

Disclaimer:

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Declaration of Restrictions 79

**SANDIA HEIGHTS SOUTH - UNIT 17 A SUBDIVISION
DESIGNATED R-1 Lots 1-27
IN 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 SANDIA HEIGHTS SOUTH, UNIT 17, a Subdivision in Bernalillo County, New Mexico, in accordance with the Plat thereof filed in the office of the County Clerk of said County on ~~XXX~~ 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 and portions of 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 the-n until the year 2000 A.D., at which time said covenants shall be automatically extended for successive periods of ten years, unless the then record owners of a three-quarters majority of the residential lots in said Sandia Heights South - Unit 17 agree to change said covenants in whole or in part.
2. If the parties hereto, or any of them, or their heirs or assigns, shall violate or attempt to violate any of the covenants herein provided, any other person or persons owning any real property in said Sandia Heights South - Unit 17 Development or Subdivision 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 violation, or both.
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 South Unit 17 are hereby designated residential lots. No structures shall be erected, altered, placed or permitted to remain on any residential 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. 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. A TWO STORY STRUCTURE IS DEFINED AS ONE WHICH IS TWO FULL STORIES ABOVE THE NATURAL GRADE OF THE LOT ON ALL SIDES. IN NO CASE MAY THE SECOND STORY CONTAIN MORE THAN 33% OF THE TOTAL HEATED AREA OF THE ENTIRE STRUCTURE.

6. An Architectural Control Committee (hereinafter called the Committee) is hereby established consisting of Robert M. Murphy, Ben L. Abruzzo and Max Flatow 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 the members of the Committee, provided that within thirty 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, OR OTHER STRUCTURE WHATSOEVER, ON ANY LOT, THEY 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 upon 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 material for same.

- c. Solar Heating Restrictive Covenants. 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 be obtrusive to 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 can be considered for approval.

The Architectural Control Committee WILL NOT APPROVE THE FOLLOWING:

1. WHITE ROOFING MATERIAL
2. TRANSLUCENT OR TRANSPARENT GARAGE DOORS

3. VISIBLE HEATING OR AIR CONDITIONING EQUIPMENT SHALL BE SCREENED. NO ROOF MOUNTED HEATING AND AIR CONDITIONING EQUIPMENT WILL BE APPROVED
4. CHOICE OF EXTERIOR COLORS WHICH DO NOT BLEND INTO THE NATURAL TERRAIN
5. OUTSIDE CLOTHES LINES WHICH ARE VISIBLE FROM ANY DIRECTION.
6. ANTENNAS MORE THAN 5 FEET HIGH
7. VISIBLE BUTANE TANKS

The Architectural Control Committee is authorized to charge not more than \$100.00 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 cause to be paid to the Grantor an initial charge in the amount of \$50.00. 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 surroundings 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 these restrictive covenants, or contrary to the interest and the welfare and rights of all or any part of Sandia Heights South Unit 17. 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 South Unit 17 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.

8. No residence shall be erected on any residential lot having an area of less than 2,000 square feet of living area.
9. 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.

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.

10. No house trailer, boat, mobile home or recreational vehicle shall be parked or stored on any lot, nor shall any trailer, tent, shack, garage or other out-building be used as a residence temporarily or permanently.

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11. 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.
12. 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.
13. 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 of more than 500 square feet. Natural vegetation is to be restored to its original state whenever possible.

No grouping of trees shall be planted to constitute a screen. Each dwelling shall be developed in such a manner as to retain 50% or more of the storm water run-off within the boundaries of each residential lot, so as to comply with the standards of the Albuquerque Metropolitan Flood Control Authority or its successor then in force. Remaining run-off shall drain into existing channels as shown in the recorded plat of the property. Natural drainage channels shall not change by any construction. Public agencies shall have the right to enter upon all drainage easements for construction and maintenance of drainage facilities.

14. Access roads and utility easements are dedicated and reserved as shown on the Plat of the Subdivision. All Rights to water, oil and natural gas underlying the property are reserved to the Grantor.
15. Butane tanks must conform to state regulations and must be screened and located so as not to detract from the appearance of any lot.
16. No animals shall be kept on any lot except domestic cats and dogs.
17. 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. Fences, walls and patios must adhere to the normal set back requirements.
18. 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.
19. 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.
20. No un-shaded flood lights shall be maintained which cause light directly into the homes of other residents in the Subdivision.
21. In the event that a structure is destroyed, wholly or partially by fire or any other casualty, said structure shall be properly rebuilt or repaired to conform to this declaration or, all the remaining structures, including the foundations and all debris, shall be removed from the lot.

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22. 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 wherever 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 or in the event of breach of any said covenants, restrictions or reservations.

Signatures on file in the SHHA office.