

**CONSOLIDATED DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS
FOR BOSQUE ENCANTADO DE C' de BACA SUBDIVISION
(Consolidated as of 2006)**

THIS DECLARATION of Covenants, Conditions and Restrictions for BOSQUE ENCANTADO DE C' de BACA SUBDIVISION is made this 24th day of November 2006, by Bosque Encantado de C' de Baca Homeowners' Association, Inc., a New Mexico non-profit corporation.

WITNESSETH:

RECITALS:

(i) Bosque Encantado de C' de Baca Homeowners' Association, Inc. ("The Association") is an association of owners of certain real estate situated in the Town of Bernalillo, Sandoval County, New Mexico (herein "the Property"), more particularly described as Section 31, T 13 N, R 4 E, and Section 36, T 13 N, R 3 E, N.M.P.M., containing Lots 1 through 104 as shown in those certain plats

- *"Subdivision Plat of Bosque Encantado de C' de Baca Subdivision, Phase I", Town of Bernalillo, Sandoval County, New Mexico*, filed of record in the real estate records of Sandoval County, New Mexico in Volume 401, Folio 53915-53941, on August 6, 1998,
- *"Subdivision Plat of Bosque Encantado de C' de Baca Subdivision, Phase II", Town of Bernalillo, Sandoval County, New Mexico*, filed of record in the real estate records of Sandoval County, New Mexico in Volume 3, Folio 1836-B, on March 4, 1999),
- *"Subdivision Plat of Bosque Encantado de C' de Baca Subdivision, Phase III", Town of Bernalillo, Sandoval County, New Mexico*, filed of record in the real estate records of Sandoval County, New Mexico in Volume 3, Folio 1940-B, on February 15, 2000, and
- *"Subdivision Plat of Bosque Encantado de C' de Baca Subdivision, Phase IV", Town of Bernalillo, Sandoval County, New Mexico*, filed of record in the real estate records of Sandoval County, New Mexico on March 14, 2002, in Volume 3, Folio 2155-A.

(ii) According to the above-referenced plats and subsequent replats, pursuant to which the Property in Phase I has been subdivided into Twenty Nine (29), in Phase II, Thirty-one (31), in Phase III, Twenty-four (24), and in Phase IV Twenty (20) individually platted and numbered lots with private streets and easements (herein "the Subdivision"), as more particularly shown on the Subdivision Plats. The list of lots in each Phase is shown in Annex I to this document. The term "Subdivision Plat" also includes any amendments or changes made by any Supplemental Plat that the Association or a Lot Owner might elect to file as permitted pursuant to Article VII hereof.

(iii) Several easements and licenses are appurtenant to the Property, all as more fully described and set forth in the Subdivision Plats and replats.

(iv) The Association intends by this Declaration to impose upon the Property and the Subdivision mutually beneficial restrictions under a general plan of development and improvement for the benefit of all owners of residential lots within the Subdivision. The Association desires to establish a method for the administration, maintenance, preservation, use and enjoyment of the Property and the Subdivision.

NOW, THEREFORE, The Association hereby declares that the Property as described herein, together with the easements and licenses, the Subdivision and all Lots contained therein, shall be held, sold, and conveyed (whether or not any deed or other conveyance shall make reference hereto), subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of, and which shall run with the Property and each of the Lots, and which shall be binding on all parties having any right, title, mortgage, lien, claim or other interest therein, or any part thereof, and their heirs, successors, successors-in-title, grantees, mortgagees, tenants, lessees, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I: Definitions

1. Definitions. For purposes of this Declaration, and in addition to the definitions set forth in the Recitals hereof, the following words and phrases have the meanings defined below:

"Easements and Licenses" means, collectively, the easements and licenses as described and set forth in the Subdivision Plat, and amendments thereto.

"Architectural Control Committee" (ACC) means the committee of individuals responsible for architectural and landscaping review as particularly defined in Article VIII hereof, and otherwise within this Declaration.

"Association" means the *Bosque Encantado Homeowners Association, Inc.*, a New Mexico non-profit corporation, whose members shall be the owners of the Lots.

"Board" means the Board of Directors of the Association.

"Building Envelope" means that portion of a Lot within which all improvements must be built. The Building Envelope shall be identified to, submitted to, and approved by, the ACC and shall comply with the setback restrictions set forth in Article VIII below.

"Builders" mean such persons, including licensed general contractors, who engage in construction of single-family residences and /or related improvements.

"By-Laws" mean the By-Laws of the Association currently in force and amended or hereafter amended by the Board.

"Common Areas" mean such real estate, including improvements now or hereafter constructed thereon and all easements and licenses appurtenant thereto, as the Association may now or hereafter own or as the Association may be given authority to maintain. But, without limitation, the Common Areas include: (i) all portions of the Property, except for the individually platted and numbered Lots shown and designated on the Subdivision Plat; (ii) all private streets, paths and easements shown on the Subdivision Plat; (iii) the easements and licenses which are to be or have been transferred and conveyed to the Association upon completion of construction of all roads, culverts or bridges, antennas, utility lines, pipes or facilities necessary to provide access and utility service to the Property; and (iv) the access road improvements as more particularly defined in Article IX hereof.

"Common Expenses" mean and include all costs and expenses incurred by or on behalf of the Association for the benefit of the Common Areas and Facilities or the Lot Owners, including, without limitation: (i) all costs to maintain, repair, provide service to the water distribution system and sewer collection system, maintain the private roads and paths, common walls, gates, gatehouse, and streetlights and restore the Common Areas and Facilities (including the establishment and funding of the Replacement Reserve and such other reserves as the Board reasonably deems prudent); (ii) the payment of insurance premiums on such comprehensive liability, casualty and other insurance as the Board elects to procure and maintain; (iii) the cost of any utility services supplied to the Common Areas and Facilities; (iv) the payment of ad valorem taxes, real estate taxes, special assessments and personal property taxes as to any Common Areas and Facilities owned by the Association; (v) the payment of such employees or independent contractors, including maintenance and landscaping providers, management personnel, bookkeepers, accountants, attorneys and others who supply or provide services to the Association; and (vi) all other legal and authorized costs and expenses of every nature paid or incurred in connection with the operation and management of the Association and the Common Areas and Facilities.

"Common Facilities" mean all improvements and fixtures now or hereafter purchased or owned by the Association and attached or affixed to any Common Areas and any personal property now or hereafter owned by the Association including but not limited to the water distribution system, sewage collection system, common walls, antennas, gates, the gatehouse, and streetlights.

"Declaration" means this Declaration. This Document may also be called herein "CC&Rs".

"Default Interest Rate" means the rate of interest which will begin to accrue upon the failure of any Lot Owner to pay any Regular Assessment, Individual Assessment or other payment of any nature required to be paid to the Association pursuant to this Declaration or the By-Laws. Subject to any statutory limitations on interest rates now or hereafter enacted, the Default Interest Rate shall be fifteen percent (15%) per annum, unless changed by the Board of Directors.

"Living Area" means such portions of a residential dwelling as are heated, insulated and totally enclosed with finished walls, ceilings and floor coverings. Living areas specifically exclude garages, basements, and shops (whether heated or not), carports, porches, and/or patios.

"Lot(s)" mean, individually, each and, collectively, all of the platted and numbered Lots shown and designated on the Subdivision Plat, as modified by any summary replat subsequently filed by a Lot Owner combining two (2) or more Lots as permitted by Article VII hereof.

"Lot Owner" means any person or entity that shall now or hereafter own record title to any Lot, but excluding any party holding an interest merely as security for a debt or obligation. If a Lot is sold under a recorded real estate contract, the purchaser (rather than the fee owner) will be considered the Lot Owner; except however, the contract seller will not thereby be relieved of any obligation as result of contract sale.

"Member" means the record Lot Owner, each of whom shall be a member of the Association by reason of such ownership.

"Mobile Home" means any moveable or portable housing structure substantially manufactured or prefabricated off-site, including without limitation, all such structures as are constructed to be towed on their own chassis and all such structures as are designed to be installed with or without a permanent foundation or a permanent structure, regardless of whether such a structure is, in fact, attached to a permanent foundation.

"Mortgage" means a real estate mortgage, deed of trust or other instrument creating a lien on any Lot to secure the payment of a debt and/or the performance of a monetary or related obligation.

"Mortgagee" means the mortgagee under or holder of a real estate mortgage, the beneficiary of a deed of trust or such other person to whom a debt or obligation secured by a mortgage is due.

"Property" means the real estate more particularly described in the Recitals of this Declaration.

"Prorata Share of" means the fractional share of the Common Expenses which each Lot Owner bears and is obligated to pay to the Association, which such fractional share shall be determined on a per capita basis by dividing the Common Expenses by the total number of platted Lots then within the Subdivision as shown on the Subdivision Plats, as amended, subject to the terms of Article VII.

"Regular Assessment" means the payments required from each Lot Owner to pay the Common Expenses in an amount to be determined by the Board in its annual budget for each fiscal year.

"Rules" mean such Rules and Regulations and policies and procedures as the Board may herein adopt or hereafter amend regulating the use of the Common Areas and Facilities or the conduct of Members and Tenants within the Subdivision.

"Structures" mean and include any residence, garage, carport arbor, pergola, deck, storage or other shed, or other out-building of any nature, as well as roads, driveways, parking areas, retaining walls, privacy walls or fences, exterior lighting, stairs, decks, windbreaks, poles, antennas, signs, utility or communication installations (above or underground), clotheslines, awnings, mailboxes or any other improvement, structure or excavation of any kind.

"The Subdivision" means *Bosque Encantado de C' de Baca Subdivision*, a Subdivision situated in the Town of Bernalillo, Sandoval County, New Mexico, as shown and designated on the Subdivision Plats as amended from time to time.

"Tenant" means any person who occupies a Lot under any type of Tenancy.

"Town" means the Town of Bernalillo, Sandoval County, New Mexico.

