

BELICIA ESTATES LANDOWNERS' ASSOCIATION

Second Amended and Restated Declaration of Restrictive Covenants

for

Belicia Estates Subdivision

(An Amendment and Restatement of the Declaration in its entirety.)

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This second amendment and restatement of the Declaration of Restrictive Covenants for Belicia Estates Subdivision in Santa Fe County, New Mexico, to run with the land is made this ___ day of _____ 2018, by Belicia Landowners' Association ("Association"), a New Mexico nonprofit corporation with reference to the following definitive actions:

RECITAL

1. Declarant (Tres Equis Partnership), the former owner of the real estate Property now duly platted as Belicia Estates Subdivision, filed for record the Subdivision Plat in Plat Book 259, pages 020-022, and the declaration titled "Subdivision Report for Belicia Estates" in Book 989 at pages 384-419 on the 12th day of November 1993 in the office of the County Clerk of Santa Fe County and subsequently re-recorded the declaration titled "Declaration of Restrictive Covenants for Belicia Estates" in Book 1012 at pages 787-800 on the 18th day of January 1994 for records in the office of the County Clerk of Santa Fe County.
2. Declarant (Tres Equis Partnership) no longer has any interest in Belicia Estates Subdivision as a developer or landowner.
3. The Association, by and through its Members, wishes to reflect the withdrawal of the Declarant and to implement certain other changes to the earlier Declaration in its entirety within this Second Amended and Restated Declaration (hereinafter, the "Declaration").
4. The purpose of this Declaration is to subject the Property to the covenants, conditions, and restrictions described below, each of which is for the benefit of such land and each Owner of any part thereof.
5. The Declaration as filed for record on November 12, 1993, and re-recorded on January 18, 1994, provided for the amendment of that document by a two-thirds (2/3) vote of the Owners of the Lots covered by the Declaration.
6. By not less than a two-thirds (2/3) vote, the Owners of the Lots constituting the Subdivision approved the First Amended Declaration of Restrictive Covenants, as filed for record on August 18, 2011.
7. By not less than two-thirds (2/3) vote, the Owners of the Lots constituting the Subdivision approved the First Amendment to the First Amended Declaration of Restrictive Covenants, as filed for record on [date filed].
8. By not less than a two-thirds (2/3) vote, the Owners of the Lots constituting the Subdivision have approved this Declaration.
9. The Association declares that the Property and any part thereof, together with any additions thereto as may hereafter be made, shall be owned, held, transferred, sold, conveyed, encumbered, used, and occupied subject to these covenants, conditions, and restrictions.

Now, therefore, the provisions of this Declaration are hereby imposed upon the Property effective upon recordation in the land records of Santa Fe County, New Mexico, unless a later effective date is specified therein.

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ARTICLE I. DEFINITIONS

The following terms when used in this Declaration shall have the meanings set forth below (unless prohibited by context):

Absentee Ballot shall mean a ballot from an Owner furnished to the Association to vote on matters requiring the approval of the membership of the Association. An Absentee Ballot shall be counted to establish a Quorum and majority voting requirements at meetings of the Members.

Architectural Control Committee shall mean the committee, sometimes referred to as "ACC," established by the Board pursuant to the provisions of Article III, Section 3.3 of this Declaration.

Architectural Control Committee Rules shall mean such policies, rules, procedures, and architectural design guidelines as are proposed by the ACC and adopted by the Board.

Articles of Incorporation shall mean the articles of incorporation, and all amendments thereto, of the Association filed for record with the office of the Secretary of State for New Mexico.

Association shall mean the Belicia Estates Landowners' Association, a New Mexico nonprofit corporation, which the developer, Tres Equis Partnership, caused to be incorporated.

Board shall mean the Board of Directors of the Association designated in the Declaration or Bylaws to act on behalf of the Association.

Builder shall mean a person or entity engaged by an Owner for the purpose of constructing any Improvement on any Lot within the Subdivision. The Builder and Owner may be the same person or entity.

Building Site or Envelope shall mean the areas either designated on the Subdivision Plat or designated by the ACC limiting where construction or any modification to natural features on any Lot is planned or may occur.

Bylaws shall mean the Bylaws of the Association adopted by the Board and approved by Association Members, as said Bylaws may be amended from time to time, which govern the internal affairs of the Association, such as voting, elections, and meetings.

Common Area shall mean property within the development that is owned by the Association and designated as a common area and is required by the Declaration to be maintained or operated by the Association for use of the Association's members.

Common Expenses shall mean all Association Member-approved operating expenses and obligations of the Association, including allotments to any reserve fund.

Community Documents shall mean all documents governing the use of the Lots and the creation and operation of the Association, including the Declaration, Bylaws, Articles of Incorporation and Rules of the Association.

Community Facilities shall mean those areas, Easements, and facilities of the Subdivision that are for the common use and enjoyment of the Owners. The Community Facilities shall include, but are not limited to, Subdivision signs, street-name signs, traffic signs, entrance/exit gate operating and communication systems, road and drainage Easements, and any and all other

recreational facilities or Open Spaces that currently are within, or may in the future be erected within, the Subdivision.

Declarant shall mean Tres Equis Partnership, a privately held New Mexico land development company and its successors and assigns.

Declaration shall mean the covenants, conditions, and restrictions set forth in this Declaration as same may be amended from time to time, and shall include any Supplemental Declaration unless the context shall prohibit such construction.

Development Plan shall mean the plan for development of a Lot that is required to be submitted to the ACC. The Plan shall include but not be limited to: a site plan showing all Structures, floor plans, driveways, lighting, landscaped or otherwise improved areas; elevations of all Structures at appropriate scales showing color and building materials; and provisions for landscape restoration within the Building Site.

Disclosure Certificate or **Disclosure Statement** shall mean that certificate to be provided to a purchaser of a Lot as described in NMSA 1978, Sections 47-16-11 and 47-16-12 of the New Mexico Homeowners Association Act (2013).

Drainage shall mean any area designated on the Subdivision Plat as such and including, but not limited to, any and all arroyos, creeks, streams, sedimentation basins, drainage ponds, check dams, or bar ditches located, designated, or constructed on the Property.

Dwelling Unit shall mean any Structure, or part thereof, situated upon a Lot within the Subdivision that is designed and intended for residential use by a single family or single household. Where appropriate, any use herein of the term "Dwelling Unit" shall include the Lot upon which the Dwelling Unit is placed as well as attached garages.

Easements shall mean all real property designated on the Subdivision Plat as roadways; streets; Open Space or trails; and conservation, Drainage, archeological, or utility Easements.

Improvement shall mean any Dwelling Unit, garage, fence, wall, lighting, accessory dwelling, and other Structures as well as landscaping improvements of any kind affecting the natural condition of the land and the drainage of surface waters on, across, or from the land.

Lot shall mean any separately numbered or lettered plot of land shown on the recorded Plat or map of the Subdivision, as amended from time to time. Where appropriate, any use herein of the term "Lot" shall include any Dwelling Unit placed thereon.

Member shall mean every Owner of a fee-simple interest in any Lot that is subject to the Community Documents. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

Occupant shall mean a person or persons, other than the Owner, in possession of a Lot and shall include tenants and other persons who claim a possessory interest in a Lot.

Open Space shall mean those areas designated as "Open Space" or "Recreation Area" on the Subdivision Plat. The responsibility for the maintenance of the Drainage and access Easements within such space or area shall be the responsibility of the Association.

Owner shall mean the record owner, whether one or more persons or entities, of the fee-simple title to any Lot, but shall not mean or refer to any person or entity who or which holds title merely as security for the performance of an obligation.

Plat shall mean any recorded Subdivision Plat or Plat of any portion of the Property, and all amendments, supplements, and corrections thereto.

Property shall mean the real property located in Santa Fe County, New Mexico, and more specifically described in Exhibits attached to the Declaration as filed for record on November 12, 1993, and re-recorded on January 18, 1994, and, as may be appropriate, to this or supplemental declarations, including the aerial and subsurface rights appurtenant thereto.

Proxy shall mean either a general or limited Proxy form giving a Member holding that Proxy the right to vote in place of another Member on issues and motions brought up at a lawful meeting of the Association. Both types of Proxy forms shall be counted to establish meeting Quorums and majority voting requirements and shall be revocable at the end of such meetings.

Quorum shall mean the required minimum number of Association Members (in person or by Proxy or Absentee Ballot needed to hold a lawful meeting and/or to vote on motions or assessments or on amendments to the Community Documents.

Rules and Regulations shall mean any and all rules and regulations adopted and/or amended by the Board from time to time in the manner permitted by the Community Documents that regulate the use of Property, activities, and conduct within the Subdivision.

Single-Family/Single-Household Residential Use shall mean the occupation or use of a Structure as residence or Dwelling Unit by a single person, a single family, or family-sized household in conformity with the Declaration and amendments thereto and the requirements imposed by applicable zoning laws or any other state, county, or municipal laws, rules, regulations, codes, or ordinances.

Subdivision shall mean all of Belicia Estates Subdivision as set forth in the Subdivision Plat as filed for record on November 12, 1993, and re-recorded on January 18, 1994, in the real property records of the Clerk of Santa Fe County, New Mexico, or as it may thereafter be amended.

Structure shall mean anything erected, constructed, placed, laid, or installed in, on, or over real property, but not including vegetation, trees, shrubs, or plantings.

Temporary Structure shall mean any structure not attached to a permanent foundation.

ARTICLE II. TERM OF COVENANTS AND AMENDMENTS

Section 1. Duration

The covenants, conditions, restrictions, and Easements as set forth in the Declaration and any amendments thereto shall run with the land and be binding on all parties having any right, title or interest in and to the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

Section 2. Amendments of Declaration

This Declaration and all subsequent Supplemental Declarations may be amended, modified, or terminated at any time as follows:

Section 2.1 By the Members

The Association shall deliver a written document setting forth all proposed amendments or modifications to this Declaration as well as a statement of voting procedures and a certifiable ballot to every Owner at the address last provided to the Association by the Owner. The ballot shall provide a specific date by which the ballot must be returned to the Association to be counted and allow Owners at least thirty (30) calendar days to return the ballot. For the ballots to be counted, the Association must receive ballots from Owners entitled to cast at least eighty percent (80%) of the eligible votes in the Association by the due date to establish Quorum.

If the Association does not receive sufficient ballots to meet Quorum by the prescribed due date, the Association, through action of the Board, shall canvass non-responding Owners to verify receipt of the submissions, address any immediate questions, and, as may be appropriate, send out ballots a second time to these Owners with another specific date or thirty (30) calendar-day period by which this second set of ballots must be returned.

