

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
RICHLAND HEIGHTS SUBDIVISION, PHASE III
BERNALILLO COUNTY, NEW MEXICO

A DECLARATION OF RESTRICTIVE COVENANTS AND BUILDING RESTRICTIONS UPON RICHLAND HEIGHTS SUBDIVISION PHASE III, A SUBDIVISION IN BERNALILLO COUNTY, NEW MEXICO.

WHEREAS it is the desire and intent of the undersigned owners and proprietors of all the property described as RICHLAND HEIGHTS SUBDIVISION, all lots as shown on a plat entitled "Richland Heights Subdivision Phase III" filed on the 11 day of May, 2007 and recorded on Volume 2007C, Folio 117, Document # 2007069836 filed in the Office of the County Clerk of Bernalillo County, New Mexico, covenants to bind the respective owners, their successors and assigns in the said subdivision, which said restrictions are as follows, to wit:

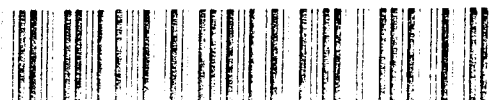
1. USE:

None of the lots or the improvements thereon shall be used for anything other than single-family, private residential purposes. After the construction of such residence, there may also be constructed a garage, and accessory structures so long as the same are used only in conjunction with such single-family private residence. This does not preclude use of a guest house but must meet the requirements for such as outlined by Bernalillo County Building and Zoning.

There will be no on-street parking within county road right of way.

2. STRUCTURES:

- A. No dwelling shall be erected or permitted to remain on any lot having less than 1700 square feet (when measured to exterior walls), exclusive of attached garages, porches or other similar appendages. All outbuildings, barns, garages, and other buildings shall have the same exterior finish as home except they may use metal skin of "propanel" type acceptable design and color by Developer. There will be no mobile homes or modular off-site built homes allowed in this subdivision.
- B. No improvements shall be placed or altered on any lot until the building plans, specifications, and plot plan showing the location of such improvements on the lot have been approved in writing by Developer. In the event the Developer disapproves any such plans, specifications, and /or plot plans, notice of such disapproval shall be made by delivery in person or by registered or certified letter, addressed to the party submitting the same at any address which must be supplied with the submission. Any such notice must set forth in detail the elements disapproved and the reason or reasons therefore, but need not contain suggestions as to methods of curing any matters or things disapproved. The judgment of the Developer in this respect, in the exercise of its discretion, shall be final and conclusive. If said Developer fails to approve or disapprove said plans, specifications, descriptions, or plot

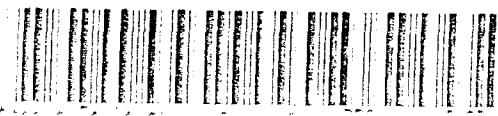


plans within thirty days after plans, specifications, descriptions, or plot plans have been submitted to it, approval will not be required and the related covenants shall be deemed to have been fully complied with. The use of the term "Improvements" in this paragraph shall specifically include all substantial improvements, including but not limited to: fences, wall, retaining walls, and driveway copings exceeding six inches in height, whether temporary or permanent in nature, and all residences, accessory structures, barns, stables and garages which may be built as herein after provided.

- C. No structure shall be used until the exterior thereof, as approved pursuant to subparagraph (B) above, and sanitary sewage disposal facilities (complying with number 7 below) are completely finished.
- D. No dwelling, building structure or septic tank shall be located in an easement.
- E. No tent, shack, garage, barn or other outbuilding or structure of a temporary character shall at any time be used as a residence, temporary or permanent.
- F. With reasonable diligence, and in all events within on (1) year from the commencement of construction (unless completion is prevented by war, strikes, or act of God), any dwelling commenced shall be completed as to its exterior and all building equipment, materials and supplies shall be removed.
- G. All homes must be in accordance with zoning regulations. No home shall be occupied without being connected to an adequate and approved septic tank and drainage field for sewage disposal.
- H. There will be no fences built within twenty feet of the front property lines. All fences must be constructed from steel pipe or treated posts or steel T-posts. All corner posts must be braced properly as normal construction for fencing with 2" or larger steel corner posts or treated wood of not less than 6" X 6". Interior posts may be either metal T-posts or treated wood posts. No railroad ties will be allowed. No fencing shall extend beyond the front corners of a home unless the fencing in front of the home toward the front property line is constructed out of chain link or split rail wood or pipe rail fencing. Field fence may be used for rear yard fencing. **All fencing and final approval of fencing will be subject to the Developer's and/or Home owner's Association's approval.**

In the event a lot is purchased with the Shell Pipeline Easement across it, the easement shall not be fenced unless 14' gates are installed and unlimited and immediate access can be obtained by Shell Pipeline.

- I. Fire Protection: This subdivision shall prohibit the use of wood shingle roofing materials. Owners are encouraged to use cement tile and/or metal roofs; however, standard asphalt shingles may be used. All homes that use asphalt shingles in an area with trees shall have all trees cleared from the building structure a minimum of 20 feet.