ARTICLE II: Duration

2.1 Duration. This Declaration, and the covenants, conditions and restrictions contained herein shall continue in full force and effect, and shall constitute covenants running with the land, until January 1, 2050, and shall be deemed automatically renewed annually thereafter, unless and until a majority of the Members of the Association shall, subsequent to January 1, 2050, acting at a duly noticed and convened meeting of Members at which a quorum is present in accordance with the then By-Laws of the Association and then applicable law, vote to terminate this Declaration, which termination shall take effect upon recordation of an instrument signed and acknowledged by the President and Secretary of the Association, certifying that the action required by the Members to terminate this Declaration has occurred.

ARTICLE III: Builders' Rights

3.1 Builder Rights. Until all original construction of improvements on the Lots is completed the Builders shall have the following rights notwithstanding any other provisions of this Declaration to the contrary:

(a) The right to maintain within any Lot owned by any Builder or Lot Owner a temporary construction office, temporary structures or trailers incident to construction and such other facilities as the Builder deems necessary or desirable in connection with the construction of residences or other improvements constructed thereon.

(b) The right to store and secure construction materials upon or within any Lot owned by any Lot Owner or Builder.

(c) The right to place signs advertising the improvements thereon for sale upon or within the specific Lot offered for sale and owned by any Builder.

(d) A construction easement on, in, under, over or across the Common Areas for ingress and egress and for the purpose of construction of improvements, renovation, repair, rehabilitation or other activities related thereto (including, without limitation, streets, paths overhead or underground utility pipes, wires and other conduits to provide utility service to any Lot owned by a Builder or Lot Owner. Provided, however, that no Builder shall unreasonably interfere with the use and enjoyment by any adjacent Lot Owner of his Lot.

(e) Any Builder may delegate or assign any of the rights specified in subparagraphs (a) through (d) of this Section 3.1 to its agents, servants, employees, contractors, subcontractors and materialmen.

ARTICLE IV: Easements

4.1 Common Areas and Facilities. Each Member and his invitees shall have a non-exclusive easement in and the right to enjoy and use all Common Areas and Facilities subject to this Declaration in common with other Members and the Association, including without limitation the right of ingress and egress over the private streets of the Subdivision as shown on the Subdivision Plats, the right of vehicular access over the roadways created by the easements and licenses, and the right of ingress and egress by foot or non-motorized transportation over the walking and running paths, all as particularly depicted in the Subdivision Plats or in a subsequently recorded instrument, and the right of use of the water distribution system and the sewer collection system. Such ingress, egress and access rights shall exist immediately upon the recordation of this Declaration. The rights hereby granted are, however, subject to certain restrictions contained in this Declaration and the provisions now or hereafter contained in the Association's By-Laws and Rules relating to the Common Areas and Facilities, including without limitation, the following:

(a) The right of the Board to regulate all vehicular traffic on the private streets within the Common Areas and the Subdivision, including types of vehicles, speed, noise and other characteristics, to prohibit motorized vehicular traffic on paths and the right of the Board to delegate such vehicular traffic regulation to a private security patrol company employed for such purposes.

(b) The right of the Board to promulgate Rules regulating the number of invitees and to otherwise regulate the use of the Common Areas.

4.2 Utility Easements and Rights-of-Way. In addition to all easements, paths, and private streets shown on the Subdivision Plats, the Association shall have the right and power, and are hereby granted a power of attorney by each Member and Lot Owner, to dedicate and create additional easements within the Common Areas and to grant and convey to third parties easements

for the installation, maintenance and repair of utilities of every nature in, on, over, under and across the Common Areas. As used in this provision, "utilities" mean and include, without limitation, any services which the Association elects to make available to the Common Areas and Facilities or to the Lots on either a mandatory or voluntary basis, including electricity, gas, telephone, other communications systems, cable TV, security alarm systems, drainage easements, ponding areas, water and sewage. Each Lot Owner, by acceptance of a deed or other conveyance of his Lot, thereby consents to all provisions of this Section and shall be deemed to have granted the power of attorney herein provided.

4.3 Walking and Running Path Easement. All lot owners and the Association heretofore and hereby dedicate and grant for the benefit of all lot owners and the Association a perpetual easement to construct, maintain and use the walking and running path system located contiguous to the private roads, between certain lots, all as depicted on the Subdivision Plats and replats.

4.4 Reciprocal Drainage Easements. Intentionally omitted.

4.5 Construction Easements. Any Builders and their agents, representatives, contractors, subcontractors and materialmen are hereby granted an easement in, on, over, under and across the Common Areas to the extent reasonably necessary to complete all construction of the original improvements on the Lots.

4.6 Repair and Removal Easements. The Association is hereby granted an easement to enter upon any Lot as may be necessary to build, install, maintain and repair the Common Facilities or any utility lines, pipes, cables, or conduits, which provide utility services of any nature to the Common Areas and Facilities or to the Lots on a mandatory or voluntary basis through master meters or otherwise. The Association is further granted an easement to enter upon any Lot for any of the following purposes: (i) to maintain and repair the exterior of any improvements constructed thereon as permitted by Article VII; (ii) to demolish and remove damaged Structures as permitted by Article VII; and (iii) to complete construction or to demolish and remove unfinished Structures as permitted Article VII.

4.7 Easements Run With Land. All easements and rights-of-way granted and described in this Article IV, easements and rights-of-way shown on the Subdivision Plats as amended, and all the other easements and agreements run with the land and are binding upon and inure to the benefit of the Association and all Lot Owners and their respective heirs, personal representatives, tenants, successors in interest and assigns.

ARTICLE V: Leasing and Rental of Lots

5.1 Lease Restrictions. The following conditions and requirements are imposed with respect to any use or occupancy by Tenants:

(a) There must be a written lease or rental agreement between the Lot Owner and the Tenant (herein "the Tenant Agreement") for a minimum initial term of at least six (6)

months; provided, however, that the Board may, by proper resolution, lower the minimum initial term requirement to not less than ninety (90) days on individual bases.

(b) All adult members of Tenant's immediate family who will occupy the residence on the Lot must sign the Tenant Agreement.

(c) Regardless of whether the Tenant Agreement imposes upon the Tenant the obligation to pay Regular and other assessments or to pay any other monetary obligations due the Association under this Declaration, the Lot Owner shall remain personally liable with respect to all such assessments and monetary obligations, as well as for any damages caused to the Association by the Tenant's breach of any provisions of this Declaration or the Association's By-Laws and Rules.

(d) The Tenant Agreement shall require that the Tenant and all persons required to sign the Tenant Agreement will comply with all provisions of this Declaration and the Association's By-Laws and Rules. A copy of these CC&Rs shall become part of the Tenant Agreement by reference.

(e) The Tenant Agreement must grant the Association a power-of-attorney from the Lot Owner pursuant to which the Association shall have the right, on behalf of the Lot Owner, to evict the Tenant or any other persons who occupy the Lot in accordance with applicable law for any breach of the provisions of this Declaration or the Association's By-Laws and Rules, including without limitation, any failure or refusal to pay any Regular Assessment or other monetary obligations due the Association.

(f) In the event that the Association finds it necessary to commence eviction proceedings against the Tenant or other occupants of the Lot, the Lot Owner covenants and agrees to reimburse the Association for all attorneys' fees, court costs and other expenses reasonably incurred by the Association in connection with such eviction proceedings, together with interest thereon at the Default Interest Rate.

(g) The Tenant Agreement must be executed by the proposed tenant and lot owner and submitted to and approved as to form and substance by the Association prior to occupancy of the Lot by the Tenant. The Association may adopt additional rules and regulations regarding the tenancy application process, but the Association shall not unreasonably withhold its approval provided that the requirements of this Section 5.1 are met. Any Tenant Agreement not approved by the Association shall be null and void and each Lot Owner by acceptance of a deed or other conveyance to his Lot shall be deemed to have granted the Association a power-of-attorney coupled with an interest to immediately commence eviction proceedings in accordance with applicable law and subparagraph (f) above against any Tenant or other persons who occupy the Lot under a Tenant Agreement not approved by the Association or in the absence of a written Tenant Agreement which meets all the requirements and conditions of this Section 5.1.

ARTICLE VI: Membership and Voting Rights

6.1 Membership. Each Lot Owner shall automatically be a Member of the Association. Membership in the Association is appurtenant to and follows ownership of each Lot. Ownership of a Lot is the sole qualification for Membership in the Association. Upon any sale or transfer of legal title to, or the beneficial ownership of, a Lot, howsoever caused or brought about, the transferor shall automatically cease to be a Member of the Association and the transferee shall automatically be and become a Member of the Association.

6.2 Voting Rights. Each Lot Owner shall be entitled to one (1) vote in the affairs and management for each Lot owned. If two (2) or more Lots are combined into one (1) Lot pursuant to filing of a Supplemental Plat pursuant to Article VII hereof, the combined Lot shall be entitled to the number of votes commensurate with the number of lots combined. If any Lot is owned by more than one person, the persons owning fractional interests aggregating more than fifty percent (50%) of the total ownership may file a written designation with the Association specifying which one of them is authorized to cast the vote for that Lot. In the absence of the filing of such a written designation and upon the failure of all persons owning fractional interests in the Lot to agree as to how to cast the vote for that Lot, no owner of such a fractional interest shall be permitted to cast the vote for such Lot.

6.3 Notice, Meetings, and Voting Rules. The requirements as to notice, quorums and the conduct of meetings of the Members and Board of the Association are, or will be, set forth in the Association's By-Laws.

ARTICLE VII: Permitted and Prohibited Uses and Restrictions

7.1 Residential Use. The use of the Lots shall be restricted to single family residences or dwellings. Subject to the requirements of Article V of this Declaration, the entire single family dwelling may be leased or rented, but no single family dwelling or Lot may be occupied by more than one (1) family or used as a boarding house or divided into apartments for rental purposes. Except to the extent that Lots may be used for a home business subject to the restrictions of Section 7.2 below, Lots may not be used for any business, commercial or agricultural purposes.

7.2 Home Business. Subject to any applicable zoning ordinances, single-family dwellings on the Lots may include a home business subject to the following restrictions:

(a) No business shall be conducted in a residence without approval from the Board and without complying with such other rules and regulations that may be hereinafter adopted. The Board shall have the authority to enact reasonable Rules defining and enforcing restrictions on home businesses. In the event of any complaint or dispute, the Board's decision, including any decision to prohibit entirely the home business on any particular Lot for violations of the restrictions and any such Rules as the Board may hereafter adopt, shall be final and binding.

