

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVERS LICENSE NUMBER.**

**CERTIFICATE OF RECORDING POA DOCUMENTS  
PURSUANT TO §202.006 TEXAS PROPERTY CODE**

**INSTRUMENTS ATTACHED FOR RECORDING OR PREVIOUSLY RECORDED:**

1. Certificate of Formation of Tucson Estates Home Owners Association, Inc., filed in the Office of the Secretary of State of Texas on December 2, 2008 (5 pages)
2. Declaration of Covenants, Conditions & Restrictions for Americas Estates, Unit One, Replat A (also known as Tucson Estates), filed in the Real Property Records of El Paso, under Clerk's File No. 20080097255 (15 pages)
3. Bylaws of Tucson Estates Home Owners Association, Inc. (12 pages)
4. Tucson Estates (Americas Estates, Unit One, Replat A), Architectural Guidelines (11 pages)

**PROPERTY DESCRIPTION:** (include platted subdivision name & plat recording data)

Tuscan Estates, as described on Exhibit "A" attached hereto.

**POPULAR NAME OF DEVELOPMENT:** (if different from platted subdivision name)

Tuscan Estates

**DECLARATION TO WHICH SUBDIVISION IS SUBJECT:** (initial recording data)

Declaration of Covenants, Conditions & Restrictions for Americas Estates, Unit One, Replat A (also known as Tucson Estates), recorded on December 10, 2008, under Clerk's File No. 20080097255, Real Property Records, El Paso County, Texas.

**NAME OF PROPERTY OWNERS ASSOCIATION:** (include legal and popular names, if more than one.)

Tuscan Estates, also known as Tucson Estates Home Owners Association,


Inc.

**CERTIFICATION & EXECUTION**

I hereby certify that I have been instructed by the Board of Directors of Tucson Estates Home Owners Association, Inc., a Texas property owners association, to execute this Certificate to effect the recording of the instruments attached hereto on behalf of the property owners association, for the purpose of complying with the requirements of Property Code Section 202.006.

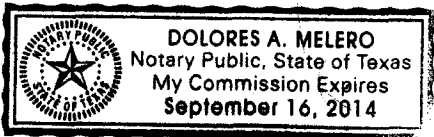
TUCSON ESTATES HOME OWNERS ASSOCIATION, INC., a Texas property owners association

By: DANA Properties, Inc., a Delaware Corporation, its managing agent

By:   
Sheldon Wheeler, Association Manager

STATE OF TEXAS       §  
                                  §  
COUNTY OF EL PASO   §

This instrument was acknowledged before me on this 4th day of April, 2012 by Sheldon Wheeler, Association Manager of DANA Properties, Inc., a Delaware Corporation, on behalf of the sole proprietorship in the capacity as managing agent of Tucson Estates Home Owners Association, Inc., a Texas property owners association, on behalf of the association.



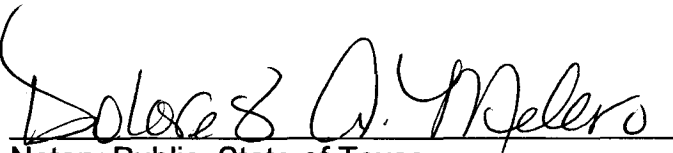
  
Notary Public, State of Texas

EXHIBIT "A"  
TO CERTIFICATE OF RECORDING POA DOCUMENTS  
PURSUANT TO §202.006 TEXAS PROPERTY CODE

DESCRIPTION OF SUBDIVISION

Being all of the real property that is subject to the Declaration of Covenants, Conditions & Restrictions for Americas Estates, Unit One, Replat A (also known as Tucson Estates), recorded under Clerk's File No. 20080097255, Real Property Records, El Paso County, Texas, including the property platted as follows:

The plat of Americas Estates Unit One, Replat A recorded in the Plat Records of El Paso County, Texas

**CERTIFICATE OF FORMATION  
OF  
TUSCAN ESTATES HOME OWNERS ASSOCIATION, INC.  
Nonprofit Corporation**

**FILED**  
In the Office of the  
Secretary of State of Texas

DEC 02 2008

**Corporations Section**

The undersigned, acting as an organizer of a nonprofit corporation under the Texas Business Organizations Code does hereby adopt the following Certificate of Formation for such nonprofit corporation.

**ARTICLE ONE**

**NAME**

The name of the nonprofit corporation (hereinafter called the "Association") is TUSCAN ESTATES HOME OWNERS ASSOCIATION, INC.

**ARTICLE TWO**

**STATUS**

The Association is a nonprofit corporation.

**ARTICLE THREE**

**DURATION**

The period of its duration is perpetual.

