

COVENANTS

AMENDMENT TO DECLARATION OF PROTECTIVE COVENANTS FOR CUERNO VERDE PINES SUBDIVISION

Cuerno Verde “The Pines”, Inc., a Colorado corporation (“Grantor”), is the owner and developer of all the real property within the subdivision named Cuerno Verde Pines, in Custer County, Colorado. The Grantor has recorded the Declaration of Protective Covenants in the records of Custer County on April 18, 1973, in Book 167 at Page 541, and as amended on December 23, 1974, in Book 170 at Page 487. This Amendment to the Declaration applies to the entire subdivision known as Cuerno Verde Pines.

Grantor hereby makes and declares the following Amendment to the Declaration previously recorded and shall restrict the uses of such real property through the following restrictive and protective covenants.

1. **GENERAL PURPOSES.** These covenants are made to create and preserve the subdivision in a desirable, attractive and beneficial condition, suitable in architectural design, materials and appearance; all for the mutual benefit and protection of the owners of lots in the subdivision.
2. **USES:** Exclusive of one or more plots reserved for commonly owned recreational facilities, each lot in the subdivision shall be used for one single family residence according to plat and covenant restrictions. No structures whatever, other than one private single family dwelling, together with a private garage and servants' quarters or guest facilities, and approved barn or shed for horses, for use in connection with said single family dwelling, shall be erected, placed or permitted to remain on any plot or lot.
3. **APPROVAL OF CONSTRUCTION PLANS:** No building or other structure shall be constructed erected or maintained on any lot, nor shall any addition thereto or change or alteration therein be made, until the complete plans and specifications- including, but not limited to, the floor, elevation, plot and grading plans, the specifications of principal exterior materials and color schemes, and the location, character and method of utilization of all utilities have been submitted to the Grantor and/or Architectural Control Board and by it or them approved in writing. Each building or other structure shall then be constructed, erected and maintained in strict accordance with the approved plans and specifications. At the time plans and specifications are submitted to Grantor and/or Architectural Control Board for approval, the person or persons submitting such plans and specifications shall also submit to Grantor/Board evidence satisfactory to Grantor Board that the Public Health Department of the State of Colorado or the appropriate official of Custer County, Colorado, or any other appropriate governmental agency, has approved his sanitary sewage disposal system. Sewage shall be disposed of only by and through a septic system of adequate dimensions and capacity and of a

type approved by the Board of Health of the State of Colorado and/or the County of Custer. No septic tank or field system shall be nearer than fifty (50) feet to any building or plot line, except with the consent of the appropriate health officials of the County and/or State, and no sewage, waste water, trash, garbage or debris shall be emptied, discharged or permitted to drain into any body of water, or water-course, in or adjacent to the subdivision. All toilet facilities must be part of the residence or garage and shall be of a modern flush type and connected with a proper septic tank system.

In passing upon all such plans and specifications, Grantor/Board shall take into consideration the suitability of the proposed building or other structure, including the materials of which it is built, to the lot upon which it is to be erected, the harmony of the structure with the surroundings and concept of the subdivision, and the effect of the building or other structure on the outlook from adjacent or neighboring lots. Grantor/Board agrees to use reasonable judgment in passing upon all such plans and specifications, but Grantor/Board shall not be liable to any person or persons for Grantor's/Board's decisions in connection with submitted plans and specifications unless it be shown that Grantor/Board acted with malice or wrongful intent.

4. WATER AND SEWER: Each structure designed for occupancy or use by human beings shall connect to an approved domestic water source and approved sewage disposal system. The owner shall, at his expense, install and use a domestic well and septic system. Such well and sewage disposal system must have all necessary public regulatory and governmental permits and approvals.

