

**2012 MODIFIED DECLARATION
Of
COVENANTS, CONDITIONS AND RESTRICTIONS
DEER CREEK FARM FILING NO. 1**

This DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is modified on 10/19/2012 by the DEER CREEK FARM HOMEOWNERS ASSOCIATION, INC. (HOA) on behalf of the HOA members residing within Filing No. 1.

Recitals

A) DEER CREEK FARM HOMEOWNERS ASSOCIATION, INC. is recognized as the assigned authority within Deer Creek Farm Filing No. 1, located in Elbert County, Colorado. The property, which is legally described in Attachment A, attached and made in part hereof, which property is platted as Deer Creek Farm Filing No. 1 (final plat dated 10/26/1993, sheet 2 of 2), is to be a residential community with single family lots and dwellings.

B) The DEER CREEK FARM HOMEOWNERS ASSOCIATION, INC. (HOA) is charged with ensuring the attractiveness of the neighborhood and individual lots within the property to prevent the future impairment thereof, to protect, to preserve and to enhance the values of the property. In order to accomplish this, DEER CREEK FARM HOMEOWNERS ASSOCIATION, INC. is formed from property owners within Filing No. 1 to maintain fair and impartial actions of the HOA. The home owners are then subject to the authority granted to the DEER CREEK FARM HOMEOWNERS ASSOCIATION, INC. and agree to be subject to the covenants, conditions, restrictions, easements, charges and liens as set forth in this document.

C) In order to preserve, protect and enhance the values and amenities in the Property, and to insure the residents' enjoyment of the rights, privileges and easements connected with Deer Creek Farm, the DEER CREEK FARM HOMEOWNERS ASSOCIATION, INC., made up exclusively from lot owners within Filing No. 1, was created with the assigned authority of administering and enforcing the Covenants and Restrictions herein set forth, together with collecting, disbursing and accounting of the assessments and charges herein contemplated. To this end, the DEER CREEK FARM HOMEOWNERS ASSOCIATION, INC. has been created as a non-profit corporation under the laws of Colorado, for the purpose of exercising the aforesaid functions in respect to the properties within Filing No. 1 (Lots 1X, 2X, & 1-41) and any Common Properties.

Article I

DEFINITIONS

The following words, when used with this Declaration or any supplementary Declarations, shall have the following meanings:

- A. "The Property" shall mean and refer to the property which is and shall be held, transferred, conveyed, leased and occupied subject to this Declaration, and which is legally described in Exhibit "A".
- B. "Single-Family Lot" shall refer to a platted lot on Exhibit A on which there can only be constructed a single-family dwelling unit along with attachments and out buildings as defined later in this document.
- C. "Supplementary Declaration" shall mean any Declaration of Covenants, Conditions and Restrictions which may be recorded by the DEER CREEK FARM HOMEOWNERS ASSOCIATION, INC. Supplements to the provisions of this Declaration as to the Property or any portion thereof and which may contain additions, amendments and modifications to the Declarations.
- D. "Owner" shall mean and refer to the records owner; whether one or more persons or entities, of the fee simple title to any Single-Family Lot situated within the Property which is subject to these Covenants and Restrictions; but, notwithstanding any applicable theory relating to mortgages, deed of trust or other liens or encumbrances upon any such property. "Owner" shall not include or refer to a mortgagee, beneficiary of a deed of trust, or lien holder unless and until such party has acquired title pursuant to foreclosure of any applicable procedure in lieu of foreclosure.
- E. "Mortgage" shall mean and include mortgages and deeds of trust.

Article II

MEMBERSHIP AND VOTING RIGHTS IN THE DEER CREEK FARM HOA

Section 1 **Membership.** Every person or entity who is a records owner of a fee simple title or undivided interest in any Single Family Lot within the Property shall automatically be a member of the DEER CREEK FARM HOMEOWNERS ASSOCIATION, INC., provided that any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a member.

Section 2 **Voting Rights.** The DEER CREEK FARM HOMEOWNERS ASSOCIATION, INC. shall have only one class of voting membership with equal voting rights.

Class A members shall be all of the Owners as defined in Section 1 of this Article. There is one (1) vote for each Single-Family Lot. When more than one person holds an ownership interest or interest in any Single-Family Lot, all such persons shall be members, and the one vote provided for herein shall be exercised as they among themselves determine. Only the record owner of the Property shall be entitled to a vote in the Association whether or not he or she, in

fact, occupies the Property or not. In no event shall more than one (1) vote be cast with respect to any Single-Family Lot.

