



Little Elk Creek Village
Home Owners' Association
Post Office Box 420
Snowmass, CO 81654-0420

Declaration of Protective Covenants

When one purchases a home in a subdivision with covenants, they have agreed to abide to those regulations. The title to our covenants say "Protective Covenants" not restrictive. This means they are not there to stop you from being able to do what you would like to do, but to be considerate of your neighbors.

We encourage your input and direction to continue to make our community a great place to live. If you have any questions or concerns regarding the covenants, please contact a board member. If you are interested in making changes, consider joining the board.

AMENDED PROTECTIVE COVENANTS with FIRST, SECOND, THIRD & FOURTH AMENDMENTS FOR LITTLE ELK CREEK SUBDIVISION FILING NO.1 AND FILING NO.2

The Little Elk Creek Village Homeowners' Association and Little Elk Creek Associates, pursuant to Paragraph 36 of those Protective Covenants for Little Elk Creek Village Subdivision Filing No. 1, consisting of Lots No.1 through No. 38, situate in Pitkin County, State of Colorado, recorded in Book 251 at Page 71 et. seq. of the records of Pitkin County, and pursuant to Paragraph 36 of those Protective Covenants for Little Elk Creek Village Subdivision Filing No.2, consisting of Lots No.1 through No. 17, Block 2, and Lots No. 1 through No. 21, Block 3, situate in Pitkin County, State of Colorado, recorded in Book 265 at Page 466 et. seq. of the records of Pitkin County, Colorado, hereby amend the aforementioned sets of Protective Covenants so that the following shall be the Protective Covenants for Little Elk Creek Village Subdivision Filings No.1 and No.2 inclusive, it being the intention of the undersigned to create Protective Covenants which, shall apply to all real property situate in Little Elk Creek Village Subdivision, and it being their desire to establish the nature of the use and enjoyment of each and every lot in the Little Elk Creek Village Subdivision. The undersigned fully declare that the following covenants, conditions, restrictions and reservations shall attach to the aforementioned real property and to every lot contained in Little Elk Creek Village Subdivision, and shall constitute binding covenants running with the land:

Furthermore, the undersigned in accordance with Paragraph 36 of the Protective Covenants for the Little Elk Creek Village Subdivision Filing No.1 and in accordance with Paragraph 36 of the Protective Covenants for Little Elk Creek Village Subdivision, Filing No.2, hereby terminate those Protective Covenants for Filing No.1 and Filing No.2 in so far as is possible according to those Protective Covenants, so that from and after the date hereof the Protective Covenants for Filing No.1 and the Protective Covenants for Filing No.2 shall read in their entirety as follows, except for Paragraph 33 of Protective Covenants for Little Elk Creek Subdivision Filing No.1 and Filing No.2 which according thereto may not be terminated by the actions of the signatories to these Protective Covenants.



1. Residential Use:

No lot or residence shall be used for any purpose other than residential purposes, and no lot may be re-subdivided. No buildings, improvements or structures shall be constructed on any lot smaller than two (2) acres in size, other than a single family dwelling and such improvements or structures as are incidental or appurtenant to a single family dwelling. Homeowners are allowed a home office or studio so long as they do not change the residential nature of the neighborhood and have no impact to the neighborhood from such sources including, but not limited to, employees, customers, delivery traffic, sensory impacts (sight, sound, smell), or adverse environmental impacts. Each individual owner of a lot shall plant at least five (5) trees, indigenous to the area per each acre of land, and all planted trees shall be maintained in a healthy condition or replaced as necessary.

A. Lot No. 1, Block 2 and Lots No. 4 and 6, Block 3, which are slightly less than two (2) acres in size, may contain one, two family dwelling and guest house respectively.

