

RESTRICTIVE COVENANTS OF
RANCHOS DE PICACHO
DONA ANA COUNTY, NEW MEXICO

A. PREAMBLE

A.1. Property Covered. The undersigned hereby make the following declarations as to the limitations, restrictions and uses of lots in Picacho Hills Community in the subdivision of Ranchos de Picacho in Dona Ana County, New Mexico. The property is sometimes referred to as the "Property" and the "Land".

A.2. Term. This document and its provisions shall be in full force and effect upon all of the described Property from the date of recording hereof for a period of fifty (50) years, at which time it shall be automatically renewed for an additional term of fifty (50) years, unless amended or replaced by an affirmative vote of seventy-five percent (75%) of the then lot owners, and this document and its provisions shall run with the described land and shall be binding upon all parties and all persons claiming under the undersigned, for the benefit and limitation upon all future owners of the Property.

A.3. Purposes. The purposes of these covenants are to insure the use of the Property for attractive residential purposes only; to prevent nuisances; to prevent the impairment of the attractiveness of the Property; to maintain the desired tone of the community and thereby to secure each site owner the full benefit and enjoyment of his Property; with no greater restriction on free and undisturbed use of his site than is necessary to insure the same advantages to the other site owners; and to allow only that use which is consistent with these covenants, whether or not the same are embodied in the conveyance or other instrument affecting title to the Property.

B. COVENANTS

B.1. Land Use and Building Types. The Land shall be used for residential dwelling purposes. No building or structures of any kind shall be erected or permitted to remain on any building site other than single family detached dwelling units, together with an attached or detached private garage, and attached or detached servants' quarters. See height restriction as noted for each individual lot. Plans for all such buildings must have been approved as hereinafter specified. As used herein, a "building site" means that area consisting of one or more lots or any portion hereof designated by an owner as the location upon which an above-mentioned residential dwelling, along with all permissible outbuildings, will be constructed. The lot owners may not further subdivide their lot into parcels less than what was originally conveyed by DeBlanco, Inc.

The regular practice of any business in a residential area, including professional businesses such as engineering, medicine, law, etc., is prohibited. However, nothing shall keep a person from having a private office or a business practice where he might work at home as long as it does not involve more than the use of one room, the occasional use of one employee, and does not involve regular visits by clients or customers.

DeBlanco, Inc. reserves the right to erect structures and model homes for marketing on their property without approval from the Architectural Review committee nor a change in the Restrictive Covenants.

B.2. Approval of Architecture. No construction, remodeling or improvements of any structure of any kind, including buildings, walls, fences, satellite dishes, solar collectors, sidewalks and driveways shall be erected or allowed to remain on any building site unless the plot, house, floor, and construction plans and elevation, and all other building plans, shall have first been reviewed and approved by the Architectural Review Committee as hereinafter provided. Such plans shall be reviewed and approved to accomplish the purpose and intent of these covenants and to consider the harmony of exterior design with

existing or proposed structures, location with respect to topography, finish grade elevation, sitting, and water drainage.

No fencing may be of metal chain link unless for temporary use and with prior approval of the Architectural Committee. The Architectural Review committee may require that the construction of fences or other structures be of specified design so as to maintain harmony of design and to facilitate water drainage. Notwithstanding anything herein to the contrary, approval of the Architectural Review Committee shall not waive or otherwise amend the responsibility of any owner or contractor to satisfy all federal, state and local building requirements, including building codes.

B.3. Dwelling Quality and Size. A dwelling with less than 1500 square feet, exclusive of open porches and garages, will not be permitted on lots located within the Ranchos de Picacho Subdivision. A detached guest house with less than 300 square feet will not be allowed.

The Architectural Review Committee has the authority to grant variances from the provisions requiring a specified number of square feet in area. This variance power is granted in recognition of the difficulty in accurately defining and calculating the total square footage of the qualifying floor area in some forms of residential architecture. Therefore, where, in the unanimous opinion of the Committee, the residential structure is of such excellent architecture or the materials are of such superior quality that the resultant structure would be of unquestioned value enhancement to all structures in its area, then the actual calculation of qualifying square foot floor area may be waived.

B.3.a. Height. All houses except those on Lot 22 in Block A and Lot 9 Block C are limited to one story. The maximum height above the designated pad elevation for all one story structures is fourteen feet for two-thirds of the house and seventeen feet for one-third of the house. The designated pad elevation for each lot is shown in Exhibit "A" attached hereto.

