

RESTRICTIVE COVENANTS

FOR

PONDEROSA PINES SUBDIVISION, UNITS I AND II

The undersigned, being the owner of all the lots located in Ponderosa Pines Subdivision, Units I and II, a subdivision located in Otero County, New Mexico, a plat of which was recorded in Book _____ at Pages _____ and _____ of the records of Otero County, New Mexico, on the _____ day of January, 1973, do hereby consent and agree that the following Restrictive Covenants shall be in full force and effect upon the property within said Ponderosa Pines Subdivision, Units I and II, from the date of recording this instrument, to-wit:

1. There shall not be erected on any one lot more than one (1) single private family dwelling house together with the necessary and appurtenant attached building such as servant quarters, garages, and car ports customarily used in connection therewith. No structure shall have more than two (2) stories unless otherwise approved by the Architectural Control Committee named below.
2. No business of profession, manufacturing operation, commercial enterprise, or public or commercial amusement enterprise shall be conducted, operated or maintained on any lot.
3. There is hereby created the Ponderosa Pines Architectural Control Committee (hereinafter sometimes referred to as the "Committee") composed of James C. Manatt, Jack Weisehan and Gisela Melkus. In the event of the death, resignation, or incapacity of any member of said committee, the remaining member or members shall have full authority to appoint a successor member or members. Any member of said Committee may be removed for cause upon the vote of two (2) members thereof. Said Committee shall have the power to make, alter and amend its own rules and regulations with regard to meetings, quorums and other procedural matters. Members of the Committee shall be entitled to reasonable compensation for services performed pursuant to these covenants. The powers and duties of the Committee shall, on December 31, 1980, or on such sooner date as the members of the Committee all have resigned, died or become incapacitated for thirty (30) days without replacement, automatically become vested in the Board of Directors of El Dorado Land Corporation, or a committee of three (3) persons designated by said El Dorado Land Corporation.
 - (a) No dwelling house, garage, car port, outbuilding, fence, wall, retaining wall, pier, or other structure of any kind shall be erected, constructed, placed, moved on or maintained on any lot or lots, or any parcel or portion thereof, nor shall any alterations, additions, change or repair be made to the exterior thereof, unless prior to the commencement of any construction, excavation, grading, or other work, two complete sets of the plans and specifications thereof, including front, side and rear elevations, and floor plan for each floor and basement, color scheme thereof, and plot plan, indicating and fixing the exact location of such structure or such altered structure thereof, shall have first been submitted to the Committee in writing for its approval and such approval obtained in writing from the Committee.

(b) All structures must have a slanting roof with a minimum of a two and one-half in twelve pitch. Roofing materials must be wood shakes or other material approved by the Committee. Variances below the minimum pitch requirement may be granted by the Committee.

(c) Approval by the Committee of such plans, specifications, and location of buildings shall be endorsed on both sets of plans and specifications, and one set thereof shall be returned to the person submitting the same and the other set shall be retained by the Committee.

(d) In the event that the proposed improvements be for the repairing and/or redecoration of the exterior of a structure, without remodeling the same or making additions thereto, it shall be necessary only to file the color scheme of such proposed work with the Committee and have the same approved in writing by it prior to commencement of such repairs and/or redecoration.

(e) After such plans and specifications and other data submitted have been approved by the Committee, no building, garage, fence, wall, car port, or other structure of any kind shall be erected, constructed, placed, altered or maintained upon said property unless the same shall be erected, constructed, placed, altered or maintained in conformity with the plans and specifications, color scheme, and plot plan theretofore approved by the Committee, such erection, construction, placing, alteration, and maintenance shall be deemed to have been undertaken without the approval of the Committee.

(f) Buildings or structures shall not be constructed of a building material that will cause the sunlight to be reflected therefrom; nor shall any building or other structure be painted with any paint or other substance that will cause the sunlight to be reflected therefrom.

(g) All plans for septic tanks to be installed in the subdivision shall first be submitted to the Architectural Control Committee for its approval. The Committee may base its decision on the installation of such septic tanks on the then existing or anticipated municipal, County, State or Federal regulations regarding septic tanks or other methods of sewage disposal. The Committee may require that the lot owner construct a septic tank of sufficient size to accommodate a minimum of four (4) houses and the lot owner will be required to pay the cost of the installation of a single-house septic tank and the developer will be responsible for and agrees to pay the balance for the installation of the septic tank to accommodate four or more houses. The Committee may then require that lot owners who by reason of geographical location are within close proximity to such then existing septic tanks to connect to such septic tank and to pay to the developer an amount equal to the cost of the installation of a single-house septic tank.

The purpose of this covenant is to give to the Committee control over the installation of septic tanks in the subdivision so as to make full use of the land in accordance with whatever regulations may be adopted by any governmental agency and the Committee will interpret this covenant in that manner. Maintenance costs will be prorated between lot owners connected to each septic tank.

(h) In the event of any ambiguity in a provision of these restrictions, the interpretation of the Ponderosa Pines Architectural Control Committee as to the meaning intended shall prevail.