(b) Use of the residence for a home business must be incidental and secondary to use of the residence as a single-family dwelling and no business shall be permitted that is inappropriate for a residential neighborhood.

(c) No more than twenty-five percent (25%) of the square footage of the Living Area of the residence may be used for the home business. The ACC shall have reasonable discretion to approve or reject any proposed home office that is detached from the single-family residence.

(d) No sign advertising the home business may be placed or installed on the exterior of the residence or anywhere on the Lot and any business activities must be conducted entirely indoors.

(e) No inventory or stock-in-trade may be manufactured, displayed or sold outside any structure on the Lot.

(f) There must not be any external evidence of the home business, such as commercial vehicles, inordinate traffic, outside storage, noise, dust, odors or other nuisances emitted from the residence and/or the Lot.

7.3 Detached Structures. Subject to any applicable zoning ordinances, in addition to a single-family residence, up to two detached structures containing living areas may be constructed on each Lot, only as a guest house, caretaker's quarters, studio, shop or similar residential use, provided that the following restrictions and requirements are met:

(a) The ACC must approve the location of each such detached structure and may impose reasonable minimum and maximum square footage limitations on such structures;

(b) The Lot Owner may not receive or charge rent for the occupancy or use of any detached structure;

(c) The occupant of any caretaker's quarters must perform material and substantial on-site services for the Lot Owner or Tenant of the Lot;

(d) This limitation on detached structures shall not prohibit the construction of other structures on a lot which do not contain living areas, such as, arbors, pergolas, gazebos, or similar structures provided that such structures are otherwise approved and conforming pursuant to this Declaration.

7.4 Mobile Homes. Except for temporary trailers allowed for the Builders pursuant to, Article III of this Declaration, no Mobile Home shall ever be constructed, placed or installed on any of the Lots.

7.5 Signs. No signs or other advertising shall be placed, installed or erected on any Lot except as follows: (a) the signs of Builders and subcontractors as permitted under Article III; (b) one "for rent" or "for sale" sign of reasonable and customary size may be placed on the Lot by the Lot Owner or his real estate broker or agent; (c) during times when the Lot Owner or his real estate broker or agent is physically present, customary "open house" signs and up to four (4) pennants may be used; (d) during the construction on the Lot, Builder may authorize lenders, architects, construction companies, subcontractors or others contributing services incident to such construction to erect signs to be removed immediately upon completion of such construction. All permitted signs must be professionally lettered. "For Sale" signs may not state the price nor contain words or text tending to depreciate property values, such as "sacrifice", "special price", "price reduced", "your terms", "no reasonable offer refused" or "make offer". "For Sale" signs may attach a rider stating "sold" for a period not to exceed thirty (30) days after the sale is closed, when the sign is required to be removed. Consistent with the specific provisions of this Section 7.5, the Board may adopt further Rules regulating signs. The Association may summarily, and without prior notice, remove and destroy any sign, which violates these restrictions.

7.6 Animals. No exotic animals, reptiles, rodents, birds, fish, pigs, horses, livestock or poultry of any kind shall be raised, kept or bred on or within any of the Lots, except as follows: (a) each Lot Owner or other occupant may keep dogs, cats, or other domestic pets which are restrained within the Lot, provided that such pets are not kept, raised or bred for commercial purposes; and (b) fish may be kept in an aquarium or backyard ponding area. The maximum number of allowable pets shall not exceed the Town of Bernalillo Ordinance relating thereto. No pet shall be allowed outside the Lot, or any fenced or walled portion thereof, unless on a leash (according to Town of Bernalillo Ordinance 100-5-C (5)) and accompanied by a person, provided, however, that properly operating electric underground pet fencing shall be allowed if placed five (5) feet or more within the perimeter of the Lot. Each Lot Owner who keeps a pet must have the pet vaccinated for rabies, and have the pet licensed (Town of Bernalillo Ordinances 100-5-A and 100-11-1) and immediately clean and remove any feces deposited within the Subdivision. Each Lot Owner must promptly remedy or remove any pet that causes undue noise or disturbance so as to constitute a nuisance to other Lot Owners.

7.7 Recreational Facilities. Tennis courts or other sport recreational surfaces and equipment, including basketball courts, must be screened from view of the adjoining street with landscaping. Basketball goals shall be positioned to maximize the privacy of adjacent Lots, as well as being colored to blend in with its location. The basketball hoop and backboard must come down when no longer utilized. Provided, however, that the ACC shall have the authority to grant a variance from these requirements should it conclude that the configuration, location or topography of the lot justifies the variance.

7.8 Illegal Activities. No illegal, noxious, or offensive activity shall be carried on within the Subdivision or on any Lot. No light shall be emitted from any Lot which is excessively bright or which causes sufficient glare that it impacts adjoining Lots or Common Areas. All exterior lighting shall be limited to security and landscape design, with bulbs of appropriate wattage for their intended application, and must be so located as to not be directed toward surrounding residences or

adjoining streets. No odor shall be emitted from any Lot that is noxious or offensive to others. No sound shall be emitted on or from any Lot that is unreasonably loud or annoying. Nothing shall be done or placed on any Lot that may be or become a nuisance or cause unreasonable embarrassment, disturbance or annoyance to any Lot Owners in the enjoyment of their dwellings.

7.9 Further Subdivision or Consolidation. None of the Lots shall be further subdivided into smaller parcels, but any adjoining lots may be combined into a single lot, subject to compliance with all applicable Subdivision ordinances requiring the filing of a summary replat, a copy of which must be provided to the Association. Any combined Lot created pursuant to such a summary replat shall pay assessments and have voting power as specified in Article VI equal to the number of lots combined.

7.10 Automotive Repairs. No vehicles of any type, including junk or inoperable vehicles, shall be permanently or semi-permanently parked on or adjacent to any Lot or anywhere within the Subdivision for purposes of repair, reconstruction or storage unless garaged. A junk or inoperable vehicle shall be defined as any vehicle that has not been driven under its own power for a period of thirty (30) consecutive days. When any inoperable vehicle remains so stored or parked, the Association shall have the right to remove the vehicle, after providing written notice of the violation to the vehicle or property owner and after at least forty-eight (48) hours have elapsed. Any vehicle violating these restrictions may be towed by the Association, at owner's expense.

7.11 Garbage, Trash and Receptacles. No garbage, clippings from trees, shrubs or lawns, trash, ashes or other refuse may be thrown, dumped, or allowed to accumulate on any Lot or within the Subdivision. There shall be no burning of refuse outdoors. All garbage and trash shall be placed in closed receptacles for mandatory trash pick up by governmental or private refuse collectors. Such receptacles shall be screened or so placed so as not to be visible from the street except during scheduled days of refuse collection. During construction of a residence or other improvement, each Lot Owner shall be required to maintain his Lot in a clean condition, providing commercial trash containers and collection services for construction debris and other refuse and to provide for the disposal of the contents thereof, as well as the disposal of all other construction debris. Trash containers must be secured in such a manner that the contents cannot blow from the container onto adjacent lots or Association property. No construction debris shall be permitted to remain upon any Lot.

7.12 Vehicle Limitations, Garages. The maximum number of vehicles that may be parked by residents on each Lot (except for temporary parking by guests) is limited to the number of garage spaces, plus two (2). By way of example if the Lot has a three- (3) car garage, the maximum number of resident vehicles is limited to five (5). Resident vehicles shall only be parked in the garage and the additional resident vehicles, if any, must be parked in the driveway. Resident vehicles may not be parked on the private streets of the Subdivision. All garages shall generally remain closed except when vehicles are entering or exiting, or for other customary purposes. To contribute to the peace and quiet of the neighborhood, no vehicles shall be operated in such a manner that they emit excessive noise, either from engine noise, or from vehicular audio system. Per NMSA 66-3-1003, No unlicensed or non-street-legal motor vehicles shall be operated on the

streets or elsewhere within the subdivision. Per NMSA 66-3-1103B, Neighborhood Electric cars are permitted, provided they meet all the requirements set forth in the referenced regulation.

7.13 Trucks and Recreational Vehicles. Except for delivery and moving vans or construction trucks, trucks in excess of one (1) ton carrying capacity may not be driven or parked, temporarily or otherwise, within the Subdivision or on or adjacent to any lot. Recreational vehicles, boats, motor homes, motorcycles, campers, trailers and similar vehicles must be parked in a garage or in an appropriate structure that precludes visibility of such vehicle(s) from the street or neighbors. Recreational vehicles may be discretely parked on any lot for provisioning for up to three (3) days.

7.14 Radio Devices. Ham radio equipment, high frequency radio equipment, and such electronic equipment or devices that interfere with cable TV, telephone or other communication systems are prohibited.

7.15 Outside Drying and Laundering. There shall be no exterior drying or laundering of clothes on patios, porches or other areas, visible from any street or adjoining lot.

7.16 Sale of Personal Property. No Lot shall be used for the purpose of promoting or engaging in the sale of personal property, such as cars, boats, trailers or campers or other personal property by placing such items in the driveway, front yard or on the adjoining street bearing a "For Sale" sign.

7.17 Drilling or Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind, shall be permitted upon any Lot or the Common Areas nor shall oil wells, tanks, tunnels or mineral excavations or shafts be permitted upon the surface of any Lot or the Common Areas. No derrick or other structure designed for use in boring for oil or natural gas or water (except as may be determined by the Board to be desirable for the benefit of all the Lot Owners) shall be erected, maintained or permitted upon any Lot or the Common Areas.

7.18 Landscaping Maintenance. Each Lot Owner shall continually remove weeds and trash and continually properly water, mow, prune and otherwise maintain all landscaping as originally approved so as to maintain an aesthetically pleasing appearance. Each owner of a vacant Lot shall remove all weeds and litter by April 30, and again by September 30 of each year. If any Lot Owner shall fail or refuse, within fifteen (15) days after written notice is mailed to his last known address, to properly maintain landscaping and/or weed control, whether or not a residence has been constructed, the Association shall have the option (but not the obligation) to enter upon such Lot to perform such landscape maintenance, and any expenses or costs so incurred (including reasonable legal fees and court costs), together with interest at the Default Interest Rate on all sums advanced or paid, shall constitute indebtedness immediately due and payable from such Lot Owner and such indebtedness shall be secured by a lien against the Lot which may be judicially foreclosed in the same manner as a mortgage under New Mexico law.

