

NOTE: This is a copy and not an official document and is believed to be a reasonable and accurate transcription, including any typographical errors and nonstandard grammar, of the *Declaration of Covenants, Conditions and Restrictions for Sandia Mountain Ranch Subdivision Unit Two*, originally signed and notarized on October 25, 1995 and filed with the County of Bernalillo on the same day. This document also includes the amendments incorporated and voted on by the Lot Owners and filed with the County of Bernalillo on March 24, 2008. **The type shown in red below indicates the changes.** This is not an official copy and any differences between this document and the original and the amendment will be resolved in favor of the original documents only. Although somewhat similar to the SMR CC&Rs filed in other Phases, these particular CC&Rs apply only to SMR Phase 1. An attempt was made to keep the format and style of the original document intact, but not line breaks or pagination.

## **DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SANDIA MOUNTAIN RANCH SUBDIVISION UNIT TWO PHASE 1**

This Declaration of Covenants, Conditions and Restrictions covers Sandia Mountain Ranch Subdivision Unit Two, a subdivision in Bernalillo County, New Mexico as shown on the Plat thereof filed in the Office of the County Clerk of Bernalillo County on this 25th day October, 1995.

The Covenants, Conditions and Restrictions are to run with the land and shall be binding upon all parties and all persons owning lots in Sandia Mountain Ranch Subdivision Unit Two.

1. **HOMEOWNERS ARCHITECTURAL CONTROL AND COVENANT ENFORCEMENT COMMITTEE.** To ensure the maintenance of the standards established by these Covenants, a committee of ~~at least three property owners will be created. The committee shall consist of three~~ persons owning real estate within the Subdivision and occupying said real estate as their principal dwelling. The first committee shall be appointed by the Developer and serve until ninety (90) percent of the lots are sold. The initial committee need not be property owners and may be replaced by the Developer at will. At the time ninety (90) percent of the lots are sold, ~~the Committee shall be elected by a majority of the Lot Owners who are present at a special meeting new members shall be elevated by the majority vote of all of the owners of property within Sandia Mountain Ranch Subdivision Unit Two~~ on a one vote per lot basis. If requested, the Homeowner Architectural Control and Covenant Control Committee may grant variances to these Covenants, where they do not violate any County or other governmental agency law or regulation, by a majority vote of Committee members.
2. It shall be lawful for any owner or owners of Sandia Mountain Ranch Subdivision Unit Two real property to prosecute any proceeding at law or in equity against any parties hereto, or their heirs or assigns who shall violate or attempt to violate any of the restrictions herein, and either prevent said violating parties from so doing, or to recover damages or other due for such violation. The restrictive covenants can be changed with a sixty-five percent or greater vote of the lot owners within Sandia Mountain Ranch Subdivision Unit Two, after the Developer has sold ninety (90) percent of the lots.
3. Invalidation of anyone of these restrictions by judgment or court order shall in no way affect any other provisions. which remain in full force and effect.
4. All lots shall be known and described as residential lots. The property is to be used for residential purposes only. No mobile homes are allowed within the subdivision.
5. No building shall be located on any lot nearer than eighty (80) feet to the right-of-way running along the front. No building shall be located on any lot nearer than twenty-five feet from any

side lot line. The subdivider retains the right to allow structures to be built closer to the right-of-way of the road on those lots where the amount of usable building space on the lot is limited. There shall be no fencing any closer than fifty feet (50) of the road right-of-way. No chain link or barbed wire fencing is allowed within the subdivision. Animal enclosures can be constructed out of chain link; however, they shall be located no closer than one hundred (100) feet from the right-of-way.

6. The heated area of the main structure on any lot, exclusive of porches and garages, shall be no less than sixteen hundred (1,600) square feet for lots fifty-four (54) through sixty-nine (69); eighteen hundred (1,800) square feet for lots fifty (50) through fifty-three (53) and lots seventy (70) through seventy-seven (77); two thousand (2,000) for lots seventy-eight (78) through eighty-one (81), eight (8) through seventeen (17) and lots forty-four (44) through forty-nine (49). The maximum building height shall be thirty-five (35) feet, exclusive of chimneys, measured from the natural ground at the highest point adjacent to the building. Higher structures are permitted with written consent of the record owners of all adjacent lots.
7. All building on all lots shall be of accepted architectural design, typical of New Mexico and the Southwest, including Pueblo, Territorial, Ranch, Adobe, and Spanish styles. Garages and outbuilding shall be approved by the Architectural Control Committee. A complete set of building plans must be submitted to and approved by the Architectural Control Committee prior to construction of any structure on any lot. A fee of one hundred twenty-five dollars (\$125.00) shall be paid at the time construction drawings, site plan, construction materials and color choices are submitted. The Architectural Control Committee will have fifteen (15) days to respond to the applicant. It is recommended that the lot owner consult with the Architectural Control Committee early in the design process to avoid any inconvenience, delays or additional costs.
8. All buildings are to be finished as to exterior within twelve (12) months from the start of construction. Prior to commencing construction, the owner must have installed necessary culverts and a minimum of fifty (50) feet of graveled driveway.

Certain lots within the subdivision have erosion control terraces constructed on them. These terraces have significant historical value. It is the responsibility of the lot owner to maintain these terraces to prevent erosion. Guidances for maintenance shall be sought from Ciudad Soil and Water Conservation district.

9. Natural vegetation will be left undisturbed, except for access to property, clearing of building sites, or establishment of lawns, gardens, and landscaped improvements within the immediate vicinity of the dwelling. To preserve water, irrigation of lawns, gardens, and patio areas shall not exceed two thousand (2,000) square feet.

Land within the drainage easement shall not be disturbed and, no dwellings or outbuildings shall be placed within the easement. Some lots have drainage easements granted by Plat and dedicated to the County of Bernalillo. These easements are restricted to drainage, flood control, conveyance of storm water, and the construction, operation, and maintenance of and access to such facilities. Except by written approval of the County Engineer, no fence, wall, building or other obstruction may be placed or maintained in said easements, and there shall be no alteration of the grades or contours in said easements. The granting of easements does not obligate the County of Bernalillo to maintain natural arroyos, drainage channels, or facilities that do not meet the standards of the County Engineer for design and construction nor is the County of Bernalillo obligated to provide protection of the property lying outside of the easements granted. Safe locations for structures built on lands adjacent to dedicated easements may be substantially

outside of the area described by the easements. Any portion of any lands, right-of-way, or easements dedicated or granted shall revert to the owner, its successors and assigns, as and to the extent said portion is declared unnecessary for flood control and drainage by the County Engineer of Bernalillo County. Vacation approval consistently with the Bernalillo County Subdivision Ordinance may be required.

