

Filed: Oct. 21, 1957

RESTRICTIVE COVENANTS
for the
SIERRA TERRACES SUBDIVISION IN TULAROSA, NEW MEXICO

PART A - PREAMBLE

We, the undersigned HOMER LAND, LYLE H. DANKE, A. W. MASSEY, owners of the following described real property situated in Otero County, New Mexico, to-wit:

Beginning at the NW corner of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 19, T. 14 South of Range 10 E., NM Principal Meridian which is located at the center of a dirt road; thence North 89°48'30" East, a distance of 20 feet to the point of beginning of the tract herein described; thence North 89°48'30" East, a distance of 1306.8 feet to the NE corner of the tract of land herein described; thence South 0°29' West, a distance of 358.7 feet to the North boundary of US Highway 70 right of way line; thence South 83°47' West along the North boundary of said Highway right of way line, a distance of 1240.1 feet to the East boundary of the dirt road; thence North 9°10' West along the East boundary of said dirt road, a distance of 445.5 feet to a point; thence North 0°34' East along a dirt road, a distance of 49.3 feet to the point of beginning of this tract and containing 12.45 acres more or less,

the same being the real estate platted as the SIERRA TERRACE SUBDIVISION of the Village of Tularosa, New Mexico, as the same appears on the file in the office of the Otero County Clerk, do on this 28 day of August, 1957, hereby make the following declarations as to limitations, restrictions and uses to which the lots and tracts constituting said subdivision may be put, hereby specifying that said declarations, restrictions and uses shall constitute covenants running with the land, and shall be binding on all parties and all persons claiming under them, and for the benefit of and limitations upon all future owners in said subdivision; this declaration of restrictions being designed for the purpose of keeping said subdivision desirable; insuring the use of the property for attractive residential purposes only (except in Lot 1 thru and including 23 as below set forth); preventing nuisances and impairment of the attractiveness of the property, maintaining the desired tone of the community and fair and adequate property values in said subdivision and thereby securing to each site owner the full benefit and enjoyment of his home, with no greater restriction upon the free and undisturbed use of his site than is necessary to insure the same advantages to the other site owners.

PART B - AREA OF APPLICATION

B-1. Fully-Protected Residential Area: The residential area covenants in Part C hereof shall apply in their entirety to all of the lots in said subdivision, EXCEPT Lots 1 to 23 inclusive.

B-2. Business Area: The business covenants in Part D hereof shall apply in their entirety to Lots 1 to 23 inclusive.

PART C. RESIDENTIAL AREA COVENANTS

C-1. Land Use and Building Type: No lot shall be used except for residential purposes. No building shall be erected, altered, placed, or permitted to remain on any lot other than one detached single-family dwelling not to exceed two and one-half stories in height and a private garage for not more than two cars.

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 structures, and as to location with respect to topography and finish grade elevation. No fence or wall shall be erected, placed or altered on any lot nearer to any street than the minimum building setback line unless similarly approved.

C-3. Dwelling Cost, Quality and Size: No dwelling shall be permitted on any lot at a cost of less than \$10,000.00 based upon cost levels prevailing on the date these covenants are recorded, it being the intention and purpose of the covenant 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 these covenants are recorded at the minimum cost stated herein for the minimum permitted dwelling size. The ground floor area of the main structure, inclusive of one-story open porches and garages, shall not be less than 1,000 square feet for a dwelling of more than one story.

C-4. Building Location: No building shall be located on any lot nearer than 25 feet nor more than 35 feet to the front line, or nearer than 15 feet to any side street line. No building shall be located nearer than 5 feet to any interior lot line, except that no side yard shall be required for a garage or other permitted accessory building located 65 feet or more from the minimum building setback line. No dwelling shall be located on any interior lot nearer than 25 feet to the rear lot line. For the purposes of this covenant, eaves, steps, and open porches shall not be considered as a part of a building, provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.

