

Disclaimer:

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39776

DECLARATION OF RESTRICTIONS

887-891

**SANDIA HEIGHTS SOUTH- UNIT III, A SUBDIVISION
IN BERNALILLO COUNTY, NEW MEXICO**

KNOW BY ALL MEN THESE PRESENTS: That SANDIA PEAK TRAM COMPANY, a New Mexico corporation, hereinafter called Grantor being the owner of SANDIA HEIGHTS SOUTH, UNIT III, a subdivision in Bernalillo County, New Mexico, in accordance with the Plat thereof filed in the office of the County Clerk of said County on the 3rd day of August, 1971, hereby declares that it has established, and does hereby establish a general plan for the improvement, development and restriction of the said property, subject to which all lots and portions of lots in said Subdivision shall be sold and conveyed.

All the reservations and restrictions hereinafter set forth are made for the benefit of each and every subsequent owner of any portion of the land in said Subdivision or any interest therein, and shall inure to and pass with each and every parcel thereof and shall apply to and bind all subsequent owners thereof; said restrictions, reservations and covenants being as follows:

1. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until the year 2000 A.D., at which time said covenants shall be automatically extended for successive periods of ten years, unless the then record owners of a three-quarters majority of the residential lots in said Sandia Heights South Unit III agree to change said covenants in whole or in part.
2. If the parties hereto, or any of them, or their heirs or assigns, shall violate or attempt to violate any of the covenants herein provided, any other person or persons owning any real property in said Sandia Heights South-Unit III Development or Subdivision (including any owners of commercial property therein) shall have the right to prosecute any action in the proper court to enjoin such party from violating such covenant, or to recover damages for such violation, or both.
3. Invalidation of any of these covenants shall in no way affect the validity of the other provisions, which shall remain in full force and effect.
4. All lots in Sandia Heights South Unit III are hereby designated residential lots. No structures shall be erected, altered placed or permitted to remain on any residential lot

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other than one detached single family dwelling and buildings related thereto, except that this provision shall not prevent the combination of two adjoining lots for one such dwelling. The Grantor may dedicate one or more lots, or any such portion thereof as a park.

5. Except by specific consent of the Architectural Control Committee, no building shall be located on any residential lot nearer than forty-five (45) feet to the front lot line or fifteen (15) feet to rear or any side lot line.

Except by specific approval of the Architectural Control Committee, no residence shall be a full two story structure. A two story structure is defined as one which is two full stories above the natural grade of the lot on all sides.

6. An Architectural Control Committee is hereby established, consisting of Robert J. Norhaus, Ben L. Abruzzo and Max Flatow as the appointees, to serve for a period of ten years from the date hereof and until their successors shall be appointed and qualify. Vacancies occurring either before the end of or as a result of expiration of such ten year term shall be filled by the members of the Committee, provided that within thirty days of any appointment, owners of a majority of the residential lots may select other appointees in their stead.

7. Before anyone shall commence construction, remodeling, addition to, or alteration of any building, swimming pool, wall, fence, coping, tank, visible air conditioner, radio antenna more than 5 feet above a building, or other structure whatsoever, on any lot, there shall be submitted to the Grantor for transmittal to the Architectural Control Committee.

- (a) preliminary floor plans, elevations and location the structure on the lot:

- (b) after approval of the preliminary plans, two complete sets of the final plans specifications for said work .

No such structure or improvement of any kind shall be erected, altered, placed or maintained upon any lot unless and until the final plans, elevations and specifications therefore have received such written approval as herein provided. Such plans shall include plot plans showing the location of the lot or property of the wall, fence, coping, or other structure proposed to be constructed, placed, altered, or maintained, and elevation of same, together with the proposed color scheme for roofs and exteriors thereof, indicating materials for same.

The Architectural Control Committee is authorized to charge not more than \$100.00 for review of plans for structure and alterations. At the time of submission of the plans and specifications as set forth herein, the owner shall cause to be paid to the Grantor an initial charge in the amount of \$25.00. The Committee shall approve or disapprove said plans and specifications within thirty days from the receipt thereof. One set of said plans and specifications with the Committee's approval or disapproval endorsed thereon shall be returned to the owner and the other copy thereof shall be retained by the Grantor.

