

AMENDMENT TO PROTECTIVE COVENANTS AND RESTRICTIONS
FOR ACRES ESCONDIDOS SUBDIVISION
ROGERS, BENTON COUNTY, ARKANSAS

Acres Escondidos Development, Inc. as owner of all of the lots of Acres Escondidos Subdivision, Rogers, Arkansas does hereby amend the Protective Covenants and Restrictions for said subdivision, recorded September 27, 1991, in Benton County Record Book 91 beginning page 44062.

1. Paragraph 8 of the original Protective Covenants and Restrictions is hereby amended to read as follows, to wit:

8. SIGNS. No signs, either permanent or temporary, of any kind, shall be placed or erected on any property, except that a single sign not more than five (5) square feet in size may be permitted upon property to advertise the same for sale or for rent. Provided further, however, the developer, Acres Escondidos Development, Inc., hereby reserves the right to have a sign to designate the name of the addition, and to advertise same, and restrictions on size and location shall not apply to said sign or signs, except that such signs may not be erected on another property owner's lot.

2. Paragraph 13 of the original Protective Covenants and Restrictions is hereby amended to read as follows, to wit:

13. LIVESTOCK AND POULTRY AND PETS. No animals, livestock, or poultry of any kind shall be raised or kept on any residential building site, except that dogs, cats, or other household pets may be kept, provided that they are not kept or maintained for any commercial purposes. No pets shall be allowed to roam free about the subdivision, but must be kept indoors, penned, tied or on a leash accompanied by a person at all times. Lot owners shall be aware that excessive pet noise, such as barking, may constitute a nuisance as described in Paragraph 15.

Except as specifically amended herein, all other provisions of the Protective Covenants and Restrictions for Acres Escondidos Subdivision, Rogers, Arkansas, dated and recorded September 27, 1991 in Benton County Record Book 91 beginning on page 44062 shall remain in full force and effect.

Dated this 4th day of November, 1991.

ACRES ESCONDIDOS DEVELOPMENT, INC.

BY: Kathryn M. Lowell
Kathryn M. Lowell, President

RECORDED FOR RECORD
12:00 clock P M
NOV 04 1991

E. HODGES
Clerk and Recorder
BENTON COUNTY, ARK.

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ACKNOWLEDGMENT

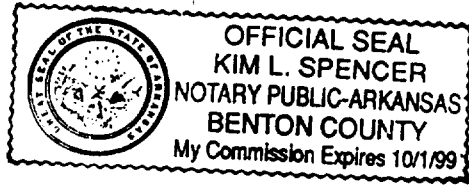
State of Arkansas)
) ss:
County of Benton)

On this day before the undersigned, a Notary Public, duly commissioned, qualified and acting in and for the county and state aforesaid, personally appeared Kathryn M. Lowell, to me well known or satisfactorily proven to be the President of Acres Escondidos Development, Inc., grantor in the foregoing instrument, and stated that she had executed the above and foregoing instrument for the consideration, uses and purposes herein stated.

IN WITNESS WHEREOF, I hereby set my hand and seal on this 4th day of November 19 91.

Kim L. Spencer
Notary Public

My commission expires: 10/1/99



SEP 27 1991

PROTECTIVE COVENANTS AND RESTRICTIONS FOR E HODGESClerk and Recorder
BENTON COUNTY, ARK**ACRES ESCONDIDOS SUBDIVISION****ROGERS, BENTON COUNTY, ARKANSAS**

ACRES ESCONDIDOS DEVELOPMENT, INC., is the sole owner and developer of ACRES ESCONDIDOS SUBDIVISION and does hereby establish and create the following Protective Covenants, which shall apply to said lots as shown on the recorded Plat of the said Subdivision.

1. **SINGLE-FAMILY RESIDENTIAL LAND USE AND BUILDING TYPE.**
All lots within Acres Escondidos Subdivision shall be governed by the provisions of the Rogers City Code governing single-family residences as governed by R1 on the date these covenants were executed.