The individual lot owner's water supply in all lots in Filings 3, 4, 5 and 6 shall be subject to the terms and conditions of the decree in Case No. 79CW152, in the District Court for Water Division No. 2, Pueblo, Colorado. Before a lot purchaser can construct a well on his property, he must obtain a well permit from the Colorado State Engineer's Office in Denver, Colorado. Those lot owners obtaining well permits on the subdivision shall use such watering solely for domestic, in-house use in a single-family dwelling and occasional livestock water, and then only as permitted under the plan of augmentation described in the above Decree. Irrigation and all other uses not specifically permitted under the Decree shall be prohibited.

Due to the climatic conditions that prevail in Custer County, Colorado, and based upon certain terms and conditions in the water augmentation plan, evapotranspiration sewage effluent disposal systems will not be allowed in this subdivision. Only sand filtration (engineered specifications which preclude evaporation at the surface) or acceptable absorption disposal systems shall be permitted in-the subdivision. Each lot owner must obtain State and, if applicable, County Health Department approval for the installation and use of an on-site sewage disposal system.

If and when a water and/or sanitation district is formed for the purpose of providing central water and/or sewage disposal services, by whatever authorized agency or municipality, the owner hereby consents to and shall cooperate with the formation of such district or districts and shall abide by all the rules, regulations and requirements of such district or districts, including the abandonment of any and all domestic wells and/or septic system or other private facilities installed by the owner and the utilization of facilities provided by the district or districts, as may be required by the district or districts.

5. **FENCE:** No fence, wall or similar barrier of any kind shall be constructed, erected or maintained on any lot without the prior approval of design and materials by the Grantor/ Board. No fences are to be built which would encroach upon public easements as provided.

6. **EASEMENTS:** Easements and rights-of-way are hereby reserved as shown or described on the recorded plat of the subdivision and for any public or quasi-public utility service purpose, together with the right of ingress and egress at any time for the purpose of further construction and repair. Unless permission is obtained from individual property owners, trespassing by pedestrians, equestrians, hikers, over-snow or off-road vehicles, etc., on privately property (other than within the easements provided) is prohibited.

7. **DRIVEWAYS:** No trees may be cut or grading done on any lot without the owner's obtaining prior written approval of the Grantor/Board. It is intended that driveways be kept to a minimum and be so located and constructed as to minimize dangerous intersections and retain the natural character of the area. Proper drainage facilities, including culverts, may be designated by the Grantor/Board as a condition for approval hereunder and will be provided by the owner at his expense. Minimum interference with pedestrian and equestrian movements will be observed.

8. **SIGNS:** No signs, billboards or other advertising structure of any kind shall be erected, constructed or maintained on any lot for any purpose whatsoever, except such signs as have been approved by Grantor/Board for identification of residences; also, one sign of not more than eight (8) square feet advertising the property for sale or rent and signs used by the Grantor for selling the subdivision will be allowed.

9. **TRASH:** No trash, ashes, garbage, debris or other refuse shall be thrown or dumped on any land within the subdivision. There shall be no burning of refuse out of doors. Each property owner shall provide suitable receptacles for the temporary storage and collection of refuse and all such receptacles shall be screened from public view and protected from disturbance.

10. **ANIMALS, PETS:** No animals or poultry shall be allowed either temporarily or permanently, except the following: horses, dogs, cats and other usual and suitable household pets. A maximum of four (4) horses per five acre plot will be allowed, and four (4) adult dogs

and/or cats per household. The above exceptions are for household enjoyment only and shall not be raised, bred or boarded for any commercial purposes.

If horses are kept, facilities shall be kept clean and odor free. To prevent overgrazing, horses shall be kept in a small corral not to exceed 25 percent of the lot size and shall only be allowed to graze occasionally in any remaining native grass area owned and fenced by owner. No stallions are to be kept, except by written permission of the Grantor/Board.

11. ANIMALS, PET CONTROL: Domestic animals may be kept, but shall not be left unattended. Pets shall not be permitted to run at large outside the confines of each owner's lot, neither elsewhere in the development nor on adjacent lands. Furthermore, animals must be kept within the "positive control" of their owner at all times. Positive control shall mean that the pet, when on the property of the owner, must be within the sight and earshot of an adult person on the property who is capable of summoning and controlling the pet, and when off the property (within the development or on adjacent lands) must be tethered with a leash no longer within ten (10) feet, one end of which shall be held by a person capable of controlling the pet. No tethered pet shall be left unattended off of the owner's property.