2. Benefits of Protective Covenants:

These Protective Covenants are made for the benefit of the property herein above described and these Protective Covenants are made for the benefit of all of the property located in Little Elk Creek Village Subdivision Filing No.1, and Filing NO.2 and for the owners thereof. These Protective Covenants are also made for the benefit of that certain real property described on Exhibit "A" attached hereto and made a part hereof, and for the owner(s) thereof (the "Adjacent Property"). These Protective Covenants shall apply to the Adjacent Property and all covenants, conditions, restrictions and reservations contained in the Protective Covenants shall attach to the Adjacent Property and shall constitute binding covenants running with the Adjacent Property pursuant to Deed Restriction in the form of the attached Exhibit "B". 'Protective Covenants' shall be deemed to include any and all amendments thereto.

3. Animals and Commercial Use:

No animals, livestock or poultry shall be kept on any parcel other than household pets, except that two (2) horses for each acre shall be allowed; provided that said animals are well kept and provided for and do not become a health hazard or nuisance to the neighborhood, nor excessively destroy the surface vegetation. No store, office, or other place of business of any kind, and no institution or other place for the care or treatment of the sick or disabled, physically or mentally, shall be placed or permitted to remain on any of said parcels, nor shall any theatre, bar, restaurant, saloon or other place of entertainment ever be erected or permitted upon the premises or any part thereof, and no business of any kind or character whatsoever shall be conducted in or from any residence, nor shall any unsightly object or nuisance be erected, placed or maintained on any of said parcels, nor shall any use or things be permitted which may endanger the health or unreasonably disturb the holder of any lot in Little Elk Creek Village Subdivision.



4. Oil, Gas and Mineral Development:

Reservation by Little Elk Creek Village Associates of oil, gas and mineral rights shall not entitle Little Elk Creek Village Associates, its successors or assigns to make any surface encroachment upon any real property for the purpose of exploration of oil, gas or minerals, and no mining, quarrying, tunneling, excavating or drilling for any substance within the earth, including oil, gas, minerals, gravel, sand, rock and earth shall ever be permitted within the limits of Little Elk Creek Village Subdivision.

5. Irrigation Rights:

The Little Elk Creek Village Homeowners' Association or its agents or employees shall be entitled to enter upon any lot or lots at reasonable times for the purpose of repair, construction or maintenance of irrigation canals or ditches located upon existing easements in order to utilize any irrigation rights vested or owned by it. Furthermore, Little Elk Creek Village Homeowners' Association or its authorized agents or employees shall further be entitled to apply irrigation water at reasonable times to common green belt easements located upon any lot or lots as. Little Elk Creek Village Homeowners' Association in its discretion may determine necessary and desirable.

6. Signs:

No sign and no adverting device of any nature shall be placed upon the property except a small sign on a parcel, no larger than 6" x 18", in the form and design approved by the Architectural Control Authority, showing the owner's name and/or property address of the parcel, and except a small sign on the parcel no larger than 18" X 36" in a form and design approved by the Architectural Control Authority, to indicate the lot is for sale and the party, the address and/or telephone number to contact for information about such sale, and except such other type of sign or signs as may be approved in writing by the Architectural Control Authority.

See Good Neighbor Policy for information related to political signs.

7. Sewage Disposal:

All sewage disposal facilities, sanitary systems, septic tanks, sewage leach, percolating system or drain field shall be installed and constructed according to the health and safety standards of the County of Pitkin and State of Colorado. The design of any system constructed shall be approved by the Architectural Control Authority at such time as the plans for any other improvements are submitted for review in accordance with these Protective Covenants.

8. Drainage Control:

Each lot owner shall construct culverts where driveways cross road ditches and irrigation ditches. The minimum size of any culvert shall be twelve (12) inches in diameter, and shall be so constructed as to be hidden from view.



9. Road Damage:

Each lot owner is responsible for any damage caused to public or private roads during the construction of improvements upon his property by any vehicle belonging to either himself or anyone using the roads of Little Elk Creek Village while engaged in any activity benefiting the owner. Lugged vehicles are not permitted on the roads within Little Elk Creek Village. Furthermore, each individual lot owner shall also be responsible for any damage caused by utility cuts in roads, washouts and runoff damage caused by failure to properly install culverts in a timely manner as provided in Paragraph 8 above.

