

RESTRICTIVE COVENANTS

PART A. WHEREAS RICHARD C. WILLIAMSON AND TONYA G. WILLIAMSON are the Owners of PUEBLO REAL, located in Section Sixteen (16), Township Sixteen (16) South, Range Ten (10) East, NMPM, Alamogordo, Otero County, New Mexico.

And whereas, said Owners above named desire to place certain restrictions in regard to the building and improvements to be placed on portions of the above described real estate as follows: to-wit

PART B. FULLY RESTRICTED RESIDENTIAL AREA. The residential area covenants in Part C in their entirety shall apply only to Lots 1 - 32, Block 1; Lots 1 - 10, Block 2; Lots 1 - 8, Block 3; Lots 1 - 20, Block 4; and Lots 1 - 32, Block 5, PUEBLO REAL, Alamogordo, Otero County, New Mexico.

PART C. RESIDENTIAL AREA COVENANTS

C-1. LAND USE AND BUILDING TYPE. No lots shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than single family dwelling not to exceed two stories in height: and a private garage for not more than three cars or a private carport for not more than three cars, or a combination of private carport and private garage for not more than a total of four cars.

C-1A. BUILDING EASEMENTS. Maintenance, Construction and Eaves - The Developer hereby desires to establish certain side easements for the purpose of construction and maintenance of walls and buildings that are located closely to the next lot line. Now, therefore, said Developer and Owner does hereby establish a five foot (5') wide easement running parallel to the construction of the original wall located adjacent to the lot line. Said side easements shall be subject to and governed by the following conditions and covenants:

1. The Townhouse wall extension constructed adjacent to the next lot line must be a wall without any openings. No window, or window opening, may be installed in such wall.

2. With the exception of side yard walls erected in the original construction, the easement areas shall be kept clear and unobstructed, to provide open access for the city and owners thereof. No building improvements shall be constructed or erected within the easement area, nor shall anything be piled or leaned against any wall adjacent to the easement areas, except patio floors and/or landscaping allowed.

3. The dominant owner of the side yard easement shall have the right to enter upon the easement area to the extent such entry is necessary to carry out the resurfacing, painting, or repair of the exterior surfaces of his walls or structures adjacent to the easement area, or to perform any work necessary for the maintenance and upkeep of his property. Such right of entry shall be exercised in such manner as to interfere as little as is reasonably possible with the possession and enjoyment of the easement area, and shall be preceded by reasonable notice whenever the circumstances permit. In case of emergency, entry shall be immediate.

4. In the event any portion of the footings, walls, and/or foundation of the adjacent dwelling encroaches on an easement area, a valid easement for any such encroachment and for the maintenance of the same, so long as it stands, shall and does exist; however, said encroachment shall not exceed a maximum of eight inches (8").

5. The dominant owner of an easement area shall be held harmless from any liability arising from the servient owner's use and enjoyment of the easement area, and from incidental damage to plantings and decorations arising from maintenance and repair of the dominant owner's dwelling.

6. No part of easement areas shall be used for any purpose or in any manner which shall increase the rate at which insurance against loss by fire or the perils of extended coverage or bodily injury or property damage liability insurance, covering the adjacent property, may be obtained, or cause such premises to be uninsurable against such risks, or suspended, or the company issuing the same to refuse renewal thereof.

C-1B. PARTY WALLS. The rights and duties of the owners of buildings within this project with respect to party walls and/or walls erected entirely on one lot but closely to the next lot line shall be governed as follows:

1. Each wall, including patio walls, which is constructed as a part of the original construction of the structure, any part of which is placed on the dividing line, or adjacent thereto, between separate units, shall constitute a party wall. With respect to any such wall, each of the adjoining owners shall assume the burdens and be entitled to the benefits of these restrictive covenants and, to the extent not inconsistent herewith, the general rules of law regarding party walls shall be applied thereto.

2. In the event any such party wall is damaged or destroyed through the act of one adjoining owner, or any of his guests, tenants, licensees, agents, or members of his family (whether or not such act is negligent or otherwise culpable), so as to deprive the other adjoining owner of the full use and enjoyment of such wall, then such owner who caused or is responsible for such damage, shall forthwith proceed to rebuild and repair the same to as good condition as formerly without cost to the adjoining owner.

3. In the event any such party wall of a Townhouse unit is damaged or destroyed by some cause other than the act of one of the adjoining owners, his agent, tenants, licensees, guests, or family (including ordinary wear and tear and deterioration from lapse of time), then in such event the owner of said Townhouse shall proceed forthwith to rebuild or repair the same to as good condition as formerly, at his sole cost and expense.

4. Notwithstanding any other provision of this article, an owner, who by his negligent or willful act causes any party wall to be exposed to the elements, shall bear the whole cost of furnishing the necessary protection against such elements.

5. The right of any owner to contribution from any other owner under this article shall be appurtenant to the land and shall pass to such owner's successors in title.

6. In addition to meeting the other requirements of the Restrictive Covenants, and of any building code or similar regulations or ordinances, any owner proposing to modify, make additions to, or rebuild his Townhouse in any manner which requires the extension or other alteration of any party wall, shall first obtain the written consent of the adjoining owner.

7. In the event of a dispute between owners with respect to the repair or rebuilding of a party wall, or with respect to the sharing of the costs thereof, the matter shall be submitted to three arbitrators, one chosen by each of the owners, and the third by the two so chosen. A determination of the matter signed by any two of the three arbitrators equally. In the event one party fails to choose an arbitrator within ten (10) days after receipt of a request in writing for arbitration from the other party, then said other party shall have the right and power to choose both arbitrators.

C-1C. RETAINING WALLS. Retaining walls shall be party if placed on common property line of two lots, and shall not be removed by either property owner. Retaining walls have been installed per approved exhibits on file with FHA/VA and the City of Alamogordo. No alterations of the retaining walls will be permitted.

