

Declaration of Restrictions

Incorporates by Reference

Declaration of Restrictions

Made 3/13/70 and

Recorded 6/24/70 in

Book 122, Pages 224-247

(Pagosa)

DECLARATION OF RESTRICTIONS

PAGOSA HIGHLANDS ESTATES

PAGOSA-IN-THE-PINES, UNIT II

I hereby certify that this instrument was filed
for Record in my office at 3:45 o'clock P. M.
March 1, 1972, and is duly
recorded in Book 127 Page 275-28
FELIMA GARDNER J. G.
Recorder

THIS DECLARATION is made this 28th day of February 1972 by EATON INTERNATIONAL CORPORATION, a Delaware corporation, herein referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of all the real property set forth and described on those certain plats (herein collectively called "the plat") entitled PAGOSA HIGHLANDS ESTATES, a subdivision of Pagosa, and PAGOSA-IN-THE-PINES, UNIT II, a subdivision of Pagosa, recorded February 7, 1972 in the Public Records of Archuleta County, Colorado, on folio pages 139 through 139-G inclusive, and on folio pages 138 through 138-E inclusive, respectively, and are made a part hereof and incorporated herein by reference; and

WHEREAS, the real property described in the plats has been subdivided into numbered parcels identified on the plat as lots, which lots comprise in the aggregate two (2) subdivisions (herein called "Subdivision"), which are two (2) of several subdivisions in the Pagosa general development (herein called "Development"), which said lots in PAGOSA HIGHLANDS ESTATES and PAGOSA-IN-THE-PINES, UNIT II, Declarant desires to be subject to the terms of a Declaration of Restrictions made on the thirteenth (13th) day of March 1970 and recorded on the twenty-fourth (24th) day of June 1970 in the Public Records of Archuleta County, Colorado, in Book 122, at pages 224 through 247 inclusive, as provided in paragraph 15 thereof, which are made a part hereof and are incorporated herein by reference; and

WHEREAS, the Declarant desires to amend said Declaration of Restrictions in certain respects.

NOW, THEREFORE, Declarant hereby declares that all of said lots in PAGOSA HIGHLANDS ESTATES and PAGOSA-IN-THE-PINES, UNIT II, are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the Declaration of Restrictions referred to above, which Declaration of Restrictions shall be amended to read as follows:

Subsequent to subparagraph B of paragraph 5, the following shall be added:

B-1. R-1-120 Single Family Residential District

(1) Uses Permitted

(a) All uses permitted in R-1-90.

(2) Minimum Lot Size

12,000 square feet; no lot shall be divided into smaller lots or parcels.

75502

BOOK 127 PAGE 275

(3) Setback Requirements

Setback requirements are the same as for R-1-90.

(4) Minimum Living Area

Minimum living area requirements are the same as for R-1-90.

(5) Lot Coverage

Lot coverage limitations are the same as for R-1-90.

B-2. R-1-150 Single Family Residential District

(1) Uses Permitted

(a) All uses permitted in R-1-90.

(2) Minimum Lot Size

15,000 square feet; no lot shall be divided into smaller lots or parcels.

(3) Setback Requirements

Setback requirements are the same as for R-1-90.

(4) Minimum Living Area

Minimum living area requirements are the same as for R-1-90.

(5) Lot Coverage

Lot coverage limitations are the same as for R-1-90.

B-3. R-1-200 Single Family Residential District

(1) Uses Permitted

All uses permitted in R-1-90.

(2) Minimum Lot Size

20,000 square feet; no lot shall be divided into smaller lots or parcels.

(3) Setback Requirements

Setback requirements are the same as for R-1-90.

(4) Minimum Living Area

Minimum living area requirements are the same as for R-1-90.

(5) Lot Coverage

Lot coverage limitations are the same as for R-1-90.

B-4. R-1-400 Single Family Residential District

(1) Uses Permitted

All uses permitted in R-1-90.

(2) Minimum Lot Size

40,000 square feet; no lot shall be divided into smaller lots or parcels.

(3) Setback Requirements

Setback requirements are the same as for R-1-90.

(4) Minimum Living Area

Minimum living area requirements are the same as for R-1-90.

(5) Lot Coverage

Lot coverage limitations are the same as for R-1-90.

C. R-1-T Single Family Townhouses

(1) Uses Permitted

(a) All uses permitted in R-1-75.

(b) There shall be but one (1) main building or structure on each of the designated lots, excepting that with the prior written approval of the Committee, a series of consecutive lots may be purchased for the express purpose of constructing "cluster" type townhouse residences which do not adhere to the property lines as delineated on the plat of the Sub-division.

(c) Cabana or pool houses, provided that such separate structures do not exceed the setback requirements delineated below.

(2) Minimum Lot Size

9,000 square feet.