Section 3 **Suspension of Voting Rights.** The voting rights of a member may be temporarily suspended during which violations, assessments, fees or penalties are in delinquent. The suspension shall be lifted once the account is changed to current status. Members whose voting rights have been suspended do not count as eligible voters when determining all meeting quorum sizes and voting approval ratios.

Article III

COVENANTS FOR MAINTENANCE AND ASSESSMENT

Section 1 **Creation of the Lien and Personal Obligation for Assessments.** Each Owner of any Single-Family Lot within the Property, by acceptance of a deed thereto whether or not it shall be so expressed therein, or by acceptance of any other conveyance thereof (except a conveyance in connection with the establishment of a mortgage) shall be deemed to covenant and agree to pay to the DEER CREEK FARM HOMEOWNERS ASSOCIATION, INC., in which it shall be a member (1) annual assessment or charges, (2) special assessments for capital improvements or maintenance thereof, and (3) special assessments to provide for costs incurred by virtue of unforeseen emergencies, such as, but not limited to unusual snowfalls or heavy rains. All assessments herein provide for shall be assessed by the Association. The annual assessment shall be established on an annual basis, and a special assessment shall be levied from time to time when and as determine by the Board of Directors of the Association in accordance with its by-laws. No special assessment in excess of \$200.00 per Single-Family Lot per year shall be approved by the Directors, unless approved by at least two-thirds of the eligible voters participating in the voting process. All the assessments described above together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the respective Single-Family Lots against which each such assessment is made, subject to foreclosure in accordance with applicable law, affecting the Single-Family Lot. Each such assessment, together with such obligations of the person or persons who are the Owners to such property at the time when the assessment falls due, and in the event that there is more than one Owner thereof, then such obligations shall be joint and several.

Section 2 **Purpose of and Use of Annual Assessment or Charges.** The annual assessments or charges levied under this article as provided for in Section 1 above shall be used for the purposes of maintaining neighborhood appearance and property values, including but not limited to the costs of enforcement of this Declaration of Covenants, Conditions and Restrictions.

Section 3 **Special assessments for Emergencies.** In addition to the annual assessments described above, the Association may, in accordance with the provisions of Section 1 above, levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying in whole or in part the costs of unexpected repair or replacement, due to any emergencies. Dollar limits are as described in Section 1.



Section 4 **Due Dates of Commencement and Determination of Annual Assessments and Assessment Deposit.** The annual assessments provided for herein shall commence on such date as is specified in the by-laws of the Association or in any supplementary Declaration hereto affecting a particular parcel of property brought within the scheme of this Declaration. Assessments shall be on a full fiscal year (as established by the current Board of Directors). At least ten (10) days in advance of each Annual Meeting, the Board of Directors shall determine the amount of the annual assessment against each Single-Family Lot by estimating the net charges and expenses to be incurred by the Association for the purposes set forth in this Declaration and made available to all homeowners. The annual assessment shall be due and payable in such installments as are required by the by-laws of the Association. The annual and special assessments shall be in such amounts as are fixed by the Board of Directors of the Association as described above. Separate due dates may be established by the Board of Directors for special assessments as defined hereunder as long as made thirty (30) days in advance of such special assessments and shall be paid in a manner determined by said Board of Directors. Written notice of the annual and any special assessment shall be mailed via US Postal Service or any other method permitted by law to every homeowner subject thereto within thirty days of the date upon which said amounts are determined.

Section 5 **Effects of Non-Payment of Assessments and Personal Liability of Owner.** If an assessment is not paid on the date when due, then such assessment shall become delinquent and shall, together with interest and costs of collection, as hereinafter provided, become a continuing lien on such Single-Family Lot which shall bind such property in the hands of then Owner, his heirs, devisees, personal representative, successors and assignees. In addition to the lien rights, it shall be the personal obligation of the Owner to pay such assessment. Such personal obligation shall continue even though the Owner's interest in the property may be transferred. If the assessment is not paid within thirty (30) days after the due date the assessment shall bear interest from the due date at the rate of twelve percent (12%) per annum of the unpaid balance. The association may bring legal action against the Owner personally obligated to pay the same or to foreclose the lien against such Single-Family Lot. There shall be added to the amount of such assessment all costs incurred by the Association in foreclosing the lien or in collecting the amount owed, including any reasonable attorney's fees. **A temporary forfeiture of member voting rights will be applied to the owner or owners of a Single-Family Lot that is delinquent in payments to the HOA, until all assessments, fees and charges due are paid in full.**

Section 6 **Subordinating of the Lien to Mortgages.** As provided above, the lien of the assessment provided for herein shall be subordinate to the lien of any valid mortgage now or hereafter placed upon any Single-Family Lot subject to assessment; provided, however, such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure or a statutory public trustee foreclosure of such mortgage. Such sale or transfer shall not release such Single-Family Lot from liability for any assessment thereafter becoming due, nor for the lien of any such subsequent assessment.

