



Eagle Pointe

Homeowners Association, Inc.

- Articles of Incorporation
- Bylaws
- Declaration of Covenants,
Conditions and Restrictions
- Forms

EAGLE POINTE HOMEOWNERS ASSOCIATION

GUIDELINE

Satellite Dish and TV Antenna

The Eagle Pointe Homeowners Association has adopted a Guideline for the installation of satellite dishes and TV antennae. Following the Guideline below, homeowners may install one satellite dish and one TV antenna on their home without submitting a request to the Architectural Control Committee. Deviation from the Guideline requires submission of a formal request to the Architectural Control Committee as called for in the "Eagle Pointe Subdivision Comprehensive Declaration of Covenants, Conditions and Restrictions", Article VIII, Architectural Control Committee.

1. The satellite dish shall be no larger than 1 (one) meter (39 inches) in diameter.
2. The dish may be installed on the roof.
3. The dish may be installed on the eaves or anywhere below the eaves, provided that it is no nearer to the front property line than twenty (20) feet. It must be installed at least ten feet back from the front edge of the house.

Homeowners are solely responsible for compliance with Zoning and City Ordinances in the installation of their satellite dish or TV antenna. The Guideline does not guarantee compliance with City requirements and regulations.

C O P Y

By: Chris Castro, President
Eagle Pointe Architectural Control Committee

January, 2006

Date

EAGLE POINTE HOMEOWNERS ASSOCIATION

GUIDELINE

Security Iron and Storm/Screen Door

The Eagle Pointe Homeowners Association has adopted guidelines for security iron and storm/screen doors. Following the guidelines below, homeowners may install security iron and storm/screen doors without submitting a request to the Architectural Control Committee.

Deviation from the guideline requires submission of a formal request to the Architectural Committee as called for in the "Eagle Pointe Subdivision Comprehensive Declaration of Covenants, Conditions and Restrictions", Protective Covenants and Restrictions for Eagle Pointe Subdivision", Article 8 Architectural Control Committee.

1. Security iron must:
 - a.) Match the color of the home's stucco; or
 - b.) Match the color of the home's trim.
 - c.) Security iron may enclose a front entry area into the home between existing stucco pillars.
2. Storm / Screen doors must either:
 - a.) Match the color of the home's stucco; or
 - b.) Match the color of the home's trim; or
 - c.) Match the color of the door against which it is placed.

Homeowners are responsible for compliance with City Ordinances and all other regulations pertaining to emergency exits.

Should the homeowner wish to install storm/screen doors or security iron outside of the guidelines listed above, the Architectural Control Committee must be contacted in advance of installation. The Architectural Committee will require the submission of information on any alternate installation for its consideration.

Should a homeowner install a storm or screen door or security iron outside of the guidelines above without approval, they will be requested by the Architectural Control Committee to bring it into compliance or remove it.

C O P Y

By: Robert C. Prewitt, Chairperson
Eagle Pointe Architectural Control Committee

April 25, 2001

Date

EAGLE POINTE HOMEOWNERS ASSOCIATION

GUIDELINE

Garden Sheds

The Eagle Pointe Homeowners Association has adopted a Guidelines for garden sheds. Following the Guideline below, homeowners may install a garden shed without submitting a request to the Architectural Control Committee. Deviation from the Guideline requires submission of a formal request to the Architectural Committee as called for in the "Eagle Pointe Subdivision Comprehensive Declaration of Covenants, Conditions and Restrictions", Article 8 Architectural Control Committee.

1. The shed siding shall be of either vinyl coated metal, masonite covered plywood, or stucco board.
2. The shed siding and shed trim shall be painted to match the stucco color and trim of the home associated with the storage shed.
3. The roof of the shed shall be a pitched roof (not barn style). Sheds shall not be a-frame style.
4. The roof shall be covered with shingles to match the home.
5. No portion of the roof shall extend over a lot fence or wall.
6. At the homeowner's option, the floor of the shed shall be plywood on joists, or concrete slab.
7. In preparing the site for the shed, the grade of the lot shall not be significantly altered so as to change the planned drainage pattern, or cause erosion into a neighboring yard.
8. The shed shall not be taller than eight (8) feet when measured from the highest point of the roof to the floor of the shed.
9. The shed shall be placed on the lot in such a way so it is ten (10) feet away from the nearest home.
10. The size of the shed shall be no larger than one hundred and twenty (120) square feet. Note that if the projected roof area exceeds 120 square feet, the storage shed will need to be permitted by the City of Albuquerque.
11. The shed shall not be used as a dwelling.

EAGLE POINTE HOMEOWNERS ASSOCIATION

GUIDELINE

Common Area Gravel Strip Landscaping

The Eagle Pointe Homeowners Association has adopted Guidelines for landscaping in the common area gravel strip between the sidewalk and curb. Following the Guidelines below, homeowners may install landscaping in this location without submitting a request to the Architectural Control Committee. Deviation from the Guideline requires submission of a formal request to the Architectural Control Committee as called for in the "Eagle Pointe Subdivision Comprehensive Declaration of Covenants, Conditions and Restrictions", Article VIII Architectural Control Committee.

- A. TOTAL NUMBER OF COMMON AREA STRIP PLANTINGS: Plantings in the common area gravel strip will be limited to four items maximum, only two of which may be trees. For example, a homeowner could plant two trees and two shrubs for a total of four items, or four shrubs for a total of four items.
- B. TREES: Trees allowed to be planted in this area are limited to Arizona Ash; Bradford Pear; Chinese Pistache; Flowering Plum (purple). These trees may be planted in 5-gallon sizes only. These trees were chosen because their root systems tend to go straight down as opposed to spreading. The best way to ensure the roots grow down is to give the trees plenty of water. You must act to facilitate a good root structure. Large amounts of water fewer days per week are better than a little water every day.
- C. SHRUBS: Shrubs planted in this area should be xeric in nature and drought tolerant. Thorny shrubs such as roses, cactus and pyracanthus may not be planted. A sample list of shrubs is as follows: Autumn Sage; Cotton; Lavender; Damianita; Rosemary. Shrubs may not be planted in any size larger than 5 gallons.
- D. DAMAGE CAUSED BY LANDSCAPING: Any damage caused by a homeowner's landscape installation in this area to common area components such as sidewalks or streets shall be repaired at the installing homeowner's expense. This obligation is assumed by any subsequent owner of the property.
- E. LANDSCAPE MAINTENANCE: The plants must be kept trimmed back from the street and sidewalk and trees must be kept trimmed up to not obstruct pedestrian traffic along the sidewalk. All landscaping components shall be kept neat and trimmed. All landscaping shall be kept in a green and weed free condition. Dead landscaping components shall be removed immediately.
- F. INSTALLATION OF LANDSCAPING: It is recommended that before digging, the location of utilities are known. Call 1-800-321-ALERT for assistance. Efforts should be made to limit the amount of material for a project stored on the common elements. Dirt or gravel may be temporarily stored on the roadway at the curb in front of the home, in an area no larger than

EAGLE POINTE HOMEOWNERS ASSOCIATION

GUIDELINE

Landscaping

The Eagle Pointe Homeowners Association has adopted Guidelines for landscaping. Following the Guidelines below, homeowners may install landscaping without submitting a request to the Architectural Control Committee. Deviation from the Guideline requires submission of a formal request to the Architectural Control Committee as called for in the "Eagle Pointe Subdivision Comprehensive Declaration of Covenants, Conditions and Restrictions", Article VIII Architectural Control Committee.

A. GENERAL INTRODUCTION:

1. The objective of the Guideline is to assist homeowners with compliance with the Water Conservation Landscaping and Water Waste Ordinance of the City of Albuquerque, Sections 6-1-1-1 through 6-1-1-99, as amended, November 6, 1998. It also hopes to assist homeowners in complying with the City's ordinances on pollen, Section 9-12-2 et seq. For additional information on the application of these City Ordinances, homeowners may call (505) 924-3850.
2. In addition, the Guideline has been established to assist homeowners in planning landscaping that does not negatively impact neighboring homes or common elements of the community.
3. The Guideline hopes to establish a criteria that will preserve a general consistency in the landscaping in front of the homes, while allowing homeowners to customize and personalize their homes to maximize enjoyment of their investment.
4. Homeowners are urged to review the enclosed materials, in addition to the guideline. Homeowners are responsible for compliance with all City ordinances, requirements, and zoning codes when planning and installing landscaping or garden accessories.
 - Water Conservation Landscaping and Water Waste Ordinance, Article 6-1-1. Special attention should be paid to 6-1-1-8 (B); 6-1-1-10; and 6-1-1-11.
 - 1998 Albuquerque Plant List. Special attention should be paid to plants that are regulated for water consumption or pollen.
 - The Complete How To Guide to Xeriscaping - City of Albuquerque.
 - Specific to each home: DR Horton Site Plan, and Calculation of Net Landscape Area worksheet. This worksheet was provided to each homeowner by DR Horton as part of closing. If you do not have your copy, contact Management, as a copy may be on file.

B. DRAINAGE CONSIDERATIONS: In installing landscaping, homeowners are reminded that the original grade should not be changed. Changes in grade could result in the destruction of the original site drainage design and may cause damage due to water to your home, or homes of your neighbors. If you look carefully at your lot, you will see that each lot has been graded so that all storm water will drain away from the house, and most home sites are graded so storm water drains through the sideyards to the street in front of the house. *Extreme caution should be used to retain the original drainage pattern of your site. Because of the difficulty and importance of maintaining individual lot drainage pattern, it is recommended that a landscape, or drainage professional be consulted.*

C. GRASS COVERED AREAS:

1. City Restriction on High Water Use Plants: The City has restricted the number of square feet that may be covered by high water use plant types. These plants include those grasses that are most commonly used in traditional residential landscaping. They include Kentucky Bluegrass, Ryegrass, Fescues, Bentgrass, Dichondra and Clover. High water use grasses include Albuquerque Mix and K31. If you wish to use any of these high water use grasses you must make sure you are not covering more than the allowed percentage of your lot with them.
2. 20% Rule: The City ordinance allows the use of high water use plants (regulated grasses) on the greater of 20% of the landscapable area, or 300 square feet. Original landscapable area was calculated by DR Horton for each lot and is stated as "net landscape area" on the Article 6-1-1 calculation sheet you received as part of your home package.

Net landscape area is the entire lot square footage, less building area and driveways.

Gross Lot Area: _____sf

Less Building Area - _____sf

Less Driveway Area - _____sf

=====

TOTAL NET LANDSCAPE AREA _____sf

x 20%

TOTAL AREA FOR HIGH WATER GRASS _____sf or 300sf (greater of)

The square footage allowance may be placed in the front or back yard of the lot, subject to the other provisions of this Guideline and the City Ordinances.

Homeowners may contact City Zoning at (505) 924-3850, or 768-3640, for more information on permitted amounts of grass.

3. Other Medium and Low Water Use Grasses: Refer to the City Plant List and Xeriscaping Guide for ideas on other alternatives for grass groundcover. There are many other acceptable grass types that will allow you greater coverage than the 20%. Other grass types are subject to the other provisions of this guideline.
4. Buffer Zones: In planning grass areas, it is recommended that grass not be planted against sidewalks, fences, walls or buildings. A gravel buffer of 1ft to 2ft is recommended to prevent damage or run-off due to irrigation water.

D. OTHER PLANT CHOICES - SHRUBS/TREES/VINES:

1. Trees and shrub choices shall conform to the City of Albuquerque ordinances pertaining to pollen production and water consumption. Homeowners shall not use prohibited by the City of Albuquerque. Refer to the attached 1998 Albuquerque Plant List, or call 768-2600.
2. Trees whose mature height exceeds forty (40) feet shall not be planted.
3. Trees and shrubs shall be planted in such a location that the mature spread:
 - a) will not cause damage to common or party walls, fences or sidewalks with the associated root systems.
 - b) Trees planted in front yards shall be at least five (5) feet away from common area sidewalks.
 - c) Trees planted in back yards shall be planted at least five (5) feet away from any common subdivision perimeter masonry, or playground masonry wall.
4. Vines will not be allowed to grow on party walls, fences, or masonry walls. If the purpose of a vine is to cover such a structure, the vine must be planted on a trellis four (4") inches away from the party wall or fence.

E. IRRIGATION SYSTEMS: It is recommended that the City Design Regulations and Irrigation System Standards (Article 6-1-1-9 and Article 6-1-1-10) be followed. Care should be taken with irrigating (system or hand) to assure that irrigation is not effecting adjoining property, sidewalks or streets, and that party fences and walls are not being watered. Water flow to adjoining property can be enforceable water waste according to 6-1-1-6 of the Ordinance. It is recommended that spray irrigation not be used on slopes greater than four feet of horizontal distance per one foot vertical change, (4:1), and that sprinkler heads be installed at least eight inches away from impermeable surfaces (sidewalks, driveways, etc.).

F. GRAVEL, BARK, ROCK AND BOULDERS:

1. All gravel shall be installed over a fabric mesh weed barrier. Gravel shall be raked to keep mesh covered at all times. All gravel and rocks shall be natural tones only: grey, brown, tan, or beige. Gravel, rock, and boulders shall not be white, red, black, blue, green, or any other bright color.

2. Tree bark mulch shall be allowed only as a mulch in small planter beds and tree wells. It shall not be permitted as a groundcover.
3. Ground cover shall be crusher fines, gravel $\frac{3}{4}$ " to 1 $\frac{1}{2}$ ", crushed, round, or river washed. The majority of the xeric landscaped yard shall be covered by gravel.
4. Decorative Accents: 1 $\frac{1}{2}$ " to 14" rock or crushed rock may be used as decorative accents.
5. Boulders: Rocks or boulders from 14" to 5' may be used as accent pieces. There shall be no more than five (5) such accent pieces used in the front yard.

G. BACK YARDS:

1. The backyard area should be covered with grass, groundcover, gravel, shrubs, or garden area.
2. Decorative Walls: Decorative walls are allowed in the backyard of the home. If the finished grade on opposite sides of the wall exceeds 18", you will be required by the City to secure permits as the wall is considered a retaining wall. Any dirt behind the decorative walls, must not be retained against the perimeter common wall or neighboring walls.
3. Backyard Retaining Walls: Retaining walls shall be allowed in the backyards as long as the original drainage plan of the site is not disturbed. Dirt retained behind the wall shall not be retained up against the side lot line walls. The retaining wall must terminate in such a way that does not cause damage to the side lot line fences. *If the finished grade on opposite sides of the retaining wall exceeds 18", you will be required to secure City permits.*
4. Garden Areas: Garden areas are allowed only in the backyards of homes. Caution should be used in selecting a location for the garden to assure that watering the garden does not create run-off into an adjoining property.
5. Garden Sheds: See separate Guideline.
6. Ponds: Ponds shall be allowed in backyards only as long as they do not exceed a total of 500 square feet of surface area. Multiple ponds are considered one pond for the purposes of calculating square feet. Waterfalls shall not exceed a height of 5 feet. Ponds shall not cause damage to adjoining property.

- H. SIDE YARDS: Sideyards may not be covered with grass because of the narrow dimensions and difficulty in irrigating without run-off and overspray which damages fences and building stucco. It is recommended that sideyards be covered with gravel to match front yard gravel.

I. FRONT YARDS:

1. Grass: Grass is allowed in the frontyard in the form of sod. No grass seed will be allowed in front area installations.

2. Gravel: Decorative boulders and rocks may be used in the front area of the homes. Decorative boulders may not obstruct common area sidewalks or visibility from the driveway or corner in any way.
3. Decorative Edging: Steel edging, vinyl edging, paving stone, and blocks are allowed. Edgings shall be grey in color, or a color compatible with grey concrete, or tan. Edging shall not be white. No picket edging, railroad ties, or wire decorative borders will be allowed. All other edging will require the prior approval of the Architectural Control Committee.
4. Trees and Shrubs: A maximum of three (3) trees may be planted in the frontyard. Trees and shrubs must comply with the City pollen restrictions. Trees must be planted at least five (5) feet away from any sidewalk or masonry wall. When installing trees or shrubs in the front yards, the mature spread of the plant must be considered. The location of the plant must be such that the mature spread of the plant must not obstruct the sidewalk or masonry wall, or obstruct vision at a corner or from a driveway. Any damage or uplift to streets, sidewalks, or masonry walls by invasive root systems will be required to be repaired at the homeowner's expense.
5. Gravel Strip: No planting or other changes shall take place in the gravel between the sidewalk and street curb. Each homeowner is responsible for maintaining this area in good, clean, weed free condition.
6. Decorative Walls: Decorative walls are prohibited unless they are brought before the Architectural Control Committee (ACC) for approval.

