

**DECLARATION OF COVENANTS, EASEMENTS AND
RESTRICTIONS FOR
"ABBE SPRINGS RANCHES SUBDIVISION"**

This Declaration of Covenants, Easements and Restrictions is made as of June 13, 2001, by Southwest Properties of New Mexico, Inc., a New Mexico Corporation, hereinafter called "Declarant".

RECITALS

A. The Declarant is the owner of certain real property which is designated as Abbe Springs Ranches Subdivision on the subdivision plat for the following described real property in Socorro County, New Mexico:

A certain Subdivision known as Abbe Springs Ranches Subdivision and shown on that certain plat thereof filed with the County Clerk of Socorro County, New Mexico, on June 13, 2001, as Slide _____.

B. The Declarant desires and intends to subject the Property to the protective covenants, conditions, charges, liens, restrictions, easements and reservations hereinafter set forth.

Now, therefore, the Declarant hereby declares that the Property, or any portion thereof, shall be held, sold and conveyed, and owned by subsequent owners subject to the following covenants, conditions, charges, liens, restrictions, easements and reservations, as amended from time to time, all of which are for the purpose of enhancing and protection the value, desirability and attractiveness of the Property and all of which are hereby declared to be for the benefit of all the Property and the owners thereof, their heirs, successors, grantees and assigns. These restrictions shall run with the Property or any part thereof and shall inure to the benefit of each owner of the Property.

**ARTICLE 1
DEFINITIONS**

Terms used in this Declaration having initial capital letters but not otherwise defined in this Declaration shall have the meanings specified below.

"**Association**" means Abbe Springs Ranches Homeowner's Association, Inc., its successors and assigns.

"**Declarant**" means Southwest Properties of New Mexico, Inc., and the successors and assigns of its rights and powers hereunder.

"**Declaration**" means this entire document is amended from time to time.

"**Lot**" means any numbered lot as shown on the Subdivision plat for the Property.

"**Member**" or "**Members**" means a member or members of the Association, including the Declarant so long as the Declarant is the Owner of one or more Lots.

"**Owner**" means a record holder of beneficial or equitable title and legal title if legal title has merged with the beneficial or equitable title, to the fee simple interest in any Lot. Owner shall not include: (a) a Person having an interest in a Lot merely as security for the performance or an obligation; or (b) a tenant of a Lot.

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"Person" means a natural person or a corporation, Limited Liability Company, partnership, joint venture, trust, or any other legal entity.

"Phase" means a portion of the Subdivision indicated as a "phase" on the plat for the Subdivision.

"Property" means the real property comprising the Subdivision.

"Restrictions" means the covenants, conditions, charges, liens, restrictions, easements and reservations contained or referred to in the Declaration, as it shall be amended from time to time.

"Subdivision" means the subdivision of the Property, as shown on the plat for Abbe Springs Ranches Subdivision, filed of record in the office of the County Clerk of Socorro County, New Mexico, on June 13, 2001, as Slide _____, including the roads within the Subdivision and any common areas shown on the Subdivision plat.

ARTICLE 2 ASSOCIATION

SECTION 2.1: Establishment of the Association: The Declarant has established the Association as a New Mexico nonprofit corporation named "Abbe Springs Ranches Homeowner's Association, Inc." which shall be charged with the duties and vested with the powers prescribed by law and set forth in the Articles of Incorporation and Bylaws of the Association and this Declaration.

SECTION 2.2: Purpose of the Association: The purpose for which the Association is organized is to provide for the ownership and maintenance of the roads serving the Subdivision, to enforce the Restrictions, to engage in any lawful activities which are determined by the Association to be in the best interest of the Association, the Members, or the Subdivision, and to promote the health, safety and welfare of the Members.

ARTICLE 3 LAND USE

SECTION 3.1: Lots shall be used only for residential, recreational, agricultural and ranching purposes.

SECTION 3.2: Lots shall be only one single family dwelling, not including camps or accessory structures, on each lot with one guest cottage not to exceed 1200 sq. ft in living space permitted. All dwellings within or on an individual lot must share the same septic system, water and power systems. Two family and/or multi-family dwellings are prohibited. No building or structure will be more than 35 feet in height at its highest point from grade.

SECTION 3.3: Vegetative cutting requirements for fire prevention (safety zones) are as follows:

a. Within 100' of a home site trees must be cut and/or trimmed so that 12' of open space exists between crowns. Occasional clumps of two to three trees may be retained for natural landscape effects. Pruning when necessary should be done to a height of 10'.

