

PROTECTIVE COVENANTS OF
COMMERCIAL AREA AND APARTMENT SITES OF
ANGEL FIRE VILLAGE UNIT 6A AMENDED
COLFAX COUNTY, NEW MEXICO

WHEREAS, Angel Fire Resort Operations, LLC, hereinafter sometimes referred to as the Owner, desires to place certain restrictions on the use of the blocks and lots shown on the map of Angel Fire Village, Unit 6A, hereinafter referred to as the Village, for the benefit of itself, and its respective grantees, successors and assigns, in order to establish and maintain the character and value of real estate in the Village.

NOW, THEREFORE, in consideration of the premises, the Owner, for itself and its respective grantees, successors and assigns, does hereby impose, establish, publish, acknowledge, declare and agree with, to and for the benefit of all persons who may hereafter purchase or lease and from time to time so own or hold any of the blocks and lots in the Angel Fire Village 6A Amended, subject to the following restrictions, covenants, Joint Plan of Reorganization and Supplemental Declaration of Restrictive Covenants and Easements filed with the Colfax County Clerk on 9/27/95 at Book G, Page 0959, and membership dues, and conditions, all of which shall be deemed to run with the land and to inure to the benefit of and be binding upon the Owner, its respective grantees, successors and assigns.

Declarant hereby declares that all above referenced lots are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved subject to the following Covenants, all of which are declared and agreed to be in furtherance of a plan for the subdivision, improvement and sale of said lots and are established and agreed upon for the purpose of enhancing and protecting their value, desirability and attractiveness.

All the Protective Covenants shall run with the land and shall be binding upon Declarant and upon all parties having or acquiring any right, title or interest in and to the real property or any part or parts thereof subject to such Protective Covenants.

1. DEFINITIONS

Commercial Floor Area. The gross square footage or space within a building that has been designated for retail trade or service to general public.

Multi-Family. Shelter in the form of apartments, townhouses, motels, hotels, lodges and condominiums.

Commercial. Any commercial use that would be compatible with a recreational community, and consistent with the Resort's Master Plans, specifically excluding manufacturing operations and any operation emitting smoke, nauseous gases, or causing excessive noise or being offensive to the senses. The Environmental and Architectural Control Committee shall, in its sole discretion, make a determination as to whether a particular commercial enterprise falls within the prohibitions of this definition.

AAFPO. Association of Angel Fire Property Owners, a non-profit corporation.

2. TERM

These Covenants shall affect and run with the land and shall exist and be binding upon all parties and all persons claiming under them until 2020, after which time the same shall be extended for successive periods of ten (10) years each automatically unless changed or modified by the Resort.

3. MUTUALITY OF BENEFIT AND OBLIGATION

The Protective Covenants and agreements set forth herein are made for the mutual and reciprocal benefit of each and every lot in the subdivision and are intended to create mutual, equitable servitude upon each of said lots in favor of each and all of the other lots therein; to create reciprocal rights between the respective owners of all of said lots; to create a privity of contract and estate between the grantees of said lots, their heirs, successors and assigns, and shall, to the owner of each such lot, his heirs, successors and assigns, operate as covenants running with the land for the benefit of each and all other lots in the subdivision and their respective owners.

4. ENVIRONMENTAL AND ARCHITECTURAL CONTROL COMMITTEE

A. All plans and specifications for any structure or improvement whatsoever to be erected on or moved upon or to any portion of the real property, and the proposed location thereof, the construction material, the roofs and exterior color schemes, any later changes or additions thereto shall be subject to and shall require the approval in writing before any such work is commenced of the Environmental and Architectural Control Committee (hereinafter called Committee) as the same is from time to time composed.

B. The Committee shall be composed of not less than three (3) nor more than five (5) members to be appointed by Declarant, its successors or assigns. Committee members shall be subject to removal by Declarant and any vacancies from time to time existing shall be filled by appointment by Declarant, its successors or assigns; provided, however, that at any time hereafter the Declarant may, at its sole option, relinquish to Association of Angel Fire Property Owners on the power of appointment and removal reserved herein to Declarant. Such transfer of power must be evidenced in writing.

