

AMENDED AND RESTATED  
DECLARATION OF PROTECTIVE COVENANTS  
AND  
BUILDING RESTRICTIONS FOR  
SUBDIVISION RIO CUCHARAS PHASE No. 3 HUERFANO COUNTY,  
COLORADO

This declaration of Protective Covenants and building restrictions is executed and to be effective as of January 1, 2019 by Rio Cucharas Phase 3 Home Owners Association, a Colorado Nonprofit Corporation (the Association).

WITNESSETH:

WHEREAS, the Association is the successor of the home owners association established by the Golden Cycle Corporation May 16, 1973 Reception Number 249167 Book 332 Page 883 and shown on the recorded plats of

RIO CUCHARAS PHASE NO. 3

filed with the Commissioners, HUERFANO COUNTY, COLORADO (hereinafter referred to as the "SUBDIVISION") which have been filed in the office of the county Clerk of Huerfano County, Colorado; and

WHEREAS, it is the intent and desire of the Association to maintain, create and establish certain Protective Covenants and Building Restrictions to help maintain the authenticity and natural beauty of the Subdivision for the mutual benefit and enjoyment of purchasers and residents of lots within the subdivision.

WHEREAS, the Association, in order to insure that the purposes of this declaration are carried out, has caused the incorporation under the laws of Colorado, of Rio Cucharas Phase 3

Homeowners Association, a corporation not for profit with the power of administering and enforcing the covenants and building restrictions hereafter set forth.

NOW THEREFORE, BE IT RESOLVED, that the Association does hereby declare the creation and existence of Protective Covenants and Building Restrictions for the Subdivision property described above.

1. Definitions:

- A. "SUBDIVISION" shall mean and refer to that land shown on the plat herein described.

- B. "HOMEOWNER" 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 part of the Subdivision, including contract purchasers, but excluding those having such interest merely as security for the performance of an obligation.
- C. "LOT" shall mean and refer to any parcel of land shown and designated on the plat of the Subdivision as herein described.
- D. "ARCHITECTURAL CONTROL COMMITTEE" shall mean and refer to a group composed of three (3) persons appointed by the Board of Directors of the Association to approve in writing any plans, specifications, and modifications to any structures, improvements and the like.
- E. "ASSOCIATION" shall mean and refer to the Rio Cucharas Phase 3 Homeowners Association, as defined by the Declaration of Rio Cucharas Phase 3 Homeowners Association Protective Covenants and Building Restrictions, as so established.
- F. "COMMON AREA" shall mean and refer to all real property owned or controlled by the ASSOCIATION for the common use and enjoyment of the members of the ASSOCIATION.

The following restrictive covenants, easements, reservations, and requirements shall run with the land and shall be binding on all parties and persons claiming under them until twenty (20) years from the date of the filing of these covenants, at which time, the covenants shall be automatically continued in force for successive periods of ten (10) years each unless discontinued or amended at the end of the first or any subsequent ten-year period by a vote of fifty-one (51%) percent or more of the property owners. Record owners of the lots or tracts shall be entitled to one vote for each tract or lot as shown on the recorded plot. Any owner who desires to call an election for the purpose of amending or suspending all or any part of these Covenants and Restrictions after twenty (20) years from the date of filing, in accordance with the foregoing provisions, shall request such election by written notice to the Developer or its assigns and all record owners of lots or tracts within the Subdivision at least one year before the expiration of the first or any subsequent 10-year period.

3. The Association reserves the right to file a subsequent deed of restriction regulating the use to which various lots in said subdivision can be put.

4. All tracts in the said Subdivision, according to the survey and plats thereof, are hereby designated as the "Residential Area", except those so shown as commercial. No commercial activity shall be carried out on any lot or tract designated Residential.