J. **GARDEN ACCESSORIES:**

Component	Limitations	Front Yard	Back Yard	City Permit Required
Benches		yes	yes	
Covered Patio/Porch	Must seek Eagle Pointe Architectural Control Committee approval	No	yes, with ACC approval	Yes
Decorative Lighting	See separate section below	Yes	yes	
Dog Runs	Not visible from front. Five (5) foot height limitation. Must be behind privacy fence.	No	yes	Fence permit
In Ground Flag Poles		no	no	
Flower Pots/Planters		yes	yes	
Fountains	Five (5) foot height limitation	no	yes	
Garden Sheds	See separate Guideline	no	yes	yes, depending on size
Garden Statuary	Five (5) foot height limitation	no	yes	
Gazebos	See separate section below	no	yes	yes, depending on size
Playhouses	Five (5) foot height limitation	no	yes	
Swingsets/Jungle Gyms		no	Yes	
Trellis	No higher than the wall if on a wall. If on the house wall, no height limitation Four (4) inches separation from fence or wall.	no	yes	
Windmills	Five (5) foot height limitation	no	yes	

- K. **EXTERIOR LIGHTING:** Exterior lighting shall be located to minimize impact on adjoining lots or adjoining common areas. Ground mounted lighting shall be no higher than eighteen (18") inches and should be directed downward as necessary to safely light walkways and residence entries. Light fixtures mounted on the home shall be mounted no higher than 10 feet above the finished grade and should be screened to prevent direct light falling outside the subject lot. Light fixtures shall be black, white, cream, brass, verti-green copper or a color matching the home's stucco.
- L. **GAZEBOS:** Gazebos are allowed in the backyard only. They shall be no higher than eight (8') feet. The gazebo is to be constructed with materials and in colors matching or complementing the features of the home, or may be natural wood. The roof shall be covered with shingles to match the color of the home, or rustic slate. Gazebos over eighty (80) square feet are required to be at least ten (10) feet away from a dwelling, and five (5) feet away from any other accessory structure. Gazebos over one hundred and twenty (120) square feet will require City permits.
- M. **SIDEWALKS AND STEPS:** The addition of sidewalks and steps are allowed to the homeowner's lot, if they are grey in color to match the common sidewalks, and finished in a workmanship like manner. Any intersection between the homeowner's sidewalk or steps and the common area component must be level and smooth so as not to present a trip hazard to pedestrians along the common area sidewalk. Sidewalks in the sideyards are allowed, but extreme caution must be exercised to maintain the originally designed drainage. Paving stones and flagstones may be used as pathways, but shall be natural tones only: grey, brown, tan, or beige. They shall not be white, red, black, blue, green, or any other bright color.
- N. **CONCRETE PORCHES/PATIOS:** Must be at least five feet away from any side lot line, and at least fifteen (15) feet away from any back-lot line. Caution must be exercised not to change the designed drainage of the site. *Until such time as a Guideline is issued for covered patios, covered patio plans must be submitted to the Architectural Control Committee.*
- O. **DAMAGE CAUSED BY LANDSCAPING:** Any damage caused by a homeowner's landscape installation to common area components shall be repaired at the installing homeowner's expense. This obligation is assumed by any subsequent owner of the property.
- P. **LANDSCAPE MAINTENANCE:** All landscaping components shall be kept neat and trimmed. All landscaping shall be kept in a green and weed free condition. Dead landscaping components shall be removed immediately.
- Q. **INSTALLATION OF LANDSCAPING:** It is recommended that before digging, the location of utilities are known. Call 1-800-321-ALERT for assistance. Efforts should be made to limit the amount of material for a project stored on the common elements. Dirt or gravel may be temporarily stored on the roadway at the curb in front of the home, in an area no larger than that required by a properly parked vehicle, for a period of no longer than forty eight (48) hours. A liner or tarp under the material is recommended. The road shall be left in clean condition following the removal of the material.

- R. COMPLIANCE & VARIANCES: Homeowners are responsible for compliance with City ordinances and zoning, as well as the Eagle Pointe Guidelines. Installations noncompliant with the Eagle Pointe guidelines will be required to be removed or be brought into compliance by the homeowner. Should a homeowner wish to install landscaping outside of the guidelines listed above, the Architectural Control Committee must be contacted in advance of installation. The Committee has thirty days to consider such a request.

C O P Y

By: Robert C. Prewitt, Chairperson
Eagle Pointe Architectural Control Committee

April 25, 2001

Date

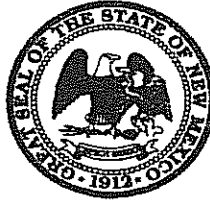
Articles of Incorporation

Eagle Pointe
Homeowners Association, Inc.

NEW MEXICO PUBLIC REGULATION COMMISSION

COMMISSIONERS

DISTRICT 1 HERB H. HUGHES
DISTRICT 2 DAVID W. KING, VICE-CHAIRMAN
DISTRICT 3 JEROME D. BLOCK
DISTRICT 4 LYNDIA M. LOVEJOY, CHAIRWOMAN
DISTRICT 5 E. SHIRLEY BACA



1120 PASEO DE PERALTA
PO BOX 1269
SANTA FE, NEW MEXICO 87504-1269
(505) 827-4504
WWW.NMPRC.STATE.NM.US
"CORPORATIONS"

SEPTEMBER 11, 2003

EAGLE POINTE HOMEOWNERS ASSOCIATION, INC.
612 KELLEHER NW
ALBUQUERQUE, NM 87102

RE: EAGLE POINTE HOMEOWNERS ASSOCIATION, INC.
NMSCC #2140713

In accordance with New Mexico Statutes, enclosed is the Certificate of Reinstatement of said corporation. If you have any questions, feel free to call a Tax Examiner, Collector and Revenue Agent at (505) 827-4510.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ann Echols".

for Ann Echols
Bureau Chief

AE/as



OFFICE OF THE
PUBLIC REGULATION COMMISSION

CERTIFICATE OF REINSTATEMENT
OF

EAGLE POINTE HOMEOWNERS ASSOCIATION, INC.

2140713

The Public Regulation Commission certifies that the application for reinstatement duly signed and verified pursuant to the provisions as set forth by New Mexico Statutes has been received and is found to conform to law.

Accordingly, it is further certified that, the Public Regulation Commission issues this Certificate of Reinstatement effective September 11, 2003.

DATED: September 11, 2003

In testimony whereof, the Public Regulation of the State of New Mexico has caused this certificate to be signed by its Chairman and the seal of said Commission to affixed at the City of Santa Fe.

Lynda Loring

Chairwoman

Ann Echols

Bureau Chief

AS for



OFFICE OF THE
PUBLIC REGULATION COMMISSION

CERTIFICATE OF INCORPORATION

OF

EAGLE POINTE HOMEOWNERS ASSOCIATION, INC.


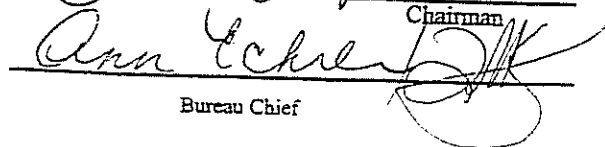
2140713

The Public Regulation Commission certifies that duplicate originals of the Articles of Incorporation attached hereto, duly signed and verified pursuant to the provisions of the
NONPROFIT CORPORATION ACT
(53-8-1 to 53-8-99 NMSA 1978)
have been received by it & are found to conform to law.

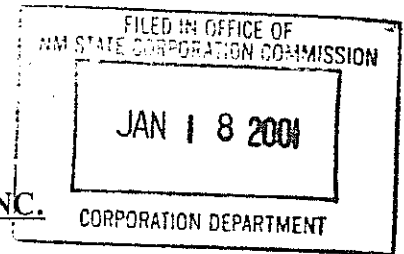
Accordingly, by virtue of the authority vested in it by law, the Public Regulation Commission issues this Certificate of Incorporation & attaches hereto, a duplicate original of the Articles of Incorporation.

Dated: JANUARY 18, 2001

In testimony whereof, the State Public Regulation Commission of the State of New Mexico has caused this certificate to be signed by its Chairman and the seal of said Commission to be affixed at the City of Santa Fe


Chairman

Bureau Chief

ARTICLES OF INCORPORATION OF
EAGLE POINTE HOMEOWNERS ASSOCIATION, INC.



In compliance with the provisions of the State of New Mexico Nonprofit Corporation Act, NMSA 1978, §§ 53-8-1 through 53-8-99 (Repl. Pamp. 1983 & Cum. Supp. 1994), the undersigned, D. R. Horton, Inc., a Delaware corporation, does hereby certify and adopt in duplicate the following Articles of Incorporation for the Eagle Pointe Homeowners Association, Inc.

ARTICLE I: NAME

The name of the corporation is EAGLE POINTE HOMEOWNERS ASSOCIATION, INC. (hereinafter called the "Association").

ARTICLE II: DURATION

The Association shall exist perpetually.

ARTICLE III: PRINCIPAL OFFICE

The principal office of the Association is c/o D. R. Horton, Inc., 4400 Alameda NE, Suite B, Albuquerque, New Mexico 87113.

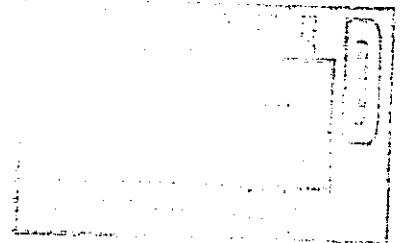
ARTICLE IV: REGISTERED AGENT

Robert C. Prewitt, whose address is c/o D. R. Horton, Inc., 4400 Alameda NE, Suite B, Albuquerque, New Mexico 87113 is hereby appointed the initial registered agent of this Association, and such address shall be the registered office of the Association.

ARTICLE V: PURPOSES AND POWERS

The purposes and powers of the Association are as follows:

Section 1. This Association does not contemplate pecuniary gain or profit to the members thereof, and is organized solely for non-profit purposes.



Section 2. The Association shall not have the power to issue stock or to declare dividends.

Section 3. The specific purposes for which the Association is formed are to maintain, preserve and improve the common areas within that certain tract of property (hereinafter the "Property") situated in Bernalillo County, and more particularly described in the Eagle Pointe Subdivision Comprehensive Declaration of Covenants, Conditions and Restrictions filed or to be filed with the real property records of said county (hereinafter the "Declaration"), including any additions thereto, as may hereafter be brought within the jurisdiction of this Association; to promote the health, safety and welfare of the residents within the above-described Property; to sponsor for the benefit of its members, social, cultural and/or artistic events; and to do any and all other things necessary and convenient for the accomplishment or furtherance of any of the purposes stated herein, and to do all things necessary or convenient for the protection and benefit of the Association, and for these purposes to:

(a) Exercise all of the powers and privileges and perform all of the duties and obligations of the Association as set forth in the Declaration;

(b) Fix, levy, collect and enforce payment by any lawful means, including commencement of legal proceedings or litigation, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

(c) Acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, conserve, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property and any interest therein in connection with the affairs of the

Association; including but not limited to, the common areas, recreational facilities, parks, roads, bridges, and drainage structures owned by existing and future members of the Association;

(d) Borrow money, and mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, provided that any such mortgage, pledge, deed in trust, or hypothecation shall be in compliance with provisions of applicable law at the time of the conduct, including membership vote if required by applicable law and prior approval by HUD/VA if D. R. Horton, Inc. holds more than a majority of the voting power of the Association;

(e) Participate in mergers and consolidations with other non-profit corporations organized for the same purposes, and otherwise extend its jurisdiction and responsibilities to additional tracts of land, provided that any such merger, consolidation or annexation shall be in compliance with provisions of applicable law at the time of such conduct and shall be first approved by HUD/VA if D. R. Horton, Inc. at that time still holds more than a majority of the voting power of the Association.

(f) To bring suit or participate in or commence any proceeding, whether judicial or administrative as necessary to protect the interests of the Association.

ARTICLE VI: MEMBERSHIP

The eligibility for membership shall be as stated in the Declaration. The Bylaws shall set forth any additional qualifications for membership.

ARTICLE VII: BOARD OF DIRECTORS

The business and affairs of this Association shall be conducted and managed by a Board of not less than three (3) and not more than five (5) Directors, who shall be members of the Association or the authorized agent of a member corporation or partnership. The number of directors may be changed by amendment of the Bylaws of the Association. The initial board of directors shall consist of the following three people:

- | | | |
|----|-------------------|---|
| 1. | Robert C. Prewitt | D. R. Horton, Inc.
4400 Alameda NE, Suite B
Albuquerque, New Mexico |
| 2. | Katherine Rhoades | D. R. Horton, Inc.
4400 Alameda NE, Suite B
Albuquerque, New Mexico |
| 3. | Diana W. Lewis | D. R. Horton, Inc.
4400 Alameda NE, Suite B
Albuquerque, New Mexico |

The Directors, other than the initial directors, shall be elected at the annual meeting and shall each serve a two year term. The terms of the Directors shall be staggered. Directors' seat numbered 1 shall be subject to an election of the Association at the first annual meeting. Directors' seats numbered 2 and 3 shall be subject to an election at the next following annual meeting.

ARTICLE VIII: DISSOLUTION

The Association may be dissolved if consistent with law and the Declaration. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the

Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes.

ARTICLE IX: AMENDMENTS

Amendment to these Articles can be made if consistent with law and the Declaration and shall require the approval of at least two-thirds (2/3) of the vote of the Lot Owners.

ARTICLE X: INCORPORATOR

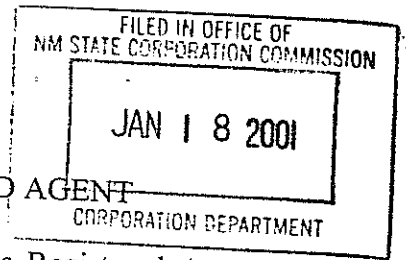
The name and address of the incorporator is:

Robert C. Prewitt
4400 Alameda NE, Suite B
Albuquerque, New Mexico 87113

IN WITNESS WHEREOF, for the purpose of forming this Association under the laws of the State of New Mexico, the undersigned, constituting the incorporator of this Association, has executed these Articles of Incorporation this 17th day of January, 2001.

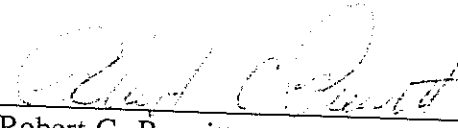
By: _____

Robert C. Prewitt
4400 Alameda NE, Suite B
Albuquerque, New Mexico 87113
505/797-4245



ACCEPTANCE OF APPOINTMENT AS INITIAL REGISTERED AGENT

The undersigned, being duly sworn, hereby accepts appointment as Registered Agent, pursuant to the New Mexico Nonprofit Corporation Act, for Eagle Pointe Homeowner's Association, Inc., a New Mexico nonprofit corporation.

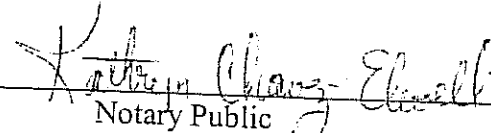

Robert C. Prewitt
Initial Registered Agent

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

The foregoing Acceptance of Appointment as Initial Registered Agent was subscribed and sworn before me on this 17th day of January, 2001 by Robert C. Prewitt, Initial Registered Agent.

Witness my hand and official seal.

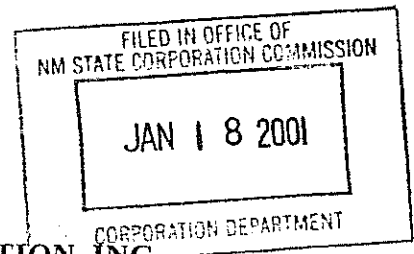
(SEAL)


Kathryn Chang-Edwards
Notary Public

My Commission Expires: 10-14-01

Bylaws

Eagle Pointe
Homeowners Association, Inc.



BYLAWS OF
EAGLE POINTE HOMEOWNERS ASSOCIATION, INC.

PREAMBLE

This is a Nonprofit Corporation organized and operated under the applicable laws of the State of New Mexico and the New Mexico Nonprofit Corporation Act, NMSA 1978, §§ 53-8-1 through 53-8-99 (Repl. Pam. 1983 & Cum. Supp. 1994).

ARTICLE I

OFFICE

Section 1.1 Principal Office. The principal office of the corporation in the State of New Mexico shall be located as the Board of Directors may determine or as the affairs of the corporation may require from time to time.

Section 1.2 Registered Office and Registered Agent. The corporation shall have and continuously maintain in the State of New Mexico a registered office and a registered agent, as required by law. The registered office may be, but need not be, identical with the principal office of the corporation, and the address of the registered office may be changed from time to time by the Board of Directors.

ARTICLE II

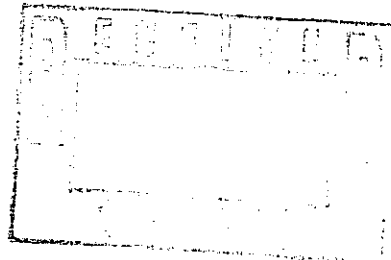
DEFINITIONS

Section 2.1. Assessments. The term "Assessments" shall have the same meaning as set forth in the Declaration.

Section 2.2. Association. The term "Association" shall have the same meaning as set forth in the Declaration.

Section 2.3. Common Facilities. The term "Common Facilities" shall have the same meaning as defined in the Declaration.

Section 2.4. Common Properties. The term "Common Properties" shall have the same meaning as defined in the Declaration.



Section 2.5. Declarant. The term "Declarant" shall have the same meaning as set forth in the Declaration.

Section 2.6. Declaration. The term "Declaration" shall mean and refer to the Eagle Pointe Subdivision Comprehensive Declaration of Covenants, Conditions and Restrictions (and amendments and supplements thereto) recorded in the Office of the County Clerk of Bernalillo County, New Mexico.

Section 2.7. Lot. The term "Lot" shall have the same meaning as set forth in the Declaration.

Section 2.8. Member(s). The term "Member(s)" shall have the same meaning as set forth in the Declaration.

ARTICLE III

MEMBERSHIP

Section 3.1. Qualifications for Good Standing. In addition to those qualifications set forth in Article IX of the Declaration and in the Articles of Incorporation, the qualifications for being a Member in good standing shall be as follows:

- (a) Full payment of any and all Assessments levied by the Association against the Member's Lot; and
- (b) Full compliance with the Declaration and any rules and regulations promulgated by the Association.

Section 3.2. Voting. The right to vote shall be as stated in Article IX of the Declaration. In addition, only Members in good standing shall have the right to vote.

ARTICLE IV

MEETINGS OF MEMBERS

Section 4.1 Annual Meeting. The annual meeting of the Members of this Association shall be held on the first Wednesday of the month of November each year at 6:00 p.m. at a location selected by the Board of Directors within 10 miles of the Eagle Pointe Subdivision, within the County of Bernalillo, State of New Mexico. At the annual meeting, the Board of Directors shall present an accounting of the expenses, itemizing receipts and disbursements for the preceding calendar year, the allocation thereof to each Member, and the estimated budget for the coming calendar year, and any other business which may properly be brought before the Association.

Section 4.2. Special Meetings. Special meetings of the Members of the Association may be called at any time by the President, or upon resolution signed by at least a majority of the Board of Directors, or upon written petition to the President signed by ten percent (10%) of the Members. The purpose of every special meeting shall be stated in the notice thereof, and no business shall be transacted except such as is specified in the notice.

Section 4.3. Notice. Notice of meetings of the Members of the Association, both regular and special shall include the purpose, place, date and hour of the meeting and shall be given to each Member of record in writing and delivered either personally or by mail to the address shown upon the books of the Association, at least ten (10) days prior to the meeting, but not more than fifty (50) days prior to the meeting.

Section 4.4. Order of Business. The order of business at the annual meetings, and as far as possible at other meetings, shall be:

- (a) Calling to order and proof of quorum;
- (b) Proof of notice of meeting;
- (c) Reading and action taken upon the minutes of the last meeting;
- (d) Reports of Directors;
- (e) Reports of Officers and Committees;
- (f) Election of Directors;
- (g) Unfinished business;
- (h) New business; and
- (i) Adjournment.