10. Temporary Structures:

No tent or shack shall be placed upon any lot and no temporary building, improvement or Structure shall be placed upon any lot, including any trailer, except during such reasonable periods as may be necessary for the construction of approved improvements on such lot. No such temporary building, improvement or Structure and no garage or barn and no building, improvement or Structure in the course of construction shall be used, even temporarily, as a residence.

11. Zoning:

No lots within the Little Elk Creek Subdivision shall ever be occupied or used by or for any Structure or any purpose or in any manner which is contrary to the applicable zoning requirements of Pitkin County, Colorado, or its successor, or any other competent governmental body, validly enforced from time to time, except as may be allowed under said regulations as a non-conforming use.

12. Enclosure of Unsightly Facilities and Equipment:

All unsightly Structures, facilities, equipment and other items, including but not limited to those specified below, shall be enclosed within a solid, covered Structure or screened from view, as defined below:

Enclosed or Screened: The following items shall be enclosed or screened from view at all times, except when in actual use: any trailer, horse trailer, recreational vehicle, camping trailer, camper, motorcycle, A.T.V., kayak, raft, boat, motorhome, snowmobile, jeep, fifth wheel, non-registered or inoperable vehicle, dog kennel, tractor, snow removal or garden equipment, any refuse or trash container, utility meter or other utility facility, gas, oil or water tank, service area, storage pile, area for hanging clothing or other household fabrics and any similar items. These items shall be enclosed or substantially screened from view by planting or fencing satisfactory to the Architectural Control Authority and adequate to conceal the same from neighbors, streets, private roads and access drives.

Not allowed: No lumber, metals, bulk materials, scrap, refuse or trash shall be kept, stored or allowed to accumulate on any parcel except building materials during the course of construction and only for such reasonable periods of time as is necessary prior to the collection of or disposal thereof. No commercial vehicles are allowed at any time.



13. Antennae, Wires and Poles:

No poles, wires, antennae, or facilities for the transmission or reception of electricity, telephone, or radio waves shall be placed or maintained above the surface of the ground on any lot. Television antennae and satellite dishes may be installed above the surface of the ground for television reception. Antennae for television may be installed to a height of no greater than ten (10) feet above the highest point of the house. All satellite dishes greater than two (2) feet in diameter shall be screened, with such screening as approved by the Architectural Control Authority. No antennae or satellite dish shall be placed on a roof so as to impede the view of any adjacent homeowner.

14. Noxious or Offensive Activities:

No noxious or offensive activity shall be carried on upon any parcel at any time nor shall anything be done or permitted which may be or become a nuisance to other property or to the owners thereof.

15. Firearms:

No firearms shall be discharged upon any parcel.

16. Little Elk Creek Village Home Owners Association and Assessments

Little Elk Creek Village Home Owners Association (hereinafter the "Association"), a non-profit Colorado corporation, has been created to further the interests of the property owners at Little Elk Creek Village and to assume the responsibility for the architectural control of Little Elk Creek Village Subdivision, to regulate, manage and maintain the supply of domestic water in Little Elk Creek Village Subdivision, and to manage and maintain the easements reserved in its favor and assigned to it pursuant to Paragraph 17 hereof. The following provisions shall apply to all owners of Lots in the Little Elk Creek Village Subdivision:

- A. There shall be one membership in the Association for each Lot as may be encumbered by the Protective Covenants. The aggregate number of Members shall be limited to the number of the Residential Lots in the Subdivision.