B.4. Location of Structures.

B.4.a. Building Parts. For purposes of location of structures, porches, eaves and all other parts of a building shall be considered part of the structure.

B.4.a. (1) Materials. Exterior materials should accentuate and compliment the structure's mass. These structures should also utilize subdued, earthy colors and muted, neutral tones. An area which establishes harmony by collaborating architectural style, scale, texture, use of materials and color will be encouraged.

B.4.a. (2) Roof Treatment. Rooflines and roofscapes shall consider the views of upslope and/or taller buildings. All roof appurtenances, such as vents and heating/cooling ductwork, are to be grouped to lessen the visual impact of these elements. All such appurtenances will be either painted to match the roofing material or building material, or preferably screened or concealed. When screening these elements, the screening material will be required to be of a color and material which compliments the architecture of the building.

Roof-mounted equipment and other roof appurtenances which are concealed with the roof structure will be encouraged. Parapet walls will conceal all flat roofs. Pitched roofs will be covered with clay or concrete tile which complements the quality of the entire development and will be subject to Architectural Review Committee approval. Parapet walls of excessive height will not be approved if, in the opinion of the Architectural Committee, a neighbor's view is obstructed.

Pitched roofs will be restricted to a range of 4:12 to 6:12 pitch. Flat roofs will be required to be of composition rolled roofing and covered with neutral colored roofing stone. Reflective, shiny or glare-producing roofing products will be prohibited. White stone or gravel is also encouraged. Other materials, in context with the above-mentioned

materials, will be considered and will be subject to Architectural Review Committee approval.

B.4.a. (3) Structures will be no closer to the property lines than the setback lines as shown on the plat. All sideyards minimum setbacks at common property lines will be either set at a zero setback or not less than 7'0".

B.4.b. Yard Walls and Fences.

B.4.b. (1) Retaining Walls. The Architectural Review Committee may require that retaining walls be erected, in which event the location and design shall be approved by the Committee.

B.4.b.(2) Walls and Fences. No fence or wall shall be erected or allowed to remain on any building site without prior written approval of the Architectural Review Committee. The location and design shall be approved by the Committee. Rock walls and fences shall be constructed of the yellow-brown stone known as "Picacho Rock" and should be of the "stacked rock" or non-grouted type.

B.4.b. (3) Masonry fences and/or retaining walls along property lines common to adjoining lots will be constructed centered over the common property line and the cost shared equally by both owners. Heights greater than four feet above the average higher lot will be by mutual agreement of owners. Approved engineered designs must accompany any retaining wall application for construction. Schedule for construction and payment of common walls will be by mutual consent of owners.

B.4.c. Party Walls and Fences. A party wall or fence is a wall or fence constructed on a property line with a resulting encroachment on an adjoining lot by agreement of the adjoining lot owners. The duty to maintain a party wall or fence shall be shared equally. Homeowners insurance coverage shall be in force on all party walls in the event of acts of

God or loss or damage. No real property improvements may be attached to the party wall without consent of all property owners affected and the Architectural Committee.

B.4.c. (1) General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the properties and placed on the dividing line between the lots shall constitute a party wall (common wall), and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls (common walls), and the liability for property damage due to negligence or willful acts or omissions shall apply thereto.

B.4.c.(2) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall.

B.4.c. (3) Right to Contribution Runs with Land. 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.

B.4.c. (4) Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decisions shall be by a majority of all the arbitrators.

B.4.d. Multiple Lot Ownership. Should any building be constructed on more than one lot, the lines of lot ownership shall be used for determining the front, rear and side lot lines.

B.5. Easements and Their Upkeep.

B.5.a. Easements. Easements for installation and maintenance of utilities and other uses are reserved, and are hereby expressly acknowledged and granted, as shown on the

recorded plat. Upon the described easements, no structure, ground cover, planting, or other material shall be placed or permitted to remain except as may be authorized in writing by the Architectural Review Committee or the Utility which has been granted the easement for the extension of utility services through this subdivision.