C. There shall be submitted to the Committee, a building application on forms approved by Declarant together with three (3) sets of plans and specifications for any and all proposed improvements, the erection or alteration of which is desired, and no structures or improvements of any kind shall be erected, altered, placed or maintained upon any parcel unless and until the final plans, elevations, and specifications therefor have received written approval as herein provided. Such plans shall be drawn to scale and shall include plot plans showing the location on the lot placed or maintained, together with floor plans, schemes for roofs and exteriors thereof and proposed landscape plantings. A reasonable fee may be required to defray Committee expenses.

D. The Committee shall approve or disapprove plans, specifications and details within sixty (60) days as outlined in the committee procedures. One (1) set of said plans and specifications and details with the approval or disapproval endorsed thereon shall be retained by the Committee for its permanent files; the third (3rd) set shall be sent to the General Manager of the Angel Fire Resort Operations, LLC and be retained by the General Manager for his permanent file. The Committee shall advise the applicant the reason for the disapproval and suggest changes.

E. The Committee shall have the right to disapprove any plans, specifications or details submitted to it in the event the same are not in accordance with all of the provisions of these Protective Covenants; and the Resort's Master Plan if the design or color scheme of the proposed building or other structure is not in harmony with the general surroundings of the real property or with the adjacent buildings or structures; if the plans and specifications submitted are incomplete; or in the event the Committee deems the plans, specifications or details, or any part thereof, to be contrary to the interest, welfare, aesthetics or rights of all or any part of the real property subject hereto, or the owners thereof. The decisions of the Committee shall be final.

F. Neither the Committee nor any architect or agent thereof or of Angel Fire Resort Operations, LLC shall be responsible in any way for any non-compliance or defects in any plans or specifications submitted, revised, or approved in accordance with the foregoing provisions, or any resulting from changes suggested by the Committee, nor for any structural or other defects in any work done according to such plans and specifications.

G. The Committee shall have the authority to set up such rules, fees, and bylaws and adopt such procedures, as it may deem appropriate to govern its proceedings.

H. In the event the Committee fails to act on the proposed plans and specifications within sixty (60) days from written receipt, approval shall not be required and the related covenants shall be determined to have been fully complied with. The plans and specifications shall be deemed approved.

I. Building Design Criteria for Resort Commercial Development:

1. All new buildings must meet building codes and zoning codes as established by the appropriate governing body as a minimum standard. Nothing in this paragraph is intended to restrict the Committee from imposing additional requirements even if more stringent than the applicable codes. All new buildings shall be approved by the Architectural Control Committee. All buildings must be consistent with the Resort's Master Plan. Also, on lands owned and sold by the Resort for commercial development the following building design criteria will be used.

2. All plans shall be submitted to the Resort for approval before construction begins.

3. Building Site. The siting of the building shall blend with the existing topography and landscape. The siting should also consider features such as streets and pedestrian walkways. Also, any unique natural feature (such as outcrops, streams, etc) should be preserved.

4. Building Orientation. The building should face the street frontage where possible or when being built in an existing planned development, should fit into the existing orientation scheme of the area.

5. Building Scale. The building should be in proportion to adjacent structures. For buildings that are significantly larger than adjacent structures, design elements should be incorporated to make the building compatible with the smaller buildings.

6. Building Projects. For building projects and multiple buildings, the structures should be designed and built in a homogenous manner. Items such as architectural design, exterior finishes, and siting should be consistent within the project.

7. Building Materials. The following materials are acceptable: natural or cultured stone, stucco, wood, brick and textured concrete masonry. These materials may be used in aesthetically pleasing combinations. Any deviations must be submitted for approval of the Resort.

8. Building Color. Colors must blend with adjacent developments and also must not detract from the natural surroundings. Bright and pastel colors are not acceptable.

9. Building Roofs. Roofs should be designed to minimize snow and ice falling into areas of pedestrian traffic, such as entrances, walkways, decks, drives etc. Roofs should be constructed of Resort approved non-reflective metal or dimensional/architectural composite shingles. Overall roof style should be compatible with adjacent structures and consistent with the Resort's Master Plan.

10. Design details. Exterior details should be used to enhance the façade of the building. Features such as, prominent entryways featuring stone, large timbers and glass; awnings; and moldings are encouraged.

11. Mechanical Design. All heating and other mechanical equipment mounted on the building must be screened from view by an architectural element of the building or painted to match the building.

