

STATE OF COLORADO, COUNTY OF MESA
RECORDED AT 10:54 A.M. OCT 24 1978
RECEPTION NO. 1174639 EARL SAWYER, RECORDER

DECLARATION OF RESTRICTIVE COVENANTS

WHEREAS, KENNETH TOMPKINS and JANICE BOWER TOMPKINS, husband and wife, have heretofore executed a plat of HERITAGE MEADOWS SUBDIVISION FILING NO. TWO, in the County of Mesa, State of Colorado, which plat was recorded on October 24, 1978, in Plat Book 12, Page 15-16, records of Mesa County; and

WHEREAS, KENNETH TOMPKINS and JANICE BOWER TOMPKINS are now the owners of all the property in said subdivision; and

WHEREAS, KENNETH TOMPKINS and JANICE BOWER TOMPKINS are desirous of protecting and preserving the present and future value of all of the aforesaid property;

NOW, THEREFORE, in consideration of the premises, KENNETH TOMPKINS and JANICE BOWER TOMPKINS, for themselves and for their successors and assigns, and for their grantees, hereby establish and declare the following covenants and restrictions upon the said property:

1. LAND USE AND BUILDING TYPE. No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single family dwelling not to exceed two stories in height and a private garage or carport for not more than three cars.
2. ARCHITECTURAL CONTROL. No building shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location, topography and finish grade elevation. No fence or wall shall be erected, placed or altered on any lot nearer to any street than the minimum building setback line unless similarly approved. Approval shall be as provided in Paragraphs 18 and 19, below.
3. DWELLING COSTS, QUALITY AND SIZE. No dwelling shall be permitted on any lot at a cost of less than \$15,000.00, based upon cost levels prevailing on the date these covenants are recorded, it being the intention and purpose of the covenants to assure that all dwellings shall be of a quality of workmanship and materials substantially the same or better than that which can be produced on the date these covenants are recorded at the minimum cost stated herein for the minimum permitted dwelling size. The ground floor of the main structure, exclusive of one-story open porches and garages, shall not be less than 1100 square feet for a one-story dwelling, nor less than 680 square feet for a dwelling of more than one story.
4. BUILDING LOCATION. No building shall be located on any lot nearer to the front lot line or nearer to the side street line than any minimum building setback lines which may be shown on the recorded plat. In any event, no building shall be located nearer than 25 feet to the front lot line or any side street line without the written approval of the Architectural Control Committee. No building shall be located nearer than five feet to an interior lot line. No building shall be located on any interior lot nearer than 25 feet to the rear lot line without the written approval of the Architectural Control Committee. For the purpose of this covenant, eaves, steps and open porches shall not be considered as part of a building, provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.
5. LOT AREA AND WIDTH. No dwelling shall be erected or placed on any lot having a width of less than 75 feet at the minimum setback line, nor shall any dwelling be erected or placed on any lot having an area of less than 9,000 square feet.

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6. EASEMENTS. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat.
7. PEDESTRIAN RIGHT OF WAY. A public pedestrian right of way is as shown on the recorded plat. It is expressly understood that any responsibility for fencing along such right of way lies with the individual property owner whose lot adjoins such right of way, and not with the Town of Fruita or the subdivision developer.
8. STREET LIGHTING. All lots are subject to and bound by Public Service Company tariffs which are now and may in future be filed with the Public Utilities Commission of the State of Colorado relating to street lighting in this subdivision, together with rates, rules and regulations therein provided and subject to all future amendments and changes thereto. The owner or owners shall pay as billed a portion of the cost of public street lighting in the subdivision according to Public Service Company rates, rules and regulations, including future amendments and changes on file with the Public Utilities Commission of the State of Colorado.
9. NUISANCES. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.
10. SIGNS. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than five square feet advertising the property during the construction and sales period.
11. DRILLING, OIL AND MINING OPERATIONS. No oil or water well drilling, oil or water development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.
12. LIVESTOCK AND POULTRY. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other common household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose.
13. GARBAGE AND REFUSE DISPOSAL. No lumber, grass, shrub or tree clippings or plant waste, metals, bulk materials, inoperative cars, machinery, wire, bottles, cans, scrap, refuse, trash or other things shall be kept, stored or allowed to accumulate on any property within the subdivision. Refuse, garbage, and trash shall be kept at all times in covered, sanitary containers, which refuse, trash and garbage shall be disposed of promptly so as to not become a nuisance. No garbage or refuse may be disposed of by burning.
14. TRAILERS, BOATS AND MOTOR VEHICLES. No mobile home, trailer of any kind, permanent tent or similar unit, no vehicle longer than 18 feet, no truck, camper or other recreational vehicles designed for sleeping or feeding human beings (except a pickup truck with camper designed for easy removal) and no boat shall be kept, placed, maintained, constructed, reconstructed or repaired upon the front one-third of any lot or upon any street, public or private, within the subdivision where easily visible from neighboring property.
15. SIGHT DISTANCE AT INTERSECTIONS. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two and six feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or, as in the case of a rounded property corner from the intersection, of the street property lines extended. The same sightline limitations shall apply on any lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage is maintained at sufficient height to prevent obstruction of such sight lines.

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16. PLANTINGS AND LAWNS AND THEIR MAINTENANCE. Each owner shall grade, landscape and plant his lot within 90 days after purchase of such lot, unless such lot is purchased after September 1 of a calendar year, in which event such lot shall be graded and landscaped as set forth above, but need not be planted until May 31 of the following calendar year. Each owner shall keep all shrubs, trees, grass and planting of every kind on his lot and all planted areas between his lot and adjacent streets, if any, neatly trimmed, properly cultivated and free of trash, weeds and other unsightly material.

