

AMENDED PROTECTIVE COVENANTS

FAIRWAY ESTATES, THIRD FILING COVENANTS

APPROVED AND FILED MARCH 30, 2000

These protective covenants for Fairway Estates, Third Filing were originally filed and became effective on April 6, 1965, and were amended in an instrument signed by a majority of the then lot owners and duly recorded in Larimer County on March 30, 1990. In addition, there was a declaration of protective covenants for Lots, 90, 91, 92, and 93, Replat of a Part of Tract B, Fairway Estate, Third Filing, made on May 30, 1965. This filing is being made to revise, amend and restate both the amended protective covenants for Fairway Estates, Third Filing that were filed on March 30, 1990, and the Declaration of Protective Covenants for Lots 90, 91, 92, and 93, Replat of a Part of Tract B, Fairway Estates Third Filing, that was made on May 30, 1965.

1. Property Owners Association Membership: The Fairway Estates Property Owners Association was formed in 1970 to promote the recreation, health, safety and welfare of the residents, and for the improvement and maintenance of the properties in Fairway Estates, including the Common Areas.
2. Property Owners Association Membership: Effective January 1, 2000, all owners of residential lots in Fairway Estates, Third Filing, shall maintain membership in the Fairway Estates Property Owners Association and shall be subject to it's by-laws. Such membership shall allow for full participation and voting rights in Annual and Special Meetings of the Association, as described in it's by-laws, and shall give the member full voice in setting budgets and electing members to the Board. Membership shall be maintained by payment of annual dues, as set collectively by the membership at each Annual Meeting.
3. Land Use and Building Type. Residential lots shall be used for residential purposes only, except that professional offices may be maintained within homes as long as there are no employees working on the premises that reside off the premises, and as long as these offices do not bring clients into the home to receive a service or a product. No building shall be erected, altered, placed or permitted to remain on any lot other than the following: a) One single-family dwelling not to exceed two stories in height and b) A detached garage and/or small shed of quality comparable with the dwelling. Small pre-fabricated or custom-built storage sheds may be placed in the back half of residential lots, if the design and location is approved prior to the installation of said storage shed by the Architectural Control Committee. Not more than one residence may be built on any one lot.
4. Architectural Control. No building, including small pre-fabricated or custom-built storage sheds as mentioned above, shall be erected, or altered on any lot until the construction plans and specifications and the plan showing the location of the structure have been approved by the Architectural Control Committee. The Committee shall require that all construction, and alterations within the property, including the visual design, materials, workmanship, color, site location, heights, topography, driveway, grade, and finished ground and foundation elevation, be complimentary to the natural surroundings and existing structures. No fence or wall shall be erected that is not in harmony with the architectural features of the adjacent buildings or that does not meet with the approval of the Architectural Control Committee.

5. Dwelling cost, Quality and Size. Any dwelling to be replaced, for whatever reason, shall be of quality and value consistent with other dwellings in the neighborhood. The ground floor of the main dwelling structure, exclusive of one-story open porches and garages, shall be not less than 1,400 square feet in area for a one-story dwelling nor less than 1,000 square feet on the ground level of a two story dwelling. Any replacement structure shall require the approval of the Architectural Control Committee.

6. Building Location. No building shall be located on any lot nearer to the front lot line than 45 feet or nearer to the side street line than 20 feet. No building shall be located nearer than 15 feet to an interior lot line with the exception of small pre-fabricated or custom-built storage sheds, which may be located no closer than 5 feet from an interior lot line if approved in advance of installation by the Architectural Control Committee. A garage or other permitted accessory outbuildings located on the rear one-half of the lot shall not be constructed nearer than 5 feet from the rear lot line. No dwelling shall be located on any interior residential lot nearer than 35 feet to a rear lot line. For the purpose of this covenant, eaves, steps, open porches, patios, shall not be considered as part of the building, provided, however, that this shall not be construed to permit any portion of a building or lot improvements to encroach upon the land of adjacent lots.

7. Resubdivision. The resubdivision of any lot or the placement of any structure on any lot with a reverse frontage, is prohibited.

8. Easements. Easements for installation and maintenance of utilities, drainage, and irrigation ditch facilities are shown on the recorded plat. These easements shall be kept free of all obstructions including shrubbery, hedges, fences, and other lot improvements. It is understood that the easements along the back of most lots within the subdivision and along the side of several lots are for the purposes of providing an accessway to all lots and a bridle path to serve the entire area. These easements shall not be used for storage of private belongings, trash, or other incidentals or for recreational use of motorized vehicles, which would interfere with the use of the easement as a bridle path or accessway.