Article IV

GENERAL RESTRICTIONS AND REQUIREMENTS

All real property within the Property shall be held, used, improved, and enjoyed subject to the following guidelines, limitations, restrictions and requirements:

Section 1 **Zoning Regulations**. No land within the Deer Creek Farm, Filing 1 shall be occupied, used by, or for, any structure of purpose which is contrary to the zoning regulations of Elbert County, Colorado.

Section 2 **Signs**. One "For Rent" or "For Sale" sign (no larger than 24 X36 inches) per selling shall be permitted. No advertising signs, or billboards, or unsightly objects or nuisances, as determined by the current Board of Directors based on current Bylaw procedures, shall be erected or permitted on any tract or lot.

Political election signs are an exception, based on reasonable timeframes prior to an election and removed no later than two weeks after the election.

Section 3 **Animals**. No animals will be raised or bred for sales or profit on any lot.

- (a) Household pets are welcome, provided they are controlled and not a nuisance to neighbors or the neighborhood.
- (b) Pigs, goats, cows, horses, llamas, ostriches, sheep, ducks, geese, chickens, farm fowl, and any other animal weighing more than 40 pounds, except dogs, are not allowed anywhere with the property.
- (c) No dog runs shall be located closer to any street or road than the front entrance of the home.

Section 4 **No Resubdivision**. No Single-Family Lot shall be resubdivided into smaller tracts or lots, nor shall less than a Single-Family Lot be conveyed, transferred or encumbered.

Section 5 **Refuse and Rubbish**. Rubbish, garbage, or other waste shall be kept in a sanitary manner, and shall be disposed of at least every two weeks. No Single-Family Lot or any portion of the General Common Properties shall be used or maintained as a dumping ground for rubbish. All containers or the equipment for the storage or disposal of garbage, trash, rubbish or other refuse shall be kept in a clean sanitary condition, shall be stored in an enclosure which prevents the viewing of said containers from any adjacent lots, property or roads. No trash, litter or junk shall be permitted to remain exposed upon the premises and visible from public roads or adjoining or nearby premises. All refuse and trash shall be removed from all lots and tracts and shall not be allowed to accumulate. Burning of trash will not be permitted, but burning lawn/tree/bush debris is not prevented provided state and county burn bans and procedures are followed.

Section 6 **Underground Utility Lines**. Underground utilities shall be required in all areas.

Section 7 **Gardens** There are no restrictions for a family garden as long as the garden area complies with the same minimum setbacks used for any residence dwelling. Fencing for the garden needs to comply with standard fences in section 8. There are no restrictions as to the size of lawns on a lot.

Section 8 **Fencing** All perimeter fences on any portion of any lot must be constructed of white vinyl material with either 2 or 3 rails. No wire fences will be permitted along the perimeter of the properties, however wire inserts in the vinyl fence are acceptable. Wire fences will be permitted around garden areas or dog runs not visible from the street. Fences may not restrict easements or common areas.

Section 9 **Number and Location of Building** No building or structures shall be placed, erected, altered or permitted to remain on any Single-Family Lot other than:

- (1) One single-family dwelling;
- (2) One attached or detached garage (maximum size of detached – 1,200 sq ft);
- (3) One additional out-building (maximum size of 1,500 sq ft).

Section 10 **Dwelling Size and Setbacks** Main floor finished area of each dwelling, exclusive of porches, basements and garages constructed on any lot shall not be less than 1800 square feet for ranch-style and 1800 square feet for two-story dwellings.

Consistent with County requirements, the minimum setback for any residence or part thereof shall be 40 feet from any front or side property line or easement and 60 feet from any rear property line or easement. Any accessory building or garage shall be setback no less than 20 feet from any side or rear property line or segment and 40 feet from the front property line or easement.

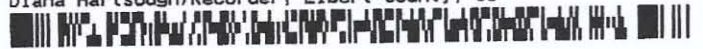
Section 11 **Single-Family Lot-Landscape Development** All landscaping shall be maintained in a neat and attractive condition. Minimum maintenance requirements including watering, mowing, edging, pruning, removal and replacement of dead or dying plants, removal and/or killing of weeds and undesirable grasses and removal of trash.

