

PROCEDURES FOR PROPERTY OWNERS TO AMEND THEIR UNIT COVENANTS

The Sandia Heights Homeowners Association (SHHA) cannot modify or change any unit covenants. Any covenant changes or modifications can only be done by the property owners within their individual unit. SHHA recognizes the right of property owners to amend the covenants of their units in accordance with procedures set forth in the covenants of each unit. SHHA has developed information to facilitate that process and to ensure that a proposed amendment is in agreement with established covenants. To avoid potential conflicts with the existing covenants, it is suggested that the proposed amendment(s) be presented to the SHHA Board of Directors for review prior to initiating a petition signature effort.

This information is provided as a guideline only. The legal validity and sufficiency of the process and the amendment are the responsibility of the property owners. The SHHA takes no responsibility for the legality of amendments, their wording, the validity of the voting or the proper recording. Residents are urged to obtain legal advice on the specific wording for the amendment, validity of voting and the proper method of recording. All costs involved with the amendment process are the responsibility of the property owners of the Unit proposing the amendments.

The following are suggested steps to initiate an amendment and to see it through to recording with the County and filing with SHHA. The process as outlined herein is a 4-step process: 1. Drafting the amendment. 2. Formal preparation of the amendment. 3. Notifying the property owners and obtaining approval. 4. Recording with the County and filing with SHHA.

1. DRAFTING THE AMENDMENT

- a. First, review your Unit Covenants. Determine which portion you want to amend or what is to be added or deleted. You can use the SHHA website (www.sandiahomeowners.org) to check for other Units' covenants to see if they contain something similar to what you want to propose.
- b. Discuss your proposed amendment with your neighbors. People do not like to be surprised, and getting agreement from your neighbors through personal contact could mean the difference between approval and disapproval.
- c. As you talk to your neighbors make sure that they are the legal owners of the property. You can verify ownership by checking the property records for Bernalillo County (www.berncoco.gov; find the Treasurers page and click on "Search Records"). Prepare a list of all addresses in your unit, with the property owner name(s), and a place to sign. See Exhibit A.
- d. Property owners are responsible for preparing all required documentation. If there are two property owners (such as husband and wife), both owners must sign, although only one vote per property is used to determine the percentage required for amendment.
- e. After you have discussed the amendment with your neighbors and identified the legal owners, draft your amendment.

2. FORMAL PREPARATION OF THE AMENDMENT

- a. Now you are ready to put the amendment into the appropriate legal format and to notify the property owners of the finalized version.
- b. See Exhibit B for the amendment format.

3. NOTIFICATION OF PROPERTY OWNERS AND OBTAINING APPROVAL

After the final draft of your amendment is prepared you are ready to notify the property owners and initiate the voting process.

- a. Prepare a cover letter (your petition) to go to all property owners in your Unit. An explanation of the reason(s) for the amendment can be beneficial for obtaining approval.
- b. Prepare the listing of the Unit property owners, making sure the top of each page shows the amendment and Unit. See Exhibit C.
- c. Make enough copies of the cover letter and proposed amendment for all property owners to be notified and given the opportunity to vote. This may be done in person or by U.S. Mail. If you are going door-to-door for signatures you can use the Exhibit A petition with the Exhibit C roster to record the voting. If you are conducting the vote by mail you will need to include a ballot sheet for them to return to you. See Exhibit D. Returned ballots can be logged on Exhibit C.
- d. We strongly recommend that you notify absentee owners by Certified Mail-Return Receipt. Allow at least three weeks for absentee owners to receive the documents and return the ballot to you. This is important, as you will need to clarify that you have made an attempt to reach all property owners to allow them to vote.

4. RECORDING WITH BERNALILLO COUNTY, SHHA FILING, AND FINAL NOTIFICATION TO PROPERTY OWNERS

After you have received your requisite affirmative signatures/ballots (in accordance with your Unit covenants) it is time to record your document with the Bernalillo County Clerk.

- a. Take the original documents (amendment, signatures, certification affidavit per Exhibit F) to the Bernalillo County Clerks' office where you will have the amendment recorded. Get ALL pages recorded by having them stamped with a barcode.
- b. Make sufficient copies of the recorded amendment and signature pages for the property owners in your Unit, and give a copy to each property owner either directly or by mail. See Exhibit E.
- c. Give the originals of the recorded documents to the SHHA office. The office will file the documents in a protected filing cabinet and post the amendment on the SHHA website.