Members shall be entitled to all of the rights and benefits and shall be subject to all of the duties obligations, conditions and restrictions provided for in these Protective Covenants, the Articles of Incorporation and the By-Laws encumbering the Subdivision. There shall be one (1) vote for each Lot on all matters on which members are entitled to vote. If any Lot is owned by more than one (1) person or legal entity, those persons or entities must decide among them how their one (1) vote will be cast in accordance with their respective interest. The members shall have the right to vote for the election of trustees and the transaction of such other business as determined by the Board of Trustees or by the laws of the State of Colorado. Membership rights shall not cease upon the Member's death or dissolution but shall pass to such Member's rightful heir or other successor in interest. Members shall be entitled to cast one (1) vote for each



Membership owned on each matter submitted to a vote of the Members. Any Member who is in arrears in the payment of any assessments, dues or any other amounts owed to the Association or any other obligation set forth in the Protective Covenants for more than twenty nine (29) days shall not be in good standing and shall not be entitled to vote as a Member on any matter brought before any regular, annual or special meeting of the membership. This paragraph shall not be construed to prevent any delinquent Member from paying overdue assessments, dues or fees at or during any meeting of the members and thereby instantly restoring his franchise.

- B. Each member covenants and agrees with each other and with the Association to pay to the Association such annual assessments levied by the Association for the purposes provided in these Amended Protective Covenants, and special assessments for capital improvements and other matters as provided for in these Amended Protective Covenants. Such assessments shall be fixed, established and collected from time to time in the manner provided in this Paragraph 16.
- C. The total annual assessments against all Lots shall be based upon advance estimates of cash requirements by the Association to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the easements reserved to it in Paragraph 17, furnishing utility services to the Lots, or regulating the supply of domestic water, which estimates may include, among other things, expenses of management, grounds maintenance, taxes and special assessments, premiums for insurance which the Association is required or permitted to maintain pursuant hereto or pursuant to law, common lighting and heating, water charges, trash collection, sewer service charges, repairs and maintenance, wages for Association employees, legal and accounting fees, any deficit remaining from a previous period, the creation of a reasonable contingency reserve, surplus and/or sinking fund, and any other expenses and liabilities which may be incurred by the Association for the benefit of the owners under or by reason of these Amended Protective Covenants.
- D. Annual or special assessments which reflect expenses attributable to the easements reserved to the Association pursuant to Paragraph 17 hereof and to the Little Elk Creek Village Subdivision as a whole shall be apportioned among all owners in equal proportions related to the number of Lots that they own to the total number of lots in the Subdivision.



- E. Annual assessments shall be made on a fiscal year basis. The Fiscal Year shall be from July 1 to June 30 of the following year. The Association shall give written notice to each owner as to the amount of the annual assessment with respect to his Lot not less than ten (10) nor more than sixty (60) days prior to the beginning of the next fiscal year. Such notification shall be complete by depositing it in the United States Mail, postpaid, addressed to the owner at the address on record or furnished pursuant to Paragraph 40 hereof. Such assessment shall be due and payable in full within ten (10) days of the date that the Association provides such notice to the owner; however, the owner may choose to pay such assessment in quarterly installments on July 1, October 1, January 1 and April 1 of each fiscal year. The Quarterly Payment shall bear interest at the rate of eighteen percent (18%) per annum from the date it becomes due and payable if not paid within thirty (30) days of the date it became due. Further, where an owner chooses to pay in Quarterly Payments, any Payment which is not paid within two (2) quarters of the date that it became due, there shall be levied (against the owner) a Late Fee Penalty of not less than One Hundred and 00/100 Dollars (\$100.00). The Late Fee Penalty may be adjusted by the Board of Trustees of the Association at their discretion to reflect the change in costs associated with collecting the late payment of assessments.
- F. In addition to the annual assessments authorized by this Paragraph, the Association may levy such special assessments as it deems necessary, payable over such period as the Association may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of any part of the Little Elk Creek Village Subdivision, or for any other expense incurred or to be incurred as provided in these Amended Protective Covenants. Notice in writing of the amount and reason for each special assessment and the time for payment thereof shall be given promptly to the owners, and no payment shall be due less than thirty (30) days after such notice shall have been given. A special assessment shall bear interest and be subject to late fee penalties in the same amounts and under the same conditions as annual assessments.
- G. Pursuant to C.R.S. 38-33.3-316, the Association shall have a statutory lien "on or against" any lot for any assessment, annual or special, levied against that lot or fines imposed against the owner, including any late penalty fees, interest, attorneys fees and costs incurred in collecting the assessments. Regardless of whether the owner chooses to pay the annual assessment in installments, the lien shall arise at the time that the annual assessment becomes due. The lien for assessments is prior to all other liens and encumbrances on a lot, except:
- i. Liens and encumbrances recorded before the recordation of the Protective Covenants for Filing No.1 and the Protective Covenants for Filing No.2;