Section 12 **Exterior Tanks** All tanks must be enclosed or otherwise appropriately screened so that they will not be visible from the street, or from adjoining Single-Family Lots.

Section 13 **Used or Temporary Structures and Other Vehicles** No used or temporary house, or mobile home shall be stored, kept, placed or erected on any Single-Family Lot. No new dwelling shall be occupied in any manner prior to its completion.

Section 14 **Exterior Lighting** No exterior lights in excess of 40 watts will be allowed. No “dusk to dawn” IREA yard lights shall be allowed. Low voltage, close to the ground yard lighting is encouraged.

Section 15 **Garage and Off-Street Parking** Any dwelling must include an attached or approved detached, two car garage. Each dwelling shall be constructed with adequate off-street parking for at least two automobiles per residence. No parking shall be allowed



within the road right-of-way. Recreational vehicles, trailers, and boats are permitted provided that they are parked no closer to the road than the front of the house. No inoperative, broken-down or junk cars, trucks or any vehicle or vessel which is not in operating condition shall be stored on any lot or road within Deer Creek Farm Filing No.

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Section 16 **Garbage Disposal, Sanitary Systems and Water Systems** All sanitary systems shall be constructed or modified with approval of public health agencies of the State of Colorado and Elbert County.

Section 17 **Exterior Walls & Roofs** All homes and other structures constructed in Deer Creek Farm Filing No. 1 must be designed in a country farmhouse style.

Exterior wall facing must be of wood, brick, stone or other similar material. No stucco, aluminum, vinyl, or plastic siding will be allowed.

No A-framed roofs will be allowed. The minimum roof pitch on a major roof is 5:12. All houses shall include a covered front porch at least 10 feet in length.

All exterior trim and shutters can be painted complimentary to the exterior home color. Earth tones colors are the guidelines for exterior structure colors.

Section 18 **New Construction** Only new construction will be allowed. No used building and no metal building that does not enhance the environmental surroundings will be allowed.

Section 19 **No Corrugated Type Metal Buildings** No corrugated metal buildings will be allowed.

Section 20 **Fireplaces, Chimneys, Barbecues** All fireplaces and chimneys shall be enclosed with wood or masonry and equipped with spark arresting screens.

Section 21 **Driveways** All driveway maintenance shall be the responsibility of the lot owners.

Section 22 **Wells.** There shall be no wells within the property except as owned by the Deer Creek Water District.

Section 23 **Cable Television Line, Satellite Dishes & Antennae** Standard satellite dishes & antennae are permitted, with certain height and number restrictions. They may not be higher than 2 feet above the house height and they are limited to two per lot. Satellite dishes and antennas must be attached to the house or outbuilding structure.

Section 24 **Destruction of Dwelling** A dwelling located in a lot within Filing No. 1 that is partially or in whole damaged or destroyed must have any rubbish, resulting from the damage, removed within 90 days and the damaged facility or facilities must be reconstructed within a year from the occurrence of the damage. If the buildings are not to be reconstructed, the lot must be cleared of any remains of the destroyed buildings and the land must be restored to the status prior to the construction of the damaged buildings.



Article V

ENFORCEMENT

Section 1 **Abatement and Suit** The Conditions, Covenants and Restrictions herein contained shall run with the land, and be binding upon to the benefit of every Single-Family Lot owner. These Conditions, Covenants and Restrictions may be enforced as provided hereinafter by the DEER CREEK FARM HOMEOWNERS ASSOCIATION, INC. Each owner, by acquiring an interest in the property appoints the DEER CREEK FARM HOMEOWNERS ASSOCIATION, INC. the authority to enforce those covenants, conditions and restriction as herein provided. Violations of any condition, covenants and restrictions herein contained shall give the HOA the right to enter the portion of the property in violation and remove or modify the object in violation at the Owner's expense. The HOA may proceed with any legal actions permitted in the Declaration.

Section 2 **Attorney's Fees** In any legal or equitable proceeding of the enforcement or to restrain the violation of this Declaration or any provision hereof, the losing party or parties may be required to pay the reasonable attorney's fees of the prevailing party or parties in the amount as may be fixed by the Court in such proceedings. All remedies proved herein or at law or in equity shall be cumulative and not exclusive.

