



# **Paradise Vista**

## Homeowners Association, Inc.

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

# Articles of Incorporation

Paradise Vista  
Homeowners Association, Inc.

ARTICLES OF INCORPORATION  
OF  
PARADISE VISTA HOMEOWNERS ASSOCIATION, INC.

FEB 23 2004

The undersigned person (the "Incorporator"), for the purpose of forming a nonprofit corporation pursuant to the New Mexico Nonprofit Corporation Act, Sections 53-8-1 through 53-8-99 NMSA 1978, as amended and supplemented, (the "Act"), hereby certifies as follows:

ARTICLE I  
NAME

The name of the corporation is PARADISE VISTA HOMEOWNERS ASSOCIATION, INC.

ARTICLE II  
DURATION

The corporation shall have perpetual duration.

ARTICLE III  
PURPOSES AND POWERS

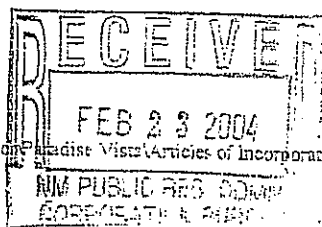
Purposes

The corporation is organized and will be operated exclusively for charitable and commercial association purposes and does not contemplate pecuniary gain or benefit, direct or indirect, to its members. By way of explanation and not of limitation, the purposes for which it is formed are to:

a) be and constitute the Association of Lot Owners in the residential subdivision known as Paradise Vista (the "Subdivision"), as referred to in the Declaration of Covenants, Conditions and Restrictions for Paradise Vista Subdivision, as the same may be amended from time to time (the "Declaration"), the Declaration having been recorded in the real estate records of the County Clerk of Bernalillo County, New Mexico;

b) perform all obligations and duties of the Association and exercise all rights and powers of the Association, as specified in the Declaration and in the Bylaws duly adopted by the corporation, as may be amended from time to time (the "Bylaws"), and as provided by law; and

c) provide an entity to help promote and protect the interest of the Lot Owners in the Subdivision.

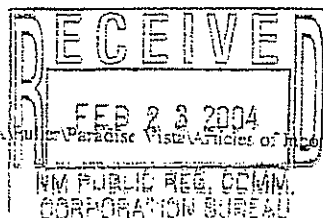


The corporation will not carry on any activity not permitted to be carried on by an organization exempt under Section 501(c)(22) of the Internal Revenue Code and corresponding Treasury Regulation as they now or hereafter exist, or by an organization contributions to which are deductible under Section 170(c)(2) of such Code and Regulations. No substantial part of the activities of the corporation will be the carrying on of propaganda or otherwise attempting to influence legislation, and the corporation will not participate in or intervene in (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office.

### Powers

In furtherance of its purposes, the corporation shall have the following powers, which unless indicated otherwise by the Declaration or Bylaws, may be exercised by the Board of Directors:

- a) All powers conferred upon nonprofit corporations under New Mexico law in effect from time to time;
- b) All the powers necessary or desirable to perform the obligations and duties and exercise the rights and powers set out in these Articles, the Bylaws and Declaration, including without limitation, the following powers to:
  - i. fix and collect assessments or other charges to be levied against the Lots;
  - ii. manage, control, operate, maintain, repair, and improve the Common Areas and facilities and property subsequently acquired by the corporation, or any property owned by another, for which the corporation, by rule, regulation, Declaration or other contract has a right or duty to provide such services;
  - iii. enforce covenants, conditions, easements or restrictions affecting any property to the extent the Association may be authorized to do so under the Declaration or Bylaws;
  - iv. engage in activities which will foster, promote, and advance the common interests of all Lot Owners of Units;
  - v. buy, acquire, sell, dispose of, mortgage, or encumber, exchange, lease, hold, use, operate, and otherwise deal in and with real, personal, and mixed property of all kinds and any right or interest therein for any purpose of the corporation;
  - vi. borrow money for any purpose, as may be limited in the Declaration or the Bylaws;



vii. enter into, make, perform or enforce contracts of every kind and description, and to do all other acts necessary, appropriate, or advisable in carrying out any purpose of the Association, with or in association with any other association, corporation, or other entity or agency, public or private;

viii. act as agent, trustee, or other representative of other corporations, firms, or individuals, and as such to advance the business or ownership interests in such corporation, firms, or individuals; and

ix. adopt Bylaws, as may be necessary or desirable for the proper management of the affairs of the Association; provided, however, such Bylaws may not be inconsistent with or contrary to any provisions of the Declaration.

The foregoing enumeration of powers shall not limit or restrict in any manner the exercise of other and further rights and powers which may now or hereafter be allowed or permitted by law; and the powers specified in each of the paragraphs of this Article III. Capitalized terms used and not otherwise defined in these Articles of Incorporation shall have the meanings assigned to such terms in the Declaration.

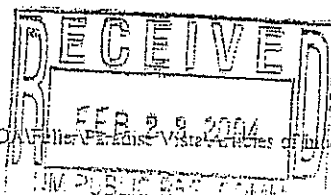
#### ARTICLE IV MEMBERSHIP

The corporation shall be a membership corporation without certificates or shares of stock. All unit owners, by virtue of their ownership of Lots in the Subdivision, are members of the Association. The members shall be entitled to one vote for each Unit in which they hold the interest required for membership, in accordance with, and subject to the restrictions contained in, the Declaration.

#### ARTICLE V BOARD OF DIRECTORS

The business and affairs of the corporation shall be conducted, managed, and controlled by a Board of Directors. The Board shall consist of not less than three (3) nor more than five (5) members, the specific number to be set from time to time pursuant to the Bylaws. The initial Board of Directors shall consist of four (4) members as follows:

| <u>Name</u>      | <u>Address</u>                                 |
|------------------|--|
| Jody Pauza       | 6260 Riverside Plaza NW, Albuquerque, NM 87120 |
| Marianne Ketchem | 6260 Riverside Plaza NW, Albuquerque, NM 87120 |
| Tammy Fuller     | 6260 Riverside Plaza NW, Albuquerque, NM 87120 |
| Wade Wingfield   | 6260 Riverside Plaza NW, Albuquerque, NM 87120 |



The methods of election and term of office, removal and filling of vacancies shall be as set forth in the Bylaws. The Board may delegate such operating authority to such companies, individuals, or committees as the Board, in its discretion, may determine.

#### ARTICLE VI DISSOLUTION

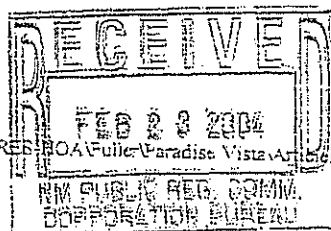
The corporation may be dissolved only as provided in the Declaration, Bylaws, and by the laws of New Mexico.

#### ARTICLE VII AMENDMENTS

These Articles may be amended as provided in the Act, provided that no amendment shall be in conflict with the Declaration, and provided further that no amendment shall be effective to impair or dilute any rights of members, as set forth in the Declaration or in the Act that are governed by such Declaration.

#### ARTICLE VIII INDEMNIFICATION

Any person (and the heirs, executors and administrators of such person) made or threatened to be made a party to any action, suit or proceeding by reason of the fact that he or she is or was a director or officer of the Association shall be indemnified by the corporation against any and all liability and the reasonable expenses, including attorney's fees and disbursements, incurred by him or her (or by his or her heirs, executors or administrators) in connection with the defense or settlement of such action, suit or proceeding, or in connection with any appearance therein, except in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such director or officer breached or failed to perform his or her duties and that such breach or failure to perform constituted recklessness or willful misconduct. Such right of indemnification shall not be deemed exclusive of any other rights to which such director or officer (or such heirs, executors, or administrators) may be entitled apart from this Section. All or any of the cost of funding the foregoing indemnification provision may be treated by the corporation as common expenses assessable to the members.



ARTICLE VIII  
REGISTERED AGENT AND OFFICE

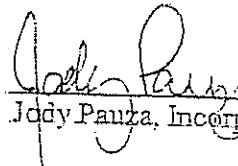
The initial registered office of the corporation is Canyon Gate Real Estate Services, 6260 Riverside Plaza NW, Albuquerque, NM 87120, and the initial registered agent at such address is Melanie Pizzonia.

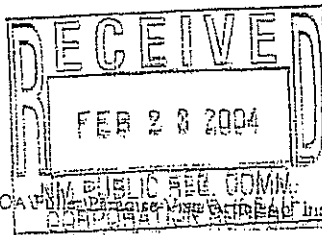
ARTICLE IX  
INCORPORATOR

The name and address of the incorporator is as follows:

Jody Pauza  
Fuller Homes, Inc.  
P.O. Box 13900  
Albuquerque, NM 87192

IN WITNESS WHEREOF, the undersigned incorporator has executed these Articles of Incorporation this 6<sup>th</sup> day of February, 2004.

  
Jody Pauza, Incorporator



FEB 11 2004

ARTICLES OF INCORPORATION  
OF  
PARADISE VISTA HOMEOWNERS ASSOCIATION, INC.

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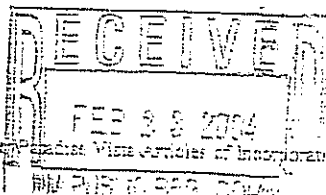
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a) be and constitute the Association of Lot Owners in the residential subdivision known as Paradise Vista (the "Subdivision"), as referred to in the Declaration of Covenants, Conditions and Restrictions for Paradise Vista Subdivision, as the same may be amended from time to time (the "Declaration"), the Declaration having been recorded in the real estate records of the County Clerk of Bernalillo County, New Mexico;

b) perform all obligations and duties of the Association and exercise all rights and powers of the Association, as specified in the Declaration and in the Bylaws duly adopted by the corporation, as may be amended from time to time (the "Bylaws"), and as provided by law; and

c) provide an entity to help promote and protect the interest of the Lot Owners in the Subdivision.



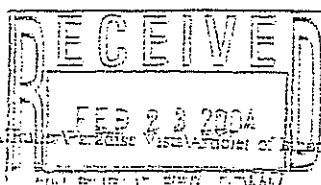


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  - i. fix and collect assessments or other charges to be levied against the Lots;
  - ii. manage, control, operate, maintain, repair, and improve the Common Areas and facilities and property subsequently acquired by the corporation, or any property owned by another, for which the corporation, by rule, regulation, Declaration or other contract has a right or duty to provide such services;
  - iii. enforce covenants, conditions, easements or restrictions affecting any property to the extent the Association may be authorized to do so under the Declaration or Bylaws;
  - iv. engage in activities which will foster, promote, and advance the common interests of all Lot Owners of Units;
  - v. buy, acquire, sell, dispose of, mortgage, or encumber, exchange, lease, hold, use, operate, and otherwise deal in and with real, personal, and mixed property of all kinds and any right or interest therein for any purpose of the corporation;
  - vi. borrow money for any purpose, as may be limited in the Declaration or the Bylaws;





The methods of election and term of office, removal and filling of vacancies shall be as set forth in the Bylaws. The Board may delegate such operating authority to such companies, individuals, or committees as the Board, in its discretion, may determine.

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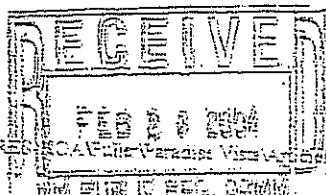
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#### ARTICLE VII AMENDMENTS

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#### ARTICLE VIII INDEMNIFICATION

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ARTICLE VIII  
REGISTERED AGENT AND OFFICE

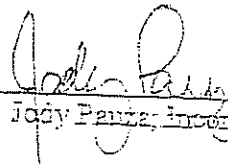
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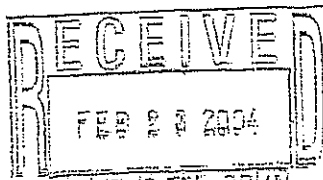
ARTICLE IX  
INCORPORATOR

The name and address of the incorporator is as follows:

Jody Panza  
Fuller Homes, Inc.  
P.O. Box 13900  
Albuquerque, NM 87192

IN WITNESS WHEREOF, the undersigned incorporator has executed these Articles of Incorporation this 6<sup>th</sup> day of February, 2004.

  
\_\_\_\_\_  
Jody Panza, Incorporator



# Bylaws

Paradise Vista  
Homeowners Association, Inc.

**BYLAWS  
OF  
PARADISE VISTA HOMEOWNERS ASSOCIATION**

**ARTICLE I  
Application of Bylaws**

**Section 1.1 Applicability.** These Bylaws provide for the governance of the Paradise Vista Homeowners Association (the "Association"), which has been formed as a New Mexico nonprofit corporation under the New Mexico Nonprofit Corporation Act, being Sections 53-8-1 through 53-8-99 NMSA 1978, as amended and supplemented (the "Act"), to possess and exercise the powers and duties conferred under the Declaration (as defined below) and to administer certain real property conveyed as common areas, for the benefit of the Lot Owners in Paradise Vista Subdivision. The Lots in the Subdivision have been subjected to the provisions of the Restrictions of Paradise Vista Subdivision, A Declaration of Restrictions, Covenants and Conditions for the Creation and Maintenance of a Planned Residential Development imposed upon Paradise Vista Subdivision, Albuquerque, New Mexico including any amendments thereto, recorded in the real estate records of Bernalillo County, New Mexico (the "Declaration").

**Section 1.2 Definitions.** Capitalized terms used and not defined in these Bylaws shall have the meanings assigned to such terms in the Declaration.

**Section 1.3 Compliance.** The Developer and every Owner and all those entitled to occupy a Home shall comply with these Bylaws.

**Section 1.4 Office.** The office of the Association shall be located at Canyon Gate Real Estate Services, 6260 Riverside Plaza NW, Albuquerque, New Mexico, 87120, or at such other place within Bernalillo County or Sandoval County, New Mexico, as may be designated from time to time by the Board of Directors.

**ARTICLE II  
Association Membership and Meetings**

**Section 2.1 General Responsibilities.** The Association shall be responsible for administration of the Subdivision, establishing the means and methods of collecting assessments and charges, and arranging for the management of the Subdivision and performing all of the other acts that may be required or permitted to be performed under the Declaration. Except as to those matters which the Act specifically requires to be performed by the vote of the Homeowners, the foregoing responsibilities shall be performed by the Board of Directors or Managing Agent as more particularly set forth in Article III of these Bylaws.

**Section 2.2 Membership.** All Owners shall automatically become a member of the Association and be subject to these Bylaws. Such membership shall terminate without any formal Association action whenever such person ceases to own a Home but such termination shall not relieve or release any such former Owner from any liability or obligation incurred under or in any way connected with the Association during the period of ownership and membership in the Association, or impair any rights or remedies of other Owners, either through the Board of Directors or directly, against a former Owner and member arising out of or in any way connected with ownership and membership and the covenants and obligations incident thereto. The membership rights and privileges of an Owner who is a natural person may be exercised by the member or member's spouse. The membership rights of an Owner which is a corporation, partnership, or other legal entity may be exercised by any officer, director, partner, or trustee, or by any other individual designated by the Owner in a written instrument provided to the secretary of the Association.

**Section 2.3 Classes of Membership.** The Association will have one (1) class of Membership.

Each member shall be entitled to one (1) vote for each Lot owned. When more than one person or entity is an Owner of any Lot, all such persons shall be members. The vote for such Lot shall be exercised as such Owners determine, and in no event shall such multiple Owners vote more votes than they are entitled by the Lots owned.

**Section 2.4 Annual Meetings.** The annual meeting of the members shall be held each year at a date and location determined by the Board. Until all homes are complete, the Board shall be appointed and serve at the pleasure of the Grantor who shall take all actions on behalf of the Association.