10. No businesses, industrial activity, or commercial trade shall be carried out on any residential lot, nor any activity done on any lot, which may be or may become an annoyance or nuisance to the neighborhood. This provision does not prevent the conduct of arts and crafts studios, or professional offices, providing the activity does not result in frequent multiple vehicular traffic, noise, or other annoyance. Any signs within the subdivision shall be approved by the Architectural Control Committee.
11. Propane tanks and water storage tanks must conform to state regulations and shall be architecturally screened from the view of neighbors and passers-by. Propane tanks shall be buried and out of sight wherever practical.
12. Garbage cans, clothes lines, and other similar items shall be screened from the view of neighbors and passers-by.
13. Outdoor privies are forbidden and each residence shall be provided with a method of sewage disposal which meets the requirements contained in the Federal Housing Administration minimum standards in effect at the time of construction and, which meet the recommended standards of the Bernalillo County Environmental Health Department. Garbage and solid waste shall be kept in a covered waterproof containers and shall be stored and disposed of in a manner approved by the Bernalillo County Environmental Health Department.
14. No household pets, livestock, or poultry shall be raised for commercial purposes on any lot. No such animals shall be kept in quantities which may be or may become an annoyance. Animals are not allowed to roam free. All animals shall be kept on the owner's premise in suitable housing, or penned enclosure in a manner approved by the Animal Humane Association of New Mexico. On-site corrals, livestock pens, or uncovered stables shall be limited to 15,000 square feet. Due to fragile nature of vegetation and erodibility of soils, all corrals are to be maintained to prevent erosion. No animals shall be allowed to graze the drainage easements. No more than four (4) horses shall be allowed per lot.
15. Proper restraint of animals shall be maintained at all times. Animals shall not be permitted to trespass onto the real estate of other lot owners in the subdivision.
16. Pens, corrals, stables and other animals enclosures shall not be located nearer than one hundred (100) feet to road right-of-way and, shall not be located nearer than fifty (50) feet from any building on any adjacent lot. Furthermore, no animal enclosure shall be located nearer than twenty-five (25) feet from any site or rear lot line, except with the written consent of the record owner of the adjacent lot. The Developer reserves the right to make exceptions on a case-by-case basis.
17. No residential lot may be subdivided, nor may a portion of a residential lot be sold.
18. On-street parking is not permitted. Owners shall provide adequate parking for residents and guest. Storage and parking of commercial vehicles, equipment, machinery, shall not be permitted. Motor homes, trucks campers, trailers, boats, etc., shall be screened from view of

neighbors and passers-by. All radio, TV antennae and satellite dishes must be screened to the extent possible and must be approved by the Architectural Control Committee.

19. No structure shall be erected, altered, placed, or permitted to remain on any residential lot other than one single-family dwelling and related outbuildings. This provision does not prevent the combination of two adjoining lots for one such building.
20. All lot owners shall hook up the Entranosa Water Cooperative for domestic water. All lot owners shall purchase their water share from the Developer, at the currently Entranosa price.
21. All residences shall use water saving toilets.
22. All residences shall use water saving dishwashers.
23. All residences shall use water restricting shower heads and faucets.
24. All residences shall use water saving clothes washers.
25. All lots shall be limited to the irrigation of two thousand (2,000) square feet of lawn, garden and trees. Total watering shall not exceed two thousand six hundred (2,600) gallons per month, averaged over a nine-month period (equal to 0.072 acre-feet per lot).
26. No swimming pools are allowed on any lot, except when water for filling the pool is obtained from outside sources. Arrangements may be made with the Bernalillo County Fire Department for filling the pool to use as a possible fire-fighting source of water.
27. All residences shall properly insulate all hot water pipes to prevent energy and water waste.

IN WITNESS WHEREOF, Sedillo 100 Partnership has caused these Declarations to be signed in its name by its agent this 25th day of October, 1995.

(signed)

GARY D. MAPLE

Original:

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
FILED FOR RECORD  
1995 OCT 25 PM12:28  
BK 9525 PG 8974-8978  
JUDY D. WOODWARD  
CO CLERK RECORDER  
(signed) DEPUTY

Amendment:

Doc #2008032190  
03/24/2008 10:51AM Page 1 of 2  
AMND R:\$11.00 M. Toulouse, Bernalillo County

NOTE: This is a copy and not an official document and is believed to be a reasonable and accurate transcription, including any typographical errors and nonstandard grammar, of the *Declaration of Covenants, Conditions and Restrictions for Sandia Mountain Ranch Subdivision Unit Two Phase 2*, originally signed on March 28, 2000 and filed with the County of Bernalillo on the same day. This document also includes the amendments incorporated and voted on by the Lot Owners and filed with the County of Bernalillo on March 24, 2008. **The type shown in red below indicates the changes.** This is not an official copy and any differences between this document and the original and the amendment will be resolved in favor of the original documents only. An attempt was made to keep the format and style of the original document intact, but not line breaks or pagination.

## **DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SANDIA MOUNTAIN RANCH SUBDIVISION UNIT TWO PHASE 2**

This Declaration of Covenants, Conditions and Restrictions covers Sandia Mountain Ranch Subdivision Unit Two Phase 2, a subdivision in Bernalillo County, New Mexico as shown on the Plat thereof filed in the Office of the County Clerk of Bernalillo County on this \_\_\_\_ day of \_\_\_\_\_, 1999.

These Covenants, Conditions and Restrictions are to run with the land and shall be binding upon all parties and all persons owning lots in Sandia Mountain Ranch Unit Two Phase 2.

1. **HOMEOWNERS ARCHITECTURAL CONTROL AND COVENANT ENFORCEMENT COMMITTEE.** To ensure the maintenance of the standards established by these Covenants, a committee of ~~at least three property owners will be created. The committee shall consist of three~~ persons owning real estate within the Subdivision and occupying said real estate as their principal dwelling. The Developer shall appoint the first committee and serve until ninety (90) percent of the lots are sold. The initial committee need not be property owners and may be replaced by the Developer at will. At the time ninety (90) percent of the lots are sold, ~~the Committee shall be elected by a majority of the Lot Owners who are present at a special meeting new members shall be elevated by the majority vote of all of the owners of property within Sandia Mountain Ranch Subdivision Unit Two~~ on a one vote per lot basis. If requested, the Homeowner Architectural Control and Covenant Enforcement Committee may grant variances to these Covenants, where they do not violate any County or other governmental agency law or regulation, by a majority vote of Committee members.
2. BEFORE ANYONE SHALL COMMENCE THE CONSTRUCTION, REMODELING, ADDITION TO, OR ALTERATION OF ANY BUILDING, FENCE, WALL, TANK, ANTENNA, OR OTHER STRUCTURE WHATSOEVER, ON ANY LOT OR PORTION OF SAID LAND, PLANS SHALL BE SUBMITTED AND APPROVED BY THE ARCHITECTURAL CONTROL COMMITTEE BEFORE START OF WORK.
3. It shall be lawful for any owner or owners of Sandia Mountain Ranch Unit Two Phase 2 real property to prosecute any proceeding at law or in equity against any parties hereto, or their heirs or assigns who shall violate or attempt to violate any of the restrictions herein, and either prevent said violating parties from so doing, or to recover damages or other due for such violation. However, the disputing parties agree to first seek remedy through arbitration. The restrictive covenants can be changed with a sixty-five percent or greater vote of the lot owners within Sandia Mountain Ranch Unit Two Phase 2, after the Developer has sold ninety (90) percent of the lots.

