

**DECLARATION OF HOMEOWNERS' ASSOCIATION COVENANTS
FOR OPERATION AND MAINTENANCE OF
COMMON PROPERTIES AND FACILITIES
OF PARADISE ACRES**

6/16/1998

This Declaration is made this 16th day of June, 1998 by Paradise Acres Corporation.

WHEREAS, certain land known as "Paradise Acres" is shown and designated on the plat entitled "PARADISE ACRES, HUERFANO COUNTY, COLORADO," situate in Sections 3 and 4, Township 28 South, Range 70 West of the Sixth Principal Meridian, Huerfano County, Colorado (hereinafter referred to as the "SUBDIVISION");

WHEREAS, in addition to this Declaration of Homeowners Association Covenants, an Amended Protective Covenants and Building Restrictions was recorded in the office of the County Clerk of Huerfano County, Colorado, on January 24, 1994 at Book 23M, Page 127 in the records of the Huerfano County Recorder (County of Huerfano Rec # 9981), and such Amended Protective Covenants are hereby fully incorporated herein by this reference;

NOW, THEREFORE, it is hereby declared that all the real property within the SUBDIVISION shall be subject to the Amended Protective Covenants and Building Restrictions for the SUBDIVISION referenced above, and that the real property within the SUBDIVISION hereafter shall be held, sold, conveyed, maintained and used subject to the conditions, covenants, assessments, dues, liens, and charges hereinafter set forth.

1. **Definitions.**

- A. "OWNER" shall mean and refer to the record owner(s), whether consisting of one or more persons or entities, of fee simple title to any LOT or LOTS or who otherwise is not in default on any note or mortgage concerning such LOT or LOTS, which is or are part of the SUBDIVISION, including contract buyers. A holder of a security interest in a LOT or LOTS shall not be considered an OWNER under this Declaration.
- B. "LOT" or "LOTS" shall mean and refer to any parcel or parcels of land shown and designated on the plat of the SUBDIVISION as described.
- C. "ASSOCIATION" shall mean and refer to the PARADISE ACRES HOMEOWNERS ASSOCIATION, its successors and assigns. Any OWNER (in whole or in part) of a LOT or LOTS within the SUBDIVISION shall be considered an ASSOCIATION member.
- D. "SUBDIVIDERS" shall refer to Mr. and Mrs. William C. Houchin, or their agents, successors or assigns.



2. Creation of Homeowners' Association.

Pursuant to this Declaration, there is hereby created the ASSOCIATION, a non-profit, non-governmental entity, for the purpose of carrying out the powers, duties and functions so specified in this Declaration.

3. Powers, Duties, and Functions.

- A. The ASSOCIATION shall care for vacant, unimproved, and unkept LOTS in said SUBDIVISION, remove and destroy grass, weeds, and rodents therefrom, and any unsightly and obnoxious thing therefrom, and to do any other things, and perform any labor necessary and desirable in the judgement of this ASSOCIATION to keep the SUBDIVISION, and the land contiguous and adjacent thereto, neat and in good order. SUBDIVIDERS may undertake such maintenance responsibility on LOTS they currently own and be exempted from ASSOCIATION charges and assessments described in subparagraph G below, but SUBDIVIDERS shall be subject to such charges and assessments for any unkept LOT or LOTS.
- B. The ASSOCIATION shall pay the taxes and assessments, if any, which may be legally levied by any governmental authority upon roads and parks in said SUBDIVISION, including any other open spaces maintained or lands used or acquired for the general use of the OWNER of the LOT or LOTS or building sites within said SUBDIVISION, or other lands which may be held in trust for this ASSOCIATION.
- C. The ASSOCIATION shall: (1) enforce charges, restrictions, conditions and covenants existing upon and created for the benefit of said SUBDIVISION over which this ASSOCIATION has jurisdiction; (2) pay all expenses incidental thereto; (3) enforce the decisions and rulings of this ASSOCIATION having jurisdiction over any of said SUBDIVISION; (4) pay all ASSOCIATION expenses in connection therewith; (5) prepare an annual budget, which shall be subject to approval by a majority of the OWNERS; and (6) reimburse any OWNER under this Declaration, as may be amended from time to time, for all costs and expenses incurred in connection with the enforcement, or attempted enforcement, of any of the conditions, covenants, restrictions, charges, assessments or terms set forth in this Declaration.
- D. The ASSOCIATION shall provide for the maintenance of linear parks, playgrounds, water systems, water areas and other community features on land set aside within or without the SUBDIVISION for the general use of the members of said ASSOCIATION. SUBDIVIDERS will dedicate additional water to the ASSOCIATION to serve SUBDIVIDERS' home and Houchin Ranch, and no charges for said water service shall be imposed. SUBDIVIDERS



334998 07/29/1998 03:02P DEC
3 of 8 R 41.00 D 0.00 N 0.00 Huerfano Co.J Benline

Declaration of Homeowners' Association Covenants - Paradise Acres
Huerfano County, Colorado
Page 3

shall maintain water facilities to said ranch and home at SUBDIVIDERS' sole expense and without charge to the ASSOCIATION.

