

**PROTECTIVE COVENANTS
FOR
NOR ESTE ESTATES**

PRESLEY COMPANY OF NEW MEXICO, A New Mexico corporation, here in after “Developer”, being the owner of property in the City of Albuquerque, County of Bernalillo, State of New Mexico, described as follows:

All lots in Blocks numbered one (1) through eleven (11) of **NOR ESTE ESTATES**, a subdivision of the City of Albuquerque, Bernalillo County, New Mexico, as the same are shown and designated on the plat thereof filed in the office of the County Clerk of Bernalillo County, New Mexico, on November 25, 1987, and recorded in Volume C 35, Folio 49 (1-11).

DOES HEREBY CERTIFY AND DECLARE that it has established, and does hereby establish a general plan for the improvement, development, ownership, use and sale of said property so owned by it, and does hereby establish the manner, provisions, conditions, restrictions and covenants upon and subject to which said property shall be used, improved, occupied, owned, sold, and conveyed, and does hereby declare that henceforth said property shall be used, improved, occupied, sold and conveyed, subject to the provisions, conditions, restrictions and covenants herein set forth, all which shall be binding upon and inure to benefit of the present and future owners of said lots and all portions thereof, and all of which provision, conditions, restrictions and covenants are, and each of them is, impressed and imposed upon each and every parcel of the hereinbefore described property as a servitude in favor of each and every other parcel thereof, as dominate tenements, as follows, to-wit:

1. **Lot Use**

- A. No building except a single-family residential dwelling (hereinafter sometimes called “dwelling”) and private garage for no less than two (2) nor more than three (3) cars for use in connection with such dwelling, shall be erected, maintained, or permitted on any lot or portion thereof. No

dwelling shall be used except as a single-family dwelling. No lot or lots shall be further subdivided but any two or more lots may be combined to produce one building site. No building shall be built closer than twenty-five feet (25) to the front lot line, nor closer to the rear or side lot lines than allowed by City ordinance or as designated on the plat heretofore referenced.

- B. Certain lots within **NOR ESTE ESTATES** have been designated or zoned for the construction of townhouses. With reference to those lots only, upon which townhouses are built, the following shall pertain. Each townhouse building shall be constructed entirely on one lot. It is understood that ordinary projections of sills, chimneys, belt courses, cornices and ornamental features may project as much as eighteen inches (18") into the adjacent owner's yard if said projections are part of the original construction. For the purposes of this Covenant, caves, steps, chimneys and open porches shall not be considered as part of the building.
- C. With reference to party walls, the rights and duties of the owners of the townhouse lots with respect to party walls shall be governed as follows:
- (1) Each wall, including patio walls, which is constructed as a part of the original construction of the structure, any part of which is placed on the dividing line between separate units, shall constitute a party wall. With respect to any such wall, each of the adjoining owners shall assume the burdens and be entitled to the benefits of these restrictive covenants, and, to the extent not inconsistent herewith, the general rules of law regarding party walls shall be applied thereto.
 - (2) In the event any such party wall is damaged or destroyed through the act of one adjoining owner, or any of his guests, tenants, licensees, agents or members of his family (whether or not such act is negligent or otherwise culpable), so as to deprive the

other adjoining owner of the full use and enjoyment of such wall, then such owner who caused or is responsible for such damage, shall forthwith proceed to rebuild and repair the same to as good condition as formerly without cost to adjoining owner.

- (3) In the event any such party wall of a Townhouse Unit is damaged or destroyed by some cause (including ordinary wear and tear and deterioration from lapse of time), other than the act of one of the adjoining owners, his agents, tenants, licensees, guests or family, then in such event both such adjoining owners shall proceed forthwith to rebuild or repair the same to as good condition as formerly at their joint and equal expense.
- (4) Notwithstanding any other provision of this article, an owner who by his negligent or willful act causes any party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.
- (5) The right of any owner to contribution from any other owner under this article shall be appurtenant to the land and shall pass to such owner's successors in title.
- (6) In addition to meeting the other requirements of those Restrictive Covenants and of any building code or similar regulations or ordinances, any owner proposing to modify, make additions to, or rebuild his Townhouse in any manner which requires the extension or other alteration of any party wall shall first obtain the written consent of the adjoining owner.
- (7) In the event of a dispute between owners with respect to the repair or rebuilding of a party wall or with respect to sharing the costs thereof, the matter shall be submitted to three (3) arbitrators, one chosen by each of the owners and the third by the two chosen. A

determination of the matter signed by any two of the three arbitrators shall be binding upon the owners, who shall share the cost of arbitration equally. In the event one party fails to choose an arbitrator within ten (10) days after receipt of a request in writing for arbitration from the other party, then said other party shall have the right and power to choose both arbitrators.

(8) These Covenants shall be binding upon the heirs, assigns and successors in interest of any owners.