2. **BUILDING LIMITATIONS.** The subdivision and building codes of the City of Rogers, Arkansas, as they presently exist or are hereinafter amended, shall be and are hereby made applicable to all lots in Acres Escondidos Subdivision. All dwellings and other improvements shall comply with said ordinances as they exist on the date of such construction. Any conflict between such ordinances and the provision of the Protective Covenants shall be resolved in favor of the more restrictive provisions. Building, architectural, and design specifications shall be in accordance with those set forth in Rogers City Code designated as R1.

No dwelling structure shall be constructed upon any lot within Acres Escondidos Subdivision of a size less than two thousand four hundred (2,400) square feet of heated living space (not less than 1,800 square feet on ground level) without approval of the Architectural Control Committee (as hereinafter set forth). Further, each dwelling shall have a private garage for not less than two (2) cars with dimensions of not less than twenty-two (22) feet by twenty-two (22) feet and shall have a driveway with a minimum width of not less than ten (10) feet. The driveway shall be concrete, asphalt, brick, or similar material. In addition, garage doors shall not be constructed on the front of the residence. All homes or outbuildings constructed on any lot must use architectural shake shingles, masonry tile shingles, or an alternate material of equal quality approved in advance in writing by the Architectural Control Committee. In addition, compliance with the above referenced ordinance shall be judged and determined and require a prior approval of the Architectural Control Committee (as hereinafter set forth), which shall view all plans and specifications for all structures prior to construction and be given the power to amend or alter any such designs or specifications prior to approval for construction in Acres Escondidos Subdivision. The specifications and requirements of the above mentioned R1 designation are designed as a minimum requirement for architectural and design specifications and may be supplemented from time to time, where not inconsistent, by the Architectural Control Committee, and same shall be binding. All builders and owners should

contact the Architectural Control Committee prior to commencement of construction, to be apprised of current requirements.

The pre-existing structure located on Lot 17 shall not be subject to square footage minimums or the requirement for architectural shake shingles. Any other improvements or additions upon the structure, other than a new roof, shall be submitted to and approved by the Architectural Control Committee.

3. ARCHITECTURAL CONTROL COMMITTEE. 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 on the lot have been approved by the Architectural Control Committee. Such plans and specifications including a plot plan reflecting the location of all improvements shall be submitted to the Architectural Control Committee at least fifteen (15) days prior to the commencement of construction of same, and the written approval of the Architectural Control Committee shall be required before commencement of construction. In this regard, it is the intention and purpose of the covenants contained in this paragraph to assure that all dwellings and accessory buildings shall be of a quality of workmanship and materials substantially the same or better than that which is being produced on the day these Protective Covenants are recorded and to assure that the exterior design of all dwellings and accessory buildings will be aesthetically compatible with the other dwellings and accessory buildings in the subdivision. The Architectural Control Committee for Acres Escondidos Subdivision shall consist of two (2) members, a Chairman and a Secretary. These roles will be filled initially by the President and Vice-President of Acres Escondidos Development, Inc. The original members shall serve for five (5) years, and thereafter as replaced biannually by an election of the majority of the then lot owners (one lot, one vote) in Acres Escondidos Subdivision. The Architectural Control Committee's approval or disapproval as required in this paragraph shall be in writing. Should any plans submitted hereunder fail to be approved or disapproved within the time period herein provided, or in any event, if no suit to enjoin the construction proposed is commenced prior to the completion thereof, approval will not be required, and the related covenants shall be deemed to have been fully complied with.