B.5.b. Upkeep. The easement area of each lot and all improvements thereon shall be maintained by the owner of the Land, except for those improvements for which the easement owner may be responsible, as determined by the Architectural Review Committee. The owner of each lot shall also be responsible for maintaining the strip of land between his property line and the edge of the street easement on the near side of any street adjacent to or in front of the owner's lot. Each lot owner shall maintain his adjoining easement in conformance with master drainage plan as has been required by the County of Dona Ana. Each lot owner shall also properly engineer and compact the aforementioned easements so as to prevent damage to any and all utility services provided to or through their lot or lots.

B.6. Nuisances. No noxious or offensive activity shall be carried on upon the Property, nor shall any activity be carried on which may be or may become an annoyance, nuisance or offensive activity. The listing contained herein is intended to be examples of such activities and are not totally inclusive.

B.6.a. Parking of Vehicles. No vehicle, conveyance, trailer, trailer house, boat or recreational vehicle, except personal automobiles, shall be parked on the streets in front of, behind or beside any building site.

B.6.b. Storage of Objects. Inoperable, dilapidated or abandoned vehicles, conveyances, trailers, boats, equipment, structures, machinery or similar objects, whether operable or inoperable, shall be deemed unsightly nuisances and shall not be permitted to remain on the Property.

B.6.c. Motorcycles and Other Recreational Vehicles. All two and three wheeled motorized vehicles, cycles, and dune buggies are restricted to operation for the purposes of entering and leaving the residential areas of the subdivision only. No excessive travel within the boundaries of the subdivision will be allowed and cycles and dune buggies are expressly prohibited off the paved areas. Repeated complaints regarding excessive noise will result in action taken by the Architectural Review Committee to correct the situation (See C.2.b.). Parking for these vehicles will be limited to inside individual garages or in the area designated for recreation vehicles by the Architectural Review Committee.

B.7. Temporary Structures. No structures of a temporary character, trailer, mobile home, shed, shack, tent, garage, bar, swimming pool cover, recreation vehicle or other structure or vehicle shall be located upon any lot and be used as a residence, or otherwise, temporarily or permanently, except as may be authorized by the Architectural Review Committee.

B.7.a Antennas. No receiving or transmitting towers, antennas or dishes shall be allowed except for a single television receiving antenna which may not extend greater than ten feet above the roof and/or a single dish antenna of the DSS type being no greater than two feet in diameter.

B.8. Signs. No sign of any kind shall be displayed to the public view on any lot, except as may be authorized in writing by the Architectural Review Committee or as provided by developer.

B.8.a. For Sale Signs. For sale signs on model homes will be allowed provided that they conform with the following standards:

1. Maximum number: 1 per model home
2. Maximum faces: 2
3. Maximum height: 6 feet
4. Maximum size: 16 square feet

Homeowners are permitted one For Sale or For Rent sign for each dwelling unit, provided the sign face does not exceed four (4) square feet and the maximum height will be limited to three (3) feet.

B.9. Exploration or Mining Operations. No exploration, drilling, development operations or refining or quarrying of any kind shall be permitted upon the Property. No derrick or other structure designed for use in boring for oil, natural gas, water or any other substance shall be erected or permitted to remain upon any lot.

B.10. Individual Water and Sewage Systems. No individual water system or individual sewage disposal system shall be constructed or permitted to remain on any lot, except as may be approved by the Architectural Review Committee.

B.11. Animal Control.

B.11.a. Animals. No animal, livestock, or poultry of any kind may be raised, bred, or kept on any lot, except dogs, cats, or other household pets, provided that such household pets are not kept, bred or maintained for any commercial purpose or in quantities determined to be excessive by the Architectural Review Committee.

B.11.b. Control of Animals. When allowed to be kept, all pets must be kept within a fence or bounded area upon the owner's Property and must be accompanied by the owner and on a leash when outside the fenced or bounded area. Pets which interfere with the quiet enjoyment of the lot owes as granted by these covenants will be reported to the Dona Ana County Animal Control Department.

B.12. Garbage. No garbage, refuse, junk, trash, rubbish or other waste or obnoxious or offensive material shall be permitted to accumulate upon the Property. All such materials shall be kept in sanitary containers and shall be disposed of in accordance with accepted

sanitary practices as interpreted by the appropriate governmental agency and the Architectural Review Committee.

The Architectural Review Committee may, where it deems such to be architecturally or aesthetically desirable, require that a suitable alcove, walled-in container or other structure to serve as a garbage container be constructed. No incinerator shall be kept or operated upon the Property. Every dwelling shall install and maintain a kitchen trash compactor. All garbage, trash, and other refuse shall be placed in sealed, plastic containers and deposited in designated areas for pickup on designated days.