**ARTICLE FOUR**

**PURPOSE**

The purposes for which the Association is organized to perform charitable activities within the meaning of Internal Revenue Code, Section 501(c)(3) and applicable state law. Specifically, the purpose for which the Association is organized is to be and constitute the Association referred to in the "Declaration of Covenants, Conditions and Restrictions of Americas Estates Unit 1 Replat A" (the "Declaration") as the Tuscan Estates Home Owners Association, Inc. for the residential project within El Paso County, Texas, as recorded (and amended from time to time) in the Public Real Estate Records of El Paso County, Texas. The purposes of the Association include the operation, repair, replacement, renovation and maintenance of improvements in common areas, to levy assessments against the Association's members for expenses relating to common areas and common area improvements, to provide for an Architectural Review Committee, and to engage in such other charitable activities as may be authorized in the Declaration or as may be authorized in the by-laws.

of the Association. The Association shall not engage in any purpose, action or activity which is prohibited by the Texas Business Organizations Code and by other applicable law. The Association does not contemplate pecuniary gain or profit, direct or indirect, to its Members.

## **ARTICLE FIVE**

### **MEMBERS**

The Association shall have one or more classes of members. The designation of such class or classes, the manner of election or appointment, and the qualifications and rights of the members of each class are set forth within the Declaration and the By-laws of the Association.

## **ARTICLE SIX**

### **RESTRICTIONS AND REQUIREMENTS**

The Association shall not pay dividends or other corporate income to its members, directors or officers or otherwise accrue distributable profits or permit the realization of private gain. The Association shall have no power to take any action prohibited by the Act.

The Association shall have no power to take any action that would be inconsistent with the requirements for a tax exemption under Internal Revenue Code Section 501(c)(3) and related regulations, rulings, and procedures. The Association shall have no power to take any action that would be inconsistent with the requirements for receiving tax deductible charitable contributions under Internal Revenue Code Section 170(c)(2) and related regulations, rulings, and procedures. Regardless of any other provision in these Articles of Incorporation or state law, the Association shall have no power to:

1. Engage in activities or use its assets in manners that are not in furtherance of one or more exempt purposes, as set forth above and defined by the Internal Revenue Code and related regulations, rulings, and procedures, except to an insubstantial degree.
2. Serve a private interest other than one that is clearly incidental to an overriding public interest.
3. Devote more than an insubstantial part of its activities to attempting to influence legislation by propaganda or otherwise, except as provided by the Internal Revenue Code and related regulations, rulings and procedures.
4. Participate in or intervene in any political campaign on behalf of any opposition to any candidate for public office. The prohibited activities include the publishing or distributing of statements and any other direct or indirect campaign activities.

5. Have objectives that characterize it as an "action organization" as defined by the Internal Revenue Code and related regulations, rulings, and procedures.

6. Distribute its assets on dissolution other than for one or more exempt purposes; on dissolution, the Association's assets shall be distributed to the state government for a public purpose, or to an organization exempt from taxes under Internal Revenue Code Section 501(c)(3) to be used to accomplish the general purposes for which the Association was organized.

7. Permit any part of the net earnings of the Association to inure to the benefit of any private shareholder or member of the Association or any private individual.

8. Carry on an unrelated trade or business except as a secondary purpose related to the Association's primary, exempt purposes.

## **ARTICLE SEVEN**

### **INDEMNIFICATION**

To the full extent permitted by applicable law, no director of this Association shall be liable to this Association or its members for monetary damages for an act or omission in such director's capacity as a director of this Association, except that this Article Seven does not eliminate or limit the liability of a director of this Association for:

1. a breach of such director's duty of loyalty to this Association or its members;
2. an act or omission not in good faith or that involves intentional misconduct or a knowing violation of the law;
3. a transaction from which such director received an improper benefit, whether or not the benefit resulted from an action taken within the scope of such director's office;
4. an act or omission for which the liability of such director is expressly provided for by statute; or
5. an act related to an unlawful payment of a dividend.

Any repeal or amendment of this Article by the members of this Association shall be prospective only, and shall not adversely affect any limitation on the personal liability of a director of this Association existing at the time of such repeal or amendment. In addition to the circumstances in which a director of this Association is not personally liable as set forth in the foregoing provisions of this Article Seven, a director shall not be liable to the full extent permitted by any Amendment to the Texas Business Organizations Code hereafter enacted that further limits the liability of a director.

To the full extent permitted by applicable law, the Association shall indemnify any director or officer against judgments, penalties (including excise and similar taxes) fines, settlements and reasonable expenses (including court costs and attorney's fees) actually incurred by any such person who was, is or is threatened to be made a named defendant or respondent in a proceeding because the person is or was a director or officer and shall advance to such person such reasonable expenses as are incurred by him in connection therewith. The rights of directors and officers set forth in this Article shall not be exclusive of any other right which directors or officers may have or hereafter acquire relating to the subject matter hereof. As used in this Article, the terms "director" and "officers" shall mean any person who is or was a director or officer of the Association and any person who, while a director or officer of the Association, is or was serving at the request of the Association as a director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic Association, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise. As used in this Article, the term "proceeding" means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitrative or investigative, any appeal in any such action, suit or proceeding and any injury or investigation that could lead to such an action, suit or proceeding.