(i) The committee may withhold its approval for any of the following reasons:

(1) Non-compliance with any of the specific conditions and restrictions contained in these Restrictive Covenants; or

(2) Reasonable dissatisfaction of the Committee with the location of the structure on the building site, or with the appearance of the proposed structure, or with the lot grading plan, having in mind the character of the neighborhood in which it is proposed to be erected, the materials of which it is to be built, the harmony thereof with the surroundings, and the effect of the building or other structure as planned on the outlook from the adjacent or neighboring property or properties. However, the Committee shall act with all due promptness; in the event the Committee shall fail to approve or disapprove any matters submitted to it hereunder within thirty (30) days from such submission, then the submission shall be deemed to have been fully complied with.

4. No lots shall be subdivided into smaller lots or parcels of land. For the purpose of these restrictions, if one owner shall own two or more adjacent lots, such adjacent lots may be considered to be one lot with set backs to be measured from the perimeter thereof. Further, if two or more adjacent lots are under common ownership, the owner thereof may elect by written notice to the Committee to develop them as a single lot. In the event of such election they shall thenceforth be treated as a single lot for the purpose of these restrictions.

5. No structure shall be erected, constructed, placed or maintained on any lot nearer than twenty-five (25) feet to the front lot line, nearer than ten (10) feet to the side lot lines, nor nearer than twenty (20) feet to the back lot lines, except that upon written application to the Committee, if the configurations and topography permit, a variance may be granted from said set-backs.

6. No garage, carport, shed, tent, trailer or temporary structure of any kind shall be erected, constructed, permitted or maintained on any lot prior to the commencement of the erection of a principal dwelling house thereon. No garage, car port, shed, tent, trailer, basement, or temporary building shall be used for temporary residence purposes unless written permission is granted by the Committee for use only during construction of the principal dwelling.

7. When the construction of a dwelling is commenced upon any lot, the owner or owners thereof shall prosecute, with all reasonable diligence, the completion thereof and shall complete the construction thereof within twelve (12) months from the date of commencement, delays caused by Act of God excepted, unless the written consent of the Committee is obtained for a longer period of time for construction prior to the commencement of such construction.

8. No exposed concrete block, whether painted or otherwise, shall exist on any lot without the written consent of the Committee.

9. No old or second-hand building shall be moved on any lot in this subdivision; and no second-hand materials shall be used in the construction of any building thereof; except upon the prior written consent of the Committee.

10. No brush, trash, or other materials shall be burned except in compliance with the fire regulations of the appropriate regulatory agency.

11. Live trees having a diameter of eight (8) inches or more measured one (1) foot above the ground, may not be removed without the prior written consent of the Committee.

12. Neither barbed wire or chicken wire shall be used in this subdivision.

13. No windmills or wind chargers shall be erected upon any lot in this subdivision.

14. No obnoxious or offensive activity shall be carried on upon any lot, nor shall anything be done on any lot which may be or become an annoyance or a nuisance to the neighborhood.

15. No laundry upon or above any lot shall be permitted to be visible from any adjoining lot or street in the subdivision.

16. No garbage, refuse, junk, trash, or obnoxious or offensive material shall be permitted to accumulate on any lot, and the owner or owners of each lot shall cause the same to be disposed of by and in accordance with accepted sanitary practices. All garbage or trash containers, oil tanks, gas tanks, and other facilities must be placed under ground or in walled-in or fenced-in areas so that they shall not be visible from any adjoining lot, any street, or waterway. Each owner shall furnish and maintain his lot with a garbage can of not less than twenty gallons capacity in underground, fenced-in or walled-in areas. Garbage shall be disposed of in accordance with the regulations of the State of New Mexico and any of its subdivisions. Such garbage shall be removed by the lot owner to a sanitary land fill provided by Otero County or by arrangement with a garbage removal service.

17. No animal or fowl of any description shall be raised, housed or kept on any lot; except that dogs, cats, or other household pets that are of such a nature as not to interfere with the safety and comfort of adjoining lot owners may be kept on a lot, provided that they are not bred or maintained thereon for any commercial purposes.

18. No outdoor-type toilet shall be erected or maintained in the subdivision, except by prior approval of the Committee as outdoor portable toilets may be on the premises during the actual period of construction as may be required by State or Federal law. All toilets shall be located inside the principal buildings and shall be connected with proper septic tanks or a sewage disposal system that conforms with the State of New Mexico and Otero County health laws and regulations provided, however, that if a sewer line is laid on any street, easement or public way on which a lot abuts, it shall be incumbent upon the then lot owner to establish connection with said sewer system without delay, and thereafter to make use of the same to the exclusion of any other sewage disposal system.

19. All principal dwelling houses, exclusive of garage, car ports, patios, terraces and porches, shall be constructed or maintained with a heated living area of not less than 1200 square feet.

a. Parking for three standard size American automobiles (not compact size) must be provided on each lot by the property owner. Parking spaces must be used instead of on-street parking when requested by El Dorado Land Corporation, their agents or representatives. Upon written application to the Architectural Control Committee prior to construction, a variance may be granted from said parking requirements.