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 neighbors or to the neighborhood. No waste or materials of any kind may be stored on a lot except for a reasonable term while a structure on said premises is under construction. Only vehicles and machines of good running condition that are currently licensed and registered are permitted upon any lot. The Association reserves the right to require a fence or screened planting to surround any boats, automobiles, implements, machinery, satellite dish antennas, motor homes or trailer storage areas or require their removal from said premises. All lots and premises shall be kept in a clean and sanitary condition at all times. The Association may adopt rules to regulate on-street parking, even to the exclusion of such parking. Each lot shall be kept in a clean, sightly, and wholesome condition at all times. No trash, litter, junk, boxes, containers, bottles, cans, lumber, or other building materials shall be permitted to remain exposed upon any lot so they are visible from any neighboring lot or street except as is necessary during a period of construction. In the event any structure is destroyed either wholly or partially by fire or any other casualty, said structure shall be promptly rebuilt or remodeled to conform with this Declaration; or if the structure is not to be rebuilt, all remaining portions of the structure, including the foundation and all debris, shall be promptly removed from the property. No garbage or trash cans or receptacles shall be maintained in an exposed or unsightly manner.

10. Temporary Structures. Only dwellings, as defined in Section 1.a of these covenants, shall be used as residences. No trailer, basement, tent, shack, garage or other outbuildings shall be used on any lot at any time as a residence either permanently or temporarily (to exceed 30 days of continuous occupancy.)

11. Signs. No permanent sign of any kind shall be displayed to the public view on any residential lot except one sign of not more than two square feet to indicate a professional office. Such sign shall be mounted on the structure containing the office. One temporary sign, not to exceed four square feet may be erected by or on behalf of a property owner, as for example, advertising the property for sale or rent. Use of such signs in support of political candidates or activities shall be limited to no more than fifteen days. All temporary signs shall be removed immediately upon completion of the event they are promoting.

12. Livestock and Poultry. No animals, livestock, or poultry of any kind shall be raised, maintained, bred or kept on any lot for any commercial purpose. It is understood that domestic animals such as dogs, cats, rabbits or other small house pets may be kept, provided that they are not kept, bred, or maintained for a commercial purpose.

13. Sight distances at Intersections. No fence, wall, hedge or shrub planting that obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner within the triangular area formed by the street property lines and a line connecting them at a point 25 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line 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 trees shall be permitted to remain within such sight distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

14. Trash Collection. The Board of Directors of the Fairway Estates Property Owners Association, directly or by delegation, shall have the right annually to select one garbage and rubbish collection service to provide exclusive service to Fairway Estates, Third Filing. The vendor of such service shall be selected to meet specifications, set by the Board, to minimize traffic and street damage, and to do so at least cost. Those residents of Fairway Estates, Third Filing, who desire to contract for garbage and rubbish collection service, shall so contract with the vendor currently approved for such service. At any time that the Board shall fail to notify residents of an approved vendor, there shall be no restriction on resident's choice of garbage and rubbish collection services.

15. Application. These covenants apply to all of Fairway Estates, Third Filing, except the land which was the subject of that certain "Replat of Part of Tract B, Fairway Estates Third Filing," approved by the Larimer County Board of Commissioners on May 16, 1977. [See "Notice of Restrictions Stemming From Settlement of 1974 Civil Lawsuit" at the end of this document, which describes certain limitations pertaining to the property of the 1977 Replat.]