Section 4.5 Quorum. The presence at a meeting of Members entitled to cast, and/or of proxies entitled to cast, thirty percent (30%) of the then existing voting rights of the membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or be represented by proxy.

Section 4.6. Proxies. At all meetings of Members, each Member may vote in person or by proxy upon such terms as may be determined from time to time by the Board of Directors of the Association. All proxies shall be in writing, sealed and personally delivered by the person executing the proxy to a board member or returned by the United States Postal Service to the person designated by the Board of Directors, and filed with the Association Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

Section 4.7. Voting. All Members of the Association in good standing shall be entitled to one (1) vote (in person or by proxy) for each Lot owned at any meeting of Members of the Association or with respect to any matters submitted to a vote of the Members of the Association.

If more than one person holds an interest in any Lot, all such persons shall be Members of the Association. The vote for such multiply-owned Lot shall be exercised as the Owners among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. Declarant shall be entitled to cast three (3) votes for each Lot it owns until the first to occur of (a) conveyance by Declarant of seventy-five percent (75%) in number of Lots in the Eagle Pointe Subdivision (as defined in the Declaration) or (b) December 31, 2004.

ARTICLE V

DIRECTORS

Section 5.1. Number. The business and affairs of the Association shall be conducted and managed by a Board of not less than three (3) and not more than five (5) Directors who shall be members of the Association or the authorized agent of a member corporation or partnership.

Section 5.2. Term of Office. At the first annual meeting the Director's seat designated as number one (1) in the Articles of Incorporation shall be subject to election. Director's seats likewise designated numbers 2 and 3 shall be subject to election at the next following annual meeting. Elected Directors shall serve two year terms.

Section 5.3. Directors' Meetings. Regular meetings of the Board of Directors shall be held as the Board may determine and at such place and hour as may be fixed from time to time by resolution of the Board. Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two Directors, after not less than three (3) days notice to each Director. Directors' meetings shall be open to any Member of the Association.

Section 5.4. Quorum. A majority of the total number of Directors shall constitute a quorum for the transaction of business. Each act or decision done or made by the Directors shall require the assent of a simple majority of the quorum.

Section 5.5. Removal and Replacement of Directors. Any Director or Officer of the Association may resign in writing at any time. At such time as the Members of the Association have the right to vote for Directors on the Board of Directors, any Director or Officer of the Association may be removed from office, with or without cause, by a vote of not less than a majority of the Members of the Association present at any annual meeting, or at any special meeting called for that purpose. In the event of death, resignation or removal of a Director, his or her successor shall be selected by the remaining Directors on the Board and shall serve until the next meeting of the Association when another will be elected for the unexpired term.

Section 5.6. Compensation of Director. No Director shall receive compensation for any service he or she may render to the Association; however, any Director may be reimbursed for his or her actual expenses incurred in the performance of his or her duties.

Section 5.7. Action of Directors Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting of the Directors which could be taken at a meeting by obtaining the written approval of a majority of the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

Section 5.8. Nomination. Any member may nominate himself or any other Member for election to the Board of Directors by submitting the name of said nominee in writing to the Board of Directors at least thirty (30) but not more than sixty (60) days before the annual meeting of Members. The written nomination shall be accompanied by a resume, curriculum vitae, position statement or any statement of goals or qualifications deemed appropriate by the nominating party. The names of the nominees and the written statements presented shall be made available to all Members at least ten (10) days prior to the election.

Section 5.9. Election. Election of the Board of Directors shall be by secret written ballot. At such elections the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions hereof. The persons receiving the largest number of votes shall be elected.

ARTICLE VI

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 6.1. Powers. A majority of the Board of Directors shall have the power to:

- (a) Adopt and publish rules and regulations ("Rules and Regulations") governing the use of the Common Facilities and Common Properties, and the personal conduct of the Members and their guests thereon, and to establish fines and/or penalties for the infraction thereof;
- (b) Imposed reasonable sanctions for violation of the Declaration, these By-Laws, and/or any Rules and Regulations after notice and a hearing in accordance with the procedures set forth in Article X and XI of the Declaration including, without limitation:
 - (i) imposing reasonable monetary fines which shall constitute a lien upon the violator's Lot. (In the event that any occupant, guest or invitee of an Owner violates the Declaration, the By-Laws, and/or any Rules and Regulations and a fine is imposed, the fine shall first be assessed against the violator, but if the fine is not paid by the violator within the time period set by the Board of Directors, the Owner shall pay the fine upon notice from the Board of Directors);

- (ii) suspending an Owner's right to vote;
- (iii) suspending any person's right to use any facilities within the Common Facilities and Common Properties; provided, however, nothing herein shall authorize the Board of Directors to limit ingress, or egress to or from a Lot;
- (iv) exercising self-help or taking action to abate any violation of the Declaration, the By-Laws, and/or any Rules and Regulations;
- (v) requiring an Owner, at the Owner's expense, to remove any structure or improvement on such Owner's Lot in violation of the Declaration and to restore the Lot to its previous condition;
- (vi) without liability to any person, prohibiting any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of the Declaration from continuing or performing any further activities in the Subdivision; and
- (vii) levying specific assessments to cover costs incurred by the Association to bring a Lot into compliance with the Declaration, the By-Laws, and/or any Rules and Regulations.

In addition, the Board of Directors may take the following enforcement actions to ensure compliance with the Declaration, the By-Laws, and/or any Rules and Regulations, without the necessity of compliance with the procedures set forth in Article XI of the Declaration; exercising self-help in any emergency situation (specifically including, but not limited to, the towing of vehicles that are in violation of any parking rules and regulations); and bringing suit at law or in equity to enjoin any violation or to recover monetary damages, or both.

In addition to any other enforcement rights, if an Owner fails to properly perform such Owner's maintenance responsibility, the Board of Directors may record a notice of violation or perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot and the Owner as a Specific Assessment. Except in an emergency situation, the Board of Directors shall provide the Owner with reasonable notice and an opportunity to cure the problem prior to taking such enforcement action.

All remedies set forth in the Declaration and/or By-Laws shall be cumulative of any remedies available at law or in equity. In any action to enforce the Declaration, the By-Laws, and/or any Rules and Regulations, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

The Board of Directors shall not be obligated to take any action if the Board of Directors reasonably determines that the Association's position is not strong enough to justify taking such action. Such a decision shall not be construed as a waiver of the right of the Association to enforce such provision at a later time and under other circumstances or estop the Association from enforcing any other covenants, restriction or rule.

- (c) Suspend the good standing of any Member as specified in Article III of these Bylaws;
- (d) Make repairs and replacements to the Common Facilities and Common Properties as may be reasonably necessary to protect the overall security, appearance, value and continuity of the Lots or the health and safety of the Members, Owners, residents and guests; to levy and assess the actual costs and expenses thereof to the individual Members; to record a lien therefore; and to foreclose said lien as permitted by law;
- (e) Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation, or the Declaration;
- (f) Declare the office of a Director on the Board of Directors to be vacant in the event such Director shall be absent from four (4) consecutive regular meetings of the Board of Directors and fill that vacancy;
- (g) Employ a property manager, independent contractors, or such employees as they deem necessary, and to prescribe their duties.
- (h) Incur debt and approve contracts, provided however, Common Facilities and Common Properties are not mortgaged or conveyed without consent and affirmative vote of two-thirds of the Members, excluding Declarant;
- (i) Bring suit or participate in or commence any proceeding, whether judicial or administrative, as necessary to protect the interests of the Association, provided, however that suits and proceedings other than for the collection of

monetary fines and assessments and/or the enforcement of the Declaration against Owners, shall not be commenced without consent and the affirmative vote of two-thirds of the members;

- (j) Appoint committees as deemed appropriate in carrying out the purposes of the Association; and
- (k) Levy assessments and fines and pursue the enforcement and collection thereof in accordance with the provisions of these Bylaws, the Declaration and the laws of the State of New Mexico.

Section 6.2. Duties. It shall be the duty of the Board of Directors to:

- (a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or any special meeting;
- (b) Supervise all officers, agents and employees of this Association, to insure that their duties are properly performed;
- (c) As more fully provided in the Declaration, to:
 - (1) Fix the amount of the annual assessment for the next year against each Lot at least thirty (30) days in advance of each annual meeting. Such annual assessment amount may be increased or decreased upon thirty (30) days written notice;
 - (2) Send written notice of the annual assessment amount for the next year (and any notice of an increase or decrease), to every Member subject thereto at least thirty (30) days in advance of each annual meeting or if applicable, at least thirty (30) days in advance of such increase or decrease;
 - (3) Fix the amount of any special assessment against each Lot as provided in the Declaration and send statements to each Member as provided for therein;
 - (4) Send written notice of each special assessment to every Member subject thereto at least thirty (30) days in advance of the due date; and
 - (5) Fix the amount of any fines or penalties as provided in the Declaration and send notice thereof to the applicable Member(s) as provided for therein;

- (6) Foreclose the lien of the Association against any Lot for which assessments or fines are not paid within thirty (30) days after the due date or to bring an action at law against the Member, or former Member, personally obligated to pay the same when, in the discretion of the Board of Directors, such action would be in the best interests of the Association.
- (d) Issue, or cause an appropriate officer to issue, upon reasonable demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of such certificate. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- (e) Procure and maintain adequate liability and hazard insurance on property owned or maintained by the Association;
- (f) Cause all officers or employees having fiscal responsibilities to be bonded, if in the discretion of the Board of Directors such bond is deemed appropriate;
- (g) Procure and maintain adequate directors' and officers' liability insurance coverage for the officers and directors of the Association;
- (h) Cause the Common Facilities and Common Properties to be maintained and insured;
- (i) Prepare the annual budget, to include, without limitation amounts deemed proper for the operation and maintenance of the Common Facilities and Common Properties and general operating reserves for replacements and new improvements and to make up for any deficits;
- (j) Pay all Association bills when they become due;
- (k) Enforce by legal means the provisions of the Declaration, these Bylaws, and any Rules and Regulations; and
- (l) Act on behalf of the Members with respect to all matters arising out of any eminent domain proceeding.

ARTICLE VII

OFFICERS

Section 7.1. Enumeration of Officers. The Officers of this Association shall be President, Vice-President, a Secretary/Treasurer, and such other Officers as the Board of Directors may from time to time by resolution create. Each Officer shall be a Member of the Association or the authorized agent of a Member corporation or partnership. Only Directors shall be eligible for the offices of President and Vice-President.

Section 7.2. Election of Officers and Term of Office. The Officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless the Officer shall sooner resign, be removed, or be otherwise disqualified to serve. The election of Officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

Section 7.3. Special Officers. The Board may elect such other Officers from the Members as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 7.4. Resignation and Removal. Any Officer may be removed from office, with or without cause, by the Board. Any Officer may resign in writing at any time giving written notice to the Board. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 7.5. Vacancies. A vacancy in any office may be filled by appointment by the Board. The Officer appointed to such vacancy shall serve for the remainder of the term of the Officer he or she replaces.

Section 7.6. Duties. The duties of the Officers are as follows:

- (a) President. The President shall preside at all meetings of the Members and the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all contracts, lien statements, mortgages, deeds and other written instruments on behalf of the Association and shall co-sign all checks and promissory notes. The president may designate the property manager to sign checks for normal budgeted operating expenses or amounts approved by the Board and lien statements on behalf of the Association on a continuing basis in order to effect the normal daily operations of the Association.
- (b) Vice-President. The Vice-President shall act in the place and stead of the President in the event of his or her absence, inability or refusal to act, and

shall exercise and discharge such other duties as may be required of him or her by the Board.

- (c) Secretary/Treasurer. The Secretary/Treasurer shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their mailing address and whether or not they are in good standing; receive and deposit in appropriate bank accounts all monies of the Association, including but not limited to the Maintenance Fund as set forth in the Declaration, and disburse such funds as directed by the Board of Directors; sign all checks and promissory notes of the Association; keep proper books of account; cause an annual accounting of the Association books to be made at the completion of each fiscal year; prepare an annual budget and a statement of income and expenditure to be presented to the membership at its regular annual meeting; and perform such other duties as required by the Board.
- (d) The officers of the Association may retain attorneys, accountants and others as may be reasonably necessary to represent the Association.

ARTICLE VIII

MAINTENANCE FUND

As more fully described in the Declaration, the Association shall create and maintain an Operating Expenses Fund and a Reserve Fund. The purpose of each fund shall be as specified in the Declaration. The amount of the monthly levy to establish and maintain the funds shall be determined by the Board of Directors based in part upon the average annual expenditures for past years. In no instances shall said funds total more than a reasonable amount necessary to meet annual average costs of the Association's obligations under the Declaration, including costs for reasonably anticipated repairs and replacements.

ARTICLE IX

ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to promptly pay to the Association annual and special assessments, and any fines or other fees properly assessed against such Member, all of which are secured by a continuing lien upon said Member's Lot. Any

assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, a \$15.00 late fee shall be owed, plus the assessment shall bear interest from the date due at the rate of eighteen percent (18%) per annum, and the Association may bring an action at law against the Member, or former Member, personally obligated to pay the same or foreclose the lien on the Lot. If the assessment is placed in the hands of an attorney for collection or if suit is brought thereon or if collected through probate or other judicial proceedings, the Member, or former Member, shall pay to the Association an additional reasonable amount, as attorneys' fees. In addition, the Member, or former Member, shall pay all costs of such collection or judicial proceeding. No Member may waive or otherwise escape liability for the assessments provided for herein. The Board of Directors shall be entitled to record a notice of the lien of the Association for any assessment which is delinquent.

ARTICLE X

RECORDS OF THE ASSOCIATION

Section 10.1. Inspection of Records. The books, records and papers of the Association shall at all times, during regular business hours and upon reasonable advance notice, be subject to inspection by any Member. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reproduction cost.

ARTICLE XI

SALE OR TRANSFER OF MEMBERSHIP

Section 11.1. Sale or Transfer. Membership in the Association shall be appurtenant to and shall automatically follow the legal ownership of each Lot and may not be separated from such ownership, all as provided for in the Declaration. Whenever the legal ownership of any lot passes from one person to another, by whatever means, it shall not be necessary that any instrument provide for transfer of membership in the Association.

Transfer of an interest in the Association will not affect or change any existing or accrued obligations, and such new interest holder will not be personally liable for such obligations unless otherwise specified in these Bylaws or the Declaration.

ARTICLE XII

AMENDMENTS

These Bylaws may be repealed or amended by a vote of two thirds (2/3) of the Members, at the annual meeting, or at any special meeting called for that purpose; provided notice of the proposed repeal or amendment is incorporated in the notice of such meeting. So long as D. R. Horton, Inc. is still entitled to cast three (3) votes for each Lot it owns, HUD/VA shall have the right to veto any amendment to these By-Laws.

ARTICLE XIII

MISCELLANEOUS

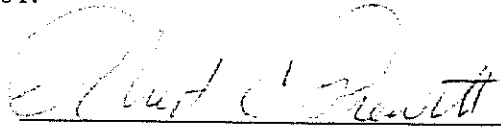
Section 13.1. Fiscal Year. The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

Section 13.2. Indemnification of Board of Directors, Officers and Members of the ACC and other Committees. The Association shall indemnify any present or former Director or Officer and any present and former member of any Committee, including but not limited to the Architectural Control Committee of the Association, against reasonable expenses, costs, and attorney's fees actually and reasonably incurred by him or her in connection with the defense of any action, suit, or proceeding, civil or criminal, in which he or she is made a party, or in which he or she may become involved, by reason of being or having been a Director or Officer or member of any committee. The indemnification shall include any amounts paid to satisfy a judgment or to compromise or settle a claim, provided that in the event of a settlement the indemnification shall apply when the Board of Directors approves such settlement and reimbursement as being in the best interests of the Association. The Director, Officer, or committee member shall not be indemnified if he or she is adjudged to be liable on the basis that he or she has breached or failed to perform the duties of his or her office or committee and the breach or failure to perform constitutes willful misconduct or recklessness.

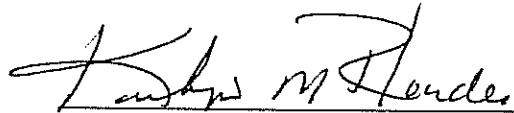
Section 13.3. Conflicts. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles of Incorporation shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

Section 13.4. Interested Parties. No transaction of the Association will be affected because a Member, Director, Officer, or Employee of the Association is interested in the transaction, provided full disclosure is made in advance to the Directors and Officers of the Association. Such interested parties will be counted for quorum purposes, and may vote, when the Association considers the transaction. Such interested persons will not be liable to the Association for the party's profits, or the Association's losses from the transaction.

IN WITNESS WHEREOF, we, being the initial Board of Directors of the EAGLE POINTE HOMEOWNERS ASSOCIATION, INC., having adopted these Bylaws of the Association, have hereunto set our hands this 17th day of January, 2001.



Robert C. Prewitt
President/Chairman of the Board



Katherine Rhoades
Vice President/Member of the Board



Diana W. Lewis
Secretary/Treasurer/Member of the Board

ACKNOWLEDGMENT

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

The foregoing instrument was acknowledged before me this 17th day of January, 2001, by Robert C. Prewitt, President and Chairman of the Board of Eagle Pointe Homeowners Association, Inc.

Kathryn Chang Elwell
NOTARY PUBLIC

My Commission Expires:
10-14-01

STATE OF NEW MEXICO)
)
COUNTY OF BERNALILLO)

The foregoing instrument was acknowledged before me this 17th day of January, 2001, by Katherine Rhoades, Vice-President and Member of the Board of Eagle Pointe Homeowners Association, Inc.

Kathryn Chang Elwell
NOTARY PUBLIC

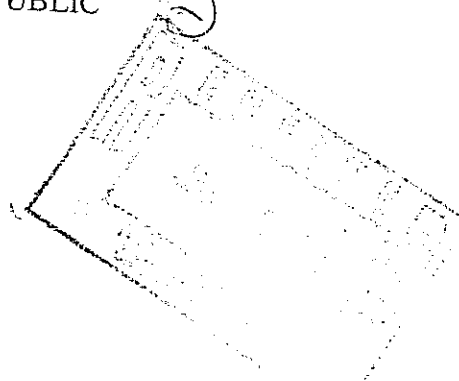
My Commission Expires:
10-14-01

STATE OF NEW MEXICO)
)
COUNTY OF BERNALILLO)

The foregoing instrument was acknowledged before me this 17th day of January, 2001, by Diana W. Lewis, Secretary/Treasurer and Member of the Board of Eagle Pointe Homeowners Association, Inc.