The Association shall include ballots cast by Owners from the first and, if needed, the second mailing to establish Quorum so long as the Association does not count more than one ballot per Lot. If the Association, through delays in response or transmission, receives ballots from an Owner from the first and the second mailing, the Association will count the ballot received from the first mailing. When the Association obtains Quorum, at least two-thirds (2/3) of all Owners who are eligible to vote must approve the proposed amendments or modifications for them to pass.

Once the amendments or modifications are approved by the Owners, the President of the Board shall execute an amendment to the Declaration (by notarized signature and witnessed by any other one (1) officer or member of the Board), setting forth all approved changes or revisions, and record the amendment in the office of the County Clerk of Santa Fe County, New Mexico, which shall be effective upon such recordation.

Section 2.2 By the Board

The Board may amend the Declaration, without a vote of the Owners, if the amendment is solely for the purpose of bringing the Declaration into compliance with federal, state, or local laws.

Section 3. Compliance with Applicable Laws, Ordinances, and Regulations

The covenants, conditions, and restrictions set forth in this Declaration and the provisions requiring Owners to obtain the approval of the Board or the Architectural Control Committee with respect to certain actions are independent of the obligation of the Owners to comply with all applicable state, county, and local laws, ordinances, and regulations. Compliance with this Declaration shall not relieve an Owner from the obligation also to comply with all applicable state, municipal, and local laws, ordinances, and regulations.

Any violation of any state, county, or local law, ordinance, or regulation pertaining to the Ownership, occupation, or use of any Lot or other area within the Subdivision, including but not limited to the roadways, Easements, and Open space, is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth herein.

Section 4. Captions

All captions, titles, and headings of the Articles and Sections in this Declaration are for the purpose of reference and convenience only and are not deemed to limit, modify, or otherwise affect any of the provisions hereof or to be used in determining the intent of any provision in this Declaration.

Section 5. Interpretation

Except for judicial construction, the Association shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions of this Declaration shall be final, conclusive, and binding as to all Owners and Property benefited or bound by this Declaration. In the event of any conflict between this Declaration and the Articles of Incorporation, Bylaws, or Rules and Regulations, this Declaration shall control. In the event of any conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation shall control. In the event of any conflict between the Bylaws and the Rules and Regulations, the Bylaws shall control.

Section 6. Severability

Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity of any other provisions.

Section 7. Provisions Obligatory on All Owners

All of the provisions, restrictions, conditions, and covenants of the Community Documents shall apply to all Owners.

Section 8. Attorneys' Fees

The Association shall have the right to recover all attorneys' fees, abstracting costs and other related costs incurred as a result of an Owner's failure to pay any assessments described in Article VI when due. Such fees and costs shall become a continuing lien on the delinquent Owner's Lot which shall run with the land and bind the Owner as well as his, her or its heirs, personal representatives, successors and assigns.

In any legal proceeding arising because of any alleged breach or default under the Community Documents, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be determined by the court. If the Association is the prevailing party, said amounts shall be considered an assessment against the Owner's Lot, subject to an assessment lien and collectible in the same manner as assessments.

Section 9. Waiver or Abandonment

The waiver of or failure to enforce any breach or violation of any restriction herein contained shall not be deemed to be a waiver or abandonment of such restrictions, or a waiver of the right to enforce any subsequent breach or violation of such restriction. The foregoing shall apply regardless of whether any person affected hereby (or having the right to enforce these restrictions) had knowledge of the breach or violation. No restriction contained herein shall be deemed to have been waived or abandoned unless this Declaration is amended to delete such restriction.

ARTICLE III. PROPERTY SUBJECT TO THIS DECLARATION

Section 1. Property

The "Property" consists of the land described in Exhibits attached to the Declaration as filed for record on November 12, 1993, and re-recorded on January 18, 1994, and, as may be appropriate, to any Amended or Supplemental Declaration, including the aerial and subsurface rights appurtenant thereto, and any and all portions thereof that shall be owned, held, transferred, sold, conveyed, encumbered, used, and occupied subject to this Declaration.

Section 2. Additions to Property

Any real property owned by a Member or non-member of the Association and directly adjacent to the Subdivision may be added to the Property and become subject to this Declaration by written application to and approval of the Association, following an affirmative vote of eligible Owners, acting as Members of the Association, and the filing for record of a Supplemental Declaration by the Association with respect to the additional property that shall extend the scheme of the covenants, conditions, and restrictions of this Declaration to such property (the "Additional Property").

Such a Supplemental Declaration may contain complementary additions to and modifications of the covenants, conditions, and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the Additional Property and are not inconsistent with the scheme of this Declaration. In no event, however, shall such Supplemental Declaration revoke, modify, or add to the covenants, conditions, and restrictions established by this Declaration with respect to the Property, except as expressly provided by this Declaration.

ARTICLE IV. ORGANIZATION, DUTIES, AND FUNCTIONS OF THE ASSOCIATION

Section 1. Authority of the Association

The Belicia Estates Landowners' Association (Association) has been incorporated and shall be maintained as a New Mexico nonprofit corporation. The Association shall constitute the governing and administrative body for all Owners and Members for the protection, preservation, upkeep, maintenance, repair, restoration, operation, and replacement of commonly held facilities and areas including roadway and drainage Easements, entryway gate, and gate-related operating systems, and for the operation and administration of all Rules and Regulations set forth in the Community Documents.

Section 2. Board of Directors

The affairs of the Association shall be managed by its Board of Directors ("Board"). All activities, rights, powers, duties, obligations, functions, and responsibilities of the Association shall be performed, exercised, discharged, and accomplished by or under the supervision of the Board, except in certain instances where the Community Documents or the laws of New Mexico require that a particular action be taken by a vote of the Owners, acting as Members of the Association. The Board shall be elected and perform its duties as set forth in the Articles of Incorporation and Bylaws and in compliance with the New Mexico Nonprofit Corporation Act (NMSA 1978, § 53-8-26 et seq.) and the New Mexico Homeowners Association Act (NMSA 1978, §§ 47-16-1, et seq. (2013)). Decisions, rulings, and actions taken by the Board shall require a majority vote of the entire Board membership and written notice to Association Members.

Section 3. Rights, Functions, Duties, and Obligations of the Association

In addition to the rights, functions, duties, obligations, and other responsibilities set forth in other provisions of the Community Documents and under applicable New Mexico law, the Association shall have the following rights, functions, and duties:

Section 3.1 Right to Non-Exclusive Easement

The Association shall have a non-exclusive right and Easement to make such use of the Community Facilities and to enter upon any Lot, after reasonable notice, as may be necessary or appropriate for it to perform the duties and functions that it is obligated or permitted to perform under the Community Documents.

Section 3.2 Community Facilities Maintenance

The Association shall provide, as a Common Expense, for the protection, preservation, upkeep, maintenance, repair, restoration, operation, and replacement of the Community Facilities. This shall include but is not limited to keeping the commonly held facilities and areas, including roadway and drainage Easements, and the entryway gate and gate-related operating systems, in

good order and repair and in a manner desirable as a residential community, and to making necessary or desirable alterations, additions, betterments, or improvements to or on the Community Facilities.

Section 3.3 Committees

The Association, acting through the Board, shall appoint an Architectural Control Committee (ACC) and may appoint a nominating committee as provided in the Community Documents. In addition, the Board may appoint such additional committees as deemed appropriate in carrying out its purpose. Such committees shall have powers and duties as set forth in the resolution appointing the committee and allowed by law.

Section 3.4 Activities, Functions, and Services

The Association may undertake, or contract for, any lawful activity, function, or service as a Common Expense within the annual assessment approved by Members for the common benefit or to further the common interests of all Owners and Members. Such activities, functions, or services may include, but are not limited to:

- a) providing insurance, maintenance or landscaping services, and utilities or other services that may be required or desirable for the enjoyment or betterment of the Community Facilities;
- b) legal and accounting services necessary or desirable in connection with the operation of the Association or for the enforcement of the provisions of the Community Documents; and
- c) any other services for the benefit and enjoyment of all the Members.

Section 3.5 Labor and Services

The Association may, as a Common Expense, obtain and pay for the services of such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Association, whether such personnel are furnished to or employed directly by the Association or any person or entity with whom it contracts.

Section 3.6 Acquisition of Personal Property

The Association may acquire, as a Common Expense, and hold for the common use and benefit of all Members any tangible or intangible personal property and may dispose of the same by sale or otherwise.

Section 3.7 Rules and Regulations

The Association, acting through the Board, may from time to time adopt, amend and repeal reasonable and uniformly applied Rules and Regulations after providing notice to Members of the proposed changes and, if requested, a meeting of Members to discuss such changes. Such Rules and Regulations may, without limitation:

- a) regulate the use of Community Facilities to assure the equitable and proper use and enjoyment thereof by all Owners;

- b) prohibit, restrict, or regulate the use and enjoyment of any portion of the Community Facilities and Open Space by the guests and Occupants of any Owner;
- c) prohibit any conduct or activity on any Lot or on any part of the Community Facilities and Open Space that constitutes a nuisance in law or in fact, or which would not be consistent or in keeping with the peaceful, quiet, and reasonable use and enjoyment of any Lot, the Community Facilities, and the Open Space;
- d) set and enforce minimum standards for any maintenance of Lots;
- e) act, as may be appropriate or required, with the Architectural Control Committee, to set and enforce design standards, architectural guidelines, and use restrictions for Lots; and
- f) govern the levying and collection of assessments.

In the event of any conflict or inconsistency between the provisions of this Declaration and the Rules and Regulations, the provisions of this Declaration will control. Upon adoption, the Rules and Regulations shall have the same force and effect as if they were set forth in, and were a part of, this Declaration.

Section 3.8 Enforcement

The Association or any Owner (except Owners whose membership rights have been suspended) shall have the right, but not the obligation, to enforce the Community Documents in any manner provided for in these documents or by law or in equity to compel compliance. The failure of the Association or an Owner to enforce the Community Documents shall not constitute a waiver of the right of enforcement.

Section 3.9 Assessments

The Association shall be responsible for determining the amount of and collecting all annual assessments, special assessments, and specific assessments and any other amounts owed to the Association.

Section 3.10 Bank and Investment Accounts

The Association shall have the authority to open bank or investment accounts, purchase investments and designate the signatories thereon on behalf of the Association. Funds invested shall be approved as part of the annual budget, FDIC-insured, and not exceed amounts needed to fund Common Expenses, reserves, special funds (e.g. road fund), and special assessments.