4. Invalidation of anyone of these restrictions by judgment or court order shall in no way affect any other provisions. which remain in full force and effect.
5. All lots shall be known and described as residential lots. The property is to be used for residential purposes only. No mobile homes are allowed within the subdivision.
6. No building or outbuilding shall be located on any lot nearer than eighty (80) feet to the right-of-way running along the front. No building or outbuilding shall be located on any lot nearer than forty (40) feet from any side or rear lot line. The subdivider retains the right to allow structures to built closer to the right-of-way and or side and rear lot lines on those lots where the amount of usable building space on the lot is limited. There shall be no fencing any closer than fifty (50) of the road right-of-way. Lots with shared driveway access shall not place fencing more than twenty (20) feet in front of the house. No chain link or barbwire fencing is allowed within the subdivision. Animal enclosures can be constructed out of chain link; however, it shall be located no closer than one hundred (100) feet from the right-of-way. No fencing shall be erected without first consulting the Architectural Control Committee for written approval. Animal enclosures shall be no closer than fifty (50) feet from side or rear lot lines, without permission from the Developer or adjacent lot owner. Lots eighteen (18) through twenty-nine (29) contain a no-build easement that extends from the rear lot line (the ridge side) one hundred and fifty (150) feet towards the front lot line.
7. The heated area of the main structure on any lot, exclusive of porches and garages, shall be no less than two thousand (2,000) square feet. The maximum building height shall be thirty-five (35) feet, exclusive of chimneys, measured from the natural ground at the highest point adjacent to the building.
8. All building on all lots shall be of accepted architectural design, typical of New Mexico and the Southwest, including Pueblo, Territorial, Ranch, Adobe, and Spanish styles. Exterior and Roof colors shall be neutral and blend in with the natural surroundings. Subsequent home additions or any out building construction require written approval prior to commencement of construction by the Architectural Control Committee. Owners and builders should refer to the Architectural Control Committee Design Review document for specific design criteria. The Design Review Document must be submitted to the Architectural Control Committee and approved by such prior to the commencement of home construction.
9. All buildings are to be finished as to exterior within twelve (12) months from the start of construction. Prior to commencing construction, the owner must have installed culverts that meet current Bernalillo County specifications and a minimum of fifty (50) feet of graveled driveway.
10. Certain lots within the subdivision have erosion control terraces constructed on them. These terraces have significant historical value. It is the responsibility of the lot owner to maintain these terraces to prevent erosion. Guidance for maintenance shall be sought from Ciudad Soil and Water Conservation district.
11. Natural vegetation will be left undisturbed, except for access to property, clearing of building sites, or establishment of lawns, gardens, and landscaped improvements within the immediate vicinity of the dwelling. To preserve water, irrigation of lawns, gardens. and patio areas shall not exceed two thousand (2,000) square feet.
12. Land within the drainage easement shall not be disturbed and, no dwellings or outbuildings shall be placed within the easement. Some lots have drainage easements granted by Plat and

dedicated to the County of Bernalillo. These easements are restricted to drainage, flood control, conveyance of storm water, and the construction, operation, and maintenance of and access to such facilities. Except by written approval of the County Engineer, no fence, wall, building or other obstruction may be placed or maintained in said easements, and there shall be no alteration of the grades or contours in said easements. The granting of easements does not obligate the County of Bernalillo to maintain natural arroyos, drainage channels, or facilities that do not meet the standards of the County Engineer for design and construction nor is the County of Bernalillo obligated to provide protection of the property lying outside of the easements granted. Safe locations for structures built on lands adjacent to dedicated easements may be substantially outside of the area described by the easements. Any portion of any lands, right-of-way, or easements dedicated or granted shall revert to the owner, its successors and assigns, as and to the extent said portion is declared unnecessary for flood control and drainage by the County Engineer of Bernalillo County. Vacation approval consistent with the Bernalillo County Subdivision Ordinance may be required.

13. No business, industrial activity, or commercial trade shall be carried out on any residential lot, or any activity done on any lot, which may be or may become an annoyance or nuisance to the neighborhood. This provision does not prevent the conduct of arts and crafts studios, or professional offices, providing the activity does not result in frequent multiple vehicular traffic, noise, or other annoyance. The Architectural Control Committee shall approve any signs within the subdivision. The homeowner at their expense must maintain all address signs, which have been installed by the developer.
14. Propane tanks shall be buried and out of sight wherever practical. Propane tanks and water storage tanks must conform to state regulations and shall be architecturally screened from the view of neighbors and passers-by.
15. Garbage cans, clotheslines, and other similar items shall be screened from the view of neighbors and passers-by.
16. Each residence shall provide a method of sewage disposal, which meets the requirements of Bernalillo County Environmental Health Department. Garbage and solid waste shall be kept in covered, waterproof containers and shall be stored and disposed of in a manner approved by the Bernalillo County Environmental Health Department.
17. No household pets, livestock, or poultry shall be raised for commercial purposes on any lot. No such animals shall be kept in quantities, which may become an annoyance. Dogs or other pets shall not be allowed to be a noise nuisance. Repeated complaints to the A.C.C. shall require the owner to restrain the animal in the immediate vicinity of the home. Animals are not allowed to roam free. All animals shall be kept on the owner's premise in suitable housing, or penned enclosure in a manner approved by the Animal Humane Association of New Mexico. On-site corrals, livestock pens, or uncovered stables shall be limited to 15,000 square feet. Due to the fragile nature of vegetation and erodibility of soils, all corrals are to be maintained to prevent erosion. No animals shall be allowed to graze the drainage easements. No more than four (4) horses per lot. Proper restraint of animals shall be maintained at all times.
18. Animals shall not be permitted to trespass onto the real estate of other lot owners in the subdivision.
19. Pens, corrals, stables, and other animal enclosures shall not be located nearer than one hundred (100) feet to road right-of-way and, shall not be located nearer than fifty (50) feet from any building on any adjacent lot. Furthermore, no animal enclosure shall be located nearer than fifty

(50) feet from any side or rear lot line, except with the written consent of the record owner of the adjacent lot. The Developer reserves the right to make exceptions on a case-by-case basis.

20. No residential lot may be subdivided, nor may a portion of a residential lot be sold.
21. On-street parking is not permitted. Owners shall provide adequate parking for residents and guest. Storage and parking of commercial vehicles, equipment, machinery, shall not be permitted. Motor homes, campers, trailers, boats, etc., shall be screened from view of neighbors and passers-by. All radio, TV, antennae and satellite dishes must be screened to the extent possible and must be approved by the Architectural Control Committee.
22. No structure shall be erected, altered, placed, or permitted to remain on any residential lot other than one single-family dwelling and related outbuildings. This provision does not prevent the combination of two adjoining lots for one such building.
23. All lot owners shall hook-up to the Entranosa Water Cooperative for domestic water. All lot owners shall purchase their water share from the Developer, at the current Entranosa price.
24. All residences shall use water saving toilets.
25. All residences shall use water saving dishwashers.
26. All residences shall use water restricting showerheads and faucets.
27. All residences shall use water saving clothes washers.
28. All lots shall be limited to the irrigation of two thousand (2,000) square feet of lawn, garden and trees. Total watering shall not exceed two thousand six hundred (2,600) gallons per month, averaged over a nine-month period. (equal to 0.072 acre-feet per lot).
29. All residences shall properly insulate all hot water pipes to prevent energy and water waste.
30. All owners of all lots with shared access easements shall sign a separate shared access easement and utility maintenance agreement.
31. For the mutual benefit of all lot owners in Phase 2 (lots 18-43) shall sign a separate agreement for snow removal on private driveways.

IN WITNESS WHEREOF, Buena Vista Land Development, Inc. has caused these Declarations to be signed in its name by its agent this 28 day of March, 2000.

(signed)

Alex Leonard, President, Buena Vista Land Development, Inc.

Original:

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Judy D. Woodward Bern. Co. STMT R73.00 BK-A3 Pg-9679

Amendment:

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Last Updated: 2/26/18 3:04 PM



NOTE: This is a copy and not an official document and is believed to be a reasonable and accurate transcription, including any typographical errors and nonstandard grammar, of the *Declaration of Covenants, Conditions and Restrictions for Sandia Mountain Ranch, Unit Two, Phase 4*, signed on January 20, 2004 and filed with the County of Bernalillo on the same day. This is not an official copy and any differences between this document and the original will be resolved in favor of the original document only. An attempt was made to keep the format and style of the original document intact, but not line breaks or pagination.

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR SANDIA MOUNTAIN RANCH, UNIT 2, PHASE 4**

THIS DECLARATION of Covenants, Conditions and Restrictions is made as of this 20th day of January, 2004, by SMR4, LLC, a New Mexico limited liability company (hereinafter "Grantor").