12. Building Landscaping. All buildings shall be landscaped. The use of native plants is encouraged. Where space is limited, the use of planters, hanging baskets and other similar treatments is permitted. The overall landscape design should encourage and enhance the pedestrian environment. Other ergonomic features such as outdoor benches, paved walkways, and lighting shall be incorporated into building or project.

13. Other Miscellaneous Features. If retaining walls are necessary, they will be consistent with the building design in material and color. Any other feature such as, but not limited to outdoor artwork must be approved by the Resort.

14. Building service areas. Areas for loading and unloading, trash collection and disposal, and utility service should be located away from or screened from the view of the public. The screening treatment should be made of and colored the same as the predominant material and color of the building.

15. Building Signage. Signage should be constructed to blend with the existing style of the building and be approved by the Resort. All local zoning codes regarding signage must be adhered to.

16. Any other remodels, changes, modifications, color changes, or enhancements, shall be approved by the Resort.

5. ASSOCIATION OF ANGEL FIRE PROPERTY OWNERS

A. Every person or persons acquiring legal or equitable title to any lot or interest in the subdivision covered by these Covenants will automatically become a member of the Association of Angel Fire Property Owners, herein referred to as Association, and with such ownership then every such person becomes subject to the requirements and limitations imposed in the Joint Plan of Reorganization and Supplemental Declaration of Restrictive Covenants and Easements filed with Colfax County Clerk on 9/27/95 at Book G, Page 6959.

6. LAND USE

A. There shall be no water wells on platted lots other than those constructed by the Village of Angel Fire Utilities. Owners must connect to the water system of the Village of Angel Fire.

B. There shall be no individual sewage or sanitary waste disposal facility on platted commercial and multi-family lots. Owners must connect to the Village of Angel Fire sewage system.

C. No trash, garbage, rubbish, refuse, or other solid waste of any kind, including inoperable automobiles and other vehicles, appliances, and furniture, shall be thrown, dumped, stored, disposed of, or otherwise placed on any part of the real property. Garbage and similar waste shall be kept in sanitary containers well suited for that purpose. The owners or occupants of each lot shall be responsible for the disposal of solid waste at disposal facilities established by the Village of Angel Fire.

D. No owner shall change or interfere with the natural drainage of the real property without the prior written approval of the Environmental and Architectural Control Committee.

E. The permanent use or storage on any lot of house trailers, mobile homes and similar vehicles is prohibited except for temporary construction facilities, which must be removed upon completion of construction.

F. No lot shall ever be used in a fashion, which unreasonably interferes with the other real property owners or the Association's right to the use and enjoyment of their respective properties, or the other real property owners right to the use and enjoyment of the common area. The Committee shall determine whether any given use of a lot unreasonably interferes with those rights, and such determination shall be conclusive.

G. No tree or plant with a trunk greater than three inches (3") in diameter shall be removed or altered without approval of the Committee.

H. All living or sleeping units comprising one dwelling unit shall have no less than three hundred (300) square feet of enclosed floor space.

I. Exterior building materials shall be selected according to Angel Fire Resort design criteria.

J. Unsightly devices or mechanical equipment shall not penetrate the roof plan, unless made integral to the roof design.

K. Provisions for snow removal and storage will be necessary. Planting strips shall be provided to assist this purpose.

L. All parking areas shall be surfaced and lighted to the satisfaction of the Angel Fire Environmental and Architectural Control Committee and Village of Angel Fire Zoning Ordinance.

M. Trash storage and service areas shall be concealed architecturally.

N. No surface fuel tanks will be permitted. All electrical and telephone service shall be underground with electrical meters, gas meters and service entrances screened from view.

O. Landscaping shall be approved by the Angel Fire Resort and shall be completed in conjunction with the completion of the improvements.

P. All structures on the lot shall be carefully integrated as to form, material, color and landscaping with the primary structures.

Q. Each owner shall be responsible for the design and installation of adequate exterior lighting systems on his site. Said system shall be unobtrusive. Locations of luminaries shall facilitate snow removal and storage, and not constitute a hazard or nuisance to surrounding properties.