## **ARTICLE EIGHT**

### **REGISTERED OFFICER AND AGENT**

The street address of the Association's initial registered office is 300 E. Main, Suite 908, El Paso, Texas and the name of its initial registered agent at such address is Larry A. Baskind.

## **ARTICLE NINE**

### **INITIAL DIRECTORS**

The number of directors constituting the initial Board of Directors is three (3) and the names and addresses of the person who are to serve as directors are:

Randal S. O'Leary  
7910 Gateway East #102  
El Paso, Texas 79915

Kelly O'Leary  
7910 Gateway East #102  
El Paso, Texas 79915

Patrick Woods  
7910 Gateway East #102  
El Paso, Texas 79915

**ARTICLE TEN**

**ORGANIZER**

The name and address of the organizer is:

Larry A. Baskind  
300 E. Main, Suite 908  
El Paso, Texas 79901

**ARTICLE ELEVEN**

**EFFECTIVE DATE OF FILING**

This document becomes effective when the document is filed by the Secretary of State.

The undersigned signs this document subject to the penalties imposed by law for submission of a materially false or fraudulent instrument.

Date: Nov 28, 2008

**ORGANIZER:**

  
\_\_\_\_\_  
LARRY A. BASKIND

**HORIZONTAL/VERTICAL  
LINE THROUGH  
DOCUMENT**



**BYLAWS  
OF  
TUSCAN ESTATES  
HOME OWNERS ASSOCIATION, INC.**

**ARTICLE I**

**GENERAL**

Tuscan Estates Home Owners Association, Inc. is the "Association" described within the Declaration of Covenants, Conditions and Restrictions (the "Declaration") pertaining to Americas Estates Unit 1 Replat A in El Paso County, Texas, recorded in the Real Property Records of El Paso County, Texas and incorporated herein by reference for all purposes. For convenience, several of the provisions of the Declaration will be repeated or summarized within these Bylaws. The remaining terms and provisions of these Bylaws are intended to complement and supplement the Declaration. In the event of any conflict or ambiguity between the Declaration (on the one hand) and these Bylaws (on the other hand) and unless otherwise required by law, the terms and conditions of the Declaration shall control and govern.

**ARTICLE II**

**NAME, DEFINITIONS, MEMBERSHIP AND VOTING RIGHTS**

**Section 1. Name.** The name of the Association shall be Tuscan Estates Home Owners Association, Inc. (herein sometimes referred to as the "Association").

**Section 2. Definitions.** Certain words used in these Bylaws shall have the same meaning as set forth in the Declaration, some of which are set forth below either in their entirety or in an abridged format:

**"Amended Declaration"** shall mean and refer to each and every instrument recorded in the Real Estate Property of El Paso County, Texas which amends, supplements, modifies, clarifies or restates some or all of the terms and provisions of the original Declaration.

**"Annual Assessment"** shall have the meaning specified in Article VI of the Declaration.

**"Architectural Review Committee"** (sometimes referred to herein as the "ARC") shall mean and refer to that particular Committee which is described and explained within Article VII of the Declaration.

**"Assessable Property"** shall mean and refer to each and every lot, parcel and tract within the Subdivision which: (i) the Declaration has subjected to and imposed the payment of an Annual Assessment to the Association; (ii) may have been or will be given a separately identifiable tax or parcel number by the Central Appraisal District of El Paso County ("CAD") or a similar governmental agency; or (iii) is not designated an "open space" or otherwise a portion of the Common Facilities. The Declaration intends that each residential Lot within the Subdivision constitutes an Assessable Property. However, the Declarant reserves the right and discretion to include or exclude each non-residential Lot from the concept of "Assessable Property" and/or to

prescribe a different assessment scheme(s) for any nonresidential Lot which is subjected to covenants which require the payment of assessments to the Association. Notwithstanding the foregoing, Lots 16 and 43 are located outside the gate and shall not be subject to any assessment, although such lots will be bound by the terms and conditions of the Covenants.

**“Association”** shall mean and refer to Tuscan Estates Home Owners Association, Inc., an existing non-profit Texas corporation.

**“Board”** shall mean and refer to the Board of Directors of the Association.

**“Bylaws”** shall mean and refer to the Bylaws of the Association, as adopted and amended from time to time in accordance with the provisions of the Texas Business Organizations Code and the Declaration.