- E. The ASSOCIATION shall do any and all lawful things and acts which this ASSOCIATION at any time, and from time to time, shall, in its discretion deem to be in the best interests of said SUBDIVISION and/or the OWNER of the LOT or LOTS, and to pay all costs and expenses in connection therewith.
- F. Any powers and duties exercised by said ASSOCIATION relating to maintenance, operation, construction or reconstruction of any facility provided for herein may be submitted to a qualified contractor or agent as a result of a competitive bidding process.
- G. The ASSOCIATION shall review and fix the rate of the annual charges and assessments that are payable by the OWNER for each LOT within the SUBDIVISION for maintenance or other services provided to each LOT or LOTS, and shall collect the charges or assessments affecting said LOT or LOTS from said OWNER to pay all expenses in connection therewith. To this end, the ASSOCIATION shall track actual expenses it incurs as to each LOT related to maintenance or services described in subparagraphs A through F above. Office expenses and other costs related to the conduct of the business of this ASSOCIATION, including all licenses, franchise taxes, and governmental charges levied or imposed against the real or personal property of this ASSOCIATION, shall be assessed against each LOT (excluding those LOTS owned by SUBDIVIDERS) on a *pro rata* basis. Such charges or assessments shall become a lien on said LOT or LOTS as soon as due and payable. Settlement of such lien shall be made as determined by the Board of Directors of this ASSOCIATION.
- H. Upon approval of a majority of ASSOCIATION members, the ASSOCIATION may acquire by gift, purchase, or otherwise to own, hold, enjoy, lease, operate, maintain, and to convey, sell, lease, transfer, or mortgage, or otherwise encumber, dedicate for public use, or otherwise dispose of, real or personal property in connection with the business of this ASSOCIATION. The costs for care and maintenance of such property shall be borne *pro rata* by ASSOCIATION members and included within the charges and assessments made for each LOT within the SUBDIVISION.
- I. Excepting emergency situations, any decision made by the ASSOCIATION to spend more than \$1,000 shall receive prior approval from a majority of the OWNERS before such funds are spent. This provision shall apply to any annual ASSOCIATION budget which equals or exceeds \$1,000.
- J. The ASSOCIATION shall expend the monies collected by this ASSOCIATION

334888 07/29/1998 03:02P DEC
4 of 8 R 41.00 D 0.00 H 0.00 Huerfano Co. J Bertram

from assessments or charges and other sums received by this ASSOCIATION for the payment and discharge of all proper costs, expenses and obligations incurred by this ASSOCIATION in carrying out any or all of the purposes for which this ASSOCIATION is formed.

- K. Upon majority approval of ASSOCIATION members, the ASSOCIATION may borrow money and may mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, and do any and all things that a homeowners' association organized within the State of Colorado may lawfully do, and generally do and perform any and all other acts which may be either necessary for, or proper or incidental to, the exercise of any of the foregoing powers, and such powers as are granted by the provisions of the laws of the State of Colorado, to a nonprofit association.
- L. The ASSOCIATION shall do any and all lawful things which may be advisable, proper, authorized or permitted to be done by this ASSOCIATION under and by virtue of any condition, covenant, restriction, reservation, charge or assessment affecting said SUBDIVISION, LOT or LOTS, or any portion thereof, and do and perform any and all acts which may be either necessary for or incidental to the exercise of any of the foregoing powers, or for the peace, health, comfort, safety, or general welfare of the SUBDIVISION or the OWNER of said LOT or LOTS, or any portion thereof, or residents thereon.

3. Office Location.

The principal office for the transaction of the business of this ASSOCIATION shall be as designated by the Board of Directors of the ASSOCIATION and within Huerfano County, Colorado, at an address to be determined by the ASSOCIATION.

