

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
VENTURA ESTATES

KNOW ALL MEN BY THESE PRESENTS, THAT:

WHEREAS, the undersigned, B.R. Land Developers Inc., a New Mexico Corporation is the owner and contract purchaser of all legal and equitable interests in certain land situated in Bernalillo County, New Mexico, described as:

VENTURA ESTATES
Lots 1 thru 28, Block A,
Lots 1 thru 12, Block B.
Lots 1 thru 12, Block C.
Lots 1 thru 13, Block D.

As the same are shown and designated on the plat thereof filed with the office of the County Clerk of Bernalillo County on May 12, 1992, in Vol. 92-C, Folio 80, hereafter referred to as the Subdivision.

WHEREAS, the party hereto desires to restrict and impose certain protective covenants on the above described property.

NOW, THEREFORE, in consideration of the foregoing and other valuable considerations, the undersigned, being the owner of all the legal and equitable interest in and to said described land effective at such time as the undersigned fulfills its obligations as contract purchaser and thereby becomes owner of all legal interests in and to said land, does create and establish the following protective covenants for said land, to-wit;

I. LAND USE

No lot or any portion thereof shall be used except for single-family residential purposes. No building shall be erected, altered, placed, or permitted to remain on any lot other than one (1) single-family detached dwelling. Each dwelling unit shall have an attached private garage for no fewer than two (2) nor more than three (3) cars. No portion of any building shall exceed the lesser height of (A) twenty-six feet (26') in height above the highest finished grade of the residential lot, except for chimneys and television antennae of reasonable size, or (b) the height equal to building height limitations to preserve solar access provided in the ordinances of the City of Albuquerque. For purposes of this paragraph, a garage shall be considered to be part of the dwelling to which it is attached. These standards are to be in effect unless modified by the Architectural Control Committee.

No lot shall be split or further subdivided so as to reduce the area thereof, except as necessitated by correction of encroachments or other boundary deficiencies caused by errors in surveying and/or construction, unless approved by the Architectural Control Committee. B.R. Land Developers Inc., reserves to itself and to the Architectural Control Committee the right for either to change building/lot lines on any lot so long as B.R. Land Developers Inc. holds legal title to such lot, and likewise reserves the right to change the same after it has parted with such legal title provided the consent of the owner of such title is first obtained.

Any lot or portion thereof may be used as a sales office, model home complex, or storage and construction yard during the construction and sales period. All temporary uses as must have the prior written approval of the Architectural Control Committee, which shall establish written requirements therefore.

No drilling, exploration, exploitation, quarrying, mining, extraction, development, or other operations for oil, gas, coal, and other minerals shall be permitted on or within any numbered lot within VENTURA ESTATES and no derrick, tank, or other structure for use in connection

with such operations shall be erected, placed, maintained, or permitted to remain upon any numbered lot within VENTURA ESTATES.

II. LOCATION AND SET BACKS

No building shall be located on any lot in such a manner as to violate the City of Albuquerque Zoning Ordinance(s), Subdivision Regulations, or any other public ordinance adopted by any governmental authority having jurisdiction over the lots which might pertain to building construction and/or location. Minimum building setback shall be the greater of (a) , twenty feet (20') from the front property line and five feet (5') from either side property line; or (b) the front yard and side yard setback requirements imposed by the ordinances of the City of Albuquerque for the proposed plan for compliance with all applicable ordinances in effect at that time regarding building and front and side yard setbacks. For the purpose of the limitations imposed by these covenants (but not those imposed by ordinance if defined otherwise therein), eaves, steps, patios, walkways and open porches shall not be considered as part of a building. In no case shall eaves, steps, patios, walkways or open porches encroach upon another lot.

III. MINIMUM AREA OF RESIDENCE

The ground floor area of the main structure, exclusive of garages, open porches or other appurtenant structures, shall be not less than 1800 square feet for a one-story building. In the case of residences of more than one story, not less than 1200 square feet shall be in the ground floor area and a dwelling of more than one story shall have a total floor area of not less than 1800 square feet. In cases of multiple-level dwellings, the Architectural Control Committee shall conclusively determine what constitutes ground floor area as distinguished from basement or other non-ground floor areas.