- ii. A security interest on the Lot which has priority over all other security interests on the Lot and which was recorded before the date on which the assessment sought to be enforced became delinquent; however, for all liens for assessment or late penalty fees and fines imposed after June 30, 1992, and with relation to all other liens and encumbrances created after June 30, 1992, the priority shall apply to an amount equal to the assessments based upon a periodic budget adopted by the Association which would have become due during the six months immediately preceding institution by either the Association or any party holding a lien senior to any part of the Association lien created under this subparagraph of an action or a non-judicial foreclosure either to enforce or extinguish the lien; and
 - iii. Liens for real estate taxes and other governmental assessments or charges against the Lot.
- H. Recordation of this Second Amendment to the Amended Protective Covenants constitutes record notice and perfection of the Association's lien. No further recordation of any claim of lien for assessments is required. However, the Association may prepare a written notice of lien setting forth the amount of the assessment due and owing, the date that it became due, the name of the owner and the legal description of the lot. Such notice may be signed by the Association and recorded in the office of the County Clerk and Recorder of Pitkin County, Colorado.
- I. The Association shall be entitled to costs and reasonable attorney's fees incurred in collection of assessments and costs and reasonable attorney's fees incurred in obtaining and collecting any judgment or decree in any action or suit bought by the Association under this Paragraph 16.
- J. The Association's lien may be foreclosed in like manner as a deed of trust or mortgage on real estate under the laws of the State of Colorado.
- K. The Association shall furnish to an owner or to a holder of a security interest on any lot, upon written request, delivered personally or by certified mail, first class postage prepaid, return receipt, to the Association's registered agent, a written statement setting forth the amount of the unpaid assessments currently levied against such owner's lot. The statement shall be furnished within fourteen (14) calendar days after receipt of the request and is binding upon the Association. If no statement is furnished to the inquiring party, the Association shall have no right to assert a lien upon the lot for unpaid assessments, which were due on the date of the request.

17. Easements Reserved:

All easements of records and all easements contained on the plats of Little Elk Creek Village Subdivision Filing No. 1 and Little Elk Creek Village Subdivision Filing No.2, are hereby reserved unto the Little Elk Creek Village Homeowners' Association, its successors and assigns, and by its signature hereon the Little Elk Creek Village Associates hereby assign all of its easements of record and all of its interest in any easements to the Little Elk Creek Village Homeowners' Association.



18. Architectural Control Authority:

The Board of Trustees of the Little Elk Creek Village Homeowners' Association shall be and shall constitute the Architectural Control Authority, and by its signature hereon, Little Elk Creek Village Associates hereby delegates and assigns the function of architectural control to the Little Elk Creek Village Homeowners' Association. All of the powers and functions reserved unto or delegated herein to the Architectural Control Authority shall be governed by an exercise in accordance with the terms of the Articles of Incorporation of the Little Elk Creek Village Homeowners' Association and any properly enacted amendments thereto.

19. Approval of Structures:

No Structure shall be placed upon or permitted to remain upon any lot, or altered in any way which will change its exterior appearance without the prior approval in writing of the Architectural Control Authority of the Little Elk Creek Village Homeowners' Association or its assigns.

20. "Structure" Defined:

"Structure" as used herein shall mean any tangible thing above or below the surface of the ground which may affect the appearance of the property or the health or safety of any person including, by way of illustration and not by way of limitation, any building, garage, porch, shed, greenhouse, bath house, coop, cage, patio, swimming pool, tennis court, swimming or tennis cabana, stable, barn, fence, wall, sign, barbecue pit, tank, playhouse, tree house, gazebo, pool, pond, excavation, pipe, pole, wire, cable, or other landscaping features.