Section 3.11 Income Taxes and Returns

The Association shall file, if and when required, all federal and state income tax returns and shall pay income taxes due, if any, with respect to any taxable income of the Association.

Section 3.12 Insurance

The Association shall budget as a Common Expense and procure and maintain such insurance as is required under the Bylaws and as may be reasonably available

Section 4 Professional Management

The Association may employ a professional management company qualified to administer the affairs of the Association and to supervise the operation, maintenance, and repair of the Common Facilities, including but not limited to the collection of assessments, custody of Association funds, payment of Common Expenses, and the performance of any additional duties of the Board that the Board, by contract or otherwise, may delegate to such professional management company.

Section 5 Limitation of Liability and Indemnification

Limitations on liability and indemnification provisions are described in Article 8 of the Bylaws. The liability of Directors and Officers of the Association shall be limited as provided in Section 8.1 of the Bylaws. The right to indemnification of Directors, Officers, committee members and others shall be in accordance with the provisions of Sections 8.2 through 8.4 of the Bylaws.

ARTICLE V. MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership

Any person or entity, on becoming an Owner of a Lot, shall automatically become a Member of this Association and be subject to the Community Documents. Ownership of a Lot shall be the sole qualification for membership. No Owner shall have more than one membership for each Lot owned. Membership shall be appurtenant to and may not be separated from the ownership of any Lot that is subject to assessment by the Association. However, any person or entity holding an ownership interest merely as security for the performance of an obligation shall not be a Member.

Section 2. Voting Rights

Members shall have one (1) equal vote for each Lot in which the Member holds an interest required for membership, but not including any person or entity who or which holds title merely as security for the performance of an obligation. Voting rights are contingent upon membership in good standing.

Every Owner shall be entitled to vote by Absentee Ballot or Proxy, and Absentee Ballots and Proxies shall be counted towards a Quorum and any vote of the Members. The manner of execution, revocation, and use of Absentee Ballots and Proxies shall be governed by the provisions of the New Mexico Homeowner Association Act, NMSA 1978, Sections 47-16-1, et seq., and the New Mexico Non-Profit Corporation Act, NMSA 1978, §§ 53-8-1, et seq., as the same may be amended, or its successor statute, if any.

On all matters to be voted upon, in person, by Absentee Ballot, or by Proxy, Members shall be entitled to one (1) vote for each Lot owned. When more than one person or entity is the Owner of any Lot, all such persons or entities shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. The vote for each Lot must be cast as a unit, and fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote shall be cast, they shall lose their right to vote on the matter in question. If any Owner casts a vote representing a certain Lot, it will be conclusively presumed for all purposes that he, she, or it was acting with the authority and consent of all other Owners of the Lot. If more than one (1) vote is cast for a particular Lot, none of those votes shall be counted and the votes shall be deemed void.

In the event any Lot is owned by a corporation, partnership, limited liability company, or other association, such corporation, partnership, limited liability company, or association shall be a Member and shall designate in writing at the time of acquisition of the Lot an individual who shall have the power to vote said membership. In the absence of such designation and until such designation is made, the president, general partner, manager, or chief executive officer of such corporation, partnership, or association shall have the power to vote the membership.

Section 3. Special Meetings

Special meetings of the Members may be called (i) at any time by the President of the Board of Directors; (ii) by a majority of the Directors; or (iii) upon a petition signed and presented to the Board by Members representing not less than twenty percent (20%) of the votes in the Association, and the matter to be voted upon is a matter upon which Members have the right to vote. No business shall be transacted at a special meeting except as stated in the notice.

Section 4. Overrule of the Board; Remove Directors

Members shall have the right to vote to overrule a decision/action of the Board or remove Directors within the limitations noted below using the following procedures:

- a) Members holding at least twenty percent (20%) of all eligible votes of the Lots in the Subdivision must present a petition to the President of the Board requesting that a special meeting of the Members be held (or that such matter be voted on at the annual meeting of the Members).
- b) A meeting to overrule the Board or to remove Directors requires two-thirds (2/3) majority vote of Members for approval where at least two-thirds (2/3) of all eligible Members of the Association shall constitute a Quorum.

Members, however, shall not have the right to require the Board to:

- a) overturn a decision or action regarding Member-approved or violation-related assessments;
- b) overturn a decision or action, including a contract on behalf of the Association, already undertaken by the Board, a Member, or a third party in reliance upon an earlier review and approval at a lawful meeting of the Association; or
- c) create a conflict with the Community Documents.

Section 5. Termination of Membership Rights

Rights of membership, including but not limited to the right to vote and/or the right to participate in Association affairs, may be suspended by the Board, upon written notice to any Owner, for any period during which any of the following described conditions shall continue; that is:

- a) any annual assessment, special assessment, specific assessment or other amount due and payable to the Association remains unpaid for more than thirty (30) calendar days after it is due, as provided in this Declaration; or
- b) violation of any provision of the Community Documents continues after the Board has provided notice of the violation and, as provided herein, a hearing to the Owner.

All rights of membership shall terminate without any formal Association action whenever such Owner, person or entity ceases to own a Lot, but such termination shall not relieve or release any such former Owner and Member from any liability or obligation incurred under or in any way connected with this Association that arose during the period of such ownership and membership in the Association, or impair any rights or remedies which the Association or any other Owner

has, either through the Board or directly, against such former Owner and Member that arises out of or is in any way connected with ownership and membership and the covenants and obligations related thereto.

ARTICLE VI. ANNUAL, SPECIAL, AND SPECIFIC ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Assessments

The Owner of any Lot, by becoming the Owner of a Lot, is deemed to covenant and agree to pay to the Association:

- a) Annual assessments levied by the Association shall be assessed against the Lots for the funding of the Common Expenses as determined by the budget and shall be fixed at a uniform rate for all Lots.
- b) Special assessments levied by the Association shall be assessed against the Lots for funding of the construction or reconstruction, repair, or replacement of any improvement or maintenance upon the Community Facilities and specific unanticipated expenditures first approved by the Board, and shall be fixed at a uniform rate for all Lots. Such special assessments shall be submitted to the Owners in writing or at a meeting of the Owners; and if not rejected by consent of a majority of Owners in accordance with Section 2.10.2.1 of the Bylaws, such special assessment shall be levied. *(reiteration from Bylaws)*
- c) Specific assessments levied by the Association shall be established and collected from time to time by action of the Board or the Architectural Control Committee.

Such annual assessments, special assessments, and specific assessments, together with interest, late charges, and all costs of collection, if any, shall be a charge and a continuing lien upon the Lot against which each such assessment is made.

Each annual assessment, special assessment, and specific assessment, together with interest, late charges, and all costs of collection, shall be the personal obligation of the Owner of such Lot at the time the assessment was made. Any purchaser of a Lot shall be jointly and severally liable with the selling Owner for all unpaid assessments against the latter for his, her, or its proportionate share of the annual assessments, special assessments and specific assessments.

Section 2. Annual Assessments.

Section 2.1 Purpose of Annual Assessments

The annual assessments levied by the Association shall be used to meet the Common Expenses of the Association, which include but are not limited to:

- a) the preservation of the values and amenities of the Subdivision;
- b) the operation, improvement, repair and maintenance of the Common Facilities, e.g., roadway and drainage Easements; entryway gate operating and communications systems; and related utilities, labor, equipment, materials, supplies, operations, and management thereof; and

- c) other expenses and obligations of the Association, e.g., reserve fund; accounting, legal, management and other professional fees; taxes and insurance; and other operational expenses.

Section 2.2 Fixing the Amount of Annual Assessments for Common Expenses

The Board shall adopt a budget for the Association containing an estimate of the total amount considered necessary to pay the Common Expenses of the Association. The budget shall also include such reasonable amounts as the Board considers necessary to provide working capital; a general operating reserve; and reserves for contingencies, repairs, and replacements. Such budget shall constitute the basis for determining each Lot's annual assessment for Common Expenses.

Section 2.3 Owner Approval of Budget for Annual Assessments

The Board shall send to each Owner a copy of the proposed budget in a reasonably itemized form that sets forth the amount of the annual assessment for Common Expenses payable by each Owner and a date for a lawful meeting of Owners to consider approval of the budget.

Section 2.4 Notice of Annual Assessments

The Board shall give notice of such Owner-approved annual assessments to each Owner at least thirty (30) calendar days prior to the beginning of each assessment period, but the failure to give such notice shall not affect the validity of the annual assessment established by the Board nor relieve any Owner from his, her, or its obligation to pay the annual assessment.

Section 2.5 Effective Date of Annual Assessments; Due Dates

The effective date for the annual assessments for any year shall be the first calendar day of that year, unless changed by action of the Board with notice to Owners, and shall be due and payable in full on such date.

Section 3. Special Assessments

In addition to the annual assessments for Common Expenses, the Board may levy a special assessment, applicable to one or more years, for the purpose of defraying, in whole or in part, the cost of the construction or reconstruction, repair, or replacement of any capital improvement upon the Community Facilities, including but not limited to equipment and roadway and drainage Easements related thereto, or any Association purpose. Such special assessments shall be subject to the lawful meeting, voting, and Quorum provisions for Owner approval and shall be due and payable upon a date (or dates) determined by the Board.

Section 4. Specific Assessments

The Board may also levy a specific assessment subject to notice and, if requested, a hearing, against any Owner who:

- a) by willful or negligent act, or by the willful or negligent act of the Owner's tenants, residents, guests, invitees, or animals, causes damage to any area of the Subdivision for the cost to repair such damage.

b) for violation of this Declaration, including Rules and Regulations adopted and/or amended by the Board as allowed herein.

All specific assessments shall be paid within thirty (30) calendar days following notice of imposition. Failure to pay any specific assessment shall subject the Owner to the same potential penalties and enforcement as failure to pay any other type of assessment.

Section 5. Duties of the Board

The Board shall give notice of all special assessments at least thirty (30) calendar days prior to the effective date of any such assessment as well as prepare and maintain a roster of the Lots and assessments, including annual assessments, applicable thereto which shall be kept in the office of the Association and open to inspection by any Owner. Written notice of the assessments shall be sent to every Owner.

Upon demand, the Board shall furnish to an Owner liable for any assessment a letter signed by an officer of the Association, setting forth whether such assessment has been paid and the amount thereof. Such letter shall be conclusive evidence of payment of any assessment stated to have been paid.