2. **Dwelling Size** No dwelling shall be erected upon any lot unless such dwelling contains a minimum of one thousand five hundred (1,500) square feet of enclosed living area floor space. This provision may only be varied by the Architectural Control Committee by specific variance given in writing and signed by a majority of the Architectural Control Committee members. The term "living area floor space" is exclusive of floor space in porches, pergolas and garages. All buildings shall be of brick, adobe or insulated frame stucco construction, and all roofs shall be of clay or concrete tile or wood shakes or shingles. Built up or "flat" roofs will be allowed, so long as parapets obscure their view. No more than one dwelling shall be built on any one lot, and no temporary or permanent building of any nature detached from the dwelling shall be built, erected, placed or maintained on said lot. Provided, however, that a detached garage for no less than two (2) nor more than three (3) cars may be erected upon any lot. No garage shall be commenced or erected upon any lot until construction of the dwelling, complying with these restrictions, shall have been commenced by a responsible licensed contractor or pursuant to a bona fide building contract, and all buildings shall be of the same or similar style as that of the dwelling erected or being on the lot on which the said buildings are located. No alteration of the drainage plan as originally implemented by Developer shall be made, and if anyone does so after the drainage plan, he assumes absolute liability therefor for damages caused to any other owner or Developer as a result of such alteration.

3. **Parking** No vehicle which is not in operating condition shall be parked or left anywhere on any lot other than inside a garage, except for emergency repairs. The parking, placing or maintaining of boats, trailers, horse trailers, mobile homes, campers, motorhomes or other such vehicles on any part of the lot, or on any street adjacent to such lot, other than in a garage or other parts of the lot screened from view of other lots by the house or the 5-1/2' wall, is prohibited, except for such temporary periods, not to exceed forty-eight (48) hours, as may occasionally arise when preparation for use or maintenance after use requires a brief exception to be made for the convenience of the owners. A garage shall be used for vehicle parking and storage purposes only and shall not be converted for use as a living area or for recreational activities. Parking of any vehicle on a lot is prohibited except in the garage or on the driveway appurtenant to the residence.

4. **Businesses** No store, office or other place of business of any kind, and no hospital, sanitarium or other place for the care or treatment of the physically or mentally ill, nor any theater, saloon, or other place of entertainment, shall be erected or permitted upon any lot, and no trade or offensive activity of any kind of character whatsoever except as permitted by City ordinance shall be conducted in or from the buildings located on any lot or from any lot.

5. **Animals** No swine, horses, cows, or livestock, and no pigeons, chickens, ducks, turkeys, or other poultry shall ever be kept upon said lots or tracts. Dogs, cats or other household pets may be kept, provided they are confined to their owner's lot or on a leash held by a person capable of controlling the animal and not permitted to run free, and further provided they are not kept, bred or maintained for any commercial purpose, or in unreasonable numbers.

6. **Walls/Fences** Except as planned or erected by Developer or allowed by City Code, no solid wall, fence, hedge, or other improvements shall be erected or maintained nearer to the front property line than the walls, attached open porch or balcony of the dwelling erected on said lots. Except as planned or erected

by Developer, no side or rear wall, fence or hedge other than the wall of a building constructed on said lots, shall be more than five and one-half (5-1/2') in height measured from the developer graded ground elevation to the highest point of the fence posts, wall or wall posts or the hedge. The cement block walls and metal grill fences, if any, installed by Developer shall be maintained in their original condition and color and shall not be allowed to deteriorate. Any wall or fence erected or maintained by an owner must have a uniform appearance on both sides of the fence or wall. Block walls constructed by an owner on the lot must be color existing walls and any fence, hedge or wall in front of the residence may not be over thirty inches (30") in height.

7. **Accessory Buildings** No prefabricated building nor any auxiliary structure of any nature whatsoever, permanent or temporary, attached or detached from a dwelling, shall be moved or placed upon or assembled or otherwise maintained on any lot; provided, however, that a temporary office, tool shed, saw shed, lumber shed, and sales office may be maintained upon any lot or lots by any building contractor or Developer for the purpose of erecting and selling dwellings on any lot or lots, but such temporary structures shall be removed upon completion of construction or of selling of dwellings, whichever later occurs.
8. **Storage/Clotheslines/Rubbish** All clothesline, equipment, service yards, wood piles, or storage piles shall be kept screened by a solid wall, a solid fence, or a hedge so as to conceal them from view of neighboring lots, streets or park areas. All rubbish, trash or garbage shall be regularly removed at least once a week from each lot and shall not be allowed to accumulate thereon, and shall not be burned. All trash receptacles shall be kept in enclosed areas and not exposed to public view.
9. **Landscaping** The owner must landscape the front yard within nine (9) months from conveyance of the lot from Developer to owner.

