

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

This Third Amendment of Protective Covenants, Conditions and Restrictions for Alary Farm Subdivision is made this 24th day of January, 2011, by Gary W. Parker, hereinafter called "Developer".

WITNESSETH:

WHEREAS, Gary W. Parker is the surviving developer of real property shown and designated on the Plat entitled "**Alary Farm Subdivision**", located in Sandoval County, New Mexico, which plat was recorded in the office of the County Clerk of Sandoval County, New Mexico July 6, 2001; and

WHEREAS, Gary W. Parker is the Developer of real property shown and designated on the Plat entitled "**Alary Farm Subdivision Phase II**", located in Sandoval County, New Mexico, which plat was recorded in the office of the County Clerk of Sandoval County, New Mexico July 9, 2003, at Vol. 3, folio 2302-B, document number 23462; and

WHEREAS, Gary W. Parker as the surviving developer of Alary Farm Subdivision has specific rights granted 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 to amend or restate the Declaration of Covenants prior to the sale of the last lot to an Owner other than the Developer.

NOW, THEREFORE, Gary W. Parker, declares that the real property referred to above 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. Article III, Section 11 entitled "Fences, Hedges, Trees or Walls" is hereby deleted with regard to Alary Farm Subdivision and Alary Farm Subdivision Phase II and in its place substituted the following:

Section 11. Fences, Hedges, Trees or Walls. No fences, hedges or walls shall be erected, grown or maintained upon the properties except such as are installed in accordance with the initial construction of the buildings located thereon or as approved in accordance with Article IV of this declaration. No elms, cotton-bearing cottonwood trees or Bermuda grass shall be planted on any Property or allowed to exist or naturally spread by seed or existing roots within the ground. Existing trees located on Lot 1, or any replat of said Lot, do not need to be removed. This section

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does not apply to any trees within a strip running north to south comprising the most westerly sixty (60) feet of lot 21.

2. Article X, Section 3 entitled "Enforcement" is hereby deleted with regard to Alary Farm Subdivision and Alary Farm Subdivision Phase II and in its place substituted the following:

Section 3. Enforcement. The Association, the Developer, or any Owner, shall have the right to enforce these covenants and restrictions by any proceeding at law or in equity, against any person or persons violating or attempting to violate any covenant or restriction, to restrain violation, to require specific performance and/or to recover damages; and against the land to enforce any lien created by these covenants; and failure by the Developer, the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The expense of enforcement (including attorney's fees) by the Developer or the Association shall be chargeable to the Owner of the Lot violating these covenants and restrictions and shall constitute a lien on the Lot, collectable in the same manner as assessments hereunder.

The Board of Directors shall have the right to create regulations for enforcement of this Declaration, including but not limited to procedures for notification, resolution or curing, and fines for failure to resolve violations. All fines, fees and costs for curing a violation are billable and collectable in the same manner as assessments hereunder, including interest. The regulations shall impose a fine of no more than double the regular full annual dues assessment per year per Lot, impose it no sooner than ninety (90) days from an initial written notice, and require a hearing by committee of not less than three subdivision Owners if requested by the Owner being cited.

3. Article X, Section 5 entitled "Restrictions on Acts of Association" is hereby deleted with regard to Alary Farm Subdivision and Alary Farm Subdivision Phase II and in its place substituted the following:

Section 5. Restrictions on Acts of Association. The Association shall not:

- (a) Change the method of determining the obligations, assessments, dues or other charges, which may be levied by the Association against the Owner or any Lot except for enforcement regulations as provided for in Article X, Section 3.
- (b) By act or omission change, waive, or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of the improvements on any Lot, the exterior maintenance thereof, or the maintenance of the common property walks or common fences and driveways without a two-thirds majority vote (that being 2/3's of the total of all possible votes from all lot owners, regardless of their presence or representation in any such vote) in favor of such a change.

(c) By act or omission abandon, partition, subdivide, encumber, sell or transfer the Common Areas owned, directly or indirectly by the Association; provided, however, that the granting of easements for public utilities or for other public purposes consistent with the intended use of such property shall not be deemed a prohibited change within the meaning of this clause.

(d) Change the voting rights of any Owner from that which is described herein.

IN WITNESS WHEREOF, Gary W. Parker has executed this Declaration this 24TH day of January, 2011.

Gary W. Parker
Gary W. Parker

STATE OF NEW MEXICO }
 } ss:
COUNTY OF BERNALILLO }

The foregoing instrument was acknowledged before me this 24th day of January, 2011, by Gary W. Parker.

Kenny Shoquist
Notary Public

My commission expires: 7/9/2012



OFFICIAL SEAL
Kenny Shoquist
NOTARY PUBLIC
STATE OF NEW MEXICO

My Commission Expires 7/9/2012