

*Very common  
Leasing Title  
No. 217-1011*

1

ALBUQUERQUE TITLE 66# 77898ds MET

8852321

U. J. 7

PROTECTIVE COVENANTS AND RESTRICTIONS  
FOR  
ANN LEE'S PLACE  
A SUBDIVISION WITHIN  
THE  
CITY OF ALBUQUERQUE, NEW MEXICO

KNOW ALL MEN BY THESE PRESENTS: that McClintic Development Corp., hereinafter called "Grantor", being the owner of Ann Lee's Place, a subdivision in Albuquerque, Bernalillo County, New Mexico, containing therein Lots 1 through 44, as the same is shown and designated on the plat of Ann Lee's Place, filed in the Office of the County Clerk of Bernalillo County, New Mexico, on June 6, 1968, hereby declares that it has established, and does hereby establish a general plan for the improvement, development and restrictions of said property, subject to which all lots and portions of lots in said subdivision shall be sold and conveyed as herein set forth.

DEFINITIONS

"Lot" as used herein is intended to refer to single parcels of land shown as lots on the recorded plat described above. A corner lot is one which abuts on more than one street, and in the absence of any other designation shall be deemed to front on the street designated as the address of that lot; but the Grantor reserves the right to designate the street on which any corner lot shall be deemed to front.

"Owner" shall mean the owner of record of a lot.

"Street" as used herein shall include any street, drive, road, lane, path or public way as shown on the plat.

NOW, THEREFORE, the Subdivision is hereby made subject to the following protective covenants and restrictions, which are to run with the land and shall be binding upon all parties and all persons owning lots in the Subdivision or claiming under them.

1. LAND USE AND BUILDING TYPES

a. All lots within the Subdivision are hereby declared to be single family residential lots, and no lot shall be used for any other purpose than single family residence.

b. No building shall be erected, altered, placed or permitted to remain on any lot other than one (1) detached single family dwelling not to exceed two (2) stories in height above ground level as described below, a private garage or carport for not more than three (3) cars and not less than two (2) cars, and accessory structures.

c. No building shall be erected, altered, placed or permitted to remain on such lot with a fully enclosed heated living area of less

2

than 1800 square feet, exclusive of carports, garages and open porches or patios.

d. No building shall be erected, altered or permitted to remain on any such lot that will exceed a total height from ground level to roof peak of twenty-six (26) feet. Ground level shall be defined as the highest pad elevation on any single lot, as shown on the grading plans on file at the Hydrology Section of the Public Works Department of the City of Albuquerque.

e. No building or any part thereof, including garages, shall be erected on any lot closer than twenty (20) feet to the front street line, fifteen (15) feet to the rear lot line or ten (10) feet on one side and five (5) feet on the other side to the side lot lines. With reference to corner lots, except Lot 1, no building or any part thereof including garages, may be erected closer than twenty (20) feet to the side street line. Notwithstanding the above, no building or any part thereof, including garages, shall be erected on lots 20, 21, 22 or 23 closer than ten (10) feet to the rear lot line.

It is understood that ordinary projections of sills, belt courses, cornices and ornamental features may project as much as twenty-four (24) inches into the side set back lines. For the purpose of this paragraph, eaves, steps, and equipment pads shall not be considered as part of the building. Where more than one lot is acquired as a single building site, the side lot lines shall refer only to the lot lines bordering the adjoining property owners.

f. All homes constructed upon lots which front on Crested Butte Drive shall be of territorial, pueblo, California mission or Mediterranean architectural style. The proposed elevations of such homes shall be submitted to and approved by Grantor or its designated agent before construction thereof shall commence.

2. MAINTENANCE

Each owner of each of lots 28 through 36 shall be responsible for the maintenance of the portion of the private drainage easement which passes through that owner's lot.

*Back of us up VJC Red*

The owner of each lot, the backyard of which abuts Camino de la Sierra, shall be responsible for the maintenance of the area between the rear wall of such lot and the curb of the street abutting the lot until such time, if ever, as the City of Albuquerque assumes that responsibility.

3. WALLS AND FENCES

Retaining walls shall be party walls if placed on the common property line between two (2) lots and shall not be removed by either property owner. Liability as between the owners with respect to the maintenance of any party wall shall be determined in accordance with New Mexico law.

32

Except for the necessary retaining walls, which shall be of minimum height, the following requirements shall apply to all walls and fences:

a. No wall or fence shall be erected or allowed to remain nearer the street than the front of the dwelling.

b. On corner lots, no wall or fence shall be erected or allowed to remain nearer to the front street than the rear of the dwelling or nearer to the side street than the side of the dwelling nearest the side street.

c. Backyard walls abutting public streets shall be of masonry block and shall be built and maintained so as to create a uniform appearance on the street side of the wall. Each owner shall be responsible for the maintenance in good condition of that portion of any backyard wall which abuts the owner's lot. Should the owner fail to maintain said wall, the Grantor or any successor in title shall have the right to enter the property to perform any required maintenance and be reimbursed by the owner for all work and costs incurred. All other walls and fences shall be of masonry block, pre-cast concrete or railroad ties.

d. All builders and/or lot owners shall be responsible for the construction of party walls on common property lines including rear property lines in accordance with all applicable Federal, State, City and County codes and ordinances. A party wall not more than 18" from a property line shall be deemed to have been so constructed with the consent of the owner of the lot within which the wall is located and may remain in place without affecting the ownership of that portion of the lot between the property line and such wall.

e. The height of any wall or fence erected or placed on any lot shall not exceed six (6) feet above ground level. (See W-1 (Vol of Ordinance Book))

4. SUBDIVISION OF LOTS

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.

