots or tracts elect, through a duly written and recorded instrument.

14. General Reservations

The undersigned, their successors and assigns, shall have the right to ring within the scheme of these Protective Covenants and the structure of the association additional properties in accordance with the general plan of development. All easements for roads and utilities affecting the property within the scheme of these Protective Covenants and the additional lands hereinabove contemplated shall be common to all lands within the general plan of development. Such additions shall be made by filing of record a supplement to these Protective Covenants. Such supplement may contain such additions and modifications of these Protective Covenants as may be necessary to reflect the different character, if any of the added properties and as are not inconsistent with the scheme of these covenants. In no event, however, shall such supplement revoke, modify, or add to the covenants and restrictions established by these Protective Covenants with respect to the Property.

5

IN WITNESS WHEREOF, We have hereunto set our hands and seals this 26th day
of August, 2012.
By: Michael S. Wilkes (President)
Michael S. Wilkes, President, Diamond Creek Road Association