

RESTRICTIVE COVENANTS
AMENDED

PART A. WHEREAS WAGNER HOMES, INC., A NEW MEXICO CORPORATION, is the Owner of WAGNER ESTATES, located in the SW1/4 of Section (31), T16S, R10E, NMPM, Otero County, New Mexico,

And Whereas, said Owner above named desires to place certain restrictions in regard to the building and improvements to be placed on portions of the above described real estate as follows:

PART B. FULLY RESTRICTED RESIDENTIAL AREA. The residential area covenants in Part C in their entirety shall apply to Lots 1 through 11, Wagner Estates, 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 one detached single family dwelling not to exceed two stories in height: and accessory buildings.

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. Accessory buildings shall architecturally (exterior) match the house.

Garage doors shall be located at the side or rear of the house, and shall not face the street. Metal roofs will not be permitted. Shingles shall be "architectural" or better (3-tab shingles are not permitted).

No fence or wall exceeding 42-inches in height, shall be erected or allowed to remain nearer the front street than the front building setback line.

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 building setback line. The height of fences which are erected behind the minimum set-back line of the front street shall not exceed 8 feet. Chain link or wood fences are not permitted. Fence shall be of welded steel pipe, rock masonry, or concrete block masonry.

Front yard shall be landscaped within 6 months of date of occupancy.

The lot owner shall be responsible for construction of a 30-inch min. width sidewalk, adjacent to the house, around the entire perimeter of the house and garage.

Lot owner shall install an 18-inch dia. culvert, at the street, in all driveways.

Architectural approval shall be as provided in Part D.

C-3 DWELLING COST, QUALITY AND SIZE. No building shall be permitted on any lot at a cost of less than \$130,000 based on cost levels prevailing on the date these covenants are recorded. It is 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 of the main structure, exclusive of one-story open porches and garages, shall contain not less than 2,000 square feet of heated area. All houses shall have a 3-car garage with a side or rear entrance.

C-4. BUILDING LOCATION. No building shall be located on any lot nearer to the front lot line or side lot line than 25 feet, nor nearer to the rear lot line than 20 feet.

C-5. 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 on upon any lot, nor shall anything be done thereon which may be or may become an annoyance of nuisance to the neighborhood.

Wood piles shall be screened from view from neighboring lots and from the front of a house. Vacant lots shall be kept clean and free of accumulations of rubbish, including, but not limited to, major appliances and car parts. Inoperative vehicles shall not be stored on any lot.

C-7. TEMPORARY STRUCTURES. 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 as a residence either temporarily or permanently.

C-8. LOT AREA AND WIDTH. Lot area shall not be reduced below that which is shown on the Plat of Wagner Estates. No lot shall be re-subdivided, except to combine two lots into one.

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 lots 1-7 & 9-11, except that dogs, cats, or other house-hold pets may be kept provided that they are not bred, kept, or maintained of any commercial purpose.

C-12. GARBAGE AND REFUSAL DISPOSAL. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. Portable containers, except for scheduled pick up days, shall be screened from view.

C-13. **WATER SUPPLY.** Water supply shall consist of individual wells provided on each lot by the individual lot owner. Shared wells shall not be permitted. Lot owner is responsible for maintaining New Mexico Environmental Department required clearances between wells and septic tanks, including those on adjacent properties.

C-14. **SEWAGE DISPOSAL.** Sewage disposal shall consist of individual NM ED-approved septic disposal systems provided on each lot by the individual lot owner. Shared septic systems shall not be permitted. Lot owner is responsible for maintaining New Mexico Environmental Department required clearances between wells and septic tanks, including those on adjacent properties.

C-15. **STORAGE OF RECREATIONAL VEHICLES.** Recreational vehicles include, but are not limited to, boats, airplanes, RV trailers, horse trailers, motor homes, car trailers, utility trailers and racing cars. No recreational vehicle shall be parked or stored any closer to the street than 5 feet behind the front of a house. No recreational vehicle shall be parked or stored on any street within or adjacent to the subdivision. No recreational vehicle shall be stored on the side-street side of any corner lot.

C-16. **ANTENNAE.** No television or radio antenna shall extend higher than 5 feet above the highest roof of any structure, and all antennae shall be subject to approval of the Architectural Control Committee prior to installation.

C-17. **BUSINESSES.** No business other than a home-business shall be permitted. "Shop"-type business are expressly prohibited.

PART D. ARCHITECTURAL CONTROL COMMITTEE

D-1. **MEMBERSHIP.** The Architectural Control Committee shall be composed of the Albert L. Wagner, Sr. and Albert L. Wagner, Jr.

D-2. **PROCEDURE.** Building plans to be submitted for approval shall include as a minimum, floor plans, front elevations, and a complete description of exterior materials and finish and roofing. The approval 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. These covenants may be amended at any time by a majority of the lot owners at the time of the amendment. An instrument signed by a majority of the owners shall be recorded with the County Clerk.

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 wise effect any of the other provisions which shall be and remain in full force and effect.

PART F. ATTEST.

IN WITNESS WHEREOF, the undersigned, being the majority lot owner, has caused these Amended Restrictive Covenants to be executed this JNA day of FEBRUARY, 1999.

WAGNER HOMES, INC. BY: Albert L. Wagner, Sr.
Albert L. Wagner, Sr., President

By: Albert L. Wagner, Jr.
Albert L. Wagner, Jr., Vice-President

CORPORATE ACKNOWLEDGEMENT

STATE OF OTERO)
)SS
COUNTY OF NEW MEXICO)

ON THIS JND DAY OF February, 1999, BEFORE ME PERSONALLY APPEARED ALBERT L. WAGNER, SR., PRESIDENT, AND ALBERT L. WAGNER, JR., VICE PRESIDENT, WAGNER HOMES, INC., A NEW MEXICO CORPORATION ON BEHALF OF SAID CORPORATION, KNOWN TO ME TO BE THE PERSONS WHO EXECUTED THE FOREGOING INSTRUMENT, AND THEY ACKNOWLEDGED THAT THEY EXECUTED SAID INSTRUMENT AS THEIR FREE ACT AND DEED.

WITNESS MY HAND AND SEAL ON THIS DAY AND YEAR LAST WRITTEN ABOVE.

Diana Gray, NOTARY PUBLIC



STATE OF NEW MEXICO } S.A.
OTERO COUNTY }
FILED FOR RECORD IN MY OFFICE
This 3 day of February 1999
At 8:15 o'clock A M and duly recorded
in Book No. 913 Page 930-933
The records of Otero County, New Mexico
Mary D. Quintana
County Clerk, Otero County, New Mexico
By: [Signature] Deputy
1176