B.13. Building Construction.

B.13.a. Materials Used. The exterior surface of all buildings constructed shall be stucco only, or such other surfaces as may be authorized by the Architectural Review Committee. Garages, carports and permitted accessory buildings shall conform in material and design to the dwelling to which it pertains.

B.13.b. Completion of Construction. The construction of all buildings shall be completed in accordance with the terms of the approval obtained from the Architectural Review Committee. All such construction shall progress with diligence continuously from the time of commencement until fully completed, and no building shall be occupied for dwelling purposes until construction has been completed. Permissible accessory buildings may not be constructed prior to the construction of the main residential structure. The Architectural Review Committee may, when it deems such necessary, require the posting of a performance bond in the form approved by the Committee prior to the beginning of the initial construction or the beginning of any remodeling or improvement to the Property. No construction will be started until plans and specifications are approved by the Architectural Review Committee.

B.14. Sidewalks. All sidewalks, where constructed, shall meet the specifications of the Architectural Review Committee. All such sidewalks shall be constructed at the same time as the dwelling and shall be maintained by the Property owner.

B.15. Yard Lights. Prior to the occupancy of any residence, an outside yard light shall be installed and maintained at location prescribed by the Architectural Review Committee, which light shall be of a design and illumination power approved by the Committee. All such lights shall be equipped with photoelectric turn-on and turn-off devices, and shall be illuminated from dusk to dawn.

B.16. Maintenance of Property. Each owner of Property shall maintain continuously all portions of all structures, including the residence, walls, drainage culverts, spillways, swales, ponding areas, fences, retaining walls, sidewalks, patios and porches, and any other portion of the Property, including yards and courtyards. The area to be so maintained shall extend from and include the exterior of the residence or any wall open to public view to the street on the front of the lot, and to the rear and side lot lines.

B.17. Maintenance of Common and Green Areas. (See B.19. Special Services),

B.18. Cut and Fill. The Architectural Review Committee will require the owner, or his representative, to submit for approval any variation of the drainage plans and pad elevations. This will include, but is not limited to, any cut or fill over twelve (12) inches will have to be approved by a registered, professional engineer licensed in the State of New Mexico before being submitted to the Architectural Review Committee for their approval. In preservation of harmony and insure sound construction standards the Architectural Review Committee, at it's sole discretion, may require the lot owner to provide foundation plans as prepared by and stamped by a registered, professional engineer licensed in the State of New Mexico. See Architectural Committee pre-construction application for approval standards attached hereto and made a part thereof this document. This pre-construction application will be part of the approval for

construction and must be filled out by all interested parties and submitted to the Architectural Committee prior to any work commencing by the lot owner.

Building slabs, footings, foundations and compaction on any fill or cut of over twelve (12) inches will also require review and approval by a registered, professional engineer.

Any cutting and filling of lot grades, other than natural terrain, and any change in drainage, will be performed by the lot owner and be his responsibility.

B.19. Special Services.

B.19.a. Collection of Garbage. Private garbage collection will be arranged by individual lot owner.

B.19.b. Landscaping. No landscaping will be initiated by a homeowner without prior approval of the developer and the Architectural Review Committee. Any tree or bush capable of growth over six (6) feet from ground level to highest branch or a diameter greater than four (4) feet must be planted and trimmed to prevent blockage of existing views by adjoining neighbors. No tree or planting will exceed fifteen (15) feet in height or must be trimmed so as not to exceed the fifteen (15) foot maximum. These height restrictions are intended to preserve all views and will require any homeowner to continuously prune or trim trees as may required. Front yard landscapes must be started within six (6) months of occupancy and be watered by a drip sprinkler system to maximize water conservation.

B.20. Grasses for Lawns. Only lawn grass varieties which do not produce seed heads will be permitted in the Development.

C. ARCHITECTURAL REVIEW COMMITTEE

C.1. Recreation and Composition of Committee. The Architectural Review Committee (the "Committee") is hereby created. The Committee shall consist of a minimum of three (3) members, having one vote each, who shall be appointed by Picacho Hills Development Company, Inc., and may consist of representatives of the Picacho Hills Development (and the subdivisions located therein), various homeowners associations, or other persons deemed appropriate by Picacho Hills Development Company. The Committee may have such advisory membership as may be deemed appropriate by majority vote of the members of the Committee.