8. SOLID WASTE:

No lot shall be used as a dumping ground. Solid waste shall not be allowed to accumulate so as to create a nuisance or an eyesore within the subdivision. The Developer reserves the right to levy a fine and/or order removal of any unsightly materials at owner's expense. All occupied lots will be financially responsible for solid waste service. The Homeowners' Association will be responsible for enforcing this provision.

All property owners shall make diligent efforts not to create a habitat for rodents by allowing construction debris, brush piles, boulders, and indiscriminate scattering or improper storage of animal feeds and solid waste to remain on their property.

9. STORAGE OF MATERIALS:

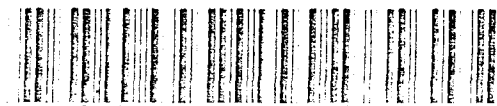
No building materials of any kind shall be placed or stored upon any lot except during actual benefit construction, and then such material shall be placed within the property lines of the lot on which the improvements are to be erected, and after on (1) year from the beginning of construction shall be removed or be kept within the residence.

10. ANIMALS:

The lots are zoned Residential by Bernalillo County and are for residential use. The lots may be used and maintained for that purpose. Livestock may be kept for the enjoyment and pleasure of the owner. The owner will be restricted to livestock for enjoyment and use by the owner's family only. This restriction is intended to prevent a commercial business of farming or raising of livestock. Further, it is understood that 4-H or FFA projects may be kept on the property. It is understood that if any livestock should become offensive, contemptible or obnoxious, the Developer and/or Homeowner's Association may serve notice to said owner to reduce density of livestock. No animal will be allowed to open graze. All animals must be kept in corrals at all times.

11. UNSIGHTLY STORAGE:

If open carports are used, no unsightly storage shall be permitted therein that is visible from the street or adjacent lots. No boats, trucks or unsightly vehicles shall be stored or kept for the purpose of repair on any lot except in enclosed garages or storage facilities protected from view of the public or other residents of the subdivision. There shall be no outside storage of any truck or vehicle larger than two tons, trailer, camper or boat. No washing machine, freezer, machinery nor any tools or other objects which can be construed as detracting from the appearance of the lot shall be exposed, but shall be placed in a suitably roofed and closed building of suitable material only. No person shall permit any vehicle to remain on his property in an inoperative condition for longer than thirty (30) days, nor shall any person keep or permit to be kept vehicle parts on his property that are not within a garage or other structure on his property. A vehicle shall be



deemed parked for repairs, reconstruction, or storage if it is not driven out of the property of 30 consecutive days. It shall be unlawful for anyone to store junk on any lot. Junk is defined as anything that is regarded as discarded material, metal, paper, rags, or anything worthless, meaningless, contemptible, and obnoxious, of no use, trashy or unsightly.

Air conditioners, roof or ground units, propane tanks, soar collectors, and other items appurtenant to the home operation shall be screened so that they are not visible from the street or neighbor's side lot.

No trucks or other commercial vehicles, motorcycles, campers, mobile homes, motor homes, boats, trailers or similar vehicles shall be kept, placed or maintained on an lot at any time, unless enclosed within garages or within a fenced area of the lot so as not to be visible from other lots, except where required for the limited purposes of building, repairing, refinishing, or maintaining the lot or a residence on the lot, or for the purpose of moving household goods or other necessary or customary furnishings, equipment or supplies in or out of the lot.

12. EASEMENTS:

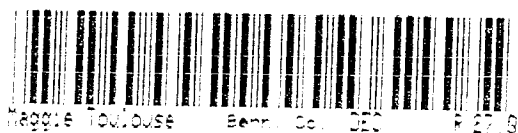
Perpetual easements are reserved over and across the lots in the subdivision for the purpose of storm drainage and for installing, repairing and maintaining or conveying to proper parties so that they may install, repair and maintain electric power, water, sewage, gas, telephone and similar utility facilities and services for all the lots and properties in the subdivision as follows:

All easements shown on the recorded plat of the subdivision are adopted as part of these restrictions, and in instances in which surrounding terrain may necessitate the location lines outside the precise areas designated as easement areas, access may be held at all reasonable times thereto for maintenance, repair and replacement purposes, without the lot owner being entitled to any compensation or redress by reason of the fact that such maintenance, repair or replacement work has proceeded. The easements reserved and dedicated under the terms and provisions hereof shall be for the general benefit of the subdivision and any other land owned or acquired by the Developer in the vicinity thereof, and shall also inure to the benefit of the subdivision and may be used by any public or private utility without the necessity of any further grant of such easement rights of such utility. Developer reserves the right and easement to place trails within the front 20 feet of any lot.

No grading or structures, except for fencing are permitted within any designated 100-year flood plain easement.

13. NATURAL VEGETATION:

All development shall be done in such a manner to conserve natural vegetation with the exception of lawns or other landscaped areas. No development shall take place which would create erosion problems within the subdivision.



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Page 5 of 16
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No animal will be allowed to graze natural vegetation which would rid the soil of natural vegetation that could create erosion problems. No livestock shall open graze vegetation on a lot. All livestock shall be confined to corrals located on the most level land possible.