4. HOME OCCUPATIONS. Home occupations as defined by the Rogers City Codes shall be prohibited.

5. YARD SPACE RESTRICTIONS AND BUILDING LOCATION. No building shall be located on any lot nearer than thirty feet to the front of the lot nor nearer than twenty-five feet to the side street line. No building or permitted accessory building shall be located nearer than ten feet to any interior side lot line. This provision (interior side lot setback) shall not apply to any dwelling constructed on two (2) adjacent lots as to the side lot line dividing the two (2) lots. No dwelling shall be located on any lot nearer than twenty feet to the rear lot line. All permitted accessory buildings shall be located in the rear yard of each lot, and no such permitted accessory building shall be located on any lot nearer than fifteen feet (or as permitted by utility easements) to the rear lot line. For the purposes of this covenant, eaves, steps, and open

porches shall not be considered as part of the building; provided, however, this shall not be construed to permit any portion of the building on a lot to encroach upon another lot or easement. No lot shall be subdivided into smaller lots or parcels than shown on the recorded Plat for the purpose of creating additional building sites or lots, except that a lot may be divided to combine portions of it with the adjacent lots on both sides to enlarge the building sites on said respective adjacent lots. Should any building setback lines shown upon the plat of Acres Escondidos Subdivision vary from the setback requirement required herein, the building setback lines shown upon said Plat as filed shall control and take precedence over those stated herein.

6. FENCES, HEDGES AND LAWN CARE. Fencing of front yards is prohibited, except that decorative wood or stone fencing of a maximum height of three (3) feet may be constructed upon approval by the Architectural Control Committee. Rear yard fences must be of a decorative wood or stone design. Chain link fences and other forms of wire fencing are specifically prohibited. Dog pens, properly screened by walls, fences or plantings, may be constructed and maintained in the rear yard portion of any lot. The detention basin located in the northeast corner of the subdivision shall be a dedicated drainage easement to the City of Rogers, however the Property Owners Association may undertake supplemental mowing maintenance as is deemed necessary. Likewise, the owner of Lot #9 and/or the Property Owner's Association may undertake supplemental mowing maintenance of the detention area in the southwest corner of the subdivision (also a drainage easement to the City of Rogers). The honeysuckle hedge located on 26th Street shall not be removed or damaged by any lot owner. Maintenance of the hedge may be performed by the owner of Lot 1, but such maintenance shall be the duty of the Property Owners Association

7. OFF-STREET PARKING. All vehicles, except recreational vehicles, of the respective lot owners shall be parked in the garage or driveway of the respective lot, and parking on the streets as shown in the Plat of the subdivision shall be prohibited for a period of time exceeding three (3) days. Recreational vehicles and equipment, including but not limited to boats, motor homes, travel trailers, campers, and the like, shall not be parked or stored within twenty-five (25) feet of the front lot line for a period of time exceeding three (3) days. Provided further, however, recreational vehicles and equipment may be parked in the back yards for a period exceeding three (3) days, so long as same is screened by proper fencing or other plantings so as to reasonably screen the sight of said equipment from neighbors.

8. SIGNS. No signs, either permanent or temporary, of any kind, shall be placed or erected on any property, except that a single sign not more than five (5) square feet in size may be permitted upon property to advertise the same for sale or for rent. Provided further, however, the developer, Acres Escondidos Development, Inc., hereby reserves the right to have a sign to designate the name of the addition, and to advertise same, and restrictions on size and location shall not apply to said sign or signs.

9. **TEMPORARY STRUCTURES.** No trailer, unattached basement or storm cellar, tent, shack, garage, barn, or other outbuilding erected on a building site covered by these covenants shall at any time be used for human habitation, temporarily or permanently, nor shall any structure of a temporary character be used for human habitation. This restriction does not prohibit the storing of recreational vehicles on the lots.

10. **OUTBUILDINGS.** Outbuildings shall be restricted to one (1) per lot. An outbuilding may be constructed on the back yard provided its design and size is compatible with the existing structure. Design and size of outbuildings is subject to the approval of the Architectural Control Committee. Cabana structures or gazebos may be built and maintained within the back yard building area on any lot in the subdivision. The interior area of a detached cabana will not be included in the determination of the minimum dwelling sizes.

11. **SATELLITE DISHES.** Satellite television receiver dishes are specifically prohibited from being installed within Acres Escondidos Subdivision.

