

Disclaimer:

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84-96985

DECLARATION OF RESTRICTIONS

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SANDIA HEIGHTS NORTH - UNIT 3
BERNALILLO COUNTY, NEW MEXICO

KNOW ALL MEN BY THESE PRESENTS:

That SANDIA PEAK TRAM COMPANY, a New Mexico corporation, hereinafter called "Grantor", being the owner of the following described property situate in Bernalillo County, New Mexico, to-wit:

Lots A - 1, A - 2, and A - 3 of the plat filed August 29, 1984 and Lots Numbered 251A through 257A, inclusive, of SANDIA HEIGHTS NORTH, UNIT 3, as the same is shown and on the plat thereof filed in the office of the County Clerk of Bernalillo County, New Mexico on December 10, 1984.

hereby declares that it has established, and does hereby establish a general plan for the improvement, development and restriction of said property, subject to which all lots in said subdivision shall be sold and conveyed.

All the reservations and restrictions hereinafter set forth are made for the benefit of each and every subsequent owner of any portion of the land in said subdivision or any interest therein, and shall inure to and bind all subsequent owners thereof; said restrictions, reservations and covenants being as follows:

1. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until the year 2010 A.D., at which time said covenants shall be automatically extended for successive periods of ten (10) years. These covenants may be amended at any time by the affirmative vote of the then record owners of three-fourths (75%) of the residential lots in said Sandia Heights North, Unit 3.
2. If the parties hereto, or any of them, or their grantees, successors-in-interest or assigns, shall violate or attempt to violate any of the covenants herein provided, Grantor or any other person or persons owning any real property in said Sandia Heights North, Unit 3, shall have the right to prosecute any action in the proper court to enjoin such party from violating such covenant, or to recover damages for such violations, or both.

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3. Invalidation of any of these covenants shall in no way affect the validity of the other provisions, which shall remain in full force and effect.
4. All lots in Sandia Heights North, Unit 3, are hereby designated residential lots. No structures shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling, and buildings related thereto, except that this provision shall not prevent the combination of adjoining lots for one such dwelling; however, in no event shall any lot be further subdivided. The Grantor may dedicate one or more lots, or any portion thereof, as a park.
5. Except by specific consent of the Architectural Control Committee, no building shall be located on any residential lot nearer than thirty-five (35) feet to the front lot line or fifteen (15) feet to the rear or any side lot line.

EXCEPT BY SPECIFIC APPROVAL OF THE ARCHITECTURAL CONTROL COMMITTEE, NO RESIDENCE SHALL BE A FULL TWO-STORY STRUCTURE, NOR MAY THE SECOND STORY CONTAIN MORE THAN 33% OF THE TOTAL HEATED AREA OF THE ENTIRE STRUCTURE. A TWO-STORY STRUCTURE IS DEFINED AS ONE WHICH IS TWO FULL STORIES ABOVE THE NATURAL GRADE OF THE LOT ON ALL SIDES.

6. An Architectural Control Committee (hereinafter called the Committee) is hereby established, consisting of Robert M. Murphy and Ben L. Abruzzo as the appointees, to serve for a period of ten years from the date hereof and until their successors shall be appointed and qualify. Vacancies occurring either before the end of or as a result of the expiration of such ten year term shall be filled by appointment of a successor, by the members of the Committee, provided that within thirty (30) days of any appointment, owners of a majority of the residential lots may select other appointees in their stead.
7. BEFORE ANYONE SHALL COMMENCE THE CONSTRUCTION, REMODELING, ADDITION TO, OR ALTERATION OF ANY BUILDING, SWIMMING POOL, WALL, FENCE, TANK, ANTENNA, OR OTHER STRUCTURE WHATSOEVER, ON ANY LOT, PLANS SHALL BE SUBMITTED TO THE GRANTOR FOR TRANSMITTAL TO THE ARCHITECTURAL CONTROL COMMITTEE:
 - a. Preliminary floor plans, elevations and location of the structure on the lot;
 - b. after approval of preliminary plans, two complete sets of the final plans and specifications for said work.

No structure or improvement of any kind shall be erected, altered, placed or maintained on any lot unless and until the final plans, elevations and specifications therefore have received such written approval as herein provided. Such plans shall include plot plans showing the location on the lot of any structures proposed to be constructed, placed, altered, or maintained, and elevation of same, together with the proposed color scheme for roofs and exteriors thereof, indicating materials for same.