**Section 2.5 Actions by Member.** Notwithstanding any other provision of these Bylaws, until all homes are complete, the presence of two members of the Board, in person or by proxy, shall constitute a quorum of the members. When all homes are complete and the new Board members have been elected, then the presence in person or by proxy of two-thirds (2/3) of the Members shall constitute a quorum, except as otherwise provided by law. Until such time as all homes are complete, all business may be transacted if two members of the Board are present. At such time, if less than a quorum is represented at a meeting, a majority of the Membership so represented may adjourn the meeting from time to time without further notice.

Notwithstanding any other provision of these Bylaws, at the time when the Grantor is no longer on the Board, all decisions of the Members shall be made by the Members. A majority of the votes cast at a duly held meeting of Members at which a quorum is present, in person or by proxy, shall be sufficient to act upon any matter which may properly come before the meeting, unless a greater vote is required by law or the Articles of Incorporation or by these Bylaws on any question; provided, however, that the elections of Directors, after the initial appointment, those receiving the greatest number of votes, shall be deemed elected even though not receiving a majority.

**Section 2.6 Quorum of Members.** For as long as there are homes which have not been completed, the presence of the Grantor Member, in person or by proxy, shall constitute a quorum. After all homes have been complete and the Grantor no longer is on the Board then the presence in person or by proxy of two-thirds (2/3) of the Members shall constitute a quorum.

**Section 2.7 Special Meetings.** The President shall call a special meeting of the Association members if so directed by resolution of the Board of Directors or upon presentation of a petition signed and presented to the Secretary by Owners holding not less than two-thirds (2/3) in interest of the votes in the Association. The notice of any special meeting shall state the time, place and purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

**Section 2.8 Place of Meetings.** Meetings of the Association shall be held at the principal office of the Association or at such other suitable place reasonably convenient to the Owners as may be designated by the Board of Directors.

**Section 2.9 Notice of Meetings; Waiver.**

(a) The Secretary shall mail or cause to be delivered to each Owner a notice of each meeting of the Owners at least ten (10) but not more than sixty (60) days prior to such meeting, stating the time, place and purpose thereof. The mailing of a notice of meeting in the manner provided in this Section and Section 9.1 of these Bylaws shall be considered service of notice.

(b) Any Owner may, in writing, waive notice of any meeting of the Owners, either before or after such meeting. Attendance at the annual meeting by an Owner, whether in person or by proxy, shall be deemed waiver by such Owner of notice of the time, date, and place thereof, unless such Owner specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted at the special meeting, unless objection to the calling or convening of the meeting of which proper notice was not given is raised before the business is put to a vote.

**Section 2.10 Adjournment of Meetings; Loss of Quorum.** If any meeting of the Association cannot be held because a quorum is not present, a majority of the Owners who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. A meeting may be so adjourned for other reasons by a vote of two-thirds of the Owners present in person or by proxy. At such adjourned meeting (at which a quorum shall be present), any business which might have been transacted at the meeting originally called may be transacted. If a time and place for the adjourned meeting is not fixed by those in attendance at the original meeting, or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the



adjourned meeting shall be given to Owners in the manner prescribed for regular meetings (except that the minimum notice may be less than ten (10) days if the time to the adjourned meeting is less than ten (10) days).

If the Secretary determines, after diligent effort has been made, that a quorum cannot be assembled for the adjourned meeting, the Secretary may petition the Board to establish a lower quorum requirement for the sole purpose of considering the business to have been transacted at the meeting originally called. If the Board determines that a lower quorum requirement is appropriate under the circumstances, due to the exigent nature of the business to have been transacted or for other good cause, it may establish such lower requirement for the purpose of the adjourned meeting only. If the Board determines to take that action, it shall record in the applicable resolution the specific reason or reasons for such action. Such action, if taken, shall be effective only with respect to the adjourned meeting and shall not require or constitute an amendment to these Bylaws.

The Owners present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Owners to leave less than a quorum, provided that any action taken shall be approved by at least a majority of the Owners required to constitute a quorum.

#### **Section 2.11 Voting.**

(a) Each Homeowner shall have one vote at all meetings of the Association. Where the ownership of a Home is in more than one person, the person who shall be entitled to cast the vote of such Home shall be the person named in a certificate executed by all of the owners of such Home and filed with the Secretary of the Association before the meeting. Such certificate shall be valid until revoked by a subsequent certificate similarly executed; such revocation and replacement shall not be made during a meeting. If the person named in the certificate is absent from the meeting, any Owner who is present shall be entitled to cast the vote of such Home. If more than one person owning such Home is present, then such vote shall be cast only in accordance with the agreement of a majority of them.

(b) Except where a greater number is required by the Act, the Articles or these Bylaws, the affirmative vote of a majority of the Homeowners in person or by proxy at a duly convened meeting at which a quorum is present is required to adopt decisions at any meeting of the Association members.

(c) No Owner may vote at any meeting or be nominated or elected to or serve on the Board of Directors or as an officer of the Association if, at the time of such meeting, nomination or election, the Owner is delinquent in the payment of any Assessments imposed by the Association, has had voting privileges suspended as provided in these Bylaws, or has been determined by the Board of Directors to be otherwise in violation of any of the governing documents. The foregoing disqualification shall continue until such time as the Owner has paid such delinquent Assessments and has provided the Board

with such reasonable assurances, if any, as may be requested by the Board against the recurrence of any such delinquency, or such suspended privileges have been restored, or such other violations have been cured as the case may be.

**Section 2.12 Proxies.** A vote may be cast in person or by proxy. Proxies shall be duly executed and in writing, shall be valid only for the particular meeting designated therein and must be filed with Secretary at least one day prior to the time stated in the notice of the meeting. Such proxy shall be deemed revoked only upon actual receipt by the person presiding over the meeting of notice of revocation from the Owner of such Home. No proxy shall in any even be valid for a period in excess of one hundred eighty (180) days after the execution thereof. In the case of a Home owned by more than one Owner, any Owner may execute a proxy or a notice of revocation.

**Section 2.13 Conduct of Meetings.** The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring at the meeting. The President may appoint a person to serve as parliamentarian at any meeting. The then current edition of *Robert's Bylaws of Order* shall govern the conduct of all meetings of the Association when not in conflict with the Declaration, these Bylaws or the Act. Failure to follow *Robert's Bylaws of Order* shall not, without other grounds, invalidate any action taken. All votes shall be tallied by vote inspectors appointed by the President.

**Section 2.14 Action Without Meeting.** Except as may be prohibited by the Declaration or these Bylaws any action which may be taken at a special meeting of the Owners called by resolution of the Board (except for the election or removal of Directors) may be taken without a meeting if all the Owners shall consent in writing to such action. Any such written consent shall have the effect provided in the Act and shall be filed with the minutes of the proceedings of Owners' meetings.

### ARTICLE III Board of Directors

**Section 3.1 Number and Qualification.** The affairs of the Association shall be governed by a Board of Directors. The Board of Directors shall be composed of Owners or the legal representative of Owners, Mortgagees (or designees of Mortgagees) or designees of the Developer. The number of Directors on the Board shall be not less than three (3) nor more than five (5), as the Board of Directors may from time to time determine by resolution. The initial Board shall consist of four (4) members. The Board shall be appointed by and serve at the pleasure of the Grantor, until all homes are complete, thereafter the Board shall be elected by the Members.

**Section 3.2 Powers and Duties.** The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Association and

may do all such acts and things as are permitted by the New Mexico Non-Profit Corporation Act, the Declaration or these Bylaws.

**Section 3.3 Managing Agent.** The Board of Directors may employ for the Association a Managing Agent at a rate of compensation approved by the Board of Directors to perform such duties and services as the Board may authorize. The Managing Agent shall not be an Officer or Director of the Association but may be an affiliate of the Developer or of a Director.

**Section 3.4 Election and Tenure of Office.** The Grantor for as long as he is Member shall appoint the Board and determine the number of Directors up to a maximum of five (5) Directors. At the first meeting of the Members after the termination of the Grantor's Membership, and at all subsequent annual meetings, one (1) member of the Board shall be elected to serve a one (1) year term. The remaining Members of the Board shall be elected for two (2) year terms and all subsequent elections for membership to the Board shall be for two (2) year terms. Their term of office shall begin immediately after election. Two members from the same household cannot serve on the Board concurrently.

(a) The two Directors receiving the first and second highest number of votes at the first annual meeting shall be elected for terms of two (2) years, and the Director receiving the third highest shall be elected for a term of one (1) year. At each annual meeting thereafter, new Directors shall be elected to fill vacancies created by resignations or expirations of the terms of past Directors. Following the first annual meeting, after the termination of Grantor Membership, the term of office of each Director elected to fill a vacancy created by the expiration of the term of office of the respective past Director shall be for two (2) years. The term of office of each Director elected to fill a vacancy created by resignation, death or removal of his predecessor shall be the balance of the unexpired term of his predecessor. Any person serving as a Director may be reelected to one additional term, provided that no Director shall serve more than two (2) consecutive terms. There shall be no limitation on the total number of terms which a Director may serve. At any election of the Board, Owner shall be entitled to cast a number of votes equal to the number of Directors to be elected at such meeting. Such Owner may cast all of such votes for a single candidate or may distribute the votes among as many candidates as the Owner sees fit.

(b) Nominations for persons qualified to be members of the Board of Directors may be submitted from the floor at any meeting at which an election is to be held to fill a vacancy on the Board of Directors, provided that no more than one person has been nominated by petition or by a nominating committee of the Board.

**Section 3.5 Removal or Resignation of Directors.** After termination of the Grantor Membership, the entire Board or any individual Director may be removed from office by a majority or a two-thirds vote of the quorum of Members at a special meeting called for that purpose. Any Director whose removal has been proposed by the Owners shall be given an opportunity to be heard at the meeting. If any or all of the

Directors are removed at a meeting, new Directors may be elected at the same meeting. A member of the Board of Directors may resign at any time.

**Section 3.6 Vacancies.** So long as the Grantor comprises the Board, the Grantor shall fill vacancies in the Board. Upon termination of the Grantor Membership, vacancies in the Board may be filled by a majority vote of the remaining Directors, though less than a quorum, or by sole remaining Director, and each Director so elected shall hold office until his successor is elected at an annual meeting of Members or at a special meeting called for that purpose. A vacancy or vacancies shall be deemed to exist in case of death, resignation, removal or judicial adjudication of mental incompetence of any Director, or in case the Owners fail to elect the full number of authorized Directors at any meeting at which such election is to take place. Except as provided in the first sentence of this Section, any vacancy not filled by the Directors may be filled by vote of the Owners at the next annual meeting of the Owners or at a special meeting of the Owners called for such purpose. If such a vacancy shall occur within sixty (60) days prior to the date scheduled for the next annual meeting of the Association, then the remaining Directors may leave the position vacant until such annual meeting.

**Section 3.7 Organization Meetings.** The organizational meeting of the Board shall be held each year immediately following the adjournment of the annual meeting of the Members. No notice shall be required for this meeting.

**Section 3.8 Regular Meetings.** Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors, but such meetings shall be held at least once every six (6) months during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each Director, by mail, facsimile, telephone, telegraph or hand delivery, at least ten (10) days prior to the day named for such meeting.

**Section 3.9 Special Meetings.** Special meetings of the Board of Directors may be called by the President on three (3) business days' notice to each Director, given by mail, facsimile, telephone, telegraph or hand delivery, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner on the written request of at least two (2) Directors.

**Section 3.10 Waiver of Notice.** Any director may at any time, in writing, waive notice of any meeting of the Board of Directors, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board of Directors shall constitute a waiver of notice by him of the time, place and purpose of such meeting. If all Directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

**Section 3.11 Meetings By Telephone.** With the consent of all the Directors, meetings may be held by conference telephone or by other communication method which

allows all Directors to have vocal communication, provided the meetings are properly noticed as required by this Article.

**Section 3.12 Right of Attendance at Meetings.** All meetings of the Board and committees of the Board shall be open to all Members provided that Members who are not members of the Board may not participate in any deliberation or discussion unless authorized expressly by vote of a majority of a quorum of the Board, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, or potential litigation involving the Association and business of a similar nature. The nature of all Business to be considered at any executive session shall first be announced in the open meeting.

**Section 3.13 Place of Meetings.** Meetings of the Board shall be held as designated for that purpose from time to time by resolution of the Board or written consent of all members of the Board. Any meeting shall be valid, wherever held, if held by the written consent of all members of the Board, given either before or after the meeting, and filed with the Secretary of the Association.

**Section 3.14 Quorum of Board of Directors.** At all meetings of the Board of Directors, unless otherwise provided in these Bylaws, a majority of the Directors shall constitute a quorum of the transaction of business, and the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. If at any meeting of the Board of Directors there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

**Section 3.15 Fidelity Bonds.** Any requirements for fidelity bonds shall be determined by the Board of Directors, as further specified in Section 6.2.

**Section 3.16 Compensation.** No Director shall receive any compensation from the Association for acting as such.

**Section 3.17 Conduct of Meetings.** The President shall preside over all meetings of the Board of Directors and the Secretary shall keep a minute book of the Board of Directors recording therein all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings. The then current edition of *Robert's Bylaws of Order* shall govern the conduct of the meetings of the Board of Directors when not in conflict with the Declaration, these Bylaws or the Act.

Directors or members of any committee designated by the directors may participate in a meeting of the Board of Directors or such committee, respectively, by means of conference telephone or similar communications equipment by means of which all person participating in the meeting can hear each other, and participation in such a meeting by the aforesaid means shall constitute presence in person at such meeting.

**Section 3.18 Action without Meeting.** Except as may be prohibited by the Act, the Declaration or these Bylaws, any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all the members of the Board of Directors shall individually or collectively consent in writing to such action. Any such written consent shall have the effect provided in the Act and be filed with the minutes of the proceedings of the Board of Directors.

**Section 3.19 Liability of Directors, Officers, Owners and Association.**

(a) Officers and members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Association. Every agreement made by the Officers, the Board of Directors or the Managing Agent on behalf of the Association shall, if practicable, provide that the Officers, the members of the Board of Directors or the Managing Agent, as the case may be, are acting only as agents for the Association and neither they nor the Owners shall have any personal liability thereunder.

(b) The Association shall not be liable for any failure of water supply or other services that may be obtained by the Association or paid for as a Common Expense, or for injury or damage to person or property caused by the elements or by the Owner of any Home or any other person, or resulting from electricity, water, snow or ice which may leak or flow from any portion of the Common Areas or from any pipe, drain, conduit, appliance or equipment, unless caused by the negligence of the Association. The Association shall not be liable to any Owner for loss or damage, by theft or otherwise, of any article, which may be stored upon any of the Common Areas. No diminution or abatement of any assessments, as herein elsewhere provided, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Areas or from any action taken by the Association to comply with any law, ordinance or with the order or directive of any municipal or other governmental authority.

**Section 3.20 Conflict of Interest.** No contract or other transaction between the Association and any of its Directors or Officers shall be void or voidable because such Director or Officer is present at a meeting which authorizes or approves the contract or transaction or because his or her vote is counted for such purposes, provided the existence of the conflict or potential conflict is disclosed to the Board in advance and provided the contract or transaction is commercially reasonable. Appointment of any officer, employee or agent of the Declarant as an officer, director, employee, or agent of the Association shall not constitute a conflict of interest for purposes of the Declarations, Articles of Incorporation, or these Bylaws.

**Section 3.21 Architectural Control Committee.**

(a) The Architectural Control Committee shall function as provided in the Declaration.