7.19 Repair or Removal After Destruction. If any Structure on any Lot is destroyed, in whole or in part, by fire or other casualty and, should the Lot Owner elect to rebuild and repair such

damage, then the Lot Owner shall immediately remove all debris and must commence reconstruction and repairs within one-hundred eighty (180) days after the occurrence of such destruction, and shall work diligently to complete such reconstruction and repairs within a reasonable time. If the Lot Owner elects not to rebuild and repair such destruction, then the Lot Owner must immediately remove all debris and must within ninety (90) days after occurrence of the damage, and commence the demolition and removal of the remaining portion of the damaged Structure (including foundation). If the Lot Owner fails or refuses to commence the repair and rebuilding or demolition and removal as required by this Section 7.19, within fifteen (15) days after mailing written notice to his last known address, then the Association shall have the option (but not the obligation) to enter upon the Lot and to demolish and remove as required hereby and, any expenses or costs so incurred (including reasonable legal fees and court costs), and together with interest at the Default Interest Rate on all sums advanced or paid, shall constitute indebtedness immediately due from such Lot Owner, which indebtedness shall be secured by a lien against the Lot subject to foreclosure in the same manner as a mortgage under New Mexico law.

7.20 Enforcement of Restrictions. The Association or any Lot Owner shall be entitled to judicial enforcement of the use restrictions contained in this Article VII by filing a lawsuit seeking monetary damages, declaratory relief, equitable relief (including injunctive relief), or all such relief. All remedies and rights set forth in this Declaration and the By-Laws are independent, concurrent and cumulative. The failure of any person to enforce any right upon any breach of the use restrictions contained in this Article VII, however long continued, shall not be deemed a waiver of the right to do so thereafter as to the same or any other breach. Any person entitled to file a lawsuit or other legal proceeding pursuant to any provision of this Declaration shall be entitled to recover reasonable attorneys' fees, court costs and other expenses incurred in connection with any such legal proceedings if the person filing same prevails.

ARTICLE VIII: Architectural Control

8.1 Architectural Control Committee. An Architectural Control Committee (ACC) is hereby established to consist of (3) persons, designated by the Board of Directors at the Annual meeting, to serve at the pleasure of the Board. The Board shall have authority to appoint, remove, replace, fill vacancies, discharge and reappoint the members of the ACC. The Board shall appoint the persons to serve on the ACC for such terms (not less than one (1) year in duration), as the Board deems appropriate. The Members of the ACC shall serve without compensation.

8.2 Architectural Control. No Structure or landscaping shall be constructed, installed, placed, remodeled, altered or added to on any Lot, nor shall the roof or the exterior surface of any existing Structure on any Lot be replaced, painted, retextured or otherwise changed, except as specified in Section 8.7 below, without prior approval of the ACC as set forth below.

8.3 Submission of Plans for Prior Approval. Before any person shall commence on any Lot the construction, installation, placement, remodeling, addition to, or alteration of any Structure or landscaping of whatever nature, the following must be submitted to the ACC for consideration and approval.

(a) Two complete sets of preliminary or tentative plans and specifications that shall clearly depict and define the nature of the work or installation proposed and the location thereof on the lot, compliance with all setback requirements specified hereinafter, the foundation plan (including the proposed pad height and foundation height), sufficient description of motif, style, materials, colors, textures, etc. of the residence, together with a landscaping plan. The architect or planner shall certify on the plans that he/she has read and understood the architectural limitations of the then-current CC&Rs. All structures and landscaping shall be in harmony with their surroundings. The size, form, color, materials, and other visual qualities shall minimally impact open space, blend with the natural landscape, not dominate its surroundings, and shall not significantly obstruct the scenic views from nearby residences or from the subdivision roads. The ACC shall evaluate whether the proposed construction, based on the submitted information, will meet the definition of harmony, and be compatible with surrounding homes. All decisions of the ACC shall in this regard be final and binding.

(b) After approval of the proposed plans, including therein any requirements made by the ACC in the due and proper exercise of its discretion and powers, two complete sets of the final plans and specifications shall be submitted to the ACC. One set shall be delivered to the Town of Bernalillo Zoning Enforcement Division for their use in enforcing compliance with the CC&Rs. The second set shall be retained by the ACC. After approval, a letter so stating approval shall be sent to the Lot Owner or his representative. Such final plans shall include a plot plan showing the location on the Lot of all Structures and landscaping proposed to be constructed and/or installed, planted, placed or maintained on the Lot and shall further include elevations, together with the proposed color scheme and textures for roofs and exteriors thereof, indicating the materials for same, floor plans, electrical and mechanical plans and landscaping plans. Elevations shall include walls and gates and shall be dimensioned from finished grade and street levels.

8.4 Fees. The ACC shall assess a fee of \$150.00 plus applicable gross receipts or equivalent tax, reasonable and consistent with prior practice, which may be paid to a professional consultant for the review of plans and specification and consultation with the ACC. The ACC shall assess a deposit of \$2000.00 due upon submission of final plans per Section 8.3(b) above to secure performance of the Lot Owner and Builder during construction, which may be refunded in whole or in part based on compliance with the then applicable Rules and Regulations supplied to the Lot Owner as part of the approval process. The ACC shall advise the Lot Owner as to the charges that are made against the deposit for any noncompliance, or for other violation of the Association's rules and regulations. If a builder is constructing multiple houses simultaneously, a \$2000.00 deposit is required for each lot.

8.5 Architectural Control Procedure. Within thirty (30) days after receipt of the preliminary plans required by Section 8.3 above, the ACC shall issue its written response, accepting, accepting with conditions or rejecting such preliminary plans. If the preliminary plans are accepted, either with or without conditions, then upon subsequent submission of the final plans required by Section 8.3 above, the Lot Owner submitting the final plans shall certify in writing that the final plans are consistent with the preliminary plans approved by the ACC, including any conditions or revisions required, or, alternatively, such written certification shall identify all material

changes in the final plans which were not previously included in the preliminary plans. If there are material changes, the ACC shall have an additional thirty (30) days after receipt of the final plans to issue its written response; accepting, accepting with conditions or rejecting the material changes in the final plans. No construction, installation, remodeling, addition to, alteration or other change to any Structure, exterior surface, roof or landscaping shall be commenced until the ACC has issued its written approval of the preliminary plans, received the final plans and, if there are material changes, issued its approval of the material changes all in accordance with the foregoing procedure. If the ACC fails to issue its written decision within thirty (30) days after receipt of preliminary plans, or within thirty (30) days after receipt of final plans with material changes, then the preliminary plans or material changes, as applicable, shall be deemed approved. Provided, however, regardless of whether ACC approval is obtained or waived, no Structure shall be built or located in such manner as to violate any of the specific restrictions contained in this Declaration, including specifically, without limitation, any of the restrictions contained in Articles VII or VIII hereof. The ACC, or its designated representatives, shall have the right to enter any property under construction to ascertain compliance with these CC&Rs, or any design-approval conditions.

8.6 Architectural Design Standards. The ACC, in exercising its discretion to approve, with or without conditions, or to reject submitted plans, shall enforce the applicable restrictions contained in Article VII of this Declaration and shall further consider and determine whether the design of any proposed Structure or landscaping and the color scheme and finish of any exterior surfaces and roofs are compatible and harmonious with surrounding homes within the Subdivision. As design criteria, the following standards will be observed and applied by the ACC:

(a) Only one single-family residence having a cumulative minimum of 2200 square feet of heated ground floor Living Area, exclusive of carports, garages (whether heated or not), basements, porches and patios may be constructed on a Lot. All structures built on any Lot shall be constructed upon a properly compacted building pad that complies with the approved grading and drainage plan for the Subdivision. All Structures built on any Lot shall be of new construction and no buildings or other Structures shall be moved from other locations to any Lot. No Structure shall exceed twenty-seven feet (27') in height from the highest point of the approved building pad. No Structure shall exceed two (2) stories above ground. No more than thirty-three percent (33%) of the total Living Area of any dwelling shall be located on the second floor, and horizontal building masses shall be offset by a minimum of two feet (2').

Only for residences in Phase IV: Only one single-family residence having a cumulative minimum of 1800 square feet of heated ground floor Living Area, exclusive of carports, garages (whether heated or not), basements, porches and patios may be constructed on a Lot. The Building Envelope of the residence or dwelling shall not exceed eighty percent (80%) of the Net Lot area, where the Net Lot area for this determination shall be calculated by excluding setbacks. All structures built on any Lot shall be constructed upon a properly compacted building pad that complies with the approved grading and drainage plan for the Subdivision. No Structure located on any of the Lots shall exceed two (2) stories above the highest point of the approved building pad. No Structure located on Lots 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103 or 104 shall exceed one (1) story above the highest point of the approved building pad, nor shall any such Structure

exceed twenty feet (20') in height from the highest point of the approved building pad. Structures located on Lots 85, 86, 87, 88, 89, 90 and 91 may consist of two stories, and shall not exceed twenty-seven feet (27') in height from the highest point of the approved building pad. All Structures built on any Lot shall be of new construction and no buildings or other Structures shall be moved from other locations to any Lot. No more than sixty-seven percent (67%) of the heated ground-floor Living Area of any dwelling shall be located on the second floor. For example, if the heated ground floor Living Area is 2000 square feet, then the second story living area cannot exceed 1340 square feet.

(b) Each dwelling must include an attached or detached garage for not less than two (2) automobiles. All garages shall be equipped with automatic overhead garage door openers. Garages at residences in Phases I, II, and III shall be entered from the side or rear of the Lot; residences built on corner lots shall make every effort to locate the garage so that the garage entry faces neither street. Provided, however, that the ACC shall have the authority to grant a variance from this entry requirement should it conclude that the configuration, location or topography of the Lot justifies the variance. Such garages may not be converted to Living Area, unless an additional conforming car garage is built on the Lot with the prior approval of the ACC. No carports are permitted without prior ACC approval.