C-5. Lot Area and Width: No dwelling shall be erected or placed on any lot having a width of less than 62 feet at the minimum building setback line nor shall any dwelling be erected or placed on any lot having an area of less than 6200 square feet.

C-6. Easements: All alleys and streets shown on the plat of said subdivision are dedicated for public use, and an easement for installation and maintenance of utilities and drainage facilities on the East 20 feet of Lot 1 shall be given for public use.

C-7. Nuisances: No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become any annoyance or nuisance to the neighborhood.

C-8. Temporary Structures: No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently.

C-9. All sales or leases of the lots in said subdivision shall be with substantially the same restrictions as to the use of the same.

C-10. All lavatories and/or toilets shall be built indoors and connected with outside septic tank or cesspool until such time as a sewer system shall be maintained, at which time the premises shall be connected therewith.

C-11. No horse, cow, hog, goat or similar animal shall be kept on any part of said subdivision; nor shall any chicken yard be maintained thereon.

C-12. No billboards, signs (except suitable signs for sale of site) or unsightly objects of any kind shall be maintained on any one lot or any building or structure constructed on such lot, except such signs as may be necessary on business houses in the business section.

C-13. No fence, wall or hedge higher than five feet shall be erected or maintained on any premises in said subdivision. No building, wall or fence shall have a door or gate which is so constructed that it may swing out into a public road.

PART D. BUSINESS AREA COVENANTS:

D-1. All or any part of Lot 1 to 23 inclusive of said subdivision may be used for business purposes, subject to the restrictions and limitations herein contained.

D-2. No well for the production of oil or gas shall be dug or operated on the premises; nor shall any machinery, appliance or structure ever be placed, operated or maintained thereon in any connection therewith.

D-3. No forge, foundry, blacksmith shop, furnace or any factory of any kind or nature for the manufacture and operation of heavy industry shall be placed, operated or maintained on any lot in said Lots 1 to 23 inclusive.

D-4. No noxious or offensive business or activity shall be carried on upon any business lot in said subdivision; nor shall anything be done thereon which may be or become a nuisance to the neighborhood. No liquor dispensers business shall be carried on upon Lots 1 to 23 inclusive; provided that nothing herein contained shall be construed to prohibit a package liquor business.

D-5. The term "business" as used herein includes charitable, religious, educational or purely social uses, as well as ordinary commercial enterprises.

PART E. ARCHITECTURAL CONTROL COMMITTEE

E-1. Membership in the Architectural Control Committee: Membership in the Architectural Control Committee shall be composed of LYLE H. DANKE, A. W. MASSEY, of Tularosa, New Mexico, and HOMER LAND of Alamogordo, New Mexico. A majority of the committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, the remaining member shall have full authority to designate a successor. Neither the members of the committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. At any time, the then record owners of a majority of the lots shall have the power through a duly recorded written instrument to change the membership of the committee or to withdraw from the committee or restore to it any of its powers and duties.

E-2. Procedure: The committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee, or its designated representative, fails to approve or disapprove within 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 F. GENERAL PROVISIONS.

F-1. 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 twenty-five years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of 10 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.

F-2. Enforcement: Enforcement shall be by proceedings 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.

F-3. Severability: Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, we have hereunto set our hands and seals at Tularosa, Otero County, New Mexico, this 28 day of August, A.D. 1957.

s/ Homer Land

s/ Lyle H. Danke

s/ A. W. Massey

STATE OF NEW MEXICO)
COUNTY OF OTERO) ss.

On this 28 day of August, A.D. 1957, before me personally appeared LYLE H. DANKE, A. W. MASSEY, and HOMER LAND, to me known to be the persons described in and who execute the foregoing instrument and acknowledged that they executed the same as their free act and deed.

WITNESS my hand and seal the day and year last above written.

s/ Lalo Garza
Notary Public

(Notarial Seal Imprint)

My commission expires: 10-15-60