Section 6. Effect of Non-Payment of Assessment; the Lien; the Personal Obligation and Rights of the Owner; Remedies of Association

If any assessment, whether annual, special or specific, is not paid when due, then such assessment shall become delinquent and shall, together with interest, late charges, and all costs of collection, including but not limited to attorneys' fees and court costs, become a continuing lien on the assessed Lot, which shall run with the land and shall bind the then Owner, his, her, or its heirs, personal representatives, successors, and assigns.

The personal obligation of the then Owner to pay such assessment shall remain his, hers, or its personal obligation for the statutory period. Any purchaser of a Lot shall be jointly and severally liable with the selling Owner for all unpaid assessments against the latter for his, her, or its proportionate share of the annual and special assessments as provided in the Declaration and Bylaws.

In any case where an assessment is payable in installments, upon a default by such Owner in the timely payment of any two (2) consecutive installments, the maturity of the remaining total of the unpaid installments of such assessments may be accelerated, at the option of the Board, and the entire balance of the assessment may be declared due and payable in full by the service of notice to such effect upon the defaulting Owner and the Owner's mortgage by the Board.

The Board, or the Treasurer of the Association at the request of the Board, shall take prompt action to collect from any Owner an assessment (or assessments) that remains unpaid for more than thirty (30) calendar days from the due date for payment.

Delinquent assessment(s) that are not paid within thirty (30) calendar days after the due date thereof, shall bear interest from the due date at the rate of eighteen percent (18%) per annum, or such other rate as may be established from time to time by the Board. In addition, the Association may:

- a) bring an action at law against the Owner personally obligated to pay the same, and/or
- b) foreclose the lien against the Lot; and there shall be added in both such actions to the amount of such assessment accrued interest, the costs of such action and litigation expenses, including reasonable attorneys' fees, and in the event a judgment is obtained, such judgment shall include interest and late charges on the assessment and reasonable attorneys' fees to be fixed by the court, together with the costs of such action and litigation expenses.

Section 7. Subordination of the Lien to Mortgage

The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or mortgages now or hereafter placed upon the Lot subject to assessment; provided, however, that such subordination shall apply only to the assessments that have become due and payable prior to a sale or transfer of such Lot pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve the Lot or its Owner from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

Section 8. Exempt Property

The following Property subject to this Declaration shall be exempted from the assessments, charges, and liens created herein; namely:

- a) all Common Facilities and Open Space; and
- b) all Properties exempted from taxation by the laws of the State of New Mexico upon the terms and to the extent of such legal exemption.

Notwithstanding any provision herein, no land or Improvements devoted to residential use shall be exempt from assessments, charges, or liens duly imposed.

ARTICLE VII. LAND USE

Section 1. Zoning Regulations

The Subdivision is zoned and platted as a Residential Community under the designation of Belicia Estates Subdivision by the County of Santa Fe, New Mexico, and, as such, subject to the land use-related public ordinances, rules, or regulations adopted by the governmental authority having jurisdiction, and by the covenants, conditions, and restrictions stated in this Declaration.

Section 2. Recreation Area

About one (1) acre of land adjacent to the Subdivision was dedicated as a park area by the former Declarant (Tres Equis Partnership) and, as such, shall be exempted from the assessments, charges, and liens created herein. Further, this land, deeded as a permanent recreation area, may not be transferred nor divided. The allowed uses of the land shall be limited to Open Space, jogging, hiking, playground, and other recreational activities.

Section 3. Single-Family/Single-Household Residential Use

All Property platted as Lots within the Subdivision shall be developed for and devoted exclusively to single-family or single-household residential use.

Section 4. Commercial Use

No business or commercial activity shall be permitted on any Lot except a limited home occupation or a professional or other business office use that complies with the provisions of the Santa Fe County business-related rules and regulations. Such permitted activity shall be restricted to: no more than two (2) additional employees; no signage indicating the nature or location of the business; no traffic in excess of normal traffic for this type of residential area; and no environmental impacts inconsistent with the residential character of the Lots and residences within the Subdivision.

No business or commercial activity that takes place outdoors, with the exception of periodic yard sales or tours, shall be conducted on any Lot within the Subdivision.

No business or commercial activity shall be permitted on the Common Facilities, except for use of the Subdivision Roads and entrance gate for access to Lots for deliveries, maintenance and similar purposes.

Section 5. Leasing

Nothing contained herein shall be deemed to prevent the leasing for a minimum period of six (6) months, or as otherwise approved by the Board, of all of a Lot, inclusive of Structures and Improvements thereon, to a person, a single family, or a single family-sized household from time to time by the Owner. Any lease shall be in writing and shall be subject to all provisions of the Community Documents. A written notice will be provided to the Board within ten (10) calendar

days following execution of the lease. The Owner shall remain responsible for all assessments and for compliance with all obligations under the Community Documents during any lease period. Further, the Owner shall be responsible for ensuring that the Occupant(s) understand and agree to comply with the conditions and provisions of the Community Documents during this period as well.

All leases or rental of a Dwelling Unit or a property for a period of less than six (6) months for any purposes or use are hereby expressly prohibited.

Section 6. No Subdivision

No further subdivision of any Lot shall be permitted. Combinations or re-platting of contiguous Lots shall be permitted subject to a variance approved by the Architectural Control Committee and, as may be required, by the County of Santa Fe, and the execution and acknowledgment by the Owner of an instrument specifying the Lots to be combined or re-platted and giving the surveyed dimensions and boundaries description and Lot number of the newly created Lot or Lots. Such instrument shall be approved by the County of Santa Fe and filed for record by the Owner in the real estate records of the county before such combination or re-platting is considered to have been completed hereunder. Once combined or re-platted, the newly created Lot shall not be re-subdivided thereafter.

Section 7. Changes in Ownership

Any Owner selling or otherwise transferring title to his, her, or its Lot shall give the Association written notice at least twenty-one (21) calendar days prior to the pending date of sale or transfer and request a Disclosure Certificate as provided in NMSA 1978, Section 47-16-12 of the New Mexico Homeowners Association Act. The written notice shall include the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. Within ten (10) calendar days after receipt of such notice and request, the Association, through action of the Board, shall provide the purchaser and, as may be appropriate, the title company/closing agent involved, with a Disclosure Certificate and copies of the Community Documents (which may be in electronic format), the amounts of any unpaid or pending assessments, outstanding liens against the Lot, transfer fees payable upon closing, and other relevant information. The Association may charge the Owner a reasonable fee to pay for the costs incurred in preparing the Disclosure Certificate.

The seller/transferor shall continue to be jointly and severally responsible with the purchaser/transferee for all obligations of the Owner of the Lot, including assessment and/or lien obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

ARTICLE VIII. ARCHITECTURAL CONTROL COMMITTEE

Section 1. Committee Powers and Authority

The Architectural Control Committee ("ACC") shall review and approve or disapprove applications for construction of and modifications to Dwelling Units, Structures, and/or Lots within the Subdivision to maintain consistency within the overall residential use concept for the Subdivision and to protect property values by maintaining the design standards and construction criteria set forth in the covenants, conditions, and restrictions in this Declaration.

No Dwelling Unit, garage, fence, wall, or other Structure of any kind, whether permanent or Temporary, shall be erected, placed, or altered on any Lot until the construction plans and specifications have been approved by the ACC as to compliance with requisite design standards and architectural guidelines, including but not limited to quality of materials, harmony of external design with existing Structures, and location of the Structure with respect to topography, Drainage, setback requirements, and finished-grade elevations.

Likewise, requisite periodic structural and land-related maintenance notwithstanding, no existing Dwelling Unit, building, garage, fence, wall, accessory Dwelling, or other Structure of any kind shall be altered, remodeled, painted a different hue (color), tint, tone, or shade, or changed until the plans for such external alteration, remodeling, painting, or change have been approved by the ACC.

Section 2. ACC Structure

The ACC shall consist of at least five (5) and no more than seven (7) members, including one Board member, appointed to the ACC by the Board, and shall serve until such time as a member has resigned or is removed. ACC members need not be Subdivision Property Owners (although the ACC officers must be) and may be non-voting advisory members if so designated by the Board. The Board may remove members of the ACC at any time without cause at a duly called meeting of the Board. The ACC, subject to oversight of ACC procedures and rulings by the Board, shall have such powers, duties, responsibilities, and authority as are specified in this Declaration and the Association Bylaws.

Section 3. ACC Compensation

The members of the ACC who are Subdivision Property Owners shall not be compensated by the Association for the services they render, although reimbursement is permitted for reasonable expenses incurred by them in the performance of their duties. The ACC shall have the authority to compensate consultants to the ACC for professional services rendered in connection with a submittal to the ACC. Such compensation shall be derived from fees paid by the Owner-Applicant and shall not be derived from general assessments made on Association members.

Section 4. Non-Liability of ACC Members

Neither the ACC nor any member thereof shall be liable to the Association or to any Owner for any loss, damage, or injury arising out of or in any way connected with the performance of the ACC's duties, unless due to willful misconduct or bad faith of the ACC or an ACC member or members.

Section 5. Meetings of the ACC

The ACC shall meet as necessary to perform its duties. The ACC may from time to time by resolution adopted in writing by a majority of its members designate one of its members to take any action or perform any duties for and on behalf of the ACC, except the granting of variances. In the absence of such designation, the documented vote of a majority of the members of the ACC shall constitute an act of the ACC.

The ACC shall review and approve or disapprove all plans submitted to it for any proposed Improvement, alteration, or addition solely on the basis of residential use considerations, conformance to the design standards and criteria elsewhere stated in this Declaration and the overall benefit or detriment that would result to the immediate vicinity and the Subdivision generally. The ACC shall take into consideration the complementary aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials, and similar features but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes.

Section 6. Development Plan

Each Owner-Applicant shall be required to submit a detailed Development Plan, pursuant to the review requirements of the ACC and to permitting and inspection requirements of Santa Fe County. Such plan must be approved in writing prior to the commencement of construction of any Improvement. The ACC shall have thirty (30) calendar days after submission of all required documents to review and approve or reject the Plan. No new construction, external alteration of any Structure, or other Improvements to a Lot, including without limitation site preparation, clearing of trees, excavation, or installation of perimeter walls or fences, shall commence without the prior written approval of the ACC. All construction and development shall comply with the approved Development Plan.