**“Common Facilities or Common Areas”** shall mean and refer to any and all areas of land within or adjacent to the Subdivision which are known, described or designated as common areas, common facilities, easements and the like including, without limitation, those shown on any recorded subdivision plat of portions of the Subdivision as well as those not shown on a recorded subdivision plat but which are intended for or devoted to the common use and enjoyment of the Members of the Association, together with any and all improvements that are now or that may hereafter be constructed thereon. The Declarant reserves the right to use, during the Development Period, portions of the Common Facilities for business matters directly and indirectly related to the development and sale of houses in the Subdivision. One or more portions of the Common Facilities may from time to time be reasonably limited to private functions, and conversely, one or more portions of otherwise private property may be utilized for Association functions and activities. Declarant shall convey record title to the Common Areas to the Association if, as and when deemed appropriate by Declarant or as may be required by governmental officials, and Declarant shall at all times have and retain the right to effect minor redesigns or minor reconfigurations of the Common Facilities (particularly along the edges) and to execute any open space declarations applicable to the Common Facilities which may be permitted in order to reduce property taxes, and to take whatever steps may be appropriate to lawfully avoid or minimize the imposition of federal and state ad valorem and/or income taxes.

**“Covenants”** shall mean and refer to all covenants, conditions, restrictions, easements, charges and liens set forth within the Declaration.

**“Declarant”** shall mean and refer to RAKMR I, LTD. and any or any successors or assigns. However, no person or entity merely purchasing one or more Lots from in the ordinary course of business shall be considered a “Declarant”.

**“Declaration”** shall mean and refer to the particular instrument entitled “Declaration of Covenants, Conditions and Restrictions for Americas Estates Unit 1 Replat A” together with any and all amendments or supplements thereto.

**“Deed”** shall mean and refer to any deed, assignment, testamentary bequest, muniment of title or other instrument, or intestate inheritance and succession, conveying or transferring fee simple title or a leasehold interest or another legally recognized estate in a Lot.

**“Development Period”** shall mean a period commencing on the date of the recording of the

Declaration in the public real estate records of El Paso County, Texas and continuing thereafter until and ending the later to occur of: (i) substantial completion of all development within the Subdivision, as determined by the Declarant; or (ii) Declarant's recordation in the Real Property Records of El Paso County, Texas of an instrument specifying the end of the Development Period established by Declarant in Declarant's sole and absolute discretion (the "Conversion Date").

**"Dwelling Unit"** shall mean and refer to any building or portion of a building situated upon the facilities which is designed and intended for use and occupancy as a residence by a single person, a couple, a family or a permitted family size group of persons.

**"Improvement"** shall mean any physical change to raw land or to an existing structure which alters the physical appearance, characteristics or facilities of the land or structure, including but not limited to adding or removing square footage area space to or from a structure, painting or repainting a structure, or in any way altering the size, shape or physical appearance of any land or structure.

**"Lot"** shall mean and refer to each parcel which is shown on the plat, filed and recorded in the office of the County Clerk of El Paso County, Texas and which is assessed by any one or more of the Taxing Authorities and which is not intended to be an "open space" or a portion of the Common Facilities.

**"Member"** shall mean and refer to each Owner who is in good standing with the Association and who has filed a proper statement of residency with the Association and who has complied with all directives and requirements of the Association.

**"Owner"** shall mean and refer to the holder(s) of record title to the fee simple interest of any Lot whether or not such holder(s) actually reside(s) on any part of the Lot. There shall be only one Owner for each Lot.

**"Subdivision"** shall mean and refer to the Americas Estates Unit 1 Replat A, in accordance with the map and plat thereof filed of record in the Map and Plat Records of El Paso County, Texas, as well as any and all revisions, modifications, corrections or clarifications thereto.

**Section 3. Membership.** Each and every Owner of each and every Lot within the Subdivision shall automatically be, and must at all times remain, a Member of the Association in good standing. During the Development Period, the Association shall have two (2) classes of Members: Class A and Class B. The Class A Members shall include all Owners (other than the Declarant during the Development Period). The Class B Member shall be the Declarant. Upon conclusion of the Development Period, the Class B membership shall terminate and the Declarant shall become a Class A Member.

**Section 4. Voting Rights.** The Owner(s) of each Lot in good standing shall be entitled to one (1) vote per Lot. An Owner not in good standing shall not be eligible to vote. Where more than one (1) Owner owns and holds a record fee interest in a Lot such Owner(s) may divide and cast portions of the one (1) vote as they decide, but in no event shall any one (1) Lot yield more than one (1) vote. Any Owner shall not be in "good standing" if such person or entity is: (a) in violation of any portion of the Covenants, or any rule or regulation promulgated by the Board; or (b) delinquent in the full, complete and timely payment of any Annual Assessment, special assessment, or any other fee, charge or fine which is levied, payable or collectible pursuant to the provisions of the Declaration, these Bylaws or any rule or regulation promulgated by the Board. The Board may make such rules and regulations, consistent with the terms of the Declaration and these

Bylaws, as it deems advisable for: any meeting of Members; proof of membership in the Association; the status of good standing; evidence of right to vote; the appointment and duties of examiners and inspectors of votes; the procedures for actual voting in person or by proxy; registration of Members for voting purposes; and such other matters concerning the conduct of meetings and voting as the Board shall deem fit.