(b) The Architectural Committee shall have such additional duties, power and authority, consistent with its general purpose, as the Board of Directors may from time to time provide by resolution.

**Section 3.22 Other Committees.** The Board of Directors or the President, with the approval of the Board of Directors, may establish other committees and appoint committee chairpersons. No report, recommendation, or other action of any committee of the Association shall be considered as the act of the membership unless and until it has been approved by the Board of Directors or by the general membership at a meeting of the Association.

**Section 3.23 Bylaws and Regulations.** The Board of Directors shall have the powers from time to time to adopt any Bylaws and regulations deemed necessary for the benefit, enjoyment and protection of the Owners (sometimes referred to as "Bylaws and Regulations" or Paradise Vista Bylaws). Such Bylaws and Regulations shall become effective and binding after (1) they are adopted by a majority of the Board at a duly called meeting, and (2) they are either mailed or otherwise delivered to each Owner, and/or posted in a conspicuous place in the Common Area, or recorded in the relevant real property records. Such Bylaws and Regulations may concern, without limitation, use of the Common Areas, signs, parking restrictions, minimum standards of property maintenance and any other matter within the jurisdiction of the Association, as provided in the Declaration; provided, however, that such Bylaws and Regulations shall be enforceable only to the extent that they are consistent with the Declaration, the Articles of Incorporation and these Bylaws, and the Bylaws and Regulations may not be used to amend any of those documents.

#### ARTICLE IV Officers

**Section 4.1 Designation.** The principal officers of the Association shall be the President, the Vice President, the Secretary and the Treasurer, all of whom shall be Owners and shall be elected by the Board of Directors. The Board of Directors may appoint an assistant treasurer, an assistant secretary and such other Officers as in its judgment may be necessary; such additional officers need not be Owners. The President and Vice President shall be members of the Board of Directors; any other Officers need not be members of the Board of Directors. One person may hold two or more offices, however no person may simultaneously hold the positions of President and Secretary.

**Section 4.2 Election of Officers.** The Officers of the Association shall be elected at the organization meeting of the Board of Directors. Thereafter, Officers shall be elected at each annual meeting of the Board of Directors. All Officers shall hold office at the pleasure of the Board of Directors. There shall be no limit on the number of terms, which an officer may serve, provided that no officer shall serve more than two (2) consecutive terms.

**Section 4.3 Removal and Resignation.** Upon the affirmative vote of a majority of all Directors, any Officer may be removed, either with or without cause, and a successor may be elected at any regular meeting of the Board of Directors or at any special meeting of the Board of Directors called for such purpose. Any officer may resign at any time by giving written notice to the Board or to the President, or to the Secretary of the Association. Any such resignation shall take effect at the date of the 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. A vacancy in any office because of death, resignation, removal, disqualification or other cause shall be filled in the manner prescribed in the Bylaws for regular appointments to such office.

**Section 4.4 President.** The President shall be the chief executive officer of the Association; preside at all executive meetings of the Association and the Board of Directors; and have all of the general powers and duties which are incident to the office of President of a corporation, including without limitation the power to appoint committees from among the Owners from time to time as the President may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association.

**Section 4.5 Vice President.** The Vice President shall take the place of the President and perform the duties of the President whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board of Directors to act in the place of the President, on an interim basis. The Vice President shall also perform such other duties as shall from time to time be conferred upon him by the Board of Directors or by the President.

**Section 4.6 Secretary.** The Secretary shall keep the minutes of all meetings of the Association and of the Board of Directors; have charge of such books and papers as the Board of Directors may direct; maintain a register, setting forth the place to which all notices to Owners and Mortgagees hereunder shall be delivered; and, in general, perform all duties incident to the office of the Secretary of the corporation.

**Section 4.7 Treasurer.** The Treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial data; and be responsible for the deposit of all monies and other valuable effects in the name of the Board of Directors, the Owners, the Association or the Managing Agent, in such depositories as may from time be designated by the Board of Directors; and, in general, perform all duties incident to the office of Treasurer of the corporation.

**Section 4.8 Execution of Documents.** All agreements, contracts, deeds, leases, checks and other instruments of the Association for expenditures or obligations in excess of Five Thousand Dollars (\$5,000) shall be executed by any two persons designated by the Board of Directors. All such instruments for expenditures or obligations of Five



Thousand Dollars (\$5,000) or less may be executed by any one person designated by the Board of Directors.

**Section 4.9 Compensation of Officers.** No Officer who is also a Director shall receive any compensation from the Association for acting as such Officer.

## **ARTICLE V**

### **Operation of the Property**

#### **Section 5.1 Determination of Common Expenses; Owner Assessments.**

(a) **Fiscal Year.** The fiscal year of the Association shall be the calendar year unless otherwise determined by the Board of Directors.

(b) **Preparation and Approval of Budget.** On or before a date each year prescribed by the Board of Directors, the Board shall prepare and submit a budget for the Association containing an estimate of the total amount considered necessary to pay the cost of maintenance, management, operation, repair and replacement of the Common Areas, including wages, materials, insurance premiums, services, supplies and other expenses utilizing working capital.

(c) **Payments of Maintenance Assessments.** On or before the first day of each fiscal year, each Owner shall be obligated to pay the Board of Directors or the Managing Agent (as determined by the Board of Directors), their annual Assessment. Upon request, within sixty (60) days after the end of each fiscal year, the Board of Directors shall supply an itemized accounting of the Common Expenses for such fiscal year actually incurred and paid, the actual additions to and uses of the Maintenance Funds and any other reserves, together with a tabulation of the amount collected pursuant to the budget for such fiscal year just ended, and showing the net excess or shortfall of such collections compared to such outlays. Any such excess shall, if the Board of Directors deems advisable, be credited, according to each Owner's portion, to the next installment due from Owners under the current fiscal year's budget. Any such shortfall shall be assessed payable in full no more than within thirty (30) days after notice to each Owner of amount due.

(d) **Reserves.** The establishment, maintenance and administration of the Maintenance Fund and any other reserve funds shall proceed in accordance with the Declaration and these Bylaws.

(e) **Initial Budget and Capital Payment.**

(1) Upon taking office, the first Board of Directors elected or designated pursuant to these Bylaws shall determine the budget, as defined in this Section, for the period commencing sixty (60) days after such election and ending on the last day of the fiscal year in which such election or designation occurs. Assessments shall be levied during such period as provided in paragraph (c) of this Section.

(2) The Board of Directors may collect from each initial purchaser of a Home at the time of settlement an initial payment equal to the first year's maintenance assessment for such purchaser's Lot.

(f) **Effect of Failure to Prepare or Adopt Budget.** The failure or delay of the Board of Directors to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of an Owner obligation to pay his allocable share of the Common Expenses herein provided whenever the same shall be determined. In the absence of any annual budget or adjusted budget, each Owner shall continue to pay their annual installment at the annual rate established for the previous fiscal year until notice of any change in the payment, which is due no more than thirty (30) days after such new annual or adjusted budget shall have been delivered.

**Section 5.2 Collection of Assessments.** The Board of Directors or the Managing Agent at the request of the Board of Directors, shall take prompt action to collect any assessments for amount due from any Owner, as well as late charges and other amounts, all as provided in Article 6 of the Declaration.

**Section 5.3 Statement of Common Expenses.** The Board of Directors shall promptly provide any Owner, contract purchaser, or Mortgagee, so requesting the same in writing, with a written statement of all unpaid assessments for Common Expenses due from such Owner. The Board of Directors may impose a reasonable charge for the preparation of such statement to cover the cost of preparation to the extent permitted by the Act.

**Section 5.4 Additions, Alterations or Improvements by Board.** Whenever in the judgment of the Board of Directors, additions, alterations or improvements are considered necessary, the making of such additions, alterations or improvements shall be approved by the Directors, and, if required, a specified portion of the Owners, in accordance with Section 6.5 of the Declaration. The cost of such additions, alterations or improvements shall be Assessments for capital improvements imposed upon the Owners.

## **ARTICLE VI**

### **Insurance; Repair and Reconstruction**

**Section 6.1 Homeowner's Insurance.** As provided in Article 7 of the Declaration, each Owner shall insure such Owner's home maintain standard homeowners' insurance policies having coverage sufficient to cover replacement cost, as well as liability insurance covering personal injury, death and property damage.

**Section 6.2 Insurance Coverage By Association.** The Association shall obtain and maintain in force such policies of insurance as the Board may determine, including at least the following:

(a) Fidelity Bond. The Association shall procure and maintain a fidelity bond naming the Association as obligee in an amount equal to the estimated maximum amount of funds to be in the custody or control of the Association or its professional management company, including reserves for replacement and working capital, at any given time during the term of such bond, but in any event in an amount at least equal to three (3) months aggregate monthly assessments on all Lots plus the sum of all reserve funds. Such fidelity bond shall cover all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds of or administered by the Association, including the officers, directors, employees or agents. The Association need not procure a fidelity bond if the association is managed by a professional management company and such professional management company itself provides a sufficient fidelity bond naming the Association as an additional obligee or loss payee. Such bond shall contain a waiver of any defense or exclusion based upon the exclusion of persons serving without compensation from the definition of "employees" or other similar terms or expressions. Such bond shall require at least ten (10) days prior written notice to the Association of cancellation or substantial modification (including cancellation for non-payment of premiums). The cost of such fidelity bond (except for premiums on any fidelity bond provided by the professional management company, which the Board determines to be satisfactory and in compliance with the provisions of this Section) shall constitute a common expense of the Subdivision.

(b) Liability Insurance. The Association shall procure and maintain comprehensive public liability insurance in the amount of at least one million dollars (\$1,000,000) per single occurrence for bodily injury, death and property damage suffered by the Public or any Owner and his family, guests, agents, employees or invitees occurring in, on, or about the Common Areas. Such policy shall insure the Owners and the Association and its officers, directors, employees and agents, including expressly the professional management company and its officers, directors, employees and agents and shall further expressly cover legal liability arising from lawsuits related to employment contracts of every nature to which the Association is a party. Such policy shall be issued by insurers of recognized responsibility authorized to do business within the State of New Mexico and shall require at least ten (10) days prior written notice of cancellation or substantial modification (including cancellation for nonpayment of premiums) to the Association and to any Mortgagee having a first lien against any Lot which is listed as a scheduled holder of such a first mortgage in the policy. The cost of such policy shall constitute a common expense of the Subdivision. Such insurance must not provide for contribution with regard to any policies of liability insurance carried individually by the Owner.

(c) Additional Insurance. The Board of Directors shall have the authority to obtain such other insurance, including the authority to increase the scope or amount of any insurance required by this Article 5, as the Board shall determine to be necessary or advisable. The cost of any such additional insurance shall constitute a common expense of the Subdivision.

**Section 6.3 Premiums; Repair and Restoration.** The cost of premiums for insurance coverage obtained by the Board of Directors for the benefit of the Association shall be a Common Expense. Owners may obtain additional insurance at their discretion. In the event of damage to or destruction of all or any portion of the Improvements in the Common Area as a result of fire or other casualty, the Board of Directors shall arrange for and supervise the prompt repair and restoration of such Improvements.

## **ARTICLE VII**

### **Amendments to Bylaws**

**Section 7.1 By Members.** For as long as the Grantor is sits on the Board, new Bylaws may be adopted, or these Bylaws may be repealed or amended by the Grantor. Thereafter, new Bylaws may be adopted or these Bylaws may be repealed or amended by the Members at their annual meeting, or at any meeting of the Members called for that purpose, by a vote of sixty-six and two-thirds percent (66 2/3%) of a quorum of Members, or by the written assent of such Members.

**Section 7.2 Record of Amendments.** Whenever an amendment or new bylaw is adopted, such amendment or new bylaw shall be maintained with copies in the corporate books with the original Bylaws, in the appropriate place. If any Bylaw is repealed, the fact of repeal, with the date of the meeting at which the repeal was enacted or written assent was filed, shall be stated in said Book.

## **ARTICLE VIII**

### **Association Records and Reports – Inspection**

**Section 8.1 Records.** The Association shall maintain adequate and correct accounts, books and records of its business and properties, and the business and properties of the Owners with which it is entrusted. All of such books, records and accounts shall be kept at its principal place of business in the State of New Mexico, as fixed by the Board from time to time.

**Section 8.2 Inspection of Books and Records.** The Membership register, books of account, Book of Resolutions, and minutes of Members' meetings or Board meetings (except for the minutes of the executive sessions) and of committees of the Members or Board shall be made available for inspection and copying by any Member of the Association or by such Member's duly appointed representative at any reasonable time at the office the Association or at such other place within the subdivision as the Board shall prescribe for any purpose reasonably related to the Member's interest as a Member. The Board shall establish reasonable Bylaws as to the notice to be given to the custodian of records by the Members desiring to make the inspection, the hours and days of the week when inspection may be made, and the cost of reproducing copies of documents requested by a Member.

**Section 8.3 Approval of Mortgagees.** These Bylaws contain provisions concerning various rights, priorities, remedies and interests of Mortgagees. Such provisions in these Bylaws are to be construed as covenants for the protection of such Mortgagees and on which they may rely in making loans secured by Mortgages. Accordingly, no amendment or modification of these Bylaws impairing or affecting such rights, priorities, remedies or interests of a Mortgagee shall be adopted without the prior written consent of such Mortgagees.

## **ARTICLE IX Miscellaneous**

**Section 9.1 Notices.** All notices, demands, bills, statements or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by registered or certified mail, return receipt requested, postage prepaid and regular mail (or otherwise as the Act may permit) (a) to an Owner, at the address which the Owner shall designate in writing and file with the Secretary of the Association, or if no such address is designated, at the address of the Home of such Owner, or (b) to the Association, the Board of Directors or to the Managing Agent or at such other address as shall be designated by notice in writing to the Owners pursuant to this Section. If a Home is owned by more than one person, each such person who is so designated and who has addressed such in writing to the Secretary, shall be entitled to receive all notice hereunder.

**Section 9.2 Captions.** The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these Bylaws or the intent of any provision thereof.

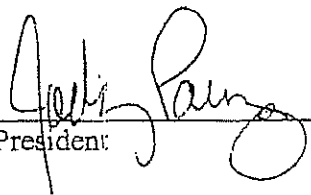
**Section 9.3 Gender.** The user of the masculine gender in these Bylaws shall be deemed to include the feminine and neuter genders and the use of the singular shall be deemed to include the plural, and vice versa, whenever the context so requires.

**Section 9.4 Notice to Board of Directors.** Every Owner who grants a Mortgage secured by his Home shall notify the Association through the Manager, or through the Secretary if there is no Manager, the name and address of his Mortgagee, and shall file a conformed copy of the Note and Mortgage with the Board of Directors. Each Owner shall likewise notify the Association, upon request, as to the release or discharge of any such Mortgage. As provided in Article 9 of the Declaration, institutional Mortgagees may request notification by the Board of certain proposed actions affecting Owners, Homes and the Subdivision, including notice of default by any mortgagor hereunder, and notice of any casualty or condemnation or threat thereof.

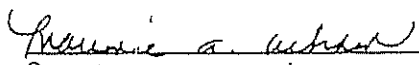
**Section 9.5 No Waiver of Rights.** The failure of the Association, the Board of Directors or of an Owner to enforce any right, provision, covenant or condition which may be granted by the Declaration, these Bylaws or otherwise shall not constitute a waiver of the right of the Association, the Board of Directors or the Owner to enforce

such right, provision, covenant or condition in the future. All rights, remedies and privileges granted to the Association, the Board of Directors or any Owner pursuant to any term, provision, covenant or condition of the Declaration, these Bylaws or otherwise shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other privileges as may be granted to such party by such documents or the Act or at law in equity.

