

BLUMENAU HOMEOWNERS ASSOCIATION FILINGS 1 & 2

17 December 2023

Greetings Blumenau Home/Property Owners,

Thank you to all who took the time to vote on the Covenant changes. At the suggestion of some homeowners, the Board extended the deadline for ballots to be returned to November 17. The Board met on December 14 to certify the votes.

The proposed changes in the Blumenau Covenants, which better align our covenants to current Custer County rules and regulations, passed.

Secondly, the addition of #16B CHICKENS FOR PERSONAL USE ONLY, also passed and has been added to the covenants.

If you are considering adding chickens to your property, you must submit a building plan (chicken coop and enclosed run area dimensions-distances from lot lines, etc.) to the Board for approval. Also, we are adding to the Blumenau Webpage articles on proper housing and care of chickens.

The Board of Directors will file the updated Covenants with the County Clerk.

Respectfully,



Kathryn Potter
President
Blumenau Homeowners Association
Filings 1 & 2

**Blumenau Homeowners' Association
Declaration of Protective Covenants**

DECLARATION OF PROTECTIVE COVENANTS (DPC) FOR BLUMENAU SUBDIVISION, FILINGS 1 & 2 ORIGINALLY FILED IN CUSTER COUNTY ON NOVEMBER 6, 1973, IN BOOK 168 ON PAGE 160; AND ARE HEREBY AMENDED AS OF

THIS DECLARATION is made the 14th day of December 2023 by the Blumenau Homeowners' Association (BHA), a Colorado Non-Profit Corporation, having its principal address at PO Box 368, in the Town of Westcliffe, County of Custer, State of Colorado.

WITNESSETH: Whereas, the BHA represents the real property owners within Blumenau Subdivision Filings 1 and 2, as depicted on plat maps numbers 108524 and 109522 on file in the County Assessor's Office, Custer County, State of Colorado.

WHEREAS, the State of Colorado Water Court Decree W-4062 (aka the Water Augmentation Plan) dated July 2, 1979, directed the organization of the BHA and its compliance with the requirements and findings of the Decree including these covenants and all restrictions thereto.

1. **HOMEOWNERS' ASSOCIATION:** The Blumenau Homeowners' Association (Association), a Colorado non-profit corporation, or its successor in interest, shall regulate, administer and enforce this Declaration of Protective Covenants. Its duties shall include, without limitation, maintenance of signs and property, administration and enforcement of the Water Augmentation Plan, and the general administration and control of the Subdivision. Each and every lot owner, in accepting a deed or contract for any lot in the Subdivision, agrees to and shall be a member of the Association and be subject to the duties and obligations created by the duly enacted Bylaws and Articles of Incorporation of the Association. By purchasing a lot in the Subdivision, the owner agrees to be subject to such assessments as may from time to time be levied on such owner by the Association. Nonpayment of such assessment may result in a record lien to be placed against such owner's lot(s). The Association shall operate as a non-profit corporation. All books, records, Articles of Incorporation, Bylaws, Policies and Procedures, and Resolutions of the Association shall be available for inspection by any prospective purchaser of a lot or any owner of a lot at any reasonable time.

2. **MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION:**
 - A. **MEMBERSHIP:** Every person or organization who is a record owner of title to any lot which is subject by the Declaration to assessment by the BHA, shall be a member of the BHA.

 - B. **VOTING RIGHTS:** Members in "good standing (see Bylaws) of the BHA shall be entitled to vote in person or by proxy: one (1) vote for each lot for which title is held or portion thereof.

