

BOOK 680 PAGE 1407

DECLARATION OF

PROTECTIVE COVENANTS

BOOK 680 PAGE 2385

Recitals.

WHEREAS, The City of Steamboat Springs, a municipal corporation ("City"), is the owner of certain real property located in Routt County, Colorado, more particularly described in Exhibit A, attached hereto and made a part hereof ("Enever Park"); and

WHEREAS, The City desires to place certain restrictions on the use of Enever Park for the protection and mutual benefit of itself and the public of Steamboat Springs, Colorado, specifically including C. Robert Enever and Audrey Enever ("Enevers") or the successor and assigns in interest to that real property currently owned by the Enevers, which property is located in Routt County, Colorado and is more particularly described in Exhibit B, attached hereto and made a part hereof. Said property, as described in Exhibit B, is hereinafter referred to as the "Enever Property"; and

WHEREAS, The purpose of such restriction is to enhance, protect, establish and maintain the character, value, desirability and attractiveness of Enever Park and to assure its proper development as a City park which will benefit the public of Steamboat Springs, Colorado.

NOW, THEREFORE, The City hereby imposes, establishes, publishes, acknowledges, declares and agrees with, to and for the benefit of the public, the following restrictions, covenants and conditions, all of which shall be deemed to run with the Park and to inure to the benefit of and be binding upon the City and all parties now holding or hereafter acquiring any right, title or interest in the Park.

1. Designation as City Park. The Park shall be held, maintained, administered and used as a public city park available for the enjoyment and use by the public, subject to reasonable rules and restrictions imposed from time to time by the City. The Park shall be administered and maintained by the Department of Parks and Recreation, or its successor department, in accordance with the Municipal Code of the City of Steamboat Springs, as amended from time to time, and any other applicable laws, rules or regulations. The City names and designates the Park as Enever Park.

2. Recommendations from Enevers. In connection with the design and development of Enever Park, the City shall from time

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to time ask the Enevers for their suggestions, but the City shall not be required to follow any such suggestions.

3. Enforcement.

(a) The provisions of this instrument shall be enforceable by the City or by the Enevers, or their successors or assigns in any interest in the Enever Property, by a proceeding for prohibitive or mandatory injunction or for specific performance, or by a suit or action to recover damages, subject to subparagraph 3(b) below.

(b) If the City, or its successors or assigns in any interest in Enever Park, shall violate, breach or otherwise fail to comply with any term or provision of these Protective Covenants, Enevers, or their successors or assigns in any interest in the Enever Property, shall first give written notice of such violation, breach or noncompliance by registered or certified mail to the City. If the violation or breach is not cured within 30 days after deposit of such notice in the mail, or if the City commences within such 30 days to cure such violation or breach but thereafter fails with continuity, good faith and due diligence to complete such cure, then the Enevers, or their successors or assigns in any interest in the Enever Property, shall have the enforcement rights described in subparagraph 3(a) above.

(c) If judicial proceedings or alternative dispute resolution methods are instituted as a result of a violation or breach of these Covenants, then the prevailing party shall be entitled to recover from the other party the costs and expenses in connection therewith, including without limitation reasonable attorney's fees and discovery costs.

4. Invalidity; No Waiver. Invalidity or unenforceability of any provision of this instrument in whole or in part shall not effect the validity or enforceability of any other provision or any valid or enforceable part of any provision of this instrument. Failure to enforce any provision of this instrument shall not operate as a waiver of any such provision or of any provision of this instrument.

5. Term. These Covenants shall terminate 21 years after the death of the last to die of the present members of the City Council of the City of Steamboat Springs, which is made up of those council members who are in office at the time of execution of this instrument.

(Legal Description of Enever Park, attached to Declaration of Protective Covenants executed by the City of Steamboat Springs, Colorado.)

Description of a tract of land located in the NE1/4NE1/4, and in the NW1/4NE1/4 of Section 20, T8N, R84W, of the 8th P.M., Routt County, Colorado.

