

Comstock Village Covenants

with approved changes updated in red font
(as of Aug 10, 2022)

Comstock Village Covenants

DECLARATION OF

COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by Eagle Group Corporation, a Colorado Corporation, herein after referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the City of Colorado Springs, County of El Paso, State of Colorado, which is more particularly described as: That portion of section 12, Township 13 South, Range 67 West of the 6th P.M., described as follows Beginning at the Southwest corner of A Replat of Comstock Village Filing No.2, Second Filing, as recorded in Plat Book 1-3 at Page 55 of the Records of El Paso County, Colorado, and following on the Westerly boundary of said Second Filing for the next thirteen (13) courses: (1) thence North 09°50'37" West, 60.00 feet; (2) thence North 10°00'00" West, 172.53 feet; (3) thence North 16°33'54" East, 89.44 feet; (4) thence North 22°54' 06" West, 204.74 feet; (5) thence North 71° 54' 52" West, 104.83 feet, (6) thence angle right 81°00' 41" to the tangent of a curve to the right whose radius is 125.00 feet, through a central angle of 02°59' 19", an arc distance of 6.52 feet, (7) thence North 18°05' 08" East, 4.12 feet, (8) thence North 71° 54' 52" West, 155.00 feet, (9) thence North 34°27' 20" West 182.58 feet, (10) thence South 16°41' 23" West, 22.57 feet; (11) thence North 62°54' 17" West, 112.62 feet, (12) thence North 26°02' 02" East, 100.00 feet, (13) thence forth 10°50' 10" West, 50.00 feet to intersect the Southerly line of Comstock Village Filing No.1, as recorded in Plat Book Y-2 at Page 84 of said Records, thence along said Southerly boundary for the next five (5) courses, (1) thence South 26°02' 02" West, 464.93 feet, (2) thence North 78°39' 00" West, 308.00 feet; (3) thence North 58°51' 19" West 340.41 feet; (4) thence North 51°53' 34" West 50.00 feet; (5) thence South 89°36' 56" West 374.77 feet; thence South 00°23' 04" East 824.71 feet; thence North 89°37' 26" East 1262.51

feet; thence North 88° 17' 00" East 225.17 feet to a point of curvature; thence on a curve to the left whose radius is 405.00 feet; through a central angle of 13° 17' 00", an arc distance of 93.89 feet; thence North 75° 00' 00" East, 101.67 feet, to a point of curvature; thence on a curve to the right whose radius is 470.00 feet, through a central angle of 05° 09' 23", an arc distance of 42.30 feet to the Point of Beginning, and containing 27.16 acres, more or less

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I DEFINITIONS

Section 1. "Association" shall mean and refer to Comstock Village Homeowner's Association No.2, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

Those portions designated as Tract "A" Open Space, consisting of .29 acres, Tract "B" Open Space consisting of 5.55 acres on the Replat of Comstock Village Filing No.2, Third Filing, dated July 31, 1980, and filed, on October 27, 1980, at Plat 8ook M-3 Reception No.714933, Page 55 of the Records of El Paso County, Colorado.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Eagle Group Corporation, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of members has been recorded.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the

members of his family, his tenants or contract purchasers who reside on the property.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a lot which is subject to an assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment. **All members shall be entitled to one vote for each lot owned (Covenant change approved April 24, 2007).**

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- (b) on December 31, 1985; or
- (c) upon the merger of the Association into Comstock Village Homeowner's Association.

ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby Covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the properties and for the improvement and maintenance of the Common Area.

Section 3. Maximum Annual Assessment. Until January 1 or the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Twenty-Four Dollars (\$24.00) per Lot.