Kathryn Chang Elwell
NOTARY PUBLIC

My Commission Expires:
10-14-01



Declaration of Covenants, Conditions and Restrictions

Eagle Pointe
Homeowners Association, Inc.

EAGLE POINTE SUBDIVISION
COMPREHENSIVE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS



Mary Herrera

Bern. Co. DEC

R 85.00

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EAGLE POINTE SUBDIVISION

COMPREHENSIVE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION is made on the date and year below written by D. R. HORTON, INC., a Delaware corporation, hereinafter referred to as the "Declarant."

RECITALS

1. Declarant is the owner of that certain real property described in Section 1.17 hereof (the "Property").

2. The purpose of this Declaration is to create and carry out a uniform plan for the improvement, development, sale and use of the Property; to preserve so far as possible the natural beauty of the Property; to guard against the erection of poorly designed or proportioned Improvements, or the use of unsuitable materials; to encourage and secure the erection of well designed, attractive Improvements which are harmonious with their sites and consistent with existing Improvements; and in general, to enhance the environmental quality and economic value of the Property.

NOW, THEREFORE, Declarant hereby declares that the real property described in Exhibit A to this Declaration shall be held, sold, used, developed, occupied, leased and conveyed subject to the following reservations, easements, restrictions, covenants and conditions, as amended or as modified from time to time, which shall run with the Property and shall be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

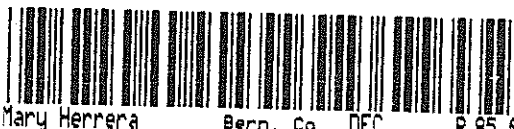
ARTICLE I

DEFINITIONS

Section 1.1. "Architectural Control Committee" shall mean and refer to the committee created pursuant to Article VIII hereof. Such Architectural Control Committee shall hereinafter sometimes be referred to as "ACC" or "Committee."

Section 1.2. "Architectural Control Committee Rules" shall mean and refer to such rules as are adopted by the ACC pursuant to Article VIII hereof.

Section 1.3. "Assessments" shall mean and refer collectively to all regular operating expense charges or assessments, all regular reserve fund charges or assessments, any applicable special assessments or charges, and any fines or other fees provided for in Article X hereof.



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Section 1.4. "Association" or "Homeowners Association" shall mean and refer to Eagle Pointe Homeowners Association, Inc., a New Mexico non-profit corporation, which Declarant has or shall cause to be incorporated.

Section 1.5. "Common Facilities" shall mean and refer to all existing and subsequently provided Improvements upon or within the Common Properties, except those as may be expressly excluded herein. Also, in some instances, Common Facilities may consist of Improvements for the use and benefit of all Owners constructed on a portion of one or more Lots or on acreage owned by Declarant (or Declarant and others) which is not a part of the Common Properties. By way of illustration, Common Facilities may include, but are not necessarily limited to, the following: perimeter wall, landscaping, private streets, sidewalks, drainage, and other similar and appurtenant Improvements. References herein to the "Common Facilities (any Common Facility) in the Subdivision" shall mean and refer to Common Facilities as defined respectively in this Declaration.

Section 1.6. "Common Properties" shall mean and refer to the private streets and pedestrian access ways and any tracts and lots deeded or to be deeded to the Association for the benefit of all Owners, together with such other property as the Association may, at any time or from time to time, acquire by deed from Declarant, purchase or otherwise acquire, subject, however, to the easements, limitations, restrictions, dedications and reservations applicable thereto by virtue hereof and/or by virtue of the Subdivision Plat. References herein to "the Common Properties in the Subdivision" shall mean and refer to Common Properties as defined respectively in this Declaration.

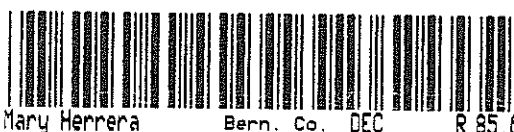
Section 1.7. "Declarant" shall mean and refer to D. R. HORTON, INC. or its assignee of the rights and/or obligations under this Declaration.

Section 1.8. "Declaration" shall mean the covenants, conditions, and restrictions herein set forth in this entire document, as the same may be from time to time amended and supplemented.

Section 1.9. "Development Plan" shall mean the plan for development of a Lot which is required to be submitted to the ACC pursuant to Sections 6.1 and 8.12 hereof. The plan shall include a landscaping plan.

Section 1.10. "Drainage Easement" shall be any area designated on the Subdivision Plat as such.

Section 1.11. "Improvement(s)" shall mean the buildings, garages, streets, roads, antennas, driveways, parking areas, walls, fences, hedges, plantings, planting or removal of trees or shrubs or hedges or ground cover or any other landscaping, lighting and all other Structures or landscaping Improvements of every kind and type



affecting the natural condition of the land or the drainage of surface waters on, across or from the land.

Section 1.12. "Lot" shall mean each parcel of land shown or to be shown as a lot on the recorded Subdivision Plat for the Eagle Pointe Subdivision, and designated thereon by a separate Lot number, or shown or to be shown on any subsequent subdivision of a lot or tract within the Subdivision.

Section 1.13. "Corner Lot" shall mean a lot which abuts more than one street, and in the absence of any other designation shall be deemed to front the street on which it has the smaller dimensions; although Declarant reserves the right to designate the street on which any Corner Lot shall be deemed to front.

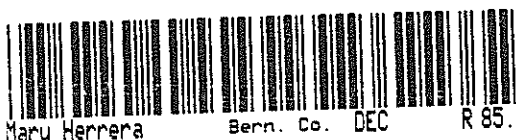
Section 1.14. "Member(s)" shall mean and refer to all those Owners who are members of the Association as provided in this Declaration.

Section 1.15. "Modular Dwelling" shall mean a factory-fabricated transportable building designed to be used by itself or to be incorporated with similar units at a building site into a modular structure on a permanent foundation. The term applies to major assemblies designed to be permanently affixed to real property in conformance with the local building code, and does not include prefabricated sub-elements such as panels, trusses, or plumbing trees which are to be incorporated into a structure at a building site.

Section 1.16. "Owner(s)" shall mean and refer to the record Owner, whether one or more persons, associations or entities, of legal, equitable or beneficial title of or to any Lot, including Declarant. Owner shall include the purchaser of a Lot under a real estate contract for sale of real property. The foregoing does not include persons or entities who hold an interest in any Lot or in the Property merely as security for the performance of an obligation or who are the seller under a real estate contract. Any reference herein to Owners shall include Owners as defined herein.

Section 1.17. "Property" shall mean and refer to the real property located in Bernalillo County, New Mexico, and more specifically described in Exhibit A to this Declaration including the aerial and subsurface rights appurtenant thereto.

Section 1.18. "Single-family Residential Use" shall mean the occupation or use of a Structure as a residence by a single person, a family or a family-sized unit in conformity with this Declaration and the requirements imposed by applicable zoning laws or any other state, county or municipal laws, rules, regulations, codes or ordinances. An Owner may rent or lease his residential Structure, but any such rental or lease must be by a written agreement which requires the tenant to observe the covenants, conditions and restrictions of this Declaration and no residential Structure may be rented or leased for a period of less than thirty (30) days.



Section 1.19. "Single-family Residential Unit" shall mean the occupation or use of a dwelling unit as a residence by a single person, a family or a family-sized unit in conformity with this Declaration and the requirements imposed by applicable zoning laws or any other state, county or municipal laws, rules, regulations, codes or ordinances.

Section 1.20. "Structure(s)" shall mean anything erected, constructed, placed, laid or installed in, on, or over real property, the use of which requires a location on or in the ground but not including vegetation, trees, shrubs or plantings.

Section 1.21. The "Subdivision" or "Eagle Pointe" shall mean all of the Eagle Pointe Subdivision as set forth on the Subdivision Plat filed in the real property records of the Bernalillo County Clerk on October 20, 2000 in Book 2000C , Page 278, Document # 20000104211.

Section 1.22. "Subdivision Map" or "Subdivision Plat" or "Plat Map" or "Plat" or "Final Plat" shall mean the recorded map or plat of the Eagle Pointe Subdivision, as amended or replatted from time to time, covering any or all of the Property referred to in this Declaration.

Section 1.23. "Visible From Neighboring Property" shall mean that with respect to any given object, that such object is or would be visible to a person six (6) feet tall, standing on any part of a neighboring property. A neighboring property shall be any Lot having a common lot line except for the intervention of a street, road, right-of-way or easement.

ARTICLE II

PROPERTY SUBJECT TO RESTRICTION

Section 2.1. General Declaration. Declarant hereby declares that the Property within the Subdivision is and shall be held, conveyed, developed, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Declaration, as amended or modified from time to time. This Declaration is declared and agreed to be in furtherance of a general plan for the subdivision, improvement and sale of the Property, and is established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Property and every part thereof. All of this Declaration shall run with all of the Property for all purposes and shall be binding upon and inure to the benefit of Declarant, all Owners and their successors in interest.

Section 2.2. Description of Property. The property subject to this Declaration is all Property described in Section 1.17 hereof.

ARTICLE III

LAND USE

Section 3.1. Single-family Residential Use. The Lot Owner shall not use any of the Property for other than Single-family Residential Use and is restricted to one Single-family Residential Unit per Lot.

Section 3.2. Limitations on Renting. No Lot Owner shall rent his house for less than a thirty (30) day term. No house within the Subdivision shall be rented other than on a written form of lease requiring the lessee to comply with this Declaration, as amended from time to time, the By-Laws and any rules and regulations promulgated by the Association's Board of Directors and/or the ACC, and providing that failure to comply constitutes a default under the lease. Each Owner shall promptly, following the execution of any such lease, forward a conformed copy to the Association's Board of Directors. The foregoing provisions of this subparagraph shall not apply to the Declarant, or to a Mortgagee in possession of a Lot as a result of a foreclosure or other judicial sale or as a result of any proceeding in lieu of foreclosure, during the period of such Mortgagee's possession.

Section 3.3. Replatting. Declarant has the right in its sole discretion to replat the Subdivision into a greater number of lots than 76 or to revise the lot lines, subject to Section 3.3 herein. Each Owner hereby makes, constitutes and appoints Declarant, with full power of subdivision, as the Owner's lawful attorney-in-fact, with power to execute, acknowledge, file and record with any governmental authority any appropriate documents for the purpose of effecting the resubdivision of any Lot or portion thereof (including replatting the Subdivision into a greater number of Lots or revising Lot lines), in accordance with the terms of this Declaration. The foregoing power (i) is coupled with an interest, (ii) is irrevocable, (iii) shall survive the dissolution of or resignation of Declarant, (iv) may be exercised for each Owner individually or by listing all of the Owners and executing any instrument with a single signature as attorney-in-fact for all of them, and (v) shall be binding upon all assignees and successors of each Owner. Tract "I" is dedicated on the Plat as a private drainage easement and shall be used for a drainage detention pond until such time, if any, as certain off site infrastructure improvements have been completed. At that time, Declarant has the right, in its sole discretion, without the consent or approval of Owners of any Lots, or the Association, to improve and sell Tract "I" for Declarant's own benefit, or to replat it into Lots 40 and 41 and sell one or both Lots for Declarant's own benefit, or to deed said Tract or Lots to the Association. Should Declarant, at any time determine in its sole judgment that there is little or no likelihood of such offsite infrastructure improvements ever being completed Declarant may, in its sole discretion, and without the consent or approval of Owners of any Lots, or the Association, deed Tract "I", to the Association.



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Section 3.4. Limitations on Replatting. No Owner (other than Declarant) shall subdivide or separate into smaller Lots or parcels any Lot, or tract. No Owner (other than Declarant) shall convey or transfer any portion less than the whole of any Lot, or tract, or any easement or any other interest (other than a security interest or a rental or lease), without the written consent of Declarant.

Section 3.5. Combining of Lots. An Owner of two (2) or more contiguous Lots may, with prior written approval of the ACC, combine said Lots into one Lot. Such combination shall be at the sole expense of said Owner. After combination, the resulting Lot shall be treated as one (1) Lot for all purposes of this Declaration, including voting rights within the Association and resubdivision.

Section 3.6. Restrictions On Business And Commercial Activity And Rental or Leasing of Property. No business or commercial activity frequented by and open to the general public (and in any event no business or commercial activity which takes place outdoors or which creates noise audible from neighboring property) shall be conducted within the Subdivision. Home occupations of the Owner are permissible if conducted in the home and in compliance with city ordinances and regulations and any rules and regulations governing home occupations hereafter adopted by the ACC. Nothing contained herein shall be deemed to prevent the rental or leasing of a Single-family Residential Unit by the Owner thereof, subject to all the provisions of this Declaration.

Section 3.7. Conveyance of Common Properties. Notwithstanding the foregoing limitations on land use, Declarant has the right in its sole discretion to convey lots and tracts of the Subdivision to the Association for use as parks, streets and other common purposes, after final plats are recorded. Tract "D" of the Subdivision shall be landscaped by Declarant and conveyed to the Association for use as a landscape buffer between Louisiana Boulevard and the Subdivision. Tracts "A", "B" and "C" shall be private streets. Such conveyances shall be free and clear of all encumbrances which would at any time or from time to time, secure an obligation to pay money and, with regard to any Common Properties used for ingress or egress, any conveyance or encumbrance thereof shall be subject to the Lot Owners' easement thereover. Such conveyances may, however, be subject to any/or all of the following exceptions, liens, and encumbrances:

- (a) The lien of real property taxes and assessments not delinquent;
- (b) Such easements and rights of way as may have been offered for dedication to a political subdivision or public organization, or public utility corporation;
- (c) Obligations imposed, directly or indirectly, by virtue of any statute, law, ordinance, resolution, or regulation of the United States of America, the State of New Mexico, or any other political subdivision or public organization having jurisdiction over such



property, or by virtue of any organization or body politic created pursuant to any such statute, law, ordinance or regulation.

ARTICLE IV

EASEMENTS

Section 4.1. Existing Easements. The Subdivision Plat has or shall dedicate for use as such, subject to the limitations set forth therein, certain roadways, streets, rights-of-way and easements shown thereon and such Subdivision Plat has or will establish dedications, limitations, reservations and restrictions applicable to the Property. Further, Declarant may, prior to the Property becoming subject to this Declaration, grant, create and dedicate by recorded instrument(s) certain other easements, restrictions, rights-of-way and related rights affecting the Property. All dedications, limitations, restrictions and reservations shown on the Subdivision Plat and all grants and dedications of easements, restrictions, rights-of-way and related rights made by Declarant prior to the Property becoming subject to this Declaration, are incorporated herein by reference and made a part of this Declaration for all purposes as if fully set forth herein and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant conveying any part of the Property.

Section 4.2. Changes and Additions. Declarant reserves the right to make changes in and additions to the above easements and rights-of-way for the purpose of most efficiently and economically installing the Improvements. Further, Declarant reserves the right, without the necessity of the joinder of any Owner or other person or entity, to grant, dedicate, reserve or otherwise create, at any time or from time to time, rights-of-way and easements for public utility purposes (including, without limitation, gas, water, electricity, telephone and drainage), in favor of any person or entity, along and on either or both sides of any Lot line, which easement shall have a maximum width of five (5) feet on each side of such Lot line.

Section 4.3. Utility Installation and Maintenance. There is hereby created an easement upon, across, over and under all of the Property for ingress and egress in connection with installing, replacing, repairing and maintaining all utilities, including, but not limited to, water, sewer, gas, telephone and other communication services, electricity, cable television and appurtenances thereto. By virtue of this easement, it shall be expressly permissible for the utility companies, and other entities supplying service to install and maintain pipes, wires, conduits, service lines or other utility facilities or appurtenances thereto on, above, across and under the Property, within the public utility easements from time to time existing and from service lines situated within such easements to the point of service on or in any Structure. Notwithstanding anything contained in this Section, no electrical lines, water lines or other utilities or appurtenances thereto may be relocated on the Property until approved by Declarant or the ACC. The utility companies furnishing service shall have the right as necessary



to remove trees situated within the utility easements shown on the Subdivision Plat and to trim overhanging trees and shrubs located on portions of the Property abutting such easements.

Section 4.4. Maintenance of Perimeter Wall. Each Owner of a Lot bordering the Subdivision perimeter wall covenants and agrees to the creation hereby of a permanent easement in favor of Declarant, the ACC and the Association to enter upon his Lot for the purpose of maintaining and repairing the perimeter wall. Each such Owner further covenants not to add to, remove, color or otherwise modify the perimeter wall.

Section 4.5. Easements for Access by Declarant/or ACC. Declarant, the ACC, and the Association shall have the right and permanent easement to enter upon any and all Lots in the Subdivision for the purpose of maintenance and repair of streets and drainage facilities and for inspections as to compliance with this Declaration. Declarant, the ACC, and the Association shall have the right to enter any Lot for the purpose of correcting any violation of any obligation herein.

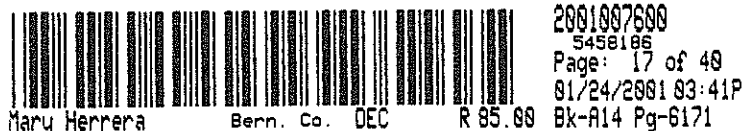
Section 4.6. Surface Areas. The surface of easement areas for any underground utility services may be used for planting of shrubbery, trees, lawns or flowers. However, neither Declarant nor any supplier of any utility service using any easement area shall be liable to any Owner or to the Association for any damage done by them or either of them or their respective agents, employees, servants or assigns to any of the aforesaid vegetation as a result of any activity relating to the construction, maintenance, operation or repair of any facility in any such easement area.

Section 4.7. Encroachment Easements. Should minor variations between Lot lines as shown on the Plat and actual physical lot boundaries (such as walls, including interior party walls and fences) occur, either due to original construction, reconstruction, repair or due to the settling, shifting or movement of Structures, a valid easement shall exist for the encroaching Improvement(s) for so long as the encroachment exists.

ARTICLE V

STREETS

Section 5.1. Maintenance of Private Streets. The streets shown on the Plat as Tracts "A," "B," "C" and "E" are private streets dedicated to and maintained by the Association.