SAMPLE-DOOR TO DOOR PETITION

EXHIBIT A

**DECLARATION OF RESTRICTIONS, SANDIA HEIGHTS UNIT 28C
BERNALILLO COUNTY, NEW MEXICO**

The following is a petition to amend Unit 28C COVENANTS, document #9097829, by rewriting paragraph 9g as follows:

9g. ROOFTOP DECKS, DECK ADDITIONS, OR ROOM ADDITIONS TO EXISTING HOUSES, EXCEPT THAT APPROVAL OF A VARIANCE FOR ANY ADDITION SHALL BE BASED UPON MEETING THE FOLLOWING REQUIREMENTS:

- (1) Does not extend beyond the current roofline in height; (2) cannot -----(etc., etc.)

The change was the addition of the wording following the word "HOUSES". The wording in the current covenant reads:

- 9. The Architectural Control Committee WILL NOT APPROVE the following:
 - g. ROOFTOP DECKS, DECK ADDITIONS OR ROOM ADDITIONS/
ALTERATIONS TO EXISTING HOUSES.

The following property owners have approved this amendment by their signature:

PROPERTY ADDRESS	SIGNATURE	DATE
2873 Brushwood NE	_____	_____
2874 Brushwood NE	_____	_____
2875 Brushwood NE	_____	_____
2875 Brushwood NE*	_____	_____

(ETC.)

*Joint Owner, Two signatures required

AMENDMENT TO
THE DECLARATION OF RESTRICTIONS OF
SANDIA HEIGHTS UNIT ____ SUBDIVISION

THIS AMENDMENT to the DECLARATION OF RESTRICTIONS OF SANDIA HEIGHTS UNIT ____ SUBDIVISION is entered into by and between the record owners of the parcels of land in SANDIA HEIGHTS UNIT ____ SUBDIVISION.

WHEREAS, SANDIA HEIGHTS UNIT ____ Subdivision is more particularly Described on the plat of said Subdivision as such plat was filed with the County Clerk of Bernalillo County on _____, _____, at Book _____, Page _____;

WHEREAS, the Declaration of Restrictions of Sandia Heights Unit ____ was filed with the County Clerk of Bernalillo County on _____ at Book _____, Page _____; and

WHEREAS, the record owners of more than seventy five percent (75%) of the lots in SANDIA HEIGHTS UNIT ____ SUBDIVISION have voted to amend the Declaration of Restrictions of said SANDIA HEIGHTS UNIT ____ SUBDIVISION, as shown by the ballots on file at the offices of the Sandia Heights Homeowners Association, Inc.

NOW, THEREFORE, BE IT RESOLVED that the Declaration of Restrictions of SANDIA HEIGHTS UNIT ____ SUBDIVISION is hereby amended as follows:

1. A new paragraph # ____ is added to the Declaration of Restrictions to read as follows:

“The following are deemed to be unacceptable colors for any part of the exterior surface of any structures in the Subdivision: puce, magenta, lavender, violet, or any other color in the family of purple.”

All provisions of the above noted Declaration of Restrictions not specifically changed or modified

herein shall remain in full force and effect.

EXHIBIT B (CONT'D.)

This Amendment was consented to by the owners of record of the lands comprising more than seventy-five percent (75%) of the lands comprising SANDIA HEIGHTS UNIT _____ SUBDIVISION, as attested to by the voting roster attached hereto and the signed votes on file with the Sandia Heights Homeowners Association, Inc. which are incorporated herein by reference.

IN WITNESS WHEREOF, the undersigned have executed this Amendment on the date hereafter noted.

Witness My Hand and Seal this _____ Day of _____, _____.

STATE OF NEW MEXICO)
) SS.
COUNTY OF BERNALILLO)

This instrument was acknowledged before me on this _____ day of _____, _____, by _____.

Notary Public

My Commission Expires:

VOTING ROSTER FOR AMENDMENT OF
 DECLARATION OF RESTRICTIONS
 FOR SANDIA HEIGHTS UNIT ___ SUBDIVISION

The following property owners are eligible to vote in Sandia Heights Unit ____ Subdivision for an amendment of the Declaration of Restrictions. The property owners indicated with a checkmark beside their name have voted in favor or against amending the Declaration of Restrictions to add paragraph # _____ which states as follows:

“The following are deemed to be an unacceptable colors for any part of the exterior surface of any structures in the Subdivision: puce, magenta, lavender, violet, or any other color in the family of purple.”