3. **ASSESSMENTS:** The Association shall have the power and the authority to impose assessments against its members. Such assessments and payment thereof shall be made in accordance with the Articles of Incorporation and Bylaws of the Association. The Association may impose assessments for sign maintenance, administration of the Water Augmentation Plan, for legal fees, and for any other purpose authorized by the Association. Payment of such assessments may be secured by a lien upon all property in the Subdivision owned by the member liable for such assessment. The Association may bring an action under Colorado law to foreclose the lien on such property.
4. **ARCHITECTURAL CONTROL:** No structure, including walls and fences, shall be erected, converted, placed, added to or altered, on any lot until the plans any specifications of the nature, kind, shape, height, materials and locations, have been submitted to and approved in writing or electronically by the Architectural Committee (AC) of the BHA and comply with Custer County Planning and Zoning Resolution (CCPZR).
5. **BUILDING SIZE, TYPE AND USE:** All lots designated on the Plats for Blumenau Subdivision, Filings 1 and 2 are designated for and restricted to residential use, either for vacation or year rounds dwellings. Such structures shall be a single-family dwelling of not less than six hundred (600) square feet on the ground level, (exclusive of garages, carports, open porches, patios, decks or court areas) and comply with all CCPZR regulations. All dwellings must be securely attached to a slab on grade or other type of permanent foundation. Not more than one main dwelling shall be erected or placed on any one lot.

Accessory buildings or structures, usual to a residence, may be erected or placed thereon, such as a private stable, shed or animal shelter. These structures require no minimum dimensions, however, use of any structure for commercial purposes (the selling of goods or providing services for financial gain instead of personal use) is prohibited. Installation of mobile homes, trailers or other non-permanent homes for the main dwelling is prohibited. Prefabricated or modular homes (aka factory-built homes), if approved by the AC must have the wheels removed and be installed on a permanent foundation.

6. **BUILDING LOCATION:** All construction must comply with CCPZR requirements. In cases of a single ownership of one or more adjacent lots, this requirement applies to the tracts as a whole. For the purpose of the covenant, eaves and open porches or decks shall be considered part of the building's extreme dimensions.
7. **TIME FOR CONSTRUCTION:** Once construction is started, the exterior of the building must be enclosed within eighteen (18) months.

8. **TEMPORARY RESIDENCES:** No basement, shed, tent, trailer, camper or RV, or structure of a temporary nature may be used as a permanent dwelling. Temporary dwellings shall be permitted on site during the allowable construction period as identified in paragraph 7. Portable chemical toilets approved by the CCPZR may be used on site during the construction period. This covenant does not preclude vacation camping in tents, trailers, campers or RVs according to the CCPZR.
9. **FENCING:** Fencing which is constructed on lot lines contiguous to road right of ways as shown on the recorded plat of Blumenau Subdivision, Filing 1 and 2 must be placed no further outward from the center of any lot than the interior easement line which is indicated by notes on said plats. Fences may be constructed on the interior lot lines in contradiction of paragraph 10 of these covenants except that in such cases the lot owner shall be liable for expenses of damage, repair, and replace of such fencing as may be incurred by the installation of any utility systems. Any utility entity either public or private, shall have the right to breach any fencing or other obstructions located on a utility easement for purpose of construction and service without incurring any liability of damage thereto.
10. **EASEMENTS:** All easements must comply with the CCPZR.
11. **OBSTRUCTIONS TO VISION AT INTERSECTIONS:** No fence, wall, hedge, tree or shrub planting which obstructs sight lines according to the CCPZR shall be placed or permitted to remain on any property within the Blumenau Subdivision, Filings 1 and 2.
12. **NUISANCES:** Nothing shall be done or permitted on any tract which may be or become an annoyance or nuisance to the neighborhood. These types of events are those which would be in violation of local and state laws and ordinances and which would be enforced by local authorities.
13. **GARBAGE AND REFUSE DISPOSAL:** No part of the property, above or below ground, shall be used or maintained as a dumping ground for rubbish, trash, garbage, debris or other waste. The property shall always be maintained in a sanitary condition. Reasonable preventions shall be taken against fire hazards. Only the following types of outdoor open burning shall be allowed once a burn permit has been secured through the local fire department: (1) campfires, (2) burn barrels/incinerators with ash control, and (3) burning of brush/fire control refuse is permitted only when there is at least three (3) inches or more of solid snow cover on the ground. Compliance with the Custer County open burning plan will be strictly enforced.
14. **SIGNS:** All signs displayed upon any of the premises or tracts must be first approved by the BHA. However, small builder, real estate or professional signs, as well as signs not to exceed one (1) square foot in are acceptable.