C.2. Authority. The Committee may adopt resolutions or policies, or both, not inconsistent with the laws of New Mexico, any of its subdivisions, or these Restrictive Covenants, for the purposes of:

C.2.a. Providing for the clarifications, interpretation, supplementation and construction of these Restrictive Covenants.

C.2.b. If, after due notice has been given by the Architectural Review Committee, violation is not remedied within thirty (30) days or whatever time limit is agreed upon, the owner of the Property gives Picacho Hills Development the right to remedy the violation and agrees to be responsible for any expense incurred in that remedy. If this expense is not paid within a reasonable length of time, the Property owner gives Picacho Hills Development Company permission to attach a lien to his Property to cover these damages, and allows Picacho Hills Development Company ingress and egress into Property to remedy such violation.

C.2.c. Controlling and otherwise managing Picacho Hills Development, by providing for administrative procedures, air pollution control, building requirements, fire prevention, sanitation control, traffic control, and such other procedures as may be necessary, all with

minimum requirements at least equal to and not in conflict with the requirements of the State of New Mexico on the same subject.

C.2.d. Such other purposes as may hereafter become apparent for the continued assurance of the welfare and benefit of the residents of Picacho Hills Development.

All such resolutions and policies shall be available for review in the offices of Picacho Hills Development Company, Inc. or such other location as may be designated by the Committee, and shall have the same force and effect as these Restrictive Covenants.

C.3. Lien. To correct any violation of these Restrictive Covenants, or the resolutions and policies published by the Committee, the Committee is granted, in addition to the rights herein granted, the authority to take any action that an owner of Property in these units could take. Each owner of Land affected by any such action or against whom an assessment has been imposed under provisions of the covenants hereby grants to the Committee or its assigns a lien against his Property and all improvements thereon for the payment of all expenses thereby incurred by the Committee and any such assessment. The lien plus interest may be foreclosed in accordance with the statutory provisions of the Mechanic's and Materialman's Lien Law of the State of New Mexico.

C.4. Committee Procedures. The Committee shall meet at times and places to be determined by the Committee. Any party wishing to submit a matter to the Committee for consideration shall submit such matters in writing delivered to the offices of Picacho Hills Development Company, Inc., all upon such forms and in accordance with such procedures as may be hereinafter prescribed by the Committee. The Committee shall respond to such requests in writing within thirty (30) days after the submission thereof. Should the Committee fail to so respond, any such request shall be deemed to have been denied. All plans, specifications, plot plans, requests for variances or other requests for action pursuant to these Restrictive Covenants shall be submitted in accordance with the above-described procedures.

C.5. Variances. The Committee is hereby authorized to grant variances from the provisions of the Restrictive Covenants when, in the discretion of the Committee, such variances are justified from the standpoint of aesthetics, architectural design, variety, harmony, value enhancement, or other reasons deemed by the Committee to justify a variance.

C.6. Disclaimer. Nothing herein shall be construed to require the Committee to take any actions herein authorized. The taking of any such action by the Committee shall not constitute a waiver of this provision. The Committee shall at all times have the option to disregard its authority, regardless of prior publication of resolutions or policies.

C.7. Architectural Control Committee Not Liable. The Architectural Control Committee shall not be liable for damages to any person(s) or company submitting any plans for approval, or to any owner(s) of land within Ranchos de Picacho Subdivision, by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove, with regard to such plans. Any person(s) or company acquiring title to any property in Ranchos de Picacho Subdivision, or any person(s) or company submitting plans to the Architectural Control Committee for approval, by so doing, does agree and covenant that he or she (they) or it will not bring any action or suit to recover damages against the Architectural Control Committee, its members as individuals, or its advisors, employees, or agents.

D. SAVINGS CLAUSE

In the event any part of these Restrictive Covenants shall be held to be ineffective or be otherwise invalidated by a court of competent jurisdiction, the other provisions hereof shall remain in full force and effect and shall not thereby be affected.

IN WITNESS OF THE FOREGOING Restrictive Covenants of Ranchos de Picacho
Subdivision, located in Dona Ana County, New Mexico, we have hereunto set our hand
this 17 day of September, 1999.

IN CONCURRENCE

DEBLANCO, INC.



STEPHEN BLANCO, PRESIDENT