



**SECOND AMENDMENT TO THE DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
ALARY FARM SUBDIVISION**

This Second Amendment of Protective Covenants, Conditions and Restrictions for Alary Farm Subdivision is made this 15<sup>th</sup> day of MARCH, 2009, by the Alary Farm Subdivision Landowners' Association, Inc. hereinafter called "Association".

WITNESSETH:

WHEREAS, the Association has determined that it wishes to amend the Protective Covenants, Conditions and Restrictions for Alary Farm Subdivision; and

WHEREAS, the Association has specific rights granted to amend under Article X of the Protective Covenants, Conditions and Restrictions for Alary Farm Subdivision as recorded in the office of the Sandoval County Clerk on the 11th day of July, 2001 at Vol. 404, pages 60061-60078.

NOW, THEREFORE, the Association, declares that the real property referred to as Alary Farm Subdivision and Alary Farm Subdivision Phase II, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") of the Protective Covenants, Conditions and Restrictions for Alary Farm Subdivision incorporating the following amendments:

1. The Following Section 23 "Tree Height Restrictions" is added to Article III with regard to Alary Farm Subdivision;

*Section 23. Tree Height Restrictions. Lot owners shall space trees with sensitivity to mountain views from other lots. All tree locations shall be shown on a site plan submitted to the Architectural Control Committee (ACC) prior to residential construction. The trees shall be indicated on the site plan by type, as existing, proposed or to be removed, and indicate the approximate height of any existing trees or the estimated total height at full maturity of any proposed trees. The ACC may prohibit plantings of any tree, which, in its sole discretion, will unreasonably interfere with views from other lots. Trees identified as reaching a height of more than 30 feet are prohibited unless specifically approved by the ACC. In the event any tree planted after the creation of the subdivision reaches a height of greater than 30' (other than trees specifically approved by the ACC to exceed 30 feet), measured from the lowest natural grade adjacent to heated space of the residence nearest the tree, the property owner may be required by the ACC, in its absolute discretion, at his/her expense, to crop or trim the tree to limit its height to no more than 30 feet. Planting of any plant, which may exceed a height of 10 feet at any time within its life, shall require approval of the ACC.*

2. Article III, Section 13 entitled “Easements” is hereby deleted with regard to Alary Farm Subdivision, being east of Corrales Road and in its place substituted the following;

Section 13. Easements. Perpetual easements for underground installation and maintenance of electrical, telephone, gas, cable television, and other utilities and drainage facilities, for the benefit of the adjoining land owners and/or municipal or private utility company ultimately operating such facilities, are reserved as shown on the Subdivision plat of the properties filed with the County Clerk of Sandoval County, New Mexico. No building or structure shall be erected within those easement areas occupied by such facilities.

Private equestrian, irrigation and pedestrian easements are reserved as shown on the plat of the subdivision. These easements are for the sole and exclusive use of Owners, or others with right of possession, of a Lot in this subdivision for access to the Sandoval Lateral and Corrales Bosque area. Access for each lot owner extends in an Easterly direction only from the West boundary of their Property. No building, structure or obstruction of any kind that would interfere in any way with another owner’s access to the Sandoval Lateral and Corrales Bosque area shall be erected within this easement other than a property line fence and locked gate being on the exterior perimeter of The Property. Motorized vehicles are prohibited within any part of this easement other than emergency, utility company, irrigation, septic and well installation or maintenance equipment (while performing their associated services) and farm tractors including their attachments or trailers. Portions of this easement contain irrigation ditches, irrigation pipeline and utility easements.

*Fencing shall be allowed within the private equestrian, irrigation and pedestrian easement located on the south side of Lots 8 – 14 along a line fifteen (15) feet north of the south property line in an effort to preserve the most southerly row of trees located near the easement and their esthetic effect on the easement. The fencing shall not exceed six (6) feet in height. Opaque or translucent materials shall not obscure more than twenty (20) percent of the view from easement. Opaque and translucent areas and supports shall have a maximum dimension of no more than eighteen (18) inches in any direction. Continuous foundations are not permitted. At Lot 14 any fencing shall run diagonally from the northeast corner of the easement as shown on the plat to a point thirty feet west of said point and fifteen feet north of the south property line in order to preserve a turnaround area within the easement. the remainder of any fencing shall be along a line fifteen feet north of the property line. The diagonal fencing location at Lot 14 may be changed only with the approval of the Architectural Control Committee and the consent of the Developer.*

3. Article III, Section 3 entitled “Size and Completion of Buildings” is hereby deleted with regard to Alary Farm Subdivision Phase II, being west of Corrales Road and in its place substituted the following;

Section 3. Size and Completion of Buildings. All residences shall have a heated floor area of not less than two thousand (2000) square feet. The term “floor area” as used herein shall mean the floor area of the primary residence structure only, exclusive of porches, covered or



