

RESTRICTIVE COVENANTS
OF
COMMERCIAL AREA, UNIT-1
TIMBERON SUBDIVISION

KNOW ALL MEN BY THESE PRESENTS:

THE UNDERSIGNED, NORTH AMERICAN LAND DEVELOPMENTS, INC., a New Mexico Corporation, the sole owner of a portion of Sections 22 and 23, Township 19 South, Range 12 East, N.M.P.M., Otero County, New Mexico, the same being the real property now duly platted as COMMERCIAL AREA, UNIT-1, TIMBERON SUBDIVISION, as shown by the Plat thereof filed in the Office of the County Clerk and Ex-officio Recorder of Otero County, New Mexico, on the 7th day of APRIL, 1973;

HEREBY MAKES THE FOLLOWING DECLARATIONS as to limitations, restrictions and uses to which the lots and/or tracts constituting said Subdivision may be put;

HEREBY SPECIFYING that said declarations shall constitute covenants to run with all of the land, as provided by Law, 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, uniform and suitable in architectural design and use as herein specified, whether or not the same are embodied in the conveyance or other instrument affecting title thereto;

A.

All lots in the said COMMERCIAL AREA, UNIT-1, TIMBERON SUBDIVISION, according to the survey and Plat thereof, are hereby designated as "Commercial Area". None of the lots shall be re-subdivided. Two or more adjacent lots, under common ownership, may be developed as a single lot.

B.

The particular use of any of the said lots for commercial purposes will be determined by the Architectural Control Committee, and no business shall be begun without the written consent of the said Committee. A change in the particular use of any of the said lots to another commercial use shall not be effected without the written consent of the Committee.

C.

There is hereby created an Architectural Control Committee composed of Johnny F. Mobley, Rich Gogle, and Richard Sparks. 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. Said Committee is hereinafter referred to as "The Committee". No member of The Committee shall be entitled to any compensation for services performed pursuant to these covenants. On December 31, 1980, or on such sooner date as the members of the Committee have all resigned, died, or become incapacitated for thirty (30) days without replacement, the powers and duties of the Committee shall automatically become invested in the Board of Directors of the Timberon Property Owners Association, a non-profit New Mexico Corporation, or a committee of three (3) persons designated by such Board.

D.

No building, fence, wall, retaining wall, or other structure, including signs, 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 alteration, addition, 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. Approval of such plans, specifications, and location of buildings by the Committee 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. 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. After such plans and specifications and other data submitted have been approved by the Committee, no building, garage, fence, wall, carport, or other structure, including signs, 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. If any building, garage, carport, fence, wall, retaining wall, or other structure, including signs, of any kind shall be erected, constructed, placed, altered, or maintained on said property other than in accordance with the plans and specifications, color scheme, and plot plan theretofore approved by the Committee, such erection, construction, placing, alterations, and maintenance shall be deemed to have been undertaken without the approval of the Committee.

E.

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 approved and this section of these Restrictive Covenants shall be deemed to have been fully complied with.

F.

No trailer, mobilehome, basement, tent, shack, garage, or other outbuilding shall at any time be used as a commercial structure, temporary or permanent, nor shall any construction of a temporary character be erected or permitted to remain. Contractors may use a temporary building during the course of construction. When the construction of a structure 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 Architectural Control Committee is obtained for a longer period of construction prior to the commencement of such construction.

G.

No old or second-hand buildings shall be moved on any of the lots in this Subdivision; and no second-hand materials shall be used in the construction of any building thereon, except upon the prior written consent of the Architectural Control Committee. No exposed concrete block construction shall exist on any lot unless approved in writing by the Architectural Control Committee. In no case shall barbed wire nor chicken wire be used as fencing material.

H.

No brush, trash, or other material shall be burned, except in compliance with the fire regulations of the Lincoln National Forest or other appropriate regulatory agency.

I.

Live trees having a diameter of eight (8) inches or more may not be removed without the prior written consent of the Architectural Control Committee.

J.

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 underground or in walled-in or fenced-in areas so that they shall not be visible from any adjoining lot, or any street, or the stream. Each owner shall furnish and maintain his lot with a garbage can of not less than twenty (20) 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, Department of Health.

K.

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.

L.

No outdoor-type toilet shall be erected or maintained in the Subdivision. 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.

M.

In the interest of public health and sanitation, and so that the lots in this Subdivision and all other land in the same locality may be benefited by a decrease in the hazards of stream pollution, and by the protection of water supplies, recreation, wild life, and other public uses thereof, the owner or owners will not use any of the said lots for any purposes nor in such a manner that would result in the pollution of the water way that flows through or adjacent to such property, by refuse, sewage, or other material that might tend to pollute the waters of any such stream, or otherwise impair the ecological balance of the surrounding lands.

N.

The Subdivider, NORTH AMERICAN LAND DEVELOPMENTS, INC., and every person hereafter having any right, title or interest in any lot in the said Subdivision, including the Architectural Control Committee and/or the Timberon Property Owners Association, Inc., shall have the right to prevent or stop violation of any of the said restrictions by injunction or other lawful procedure and to recover any damages resulting from such violation.

O.

These covenants and restrictions are to run with the land and shall be binding on all parties and all persons claiming under them. These covenants and restrictions may be amended by a vote of fifty-one (51%) per cent or more of the property owners. Record owners of the lots shall be entitled to one vote for each lot as shown on the recorded Plat. Any owner who desires to call an election for the purpose of suspending or amending all or any part of these protective covenants and restrictions in accordance with the foregoing provisions shall request such election by written notification to the Subdivider and all record owners of lots within the Subdivision.

P.

Failure to enforce any restriction, condition, covenant or agreement herein contained shall in no event be deemed a waiver of the right to do so thereafter as to the same breach or as to one occurring prior or subsequent thereto. In the event any covenant or condition or restriction hereinabove contained, or any portion thereof, is invalid or void, such invalidity or voidness shall in no way affect any of the other covenants, conditions or restrictions which shall remain in full force and effect.

IN WITNESS WHEREOF, We have set our hands and seals this 7TH day of MARCH, 1973.

ATTEST: [Signature] NORTH AMERICAN LAND DEVELOPMENTS, INC.
ASSISTANT SECRETARY-TREASURER BY: [Signature] PRESIDENT