(c) No Structure, or any portion thereof (including porches, chimneys, steps, balconies, awnings, patio and courtyard walls and similar protrusions, but excluding driveways approved driveway entrance wing walls, or approved arbors, pergolas, gazebos, or similar structures shall be placed, constructed, installed or maintained within fifty feet (50') of the front property line of the Lot, within twenty feet (20') of any side property line of the Lot, or within thirty feet (30') of the rear property line of the Lot. However, with respect only to Lots 6, 7, 8, 9, 72, 73A, 74A, 75A, 76, 77 and 78 no portion of the Living Area of a residence or any garage shall be placed, constructed, installed or maintained within seventy-five (75) feet (at the time of commencement of construction) of any Lot line contiguous to the west bank of the Rio Grande. Provided, however, that the ACC shall have the authority to grant a variance from these setback requirements should it conclude that the configuration, location or topography of the Lot justifies the variance.

Only for residences in Phase IV: No Structure, or any portion thereof (including porches, chimneys, steps, balconies, awnings, patio and courtyard walls and similar protrusions, but excluding driveways, approved driveway entrance wing walls, rear perimeter walls, or approved arbors, pergolas, gazebos or similar structures), shall be placed, constructed, installed or maintained within twenty-five feet (25') of the front property line of the Lot (excepting Lots 95, 97, 98 and 102, for which the front setback shall be twenty feet (20')), within five feet (5') from any side property line of the Lot (driveways may be constructed within said side setbacks), or within fifteen feet (15') of the rear property line of the Lot. Provided, however, that the ACC shall have the authority to grant a variance from these setback requirements should it conclude that the configuration, size, location or topography of the Lot justifies the variance.

(d) Subject to any applicable zoning ordinances, in addition to a single family residence, up to two detached structures may be constructed on each lot, each to be used as a guest

house, caretaker's quarters, studio, shop or similar residential use, and each having a minimum ground floor area of 400 sq. ft. There shall be no detached buildings containing living areas located on Lots in Phase IV. Provided, however, that the ACC shall have the authority to grant a variance from these requirements regarding detached-structure height (or prohibition against these structures in Phase IV) should it conclude that the configuration, size, location or topography of the lot justifies the variance.

(e) Acceptable exterior materials and finishes include stucco, adobe and stone with or without wood or brick accents. Aluminum or wood siding and brick or brick veneer are not allowed. The principal acceptable color scheme for roofs, exterior surfaces, walkways, and driveways are either earth tones or muted colors. The colors of the roof and exterior of the Structure of which it is a part must blend or be aesthetically harmonious, as determined by the ACC.

(f) Roofs may either be pitched or flat with parapets. If pitched, acceptable roofing materials include tile and non-reflective metal. Pitched roofs shall have a minimum pitch of three inches in twelve inches (3"/12") and a maximum pitch of eight inches in twelve inches (8"/12"). Asphalt shingles are not allowed. If flat, acceptable roofing materials include tar and white or brown gravel, appropriate foam, or membrane of neutral color.

(g) All driveways on any Lot that are readily visible from the street shall be earth-tone colored concrete, brick, asphalt, gravel, chat, or cinder, and shall be of high quality and appropriately bordered and contained.

(h) Consistent with the open space concept of this subdivision, party or perimeter walls on the property lines of the Lots are prohibited. Excluding walls constructed along the perimeters of the Subdivision, there shall be no fences or walls constructed along the perimeter of any Lot, or otherwise outside of the setback requirements set forth in Section 8.5(b). However, Lots 32 through 37, 61 through 68, 70 and 71 along the south side of the Subdivision may construct walls along their side lot lines from the perimeter wall that do not extend beyond the front corners of the residential structures, and are no more than seventy-two (72) inches in height, as viewed from the outside of the wall at the final grade of the lot (excluding pad height). No walls shall be installed on any Lot unless the written approval of the ACC is first obtained as to location and type. The ACC will approve courtyard or rear patio walls attached to or fully or partially surrounding the single-family residence enclosing entry or yard areas. The ACC shall not approve walls in excess of 72" from the highest point of the approved building pad, or walls that are not appropriate due to location or aesthetic considerations. Each wall shall be of a type of material, color and character consistent or compatible with the materials, architectural design and style of the residence constructed, or to be constructed, on the Lot and to which it is to be attached. No temporary fencing shall be allowed, except that Builders may, for construction storage and security purposes only, install temporary fencing during construction to store materials and for security. Provided, however, that the ACC shall have the authority to grant a variance from these requirements regarding fences and walls should it conclude that the configuration, size, location or topography of the lot justifies the variance.

Only for residences in Phase IV: All walls that are visible from either Plaza Muchomas or Plaza Consuelo must be stucco or stone or have a veneer to match the residence. Party or perimeter walls on the property lines of the Lots shall not extend towards the street beyond the front corners of the residential Structure. No walls shall be installed on any Lot unless the written approval of the ACC is first obtained as to location and type of walls. The ACC will generally approve courtyard walls attached to a single-family residence enclosing entry or yard areas. However, no courtyard wall, or any portion thereof, shall be placed, constructed, installed or maintained within twenty-five feet (25') of the front property line of the Lot. The ACC shall not approve walls in excess of seventy-two inches (72") in height from the highest point of the approved building pad, or walls that are not appropriate due to location or aesthetic considerations. Each wall visible from any street within the Subdivision shall be of a type of material, color and character consistent or compatible with the materials, architectural design and style of the residence constructed, or to be constructed, on the Lot and to which it is to be attached. No temporary fencing shall be allowed, except that Builders may, for construction storage and security purposes only, install temporary fencing during construction to store materials and for security. Provided, however, that the ACC shall have the absolute authority to grant a variance from these requirements regarding fences and walls should it conclude that the configuration, size, location or topography of the Lot justifies the variance.

(i) Acceptable architectural styles include those generally prevalent in the Southwestern United States, including styles commonly known or referred to as Pueblo, Adobe, Santa Fe, Southwest Contemporary, Northern New Mexico, or New Mexico Territorial, Tuscan and evolutions thereof. See Annex II of this Declaration for more detailed descriptions. Some of the characteristics of acceptable architectural styles are listed in Annex II of this Document. Without limiting the generality by the following, architectural styles that are not acceptable include Colonial, Victorian, Cape Cod or Geodesic Domes.

(j) No air conditioner, evaporative cooler, furnace, antenna, or other mechanical appliance or equipment shall be installed or placed on the roof of a residence or any other Structure on any Lot, unless such equipment, devices and appliances are screened from view from the street and adjoining Lots. The homeowner shall apply to the ACC for any requested variance and the ACC may approve the location of such equipment and color and design of any screening. However, satellite dishes of not more than twenty-four inches (24") in diameter may be placed on the roof, or eaves of the roof, of a residence, if painted so as to blend into the background against which it is mounted. Solar collectors or panels shall be located as to be screened from the street to the extent that their south-facing orientation and their function is not compromised. The use of walls or screens to hide solar collectors when viewed from street level is strongly encouraged.

(k) The windows of residences constructed on any of the Lots may only be covered with drapes, shades, shutters or blinds and may not be covered with foil, cardboard, bed sheets, newspapers or any other materials not commonly designed and used as window coverings.

(l) Except temporarily during the construction of improvements, all utility lines, pipes and conduits, including but not limited to, electrical, gas, telephone, cable TV and other

communication systems shall be underground except for access pedestals and above ground transformers. During construction of a residence or other improvement, each Lot Owner shall be required to maintain his Lot in a clean condition, providing commercial trash containers and collection services for construction debris and other refuse and to provide for the disposal of the contents thereof, as well as the disposal of all other construction debris. No construction debris shall be permitted to remain upon any Lot.

(m) Generally, landscaping enclosed within patio or courtyard walls may be planted and maintained at the discretion of the Lot Owner. Exceptions would consist of noxious, invasive, or other plants that could damage other vegetation in the Subdivision. Landscaping upon the portion of any Lot that lies outside patio or courtyard walls shall be planted and maintained by the Lot Owner in accordance with this Declaration. Allowable plantings within such exterior landscaping shall be limited to those contained on a list provided by the ACC specifying approved species such as grasses or other trees, plantings or other acceptable annual or perennial species. The Association may order the removal at owner's expense of any noxious or invasive plants found growing on a Lot. A plan specifically describing all such exterior landscaping, including plantings and all other landscaping features, shall be approved by the ACC prior to the installation of such landscaping. The ACC shall create and disseminate to each Lot Owner, upon request, a list of permitted species for such grasses, trees and plantings, which may be revised from time to time. Provided, however, that the ACC shall have the authority to grant a variance from these landscaping requirements should it conclude that the configuration, location or topography of the Lot justifies the variance. No healthy cottonwood trees of a ten-inch (10") or greater caliper shall be removed without the prior written consent of the ACC. Each Lot Owner shall continually remove weeds and trash and continually properly water, mow, prune and otherwise maintain all landscaping as originally approved so as to maintain an aesthetically pleasing appearance. Each owner of a vacant Lot shall remove all weeds and litter by April 30, and again by September 30 of each year.

8.7 Repairs and Maintenance. No Structure or landscaping shall be remodeled, altered or added to on any Lot, nor shall the roof or the exterior surface of any existing Structure on any Lot be replaced, painted, retextured or otherwise changed from the color, texture, finish and other characteristics that were originally approved by the ACC, without prior approval of the ACC as set forth below. If any Lot Owner shall fail or refuse, within fifteen (15) days after written notice is mailed to his last known address, to properly maintain the exterior surface of his residence by repainting, re-stucco or retexture, as appropriate, the Association shall have the option (but not the obligation) to enter upon such Lot to perform such exterior maintenance and, any expenses or costs so incurred (including reasonable legal fees and court costs) together with interest at the Default Interest Rate on all sums advanced or paid, shall constitute indebtedness immediately due and payable from such Lot Owner and such indebtedness shall be secured by a lien against the Lot which may be judicially foreclosed in the same manner as a mortgage under New Mexico law.