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b. All dead wood must be removed from the ground within 100' of the home site and small patches of scrub and brush directly adjacent to a home site must be separated at least 10' by irrigated grass or non-combustible material.

c. If the home site is within 50' of the crest of a steep hill, trees should be thinned at least 100' below following the same guidelines for thinning set forth in item a.

d. Irrigated grass and/or other non-combustible material is required for landscape use immediately around the home site. The use of bark or wood chips is prohibited.

SECTION 3.4: All buildings, accessory structures, temporary cabins and sewage disposal systems shall adhere to the following setbacks:

- a. 100' from the boundary of any designated/classified wetland
- b. 25' from the side and rear lot lines of each lot
- c. 100' from any stream, brook or intermittent water course
- d. 100' from the centerline of any Town, County or private road (placement of sewage disposal is exempt from this setback)

SECTION 3.5: Further subdivision of any lot 30 acres in size within the Abbe Springs Ranches Subdivision is strictly prohibited.

SECTION 3.6: No structure of temporary character, recreational vehicle, camper unit, trailer, mobile home, basement, tent shack, garage, accessory building or other out-building shall be used on any parcel as a residence. Recreational vehicles, a temporary camp, tent or camper unit may be used for recreational purposes, but such structures shall not be allowed to remain on any lot for more than nine (9) months in a given year

SECTION 3.7: No motorized vehicle which is either non-operational or non-licensed shall be kept or stored on any parcel, unless said vehicle is kept or stored in a fully enclosed building meeting standards which have been previously reviewed and approved by the Seller.

SECTION 3.8: Construction or Installation of a modular home is only permitted with the prior review and approval of the developer with regard to size, design, exterior appearance and location on lot.

SECTION 3.9: The outside finish of all buildings must be completed within nine months after construction has started. No building paper, insulation board, sheathing or similar non-exterior materials shall be used for the exterior finish of any building. The exterior finish of all buildings shall be composed of earth tone colors harmonious with the existing environment.

SECTION 3.10: No owner shall cause or allow the origination of excessive odors or sounds from his parcel. No owner shall cause or allow any other nuisances of any kind whatsoever to exist on his or her parcel. In case of a dispute, at the request of an owner or the Abbe Springs Ranches Homeowner's Association, Inc., the board shall make the final determination of what constitutes a nuisance.

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SECTION 3.11: In the event an item of potential archaeological and/or native American historical significance such as native American artifacts is found on a lot within the subdivision the find should be reported to a non-profit organization that is dedicated to archeological preservation, research and education. Items of significance should not be disturbed or removed from the site except by a qualified archaeologist and only for necessary historical preservation and educational purposes.

SECTION 3.12: The burying or dumping of garbage, junk, trash, oil, petroleum, or other liquid or solid waste or littering of any kind on any lot is strictly prohibited.

SECTION 3.13: Commercial wood harvesting is prohibited.

SECTION 3.14: Grantor hereby grants to each lot owner, and each lot owner grants to all other lot owners, easement for utilities along boundary lines and access to rights-of-way through the subdivision as shown on said survey map, such utilities are to be located as close as practicable to existing roads within the property. Construction of utilities across properties of others will include land reclamation of all construction site areas to their previous natural condition within six months of construction.

SECTION 3.15: All new utilities must be constructed underground except when extreme conditions such as ledge or wetlands will cause undue economic hardship for the lot owner.

SECTION 3.16: All septic systems must be designed and approved by an engineer licensed in the state of New Mexico.

SECTION 3.17: An easement providing ingress and egress to each lot is granted over all existing roads within the subdivision for the Grantor and all County officials for purposes of monitoring and enforcing these covenants, easements and restrictions and/or County zoning regulations.

SECTION 3.18: In an effort to protect and preserve native wildlife and birds, no dogs, cats or other domestic pets shall be allowed to roam free within the Abbe Springs Ranches project. All pets must be kept on a leash, in a kennel, or under voice control at all times. Pets should always be kept under the immediate supervision of their owners.

ARTICLE 4 **GENERAL**

SECTION 4.1: The Grantor and Grantees herein covenant and agree that said lot shall be subject to these covenants, restrictions and easements. These covenants, restrictions and easements shall be included in all deeds and shall bind all lots in the subdivision of property presently owned by Southwest Properties of New Mexico, Inc. of which this lot is a part. These covenants, restrictions and easements shall inure to the benefit of the Grantees herein, their heirs, legal representatives, successors and assignees.