We hereby certify that the above and foregoing Bylaws of Paradise Vista Homeowners Association, consisting of 17 pages, this page included, are the Bylaws of this corporation, adopted by the Board of Directors.

  
\_\_\_\_\_  
President

2/11/04  
Date

  
\_\_\_\_\_  
Secretary

2/11/04  
Date

# **Declaration of Covenants, Conditions and Restrictions**

Paradise Vista  
Homeowners Association, Inc.

FIDELITY NATIONAL TITLE COURTESY RECORDING-NO TITLE LIABILITY  
SENYA SMYTH

RESTRICTIONS  
OF  
PARADISE VISTA SUBDIVISION  
A Declaration of Restrictions, Covenants and Conditions for the Creation and  
Maintenance of a Planned Residential Development

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Mary Herrera  
Bern. Co. RSTR  
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| Section 7.02 | Joint Maintenance by Owners.....            |
| Section 7.03 | Parking Areas, Vehicles.....                |
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| Section 7.06 | Rights of Action.....                       |

## ARTICLE 8

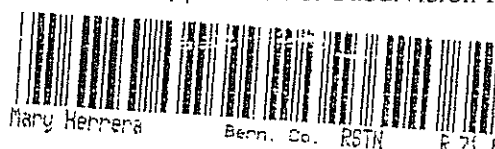
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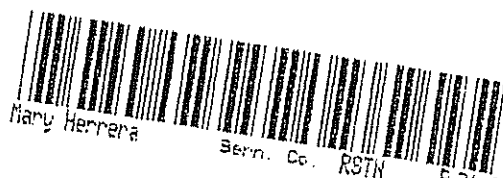
##### Limitation of Subdivision Restrictions on Grantor

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## PARADISE VISTA SUBDIVISION RESTRICTIONS

A Declaration of Restrictions, Covenants and Conditions for the Creation and Maintenance of a Planned Residential Development

THIS DECLARATION is made as of June 1, 2002, by Fuller Homes, Inc., a Texas Corporation, with respect to that certain real property situate in Bernalillo County, New Mexico and more particularly described as follows:

All of the PARADISE VISTA SUBDIVISION, as the same is shown on the Plat thereof recorded in the Bernalillo County, New Mexico Real Estate Records on June \_\_, 1996, in \_\_, \_\_, as Document No. \_\_\_\_.

It is hereby declared that all of the described real property is subject to this Declaration, which is for the purpose of creating and maintaining a planned residential development on the described real property and for the improvement and protection of the value, desirability and attractiveness of the described real property.

It is the purpose of this Declaration to create a planned unit residential development originally consisting of seventy-seven (77) attached single family dwellings with each dwelling to be located on an individually owned lot on public streets, with portions of certain lots subject to easements for the benefit of the community, and with portions of the property being owned by the Association of Lot Owners for the benefit of the Lot Owners.

This Declaration shall run with the described real property and shall be binding upon and inure to the benefit of Grantor, the Association, each Owner of the described real property or any part of it, and each successor in interest of Grantor, the Association, and any such Owner.

### ARTICLE I

#### Definitions

Unless the context otherwise specifies or requires, the terms defined in this Article 1 shall have the meanings as defined in this Article for the purposes of these Restrictions.

#### Section 1.01: Architectural Control Committee.

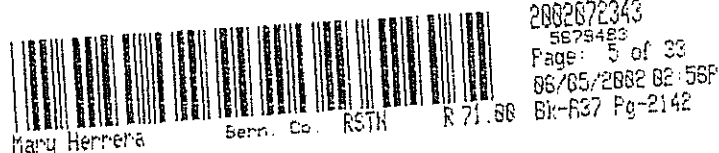
The terms "Architectural Control Committee" or "Committee" shall mean the architectural control committee created pursuant to Article 8.

#### Section 1.02: Association.

The term "Association" shall mean the Paradise Vista Homeowners' Association, Inc., a New Mexico non-profit corporation described in the Article entitled, "Organization, Powers and Duties of the Association," and any predecessor or successor unincorporated association.

#### Section 1.03: Board.

The term "Board" shall mean the Board of Directors of the Association and the governing body of any predecessor or successor unincorporated association. The Board is the same four (4) people as the committee until all homes are complete. At that time a new board will be elected.



Section 1.04: Common Area

The term "Common Area" shall mean portions of the Subdivision, which have been or will be conveyed to the Association for the benefit of the Lot Owners.

Section 1.05: Easement Area.

The term "Easement Area" shall mean certain beneficial interests in real property including Improvements thereon owned or controlled by the Association or owned by the public or the Lot Owners but maintained by the Association for the common use and enjoyment of the Association members. The Easement Areas to be maintained by the Association shall be (i) the exterior of all walls or fences of the Lots which abut public right-of-way, (ii) the Private Access ways and (iii) the Landscape Areas.

Section 1.06: Eligible Mortgagee.

The term "Eligible Mortgagee" means any holder of a first mortgage lien against any Lot provided that such mortgagee has given the Association written notice of its mortgage setting forth its name and address and identifying the Lot, by legal description and address, which is subject to such first mortgage.

Section 1.07: Fiscal Year.

The term "Fiscal Year" shall be the calendar year; but a different Fiscal Year may be adopted by the Association by By-Law or Board Resolution.

Section 1.08: Grading and Drainage Plan.

The term "Grading and Drainage Plan" means the grading and drainage plan prepared for the Subdivision and approved by the City as amended from time to time.

Section 1.09: Grantor.

The term "Grantor" shall mean Fuller Homes, Inc., a Texas Corporation, its successors and assigns, who are assigned, in writing, all or part of Grantor's powers and responsibilities for all or a specific area or portion of the Subdivision and who accept such powers and responsibilities in writing. All such assignments and agreements to accept the obligations of Grantor shall be recorded filed with the Board and placed with the records of the Association. Each person or entity named as Grantor in an assignment may exercise the rights of Grantor provided by these Restrictions for the area assigned, but no general power, such as the power to annex, shall be partially assigned, except for an assignment of all rights under this Declaration.

Section 1.10: Improvements.

The term "Improvements" shall include, without limitation, buildings, out-buildings, (including sheds and storage buildings), roads, driveways, parking areas, fences, retaining walls, privacy walls or fences, subdivision exterior walls or fences, stairs, decks, windbreaks, poles, antennas, signs, utility or communication installations (whether above or underground), and any structure and excavation of any type or



communication Installations (weather above or underground), and any structure and excavation of any type or kind.

Section 1.11: Landscape Area.

The term "Landscape area" Shall mean the portions of the Subdivisions adjacent to or within the right-of-way of Justin Blvd & Landscape Medians on Catalonia Street, which are outside of the Lot privacy walls and are shown as landscaped areas on the Site Plan.

Section 1.12: Lot.

The term "Lot" shall mean each of the seventy-seven (77) Lots designated Lot 1 thru Lot 77, on the Plat together the Improvements located on each such Lot, and any lots subsequently annexed into the Association.

Section 1.13: Mortgage.

The term Mortgage shall mean a deed of trust, as well as a mortgage, and the term "Mortgagee" shall mean a beneficiary under or a holder of a deed of trust, as well as a Mortgagee.

Section 1.14: Owner.

The term "Owner" shall mean the persons or entities, including Grantor, holding the beneficial ownership of the fee, including the purchaser under a real estate contract and shall not include persons holding only a security interest or a seller under a real estate contract. For the purposes of the Article entitled, "Permitted and Prohibited Uses of Property," unless the context otherwise requires, "Owner" shall include the family, invitees, licensees and tenants of any Owner.

Section 1.15: Plat.

The term "Plat" shall mean all of the real property shown on the Plat and comprising the plat of Paradise Vista Subdivision, as recorded in the Bernalillo county, New Mexico real estate records on March 14, 2002.

Section 1.16: Site Plan.

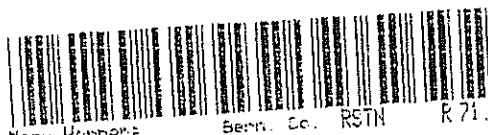
The term "Site Plan" shall mean the site development plan for the subdivision approved by the City of Albuquerque in City action, as amended from time to time.

Section 1.17: Subdivision

The term "Subdivision" shall mean the Planned Residential Development subdivision created by and subject to this declaration.

Section 1.18: Subdivision Restrictions.

The term "subdivision Restrictions" shall mean, with respect to all property within the Subdivision, the limitations, easements, restrictions, covenants, and conditions set forth in this Declaration, as this Declaration may from time to time be amended. The



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term "This Declaration" and the title to this Declaration shall have the same meaning as "Subdivision Restrictions."

ARTICLE 2  
Property Subject to Subdivision Restrictions

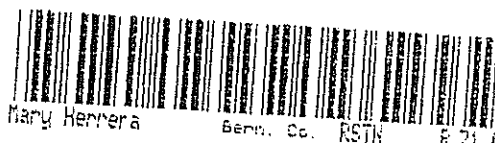
All of the property shown on the Plat.

ARTICLE 3  
Permitted and Prohibited Uses of Property  
Section 3.01: Permitted Uses of Property Within the Subdivision.

- a. Improvements and development within the Subdivision shall be limited to residential single family dwellings, either attached or detached having a minimum of 1,400 square feet of heated living area, associated parking, garages, roads and access ways, landscaped areas, and all public or private service and utility facilities related to such uses, including, but not limited to drainage, sewer, gas, water, electric and communication facilities. No dwelling shall be used as a boarding house or divided into apartments or rooms for rental purposes. This subsection does not prevent the rental or lease of the whole dwelling by the Owner thereof, but any such rental or lease must be by a written agreement, which requires the tenant to observe these Restrictions. No dwelling may be leased or rented for a period of less than thirty (30) days.
- b. Grantor shall, so long as Grantor is the owner of any Lot, have all of the rights of use set out in the Article entitled, "Limitation of Subdivision Restrictions on Grantor."

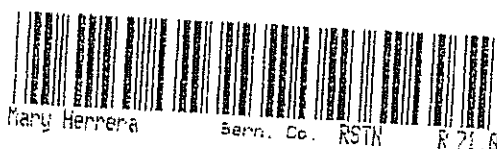
Section 3.02: Prohibited Uses of Subdivision.

- a. In no event shall any Lot be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing oil, gas or other hydrocarbons, minerals, rock, stones, gravel or earth, or be used in any other way inconsistent with the Subdivision Restrictions.
- b. No, illegal, noxious or offensive activity shall be carried on within the Subdivision. No light shall be emitted from any Lot, which is unreasonably bright to cause unreasonable glare to any residences. No sound shall be emitted on or from any Lot, which is unreasonably loud or annoying. No odor shall be emitted from any Lot, which is noxious or offensive to others. Nothing shall be done or placed which may be or become a nuisance, or cause unreasonable embarrassment, disturbance, or annoyance to Owners in the enjoyment of their dwellings.



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- c. No signs whatsoever, including but without limitation, commercial or similar signs, visible from other lots, shall be erected or maintained upon any lot, except:
1. Such signs as may be required by legal proceedings or are useful for such proceedings.
  2. During the time of construction of any structure or other improvement, job identification signs having a maximum face area of twenty-four (24) square feet per sign and of the type usually employed by contractors, subcontractors and tradesmen.
  3. Appropriate safety, directional, and identification and safety signs installed by Grantor, the Association, or required by law.
  4. Customary "for sale" or "for rent" signs.
  5. Such residential or commercial identification signs as Grantor has the right to maintain, or as are specifically approved by the Board in accordance with the rules adopted by the Board.
- d. Except as provided otherwise by this Section, no mobile home, motor home, recreational vehicle, motorcycles, campers, trailers, boat, or similar facility, structure or recreational equipment shall be kept, placed, or maintained within the Subdivision at any time, unless enclosed within a standard size garage or within the side or rear yard so as not to be visible from any street, or the ground floor of neighboring homes. The provisions of this subsection shall not apply to (i) temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any work or improvement permitted by this Declaration, (ii) a recreational vehicle parked in the driveway or the street for a period not to exceed 24 hours, and (iii) a guest's use of a recreational vehicle for a period no to exceed one week per one hundred and eighty (180) days.
- e. Any outside clothes lines or other outside clothes drying or airing facilities shall be maintained exclusively within a fenced yard in such a way as not to be visible from streets and the ground floor of neighboring dwellings.
- f. No garbage, clippings from trees, shrubs or lawns, trash, ashes or other refuse may be thrown, dumped or allowed to accumulate on any land within the Subdivision. There shall be no burning of refuse outdoors, except for the burning of natural materials in connections with land clearance or fire control. No incinerators or other device for the burning of refuse indoors shall be constructed, installed or used by any person except in conformity with law and approved by the Board.
- g. No animals, livestock, horses, insects or poultry of any kind shall be kept, raised, or bred in the Subdivision. Dogs, cats, and other household pets in reasonable numbers may be kept, providing they are not kept, raised or bred for commercial or hobby breeding purposes. Such household pets, except cats, must be restrained on a leash or otherwise under the direct control of an individual when in the Subdivision.



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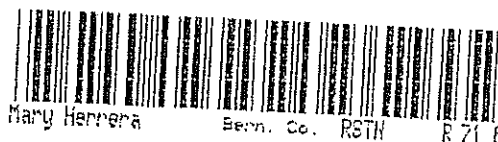
- h. All exterior spot or directional lighting of any sort, the light source of which is visible from neighboring Lots, shall be approved, in writing, by the Board prior to installation.
- i. No exterior antenna, or satellite dishes, of any sort shall be installed or maintained on any Lot or within the Subdivision, except those devices which are erected, installed, placed or maintained and used entirely under the eaves or enclosed within a building or structure or are not visible from the ground level of other Lots. This provision shall remain enforceable even if enforcement action is not commenced within the time limitations otherwise provided by the Subdivision Restrictions.
- j. No vehicles of any type shall be permanently or semi permanently parked in any portion of the Subdivision visible from other Lots for purposes of repairs or reconstruction, or storage. A vehicle shall be deemed parked for storage if it is not driven out of the Subdivision for thirty (30) consecutive days.
- k. No trucks or other commercial vehicles shall be kept or maintained in the Subdivision, except within standard size garages, and except where customary or required for the limited purposes of building, repairing, refinishing, or maintaining the Subdivision or a dwelling, or for the purpose of moving household goods or other necessary or customary furnishings, equipment or supplies in or out of the Subdivision.
- l. Except temporarily during a construction period all utility lines, including, but not limited to, electrical, gas, telephone, cable television, and other communications systems shall be underground, except for access ports and above ground transformers.
- m. No portion of the Subdivision shall be used for any purpose or in any manner which would increase the rate at which insurance against loss or damage by fire and the perils covered by extended coverage, bodily injury, property damage liability insurance, covering any other dwelling may be obtained, or cause any other dwelling to be uninsurable or have such insurance canceled or suspended.

Section 3.03: Common Area/Easement Area.

The common Area and Easement Area shall be reserved by the Association for the benefit of all Owners pursuant to this Declaration to enhance the value and desirability of the Subdivision for watering, planting, cutting, removing and otherwise caring for the landscaping and for installing, maintaining and repairing signs identifying the subdivision and utility lines necessary for the maintenance of the Landscaping. The exterior of all Lot walls abutting public right-of-way are Easement areas. The Association shall have the right and the obligation to maintain the appearance of the exterior of these walls. The lot owners shall be obligated to maintain the structural integrity of these walls. The Private Access ways are for the benefit of only the owners of the Benefited Lots.

Section 3.04: 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



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movement of structures, a valid easement shall exist for the encroaching Improvements for so long as the encroachment exists.