### ARTICLE III

#### MEMBERS: MEETINGS, QUORUM, VOTING, PROXIES

**Section 1. Place of Meetings.** Meetings of the Association shall be at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board of Directors.

**Section 2. Annual Meetings.** The first annual meeting of the Members, whether a regular or special meeting, shall be held on or about one (1) year from the date of incorporation of the Association. The next annual meeting shall be set by the Board so as to occur within forty-five (45) days after the close of the Association's fiscal year. Subsequent regular annual meetings of the Members shall be held within forty-five (45) days of the same day of the same month of each year thereafter, at a specific date and hour set by the Board.

**Section 3. Special Meeting.** The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association if so directed by two members of the Board of Directors, or upon a petition signed by at least twenty percent (20%) of the total votes of the Association. The notice of any special meeting shall state the date, time, and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

**Section 4. Notice of Meetings.** It shall be the duty of the Secretary to cause notices to be prepared concerning each annual or special meeting of the Association, stating the purpose of the special meeting, as well as the time and place where it is to be held at least fifteen (15) days before a meeting.

**Section 5. Waiver of Notice.** Waiver of notice of any meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member, whether in person or by proxy, shall be deemed waiver by such Member of notice of the time, date, and place thereof, unless such Member 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 there 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 6. Adjournment of Meetings.** If any meetings of the Association cannot be held because a quorum is not present, a majority of the Members 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. At such adjourned meeting at which a quorum is 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 Members in the manner prescribed for regular meetings. The Members 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 Members to leave less than a quorum, provided that any action taken shall be approved by at least a majority of the Members required to constitute a quorum.

**Section 7. Voting.** The voting rights of the Members shall be as set forth in the Declaration and Section 4 of Article II above.

**Section 8. Proxies.** At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary before the appointed time of each meeting. Every proxy shall be revocable and shall automatically cease upon loss of good standing by any such Member or upon receipt of notice by the Secretary of the death or judicially declared incompetence of a Member or upon the expiration of eleven (11) months from the date of the proxy. A form of proxy or written ballot may provide an opportunity to specify approval or disapproval with respect to any proposal.

**Section 9. Majority.** As used in these Bylaws, the term majority shall mean those votes totaling more than fifty (50%) per cent of the total number of votes cast by voting Members in good standing attending any meeting (or represented by proxy) of the Association.

**Section 10. Quorum.** Except as otherwise provided in these Bylaws or in the Declaration, the presence in person or by proxy of twenty percent (20%) of the Members shall constitute a quorum at all meetings of the Association.

**Section 11. Conduct of Meetings.** The President (or, in the absence of the President, a Vice President) shall preside over all meetings of the Association, and the Secretary or an Assistant 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 thereat.

**Section 12. Action Without a Meeting.** Any action which may be taken by the vote of the voting Members at a regular or special meeting may be taken without a meeting as and to the extent permitted by applicable Texas law.

#### ARTICLE IV

##### BOARD OF DIRECTORS: NUMBER, ELECTION, POWERS, MEETINGS

**Section 1. Governing Body; Composition.** The affairs of the Association shall be governed by a Board of Directors. Except as provided in Section 2 of this Article, the Directors shall be Members or spouses of such Members; provided, however, no person and his or her spouse may serve on the Board at the same time.

**Section 2. Directors During Development Period.** During the Development Period, Directors need not be Members.

**Section 3. Number of and Voting for Directors.** Until the Conversion Date, the affairs of the Association shall be managed by a board of three (3) individuals elected by the Developer. After the Conversion Date, the affairs of the Association shall be managed by a board of not less than three nor more than seven elected by the Members. The Board, no later than 30 days prior to the annual meeting of the Members, shall file with the Declarant and distribute to the Members (by whatever means the Board may

deem reasonable and economical) a certification of the Directors to be elected. The actual election of the directors shall take place in accordance with the Bylaws or, to the extent not inconsistent with the Bylaws, the directives of the then-existing Board.

**Section 4. Election and Term of Office.** The election process shall occur at the annual meeting of the Members, in accordance with any reasonable procedure approved by the Board. Directors shall be elected for two (2) year terms of office and shall serve until their respective successors are elected and qualified. Any vacancy which occurs in the Board, by reason of death, resignation, removal, or otherwise, may be filled at a meeting of the Board by the affirmative vote of a majority of the remaining Directors. Any Director elected to fill a vacancy shall serve as such until the expiration of the term of the Director whose position he or she was elected to fill.