C-1D. TOLERANCE. A four inch (4") tolerance variation is by reason of mechanical variances of construction allowable for minimum distance requirements set forth in all aforementioned setbacks.

C-2. ARCHITECTURAL CONTROL. No building shall be erected, placed or altered on any lot until the 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 workmanship and materials, (harmony of external design with existing and/or planned structures,) as to location with respect to lot lines, topography and finish grade elevations. No fence or wall, except necessary retaining walls of minimum height, shall be erected or allowed to remain nearer the front street than the front building set-back line. Approval shall be as provided in Part D.

On corner lots, no side fence or walls, except necessary retaining walls of minimum height shall be erected or allowed to remain nearer to the front street than the rear of the dwelling, nor nearer to the side street than the property line. The height of fences which are erected behind the minimum set-back line of the front street shall be in accordance with the ordinances of the City of Alamogordo.

All fences or walls shall be 4 feet in height, minimum, except that fence on the perimeter of the Subdivision shall be 5 feet in height.

The homebuilder shall be responsible for construction of a 4-foot min. width sidewalk, adjacent to the curb, for the full length of the curb adjacent to the lot. The home builder shall also construct necessary driveway pads.

Wheelchair ramps shall be constructed in the sidewalk on corner lots, if required by ordinance of the City of Alamogordo.

C-3. DWELLING COST. QUALITY AND SIZE. No building shall be permitted on any lot at cost of less than \$25,000 based upon cost levels prevailing on the date these covenants are recorded, it being the intention and purpose of these covenants to assure that all dwellings shall be of a quality of workmanship and materials substantially the same or better than that which can be

produced on the date the covenants are recorded at the minimum cost stated herein for the minimum permitted dwelling size. The ground floor area of the main structure, exclusive of one story open porches and garages, shall not be less than 800 square feet for a one story dwelling.

C-4. BUILDING LOCATION. No building shall be located on any lot nearer to the front lot line or nearer to the side street line than the minimum building set-back lines shown on the recorded plat.

C-5. UTILITY EASEMENTS. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat of this subdivision.

C-6. NUISANCES. No noxious or offensive activity shall be carried upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

C-7. TEMPORARY STRUCTURE. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out-building shall be used on any lot at any time at a residence either temporarily or permanently.

C-8. LOT AREA AND WIDTH. No dwelling shall be erected or placed on any lot having a width of less than 40 feet at the minimum building set-back line, except that an irregular shaped lot resulting from a curve in the street shall have a minimum width, at the building set-back line of not less than 40 feet, nor shall any lot have an area of less than 3,700 feet.

C-9. SIGNS. No sign of any kind shall be displayed to the public view on any lot except one 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 to advertise the property during the construction and sales period.

C-10. OIL AND MINING OPERATION. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

C-11. LIVESTOCK AND POULTRY. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats, or other house-hold pets may be kept provided that they are not bred, kept, or maintained for any commercial purpose.

C-12. GARBAGE AND REFUSE DISPOSAL. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

C-13. WATER SUPPLY. No individual water supply system shall be permitted on any lot unless such system is located, constructed and equipped in accordance with the requirements, standards and recommendations of state or local public health authority.

C-14. SEWAGE DISPOSAL. No individual sewage-disposal system shall be permitted on any lot unless such system is designed, located and constructed in accordance with the requirements, standards and recommendations of state or local public health authority. Approval of such system as installed shall be obtained from such authority.

PART D. ARCHITECTURAL CONTROL COMMITTEE

D-1. MEMBERSHIP. The architectural control committee shall be composed of Richard C. Williamson and Tonya G. Williamson, or their designated representative.

D-2. PRECEDURE. The approval or disapproval as required in these covenants shall be in writing. In the event the subdivider, or his designated representative fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

PART E. GENERAL PROVISIONS.

E-1. TERM. These covenants are to run with the land and shall be binding on the land, all parties and all persons claiming under them for a period of thirty (30) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of thirty (30) years unless an instrument signed by a majority of the then owners of the lots has been recorded agreeing to change said covenants in whole or in part. Votes shall be counted on the basis of one vote for each lot owned, etc.

E-2. ENFORCEMENT. Enforcement shall be by proceeding at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

E-3. SEVERABILITY, Invalidation of any one of these covenants by judgment or court order shall in no way effect any of the other provisions which shall be and remain in full force and effect.

PART F. ATTEST.

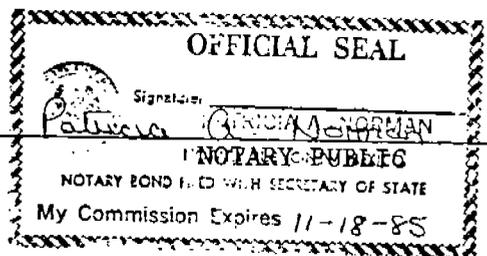
IN WITNESS WHEREOF, the said Owners have caused this instrument to be executed this 29 day of August, 1983.

BY: Richard C. Williamson
Richard C. Williamson

Tonya G. Williamson
Tonya G. Williamson

STATE OF NEW MEXICO }
 }SS
COUNTY OF OTERO }I

The foregoing instrument was acknowledged before me this 29 day of August, 1983, by Richard C. Williamson and Tonya G. Williamson



STATE OF NEW MEXICO }
OTERO COUNTY }SS
FILED FOR RECORD IN MY OFFICE
This 29 day of August 1983
At 2:40 o'clock P.M. and duly recorded
in Book No. 540 Page 490 - 496
the records of Otero County, New Mexico
Katie A. Sanchez
County Clerk, Otero County, New Mexico
Dianna Work Deputy
89677