(a) From and after January of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than three percent (3%) above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above three percent (3%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto; provided that any such assessment shall have the assent or two-thirds (2/3) of the votes of each class or members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Section 3 and 4. Written notice of any meeting called for authorized under section 3 or 4 shall be sent to all members not less than fifteen (15) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum. is not present, another meeting may be called subject to the same notice requirement. and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. **Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis. (Covenant change approved April 24, 2007).**

Section 7. Date of Commencement of Annual Assessments Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, have certificate signed by an officer of the Association setting forth whether the

assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments, Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eight percent (8%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any purchase money loan evidenced by a first mortgage of record including Deed of Trust and to any executory land sales contract wherein the administration of Veteran affairs (Veteran Administration) is seller, whether such contract is owned by the Veterans Administration or its assigns and whether such contract is recorded or not. Sale or transfer of any lot shall not affect the lien for said assessment charges except that sale or transfer of any lot pursuant to foreclosure to any such mortgage or any such executory land sales contract or any proceeding in lieu thereof including deed in lieu of foreclosure or cancellation or forfeiture of any executory land sales contract. No such sale, transfer, foreclosure or any proceeding in lieu thereof, including deed in lieu of foreclosure nor cancellation or forfeiture of any such executory land sales contract shall relieve any lot from liability for any assessment charges thereafter becoming due nor from the lien thereof.

Section 10. Homestead. The lien of the Association assessments shall be superior to any Homestead Exemption as is now or may hereafter be provided by Colorado law. The acceptance of a deed to any lot, subject to this Declaration shall constitute a waiver of the Homestead Exemption as against said assessment lien.

ARTICLE V ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of, the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VI GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, Covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association 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.

Section 2. Severability. Invalidation of anyone of these Covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The Covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not

less than 60% of the lot Owners (Covenant change approved March 21, 2006). Any amendment must be recorded.

Section 4. Deleted (Covenant change approved April 24, 2007)

Section 5. Deleted (Covenant change approved April 24, 2007)

Section 6. Exterior Maintenance. In the event an Owner of any Lot in the Properties shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain and restore the Lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

Section 7. Use, Restrictions, Covenants and Easements.

1. All Lots, unless otherwise designated, in the recorded Plat, shall be used for residential purposes only; no detached single-family dwelling shall exceed twenty-five (25) feet or two (2) stories in height. A private garage for not less than two (2) motor vehicles shall be provided with each single-family dwelling in accordance with the setback requirements as herein provided.

2. No Lot or building site in the Properties shall be less than 7,500 square feet in total area and no further subdivision or resubdivision of any Lot or combination of Lots as shown on a recorded Plat shall except upon prior written approval of the Architectural Control Committee.

3. No dwelling shall be permitted on any Lot in which the finished area of the main structure, exclusive of basements, open porches and garages, shall be less than the following:

(a) 1,450 total square feet in a one-story house;

(b) 1,450 square feet in each of two floor of a bi-level house;

(c) 1,800 total square feet in a tri-level or two-story house.

4. No building shall be located on any Lot or building site nearer to the front Lot line or nearer to the side Lot lines than shall be, allowed by the applicable zoning ordinances of the city of Colorado Springs, Colorado. For the purposes of this Covenant, eaves, steps and open porches shall be considered as part of the building.

5. All buildings erected on Properties shall be designed and constructed in accordance with the following standards:

(a) Roof material shall be shake or cedar variety wood shingles, unless a different material is approved by the Architectural Control Committee.

(b) Overhang of roof shall be at least eighteen (18) inches unless a lesser overhang is approved by the Architectural Control Committee.

(c) Gutters are not required; however, a minimum of three (3) feet overhang shall be provided if gutters are not installed. Gutters and downspouts where used shall be painted to blend with earthtone colors of dwelling.

(d) Chimney facing shall be stone, brick or other acceptable material.

(e) Only earthtone colors shall be used on exterior siding or garage doors.

(f) Garage doors shall be wood, wood composition, or metal with a gauge of 24 – 26. Windows are permitted in the uppermost panel of the door. Garage doors must be approved by the Architectural Committee (Covenant change approved April 24, 2007).

(g) All exterior walls shall be constructed of wood, stone, stucco or the following types of brick: sand brick, clinker brick, brick without sheen appearance, and brick of a color that blends with natural surroundings. Standard red brick is an example of a disapproved material.

Only two combinations of the allowed materials may be used unless prior approval of the Architectural Control Committee is obtained.

(h) Only two (2) or three (3) car sized attached garages are allowed. Carports or detached garages permissible at the rear of the house.