**Section 5. Removal of Directors.** At any regular or special meeting or special voting process (in lieu of a meeting) of the Association duly called, where the bona-fide signatures of at least 20% of the Members appear on an appropriate petition, any one or more of the Directors may be removed, with or without cause, by a majority vote of those Members voting in person or by proxy, and a successor may then and there be elected to fill the vacancy thus created. A Director whose removal has been proposed by the Members shall be given at least five (5) days notice of the calling of the meeting or the special voting process (in lieu of a meeting) and the purpose thereof and shall be given an opportunity to be heard at the meeting or to communicate his position in connection with the special voting process in lieu of a meeting. Additionally, any Director who has three (3) consecutive unexcused absences from Board meetings or who is delinquent in the payment of an assessment for more than sixty (60) days, may be removed by a majority vote of the remaining Directors at a regular or special Board meeting. In the event of death or resignation of a Director, his or her successor shall be a Member selected by a majority of the remaining Members of the Board and shall serve for the unexpired term of the predecessor.

**Section 6. Voting Procedure for Directors.** At each election, the Members or their proxies may cast, with respect to each such director position, as many votes as they are entitled to exercise under the provisions of the Declaration. The person(s) receiving the largest number of votes (which may be a plurality and not a majority) shall be elected.

**Section 7. 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 at least four (4) such meetings shall be held during each Fiscal Year with at least one (1) meeting per quarter. Notice of the time and place of the meeting shall be posted at a prominent place within the Facilities and shall be communicated to Directors not less than four (4) days prior to the meeting; provided, however, notice of a meeting need not be given to any Director who has signed a waiver of notice or a written consent to holding of the meeting. Advance notice of the meeting(s) at which the annual budget and/or the Annual Assessment are likely to be discussed shall be reasonably publicized.

**Section 9. Special Meetings.** Special meetings of the Board of Directors shall be held when called by written notice signed by the President, or by any two (2) Directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each Director by one of the following methods: (a) by personal delivery; (b) written notice by first class mail, postage prepaid; (c) by telephone communication, either directly to the Director or to a person at the Director's office or home who would reasonably be expected to communicate such notice promptly to the Director; or (d) by telecopy. All such notices shall be given or sent to the Director's business office and/or home address or telephone number(s) as shown on the records of the Association. Notices sent by first class

mail shall be deposited into a United States mailbox at least seven (7) days before the time set for the meeting. Notices given by personal delivery, telephone, or telecopy shall be delivered, telephoned, or faxed at least seventy-two (72) hours before the time set for the meeting. Notices should be posted at a prominent place within the Facilities not less than seventy-two (72) hours prior to the scheduled time of the meeting.

**Section 10. Waiver of Notice.** The transactions of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the Directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any Director who attends the meeting without protesting before, or at its commencement, about the lack of adequate notice.

**Section 11. Quorum of Board of Directors.** At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for 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. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Directors, if any action taken is approved by at least a majority of the required quorum for that meeting. At 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 12. Compensation.** No Director shall receive any compensation from the Association for acting as such.

**Section 13. Conduct of Meetings.** The President (or, in the President's absence, a Vice President), shall preside over all meetings of the Board of Directors, and the Secretary or an Assistant 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.

**Section 14. Open Meetings.** All meetings of the Board (excluding workshop meetings and meetings to discuss personnel, litigation and other similar confidential matters) shall to the extent possible be open to all Members, but Members other than Directors may not participate in any discussion or deliberation except as follows in accordance with a format approved by the Directors from time to time:

- (a) the Directors shall publish a meeting agenda and permit Members a reasonable opportunity to express their opinions concerning such agenda matters prior to taking any formal action; and
- (b) the Directors shall allow an "open" or "new business" portion of the meeting in which any Member can express his/her opinion concerning any new or previously non-discussed matter.

The Directors shall at all times have the right to reasonably limit the number of speakers, the time limit for each presentation and speaker, and to adopt other rules of efficiency and decorum.

**Section 15. Executive Session and Workshops.** The Board may, with approval of a majority of a quorum, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and other business of a similar confidential nature. The nature of any and all business to be considered in executive session shall first be announced in

open session. The Board may also attend “workshop” meetings or sessions to discuss long-range concepts, receive educational assistance and training and the like, provided no official action of any sort is taken.

**Section 16. Action Without a Formal Meeting.** Any action to be taken at a meeting of the Directors or any action that may be taken at a meeting of the Directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all the Directors. An explanation of the action taken shall be posted at a prominent place or places within the Facilities within three (3) days after the written consents of all the Board members have been obtained.