Section 7. Landscaping Restoration Plan

As part of the Development Plan review process, Owner-Applicants shall submit a landscape restoration plan for approval by the ACC prior to any construction on the Lot. The plan shall address restoration of Building Envelope areas of the Lot that are unimproved and/or areas excavated or disturbed by construction. The landscaping plan shall provide either for replanting of these areas with trees, grasses, or shrubs at densities and heights that existed prior to the proposed construction on the Lot or for the incorporation of a high desert xeric design including native stone, gravel, and/or native New Mexico plantings.

Section 8. Time for Construction

The following construction schedule requirements and restrictions apply:

- a) Construction of any Structure or Improvement shall begin within one hundred twenty (120) calendar days of final approval of a Development Plan by the ACC and shall proceed in an orderly fashion without interruption. Any Structure or Improvement on a Lot shall be completed in a reasonable time, not to exceed twelve (12) months from the commencement of construction.
- b) The foundation for any Structure or Improvement shall be completed as soon as is practically possible after the commencement of construction.
- c) Commencement of construction shall mean the first on-site work for construction, including but not limited to clearing of trees, excavation, or site preparation for the purpose of foundation.
- d) Material and equipment necessary for construction shall not be stored on a Lot for more than thirty (30) calendar days prior to the start of construction; and all debris resulting from clearing or construction shall be confined to the Lot and not be left on any other Lots, commonly held areas, or roadways.
- e) A single temporary construction trailer or shed and a single trash bin may be located on the Lot during the twelve (12) month construction period with approval of the Committee.
- f) If construction is not or may not be completed within the allotted twelve (12) month construction period, the Lot Owner may submit a written request to the Committee for extension of this period; however, failure to submit such a request or, in the extreme case, abandonment of ongoing construction may subject the Lot Owner to a penalty in the form of a specific assessment levied by the Board after written notice of this failure by the ACC in the amount of one hundred dollars (\$100.00) for each day the construction period extends past the twelve (12) month allotted construction period, which shall be a lien on such Lot in accordance with the provisions of ARTICLE VI. Section 6. The rate of this special assessment may be adjusted as deemed appropriate by the Board.

Section 9. Variances

Upon submission of a written request by an Owner-Applicant or his agent, the ACC, acting on a case-by-case basis and with agreement of Owners of adjacent Lots, may approve by a majority vote of the ACC variances from compliance with any of the architectural design and land use provisions of this Declaration or any Supplemental Declaration, including but not limited to restrictions upon height, size, placement of Structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic, or environmental considerations may require. Such variances must be evidenced in writing and must be signed by a majority of the members of the ACC. The findings and considerations of the ACC shall be recorded in the minutes of the meeting at which the variance request is heard.

If such variances are granted, no violation of the covenants, conditions, and restrictions contained in this Declaration or any Supplemental Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not waive any of the terms and provisions of this Declaration or of any Supplemental Declaration except as to the particular property and particular provision covered by the variance. A copy of the variance request and approval or denial will be kept on file within the ACC for a minimum of five (5) years.

Section 10. Design Review Fees

The ACC may assess reasonable fees in connection with its review of construction plans and specifications including but not limited to fees in such amounts necessary to defray the costs of a professional consultant retained by the ACC. The ACC may at its option waive its right to such fees.

Section 11. Design Review Process

The ACC shall consider and act upon any and all proposals or plans and specifications for actions to be taken and perform such other duties as from time to time may be assigned to it by the Board, including the inspection of Lot site prior to approval and, subsequently, of construction in progress; namely:

- a) The ACC shall approve proposals or plans and specifications only if it deems that the construction, alterations, or additions contemplated in the locations indicated would not be detrimental to the appearance and integrity of the surrounding area or the Subdivision as a whole, and that the appearance of the Improvement will be in harmony with the environment and the surrounding Improvements.
- b) The ACC may condition its approval of proposals or plans and specifications on such changes as it deems appropriate and may require submission of additional plans and specifications or other information prior to approving or disapproving material submitted.
- c) The ACC shall adopt Architectural Control Committee Rules setting forth procedures for the submission and review of plans for approval as well as the factors that it will take into consideration in reviewing submissions.
- d) The ACC may require such detail in plans and specifications submitted for its review as it deems proper, including site plans, landscape plans, drainage plans, elevation drawings, and description or samples of exterior material and colors.
- e) The ACC may require certain inspections and/or that any construction, alteration, or addition be completed within certain time limits.
- f) The ACC may also require the Owner-Applicant to furnish proof of financial ability to complete the proposed construction or Improvements within the prescribed time limits.

No construction, alteration, or other improvement activity of any kind may commence until required plans, samples, specifications, fees and certifications have been submitted by the Owner-Applicant and the ACC 's approval has been officially granted, a building permit (if

required) has been obtained from the County of Santa Fe, and a copy posted on the Lot. Violation of the policies, procedures, and rulings of the ACC shall constitute a violation of the provisions of this Declaration and, upon written notice, the Owner-Applicant may be subject to a specific assessment for such violation.

Section 12. Design Review Requirements

All requests for approval required or allowed hereunder for new construction or additions to existing Structures shall be submitted to the ACC in writing together with any additional documentation reasonably necessary for the ACC to act on the request. The submittal shall include one (1) set of any or all of the following as applicable or requested by the ACC, namely:

- g) an approved ACC application form completed by the applicant;
- h) a detailed plot plan for each construction phase showing the building footprint; driveway and septic system placement; trees; fence and wall locations; topography and Drainage plans; and adjacent streets;
- i) floor plans for each Dwelling showing the location of all walls, openings, fixtures, and dimensions;
- j) elevations depicting each side of all Structures and showing all heights, offsets, materials, openings, and other visible items; and
- k) landscape plan showing restoration of Lot Building Site areas and/or Common Facilities or Open Space disturbed by the construction.

As soon as possible after the submission of the complete preliminary plans and related documentation, a form letter will be sent by the ACC to the Owners of adjacent Lots, providing notice of the submittal. Written comments may be submitted to the ACC prior to the time the ACC begins its preliminary review of the proposed Improvements. The ACC will consider the submittal within five (5) calendar days after such notification.

Section 13. Design Review Rulings; Right of Appeal

The ACC 's approval or disapproval of the Development Plan as submitted or, as may be appropriate, after an extension of the review period to allow submission of additional documentation, shall be in writing. In the event the ACC fails to approve or disapprove a request within thirty (30) calendar days after complete plans and specifications have been submitted to it, including any additional information requested by the ACC as part of an extended review period, then the ACC shall be deemed to have approved the request.

Any action, ruling or decision of the ACC may be appealed to the Board by any party deemed by the Board to have standing as an aggrieved party. Such appeal may be made by filing a written notice of appeal within ten (10) days after delivery of action, ruling, or decision by the ACC. The written notice of appeal shall specifically identify the portion of the Community Documents interpreted or relied upon by the ACC and any factual basis for the decision, and list the error or errors made by the ACC. While an appeal is pending, all actions related to enforcement shall be stayed until a final decision is issued by the Board.

Unless the appeal is informally resolved by the aggrieved party and the ACC, the Board shall conduct a hearing as soon as practicable after delivery of the written notice of appeal to the Board. The Board may reverse, modify, or affirm, in whole or in part, any decision of the ACC by a majority vote of the members of the Board, present at the hearing. If the Board's decision requires enforcement action, the Association or the ACC, as directed by the Board, shall proceed with any necessary enforcement action, consistent with the Board's decision, as soon as practicable.

Section 14. Inspection of Construction or Modifications

Inspection of approved construction or modifications and correction of defects therein shall proceed as follows:

- a) Upon the completion of any work for which approved plans are required, the Owner-Applicant shall give written notice of completion to the ACC.
- b) Within ten (10) calendar days thereafter, the ACC shall inspect such Improvement. If the ACC finds that work was not done in substantial compliance with the approved plans, it shall notify the Owner-Applicant in writing of such noncompliance within ten (10) calendar days of its inspection, specifying the particulars of noncompliance, and shall require the Owner to remedy the same.
- c) If upon the expiration of thirty (30) calendar days from the date of such notification the Owner-Applicant has failed to remedy the noncompliance, the ACC shall notify the Board in writing of such failure. Upon notice and hearing, the Board shall rule on whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. The Owner-Applicant shall have a period of not more than thirty (30) calendar days from the date of announcement of the Board ruling to remedy or remove such noncompliance.
- d) If the Owner-Applicant does not comply with the Board ruling within such period, the Board, at its option, may either remove the noncomplying Improvement or remedy the noncompliance, and the Owner shall reimburse the Association upon demand for all expenses, including interest on monies expended and attorneys' fees incurred in connection with such action. If such expenses are not promptly repaid by the Owner-Applicant to the Association, the Board shall levy an assessment against such Owner for reimbursement.
- e) If for any reason the ACC fails to notify the Owner-Applicant of any noncompliance within ten (10) calendar days after receipt of said written notice of completion from the Owner-Applicant, the Improvement shall be deemed to be in accordance with said approved plans.

ARTICLE IX. RESIDENTIAL STRUCTURES

Section 1. Requirements

All Residential Structures shall comply with the Community Documents. Written Development Plans submitted to the Architectural Control Committee (“ACC”) for approval shall address these requirements and provisions and shall be reviewed and approved in writing by the ACC prior to the start of any construction. Any variance or material changes from an approved plan shall not be permitted without submission of the proposed variance or changes to the ACC for further review and approval. All construction of Structures or Improvements shall conform to applicable ordinances and regulations of the County of Santa Fe.

The intent of this Article is to:

- a) promote architecture that is both harmonious and responsive to the existing topography, landscape, and historic Santa Fe Pueblo or Revival flat roof styles;
- b) encourage buildings that respect and merge with, rather than dominate, the natural landscape;
- c) attempt to ensure the protection of view corridors for the various Lots while recognizing that complete protection is not always possible; and
- d) minimize use of bright colors, reflective surfaces, extensive glazing, and unnecessary light pollution.

Section 2. Single-Family/Single-Household Dwelling Unit

No Structure shall be erected, altered, placed, or permitted to remain on any Lot or Building Site subject to this Declaration other than one Dwelling Unit for private use, a guest house and/or studio, a garage sized to accommodate at least two automobiles, recreational facilities, solar panels (hot water or photovoltaic equipment), evaporative cooler or coolers, and Improvements incidental to residential use of the Lot.

Such a Dwelling Unit shall contain no more than six thousand (6,000) square feet and no fewer than fifteen hundred (1,500) square feet of heated floor area, including a guest house/studio, so long as such guest house/studio is directly attached to the Dwelling Unit as constructed, or architecturally allied with the Dwelling Unit by design features such as portals, perimeter courtyard walls, or landscape features within the Building Envelope.