8.8 Completion of Construction.

(a) The construction of a single family residence and related improvements on each Lot, consistent with prior approval of plans by the ACC must be completed within one (1) year after such construction is commenced. If such construction is abandoned for a period of thirty (30)

consecutive days or more, the Association shall have the option (but not the obligation), upon the failure of the Lot Owner to take immediate actions to resume and complete construction within fifteen (15) days after mailing written notice to his last known address, to enter upon the Lot to either: (i) demolish and remove the uncompleted Structures thereon or (ii) complete construction, to the extent reasonably practicable, in accordance with the plans and specifications approved by the ACC. If the Association elects to do either, then all expenses and costs incurred of every nature whatsoever (including reasonable legal fees and court costs), together with interest at the Default Interest Rate on all sums advanced or paid, shall constitute indebtedness immediately due and payable from such Lot Owner and such indebtedness shall be secured by a lien against the Lot which may be judicially foreclosed in the same manner as a mortgage under New Mexico law.

(b) In the event construction is delayed due to reasons beyond the lot owner's control, such as war or other natural calamity, the Lot owner shall apply to the ACC, and the ACC may grant the lot owner an appropriate revision of the construction schedule, based upon the circumstances.

8.9 Arbitration. All decisions of the ACC shall be final and binding such that the only grounds for challenging any decision of the ACC shall be that the Committee acted arbitrarily or in direct violation of a clear and unambiguous provision of this Declaration. In the event of any such dispute concerning any decision of the ACC, such dispute will be submitted to binding arbitration before a three (3) member board of arbitration pursuant to the New Mexico Uniform Arbitration Act, Sections 44-7-1 through 44-7-22, inclusive, NMSA 1978, as now or hereafter amended. The method for selection for the board of arbitration shall be as follows: one member shall be selected by the ACC; one member shall be selected by the Lot Owner who disputes the decision of the ACC and the third *impartial* member shall be selected by the two members so selected, or if they are unable to agree, by the Presiding Judge of the Thirteenth Judicial District Court for Sandoval County, New Mexico. The party that is unsuccessful in the arbitration proceeding shall pay all necessary and reasonable expenses of the arbitration, including the cost of a transcript of proceedings, if any, court reporter's fee, if any, and the fees and expenses of the members of the board of arbitration. The board of arbitration shall assess such arbitration expenses against the unsuccessful party.

8.10 Estoppel Certificate. Provided that the Lot Owner has complied with the requirements of this Article VIII, including the submission of a complete set of final plans and specifications to the ACC, then within thirty (30) days after written request is delivered to the ACC, and upon payment of any fees that the ACC may establish, the ACC shall provide an Estoppel Certificate executed and acknowledged by a member of the ACC certifying, as of the date of such Certificate, either: (i) that all Structures existing on the Lot were constructed pursuant to the approval of the ACC as required by this Declaration or (ii) that Structures constructed on the Lot were not approved by the ACC, in which event the Certificate shall also: (a) identify the non-complying Structures and work; and (b) set forth with particularity the cause or causes of such non-compliance. Any purchaser from the Lot Owner or mortgagee or other lienholder having a mortgage or lien secured by the Lot, who requests and receives any such Estoppel Certificate shall

be entitled to rely on said Certificate with respect to all matters set forth therein and such Certificate shall be binding on the Lot Owner, the Association and all other Lot Owners.

8.11 Grandfather Clause. All properties developed prior to the adoption of these covenants shall be deemed to be in compliance with these CC&Rs, provided that said development was accomplished in accordance with the then existing covenants and restrictions, or with approved documented waivers from the ACC. This Clause shall apply to those developments for which the approval process is in substantial completion at the time of the adoption and subsequent recording of this Declaration in the Office of Clerk and Recorder of Sandoval County, New Mexico.

8.12 Limitation of Liability. The ACC, the Board, nor any member of either, shall be liable to any person, including without limitation, any Lot Owner, purchaser, mortgagee or lienholder, for any act or failure to act performed, or omitted, in the scope of their authority under this Article VIII, including without limitation, any of the following:

(a) any decision to approve, approve with conditions or reject any plans and specifications submitted with respect the construction of any Structure on any Lot, whether or not defective;

(b) any defective construction or performance of any work on any Lot, whether or not pursuant to plans and specifications approved by the ACC; or

(c) the execution and delivery of any Estoppel Certificate pursuant to Section 8.10 above, whether or not the facts stated therein are correct (provided, however, that the person executing such Certificate has acted in good faith).

ARTICLE IX: Obligations to Construct and Maintain Common Areas and Facilities and Private Facilities

9.1 Obligations to Construct.

(a) Lot Owners shall be responsible to purchase and install individual sewer grinder pumps of a type and brand specified by the ACC as required for each Lot, at no cost or expense to the Association.

(b) As required by the Subdivision Plats and replats, by these Covenants for the affected Phases, and otherwise by any public authority, lot owners shall be responsible to construct and/or maintain any ponding area, berm or water control device or structure necessary to control the drainage and storage of surface water.

9.2 Obligations to Maintain.

(a) The Association shall properly maintain and repair the Common Areas, roads, streets and paths, open space, streetlights, common landscaping and Common Facilities, into perpetuity, and shall procure and fund appropriate contracts competent and properly licensed contractors for those purposes. The Association is obligated to such maintenance pursuant to an agreement with the Town.

(b) The Association shall properly maintain and repair the common water distribution system and the sewer system into perpetuity, and shall procure and fund appropriate contracts competent and properly licensed contractors for those purposes.

(c) Lot Owners shall properly maintain individual sewer grinder pumps for each Lot, at no cost or expense to the Association, and shall utilize appropriate contractors for those purposes. In the event that a lot owner fails at any time to maintain a sewer grinder pump in a proper and timely manner, the Association shall have the right but not the obligation to hire a outside contractor to complete the necessary repairs or maintenance and the lot owner shall reimburse the Association in a timely manner an amount equal to one hundred percent (100%) of the cost incurred in such maintenance or repair, and the Association may assess an additional ten percent (10%). In the event that the Lot owner does not pay said assessment within thirty (30) days of billing, the Association may assess and collect such amount as provided in Article XII.

(d) As required by the Subdivision Plats, by these Covenants for the affected Phases, and otherwise by any public authority, Lot owners shall be responsible to maintain any ponding area, berm or water control device or structure necessary to control the drainage and storage of surface water.

ARTICLE X: Organization, Duties and Functions of the Association

10.1 Authority of Association. The 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 Lot Owners and Members for the protection, preservation, upkeep, maintenance, repair, restoration, operation and replacement of the Common Areas and Facilities and, operation and administration of all rules and regulations set forth in this Declaration, the By-Laws and the Rules.

10.2 Board of Directors. The affairs of the Association shall be managed by its Board of Directors. 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 only in certain instances where this Declaration, the By-Laws or the laws of New Mexico require that a particular action be taken by a vote of the Lot Owners, acting as Members of the Association. The Board shall be elected in accordance with, and shall perform its duties, as set forth in the By-laws to which reference is hereby made.

10.3 Rights, Functions and Obligations of the Association. In addition to the rights, functions, duties, obligations and other responsibilities set forth in other provisions of this Declaration, the By-Laws, the Rules and under applicable New Mexico law, the Association shall have the following rights, functions and duties.

(a) Right to Non-Exclusive Easement. The Association shall have a non-exclusive right and easement to make such use of the Common Areas and Facilities and to enter upon any Lot, after reasonable notice, as may be necessary or appropriate for it to perform the duties and functions which it is obligated or permitted to perform under this Declaration, the By-Laws or the Rules.

(b) Common Areas and Facilities Maintenance. The Association shall be obligated to provide, as a Common Expense, for the care, operation, management, maintenance, repair, replacement and restoration of the Common Areas and Facilities. Without limiting the generality of the foregoing, said obligations shall include keeping the Common Areas and Facilities and landscaping in good, clean, attractive and sanitary condition, order and repair, and keeping the Common Areas and Facilities Areas safe, attractive and maintained in a manner desirable as a residential community, and making necessary or desirable alterations, additions, betterments or improvements to or on the Common Areas and Facilities.

(c) Other Functions. The Association may undertake or contract for any lawful activity, function or service for the common benefit or to further the common interests of all Lot Owners and Members. Such activities, functions or services may include, but shall not be limited to: (i) the providing of insurance, police, patrol or similar security services, janitorial services, grounds maintenance or landscaping services, utilities or other services which may be required for the enjoyment or betterment of the Common Areas and Facilities; (ii) legal and accounting services necessary or desirable in connection with the operation of the Association or for the enforcement of the provisions of this Declaration, the By-Laws or the Rules; and (iii) any other services for the benefit and enjoyment of all the Members.

(d) 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 or employed directly by the Association or by any person or entity with whom it contracts.

(e) 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.

(f) Rules and Regulations. The Association may make and enforce reasonable and uniformly applied rules and regulations governing the use of the Common Areas and Facilities. Such rules and regulations may, without limitation: (i) regulate the use of Common Areas and Facilities to assure the equitable and proper use and enjoyment thereof by all persons entitled thereto; (ii) prohibit any conduct or activity on any Lot or on any part of the Common Areas and

Facilities which 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 or the Common Areas and Facilities; (iii) prohibit, restrict or regulate the use of any portion of the Common Areas and Facilities by the guests and Tenants of any Lot Owner; and (iv) regulate and control vehicular traffic on the areas subject to the Appurtenant Easements and License Agreements and within, and upon the private streets of, the subdivision. The Association shall have the right to enforce any such Rules and the obligations of any Lot Owner under this Declaration and the By-Laws, including, without limitation, the right to levy fines and/or suspend membership and voting rights or rights to use the Common Areas and Facilities pursuant to any procedures now or hereafter set forth in the By-Laws and the right to commence and prosecute appropriate legal proceedings for monetary damages and injunctive relief.

(g) Assessments. The Association shall be responsible for determining the amount of and collecting all Regular Assessments and Individual Assessments as provided in Article XII.