#### ARTICLE 4

##### Membership in the Association

##### Voting Rights

##### Section 4.01: Membership.

- a. Each Owner, by virtue of being an Owner and during such time as such Owner remains an Owner, shall be a member of the Association, or, a member of the unincorporated association preceding the Association or succeeding to the Association.
- b. The rights, duties, privileges, and obligations of an Owner as a member of the Association or its proceeding or succeeding unincorporated association shall be those set forth in, and shall be exercised and imposed in accordance with the provisions of this Declaration and the Association's Articles of Incorporation and By-Laws.

##### Section 4.02: Classes of Membership.

The association shall have one (1) class of membership.

Each Member shall be entitled to one (1) vote for each Lot owned. When more than one person or entity is an Owner of any Lot, all such persons shall be members. The vote for such Lot shall be exercised as such Owners determine, and in no event shall such multiple Owners vote more votes than they are entitled by the lots owned.

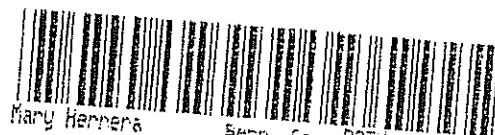
##### Section 4.03: Voting Rights.

Each Owner shall be entitled to vote as provided in this Article on all matters properly submitted for vote to the membership of the Association. Every Owner entitled to vote at any election of members of the Board may cumulate his votes and give any one or more candidates a number of votes equal to the number of votes to be severed or separated from any Lot, and any sale, transfer or conveyance of the beneficial interest of the fee of any Lot to a new Owner shall operate to transfer the appurtenant voting rights without the requirement of any express reference thereto. Voting may be by written proxy.

##### Section 4.04: Voting Rules.

When any provision of the Subdivision Restrictions calls for the both or the consent of the members in any stated percentage, the following rules apply, unless the specific language of the provision provides to the contrary.

- a. Whenever a vote of the members is required, it is sufficient to obtain the written consent of the same percentage and class of members.



- b. The percentage requirement shall be a percentage of the total voting power of the Association and not a percentage of the number of members of the Association, and;
- c. In any election held pursuant to the requirements of this Declaration, ballots may be transmitted to Owners in the manner provided for the giving of notice.

## ARTICLE 5

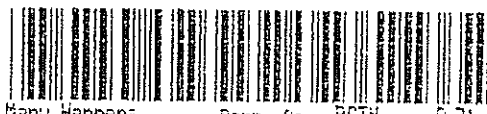
### Organization, Powers and Duties of the Association

#### Section 5.01: Organization.

- a. The Association shall be organized as a non-profit corporation charged with the duties and empowered with the rights set forth herein. The Association's affairs shall be governed by this Declaration, the Articles of Incorporation and the By-Laws.
- b. In the event that the Association, as a corporate entity, is not formed or after formation loses its corporate powers or is dissolved, a non-profit, unincorporated association shall forthwith and without further action or notice, be formed and shall succeed to all the rights and obligations of the Association hereunder until a qualified non-profit corporation is formed. Said unincorporated association's affairs shall be governed by the laws of the State of New Mexico, and to the extent not inconsistent therewith, by this Declaration, the Articles of Incorporation and the By-Laws, respectively, as if they were created for this purpose of governing the affairs of an unincorporated association.
- c. The President and Secretary of the Association, or any three (3) members of the Board of Directors may execute, seal, acknowledge and record a certificate of identity stating the names of all of the members of the then current Board and the then current Committee, if any. The most recently recorded affidavit shall be conclusive evidence of the identity of the persons then composing the Board and Committee in favor of any person relying thereon in good faith.
- d. The affairs of the Association shall be managed by the Board of Directors, which shall exercise all of the rights and powers and perform all of the duties and responsibilities set out in this declaration for the Association.
- e. The Board shall be appointed by and serve at the pleasure of the Grantor, until all homes are complete, thereafter the Board shall be elected by the Members.

#### Section 5.02: Powers and Authority of Association.

The Association shall have all of the powers set forth in its Articles of Incorporation, together with its general powers as a non-profit corporation, subject only to the limitations upon the exercise of such powers as are expressly set forth in its Articles of Incorporation, its By-Laws and in this Declaration. to do any and all lawful things which may be authorized, required, or permitted to be done by the Association under and by virtue of the Subdivision Restrictions and to do and perform any and all acts



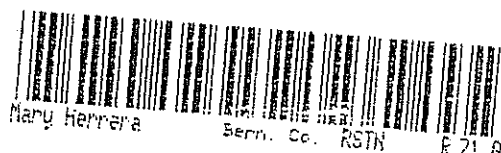
which may be necessary or proper for or incidental to the exercise of any of the express powers of the Association or for the peace, health, comfort, safety, and general welfare of Owners.

a. Any of the following actions by the Board shall require a majority vote or written assent of the members:

1. Entering into a contract for the furnishings of goods or services for Common Area and /or Easement Area or the Association for a term longer than three (3) years with the exception of prepaid casualty or liability policies of not to exceed three (3) years duration provided that the policy permits short rate cancellation by the insured; and
2. Paying compensation to members of the Board or officers for services performed in the conduct of the Association's business provided that the Board may cause a member or officer to be reimbursed for expenses incurred in carrying on the business of the Association.

b. In fulfilling any of its obligations or duties under the Subdivision Restrictions, including, without limitation, its obligations or duties for the maintenance, repair, operation, or administration of the Common Areas and/or Easement Areas, the Association shall have the power and authority:

1. To contract and pay for, or otherwise provide for, the improvement, maintenance, restoration, and repair of the Common Area and/or Easement Area and all Improvements located thereon;
2. To obtain, maintain, and pay for such insurance policies or bonds, whether or not required by this Declaration, as the Association shall deem to be appropriate for the protection or benefit of the Subdivision, the Association, the members of the Board, and the Owners;
3. To incur indebtedness; but any indebtedness in excess of the Association's estimate of its estimated gross revenue for the year incurred or any indebtedness to be repaid over a period longer than one (1) Year must be approved by a two-thirds (2/3) vote of the Members;
4. To contract and pay for, or otherwise provide for, such utility services, including, but without limitation, water and electrical services, as may from time to time be required;



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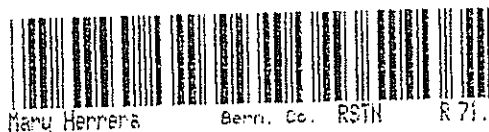
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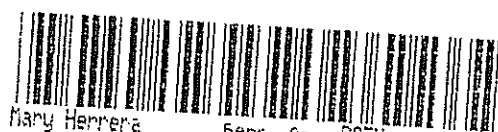
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5. To Contract and pay for, or otherwise provide for, the services of architects, engineers, attorneys, bookkeepers and certified public accountants, and such other professional and non-professional services as the Association deems necessary;
  6. To contract and pay for, or otherwise provide for, such materials, supplies, furniture, equipment, and labor as and to the extent the Association deems necessary;
  7. To pay and to discharge any and all liens from time to time placed or imposed upon any Common Area, or on account of any work done or performed by the Association in the fulfillment of any of its obligations and duties of maintenance, repair, operation, or administration;
  8. To lease or contract for the use of land and Improvements for recreation or other purposes to the extent the Association deems necessary; and
  9. To place and maintain upon Common Area such signs, as the Association may deem necessary for the identification of the Subdivision and/or roads, the regulation of traffic, including parking, for the health, welfare and safety of owners and other persons.
- c. In fulfilling any of its obligations or in exercising any of its rights with respect to the development, construction, installation or acquisition of a capital improvement, the Association shall have the power and authority;
1. To contract and pay for such Improvements upon such terms and conditions as the Association shall deem appropriate;
  2. To obtain, maintain, and pay for such insurance policies or bonds as the Association may deem appropriate for the protection and benefit of the Association, the members of the Board, and Owners, including, but without limitation, builder's risk insurance, additional comprehensive liability insurance, workman's compensation insurance, and performance and fidelity bonds;
  3. To incur indebtedness under terms and conditions as provided by this Article; and



4. To contract and pay for the services of architects, engineers, attorneys, and certified public accountants, and other professional and non-professional services.
- d. With respect to the Common Area, the Association shall exercise control over the Common Area, but only for the purposes of carrying out the purposes of these Restrictions. The Association shall have no authority to mortgage, sell or convey Common Area or any part thereof, unless approved by the two-thirds (2/3) vote of the Members except that the Association shall have the power and authority from time to time without a vote of the Members to grant and convey easements or rights of way, in, on, over, or under any Common Area, for the purpose of constructing, erecting, operating, and maintaining thereon, therein, and there under wires, conduits and other equipment for the transmission of electricity and signals for lighting, heating, power, communication, cable television and other proposes, and for the necessary attachments in connection therewith; and public and private sewers, storm water ponding areas, storm water drains, storm water ponding areas, land drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes and any and all equipment in connection with the foregoing.
- e. The Association may, from time to time and upon such terms and conditions as it may deem appropriate, agree with the governing body of any other subdivision to jointly manage the affairs of the Subdivision, to jointly hire a manager, or jointly to engage in other activities not inconsistent with the Subdivision Restrictions.
- f. The Association shall have the right from time to time to pay, compromise, or contest any and all taxes and assessments levied against all or any part of the common area any income of or assessed to the Association, and upon any personal property belonging to or assessed to the Association.
- g. The Association shall have the power and authority from time to time, in its own name, on its own behalf, and on behalf of any Owner of Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of the Subdivision Restrictions and to enforce, by mandatory injunction or otherwise, all of the provisions of this Declaration.
- h. The Association shall have the power, but not the duty, to enter upon and maintain, or provide for the maintenance of, any Lot or Improvements, which is not maintained by the Owner thereof in accordance with the requirements of these Restrictions, at the expense of any such Owner.
- i. The Association shall have the right to make a special assessment against the Owners of the Benefited Lots for maintaining of the Private Access ways.



Mary Herrera

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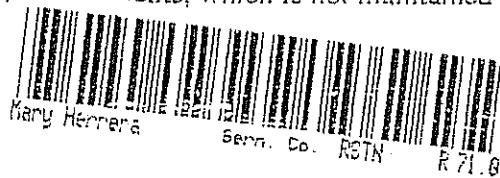
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Section 5.03: Liability of Members of Board.

No member of the Board shall be personally liable to any Owner, or to any other person, including Grantor, for any error or commission of the Association, its representatives and employees, or the manager, provided, however, that such member has, with the actual knowledge possessed by him, acted in good faith.

Section 5.04: Duties and Obligations of the Association.

- a. The Association shall have the obligation and duty, subject to the Subdivision Restriction, to do and perform each and everything set out in this Section, for the benefit of the Owners and for the maintenance and improvement of the Subdivision.
- b. The Association shall accept all Owners as members of the Association.
- c. The Association shall accept from Grantor the Common Areas and maintenance responsibilities in all Easement Areas which shall be deemed transferred to it upon Recording of these Restrictions, subject to the reservations of all easements, licenses and rights to use and the rights of Grantor.
- d. The Association shall maintain, or provide for the maintenance of, the common Areas, the Easement Areas and all Improvements thereon.
- e. The Association shall maintain or provide for the maintenance of all landscaping and vegetation (including without limitation, grass, mass plantings, shrubs and trees) on Common Area and Easement Areas and shall keep such vegetation properly trimmed, mowed, cut, watered, fertilized, planted and replaced so that it provides an attractive appearance.
- f. The Association may employ the services of a corporate or individual manager to manage the affairs of the Association and, upon such conditions are otherwise advisable by the Association; the Association may delegate to the manager any of its powers under the Subdivision Restrictions. No management agreement entered into between the Association and any professional management company (whether or not such professional management company is owned or controlled by the Grantor) shall provide for a term in excess of two (2) years, and all such agreements shall permit the Association to terminate for cause upon not more than thirty (30) days prior written notice and all such agreements shall provide for termination by either party without cause and without payment of a termination fee on ninety(90) days or less written notice.
- g. The Association shall obtain and maintain in force the following policies of insurance to the extent policies with the required provisions are economically available.
- h. The Association shall have the power, but not the duty, to enter upon and maintain, or provide for the maintenance of, any Lot or Improvements, which is not maintained by the Owner thereof in



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accordance with the requirements of these Restrictions, at the expense of any such Owner.

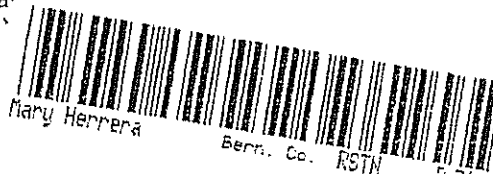
- i. The Association shall have the right to make a special assessment against the Owners of the Benefited Lots for maintaining of the Private Access ways.

#### Section 5.03: Liability of Members of Board.

No member of the Board shall be personally liable to any Owner, or to any other person, including Grantor, for any error or omission of the Association, its representatives and employees, or the manager; provided, however, that such member has, with the actual knowledge possessed by him, acted in good faith.

#### Section 5.04: Duties and Obligations of the Association.

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- c. The Association shall accept from Grantor the Common Areas and maintenance responsibilities in all Easement Areas which shall be deemed transferred to it upon Recording of these Restrictions, subject to the reservations of all easements, licenses and rights to use and the rights of Grantor.
- d. The Association shall maintain, or provide for the maintenance of, the Common Areas, the Easement Areas and all Improvements thereon.
- e. The Association shall maintain or provide for the maintenance of all landscaping and vegetation (including without limitation, grass, mass plantings, shrubs and trees) on Common Area and Easement Areas and shall keep such vegetation properly trimmed, mowed, cut, watered, fertilized, planted and replaced so that it provides an attractive appearance.
- f. The Association may employ the services of a corporate or individual manager to manage the affairs of the Association and, upon such conditions as are otherwise advisable by the Association; the Association may delegate to the manager any of its powers under the Subdivision Restrictions. No management agreement entered into between the Association and any professional management company (whether or not such professional management company is owned or controlled by the Grantor) shall provide for a term in excess of two (2) years and all such agreements shall permit the Association to terminate for cause upon not more than thirty (30) days' prior written notice and all such agreements shall provide for termination by either party without cause and without payment of a termination fee on ninety(90) days or less written notice.
- g. The Association shall obtain and maintain in force the following policies of insurance to the extent policies with the required provisions are economically available.



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1. Fidelity Bond: The Association shall procure and maintain a fidelity bond naming the Association as obligee in an amount equal to the estimated maximum amount of funds to be in the custody or control of the Association or its professional management company, including reserves for replacement and working capital, at any given time during the term of such bond, but in any event in an amount at least equal to three (3) months' aggregate monthly assessments on all Lots plus the sum of all reserve funds. Such fidelity bond shall cover all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds of or administered by company employed by the Association pursuant to these Restrictions. Provided, however, that the fidelity bond to be procured by the Association need not cover the professional management company and its officers, directors, employees and agents, if such professional management company provides a sufficient fidelity bond naming the Association as an additional obligee or loss payee. Such bond shall contain a waiver of any defense or exclusion based upon the exclusion of persons serving without compensation from the definition of "employees" or other similar terms or expressions. Such bond shall require at least ten (10) days' prior written notice to the Association of cancellation or substantial require at least ten (10) days' prior written notice to the Association of cancellation or substantial modification (including cancellation for non-payment of premiums). The cost of such fidelity bond (except for premiums on any fidelity bond provided by the professional management company which the Board determines to be satisfactory and in compliance with the provisions of the Section) shall constitute a common expense of the Subdivision.
2. Liability Insurance: The Association shall procure and maintain comprehensive public liability insurance in the amount of at least one million dollars (\$1,000,000.00) per single occurrence for bodily injury death and property damage suffered by the public or any Owner and his family, guests, agents, employees or guests, agents, employees or invitees occurring in, on or about the Common Areas. Such policy shall insure the Owners and the Association and its officers, directors, employees and agents, including expressly the professional management company and its officers, directors, employees and a agents and shall further expressly cover legal liability arising from lawsuits related to employment contracts of every nature to which the Association is a party. Such policy shall be issued by insurers of recognized responsibility authorized to do business within the State of New Mexico and shall require at least ten (10) days' prior written notice of cancellation or substantial modification (including cancellation for nonpayment of premiums) to the Association and to any Mortgagee having a first lien against



any Lot which is listed as a scheduled holder of such a first mortgage in the policy. The cost of such policy shall constitute a common expense of the Subdivision. Such insurance must not provide for contribution with regard to any policies of liability insurance carried individually by any Owner.

