

Land Use Restrictions
CALL 448 REFUGIO COUNTY

Definitions

“Applicable Law” means all federal, state, and local laws, ordinances, regulations, or rules applicable to the person, circumstance, and/or Property addressed in the provision of these Land Use Restrictions in which the term appears.

“Covenants” means the covenants, conditions, and restrictions in this these Land Use Restrictions.

“Owner” means every record Owner of a fee interest of lands within the boundary of the Property, whether in whole or in part, any later tenant, lessee, or occupant of lands within the boundary the Property, whether in whole or in part.

“Real Property Records” means the real property records of the county or counties in which the Property is located.

“Structure” means any improvement on the property, including, but not limited to, a building, barn, garage, storage unit, pool, stock tank, fence, wall, patio or paved outdoor seating area, driveway, and walkway.

“Tract” or “Property” those lands described in Exhibit A.

“Vehicle” means any automobile, truck, motorcycle, boat, trailer, or other wheeled conveyance, whether self-propelled or towed.

Clauses and Covenants

A. Imposition of Covenants; Authority of Declarant

1. Declarant is the owner of the Property described in Exhibit A and imposes the Covenants on the Property. All Owners and other occupants of any portion of the Property by their acceptance of their deeds, leases, or occupancy of any portion of the Property agree that the Property is subject to the Covenants.

2. The Covenants are necessary and desirable to establish a uniform plan for the development and use of the Property to benefit all Owners. The Covenants run with the land and bind all Owners, occupants, and any other person holding an interest in any portion of the Property.

3. Each Owner or occupant of any portion of the Property agrees to comply with these Restrictions.

4. The restrictions and covenants in this instrument will inure to the benefit of and be enforceable by the declarant and any present or future owner of an interest in the above-described property.

5. Declarant, and their successors and assigns, and any owner of any parcel of the above-described property, and his or her successors and assigns, may enforce, by any proceeding at law or in equity, all restrictions imposed by this instrument. Any one or more of such persons may sue for and obtain an injunction, prohibitive or mandatory, to prevent the breach of or to enforce the observance of the restrictions and covenants, besides ordinary legal actions for damages.

6. FAILURE TO ENFORCE ANY SUCH RESTRICTION OR COVENANT DURING ITS
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VIOLATION WILL IN NO EVENT BE DEEMED TO BE A WAIVER OF A RIGHT TO DO SO THEREAFTER. NEITHER THE SELLER NOR ANY SUBSEQUENT PURCHASER OR OWNER OF A PORTION OF THE PROPERTY OR PROPERTY ANNEXED SHALL HAVE ANY LIABILITY OF RESPONSIBILITY AT LAW OR IN EQUITY ON ACCOUNT OF THE ENFORCEMENT OF, OR ON ACCOUNT OF THE FAILURE TO ENFORCE, THE RESTRICTIONS. ENFORCEMENT IS A RIGHT BUT NOT AN OBLIGATION.

7. ANY ATTEMPT TO VIOLATE THIS DECLARATION OR ANY VIOLATION OF THIS DECLARATION MAY SUBJECT THE OWNER OR OCCUPANT TO PROSECUTION AT LAW, INCLUDING MONETARY DAMAGES, OR IN EQUITY, INCLUDING INJUNCTIVE RELIEF, BY DECLARANT AND ITS SUCCESSOR OR ASSIGNS, ANY OWNER, OR ANY GOVERNMENTAL ENTITY WITH JURISDICTION OVER THE PROPERTY.

B. Building and Structures

- a. Residential Dwellings –
 - i. Must contain 1500 square feet or more of air conditioned space
 - ii. Modular construction is acceptable
 - iii. Barndominiums are acceptable
 - iv. Mobile homes must have been built no more than 10 years prior to installation on the tract
- b. Other Structures and Out Buildings
 - i. May be site built or modular construction
 - ii. Storage sheds may be moved onto the property

C. Building Lines and Requirements

- 1. ***Building Lines. The building lines of the Property shall be:***
 - a. General – All structures shall be constructed at least 30 feet from the boundary line of any Tract containing the some or all the Property.
 - b. Not affected by Subdivision – These requirements apply to any Tracts created by the division or combination of any lands containing any portion of the Property.
 - c. Fencing Exception: For this paragraph, fences and walls are excluded from the Building Lines requirements within this paragraph.
 - d. Utility Easement: Grantor reserves a utility easement 30 feet wide along the boundary line of any Tract containing the some or all the Property.
- 2. ***Bridges and Culverts.*** Bridges constructed on or over the Property shall have at least 18 inches of clearance, or greater clearance if required by the County or municipality where the property is located.