15. WATER USAGE REQUIREMENTS

- A. WATER USEAGE: All well water is for domestic, in-house use and purposes only except for horses and other authorized domestic pets (see paragraph 16). All wells in use will require a meter to measure the volume of water used annually. Water meter readings are required annually by the Colorado Water Commission for all property wells on a date specified by the BHA.
- B: SEWAGE: All water wells and sewage disposal systems placed upon any tract shall comply with CCPZR and the Colorado State Health Department requirements.

16. ANIMALS: No livestock of any kind shall be housed, raised or kept on any tract or property either temporarily or permanently, except that commonly accepted domestic pets and may be kept provided they are not kept or maintained for any commercial purposes and except that one or two horses per lot or 5 acres owned whichever is less, may be kept for recreational purposes. No stables, corrals, or any structure for the housing or feeding of horses shall be located or placed closer than fifty (50) feet to any adjoining lot line nor closer than one hundred (100) feet to a public street. All stables, corrals or any structure for the housing or feeding of horses and accepted domestic pets shall be approved as to location and design by the BHA Board of Directors and shall be maintained in compliance with all lawful sanitary regulations.

In case of single ownership of more than one adjacent lot, then the setback restrictions of this covenant concerning horses shall apply to the tract as a whole. Horses, pets or any other animals as authorized under this covenant, shall not have free rein of the subdivision known as Blumenau Subdivision, Filings 1 and 2, and shall be kept on the property of their owner.

A: CUSTER COUNTY YOUTH 4-H/FFA PROJECTS: A project must meet the approved guidelines set forth by the Board of Directors (BOD) prior to approval. One project is defined as a "Supervised Animal Agricultural Project". Project approval will extend approximately twelve weeks and will terminate no later than July 25th. The project will be subject to random inspections by two (2) BOD members throughout the duration of the project. If at any time the project poses a verifiable nuisance to a property located within one-half mile radius, the BOS will temporarily or permanently rescind project approval. 16A guidelines can be found at blumenauhoa.com

B: CHICKENS FOR PERSONAL USE ONLY

In regards to chickens (no roosters are allowed), a maximum limit allowed is twelve (12) per property. Free range is not permitted and proper housing and enclosure is to be provided in accordance with the covenants (refer to section 16). If at any time the chickens pose a viable nuisance to a property located within a one-half mile radius, the BHA will temporarily or permanently rescind chicken approval.

17. **CHIMNEYS AND FIREPLACES:** All chimneys and fireplaces shall have a protective wire screen inside the chimney near the top to prevent any burning particles from escaping from said chimney or fireplace.
18. **MINING OPERATIONS:** No oil, gas, coal, sand, gravel or other mineral development, drilling, refining, quarrying, mining crushing manufacturing, or processing operations of any kind shall be permitted upon or in any portion of the property; nor shall oil or gas wells, tanks, tunnels, mineral excavations or shafts be permitted. The foregoing shall not be construed to prevent the drilling of water wells to serve the premises for domestic in-house use purposes.
19. **PRESERVATION OF NATURAL TIMBER:** Live trees shall not be removed or damaged, except as required for on-site construction, conservation, disease control, soil erosion, and fire safety zone purposes. See complete guidelines in the CCPZR.
20. **HUNTING AND USE OF FIREARMS:** No hunting of any kind shall be permitted in any of the areas covered by these covenants. Further, no use of or discharge of firearms, except to protect one's life or property, shall be permitted within any of the land area herein covered.
21. **FIREWORKS:** The use of or discharge of fireworks of any kind is expressly forbidden.
22. **DRIVEWAYS:** Culverts as prescribed by the CCPZR (at least fifteen (15) inches in diameter and twenty (20) feet long, must be installed at road entrance driveways in all instances in which proper drainage would otherwise be obstructed. County permits are required.
23. **DRAINAGE:** Nothing shall be done on any lot which shall obstruct or prevent the natural and/or proper flow of drainage. No building shall be constructed in such a way as to intrude into any drainage area a specified on the Blumenau Drainage Plan. Holding ponds are not allowed.

24. OPEN STORAGE:

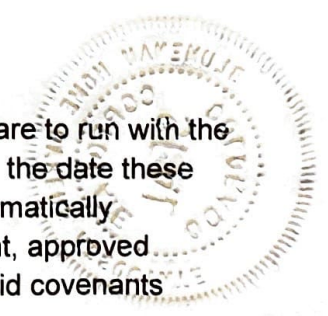
- A. No open storage of personal property or vehicles on vacant lots is permitted. Vacant lots are defined as those lots with no permanent dwelling or other structure such as a garage, barn or shed on them.