3. Additional Insurance: The Board shall have the authority to obtain such other insurance, including the authority to increase the scope or amount of any insurance required by this Article 5, as the Board shall determine to be necessary or advisable. The cost of any such additional insurance shall constitute a common expense of the Subdivision.
- h. The Association shall prepare an annual operating statement reflecting the money received by the Association and the expenditures of the Association for each fiscal year and distribute such statement to each member and each Eligible Mortgagee upon request.
- i. The Association shall take such action, whether or not expressly authorized by the Subdivision Restrictions, as may reasonably be necessary to enforce or carry out the purposes of the Subdivision Restrictions and the Subdivision Rules.

## ARTICLE 6

### Funds, Assessments and Delinquency

#### Section 6.01: Creation of Lien and Personal Obligation for Assessments.

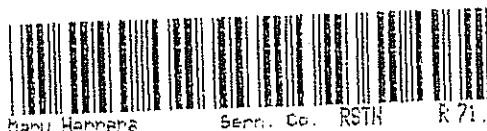
Grantor for each Lot owned by it hereby agrees to pay, and each Owner of any Lot by the acceptance of a deed or contract of sale therefore, whether or not so expressed in any such deed or contract or other conveyance, is deemed to agree to pay to the Association:

- a. Maintenance assessments;
- b. Delinquency assessments;
- c. Assessments for capital improvements; and
- d. All other fees or other moneys due to the Association from such Owner.

The maintenance assessment, delinquency assessment and assessment for capital improvements, plus interest, late charges, costs and attorney's fees, shall be a charge against the Lot and shall be continuing lien upon the Lot against which each such assessment is made, and shall also be the personal obligation of the Owner or Owners of such property on the assessment date. The personal obligation to pay assessments shall not pass to successors in title unless expressly assumed by them.

#### Section 6.02: Operating Fund.

There shall be an operating fund, into which the Association shall deposit all monies paid to it and from which the Association shall make disbursements in performing the functions for which the foregoing assessments are levied.



Section 6.03: Maintenance Assessment.

- a. Within thirty (30) days prior to the commencement of each fiscal year the Association shall estimate the costs and expenses to be incurred by the Association during such year, including a reasonable provision for contingencies, and reserves for major repair and replacement, and shall subtract from such estimate an amount equal to the anticipated balance, exclusive of any reserves for contingencies and reserves for major repair and replacement, in the operating fund at the start of such year. The sum or net estimate so determined shall be assessed to all Owners in shares: one (1) share for each Lot owned.
- b. If, at any time and from time to time, during any fiscal year, the maintenance assessment proves or appears likely to prove inadequate for any reason, including non-payment of any Owner's share thereof, the Association may levy a further maintenance assessment in the amount of such actual or estimated inadequacy, which shall be assessed to all Owners apportioned as provided in subsection a, if approved by a two-thirds (2/3) vote of the members, and approved by Grantor so long as Grantor owns any Lots.
- c. Maintenance assessments shall be due and payable to the Association when levied or in such installments during the year, and on such due dates as the Board shall designate.
- d. The Board shall not levy assessments to defray the costs of any action or undertaking on behalf of the Association which in the aggregate exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year and which are not part of such budgeted gross expenses without the vote or written consent of the Members.
- e. From and after the December 31<sup>st</sup> immediately following the conveyance of the first Lot by Grantor, the maximum maintenance assessment may be increased each year not more than an increase equal to a ten percent (10%) increase from the previous year without a vote of two-thirds (2/3) of the Members and approval of the Grantor so long as Grantor owns any Lots in the Subdivision. The percent of increase shall be cumulative from year to year so that an increase not used in one year may be used in a subsequent year without a vote of the members.

Section 6.04: Delinquency Assessment.

The Association shall levy a delinquency assessment against any Owner or Owners as a result of whose acts, or failure or refusal to act, or other wise comply with the Subdivision Restrictions, or the Subdivision Rules, monies were expended from the operating fund by the Association. Such assessment shall be in the amount so expended, and shall be due and payable to the Association when levied, or in such installments as the Association shall designate. Prior to the levy of an delinquency assessment, the Board shall hold a hearing to determine the validity and amount of the assessment upon



at least thirty (30) days notice to the Owner to be assessed at which hearing such Owner shall be given an opportunity to be heard.

Section 6.05: Assessments for Capital Improvements and Indebtedness.

The Association may also levy in any year an assessment for paying or returning, in whole or in part, the cost or proposed cost of acquisition and construction of a described capital improvement (whether the improvements constitute real or personal property) in an amount greater than can be included in the maintenance members, and the consent of the Grantor so long as the Grantor owns any Lots in the Subdivision which assessment shall be assessed to Owners as provided for in Section 6.03.

Section 6.06: Reserves as Trust Funds.

Reserves for major repairs and replacements and for capital improvements to be build or acquired shall be kept segregated from the other monies held by the Association as trust funds in an account or accounts labeled "Reserve Trust Fund" and shall be withdrawn and used only for the purposes of major repairs and replacements or for capital improvements respectively, unless different or other use is authorized by the vote of the members.

Section 6.07: Delinquency.

Each assessment under this Article shall be the separate, distinct and personal debt and obligation of the Owner against whom it is assessed. Any assessment provided for in this Article, which is not paid when due, shall be delinquent. With respect to each assessment not paid within ten (10) days after its due date, the Association may, at its election, require the Owner to pay a sum (late charge) to be determined by the Association, to pay the costs of handling the delinquent sum. Such a charge shall be considered an additional assessment and collect with the assessment for which it was charged. If any such assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at a rate set from time to time by the Association, however not greater than twenty percent (20%). And the Association may, at its option, bring an action at law against the Owner or Owners personally obligated and there shall be added to the amount of such assessment the late charge, the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest at the rate provided herein and a reasonable attorney's fee, together with the costs of action. Each Owner vests in the Association, or its assigns, the right and power to bring all actions at law or lien foreclosure against such Owner or other owners for the collection of such delinquent assessments.

Section 6.08: Notice of Lien.

No action shall be brought to foreclose an assessment lien less than thirty (30) days after the date a notice of claim of lien is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of said Lot, and a copy thereof is recorded by the Association in the Office of the Bernalillo County Clerk, said notice of claim must recite a good and sufficient legal description of any such lot, the record owner or reputed owner thereof, the amount claimed (which shall include the interest

charges, costs and attorney's fees recoverable by an action at law) and the name and address of the Association.

Section 6.09: Foreclosure Sale.

Any such sale provided for above is to be conducted in accordance with the customary practice of the court of the State of New Mexico, applicable to the foreclosure of Mortgages, or in any other manner permitted or provided by law. The Association, through its duly authorized agents, shall have the power to bid on the Lot at a foreclosure sale, and to acquire and hold, lease, mortgage and convey the same.

Section 6.10: Curing a Default.

Upon the timely curing of any default for which a notice of claim of lien was filed by the Association, the officers of the Association are hereby authorized to file or record, as the case may be, an appropriate release of such notice, upon payment by the defaulting owner of a fee, to be determined by the Association, to cover the costs of preparing and filing or recording such release, together with the payment of such other costs, interest or fees as shall have been incurred.

Section 6.11: Cumulative Remedies.

The assessment lien and the rights to foreclosure and sale there under shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may have hereunder and by law, including a suit to recover a money judgment for unpaid assessments, as above provided.

Section 6.12: Certificate of Payment.

The Association shall, upon demand, furnish to any Owner liable for assessments, a certificate in writing signed by an officer of the Association, setting forth whether the assessments on a specified Lot have been paid, and the amount of the delinquency, if any. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 6.13: Commencement of Annual Assessments.

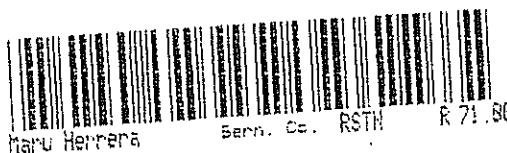
The maintenance assessments provided for in this Article shall commence as to each Lot upon the sooner of (i) the first day of the month following completion of construction of the Improvements on the Lot or (ii) one year after the recording of this Declaration. Construction shall be deemed completed upon the dwelling's successful completion of its final inspection by the City of Albuquerque. The first such annual assessment shall be prorated for each lot for the period from the commencement as provided in this section to the start.

ARTICLE 7

Duties and Responsibilities of Owners

Section 7.01: Owner's Responsibility to Repair.

Each Owner shall be responsible for the maintenance and repair of his dwelling, his Lot and his landscaping.



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Section 7.02: Joint Maintenance by Owners.

- a. Each wall, which is built as part of the original construction of the subdivision and placed on the dividing line between Dwellings, shall constitute a party wall. Each part of the structure of a building, which is shared by more than one dwelling, is a common structure. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omission shall apply.
- b. The cost of reasonable repair, maintenance and replacement of a party wall, common structure or joint utility shall be shared by the Owners who make use of the wall in proportion to such use.
- c. Notwithstanding any other provision of this Section, an Owner who, by his negligent or willful act, causes a party wall or common structure to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.
- d. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the Lot and shall pass to such Owner's successors in title.
- e. In the event of any dispute arising under the provisions of this Section, the Board shall arbitrate the dispute and its decision shall be final.

Section 7.03: Parking Areas. Vehicles.

For overnight parking, each Owner shall park his vehicle in his garage, except that when there are more vehicles used by the Owner than his garage will accommodate.

Section 7.04: Maintenance of Landscaping.

Each Owner shall maintain the landscaping on his lot in a neat and attractive manner. All grass; mass plantings and other plantings shall be mowed, trimmed and cut as necessary at regular intervals.

Section 7.05: Observance of Subdivision Restrictions.

Each Owner shall comply with the Subdivision Restrictions and will cause and be responsible for Owner's family, agents, guests, contractors, employees and any person renting or leasing Owner's dwelling to do likewise.

Section 7.06: Rights of Action.

Each Owner and the Association shall have a right of action against Owners for failure to comply with the provisions of this Article 7 of the Subdivision Restrictions.

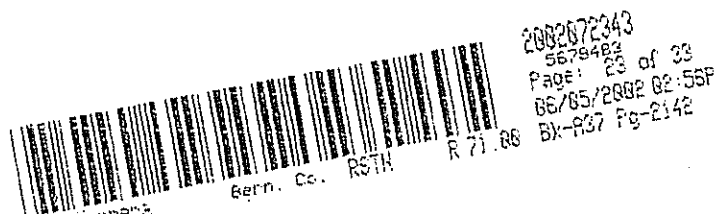
Article 8

Construction and Architectural Control

Section 8.01: Architectural Control Committee.

An Architectural Control Committee for the Subdivision is hereby established consisting of the following:

Jody Pauza



Marianne Ketchem  
Richard Fuller  
Tammy Fuller

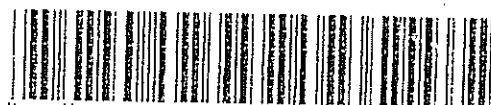
At least one Board member shall serve on the Committee at all times until all homes are built. At that time a new board of four people will be elected by the original committee. The committee shall serve at the pleasure of the Board who shall have the right to appoint, reappoint and discharge members of the Committee at will. A majority of the members of the committee may appoint one member of the Committee to act on and for the Committee.

Section 8.02: Construction of Improvements

(a) Before anyone shall commence on any Lot within the subdivision the installation of construction of, remodeling of, addition to, or alteration of any Improvement (the term Improvement is defined in Section 1.9, and includes but is not limited to fencing and walls) of whatsoever nature; and before anyone shall paint, texture, repaint or retexture the exterior surfaces of any Improvement, there shall be submitted to the Committee plans and specifications as follows:

- (i) Preliminary or tentative plans and specifications which shall clearly show the nature of the work or installation proposed and the location thereof, on the Lot, which such preliminary or tentative plans shall include sufficient description of materials, colors textures, etc. together with a landscaping
- (ii) After approval of the preliminary or tentative plans, including therein any requirements made by the committee in the due and proper exercise of its discretion and powers, two complete sets of the final plans and specifications; and
- (iii) No Improvement of any kind, installations, painting or texturing, shall ever be, or permitted to be, erected, constructed, installed, placed or maintained on any lot within the Subdivision, unless and until the final plans, specifications and elevations therefore shall have received written approval of the committee. All such final plans shall include plot plans showing the location on the Lot of all Improvements proposed to be constructed and/or installed, planted, placed or maintained on the Lot and shall further include elevations, together with the proposed color scheme and textures for roof and exteriors thereof, indicating the materials for same.

The Committee is authorized to charge not more than \$100.00 for review of plans and specifications. Payment of the required charge shall be a part of,



and condition to, the submittal of plans and specifications for committee approval.

- (b) The Committee shall approve or disapprove within thirty days after receipt thereof plans and specifications, which have been submitted to it. One set of plans and specifications, with the committee's approval or disapproval and requirements endorsed thereon, shall be returned to the applicant and the other copy thereof, with a duplicate endorsement thereon corresponding to the first set, shall be retained in the Committee's files.

In the event that the Committee shall fail to approve or disapprove the plans, specifications and other information within thirty days after receipt thereof by the Committee, than such approval shall not be required, but may not be altered or modified to violate any of the Restrictions.

The Committee shall have the right and power to disapprove any plans, specification or details submitted to it, if the Committee shall find that the plans and specification are not in accord with all provisions of this Declaration, or if a design or color scheme submitted is not in harmony and accord with the Subdivision, or surrounding homes, or if the plans and specifications are incomplete.

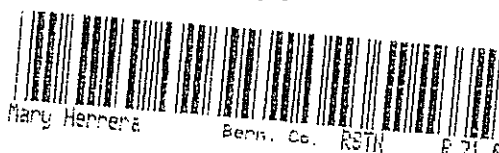
- (C) If any Improvement or work is completed or done without compliance with this Article, such Improvement or work shall be deemed to have been done in compliance with this Article if no action has been commenced to enforce the provisions of this Article against such Improvement or work within one (1) year of its completion.
- (D) No Improvements can be made within the Subdivision unless in compliance with the Site Plan and the Grading and Drainage Plan.

#### Section 8.03: Design Guidelines.

The Committee may from time to time adopt design guidelines for approval of Improvements. The Committee may grant variances from its Design Guidelines consistent with the Site Plan. The Owner shall be obligated to landscape the front yard of all Lots and the side yard on corner lots in conformity with the Site Plan within 120 days of the issuance of a certificate of occupancy for the dwellings, pursuant to a landscape plan approved by the Committee.