**Section 17. Powers.** The Board of Directors shall be responsible for the affairs of the Association and shall have all the powers and duties necessary for the administration of the Association’s affairs and, as provided by law, may do all acts and things as are not by the Declaration, Articles, or these Bylaws directed to be done and exercised exclusively by the Members. The Board of Directors may delegate to one or more of its members the authority to act on behalf of the Board of Directors on all matters relating to the duties of, and/or matters directly or indirectly pertaining to the Managing Agent, if any, which might arise between meetings of the Board of Directors. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may be hereafter adopted, the Board of Directors shall have the power to and be responsible for the following, in way of explanation, but not limitation:

- (a) preparation and adoption of an annual budget in which there shall be established the Annual Assessment rate charge;
- (b) making assessments to defray the common expenses, establishing the means and methods of collecting such assessments, and establishing the period of any installment payments of the Annual Assessment;
- (c) providing for the operation, care, upkeep, and maintenance of all the Common Facilities;
- (d) designating, hiring, and dismissing the personnel necessary for the maintenance, operation, repair, and replacement of the Association, its property, and the Common Facilities and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel in the performance of their duties;



- (e) collecting the assessments, depositing the proceeds thereof in a depository which it shall approve, and using the proceeds to administer the Association;
- (f) making and amending rules and regulations;
- (g) opening of bank accounts and/or banking-type accounts or behalf of the Association (giving, at all times, first preference to the Declarant) and designating the signatories required;
- (h) making or contracting for the making of repairs additions, and improvements to or alterations of the Common Areas in accordance with the other provisions of the Declaration and these Bylaws after damage or destruction by fire or other casualty;
- (i) enforcing by legal means the provisions of the Declaration, these Bylaws, and the rules and regulations adopted by it and bringing any proceedings which may be instituted on behalf of or against the Members concerning the Association;
- (j) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;
- (k) paying the cost of all services rendered to the Association or its Members; and
- (l) keeping books with reasonably detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred. The said books and vouchers accrediting the entries thereupon shall be available for examination by the Members and bona-fide mortgagees, their respective duly authorized agents, accountants, or attorneys, during general business hours on working days at the time and in a manner that shall be set and announced by the Board of Directors for the general knowledge of the Members; and
- (m) filing all requisite forms, documents and information with Taxing Authorities; and
- (n) permit utility suppliers to use portions of the Common Facilities reasonably necessary to the ongoing development or operation of the Development Plan.

**Section 17. Borrowing.** The Board of Directors shall have the power to borrow money, without the specific approval of the members of the Association, for the purpose of operation, capital improvements, repair, replacement or restoration of common areas where such proposed borrowing has been reflected in an annual budget of the Association, as initially approved or as amended.

**Section 18. Management Agent.** The Board of Directors may employ for the Association a professional management agent(s) or executive manager (each and all of whom will be sometimes referred to herein as the "Managing Agent") at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize. The Managing Agent shall provide the Board and the officers with reasonable reports, prepared not less than once a month, concerning the affairs of the Association. No management contract may have a term in excess of three (3) years and, where the Declarant or an affiliate of the Declarant is the Managing Agent, the Declarant must permit termination by either party without cause and without any materially adverse termination fee upon at least ninety (90) days advance written notice of such termination.

**Section 19. Rights of the Association.** With respect to the Common Areas, and in accordance with the Declaration and to the maximum extent permitted by applicable law, the Association shall have the right to contract with any person for the performance of various duties and functions.

## ARTICLE V

### OFFICERS

**Section 1. Officers.** The officers of the Association may include a President, Vice President, Secretary, Treasurer and such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as the Board shall deem desirable, such officers to have the authority and to perform the duties prescribed from time to time by the Board of Directors. Any two or more offices may be held by the same person, excepting the offices of President and Secretary. Any member of the Board, or of the Managing Agent or of the Declarant may serve as an officer.

**Section 2. Election. Term of Office and Vacancies.** The officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board of Directors following each annual meeting of the Members. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

**Section 3. Removal.** Any officer may be removed by the affirmative vote on a majority of the Board of Directors whenever in their judgment the best interests of the Association will be served thereby.

**Section 4. Powers and Duties.** The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may from time to time be specifically conferred or imposed by the Board of Directors. The president shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the annual budget as provided for hereinabove and may delegate all or part of the preparation and notification duties to a finance committee, Managing Agent, or both.

**Section 5. Resignation.** Any officer may resign at any time by giving written notice to the Board of Directors, the president, or the Secretary. Such resignation shall take effect on 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.

**Section 6. Agreements, Contracts, Deeds, Leases, Checks.** All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least one (1) officer or by such other person or persons as may be designated by resolution of the Board of Directors.