WHEREAS, Grantor is the owner of the real property described in Article II of this Declaration and desires to create thereon a residential community and to provide for the preservation of the values and amenities in the community by subjecting the property to the covenants, restrictions, and easements hereinafter set forth, each and all of which is and are for the benefit of the property and each owner thereof.

NOW, THEREFORE, the Grantor declares that the real property described in Article II is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions and restrictions hereinafter set forth.

**ARTICLE I**  
**DEFINITIONS**

Section 1. The following words when used in this Declaration shall have the following meanings:

(a) "Lot" means the land identified as Lots 87 through 113, inclusive, as shown on the Plat of Unit 2, Phase 4, Sandia Mountain Ranch Subdivision.

(b) "Declaration" means this Declaration of Covenants, Conditions and Restrictions, and any amendment or modification thereto.

(c) "Drainage Report" means the report prepared for the Property by Grantor and approved, and on file with the County of Bernalillo Public Works Department.

(d) "Entranosa Water and Wastewater Association" ("Entranosa") means the nonprofit mutual domestic corporation supplying community water services and wastewater services to the Lots within the Subdivision.

(e) "Grading Plan" means the grading plan prepared for the Property by Grantor and on file with the County of Bernalillo Public Works Department.

(f) "Living Unit" or "Unit" means any building or a portion of a building situated on a building site designed and intended for use and occupancy as a single family residence. Living Unit includes the term Lot, unless otherwise indicated.

(g) "Plat" means the Plat of Unit 2, Phase 4, Sandia Mountain Ranch Subdivision, recorded in the Bernalillo County, New Mexico real estate records on December 5, 2003 in Vol. 2003-C, Folio 366, Document No. 2003-217695.

(h) "Owner" means the record owner of the fee simple title of a Lot or unit and shall include a contract purchaser of any Unit or Lot pursuant to an installment sales contract. Owner shall not include a contract seller of a Lot or Unit pursuant to an installment sales contract.

(i) "The Property" means all of the real property described in Article II.

(j) "Setback" means the distance between a front property line and side and rear lot line on any Lot, as set out in Article III, Section 18, hereof.

(k) "Subdivision" shall mean the subdivision created by and subject to this Declaration, including all the Lots created by the Plat, and the internal streets serving the Lots.

## **ARTICLE II**

### **PROPERTY SUBJECT TO DECLARATION**

The following described property situate in the, County of Bernalillo, State of New Mexico, is made subject to all easements, covenants, conditions and restrictions set forth in this Declaration:

Lots 87 through 113, inclusive, as the same are shown and designated on the Plat of Unit 2, Phase 4, Sandia Mountain Ranch Subdivision, recorded in the Bernalillo County, New Mexico real estate records on December 5, 2003, in Vol. 2003-C, Folio 366, Document No. 2003-217695.

## **ARTICLE III**

### **USE RESTRICTIONS**

Section 1. All Living Units and Lots within the Property are hereby restricted to residential dwellings for single family residential use with a minimum of 2000 square feet of enclosed heated living area, exclusive of carports, garages and open porches or patios. The maximum building height shall be twenty-six feet (26'), excluding chimneys, measured from the highest point of the natural ground adjacent to the Living Unit. All construction upon any Lot must be new construction and no existing building or structure may be moved from another site to a Lot. Each Living Unit shall have an appurtenant private garage for at least two cars. No mobile home or manufactured housing shall be permitted within the Subdivision.

Section 2. Notwithstanding any provision herein contained to the contrary, it shall be expressly permissible for the Grantor or home builders building homes within the Property to maintain during the period of construction and sale of the Living Units, such facilities as may be reasonably required, convenient or incidental to the construction and sale of the Living Units, including, without limitation, a business office, storage area, construction yards, signs, model units and sales office.

Section 3. No animals, livestock or poultry of any kind shall be raised or bred for any commercial purposes. All dogs, cats and horses shall be kept on the Lot Owner's property in suitable enclosures or pens, in a manner approved by the Animal Humane Association of New Mexico. Any corrals, horse pens or stables erected on any Lot shall be limited to 15,000 square feet in size, and shall be set back a minimum of 100 feet from the front property line of each Lot, and a minimum of fifty feet (50') from any side or rear yard lot line. The Grantor may grant a variances to this setback requirement. All Lot Owners shall restrain all pets and/or horses from trespassing onto other Lots within the Subdivision. No more than four (4) horses are allowed on any Lot at one time, and all horses shall be corralled within the 15,000 square foot enclosures at all times. Horses are not allowed to roam on any Lot, except within the corralled enclosures. Horses are not allowed to graze

on any Drainage Easements within the Subdivision. Except as permitted in this Section 3, no livestock of any kind is allowed in the Subdivision.

Section 4. No advertising signs except customary "for sale" signs or signs for Grantor or Grantor's assigns to market the Lots and/or Living Units, billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on the Property, unless approved, in writing, by the Architectural Control Committee, as hereinafter defined in Article IV, below. The Property shall not be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Living Unit or any resident thereof.

Section 5. No business activities of any kind whatsoever shall be conducted in any Living Unit or on any portion of the Property, except as permitted by the County as a "home occupation" and so long as there is no external evidence of the business activity. Provided, further, however, the foregoing covenants shall not apply to the business activities, or the construction and maintenance of buildings, if any, of the Grantor, its agents and assigns, during the construction and sale period. This provision does not prevent the conduct of arts and crafts studios, or professional offices, providing the activity does not result in frequent multiple vehicular traffic, noise or other annoyance.

Section 6. No fences, hedges or walls shall be erected or maintained upon the Property except such as are approved in this Declaration, and shall not be erected upon or infringe upon any easements granted to Entranosa for its facilities constructed to supply water and wastewater services to any Lot.

Section 7. On street parking is not permitted. All Lot Owners of shall provide for adequate parking for residents and guests within their Lot. No trailers, recreational vehicles or boats shall be permitted to remain within public view on any part of the Property longer than one (1) day. Nothing in this section shall be construed as limiting use of the Property during the construction and sale phase of the development.

Section 8. No oil drilling, oil development, oil refining, derrick or other structure designed for use in boring for oil or natural gas, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavation or shafts be permitted upon or in any Lot.

Section 9. No temporary house, trailer, tent, garage, or other outbuildings shall be used on any Lot at any time as a residence, either temporarily or permanently, and no residence placed or erected on any part of any Lot shall be occupied in any manner at any time prior to its being fully completed, provided, however, that during the actual construction or alteration of a building on any Lot, necessary temporary buildings for storage of material, etc., may be erected and maintained by the person doing such work.

Section 10. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done, placed, or stored thereon which may be or become an annoyance or nuisance to the neighborhood, or occasion any noise or odor which will or might disturb the peace, comfort, or serenity of the occupants of neighboring properties. Without limiting the generality of the foregoing, permitting disabled vehicles to remain on a Lot or doing mechanical or body work on any vehicle other than work which can be accomplished in a few hours, shall be deemed a noxious or offensive activity.

Section 11. Lots shall be cleared of all weeds, trash and all other detracting impediments and all rubbish, trash or garbage shall be regularly removed from each Unit.

Section 12. Except for access to the Lot, clearing of building sites or establishment of lawns, gardens and landscaped improvements within the immediate vicinity of the Living Units, all remaining natural vegetation will be left undisturbed. All lawns and/or gardens shall not exceed 2,000 square feet in size, and all shall be irrigated to preserve water conservation. Each Lot Owner shall not exceed the use of 2,600 gallons of water per month for all landscaping.