12. **OIL AND MINING OPERATIONS.** No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted, nor shall oil wells, crude oil tanks, tunnels, mineral excavations, or shafts be permitted upon or on any building site. No derrick or other structure designed for use in boring for oil, natural gas, salt, or any other mineral or petroleum product shall be erected, maintained, or permitted upon any building site.

13. **LIVESTOCK AND POULTRY AND PETS.** No animals, livestock, or poultry of any kind shall be raised or kept on any residential building site, except that dogs, cats, or other household pets may be kept, provided that they are not kept or maintained for any commercial purposes. The number of pets shall not be restricted but no more than one such pet shall be kept outdoors. No pets shall be allowed to roam free about the subdivision, but must be kept indoors, penned, tied or on a leash accompanied by a person at all times.

14. **EASEMENTS.** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded Plat and over the rear of each lot. No trees, incinerator structures, buildings, pavement, or similar improvements shall be grown, built, or maintained within the area of the utility easements. No fences are allowed in drainage easements. Owners are hereby put on notice that any structure or plant material in the easements are subject to removal.

15. **NUISANCES.** No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereupon which may be, or may become, an annoyance or a nuisance to the neighborhood. Household pets may be kept, provided they are not kept or maintained for any commercial purposes. Grass, weeds, and tree sprouts shall be kept neatly cut and shall not

be allowed to exceed six (6) inches from the ground surface. Fences, or outside structures, or outdoor decorations shall be maintained so as not to become unsightly or an annoyance or a nuisance to the neighborhood. Upon owner's failure to comply with this subsection, the developer or other property owners may cut grass or weeds or perform maintenance upon fences, outside structures, or outdoor decorations and shall be entitled to charge a reasonable fee to the owner of the lot for said service. No building material of any kind or character shall be placed or stored upon any lot in the subdivision until the owner is ready to commence construction of the improvements requiring such materials. Building materials shall not be placed or stored in the street or between the curb and property lines. Upon completion of the improvements requiring such materials, all remaining building materials shall be removed from the subdivision.

16. INOPERATIVE VEHICLES. No vehicle, bus, tractor, or other vehicle or other conveyance or rig, other than a lawn grass apparatus, shall be left inoperative on any platted lot for a period of more than fourteen days. Lawn grass apparatus will not be stored on the front yard.

17. SIGHT DISTANCE AT INTERSECTIONS. No fence, wall, hedge, or shrub which obstructs sight lines at intersections in the subdivision shall be permitted.

18. UTILITIES. All utilities in this subdivision shall be placed underground.

19. PROPERTY OWNERS' ASSOCIATION, MEMBERSHIP DUES, AND CREATION OF LIENS.

A. For the purpose of maintaining areas to be used in common with some or all of the residents and owners of property in Acres Escondidos Subdivision, street lights, drainage, and such other activities and undertakings as may be for the general use and benefit of owners and residents of the property, each and every lot owner, in accepting a conveyance of any lot in this subdivision, agrees to and shall become a member of and be subject to the obligations and duly enacted bylaws and rules of an unincorporated, non-profit association known as the Acres Escondidos Property Owners' Association.

B. The Property Owners' Association may, by majority vote of its duly elected Board of Directors, levy assessments or dues against all lot owners in order to defray the cost of performing maintenance and repairs upon common property within the subdivision. All property owners in the subdivision shall pay the required assessments or dues to the Property Owners' Association promptly when the same become due, and, in the event of failure by a property owner to pay the same promptly when the same become due, such assessments or dues shall constitute a lien upon the property owned by such owner in the subdivision, and the same may be enforced in equity as in the case of any lien foreclosure authorized in the State of Arkansas.

All delinquent assessments or dues shall bear interest at the rate of 10% per annum from the date same become due until they are paid, and the

Association shall be entitled to a reasonable fee for its attorneys when their services become necessary to collect any delinquent assessments, all of which shall be part of the lien for dues.