21. Primary Structures:

"Primary Structures" shall mean any enclosed Structure which occupies more than eighty (80) square feet in area or more than six hundred (600) cubic feet in volume. The primary Structures permitted on any single lot shall consist of no more than one (1) single family dwelling house with an interior floor area of at least one thousand (1,000) square feet exclusive of accessory buildings, garages, porches or patios, together with no more than two (2) non-dwelling units unconnected enclosed Structures such as swimming or tennis cabanas, stables, garages or greenhouses, except as provided in Paragraph 1 above. No Structure shall be erected or installed except concurrently with or after construction of the aforementioned single family dwelling house. All primary Structures shall conform in appearance with said dwelling house.



22. Structure Exterior:

The exterior portions of all Structures shall be reasonably maintained. Exteriors shall be painted, sealed stained wood, stucco, natural rock, brick, or such other material, as may be approved by the Architectural Control Authority. Metal roofs will be permitted on Structures, as the same may be approved by the Architectural Control Authority, after submission of a sample of said roof covering to the Architectural Control Authority, who shall retain said sample in order to insure compliance with any approval it may give.

23. Fences:

Fences will be considered on an individual basis. Except for Screened dog kennels, under no circumstances shall wire fences such as chain link, chicken wire, barbed and strand fences be accepted. Fences should be planned so they do not delineate lot lines in any complete sense. All fences shall be subject to the approval of the Architectural Control Authority as to location, size, design, material and color.

24. Procedure for Approval of Structures:

The Architectural Control Authority of the Little Elk Creek Village Homeowners' Association may impose reasonable requirements with respect to the information to be furnished and the form and manner of presenting the same in order to obtain approval for any Structure. The owner shall first submit preliminary or tentative plans and specifications, including a preliminary plot plan to the Architectural Control Authority, which shall clearly and completely show and set forth the essential features and intent of the approval of the final building plans, plot plans, landscaping and specifications as provided below. The Architectural Control Authority shall review preliminary plans and specifications and shall, within thirty (30) days after submission to it of these preliminary plans and specifications provide the owner of the lot with a written list of suggestions for improvement prior to the submission of final plans and specifications. Should the Architectural Control Authority fail to provide the aforementioned lists of suggestions, the owner shall be free to submit his final plans and specifications anytime after forty-five (45) days from that date on which he has submitted his preliminary plans. When submitting final plans and specifications for all Structures to the Architectural Control Authority, those plans and specifications shall show at least the following: a) the location of all existing and proposed Structures on the lot; b) all lot lines; c) all materials and colors to be used which shall be shown by means of samples of these materials and colors. All final plans and specifications shall be submitted in duplicate. Final plans and specifications for any Structure shall be deemed and considered disapproved unless approval is expressly given and is evidenced in writing executed by the Architectural Control Authority.

Notwithstanding the foregoing, if the Architectural Control Authority fails to approve final plans and specifications for Structure and does not expressly indicate approval or affirmatively impose additional requirements or request additional information to be furnished, either verbally or in writing, within thirty (30) days after a written request is made for written approval, the Structure shall be deemed approved by the Architectural Control Authority.



25. Criteria for Architectural Control:

The Architectural Control Authority shall have complete discretion in determining whether to approve or disapprove the final plans and specifications for any Structure. This discretion shall be exercised with at least the following objectives in mind;

