

SADDLEHORN RANCH RESTRICTIVE COVENANT ON TRANSFER OF TITLE

Gorilla Capital CO Saddlehorn Ranch, LLC, is a Colorado limited liability company (“Declarant”) is the owner of real property located in Sections 3 and 10 of Township 13 South, Range 64 West of the 6th P.M., El Paso County, Colorado containing approximately 177.9916 acres, and specifically described on the attached **Exhibit A** and incorporated by this reference, generally known as the Saddlehorn Ranch Subdivision (“Saddlehorn Ranch”).

The Board of County Commissioners for El Paso County, Colorado (“El Paso County”) is concerned about the completion of houses prior to the completion of the water system infrastructure and prior to the approval of the water system infrastructure to serve as a community water system by Colorado Department of Public Health and Environment (“CDPHE”). Such concerns are predicated on houses being completed, title being transferred to new owners, and the water infrastructure system either failing to be completed by the developer/builder and/or failing to be approved by CDPHE. Such a circumstance places a burden on El Paso County to resolve the failure of the water system infrastructure being completed and/or approved.

The El Paso County, Colorado Land Development Code (“LDC”) at § 8.4.7.B.6.g.vi allows El Paso County the ability to impose restrictions on the number of building permits or certificates of occupancy until a water system is constructed and certified. The County’s practice has been not to impose such restrictions, but rather to require completion of the water system and certification by a professional engineer that both the water system has been built in accordance with the design that was reviewed by CDPHE and that the system is functional/operational, and to require CDPHE approval of the Technical, Managerial, and Financial Capacity Assessment (“TMF Assessment”) prior to approval of a final plat for the subdivision.

The Declarant desires to construct an initial forty-five (45) houses at the same time as the water system infrastructure is being constructed and during the period after the water system infrastructure has been completed and is awaiting approval by the CDPHE of the TMF Assessment. El Paso County believes this would be a violation of Regulation 11, 5 C.C.R. 1002-11, and CDPHE New Public Water System Capacity Planning Manual. Therefore, Applicant intends to construct only an initial fifteen (15) houses during the time that water system infrastructure is being constructed (“Initial 15”). Before El Paso County will agree to issue any building permits in addition to the Initial 15, Declarant shall receive approval of the water system to serve as a community water system including approval of the TMF Assessment, and written proof of such approval, shall be provided to El Paso County to its satisfaction.

El Paso County has agreed to issue building permits, but not certificates of occupancy, for the Initial 15 with the restriction on issuance of certificates of occupancy by El Paso County as set forth in this covenant, and as set forth in the plat note of the Final Plat for Filing No. 1 of Saddlehorn Subdivision, which plat note shall cross reference this Covenant. No other building permits, and no certificates of occupancy,

shall be issued for Saddlehorn Ranch until the water system infrastructure has been completed and has received final approval to serve as a community water system including approval of the TMF Assessment from the CDPHE. Declarant shall have the right to select which lots shall be subject of the Initial 15; however, Declarant shall identify which lots comprise the Initial 15 in the plat note of the Final Plat for Filing No. 1 of Saddlehorn Subdivision.

Declarant may issue deeds for the Initial 15 and have such deeds held in escrow by Empire Title of Colorado Springs, LLC ("Empire Title") only to be released from escrow back to Declarant for closing and recording at the direction of El Paso County, pursuant to escrow instructions agreed to by the County, and pursuant to the conditions listed below. Declarant shall indicate in writing to El Paso County Planning and Community Development Services Department which deeds comprise the Initial 15 upon the escrowing of such deeds. No other deeds shall be issued by Declarant for Saddlehorn Ranch until the water system infrastructure has been completed and has received final approval to serve as a community water system including approval of the TMF Assessment from the CDPHE

Declarant is restricted from transferring title to the Initial 15 until:

1. A professional engineer has certified that the water system infrastructure has been built in accordance with the design that was subject of the CDPHE acknowledgement letter, and that the system is functional/operational;
2. A defect warranty collateral for the water system has been posted with El Paso County; and
3. A proposed water operator acceptable to El Paso County has been selected and a description of how the operator will provide operation, maintenance, and management services to the special district for the water system has been delivered by the proposed water operator to El Paso County.
4. El Paso County has agreed, pursuant to the escrow instructions, and has provided written consent/agreement that requirements 1 – 3 above have been met and that the deeds for the Initial 15 can be released.

The restrictions set forth herein concern the transfer of title only; Declarant remains free to enter into non-binding contracts, with fully refundable earnest money, for the purchase and sale of all lots within Saddlehorn Ranch.

The deeds to be held in escrow shall be issued with the Declarant as grantor and the party under contract for each individual lot as grantee. If the grantee for any deed changes after the escrowing of the deed but before the deed is released from escrow, Declarant will so inform El Paso County and Empire Title in writing and shall thereafter substitute with a revised deed listing the new grantee when such grantee is determined and under contract.

Such escrowed deeds shall remain in escrow by Empire Title until they are released pursuant to the terms of this covenant and the escrow instructions. Declarant shall include in the escrow instructions an initial escrow period of at least five (5) years from the date of the escrow instructions, with the right of Declarant and El Paso County to extend the escrow for additional periods of time as may be necessary.

IN WITNESS WHEREOF, the Declarant has caused these Declarations to be executed this __ day of _____, 2020.

By: _____

STATE OF _____)
) ss
COUNTY OF _____)

Subscribed and sworn to before me this _____ day of _____, 2020 by _____, as _____ for Gorilla Capital CO Saddlehorn Ranch, LLC

My commission expires: _____

Witness my hand and seal.

Notary Public