

Legal Differences Between Ordinance & Covenants

	Ordinance	Covenant
Basis	Rule of law established by the Alto Lakes Special Zoning District, a political subdivision of the State of New Mexico.	Condition imposed by the original developer, and successors, upon the use of real estate. The original developer filed scores of covenants, one for each Unit of each Alto Lakes subdivision. Each set of covenants was intended to regulate the use of property in a manner unique to each neighborhood. Many of these covenants have been consolidated into the Unified Covenants of 1993.
How adopted	Public notice, public hearing, and majority vote of Zoning Commission.	Specified conditions are incorporated in the real estate deeds.
How updated	Public notice, public hearing, and majority vote of Zoning Commission. An ordinance amendment can generally be drafted, discussed in public hearings, and adopted in 3 months.	Agreement of 51% (or more depending upon neighborhood) of real property owners falling under same set of covenants. Each property owner must execute a notarized revision to the covenant. This is a slow and time-consuming process which can take several years
Variances & Conditional Uses	Application by the property owner, public notice, public hearing, and majority vote of Zoning Commission	Private hearing by, and majority vote of, the ALG&CC Architectural Control Committee
Appeals	Public hearing in District Court	Private hearing by the ALG&CC Board of Directors or civil complaint filed in District Court
Enforcement	Ordinances are enforced by the District Attorney and County Sheriff and/or designated Code Enforcement Officer. Enforcement is handled as a misdemeanor complaint in District Court under criminal statutes. Penalties may include fines and/or jail.	Covenants may be enforced by the ALG&CC ACC or Board. In the absence of such enforcement, any property owner may file a complaint in District Court at personal expense.

Purpose	Community health, safety and welfare	Neighborhood needs
Example	A water conservation ordinance which applies to all of Alto Lakes.	2,600 minimum heated square feet for homes constructed in Deer Park Meadows Units 1 & 2.