IV. MECHANICAL EQUIPMENT-ANTENNA

Without the prior approval of the Architectural Control Committee, no antenna, transmitter, receiver, solar device, or other unnatural protrusion shall be attached to any residence or permitted or constructed on any lot during construction, or at any time thereafter. In considering whether to grant approval for attaching such devices or equipment to any residence or permitting construction of the same on any lot the Architectural Control Committee may require that the same be attached to the residence at ground level and/or in a position that is as concealed as possible, and/or behind a wall or fence.

V. FENCES AND WALLS

No fence or garden wall, except necessary retaining walls of minimum height, shall be erected between the front of building setback line and the front property line. On corner lots no side street fence or wall, except necessary retaining walls of minimum height, shall be erected nearer to the front street than the rear of the dwelling, nor nearer the side street than than the setback permitted by the City of Albuquerque Zoning regulations. Variances from the foregoing limitations on erection of fences or garden walls may be made by written permission of the Architectural Control Committee and the approval of the City of Albuquerque.

Side-yard and rear-yard fences or walls are required, and shall not be less than four feet (4') in height above finished grade. Side yard fences or walls, except fences or walls facing a side street on a corner, shall extend from the rear to a point not less than three feet from being even with the front of the building closest to the fence or wall. All side-yard and rear-yard fences shall be constructed on the property lines.

The owners of lots upon which a wall constructed around the perimeter of the subdivision is located shall not remove or modify such wall nor cause the color of the same to be changed from its original color; and shall be responsible for maintaining the wall in an attractive and safe manner for that portion thereof located on or adjacent to the lot owner's property. Walls that have been constructed around electrical switch cabinets, telephone risers, etc., or which have been located to comply with site distance requirements shall not be removed or relocated.

Retaining walls shall be party walls if placed on the common property line of two lots and shall not be removed by either property owner, nor the color altered by either property owner without the consent of the other(s).

All fences and walls exposed to the front of dwelling and visible from the street must be covered in materials to match the dwelling, ie, stucco, brick.

No fence of any kind, including privacy fences, cyclone fences, tennis court fences, or extensions of existing walls or fences, any which is visible from outside the lot, shall be constructed or permitted without the prior approval of the Architectural Control Committee.

VI. TOLERANCE

A Six (6) inch tolerance variation is allowable to accomodate mechanical variances of construction from the minimum distance requirements imposed under any of these protective covenants.

VII. TEMPORARY STRUCTURES

No structure of a temporary character (including, but not limited to, motor home, camper, trailer, boat, recreational vehicle, tent, shack, garage, barn, storage shed or other outbuilding) shall be stored, used, erected or constructed on any lot without the prior written approval of the Architectural Control Committee. In no case shall any of the above mentioned structures be used as a residence, either temporarily or permanently. No campers, house trailers, motor homes, recreational vehicles, or trucks over 3/4 ton shall be stored or parked on any lot except while parked in a closed garage; nor shall such vehicle be permitted to be parked permanently on any street within VENTURA ESTATES. No boat of any kind may be stored on any lot except while parked in a closed garage or back yard of reasonable size with appropriate screening or fencing. No vehicle of any type may be repaired on any lot except while parked in an enclosed garage.

VIII. PUBLIC UTILITIES

Easements and right-of-way for installation and maintenance of utilities and drainage facilities are reserved as indicated on the plat, or as subsequently granted and recorded by document.

IX. GRADING AND LANDSCAPING

No lot may be landscaped or regraded in such a manner as to cause the drainage characteristics of the lot to differ materially from the approved grading plan; and in no case shall the drainage characteristics be modified in such a way as to cause damage to adjacent properties. Any modification shall require the prior written approval of the Architectural Control Committee. Landscaping of front yards shall be completed within one (1) year from the date the dwelling is first occupied.