12. TREES: Living trees naturally existing upon a lot, except to the extent necessary for construction purposes, shall not be cut, trimmed or removed from the properties, except that Grantor/Board may approve some thinning or trimming if it seems desirable.

13. LANDSCAPING: All surface areas disturbed by construction shall be restored promptly to their natural condition and replanted in native grasses; but, if owner desires further landscaping to change the character of the lot, he shall submit landscaping plans to Grantor/Board for approval.

14. SETBACK REQUIREMENTS: No building or structure shall be constructed within 50 feet of the center line of any public street or roadway or property line. The only exception to this shall be fences. The maximum building height shall not exceed 25 feet. All buildings of a principal nature shall also be set back a minimum of 75 feet from the center of any stream bed, whether or not such stream bed be of a permanent or temporary nature.

15. TEMPORARY STRUCTURES: No structure of a temporary or unsuitable character, such as a trailer, basement, tent, shack, garage, barn or other out-building, shall be used on any lot as a family dwelling, either temporarily or permanently. This does not apply to suitable motor homes, camping trailers, etc., which may be permitted on a short term basis of up to one (1) month. However, this covenant shall not restrict a building contractor or Grantor from maintaining a temporary office, trailer office, tool shed, lumber shed and/or sales office for the purpose of selling lots or erecting and selling dwellings.

16. PRINCIPAL DWELLINGS: The principal dwelling shall have a minimum fully enclosed ground floor area devoted to living purposes, exclusive of porches, terraces and garage, of 750 square feet, except that where the said principal dwelling is a one and one-half or two story dwelling, the minimum maybe reduced to 450 square feet of ground floor area, providing that the total living area of the one and one-half or two floors is not less than 750 square feet. All principal dwellings equipped with fireplaces shall have an approved fire screen located within the flue, such approval to be given in writing by the Grantor/Board.

17. CUERNO VERDE OWNERS ASSOCIATION: The purchaser of tracts in the subdivision, upon taking title to property in the subdivision, automatically becomes a member of the Cuerno Verde Owners Association, hereinafter referred to as the "Association". Purchasers understand and agree, by taking title, that membership in and full support of the Association is an absolute requisite for every purchaser and owner of a tract or tracts in the subdivision. The purposes of the Association are to assume ownership and control of, and responsibility for, the common areas within the subdivision, to provide surveillance over the property, including, but not limited to, maintenance of signs and enforcement of protective covenants, administration of the water augmentation plan, and to attend to such other matters as may be determined necessary by the Association's Board of Directors. Purchasers understand and agree that payment of dues to the Association and full cooperation with the Association's decisions and policies are requirements concomitant with tract purchase and ownership; that periodic dues and/or fees will be required which must be promptly paid; and that nonpayment of such dues and/or fees will cause a recorded lien for the arrearages of such dues and/or fees to be placed against the defaulting members' tract or tracts.

The Association will operate as a non-profit organization. Its books may be examined at any reasonable time by property owners, and copies of rules and Bylaws separate from these protective covenants will be provided to each purchaser upon request. The Association will not create any unreasonable burden, requirements or costs for property owners in the subdivision. Examples of the Association's responsibilities, for purposes of illustration only, and not as any limitation of the Association's rights and duties, include the following: the regulation and enforcement of the terms and conditions of the water augmentation and court decree concerning the water rights obtained by the Subdivider to provide well permits for the subdivision; payment of taxes on community areas; maintenance of community areas and community equipment, such as the clubhouse, tennis courts, barn stables, corral and maintenance of common drinking water sources; enforcement of protective covenants, surveillance over property to prevent theft or vandalism; repainting or replacement of signs; surveillance over adjacent development and new county or state laws in order to maintain property owners' rights and uphold values. The Subdivider may retain control of and responsibility for all or some of the above functions for a period of three (3) years from the date of the first sale, or until thirty percent (30%) of the lots in the entire subdivision are sold, whichever first occurs.