5. UTILITY EASEMENTS

Easements are hereby reserved for the purpose of installing and maintaining municipal and public utility facilities and for such other purposes incidental to the development of the property as shown on the recorded plat.

6. NUISANCES

No business, trade or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Subdivided lot

lot boundaries

7. TOLERANCE

A two (2) inch tolerance by reason of mechanical variance of construction is hereby allowed for any distance requirements imposed by these covenants.

8. OIL AND MINERAL OPERATIONS

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 be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot.

9. GENERAL PROVISIONS

The Grantor may include restrictions, other than those set out herein, in any contract or deed to any lots without otherwise modifying the general plan above outlined, 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.

The restrictions herein set out shall be referred to, adopted by and made part of each and every contract and deed executed by and on behalf of the Grantor, or any part thereof, to all such intents and purposes as though incorporated in full therein; 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.

10. MISCELLANEOUS

*(Miscellaneous Signs) 1st Amendment signed 1/21/58 USA*

The construction or maintenance of billboards, posterboards or advertising structures of any kind on any part of any lot is prohibited, except that Grantor may display signs on the property until all lots have been sold, each sign not to exceed thirty-two (32) square feet, each architect and builder may display a sign during construction, such sign not to exceed eight (8) square feet, and realtors and owners may display temporary FOR SALE or LEASE signs, not to exceed more than six (6) square feet in size.

No trash, ashes, paper or refuse of any kind may be thrown or dumped in any vacant lot in the subdivision.

No trailer, house trailer, motor home, or boat shall ever be parked or placed on any vacant lot, nor shall any trailer, motor home, shack, tent, garage or other out building be used as a residence, either temporarily or permanently. No house trailer, trailer, motor home, or boat shall be stored or parked on any improved lot unless reasonably concealed.

No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except domestic dogs, cats or other household pets, providing that they are not kept, bred or maintained for any commercial purpose.

3 SA

JOC. 11

Owners of lots will be responsible for keeping their lots cleared of all weeds, trash and all other eyesores.

All lots shall be kept clean and maintained during the course of construction.

The construction of a home on each lot shall be commenced not more than thirty (30) months after the purchase of such lot from Grantor and shall be completed within twelve (12) months of the start of construction.

No cotton-bearing (female) cottonwood trees or elm trees of any nature shall be planted or permitted to grow on any lot within the subdivision.

Where externally visible air conditioners are erected or installed, they shall be so installed that they will not be visible from the front street or in the case of corner lots, from either the front or a side street. Roof mounted units shall be allowed; however, they shall be installed as to comply with this restriction as much as possible.

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 these restrictions, or all remaining structures, including the debris and foundations shall be removed from the lot.

11. LANDSCAPING

All front yard landscaping shall be completed within one (1) year from date of occupancy of dwelling and shall be so designed and constructed as to complement and enhance the subdivision.

The landscaping provided by Grantor behind the rear lot lines of the lots along Camino de la Sierra shall not be added to, detracted from or altered by the owners of such lots in any manner.

12. RIGHT TO ENFORCE

The restrictions herein set forth are imposed upon each lot for the benefit of each and every lot, and shall constitute covenants running with the land, and shall inure to the benefit of and be binding on the Grantor, its successors and assigns, and every lot owner and any person acquiring any interest in any part of the subdivision and their assigns. All persons acquiring any of the land covered by these restrictions shall be deemed to agree and covenant to conform to and observe all such restrictions as to the use of said land. The Grantor, its successors and assigns, and the owner or owners, of any part of such land and of any interest therein acting jointly or severally, shall have the right to sue for and obtain an injunction, to prevent the breach of or to enforce the observance of, the restrictions, and covenants above set forth in addition to a legal action for damages.

007 12

The failure of any or all such persons to enforce any of the restrictions or covenants herein set forth at the time of its violation, shall in no event be deemed to be a waiver of the right to do so at any time thereafter, except as herein specifically set out, nor shall the failure to enforce such restrictions as to any one or more lots, or as to any one or more owners thereof, be deemed a waiver of the right to enforce them as to any and all other lots and owners.

13. AMENDMENTS

These Covenants may be amended from time to time by an affirmative vote of the then record holders of title representing a seventy-five percent (75) majority of the total lot owners in the subdivision, or by Grantor, providing Grantor currently maintains title to thirty percent (30) of the total lots in the subdivision.

14. DURATION

All of the restrictions and covenants herein set forth as amended from time to time shall continue and be binding upon the Grantor, its successors and assigns, and all parties claiming by, and through or under it, or them, for a period of twenty-five years from the date this instrument is filed for record in the Office of the County Clerk of Sernalillo County, New Mexico, and shall automatically be extended for successive periods of fifteen (15) years each; provided, however, that any time within five (5) years prior to the expiration of the first twenty-five (25) year period or any time within three (3) years prior to the expiration of any successive period thereafter, the owners of not less than 40 lots within the subdivision may provide for the release of any and all of the lots hereby restricted, from any one or more of said restrictions and covenants at the end of the first twenty-five year period or at the end of any successive fifteen (15) year