Section 3. Prohibited Structures

No modular home, manufactured home, prefabricated Structure, mobile home or non-site built home may be placed or kept on any Lot or Building Site for use as a temporary or permanent residence or for any other purpose.

No temporary storage unit, trailer, or other Structure shall be placed or erected upon the Subdivision except as permitted for construction on any Lot.

Section 4. Construction Site Selection and Design of Structures

The ACC shall reserve the right, under the provisions of the Architectural Control Committee Rules, to adjust the Building Envelope set out for each Lot in the Subdivision Plat, subject to the approval of the Owners of adjacent Lots affected by the proposed construction. The ACC shall similarly reserve the right to restrict the Building Envelope and setbacks, the height and extent of Structures, or restorative landscaping on any Lot.

Any and all Structures, Dwellings, including guest houses, studios, garages, walls, or fences shall be Santa Fe Pueblo or Revival flat roof style and shall be constructed in the Subdivision in accordance with the following criteria:

- a) The color of all Structures shall be predominately the local earth tones within the Subdivision. Dark browns or white colors shall not be permitted as predominant colors. Stone surfaces shall be in their natural color and must be local earth tones. Entries and portals may be emphasized by the use of matte off-white or other colors or materials permitted hereunder.
- b) No pitched roofs shall be permitted on any Dwelling within the Subdivision; however, pitched portal or sunroom accent roofs or non-retractable window coverings integrated into the walls of the main residential Structure and compliant with all other design requirements may, in the discretion of the ACC, be allowed.
- c) The exterior construction, including the final stucco color coat, paint, trim, and landscaping shall be fully completed within twelve (12) months after commencement of construction.
- d) No residence placed or erected in the Subdivision shall be occupied in any manner while in the course of construction or at any time prior to the time when the exterior is fully finished as herein required, and the residence is fully functional and has received a county residential occupancy permit.

Section 5. Height Limitations

On all Lots, except where restricted by the County of Santa Fe ordinances or regulations, the following height limitations shall apply:

- a) No structural element shall exceed the height of the highest roofline of the Structure by more than three (3) feet or a total height of nineteen (19) feet above the highest natural ground level immediately adjacent to the Structure's footing, foundation, or stem wall perimeter as measured from the top of the parapets or roof line (whichever is higher) to that ground level.
- b) Residences may be sited partially below grade; however, the maximum height of any structural element of such residence may not exceed nineteen (19) feet, as measured from the adjacent natural or finished grade to the tops of the structural element, surrounding parapets, or roof line (whichever is higher).
- c) Retaining walls and other walls not directly supporting a building structure, except screen walls and arched gateways, shall not exceed eight (8) feet in height, measured

from the natural grade adjacent to the wall. The appearance of such walls over five (5) feet in height must be softened by landscaping with trees or large shrubs.

- d) Courtyard perimeter walls attached directly to the Dwelling Structure shall be at least five (5) feet in height, and such wall shall not enclose more than six thousand (6,000) square feet of open courtyard space. The total area of all outdoor spaces enclosed by fences and/or walls shall not exceed 6,000 square feet.
- e) In no case shall the overall height of a residence including the height of any retaining walls exceed twenty-four (24) feet measured in a vertical plane from the highest parapet or roof line to the natural grade at the lowest point adjacent to the residence. All height restrictions shall be consistent with maximum heights provided by Santa Fe County ordinances and regulations.
- f) No external wall of any Structure shall exceed nineteen (19) feet in height in a single plane or more than fifty (50) feet in length in a single plane. All external walls with offsets of less than two (2) feet are defined as being in a single plane.

Section 6. Setbacks

Minimum setback requirements for all Dwelling Units, buildings, garages, fences, walls, accessory dwellings, and any other Structure of any kind constructed on any Lot or point thereof, shall be a minimum of twenty-five (25) feet from the Property boundaries of such Lot or the centerline of the adjacent roadway. The ACC may vary the setback requirement as necessitated by topography, as long as county ordinances are upheld or county approval is not required for such a variance.

Section 7. Land Survey

As part of the final Development Plan submittal and prior to any construction work being undertaken, the Owner/Builder shall, at their expense, have a licensed New Mexico surveyor complete the following procedures to assure compliance with Building Site and structural height restrictions:

- a) stake out the setbacks, building footprint, and driveway boundaries;
- b) establish permanent benchmarks outside of disturbed area and the elevation of highest natural grade adjacent to the home.

Section 8. Reflective Materials

No reflective construction materials shall be used where they would affect any other Dwelling Unit or Lot within the Subdivision. Metal roofing materials, in particular, will be strictly limited by the ACC to accents on subsidiary structural functions, such as canales, portal covers, sunrooms, or other items installed on the roof of a Structure. If such reflection does occur, the reflective material shall be painted a subdued color or otherwise screened from view in a manner acceptable to the ACC.

Section 9. Rooftop Equipment and Solar Collectors

All rooftop equipment and related support Structures including but not limited to mechanical and plumbing flues and evaporative coolers or air conditioning units shall be treated with a non-reflective material or painted a subdued color. Items emerging from rooftop penetrations shall not protrude more than three (3) feet above the adjacent parapet or roofline height unless required by applicable building codes or law.

Solar collectors, whether roof-mounted or ground based, are permitted and shall be reasonably screened so as to minimize the visual impact on the other Lots. Roof-mounted solar panels shall comply with the height restrictions set forth in this Declaration.

ARTICLE X. CONSTRUCTION REGULATIONS

The following construction regulations shall be enforced from the time any site work begins on the Lot until such time as the Architectural Control Committee (“ACC”) grants final approval on the completed residence. These regulations shall be made a part of the construction contract document specifications for each Dwelling Unit, Structure, or other Improvements on a Lot, and all Builders, Owners, and other persons shall be bound by these regulations. Any violation by a Builder, subcontractor, or anyone else on the site shall be deemed to be a violation by the Owner of the Lot.

Inspection of Building Sites during construction may be done by one or more ACC members who shall enter the construction site at any reasonable time for such purpose. Departures from approved construction regulations and plans will be reviewed by the ACC, and the Lot Owner and Builder involved shall be notified in writing of such noncompliance. If, after ten (10) calendar days from the date of such notification or such time period as may be agreed to with the ACC, the noncompliance has not been addressed or has continued, the Board may apply a specific assessment as provided in Article VI, Section 4, or other remedial requirements on the Lot Owner.

Section 1. Pre-Construction Conference

Prior to commencing construction, the Lot Owner and/or Builder shall meet with the ACC on the Building Site to review construction procedures and to coordinate activities within the Subdivision. At the pre-construction conference, the Builder, acting for the Lot Owner, may be asked to provide the following:

- a) an updated construction schedule;
- b) the construction area plan;
- c) a drawing of the proposed construction sign, if any;
- d) a refundable Subdivision property or roadway damage deposit, as may be adjusted over time by the Board, which shall be directly related to the extent and demands of the proposed construction; and/or
- e) any other items as may be requested by the ACC.

Section 2. Construction Area Plan

At the pre-construction conference and prior to the commencement of any construction activity on a Lot, the Lot Owner and Builder shall provide an overview as to the manner in which the natural landscape will be protected and the areas within which all construction activity will be confined, including but not limited to the size and location for construction material storage, limits of excavation, drive areas, parking, chemical toilet location, Temporary Structures, if any, dumpsters, storage of debris, fire extinguisher, utility trenching, and construction sign. This plan should identify the methods for protecting the natural landscape, such as fencing, railing, rope,

barricades, or other means, to be set up prior to commencement of construction, any of which may be required at the discretion of the ACC.

Section 3. Regulatory Compliance

Lot Owners and/or Builders shall obtain and follow all applicable Santa Fe County and New Mexico building regulations and ordinances, including permits, ongoing inspections, and health and safety guidelines, at all times during construction.

Section 4. Temporary Structures

Any Lot Owner or Builder who desires to bring a construction trailer, field office, or the like to the Subdivision shall first apply for and obtain written approval from the ACC at the time of the pre-construction conference. The ACC will work closely with the Lot Owner or Builder to determine the best possible location. Such Temporary Structures shall be located only in a location approved by the ACC and shall be removed upon completion of construction or at any time that construction discontinues.

Section 5. Debris and Trash Removal

The following procedures shall be in place to assure that the natural landscape of each Lot is not damaged during any construction activities:

- a) Lot Owners and Builders shall clean up the construction site at least once a week and transfer all trash and debris to a dumping site located outside the Subdivision. Lightweight material, packaging, and other items shall be covered or weighted down to prevent wind from blowing materials off the construction site. Lot Owners and Builders are prohibited from dumping, burying, or burning trash anywhere on a Lot or in the Subdivision. During the construction period, each construction site shall be kept neat and shall be properly policed to prevent it from being a public eyesore, or affecting other Lots and/or any Community Facilities. Any clean-up costs incurred by the ACC or the Association in enforcing these requirements will be taken out of the Builder's property damage deposit or billed to the Lot Owner in the form of a specific assessment. Dirt, mud, or debris resulting from activity on each construction site shall be promptly removed from roads, Open Spaces, driveways, or other portions of the Subdivision.
- b) On each construction site, the Builder must designate a wash out area within the Building Envelope for contractors and suppliers to clean their equipment. The cleaning of equipment and the disposal of effluent from such cleaning must occur within that specified area. Equipment cleaned in any area other than the designated area will result in the ACC imposing a fine or retaining the Builder's property damage deposit to repair any damage resulting from equipment cleaning in improper areas.

Section 6. Sanitary Facilities

Each Lot Owner and Builder shall be responsible for providing adequate sanitary facilities for their construction workers. Portable toilets or similar temporary toilet facilities shall be located only on the site itself or in areas approved by the ACC.

Section 7. Vehicles and Parking Areas

Construction crews shall not park on, or otherwise use, other Lots or Community Facilities. All vehicles shall be parked so as not to inhibit traffic, and within the designated area so as not to damage the natural landscape.

Section 8. Conservation of Landscaping Materials

As a protective measure during construction, the ACC shall have the right to flag or require the protection of native plants and plant materials as well as other natural terrain features on Lots and Community Facilities within the Subdivision. Any damage to such plant materials or features must be promptly restored and debris removed from the construction site by the Builder.

Section 9. Excavation Materials

Excess excavation material, if any, must be hauled away from the Subdivision.

Section 10. Blasting

No blasting or impact digging causing seismic vibration may be undertaken on any Lot or other Property within the Subdivision.