Beginning at the E1/4 Corner of Section 20.

thence N 00°55'55" E 1317.05 feet to the NE corner of the SE1/4NE1/4 of Section 20;
thence N 88°00'56" W 1299.30 feet to the NW corner of said SE1/4NE1/4 and to the True Point of Beginning;
thence N 88°02'50" W 81.28 feet along the south line of the NW1/4NE1/4 of said Section 20;
thence N 01°14'38" E 196.93 feet along the west line of a parcel of land as conveyed by deed as filed with the County Clerk and Recorder appearing in Book 92 at Page 418;
thence S 89°10'05" E 60.17 feet along the south line of Trafalger Estates Filing No. 1, a subdivision as filed by plat with the County Clerk and Recorder appearing at File No. 7089;
thence N 00°55'15" E 260.78 feet along the east line of said Trafalger Estates;
thence S 88°00'58" E 451.20 feet to the West Right-of-Way line for the Denver and Rio Grande Western Railroad;
thence S 01°34'58" W 458.84 feet along said west line to the south line of the NE1/4NE1/4, of Section 20;
thence N 88°00'56" W 448.80 feet along said south line to the True Point of Beginning.

Containing 8.0 Acres more or less.

Bearings are based upon the south line of the SE1/4NE1/4, Section 20 being N 89°00'06" W and the east line of the SE1/4NE1/4, Section 20 being N 00°55'56" E.

City Of Steamboat Springs 226-289
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This Legal description was prepared by R.C. Moon, (Colo. Reg No. 13221) of D & D, Inc., a Professional Land Surveying and Planning Company, P.O. Box 775008, Steamboat Springs, Colorado.

EXHIBIT B

(Legal Description of Routt County, Colorado real property listed as Enever Property in the Declaration of Protective Covenants, and attached thereto, said Declaration of Protective Covenants executed by the City of Steamboat Springs, CO.)
 A tract of land located in a portion of the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 20, Township 6 North, Range 84 West of the 6th P.M., bounded by a line described as follows:

BEGINNING at the point of intersection of the West ROW of the Denver & Rio Grande Western Railroad and the South line of a parcel of land as conveyed by Deed as recorded with the County Clerk and Recorder appearing in Book 314, at Page 300, from which the E $\frac{1}{4}$ corner of Section 20 bears S58°39'29"E 1006.04 feet, thence N00°37'53"E 785.39 feet along said ROW to its point of intersection with the North line of said SE $\frac{1}{4}$ NE $\frac{1}{4}$, thence S89°41'25"W 468.19 feet along said North line to the NW corner of said SE $\frac{1}{4}$ NE $\frac{1}{4}$, thence S00°18'35"E 788.0 feet along the West line of said SE $\frac{1}{4}$ NE $\frac{1}{4}$ to the SW corner of the above said parcel, thence N89°20'56"E 455.36 feet along the South line of said parcel to the POINT OF BEGINNING.

AND TOGETHER WITH a tract of land being all that portion of the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 20, Township 6 North, Range 84 West of the 6th P.M., lying North of the centerline of Fish Creek and South of the South line of a parcel of land as conveyed by Deed as filed with the Clerk and Recorder appearing in Book 314, at Page 300 and lying West of the West ROW line of the Denver & Rio Grande Western Railroad.

EXCEPT, the following described tract of land:

All that portion of the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 20, Township 6 North, Range 84 West of the 6th P.M., lying South of the centerline of Fish Creek and North of the South line of a parcel of land as conveyed by Deed as filed with the Clerk and Recorder appearing in Book 314 at Page 300 and lying West of the West ROW line of the Denver & Rio Grand Western Railroad.

TOGETHER WITH a perpetual and non-exclusive easement and right-of-way of 60 feet in width, being 30 feet on each side of a centerline more particularly described as follows:

BEGINNING at the point of intersection of the North line of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 20, Township 6 North, Range 84 West of the 6th P.M., and the West ROW of U.S. Highway 40 as of October 1979, from which point the E $\frac{1}{4}$ corner of Section 20 bears S35°14'42"E 647.47 feet,

thence S89°41'39"W 297.21 feet along said North line to the East ROW line of the Denver Rio Grande Western Railroad,
 thence S00°37'53"W 306.06 feet along said East ROW line to the TRUE POINT OF BEGINNING;

thence N81°56'48"E 7.93 feet,
 thence N88°06'06"E 110.49 feet,
 thence N88°30'32"E 44.76 feet,
 thence S69°39'30"E 62.33 feet,
 thence S66°16'13"E 42.89 feet,
 thence S45°51'08"E 73.86 feet,
 thence S72°50'11"E 21.13 feet,
 thence N89°18'27"E 5.28 feet to a point of termination on the West ROW of U.S. Highway 40 as of October, 1979.

NOTE: Said easement lies within Lot 1, FISH CREEK PARK SUBDIVISION.