R. Each owner or tenant or occupant of a building shall be permitted one identification sign. All signs shall be designed, proportioned and positioned as an integral element of the total design of the building. All signs shall be flat wall signs composed of individual free standing letters. Necessary sign supports shall be completely concealed. Signs or lighting of premises utilizing animation, moving parts, flashing, oscillating, smoke-emitting, sound-emitting designs, moving lights or variable light intensities will not be permitted. Signs if illuminated shall derive light from a concealed source. Signs or placards or other advertising media attached to the windows or doors of the premises will not be permitted. No sign shall occupy more than five percent (5%) of the background to which it is attached, and in no case may the sign exceed 50 square feet in gross area. All signs are subject to review and approval by the Environmental and Architectural Control Committee.

S. No building constructed hereunder shall exceed code (35 feet) in height measured from the original grade unless the Environmental and Architectural Control Committee and Angel Fire Resort grants written permission that this height be exceeded.

T. Onsite parking shall be provided in accordance with the minimum standards established by the Village of Angel Fire Zoning Ordinance.

U. The exterior of any buildings constructed hereunder shall be completed within one (1) year of the beginning of construction so as to present a finished appearance when viewed from any angle. The building site area shall be kept reasonably clean during the construction period unless extended by the Committee.

V. All buildings and grounds on any lot shall be kept in a safe and reasonable state of repair, cleanliness and neatness.

W. Temporary construction toilets may be approved by Declarant. No permanent outside toilets are permitted. Permanent toilets and all other plumbing for waste are to be connected to the central sewage system.

X. All lots, whether occupied or unoccupied, and any improvements placed thereon, shall at all times be maintained in such manner as to prevent their becoming unsightly by unattractive growth on such lot or the accumulation of rubbish or debris thereon. Declarant, or its designee, shall have the right to enter upon such a lot for purposes of correction to remove unattractive growth or accumulated rubbish or debris thereon, and any costs so incurred shall be a charge against, and enforceable as if it is an Angel Fire Association of Property Owners assessment.

Y. No noxious, offensive or illegal activities shall be carried on any lot nor shall anything be done on any lot that shall be or become as unreasonable annoyance or nuisance to the neighborhood. Declarant, or its designee, shall have the right to enter upon such lot for purposes of correction of the noxious, offensive or illegal activities, and any costs so incurred shall be a charge against and enforceable as if an Angel Fire Association of Property Owners assessment.

Z. All lots shall be used and structures erected in accordance with all appropriate governmental regulations.

7. VARIANCES

The Committee may allow reasonable variances and adjustment of these Restrictions in order to overcome practical difficulties and prevent unnecessary hardships in the application of the provisions contained herein; provided, however, that such is done in conformity with the intent and purposes hereof and provided also that in every instance such variance or adjustment will not be materially detrimental or injurious to other property or improvements in the subdivision.

8. REMEDIES

A. The Association, the Committee or any party to whose benefit these Covenants inure, including Declarant, its successors and assigns, may proceed at law or in equity to prevent the occurrence, continuation or violation of any of these Covenants; provided, however, that it is expressly understood that neither Declarant, the Committee, nor the Association shall be liable for damages of any kind to any party for failing to either abide by, enforce, or carry out any of these Protective Covenants.

B. No delay or failure on the part of an aggrieved party to invoke an available remedy set forth above with respect to a violation of any of these Protective Covenants shall be held to be a waiver by that party of (or an estoppel of that party to assert) any right available to him upon the recurrence or continuation of said violation or the occurrence of a different violation.

C. Provided, however, that any breach of these Protective Covenants shall not defeat or affect the lien of any mortgage or deed of trust made in good faith and for value, but all of these Protective Covenants shall be binding upon any owner whose title it acquired by foreclosure or otherwise.

9. GRANTEE'S ACCEPTANCE

The Grantee of any lot subject to the coverage of these Protective Covenants by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent owner of such lot, shall accept such deed or contract upon and subject to each and all of these Protective Covenants and the agreements herein contained, and also the jurisdiction, rights and powers of Declarant, the Committee and the Association and by such acceptance shall for himself, his heirs, personal representatives, successors and assigns, covenant, consent and agree to and with Declarant, the Committee, the Association and to and with the grantees and subsequent owners of each of the lots to keep, observe, comply with and perform said Protective Covenants and agreements.

10. SEVERABILITY

206102941

STATE OF NEW MEXICO }
COUNTY OF COLFAX }

This instrument was filed for record
on this 24th day of July

2001 A.D. at 10:56 o'clock

A M. and duly recorded in Real Estate
Records-Book 12 Page 8423

County Clerk

By _____
Deputy