

FRESNAL CREEK ACRES RESTRICTIVE COVENANTS

WHEREAS, the undersigned owners of the property hereinafter described and located in Otero County, New Mexico, have heretofore filed Document Entitled FRESNAL CREEK ACRES in the office of the County Clerk, Otero County, New Mexico, and

WHEREAS, the undersigned owners of said FRESNAL CREEK ACRES desire to make and file certain restrictive covenants affecting said property for the protection of all future property owners in said FRESNAL CREEK ACRES.

NOW, THEREFORE, the undersigned do hereby declare the creation and existence of certain restrictive covenants as hereinafter set forth and declare that said restrictions and covenants shall run with the land hereinafter described and to be binding upon all parties who are or shall become parties in interest to said land. The property covered and affected by the covenants set forth herein and the restrictions applicable hereto is described as follows, to-wit:

A tract of land in Lots 13, 14, 18, and 20 of Section 5, Township 16 South, Range 11 East, NMPM, Otero County, New Mexico described by metes and bounds as follows:
Starting at the Northeast corner of said Lot 19 and going North 89 degrees 40' 36" West along the line common to said Lots 14 and 19 a distance of 947.41 feet; thence South 19 degrees 06' 44" East a distance of 270.48 feet to the North Right-of-Way line of U.S. Highway 82, New Mexico Forest Project 35, Sections D-2 & E-1; thence along said Right-of-Way line along the arc of a curve to the right whose central angle is 06 degrees 09' 13" and whose radius is 2815.4 feet and whose chord bears North 77 degrees 51' 43" West an arc distance of 302.4 feet, thence North 74 degrees 47' West along said Right-of-Way line a distance of 181.5 feet; thence leaving said Right-of-Way line and going North 02 degrees 55' 11" West a distance of 438.49 feet; thence South 64 degrees 29' 11" East a distance of 24.86 feet to the lot line common to said Lots 13 and 14; thence continuing South 64 degrees 29' 11" East along the North line of Lot 27, Block 2, High Rolls Subdivision, Otero County, New Mexico a distance of 133.59 feet; thence South 75 degrees 37' 11" East along the North line of said Lot 27 a distance of 207.68 feet; thence South 19 degrees 06' 44" East a distance of 454.32 feet to the said place of beginning.

The restrictions and protective covenants herein referred to are as follows:

1. The entire 3.8 acres shall be known and described as residential sites. No structures shall be erected, altered, placed, or permitted to remain on any residential site other than one single family dwelling and such structures as are incidental to the use of said site, such as a private garage, well house, or storage room. There shall be no commercial activity or business engaged upon any site.
2. All dwellings shall be finished as to the exterior within one year from the start of construction. All structures shall be completely finished front, sides, and rear to the same degree as a first class front, so the view from overlooking or adjoining sites not be unduly impaired.
3. No trailer, trailer house, prefabricated building, second hand structures, tent, shack, barn, or other outbuilding shall be used as a residence. All buildings are to be either brick or stone veneer or painted or stained on exterior or wall surfaces within thirty days from the date of completion of construction. Concrete block exterior surfaces, even painted, are not acceptable.
4. A temporary building or a mobile home may be moved onto any site and used during the construction period, after which it must be immediately removed.
5. The premises and improvements of each site must be maintained in an orderly condition and a good state of repair at all times. The adjacent roadway easement shall be maintained in good repair and the cost shall be proportioned for the benefit of all sites serviced for as long as the roadway easement exists. Any individual responsible for misuse of damage to the roadway, other than general wear and tear, shall be solely responsible for its restoration.

- 6. No noxious or offensive activity shall be carried out on any site nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood, whether by reason of noise, odor, or otherwise. No site shall be used for the collection of trash, garbage, waste, junk, or salvage. Salvage shall include wrecked or salvaged automobiles or any other type of used materials of products which are not intended for use within six months on the site. Trash, garbage, and waste shall not be kept on the premises except in sanitary containers. Any unregistered vehicle may be designated as junk for this purpose.
- 7. Livestock, such as horses, cattle, sheep, pigs, swine, and poultry are not permitted.
Household pets are allowed but must be contained. Kenneling is not permitted.
- 8. All sites shall be maintained in as natural a state as possible. Native growth shall not be destroyed or removed except as necessary for roadways, utility ways, structures, walled-in or fenced-in yards, gardens, patios, and landscaping. Natural drainage shall not be altered.

These covenants shall be binding upon the undersigned and all persons claiming under it, their heirs, successors or assigns from the date these Restrictive Covenants are recorded. After thirty (30) years from the date these Restrictive Covenants are recorded, these covenants may be modified, amended, or repealed, in whole or in part, by filing in the office of the County Clerk of Otero County, New Mexico, such amendment, modification, or notice of repeal duly executed and subscribed by a simple majority of the then adjacent owners of record. Modification, amendment, or repeal of any one or more of the foregoing restrictive covenants shall not affect the validity of the remaining covenants.

Failure to enforce the provisions of the above covenants immediately upon violation shall not be considered as a waiver of such covenants. All of the restrictive covenants contained herein are for the benefit of any and all owners of sites within this tract of land, and if any person or persons violate or attempt to violate any of said covenants, then it should be lawful for any other persons owning land in and around said tract of land to prosecute any proceedings at the law or in equity to recover damages or to enjoy such act, and to have any and all further legal and equitable relief.

Invalidation of any one of these covenants by judgement or Court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

DATED this 5th day of October 2011.

BY: Harold W. Waggoner
Harold W. Waggoner

BY: Treasy C. Waggoner
Treasy C. Waggoner



STATE OF NEW MEXICO)
) SS:
COUNTY OF OTERO)

The foregoing instrument was acknowledged before me this 5th day of October, 2011, by Harold W. and Treasy C. Waggoner, joint owners with right of survivorship.

Suzi Palomino
Notary Public

My Commission Expires:
9-29-15