Section 3 **No Waiver** The failure of the HOA to enforce any of the Conditions, Covenants, Restrictions or reservations herein contained shall in no event be deemed to be a waiver of the right to do so for subsequent violations or of, the right to enforce any other conditions, covenants, restrictions and the HOA shall not be liable thereof.

Article VI

GENERAL PROVISIONS

Section 1 **Effects of Official Plat and Other Documents Filed with the County of Elbert.** The Official plat of the Deer Creek Farm planned Unit Development and other related documents which are on record in the office of the Clerk of the County of Elbert, or this applicable governmental agency, has the effect and only the effect described by the statutes of the State of Colorado, and the rules and regulations of the said County. The plat and related documents constitute part of the public controls imposed by the County upon developers, owners, residents, and users of the Planned Unit Development for Deer Creek Farm Filing 1 and do not create, and are not intended to create, any private, property or contract rights in the Owners and residents of the Planed Unit Development except as such rights may be created expressly by separate contracts, deeds and other documents, including maximum benefits upon the residents when all of its elements are planned and developed in appropriate relationship to each other.



Section 2 **Duration.** This Declaration, every provision hereof and every covenant, conditions, restrictions and reservations contained herein shall run with and bind the land and shall continue in full force and effect for a period of fifty (50) years from November 15, 1993, and shall thereafter be automatically extended for successive periods of five (5) years unless otherwise terminated or modified as hereinafter provided. This Declaration or any provisions hereof or any Covenants, Conditions or Restrictions contained herein, may be terminated, extended, modified or amended as to the whole or the Property, or any portion thereof, by not less than sixty-six percent of the eligible voters of Single-Family Lots within Filing 1 of Deer Creek Farm. No amendment of these Covenants, Conditions or Restrictions shall be effective unless the instrument evidencing such amendments has been duly recorded and unless a written notice of the proposed amendment is sent to every member of the HOA at least thirty (30) days in advance of any action taken. Such termination, extension, modification or amendment shall be immediately effective upon recording the property instrument in writing, executed and acknowledged by such Owners in the office of the Clerk and Recorder of Elbert County, Colorado.

Section 3 **Meeting Notices.** Any notice required to be sent to any Member or Lot Owner under the provisions of this Declaration, which shall be deemed to have been properly sent when mailed, postage pre-paid, to the last known address of the person who appears as such Member or Lot Owner on the records of the Association at the time of such mailing.

Section 4 **Contact Information.** It is the responsibility of the Member or Lot Owner to keep the Deer Creek Farm HOA updated with the most current contact information, whether it is mailing address, telephone number or email address and any change in Lot ownership. Most communication between the Board of Directors and the Members will be through email, except for Annual & Special Meetings that require notices to be sent out via US Post Office mail, or other means as prescribed by law.

Section 5 **Severability.** All the Conditions, Covenants, Restrictions and Reservations contained in this Declaration of Covenants, Conditions, and Restrictions shall be construed together, but if it shall at any time be held that any one of said Conditions, Covenants, Restrictions and Reservations, or any part thereof, is invalid, or for any reason becomes unenforceable, all of the remaining Conditions, Covenants, Restrictions and Reservations or any part thereof shall remain in full force and effect.

Section 6 **Benefits and Burdens.** The terms and provisions contained in this Declaration shall bind and inure to the benefit of the Lot Owners located within the Property and their respective heirs, successors, personal representatives and assigner.

Section 7 **Singular and Plural.** Words used herein regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine or neuter as the context requires.

Section 8 **Common Property Designation**. The home owners may elect to transfer or sell the Common Property, held by the DEER CREEK FARM HOMEOWNERS ASSOCIATION, INC., in whole to a receiver or buyer with the approval of at least 66% of all eligible votes, and with the approval of Elbert County.

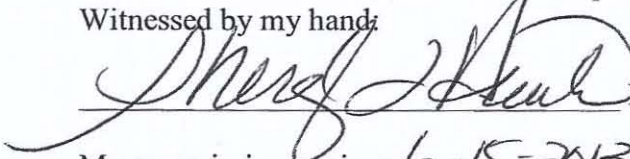
DATED: 10/22/2012

BY: Daniel Rosales

ACKNOWLEDGEMENT

The foregoing instrument was acknowledged before on this 22 day of October, 2012 by Daniel Rosales, President of the DEER CREEK FARM HOMEOWNERS ASSOCIATION, INC., a Colorado non-profit corporation, on behalf of the corporation.

Witnessed by my hand:

 Notary Public

My commission expires: 6-15-2013



My Commission Expires June 15, 2013