- a. To direct the positioning, elevations, profile and surface treatment of all Structures so as to minimize their obstruction, or diminution of quality of the principal views from each lot.
- b. Preserve or enhance existing features of natural beauty such as trees, shrubs, topography and undefined openness or transition between the areas.
- c. To minimize the effect that improvements will have in destroying the visual continuity of the area and transition between improved and unimproved areas so that when viewed from across the valley the Little Elk Creek Village Subdivision does not appear to be as a patchwork of contrasting improvements.
- d. Promote the design of Structures so that their siting, form and surface treatment harmonizes with the natural setting with other Structures on adjacent property.
- e. Promote the use of new landscape materials that are indigenous to or existing in the area and which have low maintenance effort requirements so that natural and landscaped areas are not sharply contrasted and well-maintained and poorly maintained areas are not sharply contrasted.
- f. Prevent landscaping or Structural improvements from defining the boundaries of property ownership.
- g. Promote the use of Structural materials that have a minimum maintenance requirement so as to assure a better appearing area under all conditions.
- h. Promote the design and construction of improvements that incorporate the best visual, functional and material quality elements possible so that each parcel will serve its owner better and enhance the value of adjacent property by its presence.
- i. Consider the long-term future effect of decisions on the nature of improvements allowed in the area.



26. Prompt Completion of Structures:

Construction or installation of any Structure shall proceed promptly and diligently after approval by the Architectural Control Authority. Unless the allowable construction time is extended by the Architectural Control Authority in writing, failure to complete the Structure within one (1) year after the date of approval shall constitute an automatic revocation of the approval. A Homeowner may apply for a 6-month extension to finish a construction project. Approval will be based on progress made. Any partially completed or installed Structure shall not then be thereafter permitted to remain on the property for a period longer than three (3) months after the Architectural Control Authority requests removal of the partially completed or installed Structure.

27. Right of Inspection:

The Architectural Control Authority and its duly appointed agents or employees may enter upon any property at any reasonable time or times for the inspection of any Structure.

28. Change of Grade:

No grade, stream bed, ground level or drainage pattern on any parcel shall be altered or changed without obtaining the prior approval in writing of the Architectural Control Authority.

29. Variances:

The Architectural Control Authority may allow variances from compliance with any of the terms or provisions of these Protective Covenants when circumstances such as topography, natural obstructions or hardship may require and, if such variance is granted, no violation of the covenants, restrictions and conditions of these restrictions shall be deemed to have occurred with respect to the matter for which the variance was granted. Any such variance shall be evidenced in a writing duly executed by the Architectural Control Authority. The granting of such variance shall not operate to waive any of the terms and provisions of such of these restrictions for any purpose except as to the particular property and particular provision hereof covered by the variance. In no event may a variance be granted which would permit any business or commercial activity.

30. Enforcement Rights:

These covenants, restrictions and conditions contained in these Protective Covenants may be enforced at any time by the owner or owners of any property, by a group of owners of the property described herein, or by the Little Elk Creek Village Homeowners' Association.



31. Remedies:

The covenants, conditions and restrictions contained in these Protective Covenants shall be enforceable by proceeding for prohibitive or mandatory injunction. Damages shall not be deemed an adequate remedy for breach or violation but, in an appropriate case, punitive damages may be awarded. In any action to enforce any covenant, condition or restriction contained herein, the party or parties bringing such action, if successful in the action, shall be awarded reasonable attorney's fees.

32. Additional Remedies:

In addition to the remedies stated above, the authorized agents of the Little Elk Creek Village Homeowners' Association or its nominee, upon violation or breach of any covenant, condition or restriction contained herein may impose fines according to the Fine Schedule as follows:

A homeowner in violation of a Covenant shall be notified of the violation, in writing, by the LEC Board. If the violation is not cured, or an alternative remedy agreed upon by the LEC Board and the Homeowner within 60 days, the LEC Board may impose a \$100/month fine until the violation is cured and the fine is paid. [Click here to view an expanded version of this policy.](#)

If the owner or owners of the lot fail, after demand, to pay such costs, then Little Elk Creek Village Homeowners' Association shall have a lien, from and after the time of notice of such failure to pay is recorded in the office of the County Clerk and Recorder or Pitkin County, Colorado, against the property of such owner or owners for the amount due and unpaid, plus interest from the date of demand for payment at the rate of eighteen per cent (18%) per annum, plus all costs and expenses of collecting any unpaid amount, including any reasonable attorney's fees. This lien may be foreclosed in the manner for foreclosure of deeds of trust and mortgages in accordance with the laws of the State of Colorado.