#### Section 8.04: Estoppel Certificate.

Within thirty (30) days after written demand is delivered to the Committee by any owner, and upon payment therewith to the Association of a reasonable fee to cover costs from time to time to be fixed by the Association, the committee shall provide Owner with an estoppel certificate executed by an officer of the Association and acknowledged, certifying with respect to any house owned by said Owner, that as of the date thereof either (1) all Improvements and other work made or done upon or within said house by the Owner, or otherwise, comply with this Declaration, or (2) such Improvements or



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work do not so comply, in which event the certificate shall also (a) identify the non-complying Improvements and work and (b) set forth with particularity shall be entitled to rely on said certificate with respect to the matters therein set forth, such matters being conclusive as between Grantor, the Association, and all Owners and such purchaser, and mortgagee.

#### Section 8.05: Liability.

Neither the, Committee, the Board nor any member thereof shall be liable to the Association or to any Owner for any damage, loss, or prejudice suffered or claimed on account of:

- a. The approval of any plans, drawings, and specifications. Whether or not defective,
- b. The construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications,
- c. The development or manner or development of any property within the Subdivision, or
- d. The execution and recording of an estoppel certificate whether or not the facts therein are correct; provided, however, that the officer executing the certificate, with the actual knowledge possessed by him, has acted in good faith.

Without in any way limiting the generality of the foregoing, the Committee, Board, or any member thereof, may, but is not required to, consult with or hear any Owner with respect to any plans, drawings, or specifications, or any other proposal submitted to it.

### ARTICLE 9

#### Protection of Security Interests

##### Section 9.01: Application of Assessments to Mortgagees.

The liens created under the Subdivision Restrictions upon any lot shall be subject and subordinate to, and shall not affect the rights of a mortgagee under any recorded first mortgage upon a lot made in good faith and for value, provided that after the foreclosure of any such mortgage the amount of all maintenance and special assessments, and all delinquent assessments to the extent such delinquent assessments relate to expenses incurred after such foreclosure, assessed hereunder to the purchaser at foreclosure sale, shall become a lien upon such lot upon recordation of a notice thereof with the county Recorder.

##### Section 9.02: Right to Notice.

The Association shall provide all Eligible Mortgagees with timely written notice of any delinquency in the payment of monthly assessments, special assessments or other charges due the Association by the Owner of a Lot which is subject to a first mortgage held, by any Eligible Mortgagee and which delinquency remains uncured for a period of sixty (60) days or more.

##### Section 9.03: Limitation of Enforcement Against Mortgagee.

No violation by an Owner of the Subdivision Restrictions or enforcement of the Subdivision Restriction against any owner shall defeat or render invalid the lien of any mortgagee made in good faith and for value against the property of such Owner, but, the Subdivision Restrictions shall be effective against any owner whose title is acquired by foreclosure, trustee's sale, voluntary conveyance, or otherwise.

Section 9.04: rights of Mortgagee to Information.

A mortgagee shall, upon written request, be entitled to inspect the declaration, By-Laws, Subdivision Rules, books and records of the Association on the same basis as a Member. If a mortgagee furnishes the Association, in writing, with its address, it shall be entitled to receive within a reasonable time financial statement for the immediately preceding fiscal year, free of charge and shall receive notice of meetings on the same basis as members.

Section 9.05: Application of Subdivision Restrictions.

Except as provided in this Article or specifically provided elsewhere in the Subdivision Restrictions, all mortgages and mortgages are bound by the provisions of the Subdivision Restrictions.

Section 9.06: Collection of Assessments.

The Mortgagees shall be under no obligation to collect assessments.

Section 9.07: Mortgage Approval.

So long as the Grantor has more than a majority of the voting power of the Association, HUD or VA approval is required prior to the following:

- a. Amendment of the Association's Articles of Incorporation, Bylaws or this Declaration;
- b. Annexation of property to the Association;
- c. Encumbering, conveying or dedicating Common Areas; or
- d. Dissolution of the Association.

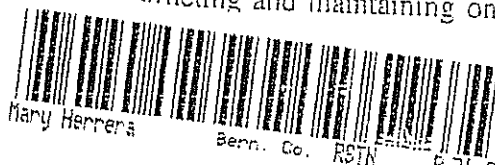
ARTICLE 10

Limitation of Subdivision Restrictions on Grantor

Section 10.01: Limitation of Subdivision Restrictions on Grantor.

Grantor is undertaking the work of constructing the Subdivision. The completion of that work and the sale, rental and other disposition of the Lots is essential to the establishment of the Subdivision. In order that said work may be completed and said property be established and fully occupied as rapidly as possible, nothing in this Declaration shall be understood or construed to:

- a. Prevent Grantor or its agents, employees, and contractors from doing on the properties whatever is reasonably necessary or advisable in connection with the completion of the work; or
- b. Prevent Grantor or its agents, employees, and contractors from erecting, constructing and maintaining on any park or parts of



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the Subdivision, such structures as may be reasonably necessary for the conduct of its business of completing the work and establishing the subdivision, including, without limitation, sales offices, model units, general business offices for its staff, employees and contractor, and storage and parking facilities for materials and equipment, and disposing of the Subdivision in parcels by sale, lease or otherwise; or

- c. Prevent Grantor from conducting on any part of the properties its business of completing the work, and of establishing and disposing of the Subdivision;
- d. Prevent Grantor from maintaining such sign or signs on the Subdivision as may be necessary for its sale, lease or disposition, or the sale, lease or disposition of any Lot.

Section 10.02: Use of Subdivision Name.

Grantor may use the name of the subdivision and the Subdivision Restrictions in other subdivisions or projects, whether located adjacent to the Subdivision or not, provided such names have a distinctive number or other designation so that they are not identical with the names of the Subdivision and Association. Consent is hereby given to Grantor and Grantor's assigns to use such names of a Corporation and upon request of Grantor, the Association agrees to execute a written consent authorizing Grantor to use the same or similar name which Consent will be filed with the State Corporation Commission.

Section 10.03: Architectural Control.

Improvements by Grantor and declarants to the Subdivision do not require approval of the Committee.

Section 10.04: No Amendment or Repeal.

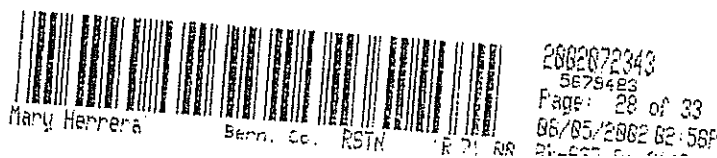
The provision of this Article may not be amended or repealed without the consent of Grantor.

ARTICLE 11

Miscellaneous Provisions

Section 11.01: Amendment or Repeal: Duration.

- a. These Restrictions and any provisions thereof which are in effect with respect to all or part of the Subdivision, may be amended or repealed in the following manner:
  - 1. The approval by seventy-five percent (75%) vote or written consent of the voting power of the membership in the Association and the consent of the Grantor so long as the Grantors owns any Lots within the Subdivision; and
  - 2. The Recordation of a certificate of the Secretary or an Assistant Secretary of the Association set in forth, in full, the amendment or amendments so approved, including any portion or portions of this



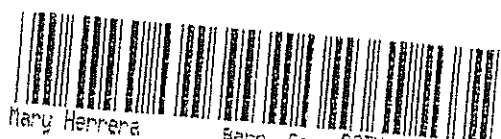
Declaration repealed, and certifying that such amendment or amendments have been approved by the required vote or consent of the Owners, and if necessary, by the consent of the Grantor.

At any time during which Grantor is the only owner of property within the Subdivision, Grantor may amend or correct these Restrictions by a recorded instrument of amendment or correction.

- b. All of the provisions of these Restrictions shall continue and remain in full force and effect at all times with respect to all property, and each part thereof, included within the Subdivision, to the Owner and to the Association subject, however, to the right to amend and terminate as provided for in this Article, through December 31, 2045, provided that these Restrictions shall terminate if, within one (1) year prior to December 31, 2045, there shall be recorded an instrument directing the termination of these Restrictions signed by two-thirds (2/3) of the owners of record title. These Restrictions in effect immediately prior to the expiration date shall, subject to the provisions of Section 11.01a., be continued automatically without any further notice, for an additional period of ten (10) years unless within one (1) year prior to expiration of such period these Restrictions are terminated as set forth in this Section. The Private Access ways shall serve the Benefited Lots in perpetuity, unless released by the Benefited Lots.

Section 11.02: Enforcement: Non-Waiver: No Forfeiture.

- a. Except to the extent otherwise expressly provided herein, the Association or any owner or owners shall have the right to enforce any and all of the provisions now or hereafter imposed by the Subdivision Restrictions upon other Owners, or upon any property within the Subdivision.
- b. Except to the extent otherwise expressly provided herein, any Owner or Owners shall have the right to enforce any and all of the provisions now or hereafter imposed by the Subdivision Restrictions upon the Association.
- c. Every act or omission whereby any restriction, condition, or covenant of the Subdivision Restrictions is violated, in whole or in part, is hereby declared to be and to constitute a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by the Association or by an Owner or Owners, as provided for in this Section. Any provisions to the contrary notwithstanding, only the Association or its duly authorized agents may enforce by self-help any limitation, restriction, covenant, condition, or obligation herein set forth.
- d. Each remedy provided for in the Subdivision Restrictions is cumulative and not exclusive.
- e. The failure to enforce the provisions of any limitation, restriction, covenant, condition, obligation, lien, or charge of the Subdivision Restrictions shall not constitute a waiver of any right to enforce any such provision or any other provision of the Subdivision Restrictions.
- f. No breach of any of the provisions of the Subdivision Restriction shall cause any forfeiture of title or reversion or bestow any rights of re-entry whatsoever.



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- g. Reasonable attorney's fees and costs may be awarded in any action brought to enforce the provisions of the Subdivision Restrictions.

Section 11.03: Construction; Compliance with Laws; Severability; Singular and Plural; Titles.

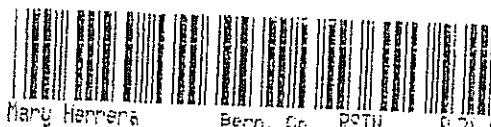
- a. All of the limitations, restrictions, covenants, and conditions of the Subdivision Restrictions shall be liberally construed, together, to promote and effectuate the beneficial operation of the Subdivision.
- b. No provision of the Subdivision Restrictions shall be construed to excuse any person from observing any law or regulation of any governmental body having jurisdiction over such person or the Subdivision.
- c. Notwithstanding other provisions in this Section, the limitations, restrictions, covenants, and conditions of the Subdivision Restrictions shall be deemed independent and severable, and the invalidity or partial invalidity of any provision, or portion thereof, of any of such limitations, restrictions, covenants, or conditions shall not affect the validity or enforceability of any other provision.
- d. The singular shall include the plural and the plural, the singular, unless the context requires the contrary, and the masculine, feminine and neuter, as the context requires.
- e. The table of contents and all titles used in the Subdivision Restrictions, including those of Articles and sections, are intended solely for convenience of reference and the same shall not, nor shall any of them affect that which is set forth in such Articles, Sections, nor any of the terms or provisions of the Subdivision Restrictions. Any numbered or lettered subdivision of a Section is referred to as "subsection" or "subsections" and any indented portion of this Declaration which is unnumbered and unlettered shall be referred to as "Paragraph".

Section 11.04: Lot Splitting; Consolidation.

- a. No Lot within the Subdivision shall be split unless the Board shall have given its written consent.
- b. No two or more lots within the Subdivision shall be consolidated into one Lot unless the Board shall have given its written consent.
- c. Nothing contained in this Section shall apply to the splitting of any Lots by Grantor or the consolidation of two or more Lots into one Lot by Grantor.
- d. The Association can require a change in the voting rights and assessment obligation in any Lot split or consolidation to keep the assessment and voting rights the same after the split or consolidation as they were before.

Section 11.05: Obligations of Owners; Avoidance; Termination.

- a. No owner, through the abandonment of his Lot, may avoid the burdens or obligations imposed on him by the Subdivision Restrictions by virtue of his being an Owner.
- b. Upon the conveyance, sale, assignment or other transfer of a Lot to a new Owner, the transferring Owner shall not be liable for any assessments levied with respect to such lot after the date such transfer is recorded, provided such



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transferring Owner notifies the Association of the transfer as provided by the Subdivision Restrictions, and no person, after the termination of his status as an Owner and prior to his again becoming an Owner, shall incur any of the obligations or enjoy any of the benefits of an Owner under the Subdivision Restriction following the date of such termination.

Section 11.06: No Partition or Severance of Interests.

There shall be no partition or severance of any Lot, from the Subdivision and the Grantor, Board, Association and Owners shall not seek to partition or sever any part of a Lot from the Subdivision, nor shall they have any right to maintain an action for judicial partition in connection with the Subdivision unless such right is expressly given by the Subdivision Restrictions. This provision shall not prevent the partition of any Lot or Lots held in joint ownership as long as no physical partition takes place and there is no severance from any incident of the Subdivision Restrictions. No owner shall sever his Lot from its interest in the Association.

Section 11.07: Notices; Documents; Delivery.

Any notice or other document permitted or required by the subdivision Restrictions to be delivered may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed as follows:

If to an Owner: At any House within the Subdivision owned by the Owner or at such other address given by Owner to the Association, in writing.

If to Grantor or to the Association:

PO Box 13900

Albuquerque, New Mexico 87192

Any such address may be changed from time to time by any Owner, or by Grantor by notice in writing, delivered to the Association, or by the Association, by notice in writing, delivered to all Owners.

Section 11.08: Ownership of Property.

All funds and facilities provided for by the Subdivision Restrictions and all property of any kind held by the Association and derived from assessments of members, proceeds of insurance carried or obtained by the Association, proceeds of bonds payable to the Association or payment received for damages to the Subdivision, and any right or interest in any such property shall belong to the Owners in proportion to each owner's share of the maintenance assessment, and no assessment or the proceeds of any assessment shall be considered income to the Association. No person have any right to appropriate or make sue of such property, except as provided by the Subdivision Restrictions until and unless there has been a partition or distribution of such property. All such property shall be appurtenant to each Lot in proportion to each Lot's share of the maintenance assessment and may not be severed or separated from any House, and any sale, transfer, or conveyance of the beneficial interest of the fee of any House shall operate to transfer the Owner's rights in such property without the requirement of any express reference thereto.



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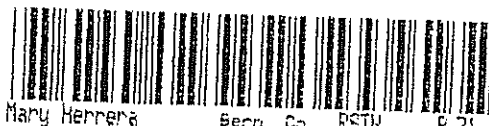
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Section 11.09: Transfer of Common Area

Upon Recording of this Declaration, Grantor shall transfer and convey to the Association, and the Association shall accept, the Common Areas. The Common Areas may 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. Such easements and rights of way, licenses or rights of use on, over, or under all or any part of any such property or structures or Improvements thereon as may be reserved to Grantor or granted to any Owner for the use thereof in accordance with the provisions of these Restrictions;
- d. 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; and
- e. An other lien, encumbrance, or defect of title of any kind whatsoever (other than of the type which would, at any time, or from time to time, create a lien upon such property to e an obligation to pay money) which would not materially and actually prejudice Owners in their use and enjoyment of such property.

In witness whereof, Declarant has executed this Declaration the day and year first above written.



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PARADISE VISTA COMMUNITY ASSOCIATION

BY: *Richard W. Fuller, Jr.*  
RICHARD FULLER  
MEMBER

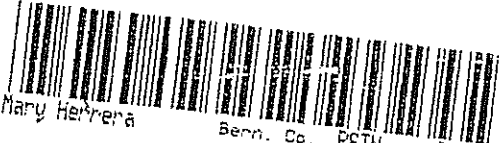
STATE OF NEW MEXICO     )  
  ) ss.  
COUNTY OF BERNALILLO    )

This instrument was acknowledged before me on *June 4, 2002*  
by Richard Fuller, Member of the Paradise Vista Community Association.