## GENERAL PROVISIONS

1. Term. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of 10 years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of 10 years unless an instrument signed by a majority of the then owners of all the lots in this subdivision has been recorded, agreeing to change said covenants, in whole or in part.
2. Enforcement. In the event an Owner shall fail to maintain the premises and improvements situated thereon in the manner specified by these covenants, the Board of Directors of the Association, after approval by a two-thirds (2/3) vote, shall notify the Owner by certified mail, return receipt requested, to the property address itself or to such other address as the owner may provide in writing to the Association, of the covenant violation. If after two such notifications, an attempt by the Board for face-to-face negotiation, and the passage of 90 days from the date of the initial notification, the covenant violation continues; the Association shall have the right to initiate action to repair, maintain, and restore the premises and exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be at the expense of the Owner. The Association may enforce the restrictions and limitations herein set forth by proceedings at law or in equity against any person or persons violating or attempting to violate any of said restriction and limitations, either to recover damages for such violation or to restrain such violation or attempted violation. The prevailing party shall be entitled to judgment against the losing party for all attorney's fees and costs of suit.
3. Severability. Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.
4. Architectural Control Committee. The Architectural Control Committee shall be composed of a three-member subcommittee of the Board of Directors of the Fairway Estates Property Owners Association, appointed annually by said Board. In the event of death or resignation of any member of the Committee, the Board of Directors shall have full authority to designate a successor. A majority of the Committee shall constitute a quorum and shall have the right to do all things for the Committee as set forth in these covenants. The Architectural Control Committee shall not be liable in damages to anyone submitting plans for approval or to any owner of land covered by these covenants, by reason of any mistake in judgment or negligence arising out of the approval, disapproval or failure to approve any such plans.
5. Architectural Control Committee Procedure. The Committee's approval or disapproval as required in these covenants shall be in writing in a timely manner.

## NOTICE OF RESTRICTIONS STEMMING FROM SETTLEMENT OF 1974 CIVIL LAWSUIT

1. 1974 Civil Lawsuit Restrictions. Notice is hereby given of the following restrictions of portions of Fairway Estates, Third Filing that were placed of record on June 5, 1974, at Reception No. 89883 of the Larimer County, Colorado

public record. These limitations have apparently been overlooked by title insurance companies and are not widely understood.

Restrictions:

"That in the event the undersigned, their successors, or assigns [Note: This referred to Loren J. Dilsaver and the Estate of Gordon M. Walker, Deceased] and obtain T-Tourist zoning of the following described property: Commencing at the corner of the Harmony Road (Colorado Highway #68 and Hogan Drive and bearing S 89 degrees, 52' 00" W 730. feet along Harmony Road right-of-way; thence S 00 degrees 08' 00" E 420.0 feet; thence S 64 degrees 10' 30" E 245.35 feet; thence N 24 degrees 57' 14" W 69.59 feet to the most westerly point on Lot 36; thence N 00 degrees 00' 00" W 270.0 feet along the west edge of Lots 36 and 37 to the corner of Lots 37 and 38; thence N 45 degrees 00' 00" E 102.98 feet along edge of Lot 38; thence N 90 degrees 00' 00" E 221.07 feet along the North edge of Lots 38 and 39; thence S 45 degrees 00' 00" E 87.67 feet to the Northwest corner of Lot 90; thence 89 degrees 52' 00" E 197.93 feet to the Northeast corner of Lot 90 and the Hogan Drive Right-of-way; thence N 00 degrees 08' 00" W 191.84 feet along Hogan Drive to the Intersection of Harmony Road right-of-way and to the point of beginning; all being in Fairway Estates a platted Subdivision, situate in the NW ¼ of Section 1, Township 6 North, Range 69 West of the 6<sup>th</sup> P.M., Larimer County Colorado, they agree to limit the use of said property to curio, art, gift and antique shops, private membership clubs which shall not be permitted to serve food or alcoholic beverages, medical and dental clinics or health centers, private schools and professional offices. Nothing in this dedication shall limit the use of the above described property for any higher class of use than the T-Tourist use as may be permitted under the effective zoning regulations, ordinances or resolutions then in effect. Further, that no buildings shall ever be constructed upon the following described property: Commencing at the corner of Harmony Road (Colorado Highway #68) and Hogan Drive and Bearing S 89 degrees 52' 00" W 730. feet along the Harmony Road right-of-way; thence S 00 degrees 08' 00" E 200. feet to the true point of beginning; thence continuing S 00 degrees 08' 00" E 220. feet; thence S 64 degrees 10' 30" E 245.35 feet; thence N 24 degrees 57' 14" W 69.59 feet to the most Westerly point on lot 36; thence N 00 degrees 00' 00" W 270 feet along this line to the Northwest corner of lot 37; thence in a Westerly direction approximately 190 feet to the true point of beginning, all being in Fairway Estates Third Filing, a platted Subdivision located in the NW ¼ of Section 1, township 6 North, Range 60 West of the 6<sup>th</sup> P.M., Larimer County Colorado." [Note: The defendants in this civil lawsuit, Loren J. Dilsaver and the Estate of Gordon M. Walker, upon information and belief, did seek and obtain T-Tourist zoning for the above-described property from the Board of Larimer County Commissioners, such approval occurring on or about June 20, 1974.]