ARTICLE VI

IMPROVEMENTS AND STRUCTURES

Section 6.1. Development Plan. Each Owner shall be required to submit a detailed Development Plan, pursuant to the Rules of the ACC, and such plan must be approved in writing prior to the commencement of construction of any Improvement. No construction whatsoever, including, without limitation, site preparation, clearing of trees or excavation, shall commence without the prior written approval of the ACC. All construction and development shall comply strictly with the approved Development Plan. Any person purchasing any portion of the Property subject to this Declaration acknowledges that the breach or violation of this Section 6.1 is likely to result in irreparable harm to the rights and interests of other Owners in the Subdivision and that the ACC or the Association, on behalf of such Owners, shall be entitled to injunctive relief, temporary or permanent, in order to prohibit such violation; provided, however, that this provision shall be in addition to any other remedies available hereunder, including fines, or at law or equity.

Section 6.2. Time for Construction.

(a) Construction of any Structure or Improvement shall be continuous and proceed in an orderly fashion without interruptions and any Structure or Improvement on a Lot shall be completed in a reasonable time, not to exceed twelve (12) months from the commencement of construction (fourteen (14) months for landscaping).

(b) The foundation for any Structure or Improvement shall be completed as soon as is practically possible after the commencement of construction.

(c) Commencement of construction shall mean the first on-site work for construction, including, but not by way of limitation, clearing of trees, excavation or site preparation for the purpose of foundation.

(d) Materials and equipment necessary for construction, and all debris resulting from clearing or construction, shall be confined to the Lot, and shall not be left on any other Lots, Common Properties or streets.

Section 6.3. Residential Structures. All residential Structures shall be subject to the following requirements, and each enumerated item must be included in the Development Plan submitted and approved in writing by the ACC prior to the commencement of construction; provided, however, that the following requirements shall not be the sole basis for consideration by the ACC (see Section 8.15 of this Declaration). Once approved, no Structure or Improvement may vary from the Development Plan without further approval of the ACC.

(a) Set Backs: No garage shall be erected on any Lot closer than twenty (20) feet to the front of the street line. No residential Structure shall be erected on any Lot closer than twenty (20) feet from the front street line, or closer than fifteen (15) feet from the rear lot line, or closer than five (5) feet from the side lot line. With reference to Corner Lots, no Structure or portion thereof may be erected closer than ten (10) feet from the side street line. Ordinary projections of sills, belt courses, cornices and ornamental features may project as much as eighteen (18") inches into the side set back lines. For the purpose of this paragraph, eaves, steps, and equipment pads shall not be considered as part of a Structure. Where more than one Lot is acquired as a single building site, the side lot lines shall refer only to the lot lines bordering the adjoining property owners. Notwithstanding anything to the contrary herein, the ACC shall have the right to permit reasonable modifications of the set back requirements where in the discretion of the ACC, strict enforcement of the set back provisions would work an extreme hardship. However, in no event shall set back requirements be less than required by applicable City Zoning.

(b) Minimum Floor Areas: All single-family residential Structures shall have a fully enclosed heated living area of not less than one thousand (1000) square feet, exclusive of portals, porches (open and closed), patios, garages, balconies or decks. Carports, shade structure and canopies for vehicles are not permitted.

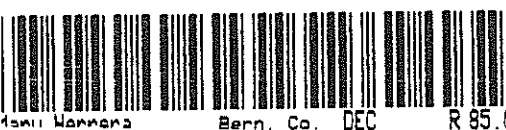
(c) Height Limitations: No Structure shall be erected, altered or permitted to remain on any Lot that will exceed a vertical distance above ground level of twenty six (26) feet at any point. Ground level shall be defined as the highest pad elevation on any single Lot, as shown on the grading plans and/or as directed or approved by the ACC. All decisions and judgments pertaining to view obstruction shall be granted solely by the ACC.

(d) Exterior Color Schemes and Materials: Structures shall be constructed of 100% masonry veneer or solid masonry, stone, cinder block, abode brick or stucco in earth tones approved by the ACC with no bright or gaudy colors being allowed.

(e) Roofing Materials: The ACC shall have the right to impose limitations on roofing materials to be used in any Structure.

(f) Driveway: The ACC shall have the right to impose limitations on driveway design, including materials, aprons, location and point of contact with dedicated roads, streets or other private driveways in the Subdivision.

(g) Garbage Containers: The ACC shall have the right to require each Owner to use a specific location on his Lot, designated by the ACC for the placement of garbage containers. Each Lot Owner will be responsible for placing solid waste in plastic bags and/or garage cans, as may be required by the trash removal service or taking the waste to the appropriate landfill site.



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(h) Tanks, Air Conditioners and Swamp Coolers: The ACC shall have the right to approve the location of any tank, air conditioner or swamp cooler used or proposed in connection with a single-family residential Structure, including swimming pool filter tanks. Oil, gasoline and propane tanks are prohibited on any Lot.

(i) Exterior Lighting: The ACC shall have the right to approve the location, number, size and design of all proposed exterior lighting.

(j) Garages: No garage shall be erected, altered, placed or permitted to remain on any lot other than a private garage for not more than three (3) cars. No interior of any garage may be converted for use as living or office space or to conduct any business or commercial venture.

Section 6.4. Trees, Shrubs and Landscaping. Landscaping is a mandatory element of each Development Plan. The ACC shall have the right to approve the removal and/or addition of trees, shrubs, hedges, ground cover and all other landscaping.

Section 6.5. Windmills, Towers and Antennas. No windmills or towers will be allowed in the Subdivision. No antenna or satellite dishes or other service for the transmission or reception of television signals, radio signals or other form of electromagnetic radiation, visible from the street, shall be erected, used or maintained on any Lot, whether attached to a building or Structure or otherwise, without prior approval of the ACC. Notwithstanding the foregoing, the ACC shall approve a location visible from the street if such location is the only location where an adequate signal can be received. No radio signals, television signals, or any other form of electromagnetic radiation shall originate from any Lot which may unreasonably interfere with the reception of any television or radio signal on any other Lot.

Section 6.6. Underground Utility Lines. No utility lines, including, but not limited to, wires or other devices for the communication or transmission of telephone or electric current or power, cable television or any other type of line or wire shall be erected, placed or maintained anywhere in or upon any Property, by any Owner other than Declarant, within the Subdivision unless the same shall be contained in conduit or cables installed and maintained underground or concealed in, under or on buildings or other Structures as approved in writing by the ACC.

Section 6.7. Temporary Structures. No temporary structures of any kind, including but not limited to a trailer, mobile home, basement of any incomplete building, tent, shack, garage, barn or any other temporary building of any kind shall be utilized at any time for a residence on the Property within the Subdivision either on a temporary or permanent basis. Temporary structures may only be used for other purposes if such purposes have received prior written approval from the ACC.

Section 6.8. Out-buildings. Acceptable out buildings include a storage shed, a work shop, a swimming pool, a gazebo and other accessory buildings and improvements strictly incidental and appropriate to single family use. However, all proposed out-buildings must be included in the Development Plan and approved in writing by the ACC.

Section 6.9. Signs. Except for "For Sale" signs not exceeding six (6) square feet, no sign, billboard, or advertising structure shall be erected or maintained on any Lot or parcel of property within the Subdivision, unless approved in writing by the ACC or otherwise consistent with signage rules issued by the ACC.

Section 6.10. Improvements and Alterations. No Structures, Improvements, alternations, repairs, excavations or other work which in any way alters the exterior appearance of any Structure within the Subdivision or the appearance of any other Improvements located thereon from its natural or improved state existing on the date such Property was first conveyed in fee to the current Owner, or Purchaser or annexed by Declarant, whichever is later, shall be made or done without the prior written approval of the ACC.

Section 6.11. Solar Equipment. Request for approval of installation of any type of solar equipment shall be included in the Development Plan and approved in writing by the ACC.

Section 6.12. Chemical Fertilizers, Pesticides or Herbicides. No commercial chemical fertilizers, pesticides or herbicides other than those approved by the ACC shall be used on any of the Property. This provision in no way limits the use of those products which are readily available for consumer use and approved by an agency, such as the Food and Drug Administration, for the purpose intended.

ARTICLE VII

RESTRICTIONS

Section 7.1. Animals-Household Pets. No animals, including pigs, hogs, swine, poultry, fowl, wild animals, horses, cattle, sheep, goats or any other type of animal not considered to be a domestic household pet within the ordinary meaning and interpretation of such words may be kept, maintained or cared for on the Property. No animal shall be allowed to make an unreasonable amount of noise, or to become a nuisance, and no domestic pets will be allowed on the Property other than the Lot of its Owner unless confined to a leash or under voice control. Upon written request of any Owner, the ACC shall conclusively determine at its sole discretion, in accordance with its rules, whether an animal is a domestic household pet, whether an animal is being allowed to run at large or whether an animal is a nuisance. The decision of the ACC in such matters is final, conclusive and shall be enforced as other restrictions contained herein. No animal may be stabled, maintained, kept, cared for



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or boarded for hire or remuneration on the Property and no kennels or breeding operation will be allowed. No animal shall be allowed to run at large and all animals shall be kept within an enclosed area which must be clean, sanitary and reasonably free of refuse, insects and waste at all times.

Section 7.2. Maintenance of Lawns and Plantings. Each Owner, on his Lot, shall keep all shrubs, trees, grass and planting of every kind which are Visible From Neighboring Property or from a dedicated road, Common Property or Common Facility, properly cultivated, pruned and free of trash and other unsightly material. Declarant, the Association and the ACC shall have the right at any reasonable time to enter upon any Lot to replace, maintain and cultivate shrubs, trees, grass or other plantings located thereon, at cost to Owner.

Section 7.3. Clothes Drying Facilities. Outside clothes lines or other facilities for drying clothes or airing clothes shall not be erected, placed or maintained on any Lot unless they are concealed in such a manner so as not to be Visible From Neighboring Property or from streets or from access roads.

Section 7.4. Hunting/Trapping/Firearms and Explosives. Hunting, trapping and discharge of firearms or other explosives are expressly prohibited within the Subdivision.

Section 7.5. Dumping. Dumping of ashes, trash, rubbish, sawdust, garbage, land fill, solid waste and any type of refuse and other unsightly or offensive material is expressly prohibited within the Subdivision.

Section 7.6. Waste. The commission of waste is expressly prohibited within the Subdivision.

Section 7.7. Mineral Exploration. No mining, quarrying, tunneling, excavation or drilling for exploration or removal of any minerals including oil, gas, gravel, rocks, earth or earth substances of any kind shall be permitted within the Subdivision.

Section 7.8. Business Activities. No business or commercial activity frequented by and open to the general public (and in any event no business or commercial activity which takes place out of doors or creates noise audible from neighboring Property) shall be conducted within the Subdivision. Home occupations of the Owner are permissible if conducted in the home and in compliance city ordinances and regulations and with any rules and regulations governing home occupations hereafter adopted by the ACC. Nothing contained herein shall be deemed to prevent the rental or leasing of a Single-family Residential Unit by the Owner thereof, subject to all of the provisions of this Declaration.



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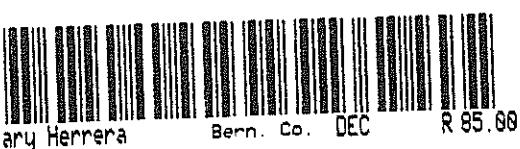
Section 7.9. Obnoxious Activities. No nuisance, obnoxious or offensive activities shall be permitted on any Lot, nor shall any rubbish or debris of any kind be placed or permitted to accumulate on or adjacent to any of the Property within the Subdivision, and no odors shall be permitted to arise therefrom, so as to render any such Property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other Property in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provision, no speakers, horns, whistles, bells or any other devices, except security devices used exclusively for security purposes, shall be located, used or placed on any such Property which are audible from neighboring Property. No Lot or portion thereof shall be used in whole or in part for the storage of inoperable vehicles or commercial equipment. No operable vehicles may be parked or stored other than in a garage, on a driveway or on the street during the day time.

Section 7.10. Garbage. No garbage or trash shall be placed or kept on any Lot except in covered containers located in accordance with Section 6.3 In no event shall such containers be maintained so as to be Visible From Neighboring Property. All rubbish, trash, and garbage shall be removed from Lots and shall not be allowed to accumulate thereon. No incinerator shall be kept or maintained on any Lot. No garbage, trash, or debris shall be permitted to be buried on any Lot at any time nor shall the burning thereof be permitted.

Section 7.11. Vehicles and Equipment. No bus, truck larger than a one-ton pickup, semi-trailer, tractor, machinery, or commercial equipment shall be kept, placed (except during the course of making deliveries for the purpose of loading or unloading), maintained, constructed, reconstructed, or repaired on the Property. No motor vehicle or trailer of any type shall be built, rebuilt or repaired on the Property other than in a garage. Motor homes, recreational house trailers, horse trailers, truck campers, boats, boat trailers and recreational vehicles of any sort or type which are intended to be kept on the Property by the Owner must, to the extent possible, be garaged; and if kept outside must be parked on a concrete driveway and must not encroach onto the sidewalk or street. No motorized vehicle of any kind may be operated in any manner which is dangerous, noisy or which creates a nuisance.

Section 7.12. No Overnight Parking. Except as may otherwise be permitted by any rules promulgated by the ACC, no vehicle of any kind shall be allowed to park overnight on any street within the Subdivision.

Section 7.13. Emergency or Temporary Maintenance Vehicles. The provisions of this Declaration shall not prevent any emergency vehicle repairs or operation of an emergency vehicle, ambulance, etc., within the Subdivision. The provisions of this Declaration shall also not prevent the operation or temporary use of construction vans, trucks, and machinery/equipment maintained during and used exclusively in connection with the construction of any Improvement approved in writing by the ACC.



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Section 7.14. Motorcycles. The use of motorcycles shall be limited to those which have been approved and are legal for street use. Such use shall be limited to the public streets. No off-road use of any motorcycles shall be permitted and all motorcycles operated within the Subdivision shall have mufflers installed in good condition which limits the exhaust noise to no more than eighty (80) decibels, ten (10) feet from the end of the exhaust pipe.

Section 7.15. Continuing Adequacy of Repair or Maintenance. No Improvement upon the Property within the Subdivision shall be permitted to fall into disrepair, and each Improvement shall at all times be kept in good condition and repair and, if applicable, adequately painted or otherwise finished. Such duty to repair shall include the maintenance of any exterior Structures and finish which was included in the Development Plan approved by the ACC.

Section 7.16. Wood Piles and Storage Piles. No wood pile or storage pile shall be located on any part of a Lot other than behind the rear yard privacy fence and may not be against any common fence or wall or be higher than the height of any authorized fence. Any Structure of a permanent nature to be built with regard to these items and must be included in the Development Plan and approved in writing by the ACC.

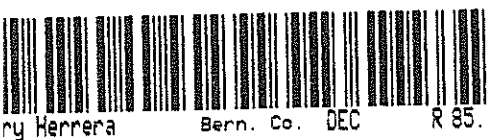
Section 7.17. Gates, Walls, and Fences. All gates, walls, and fences must be described in the Development Plan and approved by the ACC. Retaining walls shall be party walls if placed on the common property line between two (2) Lots and shall not be removed by either Owner. Liability as between the Owners with the respect to the maintenance of the party wall shall be as provided by the laws of the State of New Mexico. Except for the Subdivision perimeter wall and any necessary retaining walls, which retaining walls shall be of minimum height, the following requirements shall apply to all walls and fences:

(a) No wall or fence shall be erected or allowed to remain nearer the street than the front of the residential Structure, and

(b) On Corner Lots, no wall or fence facing the side street shall be erected or allowed to remain nearer to the front street than fifteen (15) feet from the rear of the residential Structure.

(c) All walls and fences shall be built of masonry block, rod iron or wood as may be approved by the ACC.

(d) All builders and/or Owners shall be responsible for the construction of retaining walls on common property lines including rear property lines in accordance with all applicable Federal, State, City and County codes and ordinances.



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(e) No walls or fences shall be erected or placed on any Lot or Lots lower than four (4) feet nor higher than six (6) feet above ground level except as directed or approved by the ACC. "Ground Level" in this instance shall be defined as the highest natural ground elevation on either side of the wall.

Notwithstanding the foregoing requirements, Lots 7-P1, 16-P1, 31-P1, and Tract "I", or any Lots created out of Tract "I", all in Block 1 of the Subdivision, may be improved with a wall or fence without regard to Section 7-17(a) above, so long as such wall or fence is otherwise approved by the ACC.

Section 7.18. Horses Prohibited. Horses are prohibited in the Subdivision.

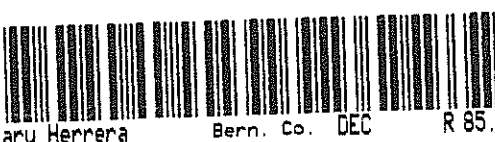
Section 7.19. Mobile Homes, Modular Dwellings and Odd Shaped Structures. Mobile homes, modular dwellings, and "A" frame, cubicle and dome structures are not allowed.

ARTICLE VIII

ARCHITECTURAL CONTROL COMMITTEE

Section 8.1. Establishment and Composition. There is hereby established an Architectural Control Committee ("ACC"), which shall consist of three (3) regular members and three (3) alternate members. The following persons are hereby designated as the initial members:

<u>Position</u>	<u>Name</u>	<u>Type</u>	<u>Address</u>
Office No. 1	Robert C. Prewitt	Regular	4400 Alameda NE, Bldg. B Albuquerque, NM 87113
Office No. 2	Katherine Rhoades	Regular	4400 Alameda NE, Bldg. B Albuquerque, NM 87113
Office No. 3	Diana W. Lewis	Regular	4400 Alameda NE, Bldg. B Albuquerque, NM 87113
Office No. 4	Mark Ferguson	Alternate	4400 Alameda NE, Bldg. B Albuquerque, NM 87113
Office No. 5	Jesse Bearden	Alternate	4400 Alameda NE, Bldg. B Albuquerque, NM 87113
Office No. 6	Declarant will appoint a third alternate within 12 months of the filing of this Declaration.		



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Members of the ACC shall serve without salary or pay and none of the members shall be required to be an architect or to meet any other particular qualifications for membership.