18. COMMERCIAL ACTIVITY: No store, office or other place of business of any kind shall be erected or permitted upon any of the residential lots or any part thereof, and no commercial activity shall be permitted.

19. CONTINUITY OF CONSTRUCTION: All structures commenced in the subdivision shall be prosecuted diligently to completion and shall be completed within 180 calendar days of commencement, subject only to delays caused by inclement weather, Act of God, strike, or unless some other exception is granted in writing by Grantor or its assigns.

20. RESUBDIVISION: No lot may be resubdivided by an owner.

21. NUISANCE AND FIREARMS: No noxious, dangerous or offensive activity shall be carried on within the subdivision; nor shall anything be done or permitted which shall constitute a public nuisance therein. No hunting or discharge of firearms shall be allowed within the subdivision.

22. EFFECT AND DURATION OF COVENANTS: The conditions, restrictions, stipulations, agreements and covenants contained herein shall be for the benefit of and binding upon each tract in the subdivision, and each owner of property therein, his successors, representatives and assigns, and shall continue in full force and effect until January 1, 1999, at which time they shall be automatically extended for five (5) successive terms of ten (10) years each.

23. AMENDMENT: The conditions, restrictions, stipulations, agreements and covenants contained herein shall not be waived, abandoned, terminated or amended except by written consent of the owners of 75% of the privately owned land included within the boundaries of the subdivision.

24. ARCHITECTURAL CONTROL BOARD: Cuerno Verde Owners Association will have a specific committee designated by the Board of Directors as the Architectural Control Board. Each person wishing to erect a structure on his property shall submit his plans and specifications to the Architectural Control Board for approval before commencing construction.

25. ENFORCEMENT: If any person shall violate or threaten to violate any provisions of this instrument, it shall be lawful for the Association or any person or persons owning real property in the subdivision to institute proceedings at law or in equity to enforce the provisions of this instrument, to restrain the person violating or threatening to violate them, and to recover damages, actual and punitive, together with reasonable attorneys' fees, for such violations.

26. **SEVERABILITY:** Invalidation of any one of the provisions of this instrument by judgment, court order or decree shall in no wise affect any of the other provisions, which shall remain in full force and effect.

CUERNO VERDE "THE PINES", INC.,
a Colorado corporation
By: (signed)
Archie L. Wainwright, President

ATTEST
(signed)
Jerry R. Dunn, Secretary

STATE OF COLORADO)
CITY AND) ss.
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 10th day of June, 1980, by Archie L. Wainwright as President, and Jerry R. Dunn as Secretary, of Cuerno Verde "The Pines", Inc., a Colorado corporation.

Witness my hand and official seal.
My commission expires: 9-21-80.
(signed) Shirley M. Akins
Notary Public

STATE OF COLORADO Filed for
COUNTY OF CUSTER Reception No. 124184
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Editorial Notes

This booklet was originally distributed in 1995 and again in 2016 by the Cuerno Verde Owners Association as a service to its members. Every effort was made to provide accurate information at the time of printing. However, due to the changing nature of much of this information, the Association assumes no responsibility or liability for any errors or omissions.

The following comments are provided for clarification:

1. Article I of the By-Laws pertaining to Name and Location designates the principal office of the corporation (Association) as being located in Denver, Colorado. Since the Board of Directors assumed full control of the Association from the developer, Cuerno Verde “The Pines” Inc., in August, 1989, the Association’s principal address is: Cuerno Verde Owners Association, P.O. Box 116, Westcliffe, CO 81252.

2. Article III of the By-Laws pertaining to Membership and Voting Rights refers to Class A and Class B Members. Class B membership was terminated when the developer turned over the governing of the Association to the Board of Directors. All members of the Association, by virtue of owning property within the subdivision, are Class A members.