17. REPAIR OF BUILDINGS. No building or structure upon any lot within the subdivision shall be permitted to fall into disrepair, and each such building and structure shall at all times be kept in good condition and repair and adequately stained, painted or otherwise finished.

18. ARCHITECTURAL CONTROL COMMITTEE MEMBERSHIP. The Architectural Control Committee is composed of Kenneth Tompkins, Janice Bowser Tompkins and Sharon Bridgewater, all of Fruita, Colorado. A majority of the committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, the remaining members shall have full authority to designate a successor. Neither the members of the committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. At any time, the then record owners of a majority of the lots shall have the power, through a duly recorded written instrument, to change the membership of the committee or to withdraw from the committee or restore to it any of its powers and duties.

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

20. ENFORCEMENT PROVISIONS. Except as otherwise provided herein, any owner or owners of lots within the subdivision and each of them shall have the right to enforce any and all of the covenants, conditions and restrictions imposed by this Declaration of Restrictive Covenants upon any property within HERITAGE MEADOWS SUBDIVISION FILING NO. TWO. In the event any owner or owners are successful in any court action to enforce such covenants, conditions and restrictions, costs of suit, including reasonable attorneys' fees, shall be allowed to it or them.

21. VIOLATIONS AND NUISANCE. Every act or omission whereby a covenant, condition or restriction of this Declaration of Restrictive Covenants or any amendment thereto is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by an owner or owners of lots within HERITAGE MEADOWS SUBDIVISION FILING NO. TWO.

22. VIOLATION OF LAW. Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property within HERITAGE MEADOWS SUBDIVISION FILING NO. TWO is hereby declared to be a violation of these restrictive covenants and subject to any or all of the enforcement procedures herein set forth.

23. REMEDIES CUMULATIVE. Each remedy provided by these restrictive covenants is cumulative and not exclusive.

24. NONWAIVER. The failure to enforce the provisions of any covenant, condition or restriction contained in these restrictive covenants shall not constitute a waiver of any right to enforce any such provision or any other provisions of said restrictive covenants.

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25. DURATION OF RESTRICTIONS. These restrictive covenants shall continue and remain in full force and effect at all times with respect to all property within HERITAGE MEADOWS SUBDIVISION FILING NO. TWO until January 1, 1998; provided, however, unless within one year prior to January 1, 1998, an instrument directing the termination of these restrictive covenants is signed by owners of not less than two-thirds of the residential lots and is recorded, these restrictive covenants, as in effect immediately prior to the expiration date, shall continue in effect automatically for an additional period of 10 years and thereafter for successive periods of 10 years unless, within one year prior to the expiration of any such period, these restrictive covenants are terminated as set forth above in this paragraph. If any of the provisions of these restrictive covenants shall be unlawful or void for violation of the rule against perpetuities or some analogous statutory provision; the rule restricting restraints on alienation; or any other statutory or common law rule imposing time limits; then such provisions shall continue only for the period of the lives of KENNETH TOMPKINS and JANICE BOWER TOMPKINS and their now-living descendants, and the survivor of them, plus 21 years.

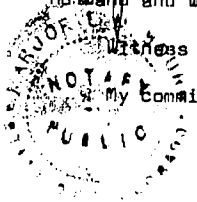
26. SEVERABILITY. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF, KENNETH TOMPKINS and JANICE BOWER TOMPKINS have caused their names to be hereunto subscribed the 21 day of September, 1978.

Kenneth Tompkins
Kenneth Tompkins
Janice Bower Tompkins
Janice Bower Tompkins

STATE OF COLORADO)
) ss.
COUNTY OF MESA.)

The foregoing instrument was acknowledged before me this 21 day of September, 1978, by KENNETH TOMPKINS and JANICE BOWER TOMPKINS, husband and wife.



Witness my hand and official seal.
My Commission expires Nov 23, 1978.

Marion M. Boring
Notary Public

AMENDED DECLARATION OF RESTRICTIVE COVENANTS
 FOR
HERITAGE MEADOWS SUBDIVISION FILING NO. 2

WHEREAS, Kenneth Tompkins and Janice Bower Tompkins executed and recorded that certain Declaration of Restrictive Covenants appearing in Book 1171, at Page 142, of the Mesa County Clerk and Recorder's records, hereinafter referred to as the "Declaration"; and

WHEREAS, Kenneth Tompkins and Janice Bower Tompkins desire to amend the provisions of said Declaration;

NOW, THEREFORE, Kenneth Tompkins and Janice Bower Tompkins, for themselves and their successors and assigns, hereby amend the Declaration in the following particulars:

1. Section 20 of the Declaration is hereby amended in its entirety to read as follows:

20. ENFORCEMENT PROVISIONS. Heritage Meadows Homeowners Association, Inc., a non-profit corporation, or any owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Declaration. Failure by the Heritage Meadows Homeowners Association, Inc., or by any owner, to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

IN WITNESS WHEREOF, Kenneth Tompkins and Janice Bower Tompkins set their hands and seals this 23 day of April, 1979.

Kenneth Tompkins
 Kenneth Tompkins

Janice Bower Tompkins
 Janice Bower Tompkins

STATE OF COLORADO)
) ss.
 COUNTY OF MESA)

The foregoing instrument was acknowledged before me this 23rd day of April, 1979, by Kenneth Tompkins and Janice Bower Tompkins.

Witness my hand and official seal.

My commission expires: 10-20-83

Loise Doyal
 Notary Public