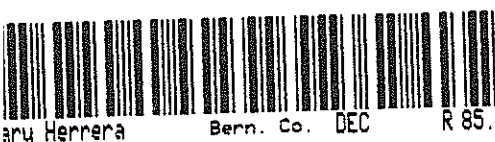
Section 8.2. Voting and Status of Alternate Members. Except as otherwise provide herein, a vote or written consent of a majority of the regular members of the ACC at a meeting or otherwise shall constitute the act of the Committee. Except as hereinafter provided, alternate members shall not be entitled to vote. In the event of absence or disability of one (1) or more regular members, the remaining member or members, even though less than a quorum, may designate an alternate member to act or substitute for the absent or disabled regular member for the duration of such absence or disability. The alternate member so designated shall be entitled to vote in place of the regular member for whom the alternate member so substitutes. Notwithstanding the foregoing provisions, the ACC is not authorized to act unless at least one (1) regular member is present or, in the event action is taken without a meeting, unless at least one (1) regular member consents in writing thereto.

Section 8.3. Terms of Office. Unless the initial members of the ACC have resigned or been removed, their terms of office shall be for the periods of time beginning as of the date of recordation of this Declaration and ending on the dates indicated below, and until appointment of their respective successors:

Office Nos. 1 and 4	December 31, 2001
Office Nos. 2 and 5	December 31, 2002
Office Nos. 3 and 6	December 31, 2003

Thereafter, the term of each ACC member appointed shall be for a period of three (3) years and thereafter until the appointment of a successor. Any new member appointed to replace a member who has resigned or been removed shall serve such member's unexpired term. Members who have resigned or whose terms have expired may be reappointed.

Section 8.4. Appointment and Removal. Except as provided below, the right to appoint and remove all regular members and alternate members of the ACC at any time, with or without cause, shall be, and hereby is, vested solely in Declarant. At such time as Declarant owns less than twenty-five percent (25%) of the Lots (in number) or at such time that Declarant records a waiver of the right herein retained, whichever event occurs first, the right to appoint and remove all regular and alternate members of the ACC shall automatically be transferred to the Board of Directors. Appointment of all regular and alternate members of the ACC shall thereafter be appointed by a majority of the Board of Directors.



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Section 8.5. Resignations. Any regular member or alternate member of the ACC may resign at any time from the Committee by giving written notice thereof to Declarant or the Board of Directors as the situation requires.

Section 8.6. Vacancy. Vacancies on the ACC, however caused, shall be, except as provided in Section 8.4 of this Article, filled by Declarant. A vacancy shall be deemed to exist in case of death, resignation or removal of any regular or alternate member.

Section 8.7. Transfer of Authority to the Association. The duties, rights, powers and authority of the ACC constituted hereby may be assigned at any time, at the sole election of a majority of the Board of Directors, to the Homeowners Association, and from and after the date of such assignment, and the acceptance thereof by the Association, the Association shall have full right, authority and powers, and shall be obligated to perform the functions of the ACC as provided herein (and in the Bylaws of the Association).

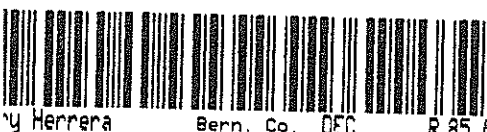
Section 8.8. Address. The address of the ACC shall be c/o D. R. Horton, Inc., 4400 Alameda NW, Bldg. B, Albuquerque, New Mexico 87113 or such other place as may from time to time be designated by the ACC by written instrument recorded in the real estate records of Bernalillo County, New Mexico; and the last instrument so recorded shall be deemed the Committee's proper address.

Section 8.9. Duties.

(a) General: It shall be the duty of the ACC to receive, consider and act upon all proposals, plans, complaints, requests for determination, Development Plans or other matters submitted pursuant to the terms of this Declaration, and to carry out all other duties imposed on it by this Declaration.

(b) Development Plan Compliance Deposit: The ACC may require a building compliance deposit of \$50.00 to assure compliance of the Improvements with this Declaration. The ACC may refund this building compliance deposit after completion of the Improvements if in the ACC's sole discretion the ACC has evidence satisfactory to the ACC that all of the Improvements were completed in compliance with this Declaration.

Section 8.10. Meetings. The ACC shall meet from time to time as necessary to perform its duties hereunder. Subject to provisions of Section 8.2 above, and except as otherwise provided herein, the vote or written consent of a majority of the regular members at a meeting or otherwise shall constitute the act of the Committee. The Committee shall keep and maintain written records of all actions taken by it at such meetings or otherwise.



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Section 8.11. Action Without Formal Meeting. The ACC, in accordance with Sections 8.2 and 8.10 hereof, may take action without formal meeting by unanimously consenting in writing on any matter which they might consider at a formal meeting. Such unanimous written consent shall constitute the act of the Committee. For the purposes hereof, unanimous written consent shall mean a writing by the three (3) regular members of the ACC except as the provisions of Section 8.2 may apply.

Section 8.12. Procedure for Submission and Approval of Development Plan.

(a) Submission of a Development Plan shall be in accordance with the Rules promulgated by the ACC, as authorized by Section 8.14 hereof.

(b) If the ACC fails to approve or disapprove any material or Development Plan submitted to it hereunder within thirty (30) days after the date shown on the submittal receipt or fails to give notice of its actions as above required, it shall be conclusively presumed that the Committee has approved such materials as submitted; provided no Structure shall be erected which violates any of the Covenants contained herein. If the Committee requests additional or amended materials or an amended Development Plan during the initial thirty (30) day period, or approves on condition that certain additional or amended materials be submitted, such period shall automatically be extended to fifteen (15) days following the date upon which such additional or amended materials are required to be delivered to and received by and receipted for by the Committee. Additional fifteen (15) day extensions shall occur if further additional or amended materials are requested or required during any subsequent extension period. If the additional or amended materials are not received on or before the required date, then the Development Plan shall be automatically disapproved.

Section 8.13. Waiver and Estoppel. The approval by the ACC of any Development Plan, specifications or drawings or any materials accompanying it for matters requiring approval of the ACC shall not be deemed to constitute a waiver of or create any right of estoppel against the Committee's right to withhold approval of any similar Development Plan, drawing, specification or matter subsequently submitted for approval.

Section 8.14. ACC Rules.

(a) The ACC shall have the authority to adopt, amend, add to, replace and rescind, from time to time, procedural or substantive rules to make more definite and certain, and to carry out the purpose of and intent of the provisions of this Declaration. Any conflict between such rule and any provision of this Declaration shall be resolved in favor of the provision of this Declaration. A copy of such rules, as in effect from time to time shall be provided to any Owner requesting the same in writing, upon receipt of the cost of such copy; provided that the failure to deliver a copy of any such rules, or the failure of the ACC from time to time to adopt any such rules shall not in any manner inhibit or impair the requirement that a Development Plan

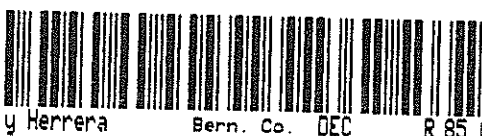
be approved by the ACC prior to construction or any other provision of this Declaration.

Section 8.15. Basis for ACC Approval or Disapproval. The Subdivision is intended by Declarant to be a cohesive development composed of homes of the highest quality and elegant appearance. Toward this end, it is intended that the ACC have the greatest degree of discretion possible in reviewing, approving or disapproving Development Plans. Declarant intends that the ACC shall have the right to consider as the basis for any approval or disapproval of a Development Plan: (a) compliance or noncompliance with certain objective standards set out in this Declaration or in any rules or guidelines subsequently published or adopted by the ACC, (b) the nature and quality of the building materials and methods of construction to be used, (c) the location of the proposed Improvements on the Lot, (d) the visual impact of the proposed Improvements from the standpoint of style and consistency with other Improvements constructed or approved by the ACC for construction in the Subdivision, (e) the experience and expertise of the general contractor, such other subjective factors as the ACC shall, in its discretion, deem relevant or appropriate. ANY PERSON PROPOSING TO PURCHASE ANY LOT IN THE SUBDIVISION IS CAUTIONED TO CONSULT WITH THE ACC CONCERNING INTENDED IMPROVEMENTS PRIOR TO BECOMING UNCONDITIONALLY OBLIGATED TO PURCHASE SUCH LOT.

Section 8.16. Decisions Conclusive. All decisions of the ACC shall be final and conclusive, and no Owner or any other person, association or entity shall have any recourse against the ACC, or any member thereof, for its or such member's approval or refusal to approve all or any portion of a Development Plan or of any materials submitted therewith, or for any other decision rendered under the authority of this Declaration.

Section 8.17. Liability of the Declarant and ACC.

(a) Generally. Neither the Declarant nor the ACC or any member thereof shall be liable to any Owner, or any other person, association, or entity, for any damage, loss or prejudice suffered or claimed on account of: (i) the approval or disapproval of any Development Plan or any materials submitted therewith, whether or not defective; (ii) the construction or performance of any work, whether or not pursuant to an approved Development Plan or any materials submitted therewith; (iii) the development of the Property; (iv) the structural capacity or safety features of the proposed Improvement or Structure; (v) whether or not the location of the proposed Improvement or Structure on the building site is free from possible hazards from flooding or from any other possible hazards, whether caused by conditions occurring either upon or off the Property; (vi) soil erosion causing sliding conditions; (vii) compliance with governmental laws, ordinances and regulations; (viii) any decision made or action taken or omitted to be taken under the authority of this Declaration; (ix) any act taken or decision made in connection with any land contiguous to the Subdivision, including, but not limited to any decision to annex or refuse to annex to



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the Subdivision other contiguous land or property; (ix) the execution and filing of any estoppel certificate, whether or not the facts therein are correct, provided, however, that with respect to the liability of a member, such member has acted in good faith on the basis of such information as may be possessed by him. Without in any way limiting the generality of any of the foregoing provisions of this Section, the ACC, or any member thereof, may, but is not required, to consult with or determine the view of any other Owner with respect to any Development Plan, or any materials submitted to the ACC.

(b) Regarding Soils Characteristics. Whether the soil, or a certain site on the Lot, is suitable for the design of the house that the Lot Owner ultimately builds depends on the footing and foundation design and plans used for construction on the Lot. Declarant and the ACC and its members makes no warranty or representation that the soil characteristics, and all locations on the Lot, are suitable for all house designs or plans. Neither does Declarant or the ACC or its members make any warranty or representation regarding any specific house design or plan. The suitability of the soils and the construction needs based on the soils will vary depending on the specific Lot, location of the house, and house design.

Section 8.18. Modifications and Waivers. The ACC, upon such terms and conditions, upon the payment of such fees or expenses, and for such procedures as it may prescribe, may, but is not required to, adopt, review and approve or disapprove, in whole or in part, with or without conditions, applications for the modification or waiver of any requirement of Subsections 6.4(a), (b), (d), (h), (i), and 6.5 through 6.11 of this Declaration or any requirement of the ACC rules applicable to any Improvement or use of, in, on or abutting any Lot. Such applications shall contain such information as the Committee may prescribe and shall affirmatively show that the application of such requirements, under the circumstances, creates unnecessary and undue hardship, and that a modification or waiver will not be detrimental (aesthetically, economically, or otherwise) to the Owner of any other Lot. The Committee may decide the matter upon the application and any materials or written statements accompanying it or may allow oral presentations in support of or in opposition to the application prior to the decision, at its discretion. The Committee shall render a decision in writing, which decision need not contain any reasons, findings, or conclusions for the decision and shall forward one (1) copy to the applicant, and retain one (1) copy in its records. Without limiting the general applications of this Section 8.18, the provisions of Section 8.15 and Section 8.16 of this Article shall apply to the actions and the decisions of the Committee and its members under this Section.

Section 8.19. Governmental Agency Approval. Nothing in this Declaration shall relieve or be interpreted as purporting to relieve any Owner from also securing such approval(s), certificate(s) or permit(s) of any governmental agency or entity with jurisdiction as may be required by law as a condition to the commencement, construction, maintenance, addition, change or alteration to or of any Improvement, and the Committee may require that a copy of such approval(s), certificate(s) or

permit(s) be provided to the Committee as a final condition to approval of a Development Plan, or as additional assurance to the Committee that the Improvements and uses of an approved Development Plan meet governmental requirements, or for both such purposes.

ARTICLE IX

EAGLE POINTE HOMEOWNERS ASSOCIATION

Section 9.1. The Association. Declarant has or shall cause the formation and incorporation of the Association as a non-profit corporation organized and existing under the New Mexico Non-Profit Corporation Act, charged with the duties and vested with the powers prescribed by law and set forth in the Articles of Incorporation, Bylaws, and this Declaration. Neither the Articles of Incorporation nor the Bylaws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

Section 9.2. Membership. Each Owner (whether one or more persons or entities) of a Lot shall, upon and by virtue of becoming such Owner, automatically become a Member of the Association and shall remain a Member thereof until the Owner's ownership ceases for any reason, at which time the Owner's Membership in the Association shall automatically cease. Membership in the Association shall be appurtenant to and shall automatically follow the legal ownership of each Lot and may not be separated from such ownership. Whenever the legal ownership of any Lot passes from one person to another, by whatever means, it shall not be necessary that any instrument provide for transfer of Membership in the Association, and no certificate of Membership will be issued.

Section 9.3. Voting. Subject to the provisions of Section 9.6, all Members of the Association in good standing shall be entitled to one (1) vote (in person or by proxy) for each Lot owned at any meeting of Members of the Association or with respect to any matters submitted to a vote of the Members of the Association. If more than one person holds an interest in any Lot, all such persons shall be Members of the Association. The vote for such multiply-owned Lot shall be exercised as the Owners among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. The Articles of Incorporation and Bylaws of the Association may provide more specific rights with respect to voting by Members.

Section 9.4. Proxies. At all meetings of Members, each Member may vote in person or by proxy upon such terms as may be determined from time to time by the Board of Directors of the Association. All proxies shall be in writing, sealed and personally delivered by the person executing the proxy to a board member or returned by the United States Postal Service to the person designated by the Board of Directors, and filed with the Association Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.



Section 9.5. Board of Directors and Officers. The affairs of the Association shall be conducted by a Board of Directors and such officers as the Directors may elect or appoint, in accordance with the Articles of Incorporation and the Bylaws, as the same may be amended from time to time.

Section 9.6. Control of the Association. Until the first to occur of (a) conveyance by Declarant of seventy-five percent (75%) in number of Lots in the Subdivision or (b) January 1, 2004, Declarant shall be entitled to cast three votes for each lot owned. Thereafter, Declarant shall be entitled to one (1) vote for each Lot it owns.

Section 9.7. Powers and Duties of the Association. The Association shall have such rights, powers and duties as set forth in the Articles of Incorporation and Bylaws, as the same may be amended from time to time.

Section 9.8. Personal Liability. No member of the Board of Directors or any Committee of the Association or any of the Officers of the Association shall be personally liable to any Owner or any other party including the Association for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of the Association, the Board of Directors, any Committee, or any other agent, representative or employees of the Association; provided, however, that such person has, upon the basis of such information as may be possessed by him, acted in good faith, without willful or intentional misconduct.

ARTICLE X

ASSESSMENTS

Section 10.1. Operating Expense and Reserve Funds. All monies collected by the Association for the regular operating expense and reserve charges provided for in this Article, shall be separated into two funds which shall constitute and be known as the "Operating Expense Fund" and the "Reserve Fund." The Operating Expense Fund and the Reserve Fund shall be held, used, and expended by the Association for the common benefit of all Members to promote the health, safety, recreation, and welfare of the Members, including, without limitation:

(a) maintenance and construction of privately maintained streets, culverts and related Improvements;

(b) the installation, construction, erection, and relocation of Improvements related to the enhancement and beautification of the Common Properties and Facilities in the Subdivision;

(c) the installation, construction, erection, and relocation of Improvements related to the enhancement and beautification of any other areas provided by this

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Declaration to be developed or maintained by the Association, such as shrubbery, trees, walkways and street lights, and the construction, repair, maintenance and replacement of properties, services, improvements and facilities devoted to such purposes and related to the use and enjoyment of the Subdivision by the Members;

(d) payment of utility charges in connection with the operation of Common Properties or use of Common Properties;

(e) payment of charges for street maintenance; maintenance, upkeep, beautification, improvement and replacement of park and entry way landscaping; and other services contracted for by the Association;

(f) charges for liability and property insurance and other insurance related to the Common Facilities, Common Properties and their use and operation; and

(g) property management, accounting and legal fees, including legal fees incurred by the Association while enforcing the provisions of this Declaration.

The Association may, in its sole discretion, determine which monies are to go into each fund and may give one or more of the purposes set forth in this Section 10.1 preference over other purposes. It is agreed that all expenses incurred and expenditures and decisions made by the Association in good faith shall be binding and conclusive on all Members.

Section 10.2. Regular Annual Charges. Subject to the provisions set forth below in Section 10.3 relating to the rate at which the operating expense and reserve charges and assessments imposed herein shall be paid on unimproved Lots, each and every Lot in the Property is hereby severally subjected to and impressed with a regular annual operating expense and reserve charge or assessment in the amount of One Hundred Fifty Dollars and No/100 (\$150.00) per year per Lot which charge shall commence upon the Closing of the purchase of each Lot and be due and payable on said date (prorated, if appropriate) and on the first day of July each year thereafter (unless the Board of Directors establishes a different amount or payment schedule), and which shall run with the land, and shall be subject to increase and decrease in accordance with the Articles of Incorporation and Bylaws of the Association.

Section 10.3. Unimproved Lots. Notwithstanding the foregoing, each Owner shall pay One Hundred Fifty Dollars and No/100 (\$150.00) per year (prorated, if appropriate) for each Lot owned by it, unless and until a residential structure has been built thereon except that Declarant shall not be obligated to pay any operating expense and reserve charge or assessment on any unimproved Lot.

Section 10.4. Covenant for Assessments. Each Owner of a Lot, by the Owner's claim or assertion of ownership or by accepting a deed to any such Lot, whether or not it shall be so expressed in such deed, is hereby conclusively deemed to covenant and



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agree, as a covenant running with the land, to pay to the Association, its successors or assigns, each and all of the charges and Assessments against the Owner's Lot and/or assessed against the Owner as the same shall become due and payable, without demand. The charges and assessments herein provided for shall be a charge and a continuing lien upon each Lot, together with all improvements thereon, as hereinafter more particularly stated. Each Assessment, together with late fees, interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of the Lot at the time the obligation to pay such assessment accrued, and no Member shall avoid personal liability for the payment of any Assessment by waiver of the use or enjoyment of the Common Properties or Facilities, or any part hereof, or by abandonment of the Owner's Lot or the Owner's interest therein.