Section 11. Restoration or Repair of Other Property Damage

Damage to other Property, including but not limited to Community Facilities, other Lots, roads, driveways, and/or other Improvements shall not be permitted. If any such damage occurs, the Lot Owner involved shall be obligated to ensure that it is repaired and/or restored promptly at the expense of the person causing the damage or the Lot Owner.

Upon completion of construction or discontinuance of construction, each Lot Owner and Builder shall clean the construction site and repair all Property damage, including but not limited to restoring grades, planting shrubs and trees as approved or required by the ACC, and repair of roads, entrance gates, driveways, pathways, landscaping, drains, culverts, ditches, signs, lighting, and fencing.

Failure to comply with the above requirements may result in the imposition of a specific assessment as provided in Article VI.

Section 12. Restricted or Prohibited Practices

All Lot Owners shall be responsible for the conduct and behavior or their agents, representatives, Builders, contractors, and subcontractors on the Subdivision. The following practices are not permitted during construction and will be considered a violation of this Declaration:

- a) periodic maintenance on any vehicle or construction equipment, particularly changing oil or other lubricants and hydraulic fluids, on the construction site;
- b) concrete suppliers and contractors dumping concrete or cleaning their equipment other than at locations designated for that purpose by the ACC. No concrete slurry, asphalt, or

other refuse shall be left on any portion of the Lot or area within the Subdivision after construction is completed.

- c) removing any rocks, plant material, topsoil, or similar items from any Property within the Subdivision, including construction sites, unless it is from the site under construction and only then with prior approval from the ACC;
- d) disposal of cigarettes and other flammable material in other than designated areas or containers. At least one (1) 10-pound ABC rated dry chemical fire extinguisher shall be present and available in a conspicuous place on the construction site at all times.
- e) bringing pets belonging to the Builder, subcontractors, or construction crews onto the Property. In the event of any violation hereof, the ACC or the Board shall have the right to contact the appropriate authorities to impound the pets.

Section 13. Dust and Noise

Builders, contractors, and subcontractors shall be responsible for minimizing dust and noise from the construction site. Regular working hours shall be established and observed. Outdoor music or other amplified sound audible to Owners and Occupants of other Lots shall not be permitted at the construction site.

Section 14. Signage

Temporary construction signs shall be limited to one non-lighted sign per site not to exceed six square feet of total surface area. The sign shall be freestanding, and the design and location of such a sign shall first be approved by the ACC.

Construction signs must be removed at the time the house is substantially complete and ready for occupancy.

ARTICLE XI. GENERAL USE LIMITATIONS AND CONDITIONS

Section 1. Maintenance of Buildings and Landscaping

Any Improvement upon any Lot within the Subdivision shall at all times be maintained and kept in good condition, finish, and repair by the Owner at the Owner's sole expense, keeping the same in a condition comparable to the conditions of such Improvement at the time of its initial construction, except for normal wear and tear. Any maintenance and/or repair of any Improvement shall not alter the appearance or design conditions of the Improvement without prior review and approval of the Architectural Control Committee ("ACC") and shall not deviate from prescribed design standards and architectural guidelines.

Section 2. Trees and Landscaping

The native plant growth on the Property, including but not limited to grasses, cacti, and juniper and pinon pine trees, shall not be destroyed or removed except as it may be necessary for the construction, improvement, and/or maintenance of roads, driveways, Dwelling Units, and other approved Structures. Dead, diseased, or invasive flora shall be removed at the Lot Owners' expense.

Section 3. Water Conservation

Lot Owners may be required to include water conservation measures in Development Plans submitted for approval by the ACC prior to construction or modification on any Lot; namely:

- a) An on-site water harvesting system (cistern-based rain water collection and distribution system) shall be required to comply with current Santa Fe County ordinances and regulations for Dwelling Units with twenty-five hundred (2,500) square feet or more of heated floor space or as may be revised over time.
- b) Lawn areas shall be restricted to two thousand (2,000) square feet within the Building Envelope of each Lot.
- c) Use of drought-resistant vegetation native to Santa Fe for landscaping and xeric landscaping with native stone and gravel are encouraged.

All water use must comply with restrictions imposed by Eldorado Area Water and Sanitation District and Santa Fe County.

Lot Owners and Builders shall also comply with all landscaping requirements and restrictions of Santa Fe County, New Mexico.

Section 4. Drainage

Surface drainage courses within Lots designated on the Subdivision Plat as filed for record (master copy maintained in the ACC files for Lot Owner reference) are to remain in their natural state, except for diversions approved by the ACC and the County of Santa Fe.

Each Lot shall also be subject to Easements for all naturally occurring drainage patterns, and further by drainage from dedicated roads. No impediment, obstacle, or obstruction, temporary or permanent, shall be placed in or across said Easements without the written approval of the ACC and without the construction of alternate drainage facilities.

Section 5. Grading

No Lot may be landscaped or re-graded in such a manner as to cause the Drainage characteristics of the Lot to differ materially from the approved grading plan, and in no case shall the Drainage characteristics be modified in such a way as to cause damage to adjacent Property. Any modification of an approved grading plan shall require the prior written approval of the ACC, including but not limited to concrete slabs, terraces, and stone walls.

Section 6. Solar Rights

No Lot Owner shall in any way obstruct or interfere with the path of direct sunlight to any adjacent Lot or Lots within the Subdivision to ensure access to sunlight for health, aesthetic, and other purposes, specifically including operation of solar panels. Accordingly, no vegetation, Structure, fixture, or other object shall be so situated that it casts a shadow at a distance greater than 20 feet across any property line on December 21st between the hours of 9:00 a.m. and 3:00 pm MST.

Section 7. Surface or Ground Water

Surface or ground water shall not be impounded by any Owner in any way contrary to County of Santa Fe ordinances or New Mexico statute. Subject to the subsurface rights limitations of land titles within the Subdivision and the ordinances and regulations of Santa Fe County, no private wells shall be drilled on any Lot within the Subdivision.

Section 8. Utilities

All utility lines and pipes on all Lots, including but not limited to gas, water, electric power, telephone, cable television, and radio systems, shall be buried and maintained beneath the ground surface from each point of service connection to each Structure where used. Any disturbance of natural ground cover or vegetation necessitated by the installation of utility service lines anywhere in the Subdivision shall be replanted and restored.

Utility Easements imposed on the Lots within the Subdivision are shown and stated on the Plat of the Properties as filed for record. No impediment, obstacle, or obstruction, temporary or permanent, shall be placed in or across said Easements.

Section 9. Solar and Mechanical Devices

Mechanical or other devices, including mechanical and plumbing flues, evaporative coolers or air conditioning units, and solar panels (hot water or photovoltaic), may be installed and maintained on the roof surface of any Dwelling or other Structure within the Subdivision, pursuant to the height and visibility limitations and with the approval of the ACC.

Section 10. Liquid Waste Disposal

On-site sewage and liquid waste disposal systems, including tanks, housings, pipes, fittings, lines, and drain fields, installed during construction of a Dwelling Structure or, as may be required over time, replaced or relocated on any Lot shall comply with the applicable requirements, ordinances, and regulations of Santa Fe County. Lot Owners are required to have a percolation test conducted to certify the suitability of the soil to accept domestic liquid waste and to obtain the water utility district approval prior to such installation or replacement.

Section 11. Driveways

The following driveway construction requirements and restrictions shall apply:

- a) No private driveway shall be constructed in excess of fifteen (15) feet in width unless otherwise required by the Santa Fe County ordinances and regulations where serving more than a single Lot.
- b) All driveways shall be surfaced by Lot Owners with gravel, asphalt, brick, concrete, or compacted base course to prevent dust and maintained so as to reduce erosion and eliminate unsightly conditions.
- c) All driveways shall be graded and sloped for proper Drainage and shall have culverts large enough for proper Drainage. Culverts shall be installed by the Owners where the driveway crosses the roadside drainage Easement.
- d) Except where otherwise platted, allowed by an approved variance, or in place prior to the date of this Declaration, all driveways shall be located a minimum of twenty-five (25) feet from the property line of any adjacent Lot.

Section 12. Street Sign Easement

The Association shall have an Easement within the Building Envelope setback lines on the corner of each Lot that is located at an intersection of streets within the Subdivision to install and maintain street signs.

Section 13. Fences and Walls

Lands not immediately surrounding Structures, garden areas, and open-air recreation areas shall be open and unfenced and subject to the following regulations and restrictions:

- a) Plans for all walls and fences, including privacy barriers and pet or seasonal garden enclosures, must be shown on the architectural or landscape plans submitted to the ACC and shall be reviewed, approved, or rejected pursuant to the provisions of these Covenants.
- b) All fences and walls shall be compatible with other Structures erected on the Lot with respect to design, materials, and color; that is:
 - (i) All allowable fences shall be “coyote” style constructed from aspen, fir, cedar, or pine saplings (“latillas”) and installed vertically.

- (ii) All walls shall be constructed of adobe bricks, masonry blocks, or straw bales covered with concrete or synthetic (such as Sto system) stucco and finished or coated in earth colors matching other Structures located on the Lot.
- (iii) Freestanding landscaping or retaining walls constructed of native rock are allowable within the Building Envelope.
- c) Board, slat, or bark-faced fences are not allowed.
- d) Wire or metal mesh fencing is not allowed.
- e) All perimeter walls and fences shall be allowed only within the Building Envelope.

The ACC may require landscaping to be installed as partial screening for walls and fences constructed on any Lot.

Section 14. Exterior Lights

All exterior lights, except for temporary-duration security lighting, must be shielded and down lit and located so as not to be directed toward or illuminating surrounding Lots, Properties, or roads. All exterior lighting must be shown on the Development Plan and approved by the ACC prior to installation.

Section 15. Parking and Vehicles

Each Dwelling shall contain parking space within the Lot for at least two automobiles in an enclosed garage either attached to or, if detached, architecturally allied with the main Structure of the residence. Four (4) additional parking spaces are required to accommodate guest parking; however, unnecessary parking area excavations, cuts, and fills shall not be permitted by the ACC. Screening, either with vegetation or a low side wall, will be required to minimize the visual appearance of the guest parking area.