(h) Investment of Funds. The Association shall have the authority to invest all funds of the Association not immediately needed to pay Common Expenses.

(i) 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.

(j) Insurance. The Association shall procure and maintain such insurance as is required under Article XI of this Declaration and shall have the authority to procure and maintain such additional insurance coverage as the Board deems necessary or desirable.

10.4 Professional Management. The Board 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 Areas and Facilities, including without limitation, the collection of assessments, custody of Association funds and payment of Common Expenses and the performance of any additional duties of the Board which the Board, by contract or otherwise, may delegate to such professional management company. Any such employment arrangement shall be in writing. No management agreement entered into between the Association and any professional management company shall provide for a term in excess of two (2) years and all such agreements shall permit the Association to terminate, with or without cause, upon not more than ninety (90) days' prior written notice.

ARTICLE XI: Insurance

11.1 Association Casualty Insurance. The Association shall procure and maintain, as a Common Expense, a casualty insurance policy insuring the full insurable replacement cost of all improvements, fixtures, equipment, personal property and Common Facilities now or hereafter owned by the Association against loss due to fire and all other hazards normally covered by

"extended coverage" and "all risk" endorsements. The "full insurable replacement cost" means an amount equal to one hundred percent (100%) of current replacement cost as determined from time to time by the Board in consultation with the insurance company. The casualty insurance policy required by this provision must be issued by insurers of recognized financial responsibility authorized to issue such insurance in the State of New Mexico. Such policy shall provide that it shall not be substantially modified or canceled (including cancellation for non-payment of premiums) without at least thirty (30) days' prior written notice to the Association. In case of any injury, damage or destruction, the insurance proceeds shall be applied only to reconstruct or repair the property so damaged or destroyed, except as may be otherwise provided for herein. The Association shall have complete power and authority to compromise, settle and adjust any and all claims arising under any such policy. The Association must maintain the original of the policy in its files. Copies of the policy will be made available upon request to any Lot Owner.

11.2 Fidelity Bond. The Association may procure and maintain a fidelity bond naming the Association as obligee in an amount equal to the estimated maximum amount of funds to be in the custody or control of the Association or any professional management company, including funds in the Replacement Reserve, at any given time during the term of such bond, but in any event in an amount at least equal to three (3) months' aggregate Regular Assessments on all Lots, plus the sum of all reserve funds. Such fidelity bond shall cover all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds of or administered by the Association, including the officers, directors, employees and agents of any professional management company employed by the Association. Provided, however, that the fidelity bond to be procured by the Association need not cover any professional management company and its officers, directors, employees and agents if such professional management company provides a sufficient fidelity bond naming the Association as an additional obligee or loss payee. Such bond shall contain a waiver of any defense or exclusion based upon the exclusion of persons serving without compensation from the definition of "employees" or other similar terms or expressions. Such bond shall require at least thirty (30) days' prior written notice to the Association of cancellation or substantial modification (including cancellation for non-payment of premiums). The cost of such fidelity bond (except for premiums on any fidelity bond provided by any professional management company which the Board determines to be satisfactory and in compliance with the provisions of this Section) shall constitute a Common Expense.

11.3 Liability Insurance. The Association shall procure and maintain comprehensive public liability insurance in the amount of at least One Million Dollars (\$1,000,000) per person and Three Million Dollars (\$3,000,000) per single occurrence for bodily injury or death and Fifty Thousand Dollars (\$50,000) for property damage suffered by the public or any Lot Owner and his Tenants, family, guests, agents, employees or invitees occurring in, on or about the Lots, the Common Areas and Facilities or the private and public streets, driveways, roadways, sidewalks, and other passageways on or adjoining the Subdivision. Such policy shall insure the Lot Owners and the Association and its officers, directors, employees and agents, including expressly any professional management company and its officers, directors, employees and agents and shall further expressly cover legal liability arising from lawsuits related to employment contracts of every nature to which the Association is a party. Such policy shall be issued by insurers of recognized

responsibility authorized to issue such insurance within the State of New Mexico and shall require at least thirty (30) days' prior written notice of cancellation or substantial modification (including cancellation for non-payment of premiums) to the Association. The cost of such policy shall constitute a Common Expense. Such insurance must waive contribution with regard to any policies of liability insurance carried individually by any Lot Owners. Such policy may contain an appropriate Directors and Officers rider in an amount to be approved by the Board.

ARTICLE XII: Assessments and Collection

12.1 Budget. Beginning December 1, 2005 and not later than December 1st of each year thereafter, the Board shall prepare and mail to each Lot Owner an annual budget for the following calendar year. The Budget shall estimate and project Common Expenses (including allocations to the Replacement Reserve) and assessment revenues (including any surplus or deficit from any prior year). Based on the Budget the Board will determine the Regular Assessment to be levied and assessed against each Lot for the next calendar year on a per capita or equal basis for each Lot. The Regular Assessment is to be determined based on the Prorata Share of Common Expenses as projected by the Budget.

12.2 Commencement of and Limitation on Regular Assessments. All Lot Owners shall pay Regular Assessments in advance on the first day of each quarter – (January 1, April 1, July 1 and October 1) commencing January 1, 2005 in the amount determined by the Board based on the 2004 Budget adopted by the Board. The Board shall have discretion to adjust the Budget for each year and to change the amount of Regular Assessments. Provided, however, that the Board shall not increase the Regular Assessment by an amount in excess of twenty percent (20%) of the Regular Assessment for the immediately preceding year, unless a majority of the Lot Owners, voting in person, by absentee ballot, or by proxy, approve such an increase at a regular or special meeting of the Lot Owners called pursuant to the By-Laws.

12.3 Individual Assessments. The Association shall have the right to levy and collect Individual Assessments against particular Lot Owners in any of the following circumstances. (i) to reimburse the Association for funds advanced to perform exterior or landscape maintenance pursuant to Article VII; (ii) to reimburse the Association for funds advanced to repair or remove damaged Structures pursuant to of Article VII; (iii) to reimburse the Association for funds advanced to complete construction of or demolish and remove unfinished Structures pursuant of Article VII; (iv) to reimburse the Association for funds advanced for legal fees, court costs and other expenses incurred to enforce Tenant compliance with the Declaration, By-Laws and Rules and any Tenant Agreement, including such as are incurred in eviction proceedings; (v) to reimburse the Association for any damages of any nature caused by any violation of any provision of this Declaration, the By-Laws or the Rules by the Lot Owner or his Tenant or other resident; and (vi) to reimburse the Association for any funds advanced by the Association to cure any failure or refusal of any Lot owner or his Tenant to perform any of their obligations under this Declaration, the By-Laws or the Rules. Any such Individual Assessment shall constitute a personal obligation of the Lot Owner and a lien against his Lot in favor of the Association. Individual Assessments shall bear interest at the

Default Interest Rate and shall be payable and collected in the same manner as Regular Assessments pursuant to the provisions of this Article XII.

12.4 Payment of Regular and Individual Assessments. Regular Assessments shall be due and payable quarter-annually in advance on the first day of each quarter (January 1, April 1, July 1 and October 1) (or the Board may elect to have Regular Assessments paid monthly in advance on the first day of each month). The Association will not send individual invoices to the lot owners for their regular assessments. Payment of Regular Assessments and Individual Assessments shall be in default if not paid to the Association on or before fifteen (15) days after the due date for such payment and shall bear interest after delinquency at the Default Interest Rate until paid. In addition, the Board may establish a late charge not to exceed the greater of Fifteen Dollars (\$15.00) or fifteen percent (15%) of the amount of any Regular Assessment not paid within fifteen (15) days after its due date, and the penalty shall apply from and after the due date. Each Lot Owner (whether one or more persons) shall be personally liable for the payment of all Regular Assessments and Individual Assessments that may be levied against such Lot Owner and his Lot pursuant to the provisions hereof. In the event any Mortgagee succeeds to a Lot pursuant to foreclosure or conveyance in lieu of foreclosure, then such Mortgagee shall not be liable for the payment of any unpaid Regular Assessments or Individual Assessments that were levied or accrued prior to the acquisition of title to the Lot by the Mortgagee. Except for Mortgagees and subject to the provisions set out below, all persons who purchase or otherwise acquire any Lot shall become personally liable for any unpaid Regular or Individual Assessments previously accrued and then remaining unpaid with respect to such Lot and the Lot Owner who owned the Lot when said assessments became due shall also remain personally liable therefore, notwithstanding the sale, transfer or conveyance of the Lot.

12.5 Liens to Secure Assessments. All Regular and Individual Assessments shall be a personal obligation of the Lot Owner, as well as a lien against the Lot itself; and in the event any default is made in the payment of such assessments, or any part thereof, as the same shall become due and payable, then a valid lien is hereby created against the Lot of the Lot Owner in default, which lien shall exist for the benefit of all other Lot Owners and the Association. No liens shall exist against any Lot for assessments that have not yet become due and payable. The liens provided for herein shall be prior to all other liens, except that such assessment liens shall be subordinate, secondary and inferior to: (i) all liens for real estate taxes or special assessments levied by taxing authorities having jurisdiction; and (ii) all liens securing amounts due or to become due under any mortgage, vendor's lien or deed of trust creating a lien against the Lot and which was recorded prior to the date the Regular Assessment or Individual Assessment became due and payable. Such assessment liens may be foreclosed, without prejudice and subject to the aforesaid prior and superior liens, by suit by the Association or any person authorized by the Association, in the same manner as mortgages on real property. The Association, or any person authorized by it, shall have power to bid in at the foreclosure sale, the amount of which bid shall not exceed the sum of all assessments in default, interest thereon at the Default Interest Rate, late charges thereon, attorneys' fees and costs of foreclosure. In the event the Association shall purchase any Lot at any such foreclosure sale, it shall have the authority to hold, lease, mortgage, sell or convey the Lot. The Association shall be entitled to the appointment of a receiver upon

the filing of any foreclosure proceedings without regard to the value of the Lot and improvements constructed thereon or the solvency of the Lot Owner. All funds realized from the foreclosure sale shall be applied first to the cost and expense of filing and prosecuting the suit, including all court costs and reasonable attorneys' fees, and then towards payment of the indebtedness sued on, together with interest at the Default Interest Rate and other charges thereon, and the remainder, if any, shall belong to the Association subject to the rights, if any, of the other parties to the foreclosure proceeding.