X. STORAGE

No exterior storage of any items of any kind shall be permitted, except with prior written approval and authorization of the Architectural Control Committee. Any such storage as is approved and authorized shall be in areas attractively screened or concealed (subject to all required approvals as to architectural control) from view from neighboring property, dwelling units, pathways and streets. This provision shall apply without limitation to woodpiles, camping trailers, boat trailers, travel trailers, boats, mobile homes and unmounted pickup camper units. No automobile, truck, or other vehicle, regardless of ownership, age, condition or appearance shall remain on any lot in any manner which could be construed as being stored, neglected, abandoned or otherwise not in frequent use, except pursuant to written approval and authorization of the Architectural Control Committee.

XI. MAINTENANCE OF LOTS-NUISANCES

Owners of vacant lots and owners of residences will be responsible for keeping the lots cleared and free of all weeds, trash and other detracting conditions.

No noxious or offensive activity or use contrary to the laws of the United States of America or the State of New Mexico, or the ordinances of the City of Albuquerque or any other governmental authority having jurisdiction shall be carried on upon any lot; nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood.

XII. SIGNS

No sign of any kind shall be displayed to the public view on any lot except one non-illuminated professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder or realty office to advertise the property during the construction and initial sales period. Signs reasonably necessary for subdivision identification and direction may be constructed by B.R. Land Developers Inc. or its successors in interest.

XIII. LIVESTOCK AND POULTRY

No animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs and cats will be allowed provided they are not kept, bred, or maintained for commercial purposes, and such other pets as are kept in the dwelling on any lot at all times will also be allowed provided such pets are not kept, bred, or maintained for commercial purposes.

XIV. ARCHITECTURAL CONTROL

No building, garage, fence, wall, basement, shed, outbuilding or other structure of any kind, whether permanent or temporary, shall be erected, placed or altered on any lot until construction plans and specifications, and a plan showing the location of the structure, have been approved by the Architectural Control Committee as to quality of materials, harmony of external design with existing structures, and as to the location of the building with respect to topography, setback requirements and finish grade elevations. All construction, whether new construction, alterations, additions or remodeling, shall be completed within six (6) months from the date of the commencement. No lot shall be used for the storage of materials for a period greater than thirty (30) days prior to the start of construction and during the construction period. All lots shall be maintained in a neat, orderly condition at all times. No existing building shall be altered, remodeled or changed until the plans for such change, alteration or remodeling have been approved by the Architectural Control Committee. No garage may be used as a residential area, and may not be used or altered to a size smaller than is necessary to accommodate two (2) full-sized automobiles, without the prior written consent of the Architectural Control Committee. Approval shall be as provided in Article XVII hereof.

XVI. ARCHITECTURAL CONTROL COMMITTEE

B.R. Land Developers Inc., shall act as the initial Architectural Control Committee (ACC) and shall designate representatives to act for it on said Committee. At its discretion, B.R. Land Developers Inc., may appoint a committee of not less than three (3) persons to act as a permanent Architectural Control Committee, and a majority of the Committee may designate a representative to act for it. In the event of death or resignation from time to time of any member or members of the Committee, the remaining member or members shall have full authority to designate a successor or successors.

B.R. Land Developers Inc. and any Architectural Control Committee it may appoint, may at any time terminate any or all of its duties and responsibilities hereunder by filing a declaration to that effect with the County Clerk in Bernalillo County, New Mexico.

In the event no member remains on the Architectural Control Committee, new members to the Committee can be chosen in the following manner: upon written request of ten percent (10%) of the owners of lots within the subdivision, a meeting shall be held for the purpose of selecting one or more members to the Committee. Reasonable diligence shall be used to

notify the persons owning lots within said subdivision of the time and place of the meeting, and the purpose thereof.

At such meeting, up to five (5) persons may be selected as members of the Committee. Each lot owner shall be entitled to one (1) vote, cast by the owner(s) thereof, and the persons receiving the most votes shall be selected as members of the Committee.