Section 13. Where externally visible air conditioners are erected or installed, they shall be so installed that they will minimize visibility from the front street. Roof mounted units shall be allowed, however, they shall be installed as to comply with this restriction as much as possible.

Section 14. No radio, television, citizens band, HAM, or other aerial antenna or tower, whether for transmitting or receiving, or any support thereof shall be erected, installed, placed or maintained, except those devices which may be erected, installed, placed or maintained and used entirely under the eaves or enclosed within a building or structure which do not extend above the highest point of the roof. However, after written approval of the Architectural Control Committee, a television antenna or satellite dish less than 36" in diameter, may be mounted on the roof provided it is inconspicuously located so as not to be easily visible from the street.

Section 15. Above ground trash and garbage receptacles, ground mounted solar energy collectors and equipment, ground mounted air conditioning compressors and equipment shall be enclosed within a fenced service area or areas so as to conceal them from the streets. Fencing or screening should be harmonious with the overall design of the structures on the Lot and which shield these structures in such a way as not to be visible from streets.

Section 16. In the event that a structure is destroyed, wholly or partially by fire or other casualty, said structure shall be properly rebuilt, repaired or replaced to conform to this Declaration, or all remaining structures, including the debris and foundations shall be removed from the Lot.

Section 17. All buildings and outbuildings erected on any Lot shall be set back a minimum of eighty feet (80') from the front property line, and a minimum of forty feet (40') from the side or rear lot lines. The Grantor may grant a variance to the setback requirements for those Lots in which the useable building envelope is limited.

Section 18. All Living Units erected on all Lots shall be of an architectural design typical of New Mexico and the Southwest, including pueblo, territorial, ranch, adobe and Spanish styles. Exterior and roof colors shall be neutral and blend in with the natural surroundings. Subsequent home additions or any outbuilding construction or fences or walls shall require written approval of the Architectural Control Committee prior to the commencement of any construction pursuant to Article IV hereof. All Lot Owners are required to submit a Request for Design Review Approval and Application as set forth in Article IV, Section 3, below.

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Section 20. Propane tanks shall be buried or screened from street view and from the view of adjacent Lot Owners, and shall conform to state regulations.

Section 21. Each Lot Owner shall provide a method of sewage disposal which meets the requirements of the Bernalillo County Environmental Health Department. Garbage and solid waste shall be kept in covered, waterproof containers and shall be stored and disposed of in a manner approved by the Bernalillo County Environmental Health Department.

Section 22. All Living Units shall use water saving toilets, dishwashers, washing machines, and shall have installed water restricting showerheads and faucets. All hot water pipes shall be insulated to prevent energy and water waste.

#### **ARTICLE IV**

#### **ARCHITECTURAL CONTROL COMMITTEE**

Section 1. An Architectural Control Committee, hereinafter referred to as the "Committee" is hereby established and shall be comprised of three (3) persons to serve until ninety percent (90%) of the Lots within the Subdivision are sold, and until their successors shall be appointed and qualified. The Committee is initially composed of Alex Leonard, Steven P. Jackson and Matthew Fetterman. In the event of death or resignation of any member of the Committee, the Grantor shall have full authority to designate a successor. After 90% of the Lots have been sold, the Committee shall be elected by a majority of the Lot Owners who are present at a special meeting. Each Lot Owner shall be entitled to one vote per lot owned.

Section 2. No member of the Committee shall be entitled to any compensation, other than a design review fee of \$125.00, for services performed on said Committee. A majority of the Committee may designate a representative to act for it.

Section 3. Before the commencement of the construction, remodeling, addition to, or alteration of or removal of any building, swimming pool, wall, fence, out building or any other structure whatsoever, on any Lot, and further to include landscaping and landscaping construction including ponds, water walls, statues, retaining walls or other structural component, which is visible from any street, the Lot Owner shall apply to the Committee for approval. There shall be submitted to the Committee: (a) a Request for Design Approval and Application, copies of which are available at the offices of Grantor, (b) a complete set of plans, including but not limited to, foundations, floor plans, elevations, details, specifications which identify construction material, exterior color scheme, and a site plan showing the location of the structure on the Lot identifying all construction including but not limited to roof overhang lines, all setbacks at point of minimum distance to each property boundary, dimension of Lots, all walks, drives, patios, decks, and walls and/or fences and their construction materials, which set of plans and specifications upon approval will be retained by the Committee to remain on file; and (c) if deemed necessary by the Committee, the following may be required: (1) colors and samples of exterior materials, (2) wall sections, (3) roof plan, (4) details of exterior furnishings, (5) the Owner's proposed construction schedule, and (6) an architect's rendering showing the perspective view of the proposed construction. These renderings may be in pencil or ink line drawings. At the time of submittal of the Request for Design Approval and Application, the Architectural Control Committee shall assess a one-time design review fee of \$125.00 for the review of the primary Living Unit.

**Section 4. Prior to commencement of construction of the Living Unit on any Lot, the Lot Owner must have installed culverts that meet current Bernalillo County specifications and a minimum of fifty (50) feet of graveled driveway.**

Section 5. No building, structure, or improvements of any kind, including walls and landscaping, shall be erected, altered, placed or maintained upon any Lot unless, and until the complete set of final plans and specifications have been approved in writing by the 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. Any resurfacing or painting of the exterior wall areas shall be completed in a color texture as close to the original as possible, unless

the consent of the Committee is obtained in writing as to a different color and/or texture and except as hereafter provided.

Section 6. 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 these restrictions, or if a design or color scheme in the proposed structure is not in harmony with the general surroundings or in harmony with the Lot or adjacent structure, or if the Committee deems the plans and specifications to be contrary to the spirit and intent of this Declaration, or contrary to the interest and the welfare and rights of all or any part of the Property.

Section 7. In the event the Committee shall fail to approve or disapprove the plans, specifications and other such information as may be required within thirty (30) days after submission, then such approval shall not be required, provided that no building or structures shall be erected which violate any of the terms of this Declaration.

Section 8. Neither the Committee, its members, nor the Grantor shall be responsible in any manner whatsoever for any defect in any plans or specifications submitted or as revised by said Committee or the Grantor, or for work done pursuant to the requested changes by said plans and specifications.

Section 9. A majority of the Committee may, from time to time, grant exceptions or variances not in substantial conflict with this Declaration, without the consent of the Owners.

Section 10. The work of constructing any building on any part of the Property as to the exterior, shall be completed within twelve (12) months from the commencement thereof.

## **ARTICLE V WALLS AND FENCES**

Section 1. All fencing or walls constructed on any Lot shall be set back fifty feet (50') from the front yard property line. No walls or fences may be erected without first obtaining written approval from the Architectural Control Committee.

Section 2. No barbed wired fencing is allowed within the Subdivision. Chainlink fencing shall not be permitted around the perimeter of any Lots, but may be used for animal enclosures, which enclosures must be set back a minimum of 100 feet from the front property line.

Section 3. Owners shall promptly remove graffiti from all walls and fences on their Lots.

## **ARTICLE VI DRAINAGE AND EROSION CONTROL**

Section 1. Lots 89, 92, 95, 96, 97, 98, 99, 100, 101, 102 and 103 are encumbered with drainage easements ("Drainage Easements") granted by the Plat and have been dedicated to the County of Bernalillo. The Drainage Easements are restricted to drainage, flood control, conveyance of storm waters, and the construction, operation and maintenance of and access to such facilities. The land located within the Drainage Easements shall not be disturbed and no dwelling or outbuildings shall be placed within the Drainage Easements. Except by written approval of the County Engineer, no fence, wall, building or other obstruction may be placed or maintained in said Drainage Easements, and there shall be no alteration of the grades or contours. The granting of the Drainage Easements to the County of Bernalillo does not obligate the County of Bernalillo to maintain natural arroyos, drainage channels, or facilities that do not meet the standards of the County

Engineer for design and construction nor is the County of Bernalillo obligated to provide protection of the property lying outside of the Drainage Easements. Safe locations for structures built on lands adjacent to the Drainage Easements may be substantially outside of the Drainage Easements. Any portion of the Drainage Easements dedicated to the County of Bernalillo by the Plat shall revert to the Lot Owner upon which it is located, its successors and assigns as and to the extent said portion is declared unnecessary for flood control and drainage by the County Engineer of Bernalillo County. Such reversion will require vacation approval pursuant to the Bernalillo County Subdivision Ordinance.

Section 2. Each Owner shall be responsible for the construction and maintenance of and the handling and disposal of all surface water drainage and storm runoff from their Lot in accordance with the Drainage Plan.

Section 3. Each Lot Owner is responsible for complying with the Drainage Report and Grading Plan and for release or retentions of surface water drainage in accordance with said plans and each Owner shall hold harmless the County of Bernalillo and Grantor from any expense, maintenance and liability connected to the aforementioned.

Section 4. Due to the fragile vegetation and erodibility of soil, any structures, corrals or stables shall be constructed and maintained to prevent any soils erosion and shall be in compliance with the Grading Plan and Drainage Report.

Section 5. All Lot Owners shall become members of Entramosa and conform to its by-laws, rules and regulations.

## **ARTICLE VII ENCROACHMENT EASEMENTS**

Should minor variations between lot lines as shown on the Plat and actual physical lot boundaries (such as walls, including interior party walls, and fences) occur, either due to original construction, reconstruction, repair or due to the settling, shifting or movement of structures, a valid easement shall exist for the encroaching Improvements for so long as the encroachment exists.

## **ARTICLE VIII MISCELLANEOUS**

Section 1. The Grantor may include restrictions, other than these set out herein, in any contract or deed to any Lots without otherwise modifying the general plan as now set forth, and such other restrictions shall inure to the benefit of and bind the respective parties in the same manner as though they had been expressed herein.

Section 2. The restrictions herein set out shall be referred to, adopted and made a part of each and every contract and deed executed by and on behalf of the Grantors of said Property, and any part thereof, to all such intents and purposes as though incorporated in full thereof; and each such contract and/or deed shall be conclusively held to have been so executed, delivered and accepted upon the express conditions herein stated.

Section 3. None of the Lots within the Subdivision shall be further subdivided to create two (2) or more building sites, however, two (2) or more Lots may be combined into one (1) building site.

Section 4. Solar energy collectors shall be allowed only if constructed in such a manner that they are built into the basic lines of the parent structure to create an aesthetically pleasing appearance from adjoining properties and streets and provided further, if they are visible from any street within the subdivision, they must be shielded from view. The screening or covering used must match and blend with the improvement or structure to which it is attached, and must be shown in detail on the plans submitted to the Committee.

Section 5. In the event of any conflict between these Restrictions and the Bernalillo County Zoning Ordinance, the more restrictive regulations shall control.

**(Note: there is no ARTICLE IX in original document)**

## **ARTICLE X ENFORCEMENT**

Section 1. All provisions of this Declaration shall be binding on all Lots and the Owners, regardless of the source of title of such Owners, and any breach thereof, if continued for a period of thirty (30) days from and after the date that the Committee or Owner of other property shall have notified in writing the Owner of the Lot upon which such breach has been committed to refrain from a continuance of such action and to correct such breach, shall warrant the Grantor or other Lot owner to apply to any court of law or equity having jurisdiction thereof for an injunction or other proper relief. However, this Declaration shall not be binding on any Owner, except in respect to breaches committed during the time such Owner owns or has an interest in said Lot. If such relief is granted, the court may award to the plaintiff in such action his reasonable expenses in prosecuting such suit, including attorneys' fees.

Section 2. No delay or omission on the part of the Owner or Owners of Lot or Lots in exercising any right, power, or remedy herein provided for in the event of any breach of any of this Declaration shall be construed as a waiver thereof or acquiescence therein.

Section 3. No right of action shall accrue, nor shall any action be brought or maintained by anyone whomsoever against the Grantor for or on account of the failure or neglect of the Grantor to exercise any right, power, or remedy herein provided for in the event of any breach of this Declaration.

Section 4. In the event that any one or more of the provisions of this Declaration herein set forth shall be held by any court of competent jurisdiction to be null and void, all remaining provisions of this Declaration shall continue unimpaired and in full force and effect.

## **ARTICLE XI AMENDMENTS**

Section 1. This Declaration may be amended from time to time by written amendment executed by Owners owning sixty-five percent (65%) of the Lots, which Amendment shall become effective upon recording with the Bernalillo County real estate records.

Section 2. Notwithstanding Section 1 of this Article, Grantor shall have the authority to unilaterally change, amend or modify this Declaration until 90% of the Lots within the Subdivision laws, provided, that such changes, modifications or amendments do not materially change the character and quality of the Lots subject to this Declaration and do not materially increase the number of Lots within the Property and; provided further, that the prior written consent of the Architectural Control Committee has been obtained and does not violate any subdivision laws.



**ARTICLE XII**  
**DURATION**

This Declaration as amended from time to time shall continue to be binding upon the Grantors, their successors and assigns, the Owners, and their heirs, assigns, personal representatives and all parties claiming by, through or under them, for a period of twenty-five (25) years from the date this instrument is filed for record in the office of the County Clerk of Bernalillo County, New Mexico, and shall automatically be extended for successive period of fifteen (15) years each; provided, however, that at any time within one (1) year prior to the expiration of the first twenty-five (25) year period, or within one (1) year of the expiration of any fifteen (15) year period thereafter, the Owners of the majority of the Lots may provide for the release of any and all of the Lots hereby restricted, from any part of this Declaration, or modifying this Declaration in whole or in part, at the end of the first twenty-five (25) year period or at the end of any successive fifteen (15) year period, by executing and acknowledging a proper agreement or agreements in writing for such purpose and filing the same for record in the manner then required for the recording of land instruments, which election shall require the same procedures as amendment of this Declaration.

IN WITNESS WHEREOF, SMR4, LLC, has caused this instrument to be executed this 20 day of January, 2004.

SMR4, LLC, A New Mexico limited liability company

By: (signed)

Matthew W. Fetterman

Member

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NOTE: This is a copy and not an official document and is believed to be a reasonable and accurate transcription, including any typographical errors and nonstandard grammar, of the *Declaration of Covenants, Conditions and Restrictions for Sandia Mountain Ranch, Unit Two, Phase 5*, signed on May 10, 2005 and filed with the County of Bernalillo on the same day. This is not an official copy and any differences between this document and the original will be resolved in favor of the original document only. An attempt was made to keep the format and style of the original document intact, but not line breaks or pagination.

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR SANDIA MOUNTAIN RANCH, UNIT 2, PHASE 5**

THIS DECLARATION of Covenants, Conditions and Restrictions is made as of this 10th day of May, 2005, by SMR5, LLC, a New Mexico limited liability company (hereinafter "Grantor").

WHEREAS, Grantor is the owner of the real property described in Article II of this Declaration and desires to create thereon a residential community and to provide for the preservation of the values and amenities in the community by subjecting the property to the covenants, restrictions, and easements hereinafter set forth, each and all of which is and are for the benefit of the property and each owner thereof.

NOW, THEREFORE, the Grantor declares that the real property described in Article II is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions and restrictions hereinafter set forth.

