

**ASPEN MESA ESTATES
EAGLE COUNTY, COLORADO**

**DEED RESTRICTIONS
AND COVENANTS
Including
ARCHITECTURAL
CONTROL**

REORGANIZATION AND AMENDMENT
OF
DEED RESTRICTIONS FOR
ASPEN MESA ESTATES

267
BOOK 371
PAGE 47

JUL 1983
EAGLE COUNTY
CLERK AND RECORDER

OCT 19 9 50 AM '83

KNOW ALL MEN BY THESE PRESENTS THAT:

WHEREAS, Aspen Mesa Estates, First Filing, and Aspen Mesa Estates, Unit II, have been duly created, and the plots and other documents evidencing the existence of Aspen Mesa Estates have been recorded in the Office of the Eagle County, Colorado Clerk and Recorder; and

WHEREAS, certain Deed Restrictions relating to Aspen Mesa Estates, and amendments thereto, have been promulgated in documents including, but not limited to, those recorded in Book 205 at Page 163, in Book 213 at Page 106, in Book 217 at Page 168, in Book 246 at Page 448, and in Book 265 at Pages 279 and 280 in the Office of said Clerk and Recorder; and

WHEREAS, by the terms of those Deed Restrictions, as amended, the restrictions, covenants and conditions contained in the Restrictions are to continue until January 1, 1982, and from year to year thereafter until amended or terminated by written instrument executed by the Aspen Mesa Home Owners' Association or by the owners of a majority of the parcels; and

WHEREAS, the owners of the parcels within Aspen Mesa Estates, acting through the Aspen Mesa Home Owners' Association, desire to reorganize and amend the entire Deed Restrictions in a manner that will update the prior Restrictions and will

allow a single set of those Restrictions to apply to both the First Filing and Unit II of Aspen Mesa Estates.

NOW, THEREFORE, the Aspen Mesa Home Owners' Association, being duly authorized following a vote of the lot owners entitled to vote in person or by proxy, hereby reorganizes and amends the Deed Restrictions, as follows, to-wit:

1. The Deed Restrictions for Aspen Mesa Estates shall hereafter be as set forth in Exhibit "A" attached hereto and incorporated by reference herein.

2. The attached Deed Restrictions shall supersede and take the place of any and all prior recorded Deed Restrictions or amendments thereto.

DATED this 17th day of October, 1983.

ASPEN MESA HOME OWNERS' ASSOCIATION

By: David Isaacson
President

ATTEST:

Dee Keritz
Secretary

STATE OF COLORADO

COUNTY OF Eagle

)
)
)
ss.

The foregoing was acknowledged before me this 17th day of October, 1983 by DANIEL ISAACSON, as President, and SUE KENTZ, as Secretary of the Aspen Mesa Home Owners' Association.

WITNESS my hand and official seal.

My commission expires: 2-23-87

Sally L. Hendricks
Notary Public

EXHIBIT "A"

DEED RESTRICTIONS
ASPEN MESA HOME OWNERS ASSOCIATION

1. Residential Use. No lot shall be used for any purposes other than residential purposes, and no lot may be resubdivided into smaller lots. No buildings, improvements, or structures shall be constructed on any lot other than a single family dwelling and such improvements or structures as are incidental or appurtenant to a single family dwelling. No lot shall be occupied at any time by more than a single family, its guests, and its domestic servants. No business or commercial activity may be conducted on a lot.

2. New Construction. All improvements erected upon a lot shall be of new construction, and no buildings or structures shall be moved from other locations onto a lot.

3. Animals. No animals, livestock, or poultry other than household pets shall be kept on any lot, except that two (2) horses for each lot shall be allowed. Any lot owner desiring to keep one (1) or two (2) horses on his lot must submit plans to the Architectural Control Committee showing the location and construction plans for any stable and fencing, satisfactory methods of confining such horses on the owner's lot, and plans for maintaining all areas containing such horses in a safe and sanitary condition. No horses shall be kept on any lot until such plans are approved by the Architectural Control Committee.