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D. Use and Activities

1. *Permitted Use.* The Property may be used for any lawful use or purpose, subject to the limitations of paragraph C (2), below.

2. *Prohibited Activities.* Prohibited activities are—

- a. any activity in violation of these Restrictions;
- b. any activity prohibited by Applicable Law;
- c. Livestock and Poultry: Animals, livestock, emu, ostrich, hogs or poultry may be kept, bred, and maintained on any Tract under these conditions:
 - i. All horses, cattle or other livestock or animals shall be kept enclosed on the Tract by suitable fencing.
 - ii. No swine may be bred, kept or maintained on any Tract containing some or all of the property, except one (1) per acre, owned for personal consumption or show competition.
 - iii. No chickens, turkeys or other poultry may be kept or raised in this project, except twenty-five (25) per acre owned for personal consumption or show competition, but shall be limited to one hundred (100) in the aggregate at any one time.
 - iv. Horses are permitted on the property.
 - v. Cattle are permitted on the property, but feedlots and processing plants are NOT permitted.
 - vi. Each Tract shall be maintained in such a manner as to prevent health hazards and shall not be offensive to the neighboring Tracts.
- d. Garbage & Refuse Disposal: Each Tract including any improvements on the Tract, shall be maintained:
 - i. No Tract shall be used or maintained as a dumping ground for rubbish. Trash, garbage, and other waste shall not be kept except in sanitary containers. Each Tract owner shall be responsible for disposing of all trash, garbage, and rubbish in a sanitary manner and in a location provided for that purpose by a local governmental authority.
 - ii. Sewage Disposal. All dwellings placed on the Property must be equipped with a septic tank or other sewage disposal systems meeting all applicable laws, rules, standards, and specifications, and all such dwellings must be served with water and electricity. The system must be maintained at all times so as to not cause an environmental hazard or smell.
 - iii. No outside, open, or pit type toilets will be permitted on the Property.
 - iv. All dwellings constructed on this Property, prior to occupancy, must have a sewage disposal system installed.

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- e. Vehicles: No Tract shall be used as a storage or salvage yard.
- f. Other Prohibited Uses: 1) Smelting of iron, tin, zinc or other ores refining of petroleum or its products; 2) industrial use, including, without limitation, heavy manufacturing, fabrication facilities, and testing facilities; 3) resale or pawn shops, flea markets, or bankruptcy, fire sale or auction business; 4) a tavern, bar, or nightclub, or any other similar establishment; 5) an adult bookstore or other establishment selling, renting or exhibiting pornographic materials or any sexually oriented business; 6) any sexually oriented business, as the term is generally construed, or 7) commercial skeet, trap, pistol or rifle range.
- g. Nuisances: No noxious or offensive activity shall be carried on upon any Tract, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the Property.
- h. Further Subdivision: No Tract may be further subdivided, so it creates a Tract that is less than one (1) acre. No Tract may be further subdivided unless there are no liens on the Tract.
- i. any storage of—
 - i. items that constitute a threat to the safety of persons or property, including toxic or volatile chemicals, unless they are customarily used in the business operated on the Property, and are properly used and stored in accordance with manufacturer's directions, industry standards, and best practices, to mitigate the risk of harm.
- j. Billboards and Cell Towers. No billboards nor Cell Towers shall be erected on the Property. Owners may place signs for the sale, lease, or rental of the property or for business conducted on the property.
- k. Damaged Structures. Any Structure that is damaged to the extent that repairs are not practicable must be demolished and removed within two-hundred seventy (270) days, and the Tract restored to a clean and orderly condition.

E. Subordination

No breach of the covenants or other restrictions in this instrument will defeat or render invalid the lien of any deed of trust made in good faith and for value on the above-described property or any parcel in it; provided, however, that such covenants or other restrictions will bind any owner whose title is acquired by foreclosure, trustee's sale, or otherwise.

F. Binding Effect

The restrictions in this instrument will run with the land and will bind all persons having any right, title, or interest in or to the above-described property or any part of such property, and their heirs, successors, and assigns.