10. **Antennas** No antenna or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors, whether attached to a building or structure or otherwise, except that a simple color television and radio antenna may be used, provided it does not extend higher than the roof line of the house. A disk antenna may be used if it is maintained at ground level in the back yard and concreted from view from view of other residences.
11. **Signs** No advertising (except one of not more than five (5) square feet "For Rent" or "For Sale" sign per lot), billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on the premises, nor shall the premises be used any way or for any purpose which may endanger the health, safety or welfare of the owner or any residents thereof. These restriction shall not apply to the business activities, signs, billboards, or the construction or maintenance of buildings, if any, of Developer, its agent s or designees, during the construction and sale period.
12. **Promotional Advertising** No restrictions in this Article shall prohibit Developer from constructing, placing and maintaining one or more promotional signs and/or sales model park within **NOR ESTE ESTATES** have been sold or at the end of the year 1990 whichever first occurs.
13. **Offensive Activity** No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done, placed o restored 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 occupants of neighboring properties. No unshaded floodlights may be maintained which enuse light to shine directly into the home of any other resident in **NOR ESTE ESTATES**.
14. **Additions** Any addition to the dwelling unit must be of like material, color and craftsmanship as the dwelling originally constructed.

15. **Air Conditioning: Solar Units** All air conditioning equipment must be ground mounted. No solar units for heating or cooling or other purpose shall be created, constructed, installed or maintained on any lot if it is visible from the front of the lot or from the side of the intersecting street if it is on a corner lot. A solar unit may be erected, constructed, installed or maintained on the rear of the house if it consists of flat plate collectors lying flush with the roof surface and protruding therefrom no more than six inches (6") or the solar unit is boxed in by a solid wall covered with shingles to match the color and texture of the existing roof.
16. **Exterior** The stucco color, trim color, or exterior tile of each residence must be maintained in the same colors as originally built by the Developer.
17. **Architectural Control Committee**
 - (a) The Architectural Control Committee is initially composed of four (4) members but may be expanded in number by the Developer, The Committee may designate a representative to act for it. In the even of death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. Neither members of the Committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. The members of this Committee shall serve until December 31, 1992, or until they resign, whichever sooner occurs. Thereafter the then record owners of a majority of the lots shall have power to elect the members of the Committee and, through a duly recorded written instrument, to change the membership of the Committee or to withdraw from the Committee or restore to it any of its powers and duties. Until such change in membership is effected as stated herein, the original committee may continue to serve. The Committee may appoint a Review Board consisting of three (3) members who will serve at the pleasure of the

Committee and will conduct the review of plans as provided in subparagraph (b) of this Paragraph. A majority vote of the Committee will serve to override any decision by the Board.

(b) No building shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee or its designee 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. Furthermore, no existing building shall be altered, remodeled or changed until plans for such change, alterations or remodeling have been approved by the Architectural Control Committee or its designee. Action shall be taken on said plans and specifications by the Architectural Control Committee, its designee, or its successors in interest within thirty (30) days after submittal thereof.

(c) The work on constructing any building on any part of said property shall be completed within four (4) months from the commencement thereof.

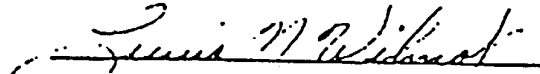
18. **Duration** These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until the year 2010 AD, at which time said covenants shall be automatically extended for successive periods of ten (10) years unless amended as hereinafter provided.
19. **Amendments** These covenants may be amended at any time by the affirmative vote of the then record owners of three-fourths (75%) of the residential lots in **NOR ESTE ESTATES**.
20. **Violations** If the parties hereto, or any of them, or their grantees, successors-in-interest or assigns, shall violate or attempt to violate any of the covenants herein provided, Grantor or any person or persons owning any real property in **NOR**

ESTE ESTATES shall have the right to prosecute any action in the proper court to enjoin such party from violating such covenant, or to recover damages for such violation, or both.

21. **Validity** Invalidation of any of these covenants shall in no way affect the validity of the other provisions, which shall remain in full force and effect.
22. No delay or omission on the part of the undersigned, its successors or assigns, or of the owners of other lots in said subdivision having the right hereunder to exercise the same, in exercising any right, power or remedy herein provided for in the event of any breach of the restrictions, covenants or reservations herein contained, shall be construed as a waiver thereof or acquiescence therein; and no right of action shall accrue, nor shall any action be brought or maintained by anyone whatsoever against the undersigned, its successor or assigns, for or on account of failure or neglect to exercise any right, power or remedy herein provided for in the event of breach of said covenants, restrictions or reservations.

IN WITNESS WHEREOF, the undersigned have executed this Declaration this 19th day of February 1988.

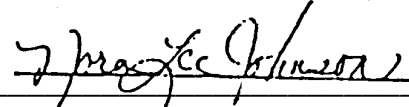
PRESLEY COMPANY OF NEW MEXICO

By 
Lew Wilmot, President

STATE OF NEW MEXICO

COUNTY OF BERNALILLO

The foregoing instrument was acknowledged before me this 19th day of February 1988, by **LEW WILMOT**, President of **PRESLEY COMPANY OF NEW MEXICO** a New Mexico Corporation, on behalf of said corporation.


NOTARY PUBLIC

MY COMMISSION EXPIRES JANUARY 4, 1992