(3) Setback Requirements

(a) Front Yard - No building or structure shall be located within twenty (20) feet of the front property line.

(b) Rear Yard - No building or structure shall be located within ten (10) feet of the rear property line. In no event shall any building or structure be located less than thirty (30) feet from the high waterline or the golf course boundary on any lot contiguous to a lake or golf course.

(c) Side Yard - There shall be a side yard setback of not less than five (5) feet. No eave or overhang of any roof shall be closer than three (3) feet from any side lot line. The individual living units placed on the lots may have common walls.

(4) Height

All buildings and structures will be limited to a maximum of two (2) stories or a maximum height of thirty-five (35) feet.

(5) Minimum Living Area

No dwelling shall be constructed on any R-1-T lot in the Sub-division having less than the following minimum square footage of living space exclusive of porch, garage, cabana, guesthouse or servant quarters.

One-story houses shall have a minimum of 800 square feet of living space.

Two-story houses shall have a minimum of 600 square feet of living space on the first floor.

(6) Lot Coverage

No building or structure shall be constructed on any lot which covers more than sixty percent (60%) of the total area of such lot.

(7) Parking

There shall be provided upon each lot in this classification at least one off-street parking space (which term when used herein shall be defined as an area located entirely on private property consisting of a rectangle measuring no less than 9' x 20') having an approved all-weather surface of sufficient size upon which to park one (1) standard-size passenger car.

D. R-1-P Single Family Patio Residences

(1) Uses Permitted

- (a) All uses permitted in R-1-75.
- (b) There shall be but one (1) main building or structure on each of the designated lots, excepting that with the prior written approval of the Committee, a series of consecutive lots may be purchased for the express purpose of constructing "cluster" type patio residences which do not adhere to the property lines as delineated on the plat of the Sub-division.
- (c) Cabana or pool houses, provided that such separate structures do not exceed the setback requirements delineated below.

(2) Minimum Lot Size

3,500 square feet.

(3) Setback Requirements

- (a) Front Yard - No building or structure shall be located within twenty (20) feet of the front property line.
- (b) Rear Yard - No building or structure shall be located within twenty (20) feet of the rear property line. In no event shall any building or structure be located less than thirty (30) feet from the high waterline or the golf course boundary on any lot contiguous to a lake or golf course. The rear yard may be completely enclosed with privacy walls or fences that may abut the rear property line, unless the lot is contiguous to a lake or golf course. Such fences or privacy walls shall not be more than six (6) feet in height.

- (c) Side Yard - There is no side yard setback requirement on one (1) side; on the opposite side there shall be a side yard setback of not less than eight (8) feet. On corner lots the side setback on the street side shall be not less than ten (10) feet. Choice of the side with no side yard setback shall be subject to the approval of the Committee. If the adjacent lot is not a R-1-P lot, the eight (8) foot setback shall be maintained on the common lot line.

Dwellings may be constructed with no side yard between them, subject to the approval of the Committee and provided that the buildings are designed to be architecturally and aesthetically amenable and compatible, with proper consideration given to roof overhangs and drainage, fire protection, fencing, noise control and other consideration to the comfort and well-being of adjacent property owners. In the event dwellings are built without any space between them, the architectural theme and color must be maintained and can be changed only with the written approval of the Committee.

(4) Height

All buildings and structures will be limited to a maximum of two (2) stories or a maximum height of thirty-five (35) feet.

(5) Minimum Living Area

No dwelling shall be constructed on any R-1-P lot in the Subdivision having less than the following minimum square footage of living space exclusive of porch, garage, cabana, guesthouse or servant quarters.

One-story houses shall have a minimum of 800 square feet of living space.

Two-story houses shall have a minimum of 600 square feet of living space on the first floor.

(6) Lot Coverage

No building or structure shall be constructed on any lot which covers more than sixty percent (60%) of the total area of such lot.

(7) Parking

There shall be provided upon each lot in this classification at least one off-street parking space having an approved all-weather surface.

- (8) Approval of any conditions not covered above shall be decided upon by the Committee and its decision shall be final.

51. SPECIAL LAND USES

Equestrian

Horses shall be permitted, subject to approval of the Committee, pursuant to Section 4, paragraphs A through H inclusive of these Restrictions, when provisions for this special use are made in the subdivision.

A. Any owner or prospective owner proposing to keep or maintain a horse or horses on any lot in a subdivision designated for horses shall apply to the Committee with the following information, in triplicate, or as directed by such Committee:

- (1) A plot plan of the lot showing the location of all existing and proposed improvements and the area of such lot upon which it is proposed that such horse or horses be maintained, said plot plan to be drawn to scale.
- (2) A floor plan and elevation plan showing all elevations of a building to contain or proposed to contain said horse or horses, drawn to a scale of not less than one-eighth inch (1/8") to one foot (1').
- (3) A photograph or complete set of plans of the main residential structure either built or to be built on such lot. Any out-building or stable must, in the opinion of the Committee, be architecturally and aesthetically compatible to the main structure or single-family residence constructed or to be constructed on the lot.