4. Membership and Voting Rights.

The members of this ASSOCIATION shall be:

- ✓ A. All persons or entities hereunder considered to be an OWNER (in whole or in part) of a LOT or LOTS in said SUBDIVISION, provided that no person or entity taking title as security for the payment of money or the performance of any obligation shall thereby become entitled to membership. Such conditions shall be the only qualifications for membership in this ASSOCIATION.
- ✓ B. Whenever ownership of record within the SUBDIVISION of a LOT or LOTS is in joint tenancy or as tenants in common by two or more persons or entities, the membership as to such LOT or LOTS shall be joint and the rights of such membership (including the voting rights arising therefrom) shall be exercised only by the joint action of all persons or entities identified as joint tenants or



U of S R 41.00 D 0.00 N 0.00 Huerfano Co., J. Benitez

tenants in common for such LOT or LOTS.

- C. Membership in this ASSOCIATION shall lapse and terminate when any person or entity shall cease to be an OWNER (either in whole or in part) of a LOT.
- D. Subject to the conditions set forth in subparagraph 4.C. above, the voting power of members of this ASSOCIATION as provided within this subparagraph 4.E. shall be limited to one vote per OWNER (which may consist of one or more persons or entities) as that OWNER is identified in the deed for the LOT or LOTS, regardless of how many LOTS are contained within the land owned under such deed.
- E. At meetings of members, each member (including members of the Board of Directors of the ASSOCIATION) may vote in person or by proxy. All proxies shall be in a writing approved by the ASSOCIATION and filed with the Secretary of the ASSOCIATION and for a stated period of time. No proxy shall extend beyond ten (10) months and shall automatically cease upon a conveyance of the LOT or LOTS owned by OWNER to a new OWNER.

5. Board of Directors, Election of Officers, and Meetings.

- A. Five (5) initial ASSOCIATION members shall serve on the Board of Directors as appointed to their office by William C. Houchin. Each Board member shall serve a term of one (1) year. Whenever a vacancy occurs on the Board prior to expiration of the Board's term, a new Board member shall be elected by the ASSOCIATION to fill that vacancy for the duration of the unexpired term.
- B. Election to the Board shall be by written ballot after nomination of two or more members of the ASSOCIATION. The names receiving the largest number of votes shall be elected. At such election, the members or their proxies may cast the number of votes they are entitled to exercise under the provisions of this covenant.
- C. Board of Directors shall hold their regular meeting on the _____ of each quarter at _____ p.m. and the Board may, by resolution, change the day and hour of such regular meeting. Notice of any meetings shall be mailed to ASSOCIATION members at least fourteen (14) days in advance of such meeting and shall set forth the general nature of the business transacted. The majority of the Board of Directors (including Board members as may be represented by proxy) shall constitute a quorum; no meeting shall be held unless a quorum of the Board is present.
- D. Officers of the Board of Directors shall be President, Vice President (a title for which two Board members shall hold), Secretary and Treasurer. Each such



334868 07/29/1998 03:22 DEC
S of S R 41.00 D 0.00 N 0.00 Racer-Farms Co. J. S. S. S.

Declaration of Homeowners' Association Covenants - Paradise Acres
Huerfano County, Colorado
Page 6

Officer shall be elected by a majority of the ASSOCIATION members pursuant to nominations received from the members. The Officers shall serve in their respective capacities without compensation but may be reimbursed with the Board's approval for any extraordinary costs incurred in carrying out their specific duties. The President shall preside at all meetings of the Board of Directors, shall see that all orders and resolutions of the Board are carried out, and shall sign all notes, checks, leases, mortgages, deeds, and other written instruments. The Vice President shall perform all the duties of the President in his absence. The Secretary shall record the votes, keep minutes of all proceedings, keep records of the ASSOCIATION, keep names of all members, sign all certificates of membership, and perform related duties. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the ASSOCIATION, and shall disburse such funds as directed by the Board. Both the Treasurer and the President or Vice President shall sign all checks, notes, and disbursements. The Treasurer shall keep proper books of account and cause an annual audit of the ASSOCIATION books to be made by a certified public accountant. The Treasurer shall prepare an annual budget, annual balance sheet statements, financial status reports of all regular Board meetings and related documents, and shall provide the same to the ASSOCIATION members at the regular annual meeting.

- E. The regular annual meeting of the ASSOCIATION members shall be held on the _____ of the month of _____ in each year at the hour of _____ p.m. If the day for the annual meeting shall fall upon a holiday, the meeting will be held at the same hour on the first day following which is not a holiday. Special meetings of the members may be called anytime by two or more Board members or upon written request of one-fourth (1/4) of the eligible members. Notice of any meetings shall be mailed to ASSOCIATION members at least fourteen (14) days in advance of such meeting and shall set forth the general nature of the business transacted.