The intent is that vacant lots not be turned into a place to openly store junk, broken down vehicles, equipment and other property items that could be considered an eyesore by other owners. Storage of property, vehicles and other equipment in operating condition, like boats, RVs, trailers, motorcycles, tractors, heavy equipment vehicles, four-wheelers, ATVs, etc. is allowed on lots with permanent dwellings on them, openly or in structures like barns, garages and sheds. Vacant lots with a barn or other structures like garages and sheds may be used to store any legal property items and vehicles inside those structures.

The intent of this covenant restriction is to preclude the open and permanent storage of personal property, vehicles, equipment or temporary living structures like trailers, camper shells, RVs and tents on vacant lots.

- B. Building materials intended for use in the erection or remodeling of a building or auxiliary structure on the premises may be kept in the open during the construction period, but not to exceed eighteen (18) months in any event.
- C. No lot owner may openly store a motor vehicle or equipment of any type on the property in a non-operating condition for more than thirty (30) days in any calendar year. Any such vehicle which does not display current and valid license plates, where required by law, shall be deemed to be in a "non-operating" condition.

25. **RIGHTS OF THE BLUMENAU HOMEOWNERS' ASSOCIATION:** The BHA expressly reserves the right:
- A. From time to time to amend or revoke any restrictive covenants then in existence, but no such amendment or revocation shall apply to covenants without the written consent of a majority of the membership. No amendment to these protective covenants shall be made inconsistent with the terms of the Water Decree absent further order of the court. To undertake necessary maintenance and repair by the BHA occasioned by member's neglect. No lot owner will permit the lot, dwelling, auxiliary buildings or any improvements thereon to be otherwise maintained than in good repair and in a safe, neat and attractive condition, so as to prevent damage to neighboring properties or to eliminate any existing dangerous conditions that may affect the surrounding property or persons. If, in the judgment of the BHA's Board of Directors, a member neglects proper maintenance, the owner of the lot will be notified to rectify the condition within thirty (30) days, otherwise the cost to the BHA to correct the condition will be assessed to the lot owner.
 - B. To enforce these covenants 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 BHA further reserves the right, whenever there shall have been an obvious violation of one or more of the provisions of these covenants, to enter upon the property with the proper authorities, where such violation exists and summarily abate or remove the same at the expense of the owner and such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any right, reservation, restriction, or condition contained herein, however long continued, shall not be deemed a waiver of the right to do so thereafter as to the same breach or as to breach occurring prior to or subsequent thereto and shall not bar or affect its enforcement. The invalidation by any court of any restriction here in contained shall not in any way affect any of the other restrictions by they shall remain in full force and effect.
26. **TERMS OF THESE COVENANTS:** These covenants and restrictions are to run with the land and shall remain in full force and effect for twenty (20) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument, approved by a majority of the BHA membership has been received, changing said covenants in whole or part.



27. PRIOR DECLARATIONS: This Declaration hereby replaces and supersedes any and all prior protective covenants filed for record or established with respect to the real estate included in the Subdivision. All such prior protective covenants are considered void and of no effect.

The Association having on file a majority of approving votes/proxies of the members in good standing, submit these amended Protective Covenants to be duly adopted and recorded:

EXECUTED this 8th day of January, A.D., 2023⁴.

Blumenau Homeowners' Association (BHA 1 & 2)

By: Kathryn Potter
Kathryn Potter
President

Attest: By: Traci Terry
Traci Terry
Secretary/Treasurer

State of Colorado) ss.
County of Custer)

The foregoing Declaration of Protective Covenants for Blumenau Subdivision, Filings 1 & 2 was acknowledged and signed before me this 8th day of January, 2023 by Kathryn Potter, President and Traci Terry, Secretary/Treasurer, authorized officers of the above Association.

WITNESS my hand and official seal:



Trisha Montgomery
Notary Public

My commission expires: Oct 11, 2027
Address: 205 S 6th St Westcreek, CO 81752



Filed in the Custer County Courthouse on 1/8/2024