12.6 Recordation of Notice of Assessment Lien. The Association shall be entitled to record a "Notice of Assessment Lien" in the Real Estate Records of Sandoval County, New Mexico, with respect to any Regular or Individual Assessment not paid by any Lot Owner within thirty (30) days after it is due. Any such Notice of Assessment Lien shall identify the Lot that is subject thereto and may contain such other information as the Board determines to be appropriate or relevant, including the nature and amount of the lien. If a Notice of Assessment Lien is filed as to any Lot, the Lot Owner shall pay the Association all sums due, and an additional administrative charge as set for in the By-Laws, Rules and Regulations of the Association.

12.7 Assessment Certificates. The Board, or its representative, shall furnish to any prospective purchaser or prospective mortgagee of any Lot, a written certificate as to the amount of the Regular Assessments and any Individual Assessments which have become due and are unpaid as of a given date with respect to the Lot. In the event of a sale, neither the purchaser nor the Lot purchased shall be liable or subject to any lien for any unpaid assessments that are due and not shown on such certificate for the period of time covered thereby. However, the selling or mortgaging Lot Owner shall remain liable for all unpaid assessments (notwithstanding any error in the assessment certificate) and the Association shall have recourse against the selling or mortgaging Lot Owner. In the event of a mortgage, the unpaid assessments not shown on said certificate for the period of time covered thereby shall remain the obligation of the Lot Owner mortgaging his Lot, but the assessment lien securing same as provided for in this Declaration shall be and remain inferior and secondary to the mortgage and liens held by any such mortgagee to whom for whose information said certificate was furnished. An administrative charge not to exceed Fifty Dollars (\$50.00) may be levied in advance by the Association for each assessment certificate so delivered.

ARTICLE XIII: Distribution of Insurance or Condemnation Proceeds

13.1 Reconstruction and Application of Insurance Proceeds. If less than two-thirds (2/3) of any improvements located on the Common Areas are damaged or destroyed by a casualty or peril insured against, the Association shall use the casualty insurance proceeds to repair and restore the damaged improvements to their original condition as far as reasonably practicable. If more than two-thirds (2/3) of said improvements are damaged or destroyed by such an insured casualty or peril, then the insurance proceeds shall be used to repair and restore the property so damaged, unless seventy-five percent (75%) of the Lot Owners vote, in person, by absentee ballot, or by proxy, at a special meeting called pursuant to the By-Laws, to distribute such insurance proceeds to the Lot Owners. The Board shall have the authority to determine

whether more or less than two-thirds (2/3) of said improvements have been damaged or destroyed. If reconstruction is required as herein provided, and should the insurance proceeds be insufficient to fully repair and restore, then the Board may levy a special assessment in the amount of such deficiency against all Lot Owners in proportion to their Prorata Share of Common Expenses. If more than two-thirds (2/3) of the said improvements are damaged or destroyed and the Lot Owners elect to distribute the insurance proceeds as aforesaid, rather than reconstruct, then such insurance proceeds shall be distributed pursuant to the provisions of Section 13.2 below.

13.2 Distribution of Casualty Insurance Proceeds. In the event casualty insurance proceeds are to be distributed as permitted by Section 13.1 above, then such insurance proceeds shall be divided and paid to each Lot Owner on a per capita basis and distributed in the following priority:

- (a) To the payment of any unpaid Regular or Individual Assessments then due against such Lot; and
- (b) Any balance remaining shall be paid to the Lot Owner, as applicable, who owns the Lot.

The Board shall have the authority to obtain a title search as to the status of legal title of each Lot prior to any distribution of insurance proceeds under this Section. The Board shall further be entitled to institute interpleader or other appropriate legal proceedings to determine the proper disposition of any such proceeds and, if such legal proceedings are instituted, the Board shall be entitled to recover its costs and reasonable attorneys' fees from the Lot Owner or, if permitted by law, from any mortgagee or other lienholder.

13.3 Application or Distribution of Condemnation Proceeds. The Association shall have the authority to sue, settle and compromise with respect to any condemnation or eminent domain proceedings, or threat thereof, filed with respect to or affecting the Common Areas or Facilities and to employ and pay such attorneys, appraisers or other persons as the Board determines necessary or desirable in connection with any such legal proceedings or settlement negotiations. In the event of a partial condemnation or taking by eminent domain of the Common Areas and Facilities, the proceeds therefrom shall, after payment of all expenses of collection (including attorney fees and court costs), be used by the Association to restore and repair any damage caused to the Common Areas and Facilities. Should any partial condemnation proceeds remain, the Board shall have the discretion to either use such proceeds to pay Common Expenses or to distribute such partial condemnation proceeds in the same manner as required for the distribution of casualty insurance proceeds pursuant to Section 13.2 above. If the entire Common Areas and Facilities are condemned or taken by eminent domain then the Association shall, after payment of all expenses of collection (including attorney fees and court costs), distribute such total condemnation proceeds in the same manner as required for the distribution of casualty insurance proceeds pursuant to Section 13.2 above.

ARTICLE XIV: Amendment

14.1 Amendment by Lot Owners. Sixty-seven percent (67%) of the Lot Owners voting in person, by absentee ballot, or by proxy at a regular or special meeting called pursuant to the By-Laws, shall have the right to amend this Declaration. The President of the Association is authorized to execute and record a Supplemental Declaration setting forth any amendment made by the Lot Owners pursuant to this Section and have said Supplemental Declaration recorded by the Clerk of Sandoval County, New Mexico.

ARTICLE XV: Miscellaneous Provisions

15.1 Enforcement. The Association, or any Lot Owner shall have the right to enforce, by proceedings at law or in equity, all terms and provisions of this Declaration, the Articles, the By-Laws and the Rules. Any failure to enforce any covenant or restriction herein contained shall in no event be deemed to be a waiver of the right to enforce such covenant or restriction thereafter. The prevailing party in any legal proceedings to enforce the Declaration, the Articles, the By-Laws or the Rules, shall be entitled to recover reasonable attorney fees and court costs from the losing party.

15.2 Severability. The provisions of this Declaration, the Articles, the By-Laws and Rules shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision, or portion hereof, shall not affect the validity or enforceability of any other provision.

15.3 Covenants Running With Land. The rights and obligations of the Association and the Lot Owners under this Declaration, the Articles, the By-Laws and the Rules, including amendments thereto, shall be deemed to be covenants running with the land and shall inure to the benefit of and be binding on their respective heirs executors, administrators successors, legal representatives, assigns, purchasers, tenant, lessees, grantees and mortgagees and all other persons having or claiming any interest in any Lot.

IN WITNESS WHEREOF, the Association has executed and acknowledged this Consolidated Declaration on the date first written above.

By: _____

Its: President _____

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANDOVAL)

This instrument was acknowledged before me on _____, November 2006, by

Ralston W. Barnard, on behalf of said Association.

My commission expires: _____

ANNEX I

List of Lots in Phases I, II, III, and IV,

As shown on the Subdivision Plats and Replats of

Bosque Encantado de C' de Baca Subdivision

PHASE I	PHASE II	PHASE III	PHASE IV
1	30	41	85
2A	31	42A	86
3A	32	43A	87
4	33	44A	88
5	34	45A	89
6	35	46A	90
7	36	47A	91
8	37	48A	92
9	38	49A	93
10	39	50A	94
11	40	51	95
12	60	52A	96
13	61	53	97
14	62	54A	98
15	63	55A	99
16	64	56A	100
17	65	57A	101
18	66	58A	102
19	67	59A	103
20	68	69	104
21	74A	70	
22	75A	71	
23	76	72A	
24	77	73A1	
25	78		
26	79		
27	80		
28	81		
29	82		
	83		
	84		

ANNEX II

Non-Exhaustive Descriptions of Acceptable Southwestern Building Styles

Bosque Encantado de C' de Baca Subdivision

Southwestern House Plans

Southwestern home plans often have stucco exteriors, tile roofs, arched openings, low pitched roofs. The south western architectural category includes these styles: Mission style, Santa Fe style, Pueblo, Adobe, and Spanish architecture. Sometimes southwestern homes are called adobe houses or haciendas.

Southwestern style house plans are commonly built in the southwestern United States and also in California and Florida. The plans often have flatter roofs and earth colored exterior walls.

Here are characteristics of various styles of southwestern house designs:

Santa Fe House Plans (Pueblo Revival Style)

Santa Fe style home designs originated in Santa Fe, New Mexico. Santa Fe house designs typically have flat roofs with rounded parapets, rounded edges and corners, flat roofs and "punched" openings

Spanish House Plans (Spanish Eclectic)

Spanish style home plans can blend elements of architecture from many areas including Spain, Portugal, Italy and North Africa. People who like Spanish style house designs sometimes also like Mediterranean style house plans. Spanish home plans often have, courtyards, rounded windows and doors, flat roofs or hipped roofs, balconies with decorative grillwork, decorative tiles and sometimes a bell tower.

Mission Style House Plans

Mission style home plans have a look that is reminiscent of mission churches in California. Mission style house plans often have round or round or quatrefoil windows, large square pillars or twisted columns, covered archways over the entry door, and deep shaded porches. The exterior is typically smooth stucco and the roofs have parapets and clay tiles. The shaded porches create darker interiors and this makes the homes well suited for hotter climates.

Pueblo House Plans

Pueblo style home plans have exteriors whose origins come from the building that were created by Native Americans. Pueblo style architecture tends to have flat roofs and walls made of adobe brick, clay, or stucco. Roof beams typically extend beyond the exterior walls and are visible from the exterior. In the interiors, tile and brick floors are common, as well as corner fireplaces and wood columns.

Adobe Houses

Adobe house construction uses clay blocks formed from clay and sand. Adobe home construction is common in the southwest because materials are readily available. In older structures, straw was sometimes mixed into the adobe to prevent cracks, but that may not be necessary if the proper mix of sand and clay is done. Blocks are usually about 20 percent clay and 80 percent sand.