6. Architectural Committee.

The Architectural Committee established under the Amended Declaration of Protective Covenants and Building Restrictions ("Protective Covenants") shall be responsible for reviewing and approving any structure proposed for construction at SUBDIVISION and otherwise responsible for enforcing the Protective Covenants. The ASSOCIATION Board shall be separate and distinct from the Architectural Committee; however, any ASSOCIATION Board member may also serve on the Architectural Committee if so elected to that Committee by a majority of ASSOCIATION members.

7. Restricted Activity.

At no time and under no circumstances shall any OWNER allow or engage in the use of



334888 07/20/1998 03:02P DEC
7 of 8 R 41.00 D 0.00 N 0.00 Huerfano Co. J Bonina

Declaration of Homeowners' Association Covenants - Paradise Acres
Huerfano County, Colorado
Page 7

firearms for target practice on his, her or its LOT or LOTS; nor shall any OWNER allow or engage in hunting on his, her or its LOT or LOTS, except as otherwise directed by local, state or federal agencies for public health purposes. Nor shall an OWNER start or maintain at any time an open fire on his, her or its LOT or LOTS, excepting barbecue grills or similar devices. Additionally, no OWNER shall cause or allow excessive noise (e.g., loud music, noisy heavy equipment) on any LOT or LOTS that disturbs the quiet use and enjoyment by any OWNER of a LOT or LOTS, except as may be associated with constructing a residence or approved structure on a LOT or LOTS, maintenance activity conducted by the ASSOCIATION on the SUBDIVISION common areas or any LOT or LOTS, or except as otherwise approved by a majority of the OWNERS.

8. Owner Responsibilities.

A. Each OWNER shall keep and maintain his, her or its LOT or LOTS in a neat and orderly condition or allow nuisance conditions on such LOT or LOTS. At minimum, no OWNER may maintain or store garbage or waste piles, automobile carcasses or parts, junk or scrap material, or any other items of any sort on a LOT or LOTS that would impair or detract from the aesthetic beauty and natural surroundings of the SUBDIVISION. Additionally, each OWNER must ensure the proper and prompt disposal of all waste and scrap material on his, her or its respective LOT or LOTS, and no OWNER may burn such waste or scrap material on such LOT or LOTS to effect disposal of such waste or material.

B. Any animals kept by any OWNER or guest of an OWNER on a LOT or LOTS shall be properly boarded or controlled by the OWNER or guest. All dogs maintained by an OWNER or guest on a LOT or LOTS shall be kept on a leash at all times while present on the SUBDIVISION.

9. Pursuant to separate agreement with SUBDIVIDER, the ASSOCIATION may use the road grader currently owned by SUBDIVIDER for carrying out the ASSOCIATION'S responsibilities hereunder and upon such terms, conditions or fees as SUBDIVIDER may require. As concerning any ASSOCIATION use of the road grader, the ASSOCIATION agrees to maintain the road grader in good operating condition, including regular maintenance, repair and replacement of parts as appropriate, and providing fuel for operation.

10. The ASSOCIATION may modify this Declaration by a three-fourths (3/4) vote of a majority of all current ASSOCIATION members. The conditions and covenants contained herein shall be binding on all parties and all persons claiming under them until January 1, 2007, at which time said covenants shall automatically extend for successive periods of ten (10) years, unless changed thereafter in whole or in part by a vote of a majority of the ASSOCIATION members.

11. Any ASSOCIATION member may enforce any of the covenants contained herein by requesting the ASSOCIATION Board to restrain such violation or to pursue legal action in a court of law with proper jurisdiction, or both. ASSOCIATION members shall pursue resolution through the Board for any alleged violation of the covenants contained herein before ASSOCIATION members may individually or collectively pursue legal action to enforce such covenants.
12. The invalidity of any one of the conditions or covenants contained herein shall in no way affect the validity of the remaining conditions or covenants herein.

IN WITNESS WHEREOF, Paradise Acres Corporation caused this instrument to be signed and sealed on the 16 day of June, 1998.

PARADISE ACRES CORPORATION

ATTEST:

BY: William C. Havelson

BY: Josephine Houchin

STATE OF COLORADO)

) ss.

COUNTY OF HUERFANO)

The foregoing instrument was acknowledged before me this 16th day of June, 1998, by William C. Havelson on behalf of PARADISE ACRES CORPORATION.

My commission expires 12/30/2000



Debra J. Potter
NOTARY PUBLIC



334888 07/20/1998 03:02P DEC
8 of 8 R 41.00 D 0.00 N 0.00 Huerfano Co. J Bonine