Neither the members of the ACC nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant.

XVII. PROCEDURE

The ACC's approval or disapproval as required in these covenants shall be in writing. The ACC may at its discretion, request an owner to seek the approval of neighbors before granting approval as required in these covenants. In the event the ACC or the ACC's designated representative fails to approve or disapprove within forty-five (45) days after and only after complete plans and specifications or written application have been submitted to it, approval will be deemed to have been granted.

In the event there is a violation and no approval has been sought it will continue to be a violation regardless of elapsed time and removal may be requested.

No delay or omission in exercising any right, power or remedy provided for herein in the event of a breach of any of the provisions, conditions, restrictions and covenants herein shall be deemed a waiver thereof or acquiescence therein.

XVIII. ENFORCEMENT

Enforcement shall be by proceedings at law or in equity by the ACC or by any Owner making a complaint, against any person or persons violating or attempting to violate any covenant either to restrain the violation or to recover damages.

In the event it becomes necessary to enforce any of these protective covenants by proceedings as aforesaid, then the owner violating these covenants shall be responsible for costs and reasonable attorneys' fees for the enforcement of the same, which costs and attorneys' fees shall also become a lien against the property of such owner.

No right of action shall accrue, nor shall any action be brought or maintained by anyone whomsoever against B.R. Land Developers Inc., or any Architectural Control Committee they may appoint for or on account of the failure of neglect to exercise any right, power, or remedy herein provided for in the event of any such breach of any of these protective covenants or for imposing any provisions, conditions, restrictions, or covenants which may be unenforceable. The Architectural Control Committee shall not be obligated to enforce any covenant through legal proceedings.

XIX. REFERENCES TO THE COVENANTS IN DEEDS

Deeds to and instruments affecting any lot or any part of said Addition may contain the Covenants herein set forth by reference to this Declaration; but regardless of whether any such reference is made in any Deed or instrument, each and all of the Covenants shall be binding upon the grantee-owner or other person claiming through any instrument and his heirs, executors, administrators, successors and assigns.

XX. TERM

These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty (30) years unless an instrument signed by a majority of the then owners of the lots within the subdivision has been recorded, agreeing to change said covenants in whole or part.

XXII. SEVERABILITY

Invalidation of any of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

XXIII AMENDMENTS AND EXCEPTIONS

Until B.R. Land Developers Inc. has resigned, B.R. Land Developers, Inc., shall have the authority to unilaterally change, amend or modify these covenants, to modify or amend height and setback requirements as to any individual lot without making such changes or modifications to any other lot(s), provided such change, modification or amendment does not materially change the character or quality of the lots subject to these covenants within the described area.

B.R. Land Developers, Inc., hereby reserves and is granted the right and power to record a Special Amendment to these Protective Covenants at any time and from time to time, which amends these Protective Covenants to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Administration, the Veterans Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities to make, purchase, sell, insure or guarantee first mortgages on any lot covered by these covenants.

When compliance with any ordinance, rule or law is required by these covenants, such compliance shall be determined based upon the ordinance, rule or law existing as of the date construction of any building or structure is commenced.

These restrictions, covenants and reservations, and any amendments or exceptions thereto shall be effective as of the date of their filing with the County Clerk of Bernalillo County, New Mexico.

IN WITNESS WHEREOF, the undersigned has hereunder set their hands and seals this 15th day of May, 1992.

B. R. Land Developers Inc.

By R. Bart Rutledge, President

By Paul Blanchard, Secretary

STATE OF NEW MEXICO)
) ss
COUNTY OF BERNALILLO)

The foregoing instrument was acknowledged before me this 15th day of May, 1992, by R. Bart Rutledge, President and Paul Blanchard Secretary, of B.R. Land Developers Inc., a New Mexico Corporation, on behalf of said corporation.

[Signature]
Notary Public

My Commission Expires: 3-9-95