SECTION 4.2: These covenants, restrictions and easements may be enforced by the owner(s) of any lot in said subdivision (including Grantor) against any person or persons violating or attempting to violate any provision hereof, either to restrain the violation thereof or to recover damages caused thereby. The failure to enforce any of these covenants, restrictions or easements shall in no event be deemed a waiver of the right to do so thereafter. Invalidation of any of these covenants, restrictions and easements shall not affect any other of these provisions which shall thereafter remain in full force and effect. Any lot owner who violates any of these covenants, restrictions

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and easements shall be liable for the reasonable attorneys' fees and legal expenses of any other lot owner who is successful in a legal action to enforce such covenant, restriction or easement.

SECTION 4.3: The Board of County Commissioners may also enforce these covenants, restrictions and easements. The County shall likewise be entitled to recover the reasonable attorney's fees and legal expenses of enforcement in a successful legal action.

SECTION 4.4: The Grantor reserves to itself the right to vary or modify the aforesaid covenants, restrictions and easements, in cases of hardship or practical difficulty where the basic intent and purposes of said covenants, restrictions and easements would not be violated, subject to approval by the Abbe Springs Ranches Homeowner's Association.

SECTION 4.5: This Declaration shall be effective upon its recordation in the office of the County Clerk of Socorro County, New Mexico, and as amended from time to time, shall continue in full force and effect until the commencement of the calendar year 2025. Upon the commencement of the calendar year 2025, this Declaration shall be automatically extended for successive periods of ten (10) years each unless this Declaration is terminated as provided in this section.

SECTION 4.6: This Declaration may be terminated at any time if the Declarant agrees in writing to terminate this Declaration and seventy-five percent (75%) of the total number of votes of all the members shall be cast in favor of termination of the Declaration at a meeting of Members held for such purpose. If the necessary agreement of the Declarant, the consents and votes of the Members are obtained to terminate this Declaration, then a Certificate of Termination, containing the agreement of the Declarant and a record of roll call of votes of all Members voting upon the issue of termination, identifying by name the Members voting, the lots owned by each such Member, and the vote cast, shall be prepared by the Association, shall be signed by the Declarant and the President of the Association, and shall be recorded in the office of the County Clerk of Socorro County, New Mexico. Upon the recordation of the Certificate of Termination, this Declaration shall have no further force and effect.

SECTION 4.7: This Declaration may be amended from time to time if the Declarant agrees in writing to the amendment of this Declaration and seventy-five (75%) of the total number of votes of all the Members shall be cast in favor of amendment of the Declaration at a meeting of Members held for such purpose. If the necessary agreement of the Declarant and the consents and votes of the Members are obtained to amend this Declaration, then a Certificate of Amendment, setting forth the amendments to this Declaration, and containing the agreement of the Declarant and a record of roll call of votes of all Members voting upon the issue of amendment, identifying the name of the Members voting, the lots owned by each such Member, and the vote cast, shall be prepared by the Association, shall be signed by the Declarant and the President of the Association and shall be recorded in the office of the County Clerk of Socorro County, New Mexico. Upon the recordation of the Certificate of Amendment, this Declaration shall be deemed amended as may set forth in the Certificate of Amendment.

SECTION 4.8: Notwithstanding anything to the contrary herein, it is expressly agreed that neither the Declarant (including without limitation any successor or assign of the Interest of the Declarant hereunder) nor any manager, member, employee, agent or affiliate of the Declarant shall have any personal liability to the Association, or to any Owner, or other Person, arising under, in connection with, or resulting from (including without limitation resulting from action or failure to act with respect to) this Declaration and, in the event of a judgment against the Declarant or any of such other Persons just specified, no execution or other action shall be sought or brought thereon against any other assets, nor be a lien upon such other assets, of the judgment debtor. Each of the provisions of this section shall apply to the performance of the Declarant of its responsibility to maintain the roads within the Subdivision.

IN WITNESS WHEREOF, the undersigned has executed this Instrument as of June 13, 2001

SOUTHWEST PROPERTIES OF NEW MEXICO, INC., a New Mexico Corporation

By: Daniel W. Dattola
Daniel W. Dattola, Vice- President

STATE OF NEW MEXICO)
) ss.
COUNTY OF SOCORRO)

This Instrument was acknowledged before me on June 13, 2001, by Daniel W. Dattola, Vice-President of Southwest Properties of New Mexico, a New Mexico Corporation.



Nicole P. Padilla
Notary Public
My commission expires: 3-9-05

FILED FOR RECORD
COUNTY OF SOCORRO
STATE OF NEW MEXICO
AT 8:10 O'CLOCK A M

JUN 13 2001

BK 501 PG 327-332
AUDREY JARAMILLO - CLERK
Rebecca Lopez DEPUTY

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