The Committee shall have the right to disapprove any plans, specifications or details submitted to it as aforesaid, in the event such plans and specifications are not in accord with all the provisions of this declaration, or if a design or color scheme in the proposed

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structure is not in harmony with the general surroundings of such lot or the adjacent structure, or if the plans and specifications submitted are incomplete, or if the Grantor deems said plans and specifications to the contrary to the spirit and intent of these restrictive covenants, or contrary to the interest and the welfare and rights of all or any part of Sandia Heights South Unit III. The decision of the Grantor in any of these matters shall be final, and no building or improvement of any kind shall be constructed or placed upon any lot in Sandia Heights South Unit III without the prior written consent of the Grantor.

Neither the Committee, its members or the Grantor shall be responsible in any manner whatsoever for any defect in any plans or specifications submitted nor as revised by said Committee or the Grantor, or for any work done pursuant to the requested changes of said plans and specifications.

8. No residence shall be erected on any residential lot having an area of less than 2,000 square feet of ground floor area.
9. No trade or offensive activity of any kind shall be carried on upon any residential lot, nor shall anything be done on any lot which shall constitute an annoyance or nuisance to the neighborhood.

No trash shall be burned on the premises except in approved incinerators located indoors or within service yard. No garbage shall be burned. Garbage shall be placed in covered containers, said containers to be concealed from public view by an attractive enclosure. No barbecue or other outdoor cooking facility shall be located thereon nearer than ten feet from either side of lot line unless made a part of the residence.

10. No house trailer or boat shall be parked on any residential lot, nor shall any trailer, basement, tent, shack, garage or other out-building be used as a residence, temporarily or permanently.
11. The exterior of all buildings on residential lots shall be finished according to plans approved by the Architectural Control Committee within twelve months of start of construction. No exposed roof mounted heating or air-conditioning equipment shall be permitted. Except where special approval of the Architectural Control Committee is obtained no white roofs shall be permitted.
12. Each residence shall be provided with a method of sewage disposal meeting the recommended standards of the Bernalillo County Health Department and approved by the Architectural Control Committee. Garbage and waste shall be kept in covered metal containers and stored or disposed of in a manner approved by the Bernalillo County Health Department. Outdoor privies are prohibited.
13. Natural vegetation is to be left undisturbed where practical on residential lots, except for access to property, clearing of building sites and establishment of lawns and flower beds adjacent to buildings. No Chinese elms, cotton-bearing cottonwood trees or Bermuda grass shall be maintained on residential lot.

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14. Access roads and utility easements are dedicated and reserved as shown on the Plat of the Subdivision. All rights to water, oil and natural gas underlying the property are reserved to the Grantor.
15. Butane tanks must conform to state regulations and must be located so as not to detract from the appearance of any lot.
16. No animals shall be kept on residential lots except domestic cats and dogs.
17. No wire fences shall be maintained in the residential area of the Subdivision, except by Grantor on Subdivision boundaries.
18. No residential lot may be subdivided, nor may a portion of any residential lot be sold except to adjacent property holders for the purpose of increasing the size of an adjacent lot. No room or rooms in any residence may be rented or leased to any person, providing however, that nothing contained herein shall be construed as preventing the renting or leasing of an entire lot together with its improvements as a single unit to a single family.
19. It shall be the responsibility of owners of vacant residential lots to keep said lots clear of trash, rubbish or noxious material.
20. No unshaded flood lights shall be maintained which cast light directly into the homes of other residents in the Subdivision.
21. In the event that a structure is destroyed, wholly or partially by fire or any other casualty, said structure shall be properly rebuilt or repaired to conform to this declaration or, all the remaining structures, including the foundations and all debris, shall be removed from the lot.
22. Any and all of the right, title, interest and estate given to or reserved by the Grantor herein or on the plat of Sandia Heights South Unit III may be transferred or assigned to any person, firm or corporation by appropriate instrument in writing duly executed by the Grantor and recorded in the office of the Clerk and Recorder of Bernalillo County, New Mexico, and wherever the Grantor is hereby referred to, such reference shall be deemed to include its successors and assigns.

No delay or omission on the part of the undersigned, its successors or assigns, or of the owners of other lots in said Subdivision having the right hereunder to exercise the same, in exercising any right, power or remedy herein provided for in the event of any breach of the restrictions, covenants or reservations herein contained, shall be construed as a waiver thereof or acquiescence therein; and no right of action shall accrue, nor shall any action be brought or maintained by anyone whatsoever against the undersigned, its successors or assigns, for an on account of failure or neglect to exercise any right, power or remedy herein provided for in the event of breach of any of said covenants, restrictions or reservations.

Signatures on file at the SHHA office.