The following regulations and restrictions shall also apply:

- a) No vehicle of any type may be parked anywhere other than in a garage, in a driveway, on the road where parking is permitted, or in an area provided that will accommodate at least four (4) cars in addition to those in use by the persons occupying said Lot.
- b) No vehicle of any type may be built, repaired, or serviced on any Lot unless parked in an enclosed garage.
- c) No mobile home, motor home, camper, trailer, recreational vehicle, boat, truck over 1-ton, or similar vehicle or equipment shall be stored, kept, or maintained on any portion of the Subdivision, except within garages, off-street guest parking areas, or designated areas within the Building Envelope screened from view of adjacent Lots or the road.
- d) Short-term parking by visitors driving recreational or similar vehicles may be allowed within off-street guest parking areas with the notification of the adjoining Lot Owners. Such parked vehicles may not block driveways or yards or extend into the roadway.

Section 16. Garages and Storage

A garage of sufficient size to accommodate at least two automobiles shall be constructed with each Dwelling and shall be used primarily for vehicles, not storage. Storage in garages cannot take precedence over the primary function of the garages to house automobiles.

Sheds shall be permitted without prior written approval of the ACC. Any storage shed erected on any Lot shall be screened from view from other Lots and the public view.

No vehicles or equipment of any type shall be permanently or semi-permanently parked in any portion of the Subdivision visible from other Lots or the road for purposes of repairs or reconstruction or storage.

Section 17. Seasonal Gardens

In-ground or raised-bed fruit, vegetable and/or herb gardens (with or without protective/thermal covers) shall be allowed with approval of the ACC. Such gardens shall be located at the back or side of a Dwelling Unit and screened from view or enclosed by a “coyote” style fence of not less than five (5) feet in height.

Greenhouses shall not be allowed unless they can be screened from view of adjacent Lots or roadways. Such Structures, subject to approval by the ACC, shall be integrated into a resident Dwelling or located within perimeter walls or courtyards and architecturally allied with a Dwelling or Structure inside the Building Envelope.

Section 18. Play and Recreational Equipment

Play Structures and recreational equipment, including seasonal furniture, shall be allowed within the Building Envelope. Such Structures and equipment may be placed in side or back areas of a Dwelling Unit as long as they are not directly visible from adjoining Lots and roads and are either covered or placed in storage during the winter season.

Section 19. Laundry

All clotheslines and clothes drying facilities shall be placed in the back or side areas of a Dwelling Unit within the Building Envelope and screened from the view of adjacent Lots and the road.

Section 20. Solid Waste Disposal

The Association will contract with a private trash/recycling collection vendor (currently Waste Management of New Mexico) for collection and disposal of solid waste within the Subdivision. Lot Owners, subscribing to these services at their option, shall be billed directly by the vendor and shall be responsible for payment of the charges involved.

All household waste, trash, and disposable materials shall be disposed of in appropriate containers provided by the vendor or by non-subscribing Lot Owners. Trash and recycling receptacles shall remain screened and concealed so they are not visible from adjoining Lots and

roads, except when being placed out for pickup by the vendor or for transport to the local County Transfer Station by non-subscribing Lot Owners.

ARTICLE XII. GENERAL USE RESTRICTIONS AND PROHIBITIONS

All Property within the Subdivision shall be held, used, and enjoyed subject to the following use restrictions and prohibitions.

Section 1. Billboards, Mail Boxes, and Signs

No billboards or advertising signs will be permitted on any Lot or on any Dwelling Unit or Structure except for the name plate of the resident/occupant of that Dwelling Unit or Structure, a street address sign or plate, and/or a mail box and newspaper tube where each driveway enters a Lot or Lots.

Notwithstanding the above, a Lot Owner shall be permitted to install: one (1) standard real estate sign on the Lot to market the resale or lease of the Lot and the resident Dwelling Unit and other Improvements constructed thereon; as well as two (2) security system, two (2) trespass, and/or two (2) pet alert warning signs on the Lot and/or Dwelling Unit or other Structure to alert persons or fire department or emergency crews entering the Lot.

Posting of such signage is limited to the Lot involved; no sign of any kind shall be posted elsewhere in the Subdivision, including but not limited to street signs, mailboxes, fences, and walls; however, temporary posting of signs and/or banners related to showing a Lot or Dwelling by a realtor or Owner, or to a commemorative or other special event, including but not limited to yard sales or studio tours, may be posted for no longer than 72 hours unless a longer period is approved by the Board.

The Association is permitted to display signs within the Subdivision as may be necessary to conduct the business and operational affairs of the Association.

Section 2. Flags and Symbols

All permanent, standing flagpoles shall be subject to location and height limitations and to written approval by the ACC.

Section 3. Animals

No animals of any kind shall be raised, bred, or kept, except dogs, cats, birds, reptiles, and other reasonable household pets, provided that the requirements of the Santa Fe County zoning ordinances and regulations are met and that they are not kept, bred, or maintained for any commercial purpose.

Further, no animals may be kept or maintained on any Lot in any manner or number that constitutes a nuisance or is offensive to the neighboring Lots, whether by reason of noise, habits, odors, or otherwise. The Board shall have the right to order the removal of any animals that are kept in violation of this Declaration. Enclosures for animals shall be constructed in accordance with design standards and ACC approval requirements.

Livestock or poultry, of any kind or nature, including but not limited to bovines, equines, pigs, sheep, goats, llamas, alpacas, chickens, ducks, turkeys or geese, are prohibited.

Section 4. Refuse

No garbage; clippings from trees, shrubs, or lawns; ashes; or other refuse may be thrown, dumped, or allowed to accumulate on any portion of the Subdivision, including but not limited to Open Space, arroyos or drainage Easements, and behind perimeter fences other than that which is contained in compost piles on an Owner's Lot.

Section 5. Nuisances

The following restrictions and prohibitions shall apply:

- a) No noxious or offensive activity or use contrary to the federal and state laws or the ordinances, rules, or regulations of the County of Santa Fe, or any governmental authority having jurisdiction shall be carried out upon any Lot; nor shall any activity or use be carried out upon any Lot that is or may become an annoyance or nuisance to the Subdivision.
- b) No Lot shall be used for storing any substance, item, or article, including but not limited to a junk car (an inoperable motor vehicle or one in disrepair), that may cause such Lot to appear in an unclean or untidy condition or that is visually offensive, obnoxious, toxic, dangerous, or unhealthful; and no substance, item, or article may be kept upon any portion of the Subdivision that may emit foul or obnoxious odors, or that may cause any noise that may disturb the peace, quiet, comfort, or serenity of any Owner or Occupant of the Subdivision.

Periodic repair or maintenance activities on Property, Structures, or roads within the Subdivision that conform to accepted standards and allowable practices within the county shall not be deemed to constitute a violation of these restrictions and prohibitions by reason of noise, dust, or fumes normally associated with these activities.

- c) No devices, including but not limited to motor-driven vehicles, emitting unreasonably loud noise levels shall be operated within the Subdivision.

Section 6. Motor-Driven Vehicles

No unlicensed or uninsured motor-driven vehicles of any kind shall be driven on or permitted off dedicated roads within the Subdivision.

Only utility company, county maintenance, and emergency vehicles or equipment are permitted on trail and Open Space systems established by Easement or Common Area dedication within the Subdivision.

Section 7. Stored Items

No wood piles (with the exception of fire logs less than two (2) cords in size) or storage piles of residential-use or landscaping materials shall be maintained on any portion of the Subdivision,

except within Structures, garages, storage Structures, or screened areas within the Building Envelope.

Section 8. Storage Tanks

No elevated tanks of any kind shall be erected, placed, or permitted within the Subdivision. Any tanks used in connection with heating and/or operation of a Dwelling Unit or Structure, including tanks for the storage of liquefied petroleum gas, must be buried or placed behind walls or fences to conceal them from view from other Lots and roads and must meet Santa Fe County and/or state design standards, ordinances, and regulations.

Nothing herein shall be deemed to prohibit the use of rain barrels, stock tanks, and cisterns for collecting and storing rainwater, provided, however, that the cistern water collection system complies, as may be required, with Santa Fe County ordinances and regulations and that the location of such system is approved by the ACC.

Section 9. Recreational Vehicles

Outdoor storage of recreational vehicles and equipment, including mobile homes, campers, trailers, boats, trucks over 1-ton, or similar vehicles or equipment, shall be allowed only within the Building Envelope screened from the view of other Lots and the road.

Section 10. Swimming Pools and Tennis or Sport Courts

No unenclosed swimming pools or tennis or hard-surfaced sport courts shall be permitted on any Lot. An enclosed recreational swimming or training pool facility, subject to approval by the ACC, may be directly attached to or architecturally allied with the Dwelling Unit and must be constructed in accordance with local and state ordinances and regulations. Water required for filling and maintaining the pool shall be brought in from sources outside the Subdivision and the Eldorado Area Water and Sanitation District.

Section 11. Towers and Wind-Driven Machinery

No exterior tower, Structure, or radio, television, or any other antenna, including satellite dishes larger than one (1) meter (or 39.37 inches) in diameter, shall be installed or maintained on any Lot without specific approval of the ACC. Where permitted, they shall be no higher than three (3) feet above the adjacent parapet or highest roof line of the Dwelling Structure and treated with a non-reflective material or paint and/or otherwise screened from the view from other Lots.

No windmills or wind-driven machinery, subject to use or location-related changes or additions to Santa Fe County ordinances and regulations and/or New Mexico statutes, shall be permitted within the Subdivision.

Section 12. Mining and Drilling

Subject to the subsurface rights limitations of land titles within the Subdivision and the ordinances and regulations of Santa Fe County, no Lot shall be used for the purpose of mining,

quarrying, drilling, boring or exploring for, or removing oil, gas, or other hydrocarbons, minerals, rocks, stones, gravel, or earth; nor shall any equipment or materials, including derricks, storage tanks, pipelines, or other Structures, be erected, maintained, or permitted on any Lot.

Section 13. Hunting and Firearms

No hunting shall be permitted within the Subdivision; and no discharge of firearms of any type shall be permitted within the Subdivision.

Section 14. Outdoor Burning

Outside burning of trash, leaves, debris, or other materials is strictly prohibited. Owners may, however, use outdoor kiva and other fireplaces, chimineas, and portable fire pits for burning logs and other materials specifically intended to be burned in such fireplaces. Such fireplaces shall be used in compliance with all county and state ordinances and regulations.

Section 15. Discharge of Explosives or Fireworks.

No explosive material or commercial quantities of potentially explosive fuels or chemicals, except liquefied petroleum gas contained in storage tanks that meet Santa Fe County and/or state design standards, ordinances, and regulations, shall be stored or discharged on any Lot.

The use of firecrackers and other fireworks within the Subdivision is strictly prohibited.