Section 10.5. Duties of the Board of Directors. The Board of Directors of the Association shall fix the date of commencement and the amount of the regular maintenance charges or assessments and any special maintenance charges against each Lot or Owner for each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association, or the property manager, if any, and shall be open to inspection by any Owner. Written notice of such assessment shall there upon be sent to every Owner subject thereto. The Association, or the property manager, if any, shall, upon demand at any time, furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, or the property manager, if any, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

The Board of Directors of the Association may impose sanctions (as set forth in Article VI of the By-Laws) for violation of this Declaration and/or the By-Laws, after notice and a hearing in accordance with the procedures set forth in Section 11.3 of this Declaration. The Association shall not be obligated to take any enforcement action if the Board of Directors reasonably determines that the Association's position is not strong enough to justify taking such action. Such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time under other circumstances or estop the Association from enforcing any other covenants, restriction or rule.

Section 10.6. Payment of Fines. In the event that any occupant, tenant, employee, guest, or invitee of an Owner violates the Declaration and/or By-Laws, or any rule or regulation, and a fine is imposed, the fine shall first be assessed against the occupant; provided, however, if the fine is not paid by the occupant within the time period set by the Board of Directors, the Owner shall pay the fine upon notice from the Association.



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Section 10.7. Liens to Secure Assessments. The regular maintenance charges or assessments, any applicable special maintenance charge, and any fines or other fees, as hereinabove provided for (collectively referred to as "Assessments"), shall constitute and be secured by a separate and valid and subsisting lien, hereby created and fixed, and which shall exist upon and against each (or the applicable) Lot and all improvements thereon, for the benefit, as appropriate, of the Association. Subject to the condition that the Association be made a party to any court proceeding to enforce any lien hereinafter deemed to be superior, the lien hereby created shall be subordinate and inferior to:

(a) all liens for taxes or special Assessments levied by City, County and State government, or any political subdivision or special district thereof, and

(b) all liens securing amounts due or to become due under any Real Estate Contract or Contract of Sale, any first mortgage or deed of trust, made in good faith and for value, filed for record, prior to the date payment of any such charges or Assessments become due and payable.

Any judicial foreclosure of any such superior lien under any mortgage, deed of trust, or other security instrument in which the Association has been made a party, shall cut off and extinguish the liens securing Assessments which became due and payable prior to such foreclosure date, but no such foreclosure shall free any Lot from the liens securing Assessments thereafter becoming due and payable, nor shall the liability of any Member personally obligated to pay Assessments which become due prior to such foreclosure, be extinguished by any foreclosure.

Section 10.8. Effect of Non-Payment of Assessments. If any Assessment owed to the Association is not paid within thirty (30) days from the due date thereof, a late fee of \$15.00 shall be owed, plus the Assessment shall bear interest from the due date until paid at eighteen percent (18%) per annum, and, if placed in the hands of an attorney for collection or if suit is brought thereon or if collected through probate or other judicial proceedings, there shall be paid to the Association, an additional reasonable amount for attorney's fees and costs. The Association, as a common expense of all Members, may institute and maintain an action at law or in equity against any defaulting Member to enforce collection and/or for foreclosure of the liens against the Owner's Lot. All such actions may be instituted and brought in the name of the Association, and may be maintained and prosecuted in a like manner as an action to foreclose the lien of a mortgage or deed of trust on real property.

Section 10.9. Collection and Enforcement. Each Member, by the Member's assertion of title or claim of ownership or by the Member's acceptance of a deed to a Lot, whether or not it shall be so recited in such deed, shall be conclusively deemed to have expressly vested in the Association, and in its officers and agents, the right, power and authority to take all action which the Association shall deem proper for the collection of Assessments and/or for the enforcement and foreclosure of the liens

securing the same. Nothing herein shall require mortgagees to collect assessments and failure to pay assessments does not constitute a default under any mortgage.

ARTICLE XI

GENERAL PROVISIONS

Section 11.1. Cost of Performance. Cost and expense in performing any obligation or responsibility in this Declaration shall be borne by the person, association, or entity charged with such performance or responsibility and shall be subject to the provisions of Article X hereof.

Section 11.2. Breach not Ground for Rescission. No breach or continuing breach of the restrictions, covenants, conditions, duties or obligations imposed, allowed or granted by this Declaration shall be grounds for cancellation, termination or rescission of this Declaration or of any provision thereof.

Section 11.3. Enforcement.

(a) Notice: Except where damage or injury to persons or Property is imminent as a result of the performance or failure to perform or the defective performance of any obligation imposed or restricted by this Declaration or where animals are involved, no sanction shall be levied and no legal proceeding for the enforcement of the restrictions, covenants, conditions, rights and duties imposed, allowed or granted by this Declaration shall be commenced, until ten (10) days' written notice of the violation of this Declaration or the wrongful performance, defective performance or failure of performance, is given to the person, association or entity responsible for such violation, wrongful or defective performance or failure to perform. Such notice shall be deemed to be given if deposited in the U.S. Mail, mailed postage prepaid, certified, return receipt requested to the address of the Lot owned by such person, association or entity, unless the Association has previously been notified by such person, association or entity, in writing, to use some other address, in which case to such other address. The ten (10) days shall commence with the date of mailing thereof. Said notice shall describe (i) the nature of the alleged violation; (ii) the proposed sanction to be imposed; (iii) a period of not less than ten (10) days within which the alleged violator may present a written request for a hearing to the Board of Directors; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within ten (10) day of the notice. If a timely challenge is not made the sanction stated in the notice shall be imposed; provided that the Board of Directors may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the ten (10) day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any person.



(b) Hearing: If a hearing is requested within the allotted ten (10) day period, the hearing shall be held before the Board of Directors in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the person who delivered such notice. The notice requirements shall be deemed satisfied if the alleged violator or its representative appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

Section 11.4. Additional Enforcement Rights. Declarant, the ACC, the Association, and any Owner shall have the right to enforce by proceeding, at law or in equity, for damages or for injunction or both, all restrictions, covenants, conditions, rights and duties imposed, allowed or granted by the provisions of this Declaration. In any such proceedings, the prevailing party or parties shall be entitled to recover cost and expenses, including reasonable attorney's fees, and such costs and expenses shall be subject to the provisions of Section 10.9. Failure by Declarant, ACC, Association or Owner to enforce any restriction, covenant, condition, duty or right herein contained shall in no event be deemed a waiver of their respective right to do so at a later time. Notwithstanding anything to the contrary elsewhere in this Declaration, the Board of Directors may elect to enforce any provision of the Declaration and/or By-Laws, or any rules and regulations of the Association by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules) without the necessity of compliance with procedures set forth in Section 11.3 above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including attorney's fees reasonably incurred. Any entry onto a Lot for purposes of exercising this power of self-help shall not be deemed a trespass.

Section 11.5. Attachment of Covenant on Resale or Remodel. This Declaration shall attach following the lease or resale of the Property, or any Lot, and any remodeling or other alteration of any Improvement must be approved by the ACC through the Development Plan process.

Section 11.6. Deviation from Approved Plan. All Development Plans approved in writing by the ACC must be complied with strictly and any deviation, change or alteration not in compliance with said Plan must be further approved in writing by the ACC. Violation hereof shall be subject to enforcement in accordance with the provisions of this Declaration.

Section 11.7. Covenants to Run with the Land. The restrictions, easements, covenants, conditions, rights and duties of this Declaration shall run with and bind the land within the Property, as defined herein, and shall inure to the benefit of the Owner of any Lot therein, their respective legal representatives, heirs, successors and assigns



for a term of twenty (20) years from the date this Declaration is recorded in the real property records of Bernalillo County, New Mexico, after which time such restrictions, easements, covenants, conditions, rights and duties shall automatically be extended for successive periods of ten (10) years, unless amended, modified or repealed as hereinafter provided.

Section 11.8. Modification, Amendment or Repeal. Any of the provisions of this Declaration may be modified, amended or repealed by a recorded written instrument, executed and acknowledged by the Owners of not less than two-thirds (2/3) of the Lots.

Section 11.9. Severability. Invalidation of any of the provisions hereof by a final judgment or decree of any court shall in no way affect or impair the validity of any other provision hereof.

Section 11.10. Joint and Several Obligations. The terms of this Declaration in effect on the date of any lease or recording of a sheriff's deed, trustee's deed, deed in lieu of foreclosure, other deed, other order or decree declaring, settling or confirming title, pursuant to which one or more persons, associations or entities becomes a Lessee or an Owner as hereinbefore defined, shall be binding upon such Lessee or new Owner and such Lessee or new Owner shall be jointly and severally liable with his Lessor or the immediate prior Owner for any continuing performance, failure of performance or defective performance of any act or obligation restricted or imposed hereunder.

Section 11.11. Successors. Deeds of conveyance of any Lot may contain the provisions, restrictions, covenants and conditions contained herein by reference to this Declaration; however, whether or not such reference is made in any or all said deeds, by becoming an Owner as herein defined of any of the Property, each such Owner, for himself or herself or itself, his or hers or its heirs, personal representatives, successors, transferees and assigns, binds himself or herself or itself and such heirs, personal representatives, successors, transferees and assigns to all the provisions, restrictions, covenants and conditions now or hereafter imposed by or under the authority of this Declaration and any amendments thereof.

Section 11.12. Assignment of Rights and Obligations of Declarant. The rights of Declarant hereunder are fully assignable to any person, association or entity and any and all obligations and duties of Declarant are fully delegable and assignable to any person, association or entity.

Section 11.13. Word Meanings. The words such as "herein," "hereafter," "hereof," "hereunder" and "hereinabove" refer to this Declaration as a whole and not merely to a section or paragraph or article in which such words appear unless the context otherwise requires. Singular shall include the plural and the masculine gender



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shall include the feminine and neuter and vice versa unless the context otherwise requires.

Section 11.14. Captions and Section Headings. The captions and headings of various articles, sections, paragraphs or subparagraphs of this Declaration are for convenience only and are not to be considered as defining or limiting in any way the intent of the provisions hereof or thereof.

Section 11.15. Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent the erection and maintenance by Declarant of Structures, Improvements or signs necessary or convenient to the development, sale, operation or other disposition of the Property within the Subdivision.

Section 11.16. Mortgagee Approval. So long as Declarant holds more than a majority of the voting power of the Association, HUD or VA approval is required prior to the following (a) amendment to the Association's Articles of Incorporation, By-Laws or this Declaration; (b) annexation of property to the Association; (c) encumbering, conveying or dedicating Common Properties (other than the conveyances anticipated herein); or (d) dissolution of the Association.

IN WITNESS WHEREOF, the undersigned, being Declarant herein, has set its hand and seal this 24th day of January, 2001.

DECLARANT:

D. R. HORTON, INC.

By: J. Mark Ferguson
J. Mark Ferguson, Division President

ACKNOWLEDGMENT

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

The foregoing instrument was acknowledged before me this 24th day of January, 2001, by J. Mark Ferguson, Division President of D. R. Horton, Inc., on behalf of said corporation.

Kathleen Marie Shell
Notary Public

My Commission Expires: 10-14-01

EXHIBIT "A"

The Eagle Pointe Subdivision, lying and being in Bernalillo County, New Mexico, and being more particularly described on that certain recorded plat for EAGLE POINTE SUBDIVISION, recorded on October 20, 2000 in Plat Book 2000C, Page 278, of the records of the Bernalillo County Clerk, Bernalillo County, New Mexico.

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SPECIAL WARRANTY DEED

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

KNOW ALL MEN BY THESE PRESENTS THAT D. R. Horton, Inc., a Delaware corporation ("Grantor"), for and in consideration of Ten Dollars (\$10.00) by these presents does grant unto Eagle Pointe Homeowners Association, Inc., a New Mexico non-profit corporation ("Grantee"), whose present mailing address is 4400 Alameda, NE, Suite B, Albuquerque, New Mexico, 87113 its heirs and assigns forever, all of the estate, right, title, interest, and claim, either at law or in equity, or otherwise, of the Grantor of, in and to the real property more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference, with special warranty covenants, together with any improvements now or hereafter constructed thereon by Grantor, and all ways, easements, rights, waters, privileges, covenants, and appurtenances to the same belonging, benefitting or in any way appertaining (the "Property"), except as reserved herein;

TO HAVE AND TO HOLD unto Grantee, its successors and assigns forever, so that neither Grantor nor Grantor's successors, assigns, or legal representatives nor any person or persons claiming under Grantor shall at any time hereafter have, claim, or demand any right or title to the Property or any part thereof, subject only to the following permitted exceptions ("Permitted Exceptions"):

1. All unpaid taxes and assessments for the year 2001 and all subsequent years.
2. All liens, encumbrances, easements, reservations, restrictions, covenants, easements, zoning ordinances, matters of survey and conditions of record in the Bernalillo Clerk's office, Bernalillo County, New Mexico affecting the Property.
3. All restrictions and general notes contained on that certain recorded plat of Eagle Pointe Subdivision, recorded on October 20, 2000, in Plat Book 2000C, Page 278 in the records of the Bernalillo County Clerk, Bernalillo County, New Mexico.
4. The EAGLE POINTE SUBDIVISION Comprehensive Declaration of Covenants, Conditions, and Restrictions recorded on Jan. 24, 2001 in the records of the Bernalillo County Clerk, Bernalillo County, New Mexico at Book A14 Page 6171, et seq., as it may have been or hereafter be amended (the "Declaration").
5. Six (6) foot wide private pedestrian access easements over portions of Tracts "A", "B" and "C".

6. A private access and public water, sanitary sewer and drainage easement within Tracts "A," "B" and "C" reserved to the City of Albuquerque.

7. A public water, sanitary sewer and drainage easement within Tract "E".

8. A public utility easements reserved to Qwest, Comcast, PNM Electric and Gas Services, and their successors and assigns across Tracts "A," "B," "C," "D" and "E".

9. An easement and right-of-way hereby reserved unto Grantor, its successors and assigns in, on and over the Property for the purpose of construction, maintenance, repair, location, installation, inspection and operation of any Improvements on the Property for the benefit of Grantee and its members, which easement shall terminate automatically with no further documentation on that date which is ten (10) years from the date hereof.

Each portion of the Property shall be and is hereby designated "Common Properties" as specified on Exhibit "1" attached hereto, such designations to have such meaning as set forth in the Declaration.

Grantee, by acceptance of this instrument, acknowledges and affirms that Grantor does not, by the execution and delivery of any document or instrument executed and delivered in connection with the conveyance of the Property, make any warranty, express or implied, of any kind or any nature whatsoever with respect to the Property or any improvements thereon, except for the special warranties of title set forth herein, and all other warranties are expressly disclaimed.

WITNESS my hand, this 24 day of January, 2001.

D. R. Horton, Inc.,
a Delaware corporation

Bv:

Its:

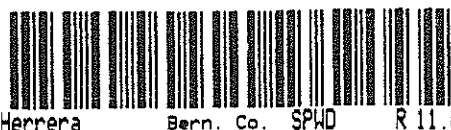
STATE OF NEW MEXICO)
)ss.
COUNTY OF BERNALILLO)

This instrument was acknowledged before me on this 24 day of January, 2001, by J. Mark Ferguson, Division President of D. R. Horton, Inc., a Delaware corporation, on behalf of said corporation.

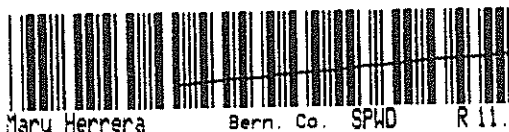
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Kathryn Chang Elwell
Notary Public

My Commission Expires: 10-14-01



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EXHIBIT "A"

Description of Property Conveyed

ALL THOSE TRACTS OR PARCELS OF LAND lying and being in Bernalillo County, New Mexico, and being more particularly described on that certain recorded plat for EAGLE POINTE SUBDIVISION, recorded on October 20, 2000 in Plat Book 2000C, Page 278, of the records of the Bernalillo County Clerk, Bernalillo County, New Mexico as follows:

Tracts "A," "B," "C," "D," and "E".

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EAGLE POINTE HOMEOWNERS ASSOCIATION

GUIDELINE

Satellite Dish and TV Antenna

The Eagle Pointe Homeowners Association has adopted a Guideline for the installation of satellite dishes and TV antennae. Following the Guideline below, homeowners may install one satellite dish and one TV antenna on their home without submitting a request to the Architectural Control Committee. Deviation from the Guideline requires submission of a formal request to the Architectural Control Committee as called for in the "Eagle Pointe Subdivision Comprehensive Declaration of Covenants, Conditions and Restrictions", Article VIII, Architectural Control Committee.

1. The satellite dish shall be no larger than 1 (one) meter (39 inches) in diameter.
2. The dish may be installed on the roof.
3. The dish may be installed on the eaves or anywhere below the eaves, provided that it is no nearer to the front property line than twenty (20) feet. It must be installed at least ten feet back from the front edge of the house.

Homeowners are solely responsible for compliance with Zoning and City Ordinances in the installation of their satellite dish or TV antenna. The Guideline does not guarantee compliance with City requirements and regulations.

C O P Y

By: Chris Castro, President
Eagle Pointe Architectural Control Committee

January, 2006

Date

EAGLE POINTE HOMEOWNERS ASSOCIATION

GUIDELINE

Security Iron and Storm/Screen Door

The Eagle Pointe Homeowners Association has adopted guidelines for security iron and storm/screen doors. Following the guidelines below, homeowners may install security iron and storm/screen doors without submitting a request to the Architectural Control Committee.

Deviation from the guideline requires submission of a formal request to the Architectural Committee as called for in the "Eagle Pointe Subdivision Comprehensive Declaration of Covenants, Conditions and Restrictions", Protective Covenants and Restrictions for Eagle Pointe Subdivision", Article 8 Architectural Control Committee.

1. Security iron must:

- a.) Match the color of the home's stucco; or
- b.) Match the color of the home's trim.
- c.) Security iron may enclose a front entry area into the home between existing stucco pillars.

2. Storm / Screen doors must either:

- a.) Match the color of the home's stucco; or
- b.) Match the color of the home's trim; or
- c.) Match the color of the door against which it is placed.

Homeowners are responsible for compliance with City Ordinances and all other regulations pertaining to emergency exits.