33. Remedy of Little Elk Creek Village Homeowner's Association:

In addition to the remedy stated above, if with respect to any property there is a breach or failure to comply with any of the above covenants, restrictions or conditions contained in these Protective Covenants, then Little Elk Creek Village Homeowners' Association, its successors and assigns, shall have the right, immediately or at any time during the continuation of such breach or failure of such breach or failure to re-enter and take possession of the above-described property and, upon the exercise of this right of re-entry, title to said property shall thereupon vest in Little Elk Creek Village Homeowners' Association, its successors or assigns. The right of re-entry and for re-vesting of title provided under this Section shall be subject to the provisions of Paragraph 4 of these Protective Covenants entitled Protection of Encumbrancer. Those provisions of Paragraph 33 providing a right of re-entry and for re-vesting of title in Little Elk Creek Village Homeowners Association shall not be subject to the provisions of Paragraph 36 of these Protective Covenants entitled Amendment and Termination.



34. Protection of Encumbrancer:

No violation or breach of any restriction, covenant or condition contained in these Protective Covenants and no action to enforce the same shall defeat, render invalid or impair the lien of any mortgage or deed of trust taken in good faith for value or the title or interest of the holder thereof or the title acquired by any purchaser upon foreclosure of any such mortgage or deed of trust. Any such purchaser shall, however, take title subject to those Protective Covenants, which occurred prior to any such foreclosure.

35. Severability:

Each of the covenants, restrictions and conditions contained in these Protective Covenants shall be deemed independent and separate and the invalidation of any one shall not affect the validity and continued effect of any other.

36. Amendment and Termination:

These restrictions, covenants and conditions in these Protective Covenants shall continue until January 1, 1995, and from year to year thereafter until amended or terminated by written instrument executed by the Little Elk Creek Village Homeowners' Association, in accordance with the provisions of Article V of the Articles of Incorporation of the Little Elk Creek Village Homeowners' Association. Prior to January 1, 1995, these Protective Covenants may be amended or terminated by recorded instrument duly executed by the Little Elk Creek Village Homeowners' Association in accordance with Article V of the Articles of Incorporation of the Little Elk Creek Village Homeowners' Association.

37. Paragraph Headings:

The paragraph headings in this instrument are for convenience only and shall not be considered in construing the restrictions, covenants and conditions contained herein.

38. Singular and Plural:

Wherever utilized herein the singular shall be deemed to include the plural and the plural shall be deemed to include the singular. Furthermore, wherever utilized herein the masculine shall be deemed to include the feminine and the feminine shall be deemed to include the masculine.

39. Waiver:

Waiver or failure to enforce any restriction, covenant or condition in these Protective Covenants shall not operate as a waiver of any other restriction, covenant or condition.



40. Notice of Address Change:

In the event of any change in ownership of a lot, or change in address of a member, it shall be the responsibility of the grantee of the lot or of the owner to notify the Association of any change in his mailing address. Unless such notification shall have been filed with the secretary of the Association, the Association shall not be responsible for the sending of any statements, invoices or notices to the grantees correct address or the owner's new address.

Amendments:

Amended Protective Covenants were approved April 10th, 1980, signed and duly recorded in Pitkin County, Colorado.

First Amendment was approved October 22, 1984, signed and duly recorded in Pitkin County, Colorado and is incorporated herein.

Second Amendment was approved July 12, 1994, signed and duly recorded in Pitkin County, Colorado and is incorporated herein.

Third Amendment was approved June 13, 2004, signed and duly recorded in Pitkin County, Colorado and is incorporated herein.

Fourth Amendment was approved August 20, 2004, signed and duly recorded in Pitkin County, Colorado and is incorporated herein.

Attachments: Deed Restriction referred to in Third Amendment and Exhibit "A" (a description of the real property referred to in Third Amendment) (See Article 2: Benefits of Protective Covenants)