C. The liens herein created for unpaid assessments or dues to the Property Owners' Association are hereby made expressly inferior and subordinate to valid and bona fide mortgages and deeds of trust or retained vendors' liens securing obligations of owners of any of the lots in the subdivision up to the time of sale at foreclosure of any such mortgage, deed of trust, or vendor's lien and for a period of six months thereafter or until the residence upon such property is occupied, whichever date shall first occur, after which time unpaid assessments or dues shall thereafter accrue as a lien upon such lot in the identical form and manner as prior to the foreclosure sale of the property involved. This subordination shall be construed to apply not only to the original but to all successive mortgages, deeds of trust, and vendors' liens given by property owners to secure obligations, together with all extensions and renewals thereof.

20. VIOLATIONS. In the event of any violation or attempt to violate any of the covenants or restrictions herein before the expiration date hereof (whether the original expiration date or the expiration date of any extensions thereof), it shall be lawful for any person or persons owning any lots in this subdivision to prosecute any proceedings at law or in equity against a person or persons violating or attempting to violate such covenants or restrictions, and either to prevent him or them from so doing and/or to recover damages for such violations. Provide further, however, that the Property Owners' Association shall receive from residents any complaints as to violations of the covenants and shall provide reasonable notice to any alleged violator of said violations prior to legal actions being taken.

21. BINDING EFFECT AND AMENDMENTS OF COVENANTS. All persons or corporations who now or shall hereafter acquire any of the lots in this subdivision shall be deemed to have agreed and covenanted with the owners of all other lots in this subdivision and with their heirs, successors, and assigns to conform and observe the restrictions, covenants, and stipulations contained herein for a period as hereinafter set forth. These covenants may be amended at any time upon the affirmative vote of eighty percent (80%) of the then existing lots in Acres Escondidos Subdivision. It is expressly required that each lot shall be given one (1) vote, and a vote of eighty percent (80%) of the then existing lots shall be deemed sufficient to amend said covenants. It is the express intent that this number shall never exceed twenty-one (21), same being the number of lots platted. Further, no amendments shall be allowed which would be in violation of the zoning designation in effect at the time of the amendment. No changes in these Protective Covenants shall be valid unless the same shall be placed of record in the office of the Recorder of Benton County, Arkansas, duly executed and acknowledged by the requisite number of owners.

22. DURATION OF COVENANTS. These covenants and restrictions shall run with the land for a minimum period of thirty (30) years, to be automatically extended for successive periods of five (5) years without further action unless terminated by a majority of the property owners in the development, casting votes as hereinabove set forth in the amendment section of these covenants, and voting one (1) vote for each lot. It is the intent that these covenants promote the aesthetic value of Acres Escondidos Subdivision.

23. SEVERABILITY. Invalidation of any restriction set forth herein, or any part thereof, by an order, judgment, or decree of any court, or otherwise, shall not invalidate or affect any of the other restrictions, or any part thereof, as set forth herein, but they shall remain in full force and effect.

EXECUTED this 23rd day of September, 1991.

ACRES ESCONDIDOS DEVELOPMENT, INC.

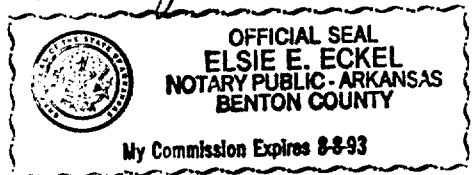
BY: Kathryn M. Lowell
 Kathryn M. Lowell, President

ACKNOWLEDGMENT

State of Arkansas)
) ss:
 County of Benton)

On this day before the undersigned, a Notary Public, duly commissioned, qualified and acting in and for the county and state aforesaid, personally appeared Kathryn M. Lowell, to me well known or satisfactorily proven to be the President of Acres Escondidos Development, Inc., grantor in the foregoing instrument, and stated that she had executed the above and foregoing instrument for the consideration, uses and purposes herein stated.

IN WITNESS WHEREOF, I hereby set my hand and seal on this 23rd
 day of Sept 19 91.



Elsie E. Eckel
 Notary Public

My commission expires: 8-8-93