20. No work or exploration for any minerals, or mining of any minerals or quarrying of any rock minerals, soil or material of any nature shall be conducted on any lot or portion thereof, nor shall any excavation of any nature be made upon any lot or portion thereof except as may be incident to the installation of utility services, drainage lines, excavations incident to the grading and preparation of building sites, the construction of dwellings and/or swimming pools, and the grading of roads and streets.

21. No signs of any character shall be permitted to be placed or maintained on any lot except a sign not larger than 72 square inches setting forth the name of the owner or occupant of said lot. All other signs are prohibited on any lot without prior written approval of the Committee.

22. In the event the owner or purchaser of any lot shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to El Dorado Land Corporation, through its agents and employees, shall have the right to enter upon such lot and to repair, maintain, rehabilitate, and restore the premises and the exterior of any improvements situated thereon and the cost thereof shall be charged against the owner of said lot by notice to the lot owner or purchaser by regular mail addressed to his last address as shown on the records of El Dorado Land Corporation, and if the sum is not paid within thirty (30) days after such notice has been mailed, the amount due shall be and become a lien on the said lot when El Dorado Land Corporation has caused to be filed or recorded in the office of the County Clerk of Otero County an affidavit of non-payment of such sum in the form of a materialman's lien, and posting a copy of same upon said lot within one (1) year from the date of mailing of such notice of amount due. Such lien shall be foreclosed in the manner provided by the laws of the State of New Mexico for the foreclosure of materialman's liens.

23. El Dorado Land Corporation reserves easements over or under the surface, or both, required for the installation and maintenance of electric lines, telephone lines, water lines, sewer lines, both storm and sanitation, gas lines and for all other utilities, both public and private, with the right to assign such easements. The easements herein reserved shall consist of a ten (10) foot strip of land along the rear lot line and a five (5) foot strip of land along each side line of each lot, thus reserving in El Dorado Land Corporation an easement of twenty (20) feet along the rear lot line and ten (10) feet along the side lot lines when two abutting lots are considered.

24. El Dorado Land Corporation expressly reserves the right to make any reasonable and necessary changes in these restrictions to benefit the lot owners until no less than ninety per cent (90%) of all lots in the subdivision have been sold, after which time there shall be no changes in any of these restrictions without the formal approval by written vote of no less than two-thirds (2/3) of the lot owners, such vote to be taken no sooner than five (5) days after one hundred per cent (100%) of the lot owners have been fully informed in writing of any such proposed changes. Proposed changes in these restrictions requiring approval as aforesaid must be submitted in writing to the Architectural Control Committee, which Committee shall have the duty and responsibility to prepare and send complete copies of such proposed changes to all lot owners by mail addressed to their address as shown on the records of El Dorado Land Corporation. Such copies shall be sent within fifteen (15) days of receipt by the Committee and deposit in the U.S. mail shall be considered as meeting this requirement. Voting on any proposed change may be by mail.

25. At such time as El Dorado Land Corporation has water lines installed so as to make water available to each lot, El Dorado Land Corporation or its agents will charge a stand-by water fee of \$5.00 per month. El Dorado Land Corporation may install a water meter at its discretion, and the cost of such meter and installation will be the responsibility of the lot owner. If such meter is installed a minimum monthly rate will be established and water rate based on consumption will be established. Water may be used for normal household purposes and not for irrigation. The charge for water will be made whether or not any water is actually used by the lot buyer or lot owner. Said monthly charges shall be due and payable at the same time and in addition to the regular monthly installments on the purchase of each such lot. After the purchase price of each lot has been paid in full, the monthly water fees shall be paid on or before the 10th day of each month. Failure to pay the monthly water fee shall constitute a default under the terms of the contract of purchase executed by the lot buyer, and after the purchase price has been paid in full, payment of the water fees shall be secured by a lien against the property owned by the member, and after said lien has been filed in the manner provided in paragraph 22 above, said lien may be foreclosed in the manner provided by the laws of the State of New Mexico.

26. If, at some future date, El Dorado Land Corporation should install a sanitary sewer system, each lot owner will be required to connect to said system. A reasonable stand-by charge may be made by El Dorado Land Corporation for this service.

27. El Dorado Land Corporation reserves the right to control the number and type of vehicles in the subdivision so as to promote the best interests of the lot owners. The owners of any motorized vehicle which causes or emits excessive pollutants including but not limited to noise and particulant matter, may be required by El Dorado Land Corporation to modify or repair such vehicle to meet the standards required by El Dorado Land Corporation. Failure of the owner to do so shall be considered a breach of these covenants.

28. These covenants are to run with the land and shall be binding upon the undersigned and all persons claiming under them, their heirs, successors, and assigns, for a period of ten (10) years from the date these Restrictive Covenants are recorded, after which time said Restrictive Covenants shall be automatically extended for successive