8. ANY VISIBLE HEATING OR AIR CONDITIONING EQUIPMENT SHALL BE THOROUGHLY SCREENED. NO UNSCREENED ROOF MOUNTED HEATING AND AIR CONDITIONING EQUIPMENT, WILL BE APPROVED. SOLAR HEATING EQUIPMENT WILL BE CONSIDERED FOR APPROVAL BASED ON THE MERIT OF ITS DESIGN AND THE MANNER IN WHICH IT IS CONSTRUCTED SO AS NOT TO DETRACT FROM OTHER HOMES IN THE SUBDIVISION. ROOF MOUNTED EQUIPMENT WILL BE DIFFICULT TO CONCEAL, HOWEVER, IF THE COLOR AND STRUCTURE IS DONE IN GOOD TASTE THIS TYPE OF INSTALLATION WILL BE CONSIDERED FOR APPROVAL.
9. The Architectural Control Committee WILL NOT APPROVE THE FOLLOWING:
 1. WHITE ROOFING MATERIAL
 2. TRANSLUCENT OR TRANSPARENT GARAGE DOORS
 3. CHOICE OF EXTERIOR COLORS WHICH DO NOT BLEND INTO THE NATURAL TERRAIN.
 4. OUTSIDE CLOTHES LINES WHICH ARE VISIBLE FROM ANY DIRECTION.
 5. VISIBLE BUTANE TANKS
 6. BRICK OR BRICK VENEER EXTERIOR
10. The Architectural Control Committee is authorized to charge not more than \$250.00 for review of plans for structures and alterations. At the time of submission of the plans and specifications as set forth herein, the owner shall pay said fee in advance to the Grantor. The Committee shall approve or disapprove said plans and specifications within thirty days from the receipt thereof. One set of said plans and specifications with the Committee's approval or disapproval endorsed thereon shall be returned to the owner and the other copy thereof shall be retained by the Grantor.

The Committee shall have the right to disapprove any plans, specifications or details submitted to it as aforesaid, in the event such plans and specifications are not in accord with all the provisions of this declaration, or if a design or color scheme in the proposed structure is not in harmony with the general surrounding of such lot or the adjacent structure, or if the structure shall unduly interfere with the view from nearby residences, or if the Committee deems said plans and specifications to be contrary to the spirit and intent of those restrictive covenants or contrary to the interest and the welfare and rights of all or any part of the Sandia Heights North, Unit 3. The decision of the Committee in any of these matters shall be final, and no building or improvement of any kind shall be constructed or placed upon any lot in Sandia Heights North, Unit 3 without the prior consent of the Committee.

Neither the Committee, its members or the Grantor shall be responsible in any manner whatsoever for any defect in any plans or specifications submitted nor as revised by said Committee or the Grantor, or for any work done pursuant to the requested changes of said plans and specifications.

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11. No residence shall be erected on any residential lot having an area of less than 2,000 square feet of heated living area.
12. No trade or offensive activity of any kind shall be carried on upon any lot, nor shall anything be done on any lot which shall constitute an annoyance or nuisance to the neighborhood.
13. No trash or garbage shall be burned on the premises. Garbage shall be placed in covered containers, said containers to be concealed from public view by an attractive enclosure.
14. No trailer, tent, shack, garage or other out-building shall be used as a residence, temporarily or permanently.
15. No commercial type vehicles, trucks, campers, boats, house trailers, mobile homes, recreational vehicles, or camper trailers shall be visibly parked or stored on any residential lot or tract for an unreasonable period of time (15 consecutive days or 30 non-consecutive days or more) except in enclosed garages, or parked on any residential street or alley except while engaged in transport to and from a residence. For the purpose of this covenant a 3/4 ton or smaller vehicle, commonly known as a pick-up truck, shall not be deemed a commercial vehicle or truck. Such vehicle shall be deemed a commercial vehicle or truck when equipped with a camper and shall not be exempt from the restrictions heretofore mentioned in this section.

No unused automobiles or vehicles of any kind except is hereinabove provided shall be stored or parked on any lot except in a closed garage. An "unused vehicle" shall be defined as any vehicle which has not been driven under its own power for a period of thirty consecutive days or longer. In the event any unused vehicle remains parked on any tract or lot within the property boundaries, the Grantor shall have the right to remove the same after 48 hours notice to the owner thereof, the expenses to be charged against the owner thereof, and such charges shall become a lien upon the recording of a notice of lien and shall be enforceable.

16. The exterior of all buildings on all lots shall be finished according to plans approved by the Architectural Control Committee within twelve months of start of construction.
17. Each residence shall be provided with a method of sewage disposal meeting the recommended standards of the Bernalillo County Health Department and approved by the Architectural Control Committee. Garbage and waste shall be kept in covered metal containers.
18. Natural vegetation is to be left undisturbed, where practical, on all lots, except for access to property, clearing, of building sites and establishment of lawns and flower beds adjacent to buildings. No Chinese Elms, cotton-bearing Cottonwood Trees or Bermuda Grass shall be maintained on any lot. No lawns shall be more than 500 square feet of any lot. Natural vegetation is to be restored to its original state whenever and wherever

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possible within 180 days of the completion of construction of the house located on any lot.