Should the homeowner wish to install storm/screen doors or security iron outside of the guidelines listed above, the Architectural Control Committee must be contacted in advance of installation. The Architectural Committee will require the submission of information on any alternate installation for its consideration.

Should a homeowner install a storm or screen door or security iron outside of the guidelines above without approval, they will be requested by the Architectural Control Committee to bring it into compliance or remove it.

COPY

By: Robert C. Prewitt, Chairperson
Eagle Pointe Architectural Control Committee

April 25, 2001

Date

EAGLE POINTE HOMEOWNERS ASSOCIATION

GUIDELINE

Garden Sheds

The Eagle Pointe Homeowners Association has adopted a Guidelines for garden sheds. Following the Guideline below, homeowners may install a garden shed without submitting a request to the Architectural Control Committee. Deviation from the Guideline requires submission of a formal request to the Architectural Committee as called for in the "Eagle Pointe Subdivision Comprehensive Declaration of Covenants, Conditions and Restrictions", Article 8 Architectural Control Committee.

1. The shed siding shall be of either vinyl coated metal, masonite covered plywood, or stucco board.
2. The shed siding and shed trim shall be painted to match the stucco color and trim of the home associated with the storage shed.
3. The roof of the shed shall be a pitched roof (not barn style). Sheds shall not be a-frame style.
4. The roof shall be covered with shingles to match the home.
5. No portion of the roof shall extend over a lot fence or wall.
6. At the homeowner's option, the floor of the shed shall be plywood on joists, or concrete slab.
7. In preparing the site for the shed, the grade of the lot shall not be significantly altered so as to change the planned drainage pattern, or cause erosion into a neighboring yard.
8. The shed shall not be taller than eight (8) feet when measured from the highest point of the roof to the floor of the shed.
9. The shed shall be placed on the lot in such a way so it is ten (10) feet away from the nearest home.
10. The size of the shed shall be no larger than one hundred and twenty (120) square feet. Note that if the projected roof area exceeds 120 square feet, the storage shed will need to be permitted by the City of Albuquerque.
11. The shed shall not be used as a dwelling.

EAGLE POINTE HOMEOWNERS ASSOCIATION

GUIDELINE

Common Area Gravel Strip Landscaping

The Eagle Pointe Homeowners Association has adopted Guidelines for landscaping in the common area gravel strip between the sidewalk and curb. Following the Guidelines below, homeowners may install landscaping in this location without submitting a request to the Architectural Control Committee. Deviation from the Guideline requires submission of a formal request to the Architectural Control Committee as called for in the "Eagle Pointe Subdivision Comprehensive Declaration of Covenants, Conditions and Restrictions", Article VIII Architectural Control Committee.

- A. TOTAL NUMBER OF COMMON AREA STRIP PLANTINGS: Plantings in the common area gravel strip will be limited to four items maximum, only two of which may be trees. For example, a homeowner could plant two trees and two shrubs for a total of four items, or four shrubs for a total of four items.
- B. TREES: Trees allowed to be planted in this area are limited to Arizona Ash; Bradford Pear; Chinese Pistache; Flowering Plum (purple). These trees may be planted in 5-gallon sizes only. These trees were chosen because their root systems tend to go straight down as opposed to spreading. The best way to ensure the roots grow down is to give the trees plenty of water. You must act to facilitate a good root structure. Large amounts of water fewer days per week are better than a little water every day.
- C. SHRUBS: Shrubs planted in this area should be xeric in nature and drought tolerant. Thorny shrubs such as roses, cactus and pyracanthus may not be planted. A sample list of shrubs is as follows: Autumn Sage; Cotton; Lavender; Damianita; Rosemary. Shrubs may not be planted in any size larger than 5 gallons.
- D. DAMAGE CAUSED BY LANDSCAPING: Any damage caused by a homeowner's landscape installation in this area to common area components such as sidewalks or streets shall be repaired at the installing homeowner's expense. This obligation is assumed by any subsequent owner of the property.
- E. LANDSCAPE MAINTENANCE: The plants must be kept trimmed back from the street and sidewalk and trees must be kept trimmed up to not obstruct pedestrian traffic along the sidewalk. All landscaping components shall be kept neat and trimmed. All landscaping shall be kept in a green and weed free condition. Dead landscaping components shall be removed immediately.
- F. INSTALLATION OF LANDSCAPING: It is recommended that before digging, the location of utilities are known. Call 1-800-321-ALERT for assistance. Efforts should be made to limit the amount of material for a project stored on the common elements. Dirt or gravel may be temporarily stored on the roadway at the curb in front of the home, in an area no larger than

EAGLE POINTE HOMEOWNERS ASSOCIATION

GUIDELINE

Landscaping

The Eagle Pointe Homeowners Association has adopted Guidelines for landscaping. Following the Guidelines below, homeowners may install landscaping without submitting a request to the Architectural Control Committee. Deviation from the Guideline requires submission of a formal request to the Architectural Control Committee as called for in the "Eagle Pointe Subdivision Comprehensive Declaration of Covenants, Conditions and Restrictions", Article VIII Architectural Control Committee.

A. GENERAL INTRODUCTION:

1. The objective of the Guideline is to assist homeowners with compliance with the Water Conservation Landscaping and Water Waste Ordinance of the City of Albuquerque, Sections 6-1-1-1 through 6-1-1-99, as amended, November 6, 1998. It also hopes to assist homeowners in complying with the City's ordinances on pollen, Section 9-12-2 et seq. For additional information on the application of these City Ordinances, homeowners may call (505) 924-3850.
2. In addition, the Guideline has been established to assist homeowners in planning landscaping that does not negatively impact neighboring homes or common elements of the community.
3. The Guideline hopes to establish a criteria that will preserve a general consistency in the landscaping in front of the homes, while allowing homeowners to customize and personalize their homes to maximize enjoyment of their investment.
4. Homeowners are urged to review the enclosed materials, in addition to the guideline. Homeowners are responsible for compliance with all City ordinances, requirements, and zoning codes when planning and installing landscaping or garden accessories.
 - Water Conservation Landscaping and Water Waste Ordinance, Article 6-1-1. Special attention should be paid to 6-1-1-8 (B); 6-1-1-10; and 6-1-1-11.
 - 1998 Albuquerque Plant List. Special attention should be paid to plants that are regulated for water consumption or pollen.
 - The Complete How To Guide to Xeriscaping - City of Albuquerque.
 - Specific to each home: DR Horton Site Plan, and Calculation of Net Landscape Area worksheet. This worksheet was provided to each homeowner by DR Horton as part of closing. If you do not have your copy, contact Management, as a copy may be on file.

B. DRAINAGE CONSIDERATIONS: In installing landscaping, homeowners are reminded that the original grade should not be changed. Changes in grade could result in the destruction of the original site drainage design and may cause damage due to water to your home, or homes of your neighbors. If you look carefully at your lot, you will see that each lot has been graded so that all storm water will drain away from the house, and most home sites are graded so storm water drains through the sideyards to the street in front of the house. *Extreme caution should be used to retain the original drainage pattern of your site. Because of the difficulty and importance of maintaining individual lot drainage pattern, it is recommended that a landscape, or drainage professional be consulted.*

C. GRASS COVERED AREAS:

1. City Restriction on High Water Use Plants: The City has restricted the number of square feet that may be covered by high water use plant types. These plants include those grasses that are most commonly used in traditional residential landscaping. They include Kentucky Bluegrass, Ryegrass, Fescues, Bentgrass, Dichondra and Clover. High water use grasses include Albuquerque Mix and K31. If you wish to use any of these high water use grasses you must make sure you are not covering more than the allowed percentage of your lot with them.
2. 20% Rule: The City ordinance allows the use of high water use plants (regulated grasses) on the greater of 20% of the landscapable area, or 300 square feet. Original landscapable area was calculated by DR Horton for each lot and is stated as "net landscape area" on the Article 6-1-1 calculation sheet you received as part of your home package.

Net landscape area is the entire lot square footage, less building area and driveways.

Gross Lot Area:	_____	sf
Less Building Area	- _____	sf
Less Driveway Area	- _____	sf
	=====	
TOTAL NET LANDSCAPE AREA	_____	sf
	x _____	20%
TOTAL AREA FOR HIGH WATER GRASS	_____	sf or 300sf (greater of)

The square footage allowance may be placed in the front or back yard of the lot, subject to the other provisions of this Guideline and the City Ordinances.

Homeowners may contact City Zoning at (505) 924-3850, or 768-3640, for more information on permitted amounts of grass.

3. Other Medium and Low Water Use Grasses: Refer to the City Plant List and Xeriscaping Guide for ideas on other alternatives for grass groundcover. There are many other acceptable grass types that will allow you greater coverage than the 20%. Other grass types are subject to the other provisions of this guideline.
4. Buffer Zones: In planning grass areas, it is recommended that grass not be planted against sidewalks, fences, walls or buildings. A gravel buffer of 1 ft to 2 ft is recommended to prevent damage or run-off due to irrigation water.

D. OTHER PLANT CHOICES - SHRUBS/TREES/VINES:

1. Trees and shrub choices shall conform to the City of Albuquerque ordinances pertaining to pollen production and water consumption. Homeowners shall not use prohibited by the City of Albuquerque. Refer to the attached 1998 Albuquerque Plant List, or call 768-2600.
2. Trees whose mature height exceeds forty (40) feet shall not be planted.
3. Trees and shrubs shall be planted in such a location that the mature spread:
 - a) will not cause damage to common or party walls, fences or sidewalks with the associated root systems.
 - b) Trees planted in front yards shall be at least five (5) feet away from common area sidewalks.
 - c) Trees planted in back yards shall be planted at least five (5) feet away from any common subdivision perimeter masonry, or playground masonry wall.
4. Vines will not be allowed to grow on party walls, fences, or masonry walls. If the purpose of a vine is to cover such a structure, the vine must be planted on a trellis four (4") inches away from the party wall or fence.

E. IRRIGATION SYSTEMS: It is recommended that the City Design Regulations and Irrigation System Standards (Article 6-1-1-9 and Article 6-1-1-10) be followed. Care should be taken with irrigating (system or hand) to assure that irrigation is not effecting adjoining property, sidewalks or streets, and that party fences and walls are not being watered. Water flow to adjoining property can be enforceable water waste according to 6-1-1-6 of the Ordinance. It is recommended that spray irrigation not be used on slopes greater than four feet of horizontal distance per one foot vertical change, (4:1), and that sprinkler heads be installed at least eight inches away from impermeable surfaces (sidewalks, driveways, etc.).

F. GRAVEL, BARK, ROCK AND BOULDERS:

1. All gravel shall be installed over a fabric mesh weed barrier. Gravel shall be raked to keep mesh covered at all times. All gravel and rocks shall be natural tones only: grey, brown, tan, or beige. Gravel, rock, and boulders shall not be white, red, black, blue, green, or any other bright color.

2. Tree bark mulch shall be allowed only as a mulch in small planter beds and tree wells. It shall not be permitted as a groundcover.
3. Ground cover shall be crusher fines, gravel ¾" to 1 ½", crushed, round, or river washed. The majority of the xeric landscaped yard shall be covered by gravel.
4. Decorative Accents: 1 ½" to 14" rock or crushed rock may be used as decorative accents.
5. Boulders: Rocks or boulders from 14" to 5' may be used as accent pieces. There shall be no more than five (5) such accent pieces used in the front yard.

G. BACK YARDS:

1. The backyard area should be covered with grass, groundcover, gravel, shrubs, or garden area.
2. Decorative Walls: Decorative walls are allowed in the backyard of the home. If the finished grade on opposite sides of the wall exceeds 18", you will be required by the City to secure permits as the wall is considered a retaining wall. Any dirt behind the decorative walls, must not be retained against the perimeter common wall or neighboring walls.
3. Backyard Retaining Walls: Retaining walls shall be allowed in the backyards as long as the original drainage plan of the site is not disturbed. Dirt retained behind the wall shall not be retained up against the side lot line walls. The retaining wall must terminate in such a way that does not cause damage to the side lot line fences. *If the finished grade on opposite sides of the retaining wall exceeds 18", you will be required to secure City permits.*
4. Garden Areas: Garden areas are allowed only in the backyards of homes. Caution should be used in selecting a location for the garden to assure that watering the garden does not create run-off into an adjoining property.
5. Garden Sheds: See separate Guideline.
6. Ponds: Ponds shall be allowed in backyards only as long as they do not exceed a total of 500 square feet of surface area. Multiple ponds are considered one pond for the purposes of calculating square feet. Waterfalls shall not exceed a height of 5 feet. Ponds shall not cause damage to adjoining property.

H. SIDE YARDS: Sideyards may not be covered with grass because of the narrow dimensions and difficulty in irrigating without run-off and overspray which damages fences and building stucco. It is recommended that sideyards be covered with gravel to match front yard gravel.

I. FRONT YARDS:

1. Grass: Grass is allowed in the frontyard in the form of sod. No grass seed will be allowed in front area installations.

2. Gravel: Decorative boulders and rocks may be used in the front area of the homes. Decorative boulders may not obstruct common area sidewalks or visibility from the driveway or corner in any way.
3. Decorative Edging: Steel edging, vinyl edging, paving stone, and blocks are allowed. Edgings shall be grey in color, or a color compatible with grey concrete, or tan. Edging shall not be white. No picket edging, railroad ties, or wire decorative borders will be allowed. All other edging will require the prior approval of the Architectural Control Committee.
4. Trees and Shrubs: A maximum of three (3) trees may be planted in the frontyard. Trees and shrubs must comply with the City pollen restrictions. Trees must be planted at least five (5) feet away from any sidewalk or masonry wall. When installing trees or shrubs in the front yards, the mature spread of the plant must be considered. The location of the plant must be such that the mature spread of the plant must not obstruct the sidewalk or masonry wall, or obstruct vision at a corner or from a driveway. Any damage or uplift to streets, sidewalks, or masonry walls by invasive root systems will be required to be repaired at the homeowner's expense.
5. Gravel Strip: No planting or other changes shall take place in the gravel between the sidewalk and street curb. Each homeowner is responsible for maintaining this area in good, clean, weed free condition.
6. Decorative Walls: Decorative walls are prohibited unless they are brought before the Architectural Control Committee (ACC) for approval.

I. GARDEN ACCESSORIES:

Component	Limitations	Front Yard	Back Yard	City Permit Required
Benches		yes	yes	
Covered Patio/Porch	Must seek Eagle Pointe Architectural Control Committee approval	No	yes, with ACC approval	Yes
Decorative Lighting	See separate section below	Yes	yes	
Dog Runs	Not visible from front. Five (5) foot height limitation. Must be behind privacy fence.	No	yes	Fence permit
In Ground Flag Poles		no	no	
Flower Pots/Planters		yes	yes	
Fountains	Five (5) foot height limitation	no	yes	
Garden Sheds	See separate Guideline	no	yes	yes, depending on size
Garden Statuary	Five (5) foot height limitation	no	yes	
Gazebos	See separate section below	no	yes	yes, depending on size
Playhouses	Five (5) foot height limitation	no	yes	
Swingsets/Jungle Gyms		no	Yes	
Trellis	No higher than the wall if on a wall. If on the house wall, no height limitation Four (4) inches separation from fence or wall.	no	yes	
Windmills	Five (5) foot height limitation	no	yes	

- K. EXTERIOR LIGHTING: Exterior lighting shall be located to minimize impact on adjoining lots or adjoining common areas. Ground mounted lighting shall be no higher than eighteen (18") inches and should be directed downward as necessary to safely light walkways and residence entries. Light fixtures mounted on the home shall be mounted no higher than 10 feet above the finished grade and should be screened to prevent direct light falling outside the subject lot. Light fixtures shall be black, white, cream, brass, verti-green copper or a color matching the home's stucco.
- L. GAZEBOS: Gazebos are allowed in the backyard only. They shall be no higher than eight (8') feet. The gazebo is to be constructed with materials and in colors matching or complementing the features of the home, or may be natural wood. The roof shall be covered with shingles to match the color of the home, or rustic slate. Gazebos over eighty (80) square feet are required to be at least ten (10) feet away from a dwelling, and five (5) feet away from any other accessory structure. Gazebos over one hundred and twenty (120) square feet will require City permits.
- M. SIDEWALKS AND STEPS: The addition of sidewalks and steps are allowed to the homeowner's lot, if they are grey in color to match the common sidewalks, and finished in a workmanship like manner. Any intersection between the homeowner's sidewalk or steps and the common area component must be level and smooth so as not to present a trip hazard to pedestrians along the common area sidewalk. Sidewalks in the sideyards are allowed, but extreme caution must be exercised to maintain the originally designed drainage. Paving stones and flagstones may be used as pathways, but shall be natural tones only: grey, brown, tan, or beige. They shall not be white, red, black, blue, green, or any other bright color.
- N. CONCRETE PORCHES/PATIOS: Must be at least five feet away from any side lot line, and at least fifteen (15) feet away from any back-lot line. Caution must be exercised not to change the designed drainage of the site. *Until such time as a Guideline is issued for covered patios, covered patio plans must be submitted to the Architectural Control Committee.*
- O. DAMAGE CAUSED BY LANDSCAPING: Any damage caused by a homeowner's landscape installation to common area components shall be repaired at the installing homeowner's expense. This obligation is assumed by any subsequent owner of the property.
- P. LANDSCAPE MAINTENANCE: All landscaping components shall be kept neat and trimmed. All landscaping shall be kept in a green and weed free condition. Dead landscaping components shall be removed immediately.
- Q. INSTALLATION OF LANDSCAPING: It is recommended that before digging, the location of utilities are known. Call 1-800-321-ALERT for assistance. Efforts should be made to limit the amount of material for a project stored on the common elements. Dirt or gravel may be temporarily stored on the roadway at the curb in front of the home, in an area no larger than that required by a properly parked vehicle, for a period of no longer than forty eight (48) hours. A liner or tarp under the material is recommended. The road shall be left in clean condition following the removal of the material.

R. COMPLIANCE & VARIANCES: Homeowners are responsible for compliance with City ordinances and zoning, as well as the Eagle Pointe Guidelines. Installations noncompliant with the Eagle Pointe guidelines will be required to be removed or be brought into compliance by the homeowner. Should a homeowner wish to install landscaping outside of the guidelines listed above, the Architectural Control Committee must be contacted in advance of installation. The Committee has thirty days to consider such a request.

C O P Y

By: Robert C. Prewitt, Chairperson
Eagle Pointe Architectural Control Committee

April 25, 2001

Date