The written and signed ballots are on file at the office of the Sandia Heights Homeowners Association, Inc. _____, Albuquerque, NM 871_____.

<u>Lot #</u>	<u>Address</u>	<u>Name</u>	<u>Vote in favor</u>	<u>Voted Against</u>
1	57 Main	Joe and Sally Brown	X	
2	55 Main	Bill and Jackie Green	X	
3	53 Main	Sam and Jo Rojo	X	
4	51 Main	Jose and Elena Verde	X	
5	49 Main	David and Jill Purple		X

(Date)

Dear Property Owner in Sandia Heights Unit ____ :

This letter is a request for your vote on whether or not to amend the present Declaration of Restrictions (covenants) of Sandia Heights Unit _____ Subdivision in the following manner:

To add paragraph ___ to the Declaration of Restrictions dated _____ to state as follows:

(EXAMPLE)

“The following are deemed to be unacceptable colors for any part of the exterior surface of any structures in the Subdivision: puce, magenta, lavender, violet, or any other color in the family of purple.”

Please mark the box below with your vote to (yes) make the change to the covenants, or (no) to not make the requested change. Please note that if you own your property as a married couple or jointly with another person, all owners must sign.

YES (amend the covenants)

NO (do not amend the covenants)

LOT NUMBER(S): _____ (Note: the lot number is the same as the address number)

OWNER: _____
Printed Name

Signature

SPOUSE/JOINT OWNER:
(If none, please enter “none”) _____
Printed Name

Signature

Please return this letter with your vote, lot number, printed name(s) and signature(s) no later than _____, _____, to __ (Name, Address) _____.
If you have any questions, please call _____.

RECEIPT LOG FOR RECORDED AMENDMENT

DECLARATION OF RESTRICTIONS, SANDIA HEIGHTS UNIT 28C
BERNALILLO COUNTY, NEW MEXICO

A copy of the recorded FIRST AMENDMENT (revised paragraph 9g.), with the signature documents, to the DECLARATION OF RESTRICTIONS, SANDIA HEIGHTS, UNIT 28C, BERNALILLO COUNTY, NEW MEXICO, has been received by the property owners as witnessed by the signatures below:

PROPERTY ADDRESS	SIGNATURE	DATE
2873 Brushwood NE	_____	_____
2874 Brushwood NE	_____	_____
(ETC. ETC.)		

AMENDMENT NOTIFICATION
CERTIFICATION AFFIDAVIT

The property owner initiating the amendment is responsible for ensuring that every person voting is the legal owner of that property address as of the date of the signature on the proposed amendment. Failure to do so could result in litigation to void the amendment. The initiating property owner is fully responsible for all information in the amendment and for all costs associated with any claims including Court actions challenging the amendment.

I, (print) _____, certify that

1. all the names and signatures attached to this amendment are those of the legal owner of each property address, and that they are the record owner(s) of that property in said subdivision Sandia Heights Unit _____;
2. all property owners in the Unit have been notified of the proposed amendment and given the opportunity to vote;
3. all property owners will receive a copy of the recorded amendment and associated documents, and
4. I have read, understand and accept the above statement regarding my responsibilities and certification.

Signed _____ Date _____

SAMPLE

MEMORANDUM
OF AMENDMENT TO DECLARATION OF RESTRICTIONS
OF SANDIA HEIGHTS UNIT _____ SUBDIVISION

This MEMORANDUM is filed to serve as notice of the following amendments to the
DECLARATION OF RESTRICTIONS of SANDIA HEIGHTS UNIT _____ SUBDIVISION, a
Subdivision of Bernalillo County, the Plat of which was filed with the County Clerk of Bernalillo
County, New Mexico, on _____ in Book _____, at Page _____ :

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED BY REFERENCE:

The original of the Amendment and the originals of the signature pages with the original
signatures of the required number of property owners are on file with:

Sandia Heights Homeowners Association, Inc.

Albuquerque, New Mexico 871_____

Witness My Hand and Seal this _____ day of _____, _____.

STATE OF NEW MEXICO)
) SS.
COUNTY OF BERNALILLO)

This instrument was acknowledged before me on this _____ day of _____, _____, by
_____.

Notary Public

My Commission expires:
