

PROTECTIVE COVENANTS

FOR

TULAROSA GARDENS SUBDIVISION, TULAROSA, NEW MEXICO

PART A. PREAMBLE

I, the undersigned Minta J. Turner, of Tularosa, New Mexico, the fee owner of the following described real estate in Otero County, New Mexico:

Part of the SW $\frac{1}{4}$ of Sec. 20, T. 14 S., R. 10 E., N. M. P. M., and being more particularly described as follows:

Beginning at a point on the south line of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 20, T. 14 S., R. 10 E., whence the SE corner of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ bears E. at 520 feet; thence S. 83 deg. 25' W. (assumed) along the North Right of Way line of U. S. Highway 70 a distance of 650.6 feet; thence North 0 deg. 53' West a distance of 66.35 feet; thence S. 89 deg. 17' West 268.09 feet; thence North 0 deg. 32' E. a distance of 697.08 feet; thence North 89 deg. 22 E. a distance of 563.42 feet; thence North 0 deg. 33' E. a distance of 313.24 feet; thence North 82 deg. 48' E. a distance of 354.18 feet; thence S. 0 deg. 29' W. a distance of 1049.37 feet to the point of beginning;

the same being the real estate now duly platted as "Tularosa Gardens Subdivision" of the Village of Tularosa, New Mexico, as said plat is on file in the records of said county, do on this 27th day of June, 1956, 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 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, insuring the use of the property for attractive residential purposes only (except in Block 5 as below set out), 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 in their entirety shall apply to all lots and blocks in said subdivision, EXCEPT all of Block 5 (Lots 1 to 10 inclusive, in Block 5).

B-2. Business Area: The business covenants in Part D shall apply to all of Block 5 (Lots 1 to 10 inclusive, in Block 5).

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 \$8,500.00 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, exclusive of one-story open porches and garages, shall not be less than 850 square feet for a dwelling of more than one story.

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 setback lines shown on the recorded plat. In any event 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 60 feet at the minimum building setback line nor shall any dwelling be erected or placed on any lot having an area of less than 6900 square feet.

C-6. Easements: Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and over the rear five feet of each lot.

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.

PART D. BUSINESS AREA COVENANTS:

D-1. All or any part of Block 5 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 Block 5.

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 saloon business shall be carried on upon any lot in said Block 5.

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: The architectural control committee is composed of Minta J. Turner, Tularosa, New Mexico, Ed S. Turner, Tularosa, New Mexico, and Fay Turner, Tularosa, 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 the 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, I have hereunto subscribed my name at Tularosa, Otero County, New Mexico, on the 27th day of June, 1956.

/s/ MINTA J. TURNER, Owner

STATE OF NEW MEXICO

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SS:

COUNTY OF OTERO

On this 27th day of June, 1956, before me personally appeared MINITA J. TURNER, a widow, to me known to be the person described in and who executed the foregoing instrument and acknowledged that she executed the same as her free act and deed.

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

/s/ CAROL F. JOHNSON, Notary Public

My commission expires: January 8, 1960

(SEAL)

STATE OF NEW MEXICO, County of Otero, ss: I hereby certify that this instrument was filed for record on the 28th day of June, 1956, at 11:40 o'clock A. M., and duly recorded in Book 200, page 254-260 of the Records of said County.

/s/ MARGARET D. SANCHEZ, County Clerk

/s/ CHRISTINE MARTINEZ, Deputy

(County Clerk's Seal)