B. Minimum Standards for Maintenance of Horses

The Committee shall grant permission to maintain a horse or horses only if it is shown that:

- (1) The owner of the lot shall have strictly complied with the provisions of paragraph A above.
- (2) The lot on which it is requested to maintain horses contains at least 15,000 square feet.
- (3) Horses to be maintained on any lot shall be provided with a proper building which shall contain a stall for each horse, adequate storage space for hay and grain, saddles, bridles, tack and gear.

- (4) Attached to and made a part of said building or stable, as required in paragraph B(3) above, shall be a fence, corral or paddock which shall contain horses to be maintained on the lot. Said fence, corral or paddock shall not enclose an open space on said lot to exceed twenty-five percent (25%) of the total square footage of such lot. The plan and proper description of materials for such fence, corral or paddock are to be submitted to the Committee, in triplicate, for approval and may be constructed only after such approval has been obtained.
- (5) No horse or horses to be maintained on any lot shall be allowed to meander or graze on any other portion of the lot that is not contained by a fence, corral or paddock, as required in paragraph B(4) above.
- (6) The maintenance of a horse or horses is not to interfere with the comfortable enjoyment and use of adjacent lots.

The Declarant or its designee shall have the right to inspect any and all outbuildings, stables, corrals and paddocks in which horses are maintained, and all such facilities shall be maintained in a clean and sanitary condition. If such conditions are deemed not to be clean and sanitary, then the Declarant or its designee shall so inform the owner of such premises, in writing, of the conditions to which it objects. The owner shall have a period not to exceed fifteen (15) days from date of such notice in writing to remedy and correct the unclean or unsanitary condition of the premises to the full and complete satisfaction of the Declarant or its designee.

No accumulation or stacks of manure shall be allowed to be piled or stored on any lot or on any of the open areas or "greenbelts" that are adjacent to the lot or lots. Such manure, including hay and straw or other materials used for bedding of animals in the stalls or stable areas, is to be removed from the premises and subdivision in a manner approved by the Committee.

- (7) Setback Requirements -- Equestrian Use
 - (a) Front Yard - The same as for R-1-90.
 - (b) Rear Yard - The main structure or permanent single-family residence shall not be closer than thirty (30) feet to the back property line. No stable or outbuilding for the maintenance of a horse or horses shall be closer to the rear property line than ten (10) feet. No stable or outbuilding for the maintenance of a horse or horses shall be connected to the main structure or permanent single-family residence and shall be separated from said main structure in accordance with directions as approved by the Committee.

(c) Side Yard - The same as for R-1-90.

C. Number of Horses Permitted

(1) R-1-150 Single Family Residential District

Not more than two (2) horses may be maintained on any lot in the R-1-150 Single Family Residential District.

(2) R-1-200 Single Family Residential District

Not more than four (4) horses may be maintained on any lot in the R-1-200 Single Family Residential District.

(3) R-1-400 Single Family Residential District

Not more than four (4) horses may be maintained on any lot in the R-1-400 Single Family Residential District.

D. Horses shall be allowed in the PAGOSA HIGHLANDS ESTATES Subdivision, in accordance with the provisions of Special Land Uses, Section 5i.

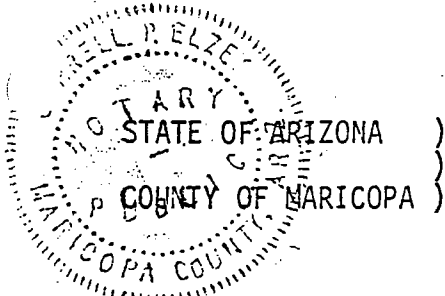
IN WITNESS WHEREOF, the Declarant has executed this Declaration on the day and year first above written.

EATON INTERNATIONAL CORPORATION,
a Delaware corporation

By: Ralph A. Eaton
President

ATTEST:

David A. Eaton
Secretary



ss.

This instrument was acknowledged before me this 28th day of February 1972 by Ralph H. Eaton and David H. Eaton as President and Secretary respectively of EATON INTERNATIONAL CORPORATION, a Delaware corporation.

J. R. Elze
Notary Public

My commission expires February 5, 1976.

STATE OF COLORADO } ss. 75502
ARCHULETA COUNTY }

I hereby certify that this instrument was filed
for Record in my office at 3:45 o'clock P.M.
MAR 1 1972 10 72, and is duly

recorded in Book 127 Page 275-284
FELIMA GARDNER
7. B.

Recorder

75502

BOOK 127 PAGE 284