All animal owners are responsible for the control of their animals. The Board of Directors of the Aspen Mesa Home Owners Association shall have the authority to require any owner to restrain or otherwise prevent any animal from interfering with the pleasurable use and occupancy of any other lot owner.

4. Signs. No sign and no advertising device of any nature shall be placed upon any lot except a small sign no larger than 6 inches by 18 inches, in form and design approved by the Architectural Control Committee, showing the owner's name and/or the address of the lot, and except a small sign no larger than 18 inches by 36 inches, in form and design approved by the Architectural Control Committee, to indicate the lot is for sale and the party, the address, and/or telephone number to contact for information about such sale.

5. Sewage Disposal. Each lot owner shall be required to comply with all current governmental regulations and building codes concerning sewage disposal.

6. Drainage Control. Lot owners shall provide culverts where driveways cross road ditches and irrigation ditches. The minimum size culvert shall be 12 inches in diameter.

7. 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.

8. Enclosure of Unsightly Facilities and Equipment.

Any trailer, boat, truck, tractor, snow removal, or garden equipment and any similar items shall be kept at all times, except when in actual use, in the most inconspicuous place possible. Any refuse or trash container, utility meter or other utility facility, gas, oil, or water tank, service area, storage pile, or area for hanging clothing or other household fabrics, shall be enclosed or appropriately screened from view by planting or fencing approved by the Architectural Control Committee, and adequate to conceal the same from neighbors, streets, and private roads and access drives. No lumber, metals, bulk materials, scrap, refuse, or trash shall be kept, stored, or allowed to accumulate on any lot except building materials during the course of construction and only for such reasonable period of time as is necessary. No inoperable motor vehicles shall be kept on any lot at any time.

9. Sounds and Smells, Noxious or Offensive Activities.

No use or activity shall be permitted on any lot which causes noxious or offensive odor or unreasonably loud sound to be transmitted to any other lot, nor shall anything be

done or permitted which may be or become a nuisance to another lot or to the owners thereof, their guests, or servants.

10. Parking. There shall be no on-street parking. Each lot owner shall make appropriate arrangements for off-street parking for himself and his guests.

11. Open Fires. No open fires shall be lighted or permitted on any lot except in a contained permanent or movable barbecue unit when in use for cooking purposes only.

12. Firearms. No firearms shall be discharged upon any lot.

13. Aspen Mesa Home Owners Association. A non-profit corporation created to further the interests of the lot owners at Aspen Mesa including without limitation operation of the Aspen Mesa water system and to assume the responsibility of architectural control. The owners of all lots shall be members and shall be required to maintain membership in the Association. Each lot shall be entitled to one (1) vote, and the owner shall be required to pay assessments and water connection, service, and standby charges levied by the Association. Assessments shall be prorated equally among the lots. If the owner or owners of any lot fail, after demand, to pay the assessments and water charges levied by the Association, then the 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 of Eagle

*Amended
2nd
to DR*

County, Colorado, against the lot of such owner or owners for the amount due and not paid, plus interest at a rate of 18% per annum or highest rate permitted by law, whichever is less, from the date of demand for payment at the legal rate prevailing at the time, plus all costs and expenses of collecting the unpaid amount, including attorney's fees. The lien may be foreclosed in the manner for foreclosure of mortgages in the State of Colorado.

All Board of Directors and prospective Board members must at the time of their election, and during their terms own a lot in the Aspen Mesa Estates and be in compliance with the restrictions.

14. Architectural Control.

A. Architectural Control Committee. The Board of Directors of the Association shall appoint an Architectural Control Committee to insure conformance with the Aspen Mesa Home Owners Association standards in any modification of property within the subdivision boundaries, including control of all phases of construction landscaping. The Architectural Control Committee shall be composed of no more than five (5) members and no less than three (3) members. Members' terms shall extend for a period of one (1) year. Enforcement of architectural control violations shall be vested in the Association Board of Directors.

B. Architectural Control Procedures. The Architectural Control Committee or its designee will prepare,

maintain, publish, and furnish on request by parcel owners, a dated document that:

(1) advises the parcel owner on how to proceed with the planning, design, and approval of improvements to his parcel;

(2) outlines in adequate detail the requirements of the Aspen Mesa Home Owners Association in order to get architectural approval;

(3) failure of the Architectural Control Committee or the Association to prepare, maintain, publish, or furnish such a document shall not operate to waive the requirement for approval of structures.

C. Criteria for Architectural Control. The Architectural Control Committee shall have reasonable discretion in determining whether to approve or disapprove structures. This discretion shall be exercised with at least the following objectives in mind:

(1) To direct the positioning, elevation, profile, and surface treatment of all structures so as to minimize their obstruction or diminution of quality of the principal views from each lot.

(2) Preserve or enhance existing features of natural beauty such as trees, shrubs, topography, and natural landscaping.

(3) 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 subdivision does not appear as a patchwork of contrasting improvements.

(4) Promote the design of structures so that their siting, form, and surface treatment harmonizes with the rustic and natural setting and with other structures on adjacent property.

(5) 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.

(6) Prevent landscaping or structural improvements from defining the boundaries of property ownership.

(7) Promote the use of structural materials that have minimum maintenance requirements so as to assure a better appearing area under all conditions.

(8) Promote the design and construction of improvements that incorporate the good 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.

(9) Consider the long term future effects of decisions on the nature of improvements allowed in the area.

D. Definitions.

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

(2) Primary Structure. "Primary Structure" shall mean any enclosed structure which occupies more than 80 square feet in area or more than 600 cubic feet in volume. The primary structures permitted on any lot shall consist of no more than one (1) single family dwelling house together with no more than two (2) non-dwelling unit unconnected enclosed structures such as swimming or tennis cabanas, stables, garages, or greenhouses. No structure shall be erected or installed except concurrently with or after construction of the

single family dwelling house, and all primary structures shall conform in appearance with the dwelling house.

(3) Structure Requirements. No structure shall be built unless all of the following minimum requirements are met:

(a) The interior living floor area, exclusive of accessory buildings, garages, porches, decks, and patios shall contain not less than 1,250 square feet.

(b) Any multi-level dwelling unit shall have a minimum of 750 square feet of living area on one (1) level.

(c) Any dwelling unit shall have a garage or carport of sufficient size to enclose one (1) full-sized automobile.

(d) Tar and gravel, shake shingles, appropriate metal roofing approved by Architectural Control Committee.

E. Approval of Structures.

(1) 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 Aspen Mesa Home Owners or its designee.

(2) The Architectural Control Committee may impose reasonable requirements with respect to

information to be furnished and the form and manner of presenting the same in order to obtain approval for any structure, including, but not limited to, all landscaping for all primary structures. Two (2) sets of complete plans and specifications shall be submitted to the Architectural Control Committee, which plans and renderings of all sides of the structure shall be drawn to a minimum scale of one-quarter (1/4) inch equals one (1) foot, excepting site renderings which shall be drawn to appropriate scale to show location of all existing and proposed structures on the lot, all parcel lines, all existing and proposed contours and contour elevations; shall indicate materials and colors to be used; shall be accompanied by samples of materials and colors to be used upon request; shall be submitted in duplicate together with a fee of One Hundred Dollars (\$100.00) to be paid to the Architectural Control Committee to compensate it for the time and effort required for review prior to approval. Seventy-Five Dollars (\$75.00) of said fee shall be waived if said plans are signed by a licensed Colorado architect. The Architectural Control Committee will approve and initial all plans including any changes made by it and retain one (1) set. Actual construction shall conform to the plans.

(3) At least one (1) member of the Architectural Control Committee will physically visit the building site with any primary structure plans submitted for approval prior to approving or rejecting the request in order to assure a thorough and accurate review of the proposed improvements.

F. Approval or Disapproval. Any structure shall be deemed and considered disapproved unless approval is expressly given and is evidenced in writing executed by the Architectural Control Committee. Notwithstanding the foregoing, if the Architectural Control Committee fails to approve a structure and does not expressly indicate disapproval or affirmatively impose additional requirements or requests additional information be furnished in writing, within thirty (30) days after a written request for written approval, the structure shall be deemed approved. All written requests and written approvals or disapprovals shall be made either in person or through certified mail.

15. Prompt Completion of Structures. Construction or installation of any structure shall proceed promptly and diligently after approval by the Architectural Control Committee. Construction shall begin within six (6) months from the date of approval of plans by the Architectural Control Committee and shall be completed within one (1) year from the date of commencement of construction unless such times are extended in writing by said Committee.

16. Maintenance of Trees, Shrubs, and Change of Grade.

No tree or trees or shrubs on any lot shall be marred, defaced, or damaged, and no tree or trees or shrubs shall be removed except with prior written approval of the Architectural Control Committee. Also, no grade, stream bed, ground level, or drainage pattern on any lot shall be altered or changed without prior written approval of aforesaid Architectural Control Committee.

17. Antenna, Wires, Poles, and Exterior Lighting. No

poles, wires, or facilities for the transmission or reception of electricity or telephone messages, radio shall be placed or maintained above the surface of the ground on any lot.

All electric, telephone, cable television, and other utility lines shall be run underground from the service pole to any structure on any lot. Antenna for television may be installed to a height no higher than ten (10) feet above the highest point of the house. A dish type antenna may not be installed without prior express written consent of Architectural Control Committee. No exterior lights shall be permitted on any lot which would cause unreasonable glare to neighboring lot.

18. Greenbelt and Equestrian Easements. All areas designated "green areas" or "equestrian easement" on the recorded plat of Aspen Mesa Estates shall be reserved for use by the homeowners as equestrian trails or other recreational uses; provided however, that the Architectural Control Committee may grant variances in accordance with the

procedures set forth in these deed restrictions, allowing the encroachment within such areas of structures in circumstances where conditions such as topography, natural obstructions, or hardship require.

19. Right of Inspection. The Association representatives or its designees or employees may enter upon any lot at any reasonable time or times for inspection of any structure.

20. Variances. The Architectural Control Committee may allow variances from compliance with any of the terms or provisions of these restrictions 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. Such variances must be evidenced in writing. The granting of such variance shall not operate to waive any of the terms and provisions of these Restrictions for any purpose except as to the particular lot and particular provision hereof covered by the variance. In no event may a variance be granted which would permit any business or commercial activity.

21. Enforcement Rights. These Restrictions may be enforced at any time by the owner or owners of any lot by the Association. A notice of non-compliance will be recorded with the Eagle County Clerk and Recorder setting the violation of these Restrictions by a homeowner, by the

Association, if after thirty (30) days of making written notice of non-compliance to the homeowner of record, as shown by the Eagle County Assessor's office, United States postage prepaid, the violation has not been corrected. The Certificate of Non-compliance shall constitute notice to any prospective lien holder or purchaser of the violation of these Restrictions. When compliance with these Restrictions has been obtained to the satisfaction of the Association, then a Notice of Compliance shall be recorded by the Association, releasing the Notice of Non-compliance.

22. Remedies. These restrictions 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, restriction, or condition contained in these Restrictions, the Association or the party or parties bringing such action, if successful in the action, shall be awarded reasonable attorney's fees.

23. Protection of Encumbrancer. No violation or breach of any restriction, covenant, or condition contained in these Restrictions 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,

take subject to these Restrictions which occurred prior to such foreclosure shall not be deemed breaches or violations hereof.

24. Severability. Each provision contained in these Restrictions shall be deemed independent and separate, and the invalidation of any one (1) shall not affect the validity and continued effect of any other.

25. Amendment and Termination. These Restrictions may be amended or terminated by a majority of the lot owners voting at a meeting of the Association duly called at which a quorum exists. A memorandum of the amendment shall be filed for record by the Board of Directors of the Association in the office of the Clerk and Recorder of Eagle County, Colorado.