(i) Houses to be typically one-plus story dwellings consisting of five (5) rooms, one and one-half (1-1/2) baths, with a limitation on two-story homes to be placed only on lots where topography of Lot or Lot facing does not distract from the aesthetics of the community.

(j) All exposed concrete on all buildings must be stuccoed.

6. Fences or walls shall be allowed only in the rear portion of a Lot extending from the front house line and must be tied into the rear Lot line or fence on the rear Lot line, if any. In the case of corner Lots, no fencing shall be closer to the side Lot line on the street side than house side yard setback line.

(a) All fences shall be constructed of natural colored wood or of color or material of house.

(b) All walls shall be constructed of stone, stucco or brick of a variety allowed for the construction of exterior walls of dwellings.

(c) All fences, walls and hedges shall be restricted to a maximum height of six (6) feet above the ground level.

7. No existing trees or rocks shall be removed from the Lot construction of the dwelling or unless approved by the Architectural Control Committee. No hedge, tree or shrub planting shall be placed which obstruct sight lines and elevations between two (2) and six (6) feet above the roadway shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and the line connecting them at points twenty-five (25) feet from the intersection of the street lines or in the case of rounded property corner from the intersection of the street property lines extended. The same side line limitations shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement.

8. Easements for the installation and maintenance of fences, utilities and drainage facilities are reserved on, over and under a strip of ground five (5) feet wide along each side Lot line and on, over and under a strip of ground six (6) feet wide along each rear recorded subdivision of the Properties.

9. No garbage, refuse, rubbish or cuttings shall be deposited on a Street, Road or Common Area and on any Lot unless placed in a suitable container. The burning of trash in outside incinerators, barbeque pits or the like is prohibited, it being intended that all refuse, trash, garbage and the like shall be hauled from the Properties. Garbage cans are to be inside garages, behind decorative otherwise hidden from view to the street.

10. No building of any kind or character shall be placed upon any Lot except in connection with construction or maintenance approved by the Architectural Control Committee. As soon as building materials are placed on any Lot in such connection, construction shall be promptly commenced and diligently prosecuted.

11. No manufacturing or commercial enterprises shall be conducted or maintained upon, in front of or in connection with any Lot or Lots. No noxious or offensive activity shall be carried on upon any Lot, Common Area, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to the neighborhood.

12. No commercial type vehicles and no trucks shall be stored or parked on any Lot except in a closed garage, nor parked on any Street, Road or Common Area except while transport to or from a dwelling or the Common Area. For the purpose of this restriction, a truck having a 3/4 ton manufacturer's rated capacity, commonly known as a pickup truck, shall not be deemed to be a commercial vehicle Campers and trailers shall be parked or stored at the rear of Lot out of sight of street or kept in a garage.

13. All free-standing mailbox posts **will be constructed using wood, brick, stone stucco or metal, as approved by the Architectural Control Committee and will use a mailbox that is approved by the U.S. Postal Service (Covenant change approved July 20, 2018).**

14. **Except as provided herein**, no person shall be allowed to keep, breed, or raise chickens, turkeys, cattle, horses, sheep, goats, swine, rabbits or other domestic farm or barnyard animals or fowl on any Lot or other portion of the properties, or erect thereon any building designed to house the same. **Notwithstanding the foregoing, and in accordance with the Colorado Springs City Code, Chapter 6, Article 7.106 and Development Assistance Bulletin 401, and as may be amended from time to time, Owners of any Lot are allowed to keep up to ten (10) rabbits or chickens aged six months or older. Roosters are, however, prohibited. Shelters for rabbits or chickens must contain at least four (4) square feet for each rabbit or chicken and must meet all other applicable zoning and building codes and regulations. Any shelter for rabbits or chickens shall be out of view of the street and shall be kept clean and well maintained (Covenant change approved July 20, 2018).** This restriction shall not be constructed to prohibit any person from keeping dogs, cats or other household pets on any Lot, provided they are not kept, bred or raised for any commercial purpose. Horses may be ridden in the Common Area as specified by the Board of Directors. In the event an Owner temporarily hobbles a horse in the Common Area, he shall be responsible to clean up the area utilized.

15. No structure of temporary character, trailer, basement, tent, shack, barn or other outbuildings shall be used on any Lot at any time as a residence, either temporarily or permanently, and no used structure of any sort shall be moved into any Lot.

16. No sign of any kind shall be displayed to the public view on any Lot except one professional sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by a builder, developer or subdivider to advertise the property during construction, development and sales period.

17. Outside aerials, clotheslines, antennas or basketball hoops and backboard, whether on buildings or free standing, carports and patio covers or similar structures shall not be allowed unless approved by the Architectural Control Committee. All such approved structures shall be located out of view of the street.

18. Drying yards, service yards, wood piles or storage areas shall be located so as to not be visible from a street or road. Any exterior lighting installed on any Lot shall either be indirect or of such controlled focus and intensity so as not to disturb

the residents of the adjacent property. Ornamental post lights shall be designed to be in keeping with the lighting fixtures at the Street or Road corners.

19. The removal of trees, shrubs, and other improvements from the Common Property shall be prohibited **unless removal is allowed by the Architectural Control Committee (Covenant change approved April 24, 2007).**

20. Motor Vehicles.

(a) No motor vehicles owned or leased by Owners of Lots in the Properties shall be parked or maintained on any street within the Properties. Parking of all other motor vehicles not owned or leased by Owners of Lots in the Properties may be permitted only on certain portions of the street within the Properties as designated by the Developer and the Association as guest parking.

(b) All unused motor vehicles of any kind, except as hereinbefore provided shall not be stored or parked on any Lot, except in a closed garage, "Unused vehicle" shall be defined as any motor vehicle which has not been driven within a thirty-five (35) day period.

(c) No motor vehicle shall be driven in the Common Area authorized by the Association.

21. Repainting and maintenance of house, garage, fence or other structure shall be in accordance with the original scheme established for the area by the Architectural Control Committee.

22. Garage doors are to be kept closed at all times, except when in immediate use for ingress and egress of motor vehicles, equipment and the like.

23. Declarant's immediate predecessor in title, the Golden Cycle Corporation, has reserved unto itself any ground waters occurring beneath the surface of the properties and the Common Area and the right to develop and use said ground waters. Accordingly, no water shall be withdrawn from said source or sources by any Lot Owner, his heirs, assigns or successors or by the Association or its successors or assigns for any use whatsoever, and the sole source of supply for the Properties, Lots and Common Area for all purposes shall be from the water works

system of the City of Colorado Springs, Colorado, This Covenant prohibiting any use by any Lot Owner, his successors and assigns of any ground waters occurring beneath the Properties or the Common Area shall run with and be a burden thereon for the benefit of the Golden Cycle Corporation and its successors and assignees and any real property situated in El Paso County, Colorado or the Golden Cycle corporation.

24. The Declarant or its nominee shall have the right to construct, operate and maintain water, sewer, gas and telephone lines on, over, across, and under the Common Area as may be required for the development of area adjacent to the Properties or for the development of the Properties affected hereby. Said utility lines shall be located in delineated rights-of-way reserved by the Declarant from its conveyance of the Common Area to the Homeowners Association or designated by the Declarant in writing and delivered to the Homeowners Association prior to construction and use. The Declarant shall coordinate the use of the Common Area for utility purposes with the use of the common Area by the Homeowners Association and its members.

25. In the event the terms and conditions of this declaration conflict with the applicable zoning laws, then the higher standard shall control.

Section 8. Notice. That any and all notice to Owners or purported Owners on any matter pertaining to these Covenants shall be mailed by regular mail to the last known address of the record Owner of the Lot in which the member has an interest as shown on the records of the Association at the time of such mailing.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto hand and seal this 12 day of March, 1981

DECLARANT:
EAGLE GROUP CORPORATION

{EAGLE GROUP SEAL}

Signed by Secretary: Ronald R. Richter
Signed by President: Luther DeLay

STATE OF COLORADO)

) ss.

COUNTY OF EL PASO)

The foregoing was acknowledged before me by Luther DeLay as President and Ronald R. Richter as Secretary of Eagle Group Corporation this 12th day of March, 1981.

Witness my hand and official seal. My commission expires 9-30-81

{NOTARY SEAL}

Signed by Notary Public