**ARTICLE I  
DEFINITIONS**

Section 1. The following words when used in this Declaration shall have the following meanings:

(a) "Lot" means the land identified as Lots 1 through 6, inclusive, Lots 7A, 7B, 7C, and Lots 82-87, inclusive, as shown on the Plat of Unit 2, Phase 5, Sandia Mountain Ranch Subdivision.

(b) "Declaration" means this Declaration of Covenants, Conditions and Restrictions, and any amendment or modification thereto.

(c) "Drainage Report" means the report prepared for the Property by Grantor and approved, and on file with the County of Bernalillo Public Works Department.

(d) "Entranosa Water and Wastewater Association" ("Entranosa") means the nonprofit mutual domestic corporation supplying community water services and wastewater services to the Lots within the Subdivision.

(e) "Grading Plan" means the grading plan prepared for the Property by Grantor and on file with the County of Bernalillo Public Works Department.

(f) "Living Unit" or "Unit" means any building or a portion of a building situated on a building site designed and intended for use and occupancy as a single family residence. Living Unit includes the term Lot, unless otherwise indicated.

(g) "Plat" means the Plat of Unit 2, Phase 5, Sandia Mountain Ranch Subdivision, recorded in the Bernalillo County, New Mexico real estate records on April 6, 2005 in Vol. 2005-C, Folio 103, Document No. 2005046779.

(h) "Owner" means the record owner of the fee simple title of a Lot or unit and shall include a contract purchaser of any Unit or Lot pursuant to an installment sales contract. Owner shall not include a contract seller of a Lot or Unit pursuant to an installment sales contract.

(i) "The Property" means all of the real property described in Article II.

(j) "Setback" means the distance between a front property line and side and rear lot line on any Lot, as set out in Article III, Section 18, hereof.

(k) "Subdivision" shall mean the subdivision created by and subject to this Declaration, including all the Lots created by the Plat, and the internal streets serving the Lots.

## **ARTICLE II**

### **PROPERTY SUBJECT TO DECLARATION**

The following described property situate in the, County of Bernalillo, State of New Mexico, is made subject to all easements, covenants, conditions and restrictions set forth in this Declaration:

Lots 1 through 6, inclusive, Lots 7A, 7B, 7C, and Lots 82 through 87, inclusive, as the same are shown and designated on the Plat of Unit 2, Phase 5, Sandia Mountain Ranch Subdivision, recorded in the Bernalillo County, New Mexico real estate records on April 6, 2005 in Vol. 2005-C, Folio 103, Document No. 2005046779.

## **ARTICLE III**

### **USE RESTRICTIONS**

Section 1. All Living Units and Lots within the Property are hereby restricted to residential dwellings for single family residential use with a minimum of 2000 square feet of enclosed heated living area, exclusive of carports, garages and open porches or patios. The maximum building height shall be twenty-six feet (26'), excluding chimneys, measured from the highest point of the natural ground adjacent to the Living Unit. All construction upon any Lot must be new construction and no existing building or structure may be moved from another site to a Lot. Each Living Unit shall have an appurtenant private garage for at least two cars. No mobile home or manufactured housing shall be permitted within the Subdivision.

Section 2. Notwithstanding any provision herein contained to the contrary, it shall be expressly permissible for the Grantor or home builders building homes within the Property to maintain during the period of construction and sale of the Living Units, such facilities as may be reasonably required, convenient or incidental to the construction and sale of the Living Units, including, without limitation, a business office, storage area, construction yards, signs, model units and sales office.

Section 3. No animals, livestock or poultry of any kind shall be raised or bred for any commercial purposes. All dogs, cats and horses shall be kept on the Lot Owner's property in suitable enclosures or pens, in a manner approved by the Animal Humane Association of New Mexico. Any corrals, horse pens or stables erected on any Lot shall be limited to 15,000 square feet in size, and shall be set back a minimum of 100 feet from the front property line of each Lot, and a minimum of fifty feet (50') from any side or rear yard lot line. The Grantor may grant a variances to this setback requirement. All Lot Owners shall restrain all pets and/or horses from trespassing onto other Lots within the Subdivision. No more than four (4) horses are allowed on any Lot at one time, and all horses shall be corralled within the 15,000 square foot enclosures at all times. Horses are not allowed to roam on any Lot, except within the corralled enclosures. Horses are not allowed to graze

on any Drainage Easements within the Subdivision. Except as permitted in this Section 3, no livestock of any kind is allowed in the Subdivision.

Section 4. No advertising signs except customary "for sale" signs or signs for Grantor or Grantor's assigns to market the Lots and/or Living Units, billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on the Property, unless approved, in writing, by the Architectural Control Committee, as hereinafter defined in Article IV, below. The Property shall not be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Living Unit or any resident thereof.

Section 5. No business activities of any kind whatsoever shall be conducted in any Living Unit or on any portion of the Property, except as permitted by the County as a "home occupation" and so long as there is no external evidence of the business activity. Provided, further, however, the foregoing covenants shall not apply to the business activities, or the construction and maintenance of buildings, if any, of the Grantor, its agents and assigns, during the construction and sale period. This provision does not prevent the conduct of arts and crafts studios, or professional offices, providing the activity does not result in frequent multiple vehicular traffic, noise or other annoyance.

Section 6. No fences, hedges or walls shall be erected or maintained upon the Property except such as are approved in this Declaration, and shall not be erected upon or infringe upon any easements granted to Entranosa for its facilities constructed to supply water and wastewater services to any Lot.

Section 7. On street parking is not permitted. All Lot Owners of shall provide for adequate parking for residents and guests within their Lot. No trailers, recreational vehicles or boats shall be permitted to remain within public view on any part of the Property longer than one (1) day. Nothing in this section shall be construed as limiting use of the Property during the construction and sale phase of the development.

Section 8. No oil drilling, oil development, oil refining, derrick or other structure designed for use in boring for oil or natural gas, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavation or shafts be permitted upon or in any Lot.

Section 9. No temporary house, trailer, tent, garage, or other outbuildings shall be used on any Lot at any time as a residence, either temporarily or permanently, and no residence placed or erected on any part of any Lot shall be occupied in any manner at any time prior to its being fully completed, provided, however, that during the actual construction or alteration of a building on any Lot, necessary temporary buildings for storage of material, etc., may be erected and maintained by the person doing such work.

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**ARTICLE IV**  
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Section 5. No building, structure, or improvements of any kind, including walls and landscaping, shall be erected, altered, placed or maintained upon any Lot unless, and until the complete set of final plans and specifications have been approved in writing by the 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. Any resurfacing or painting of the exterior wall areas shall be completed in a color texture as close to the original as possible, unless the consent of the Committee is obtained in writing as to a different color and/or texture and except as hereafter provided.

Section 6. 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 these restrictions, or if a design or color scheme in the proposed structure is not in harmony with the general surroundings or in harmony with the Lot or adjacent structure, or if the Committee deems the plans and specifications to be contrary to the spirit and intent of this Declaration, or contrary to the interest and the welfare and rights of all or any part of the Property.

Section 7. In the event the Committee shall fail to approve or disapprove the plans, specifications and other such information as may be required within thirty (30) days after submission, then such approval shall not be required, provided that no building or structures shall be erected which violate any of the terms of this Declaration.

Section 8. Neither the Committee, it's members, nor the Grantor shall be responsible in any manner whatsoever for any defect in any plans or specifications submitted or as revised by said Committee or the Grantor, or for work done pursuant to the requested changes by said plans and specifications.

Section 9. A majority of the Committee may, from time to time, grant exceptions or variances not in substantial conflict with this Declaration, without the consent of the Owners.

Section 10. The work of constructing any building on any part of the Property as to the exterior, shall be completed within twelve (12) months from the commencement thereof.