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

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

307507
BOOK 411
PAGE 229

JOHNETTE PHILLIPS
EAGLE COY. RECORDER

APR 16 9 58 AM '85

9'

FIRST AMENDMENT TO REORGANIZATION AND AMENDMENT
OF DEED RESTRICTIONS FOR ASPEN MESA ESTATES

KNOW ALL MEN BY THESE PRESENTS THAT:

WHEREAS, Aspen Mesa Estates, First Filing, and Aspen Mesa Estates, Unit II, have been duly created, and the plats and other documents evidencing the existence of Aspen Mesa Estates have been recorded in the Office of the Eagle County, Colorado Clerk and Recorder; and

WHEREAS, the Deed Restrictions relating to Aspen Mesa Estates, and the amendments thereto, have been reorganized and a Reorganization and Amendment of Deed Restrictions for Aspen Mesa Estates has been duly recorded in Book 371 at Page 47 in the Office of said Clerk and Recorder; and

WHEREAS, by the terms of those Deed Restrictions, as reorganized and amended, the provisions contained therein may be amended by a majority of the lot owners voting, provided a quorum exists; and

WHEREAS, in accordance with those Deed Restrictions, as reorganized and amended, and the Bylaws of the Aspen Mesa Home Owners Association, those Deed Restrictions are hereby amended as indicated herein.

NOW, THEREFORE, the Board of Directors of the Aspen Mesa Home Owners Association, being duly authorized and directed following a vote of the lot owners entitled to vote, a quorum existing hereby amends the Reorganization and Amendment of Deed Restrictions for Aspen Mesa Estates, as follows, to-wit:

1. Paragraph 3 of the Reorganization and Amendment of Deed Restrictions for Aspen Mesa Estates is hereby amended to read as follows:

3. Animals. No animals, livestock, or poultry other than household pets shall be kept on any lot, except as otherwise stated in this Paragraph. Horses may be kept and maintained if a special written variance from the Architectural Control Committee and the written consent of all adjacent lot owners are first obtained; provided, however, that no such variance or consent shall be required to keep the same number of horses on any lot as was there on September 19, 1984. Approval of any request for a variance shall be governed by such written criteria or regulations as the Architectural Control Committee may adopt. Any lot owner keeping horses on his lot on September 19, 1984 shall be required to comply with the written criteria and regulations of the Architectural Control Committee governing the

cation of any stable and fencing, the construction plans for any stable and fencing, methods of confining such horses on the lot, and maintenance of all areas containing such horses in a safe and sanitary condition.

All animal owners are responsible for the control of their animals. The Board of Directors of the Aspen Mesa Home Owners Association shall have the authority to require any owner to restrain or otherwise prevent any animal from interfering with the pleasurable use and occupancy of any other lot owner.

2. Paragraph 25 of the Reorganization and Amendment of Deed Restrictions for Aspen Mesa Estates is hereby amended to read as follows:

25. Amendment and Termination. These Deed Restrictions may be amended or terminated by a majority of the members voting in a meeting of the members of the Aspen Mesa Home Owners Association at which a quorum exists or voting by mail in an election conducted by the Board of Directors in accordance with the Bylaws of the Association.

A. The request for amendment or termination may take the form of a resolution of the Board, duly passed by a majority of its members in any duly called meeting at which a quorum exists, or a petition signed by 25% of the members of the Association. The resolution or petition must recite the exact text of the change requested. Unless the Board of Directors sets another period of time, any petition must be presented to the secretary of the Association, or his designee, at least 60 days prior to any meeting of the members called for the purpose of acting on the petition.

B. Following passage of the resolution or acceptance of the petition by the secretary (and his certification that it contains a sufficient number of signatures of qualified members), the Board shall determine and set the manner, date and, if applicable, the place and time of a vote on the issue. Within the period of time prior to voting specified in the Bylaws, notice either announcing a meeting or accompanying the ballot shall be sent to each member, and the notice (or in the case of a ballot by mail, the ballot) shall contain the text of the proposed change.