5. All buildings erected, placed or allowed to remain on any lot shall be situated only within that portion of said lot not restricted from use by easement or right-of-way, and shall not be nearer than 25 feet from any roadway right-of-way line, not nearer than 15 feet from any side lot line and not nearer than 15 feet from any rear lot line. Utility easements and rights-of-way are hereby reserved for Public Utility Companies for construction, installation, and maintenance of any and all utilities, such as underground power, gas lines, sewers, roads, water supply lines, drains, underground telephone and telegraph or the like, necessary or desirable for public health and welfare. Such easements and rights-of-way shall be confined to a ten (10) foot width along the common rear of each lot and a ten (10) foot width along every side or along every street, road, or highway, unless otherwise designated on the plat. Notwithstanding the foregoing, from and after such time as two or more contiguous lots fronting on the same street are used as a single building site, such contiguous lots shall be deemed to be a single lot for the purpose of determining the "side lot lines". All drainage easements shall be kept free and clear of permanent structures, except as authorized by the Architectural Control Committee.

6. No structure shall be erected, altered, placed or permitted to remain on any residential building tract, other than one detached single-family dwelling and a private garage, stable, tack room, and/or garden structure such as are ordinarily used in connection with a single family residence. All plans for structures, fences, walls, etc. shall be submitted to the Architectural Control Committee for approval or disapproval prior to beginning construction. Any wire fencing shall be confined to the rear of the dwelling and behind a line parallel to the frontage street. In no case may chicken wire be used for fencing. Fencing in front of the dwelling may be only of the split rail, log or board type. The Architectural Control Committee's approval or disapproval, as required in these covenants, shall be in writing. In the event the committee or its designated representative, fail within thirty (30) days after plans and specifications have been submitted to it to approve or disapprove the same, or in any event, if no suit to enjoin the construction has commenced prior to the completion thereof, written approval will not be required, and the related covenants shall be deemed to have been fully complied with.

7. No structure with an unfinished exterior shall be permitted to remain in on any lot for a period exceeding six (6) months from the date of commencement of construction. No basement, tent, shack, garage, barn, trailer camper, mobile home (except in those areas specifically designated and set aside for same) or other outbuilding shall at any time be used as a residence, temporary or permanent, nor shall any residence of temporary character be erected or permitted to remain. Minimum ground floor area, exclusive of porches and garages, shall not be less than six hundred (600) square feet.

8. Right of access is hereby reserved to the Association for general improvements of any person's premises or premises of the Association, but such right of access to any particular premises shall terminate upon commencement of construction on the premises by the Owner.

9. Use and occupancy of premises or buildings shall be subject to zoning, building, health, sewage disposal, and sanitation regulations of the State of Colorado and all government agencies having jurisdiction.

10. Horses (no stallions), dogs, cats, or other household pets may be kept, provided they are not used for any commercial purposes. Stables, corrals, and pet shelters shall be located only to the rear of the principal dwelling. The said premises shall be at all times kept clean and sanitary by frequent and proper removal and disposal of manure and other refuse. No other animals or poultry of any kind shall be bred, raised or kept.

11. No lot shall be used in whole or in part for the storage of any property or object that will cause such lot to appear in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any activity be carried on, or substances kept, upon any lot that will emit foul or obnoxious odor, that will cause unreasonable noise or which may be or become a nuisance.

12. No oil drilling, oil development, commercial water well drilling, water development, quarrying, gravel operations or mining operations of any kind shall be permitted upon or in any lot.

13. No sign of any kind shall be exhibited in any way on or above the property of this subdivision without written approval of the Association or its duly authorized agent. Occupants may post one For Sale or Name sign no greater than four square feet,

14. Rubbish and garbage must be kept in suitable containers and moved from lots in accordance with sanitation regulations. No rubbish or garbage may be burned or dumped on lots or on any part of subdivision, except in such places as may be specifically designated and approved for such purpose by the county authorities.

15. Butane tanks and water storage tanks must conform to state requirements and will be located so as not to detract from the appearance of the tract.

16. The Association reserves the right to change, extend or close any streets or roads or to designate any area for uses other than single-family residential and to cut new streets or roads, or file a replat of any of the plats herein above described provided such change or replat shall not interfere with ingress and egress to the property of any lot not owned by the Association, provided that the Association is the owner of not less than five (5) contiguous parcels. Except as provided above, no lot may be divided, replatted or subdivided in any manner whatsoever, except to remedy errors or omission, if any, created in the process of preparing the original plat, providing such corrections do not substantially affect the intent of said plat

17. No outdoor-type toilet shall be erected or maintained. Each lot owner shall be solely responsible for the installation, maintenance and approval of the on-site sewage disposal system intended for use on his premises. If the soil for normal septic tank filter field type systems is unsuitable in areas of this property the lot owner shall consult directly with the Colorado State Health Department or its local representative for the soil percolation tests and



proof of suitability for the intended systems, and in areas unsuitable for direct percolation treatment, other sewage disposal means, such as the evapo-transpirative process may be used, provided the aforementioned approval of such system is secured prior to installation.

18. No brush, trash, or other material shall be burned, except in compliance with the anti-pollution regulations of any duly authorized agency.

19. Live trees having a diameter of eight (8) inches or more may not be removed without the written consent of the Architectural Control Committee.

20. A culvert shall be installed in ditch or driveway to site by purchaser, where required for adequate drainage.

21. Each lot owner shall be a member of the Association. All members shall pay assessments or dues, if any, as may be authorized by the Association necessary for further development, continued operation, repair and maintenance of linear parks and reserved park acreage tracts, and such other purposes as determined by the Association.

22. In the event of death or resignation of an Architectural Control Committee member, the remaining members shall have full authority to designate a successor. Neither the members of the COMMITTEE, nor its designated representatives shall be entitled to any compensation for services performed pursuant to this covenant. The COMMITTEE'S approval or disapproval as required in these covenants shall be in writing. In the event the COMMITTEE or its representatives fails to act within 45 days of written request and submission of necessary plans and specifications, and if no suit to enjoin construction has been commenced, then covenants shall be deemed fully complied with.

23. Enforcement of the covenants contained herein shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages. The Association and every person hereafter having any right, title or interest in any tract in the said Subdivision, shall have the right to seek enforcement of these covenants by applying to any appropriate court or agency for an injunction or other lawful remedy and to recover any damages resulting from such violation.

24. Failure to enforce any restriction, condition, covenant or agreement herein contained shall in no event be deemed a waiver of the right to do so thereafter as to the same breach or as to one occurring prior to subsequent thereto. In the event any covenant or condition or restriction herein above contained, or any portion thereof, is invalid or void, such invalidity or voidness shall in no way affect any of the other covenants, conditions, or restrictions which shall remain in full force and effect.

25. Invalidity of any one of the covenants contained herein by judgement, court order or for any other reason shall in no way affect any of the other covenants, all of which shall remain in full force and effect.

IN WITNESS WHEREOF, said Association has caused this instrument to be duly executed in its behalf, this 4<sup>th</sup> day of January \_\_\_\_\_, 2019  
STATE OF COLORADO )

ATTEST:

RIO CUCCHARAS PHASE 3 HOMEOWNERS COUNTY  
ASSOCIATION OF

Mary Ann  
Secretary/Treasurer

Mary Ann Lane  
Mary Ann Lane

By  
Amos Lee Cesario  
President

Amos Lee Cesario

HUERFANO)

The above and for going instrument was duly executed and acknowledged before me this 4<sup>th</sup> day January 2019 on behalf of RIO CUCCHARAS PHASE 3 HOMEOWNERS SSOCIATION by Amos Lee Cesario its President and attested to by Mary Ann Lane its Secretary/Treasurer, both known to me to be such officers of the Corporation respectively.

11/7/22  
My Commission expires:

Ann V. Caffey  
Notary Public

ANN V. CAFFEY  
Notary Public  
State of Colorado  
Notary ID # 20144043193  
M Commission Expires 11-07-2022