My Commission Expires:

*[Signature]*  
Notary Public

OFFICIAL SEAL  
J. J. K. SMITH  
NOTARY PUBLIC-STATE OF NEW MEXICO  
My commission expires: *4/6/2006*

  
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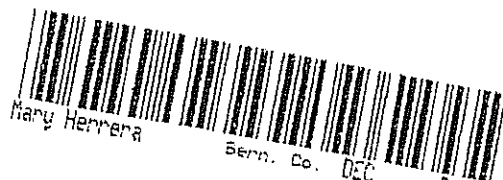
# **Design Guidelines**

Paradise Vista  
Homeowners Association, Inc.

FIDELITY NATIONAL TITLE - COURTESY RECORDING/NO TITLE LIABILITY  
GONYA SMYTH

WHEN RECORDED, RETURN TO:  
Fuller Homes, Inc.  
Attention: Jody Pauza  
PO Box 13900  
Albuquerque, New Mexico 87192

DESIGN GUIDELINES  
FOR  
PARADISE VISTA SUBDIVISION  
A REPLAT OF TRACT A-2B, PARADISE BLUFF  
WITHIN  
THE TOWN OF ALAMEDA GRANT  
CITY OF ALBUQUERQUE  
BERNALILLO COUNTY, NEW MEXICO



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PARADISE VISTA  
ARCHITECTURAL DESIGN GUIDELINES FOR PARADISE VISTA A  
REPLAT OF TRACT A-2B, PARADISE BLUFF  
WITHIN  
THE TOWN OF ALAMEDA GRANT  
CITY OF ALBUQUERQUE  
BERNALILLO COUNTY, NEW MEXICO  
SINGLE FAMILY RESIDENTIAL UNITS  
ADMINISTERED BY THE PARADISE VISTA COMMUNITY  
ASSOCIATION DESIGN REVIEW COMMITTEE.

It is the intent of the Declarant to adopt different design guidelines for multi-family and non-residential properties within Paradise Vista.

The Committee may, from time to time adopt, readopt, repeal, revise, supplement, and modify design guidelines. The Committee may grant variances from its design guidelines. The Committee may grant variances from its design guidelines. The design guidelines may include landscape guidelines.

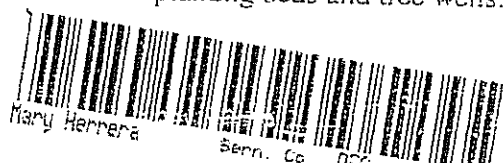
Initial design guidelines are as follows:

A. Landscaping:

1. Landscaping: It is the responsibility of the homebuilder to install or provide a mechanism for the installation of all front yard landscaping within ninety (90) days of occupancy of any dwelling unit. This obligation cannot be transferred.
2. The minimum landscaping of the front yard is to consist of one of the following plans:

Plan A With Sod:

- a. A minimum of 20% of the front yard is to be sod.
- b. The remainder of the yard is to be landscaped with low and medium-use water use plants as established by the city of Albuquerque Water Use Ordinance such that when the landscaping is matured, the gravel/mulch constitutes no more than 40% of the visible ground area.
- c. Tree bark is not permitted as a ground cover except as permitted in planting beds and tree wells.



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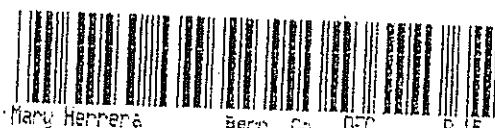
- d. At least one deciduous shade tree and one evergreen tree of at least 15 gallons, six (6) to eight (8) feet high shall be planted in the front yard. These are approximate sizes and may vary at certain times of the year due to weather conditions. Recommended trees are Desert Willow, Pinion, Arizona Ash, Chinese Pistache, Hop tree and Hawthorn. Additional trees from the city's plant list may be substituted.

**Plan B Without Sod:**

- a. A xeriscape landscape plan. It is suggested that no more than 50% of the yards in any one subdivision consist of the landscape Plan B.
- b. A minimum of eighteen (18) one-gallon shrubs, wild flowers, or yucca.
- c. \*A minimum of one palm yucca or Pinion of fifteen (15) gallon flowering tree.
- d. \*A minimum of one six (6) to eight (8) foot Washington Hawthorn, River Birch, or seven (7) gallon pine.
- e. A combination of ¾" crushed Santa Ana Tan with Plastic
- f. Tree bark is not permitted as ground cover except in planting beds and tree wells.

\*One of these must be evergreen.

3. Red Rock use is limited to accent only. White, green, blue, or other bright colors of rock are not permitted.
4. Homeowners shall be responsible for maintaining gravel areas free from noxious weeds.
5. All landscaping shall be in accordance with the ordinance adopted by the City of Albuquerque. Lot owners are encouraged to implement water conservation measures initiated by the City of Albuquerque.
6. Grading and Mounding. Fine grading is a critical aspect of landscaping. Each lot has been graded such as all storm water will drain away from the house and most home sites are graded so storm water drains to the street in front of the house. It is extremely important that this drainage pattern be maintained when preparing the landscape design, especially if mounding or berming is proposed. Because of the difficulty and importance of maintaining individual lot drainage pattern and creating natural appearing mounding, it is recommended that a landscape professional be consulted.
7. Ornamentation. The addition of non-living objects in front and side yard residential landscaping such as drift wood, animal skulls, etc., is recommended that a landscape professional be consulted.
8. Fountains. Fountains are not permitted in front yards except inside courtyard walls.
- B. Flagpoles. Flagpoles are not allowed in residential areas. Homeowners are advised to use brackets mounted to the house or garage to display flags.



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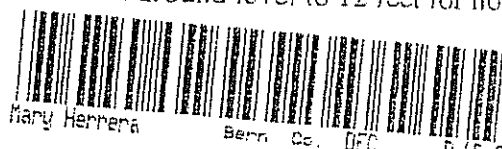
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Homebuilders are allowed to use a maximum of three (3) flagpoles with a maximum height of twenty-two (22) feet in a subdivision on a temporary basis at Model Homes. These will be removed once the model homes are sold.

- C. Recreational Equipment. Swing sets, pools, slides, gymnastic equipment and other recreational equipment are permitted in rear yards only. Such equipment is to be located a minimum of 5 feet from any perimeter wall.
- D. Exterior Lighting. Exterior lighting shall be located to minimize impact on adjoining lots or adjoining common areas. Ground mounted lighting should be directed downward as necessary to safely light walkways and residence entries. Light fixtures mounted on the residences 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.
- E. Accessory buildings such as gazebos, trellises, storage buildings and pet houses shall be approved in writing by the Design Review Committee prior to construction or installation. Buildings are to be constructed with materials and colors to match or complement the features of the residence.
- F. Conservation Features. Water conserving fixtures are to be installed in accordance with the City of Albuquerque ordinances.
- G. Garages. All homes must have at least a tow-car garage. Garages may not be converted to a living space unless a substitute garage is constructed which is approved by the Committee or a garage where at least tow cars shall remain after diversion. No more than a three-car garage may face the street.
- H. Air Quality. All homes with fireplaces must have natural gas service to the fireplace to facilitate conversion of the fireplace to a gas fireplace if required by the city at a future date.
- I. Architectural Style. All houses must be constructed in an architectural style approved by the Design Review Committee.
- J. Yard Walls. All yard walls shall be constructed of colored concrete blocks to match perimeter walls. All yard walls must be a minimum of seven (7) courses in height from the top of footing. No wall may be altered without the written approval of the Design Review Committee.
- K. Driveway Color and Materials. All driveways shall be constructed with concrete or paving block. Any color other than natural concrete or light brown shall require specific Design Review Committee approval.
- L. House Colors. House stucco and siding colors are limited to subtle earth tones.
- M. Roof Colors and Materials. White or blue roofs and metal roofs are not permitted. Concrete Tile roofs are the only approved materials.
- N. Promotional and Advertising Signs of Builders on any Lot or Tract Within Paradise Vista. It is the policy of the Paradise Vista Design Review Committee not to encourage the installation of promotional and advertising signs of builders on any lot or tract; however, the Design Review Committee has established the following policy with regard to the number, size, color, design, message content, location, and type of signs that may be installed by the builders:

Size: A maximum allowance of 100 square feet at a maximum height from ground level to 12 feet for no more than two (2) signs.



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Color, Design and message content: These items will be reviewed on an individual basis; however, the reference to Paradise Vista must be included in the message content.

PARADISE VISTA COMMUNITY ASSOCIATION  
DESIGN REVIEW COMMITTEE

BY: Richard Fuller  
RICHARD FULLER  
MEMBER

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

This instrument was acknowledged before me on June 4, 2002  
by Richard Fuller, Member of the Paradise Vista community Association Design  
Review Committee.

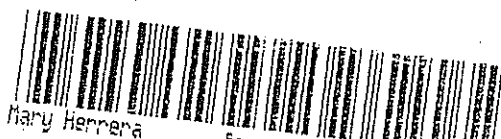
My Commission Expires:

S. C. Smith  
Notary Public



OFFICIAL SEAL  
SONYA K. SMYTH  
NOTARY PUBLIC-STATE OF NEW MEXICO

My commission expires: 4/6/2006



Mary Herrera

Bern. Co. DEC

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# Forms

Paradise Vista  
Homeowners Association, Inc.

REQUEST FOR DESIGN APPROVAL  
PARADISE VISTA HOMEOWNERS ASSOCIATION  
ARCHITECTURAL CONTROL COMMITTEE

(PLEASE PRINT)

Owner Name \_\_\_\_\_ Date: \_\_\_\_\_

Property Address \_\_\_\_\_

Mailing Address (if different) \_\_\_\_\_

Work Phone \_\_\_\_\_ Home Phone \_\_\_\_\_

Email Address \_\_\_\_\_

On the reverse side of this form, please describe the proposed changes or additions to your property. Please include a copy of your property plat and indicate the exact location of proposed change or addition, distance to property lines from proposed change or addition, dimensions of backyard property and relevant surrounding features. Also, this request must include a sketch with the following information: style, dimensions, materials, color of the proposed change or addition, and the proposed construction time schedule and contractor, if any. Requests for repainting must include a color sample. Submitted material will not be returned. Should the committee require additional information, your request will be deferred until additional information is received.

Notes:

1. The owner understands and agrees that no work in this request shall commence until written approval by the Committee. The Committee has thirty days to respond to any request.
2. Once approved, the construction must be completed in a way that does not unreasonably interfere with neighboring properties.
3. Applicant has responsibility for removal, in a timely manner, of any debris resulting from construction.
4. Construction must meet all zoning, building codes, and City and County laws. For further information regarding zoning, call (505) 924-3850. For information on building permits call (505) 924-3963. Further, nothing herein contained shall be construed as a waiver or modification of any such code or law.
5. Where applicable, utility easements are to be marked before excavation is started. This service is provided free of charge by New Mexico One Call, and is required to provide for your safety. For location of underground communication, cable TV, electric, gas, water and sewers call New Mexico One Call at 260-1990 or (800) 321-2537, no later than two full business days before the day you plan to dig. Please note there may be a FINE if underground cables or conduits are severed.
6. Misrepresentation of any items in this request, either oral or written, may void any approval by the Paradise Vista Homeowners Architectural Control Committee.

Owner Signature \_\_\_\_\_ Date \_\_\_\_\_

Submit this request to:  
AMMRE Association Management  
2823 Richmond Dr., NE-Albuquerque, NM 87107  
Phone: (505) 217-1143; Fax: (505) 266-0300



(PLEASE PRINT)

Describe proposed changes or additions (attach additional sheets if necessary):

If approved by the Architectural Control Committee, the proposed improvements will be completed within \_\_\_\_\_ days of Notice of Approval.

The adjacent OWNERS have reviewed the proposed improvements. We understand that the neighbor objections do not in themselves cause denial. The Architectural Committee may contact neighbors to consider their objections if necessary.

(Signature)

Address: \_\_\_\_\_ Circle: Approve / Object

(Printed Name)

(Signature)

Address: \_\_\_\_\_ Circle: Approve / Object

(Printed Name)

(Signature)

Address: \_\_\_\_\_ Circle: Approve / Object

(Printed Name)

FOR OFFICE USE ONLY

Date Received:

Submitted to Architectural Control Committee on:

Action:

\_\_\_\_ Approved \_\_\_\_\_ Denied

           Conditional Approval

Decision Letter sent on :

**COMPLAINT  
REPORT OF VIOLATION OF RULES & REGULATIONS  
OR COVENANTS**

COMMUNITY: Paradise Vista

I am writing to lodge a complaint or report a violation of the community Rules & Regulations or Covenants. The details are as follows:

Date of Occurrence: \_\_\_\_\_ Time: \_\_\_\_\_

Name of Violator: \_\_\_\_\_ (if known)

Address of Violator: \_\_\_\_\_ (must be reported)

Description of complaint or violation (attach additional pages if necessary, or use reverse side):

If a vehicle violation, License Plate: \_\_\_\_\_, Vehicle Description: \_\_\_\_\_

Have you previously addressed the issue directly with the Violator? \_\_\_\_\_ Yes \_\_\_\_\_ No

-----  
**SUBMITTED BY**

Owner Name \_\_\_\_\_ Date: \_\_\_\_\_

Property Address \_\_\_\_\_

Mailing Address (if different) \_\_\_\_\_

Work Phone \_\_\_\_\_ Home Phone \_\_\_\_\_

If the notice of violation is contested, you may be asked to attend a hearing in front of the Board.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Submit this Complaint to:  
AMMRE Association Management; 2823 Richmond Dr. NE, Albuquerque, NM 87107  
Phone: 217-1143 -- Fax: 266-0300

COMMUNITY: Paradise Vista

## CONTACT DATA

Please complete the following information.

### REMIT TO:

AMMRE Association Management  
2823 Richmond Dr. NE  
Albuquerque, NM 87107

### HOMEOWNER INFORMATION

☐ Please omit me from the Community Directory

Homeowner Names \_\_\_\_\_

Home # \_\_\_\_\_ Work# \_\_\_\_\_

Email Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

### IN CASE OF EMERGENCY IN MY ABSENCE, PLEASE CONTACT:

#1 NAME: \_\_\_\_\_ Phone#: \_\_\_\_\_

#2 NAME: \_\_\_\_\_ Phone#: \_\_\_\_\_

### TO BE COMPLETED IF YOUR HOME IS OCCUPIED BY A TENANT:

NAMES: \_\_\_\_\_

Home # \_\_\_\_\_ Work# \_\_\_\_\_

Are your tenants aware of the Community rules and regulations that effect them? Pets, parking, noise, trash  
cans, satellite dishes, landscaping? YES NO

If no, would you like us to send you information you can make available to them?  
YES NO

Is your home professionally managed YES NO

If yes, provide the company name, address, phone number

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### HOUSEHOLD PET INFORMATION:

|        | Species | Breed | Height | Weight | Color | Age   |
|--------|---------|-------|--------|--------|-------|-------|
| Pet #1 | _____   | _____ | _____  | _____  | _____ | _____ |
| Pet #2 | _____   | _____ | _____  | _____  | _____ | _____ |
| Pet #3 | _____   | _____ | _____  | _____  | _____ | _____ |
| Pet #4 | _____   | _____ | _____  | _____  | _____ | _____ |

### VEHICLE INFORMATION:

|            | License | Make  | Model | Color |
|------------|---------|-------|-------|-------|
| Vehicle #1 | _____   | _____ | _____ | _____ |
| Vehicle #2 | _____   | _____ | _____ | _____ |
| Vehicle #3 | _____   | _____ | _____ | _____ |
| Vehicle #4 | _____   | _____ | _____ | _____ |