19. Without specific approval of the Architectural Control Committee no grouping of trees shall be planted to constitute a screen. Each dwelling shall be developed in such a manner as to comply with the standards of the Albuquerque Metropolitan Flood Control Authority or its successor then in force. Natural drainage channels shall not be changed by any construction. Public agencies and Grantor or its designee shall have the right to enter upon all drainage easements for construction and maintenance of drainage facilities.
20. Access roads and utility easements are dedicated and reserved as shown on the Plat of the Subdivision. All rights to minerals, water, oil and natural gas underlying the property are reserved to the Grantor.
21. Butane tanks must conform to state regulations and must be screened, and located so as not to detract from the appearance of any lot and not be visible from the street or any neighboring lot.
22. No animals shall be kept on any lot except domestic cats and dogs. Keeping of these animals will be in accordance with county ordinances.
23. No wire fences shall be maintained in the residential area of the Subdivision, except by Grantor on Subdivision boundaries. No walls, of any kind, will be approved that are located on the lot boundaries. Except by specific approval by the Architectural Control committee, fences, walls and patios must adhere to at least the normal set back requirements.
24. No residential lot may be subdivided, nor may a portion of any residential lot be sold except to adjacent property holders for the purpose of increasing the size of an adjacent lot. No room or rooms in any residence may be rented or leased to any person, providing however, that nothing contained herein shall be construed as preventing the renting or leasing of an entire lot together with its improvements as a single unit to a single family.
25. It shall be the responsibility of owners of lots, vacant or otherwise, to keep said lots, and all easement areas encompassed within the exterior boundaries of said lots, clear of trash, rubbish or noxious materials.
26. All clotheslines, antenna receiver discs, basketball backboards, equipment, garbage cans, service yards, woodpiles or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighborhood residential units and streets. All clotheslines shall be confined from view in any direction. Antenna Receiver Discs must have specific approval by the Architectural Control Committee.
27. Without specific consent from the Architectural Control Committee no antenna larger than a normal T.V. type antenna of 5 feet or less in height shall be maintained on the roof or any other location on any property.

28. No un-shaded flood lights shall be maintained which cause light to shine directly into the home of any other resident in the Subdivision.
29. In the event that any structure is destroyed, wholly or partially by fire or any casualty, such structure shall be promptly rebuilt or repaired to conform to this Declaration or shall be removed from the lot.
30. In the event any owner fails to remove debris or unsightly material, the Grantor may remove said debris or unsightly material and charge the cost of removal, including reasonable overhead charge, against the owner together with interest. If such charge is not paid to the Grantor within 30 days after written notice to the owner demanding payment, the assessment shall bear interest from the date of said notice at the rate of 15% per annum, and the Grantor may bring an action at law against the owner obligated to pay the same. Such charges shall become a lien against the lot or tract concerned upon the recording of a notice of lien and said lien may be foreclosed by the Grantor against the property, the same as any mechanic's lien, and interest costs and reasonable attorney's fees of any such action shall be added to the amount of such lien. Said notice of lien shall state the amount which has become due, a description of the property and the name of the owner or reputed owner of such property. Such notice shall be executed by the Grantor, or its agent, and acknowledged. Upon the satisfaction of said lien, the Grantor or its agent shall issue a further notice similarly signed and acknowledged, stating that said lien has been satisfied and releasing the same. Each owner, of any lot or tract by his acceptance of a conveyance of said lot or tract hereby vests in the Grantor, its agents or assigns, the right and power to bring all actions against such owner personally for the collection of all charges provided for in this Declaration of Restrictions, and to enforce any such lien by all means available for the enforcement of such liens, including foreclosure in like manner as a mechanic's lien, a Mortgage or Deed of Trust Lien on said property. The Grantor, its agents or assigns shall have the power to bid in any interest foreclosed at foreclosure sale. Said lien shall be subordinate to the lien or charge of any prior Mortgage or Deed of Trust for value of said property.
31. Any and all of the right, title, interest and estate given to or reserved by the Grantor herein or on the plat may be transferred or assigned to any person, firm or corporation by appropriate instrument in writing duly executed by the Grantor and recorded in the office of the Clerk and recorded in Bernalillo County, New Mexico, and whatever the Grantor is hereby referred to, such reference shall be deemed to include its successors and assigns.

No delays or omission on the part of the undersigned, its successors or assigns, or of the owners of other lots in said Subdivision having the right hereunder to exercise the same, in exercising any right, power or remedy herein provided for in the event of any breach of the restrictions, covenants, or reservations herein contained, shall be construed as a waiver thereof, or acquiescence therein; and no right of action shall accrue, nor shall any action be brought or maintained by anyone whatsoever against the undersigned, its successors or assigns, for or on account of failure or neglect to exercise any right, power or remedy herein provided for in the event of breach of said covenants, restrictions or reservations.