## **ARTICLE V**

### **WALLS AND FENCES**

Section 1. All fencing or walls constructed on any Lot shall be set back fifty feet (50') from the front yard property line. No walls or fences may be erected without first obtaining written approval from the Architectural Control Committee.

Section 2. No barbed wired fencing is allowed within the Subdivision. Chainlink fencing shall not be permitted around the perimeter of any Lots, but may be used for animal enclosures, which enclosures must be set back a minimum of 100 feet from the front property line.

Section 3. Owners shall promptly remove graffiti from all walls and fences on their Lots.

## **ARTICLE VI**

### **DRAINAGE AND EROSION CONTROL**

Section 1. Lots 1, 83, 84, 85 and 87 are encumbered with drainage easements ("Drainage Easements") granted by the Plat and have been dedicated to the County of Bernalillo. The Drainage Easements are restricted to drainage, flood control, conveyance of storm waters, and the construction, operation and maintenance of and access to such facilities. The land located within the Drainage Easements shall not be disturbed and no dwelling or outbuildings shall be placed within the Drainage Easements. Except by written approval of the County Engineer, no fence, wall, building or other obstruction may be placed or maintained in said Drainage Easements, and there shall be no alteration of the grades or contours. The granting of the Drainage Easements to the County of Bernalillo does not obligate the County of Bernalillo to maintain natural arroyos, drainage channels, or facilities that do not meet the standards of the County Engineer for design and construction nor is the County of Bernalillo obligated to provide protection of the property lying outside of the Drainage Easements. Safe locations for structures built on lands adjacent to the Drainage Easements may be substantially outside of the Drainage Easements. Any portion of the Drainage Easements dedicated to the County of Bernalillo by the Plat shall revert to the Lot Owner upon which it is located, its successors and assigns as and to the extent said portion is declared unnecessary for flood control

and drainage by the County Engineer of Bernalillo County. Such reversion will require vacation approval pursuant to the Bernalillo County Subdivision Ordinance.

Section 2. Each Owner shall be responsible for the construction and maintenance of and the handling and disposal of all surface water drainage and storm runoff from their Lot in accordance with the Drainage Plan.

Section 3. Each Lot Owner is responsible for complying with the Drainage Report and Grading Plan and for release or retentions of surface water drainage in accordance with said plans and each Owner shall hold harmless the County of Bernalillo and Grantor from any expense, maintenance and liability connected to the aforementioned.

Section 4. Due to the fragile vegetation and erodibility of soil, any structures, corrals or stables shall be constructed and maintained to prevent any soils erosion and shall be in compliance with the Grading Plan and Drainage Report.

Section 5. All Lot Owners shall become members of Entranosa and conform to its by-laws, rules and regulations.

## **ARTICLE VII ENCROACHMENT EASEMENTS**

Should minor variations between lot lines as shown on the Plat and actual physical lot boundaries (such as walls, including interior party walls, and fences) occur, either due to original construction, reconstruction, repair or due to the settling, shifting or movement of structures, a valid easement shall exist for the encroaching Improvements for so long as the encroachment exists.

## **ARTICLE VIII MISCELLANEOUS**

Section 1. The Grantor may include restrictions, other than these set out herein, in any contract or deed to any Lots without otherwise modifying the general plan as now set forth, and such other restrictions shall inure to the benefit of and bind the respective parties in the same manner as though they had been expressed herein.

Section 2. The restrictions herein set out shall be referred to, adopted and made a part of each and every contract and deed executed by and on behalf of the Grantors of said Property, and any part thereof, to all such intents and purposes as though incorporated in full thereof; and each such contract and/or deed shall be conclusively held to have been so executed, delivered and accepted upon the express conditions herein stated.

Section 3. None of the Lots within the Subdivision shall be further subdivided to create two (2) or more building sites, however, two (2) or more Lots may be combined into one (1) building site.

Section 4. Solar energy collectors shall be allowed only if constructed in such a manner that they are built into the basic lines of the parent structure to create an aesthetically pleasing appearance from adjoining properties and streets and provided further, if they are visible from any street within the subdivision, they must be shielded from view. The screening or covering used must match and blend with the improvement or structure to which it is attached, and must be shown in detail on the plans submitted to the Committee.



Section 5. In the event of any conflict between these Restrictions and the Bernalillo County Zoning Ordinance, the more restrictive regulations shall control.

**(Note: there is no ARTICLE IX in original document)**

## **ARTICLE X ENFORCEMENT**

Section 1. All provisions of this Declaration shall be binding on all Lots and the Owners, regardless of the source of title of such Owners, and any breach thereof, if continued for a period of thirty (30) days from and after the date that the Committee or Owner of other property shall have notified in writing the Owner of the Lot upon which such breach has been committed to refrain from a continuance of such action and to correct such breach, shall warrant the Grantor or other Lot owner to apply to any court of law or equity having jurisdiction thereof for an injunction or other proper relief. However, this Declaration shall not be binding on any Owner, except in respect to breaches committed during the time such Owner owns or has an interest in said Lot. If such relief is granted, the court may award to the plaintiff in such action his reasonable expenses in prosecuting such suit, including attorneys' fees.

Section 2. No delay or omission on the part of the Owner or Owners of Lot or Lots in exercising any right, power, or remedy herein provided for in the event of any breach of any of this Declaration shall be construed as a waiver thereof or acquiescence therein.

Section 3. No right of action shall accrue, nor shall any action be brought or maintained by anyone whomsoever against the Grantor for or on account of the failure or neglect of the Grantor to exercise any right, power, or remedy herein provided for in the event of any breach of this Declaration.

Section 4. In the event that any one or more of the provisions of this Declaration herein set forth shall be held by any court of competent jurisdiction to be null and void, all remaining provisions of this Declaration shall continue unimpaired and in full force and effect.

## **ARTICLE XI AMENDMENTS**

Section 1. This Declaration may be amended from time to time by written amendment executed by Owners owning sixty-five percent (65%) of the Lots, which Amendment shall become effective upon recording with the Bernalillo County real estate records.

Section 2. Notwithstanding Section 1 of this Article, Grantor shall have the authority to unilaterally change, amend or modify this Declaration until 90% of the Lots within the Subdivision laws, provided, that such changes, modifications or amendments do not materially change the character and quality of the Lots subject to this Declaration and do not materially increase the number of Lots within the Property and; provided further, that the prior written consent of the Architectural Control Committee has been obtained and does not violate any subdivision laws.

## **ARTICLE XII DURATION**

This Declaration as amended from time to time shall continue to be binding upon the Grantors, their successors and assigns, the Owners, and their heirs, assigns, personal representatives and all parties claiming by, through or under them, for a period of twenty-five (25) years from the date this

instrument is filed for record in the office of the County Clerk of Bernalillo County, New Mexico, and shall automatically be extended for successive period of fifteen (15) years each; provided, however, that at any time within one (1) year prior to the expiration of the first twenty-five (25) year period, or within one (1) year of the expiration of any fifteen (15) year period thereafter, the Owners of the majority of the Lots may provide for the release of any and all of the Lots hereby restricted, from any part of this Declaration, or modifying this Declaration in whole or in part, at the end of the first twenty-five (25) year period or at the end of any successive fifteen (15) year period, by executing and acknowledging a proper agreement or agreements in writing for such purpose and filing the same for record in the manner then required for the recording of land instruments, which election shall require the same procedures as amendment of this Declaration.

IN WITNESS WHEREOF, SMR5, LLC, has caused this instrument to be executed this \_\_\_\_ day of May, 2005.

SMR5, LLC, A New Mexico limited liability company  
By: (signed)  
Matthew W. Fetterman  
Member

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