14. MINERAL DEVELOPMENT:

No oil or gas drilling, oil or gas development operations, oil or gas refining or treatment, quarrying or mining operations of any kind shall be permitted upon or in any part of the lands included in the subdivision by any lot owner.

15. DESTROYED BUILDINGS AND IMPROVEMENTS:

Any dwelling or outbuilding on any parcel which may be destroyed in whole or in part by fire, windstorm, or for any cause or act of God, must be rebuilt or all debris removed and the parcel restored to a slightly condition with reasonable promptness, provided, however, that in no event shall such debris remain longer than sixty (60) days.

16. COVENANTS RUNNING WITH LAND, ARCHITECTURAL CONTROL COMMITTEE, AND HOMEOWNERS' ASSOCIATION:

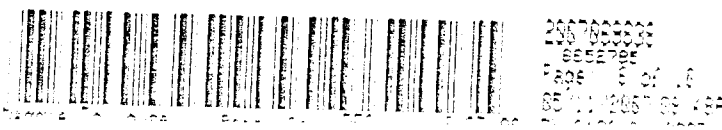
All of the restrictions, covenants and easements herein provided for and adopted shall apply to each and every lot in the subdivision, and shall be covenants running with the land. Developer, its successors and assigns, shall have the right to enforce observance and performance of same and shall have the right in addition to all legal remedies or remedies elsewhere provided herein to an injunction, either to enforce the performance thereof.

An Architectural Control Committee shall be appointed, from time to time, by Developer. It shall be the purpose of such Committee, in reviewing plans, specifications, and plot plans, to insure for all owners, harmony of external and structural design and quality with existing structures. The Committee shall have the right to designate a representative to act for it in all matters arising hereunder.

There will be a Richland Heights Homeowners' Association. The purpose of this association from the beginning of sale of lots is to maintain improvements as provided by the Developer in accordance with Bernalillo County Regulations as they apply to such area. Further, the by-laws of this association will reflect these purposes and likewise, be responsible for upholding the subdivision covenants and/or acting as the design review for improvements once the 75% lot sales has been completed and the lot owners form such association and/or as the Developer may assign its responsibility to an earlier date.

17. LIABILITY:

It is stipulated that neither the Developer nor any of the undersigned shall ever be liable for the failure of any purchaser or any of said property or any other person to observe or comply with said restrictions, covenants and easements, or any of them, nor shall they be compelled to institute any proceedings to enforce the observance of or compliance with the same and they do



not now have nor shall they ever be charged with or ever have any financial liability, duty or obligation to do or refrain from doing or to perform or to refrain from performing any act or service or thing of any kind which Developer, in these restrictions and covenants, is given the option or privileges to do or refrain from doing.

18. Such restrictions and covenants may be amended or changed at any time by the affirmative vote of then owners of at least seventy-five percent (75%) of the lot owners shown by the recorded plat of RICHLAND HEIGHTS SUBDIVISION, evidenced by a written agreement signed and acknowledged by the then owners of at least seventy-five percent (75%) of such lots; such amendment or change filed for record in the Office of the County Clerk of Bernalillo County, New Mexico, provided, however, that the person or persons requesting an amendment or change shall bear all expenses in connection therewith, and that no amendment or change shall place an additional burden or restriction on any lot in the subdivision where the owner of such lot or lots does not join in such amendment or change. All phases of Richland Heights shall become one as they are recorded even though separate covenants have been recorded. There shall be only one Homeowner's Association.

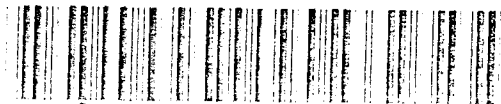
19. PARTIAL INVALIDITY:

Invalidation of any covenant, restriction, etc., (by court judgment or otherwise) shall not affect in any way the validity of all other covenants, restrictions, etc., all of which shall remain in full force and effect. Acquiescence of any violation shall not be deemed a waiver of the right to enforce against the violator or others the conditions so violated or any other conditions; and Developer shall have the right to enforce against the violator or others the conditions so violated or any other conditions; and Developer shall have the right to enter the property of the violator and correct the violation, or to require that the same be corrected.

- A. The restrictions and covenants herein provided for and adopted shall remain in full force and effect until June 1, 2025, unless sooner amended as herein provided.
- B. At the end of the term provided in 19 (A) above, and at the end of each ten (10) year extension herein provided, they will be automatically renewed and extended succeeding periods of ten (10) years each, unless within six (6) months prior to the date such restrictions and covenants would otherwise be automatically extended, an instrument shall have been signed by the then owners of a majority of the square footage in the lots in the subdivision and shall have been recorded in the Office of the County Clerk of Bernalillo County, New Mexico, agreeing to change said restrictions and covenants, in whole or in part. In the instance of community property, signature of the husband and wife alone shall suffice.

IN WITNESS WHEREOF, the undersigned owners of RICHLAND HEIGHTS SUBDIVISION have set their hands this 10th day of MAY, 2007.

Howard E. McCall
Howard E. McCall, Executive Officer,
Express Development LTD CO, A New Mexico Limited Liability Company



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Page 16 of 16
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