## ARTICLE VI

### COMMITTEES

**Section 1. General.** Committees to perform such tasks and to serve or such periods as may be designated by a resolution adopted by a majority of the Directors present at a meeting at which a quorum is present are hereby authorized. Such committees shall perform such duties and have such powers as may be

provided in the resolution. Each committee shall operate in accordance with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors. The Board shall appoint the chairperson for each committee who shall preside at its meetings and who shall be responsible for transmitting any and all communications to the Board of Directors.

**Section 2. Architectural Review Committee.** After the Development Period, the Board of Directors shall appoint an Architectural Review Committee consisting of at least three (3) individuals to replace the persons initially selected and appointed by the Declarant to act in accordance with the provisions of the Declaration and the Architectural Guidelines.

## ARTICLE VII

### MISCELLANEOUS

**Section 1. Fiscal Year.** The fiscal year of the Association shall be the calendar year.

**Section 2. Parliamentary Rules.** Except as may be modified by Board resolution establishing modified procedures, Robert's Rules of Order (current edition) shall govern the conduct of the Association proceedings when not in conflict with Texas law, the Articles of Incorporation, the Declaration, or these Bylaws.

**Section 3. Conflicts.** If there are conflicts or inconsistencies between the provisions of Texas law, the Articles of Incorporation, the Declaration, and these Bylaws, then the provisions of Texas law, the Declaration, the Articles of Incorporation, and the Bylaws (in that order) shall prevail.

**Section 4. Books and Records.**

(a) **Inspection by Members.** The membership register, books of account, and minutes of meetings of the Members, the Board, and committees shall be made available for inspection and copying by any Member of the Association or by his or her duly appointed representative at any reasonable time and for a proper purpose reasonably related to his or her interest as a Member at the office of the Association or at such other place as the Board shall prescribe.

(b) **Rules for Inspection.** The Board may establish reasonable rules with respect to:

- (i) notice to be given to the custodian of the records by the Member desiring to make the inspection;
- (ii) hours and days of the week when such an inspection may be made;
- (iii) payment (or prepayment) of the cost of reproducing copies of documents requested by a Member; and
- (iv) maintenance of confidentiality with respect to records.

(c) **Inspection by Directors.** Every Director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or

controlled by the Association. The right of inspection by a Director includes the right to make reasonable extracts and copies of documents at the expense of the Association.

**Section 5. Amendments.** The power and authority to alter, amend or repeal the Bylaws, or to adopt new Bylaws, has been delegated by the Members to the Board of Directors.

We, the undersigned, being all the existing Directors of the Association, do hereby certify that we hereby assent to the foregoing Bylaws and hereby adopt the same as the Bylaws of said Association.

**IN WITNESS WHEREOF**, we have hereunto subscribed our names as of the \_\_\_\_ day of September, 2011.

---

**ART ELIASON**

---

**KELLY O'LEARY**

---

**TERESA KEMP**

**Tuscan Estates  
(Americas Estates Unit One, Replat A)  
Architectural Guidelines**

**Development Objectives**

The following Guidelines are designed to establish and preserve the visual impression of Tuscan Estates as a distinctive and desirable place in which to live. Landscaping, building form, materials and colors all contribute to an overall community image that is readily identifiable as a high quality development. By following the Guidelines, residents will protect and enhance each property owner's investment in his or her home site. The Guidelines provide standards of quality and design.

Design review by the Architectural Review Committee is not intended to enforce unreasonable or excessively expensive controls. It is meant to coordinate the design and construction of residential dwellings to achieve a pattern of continuous quality and identity.

The Guidelines have purposely not been made a part of the Covenants, Conditions, and Restrictions in order to allow for additions, modifications, and deletions as circumstances change and as the community develops and matures.

**Declaration of Covenants**

The Declaration of Covenants, Conditions and Restrictions for Americas Estates Unit One, Replat A, also known as Tuscan Estates (Covenants) require that no structure, improvement, landscaping or alteration shall be commenced, erected, remodeled or maintained within the Subdivision without the written approval of the Architectural Review Committee. This requires that plans be submitted to the Committee for review. This review will normally take only a few days but may take as long as 30 days under the Covenants. The initial Architectural Review Committee is appointed and controlled by the Developer. After the Conversion Date, the Architectural Review Committee will be appointed by the Board of the Homeowners Association.

**Home Owners Association**

The Covenants provide for the creation of the Tuscan Estates Home Owners Association (the "Association"). The Association shall have the authority to levy assessments to pay for the maintenance and upkeep of the common areas (as defined in the Covenants) and to enforce the Covenants and these Guidelines.

**Architectural Review Committee**

The Architectural Review Committee (ARC) will review and approve all plans for new construction by owners and home builders and administer the Architectural Guidelines. The ARC also has the authority to review and approve all renovation and remodeling of homes in the Subdivision.

Each proposed building design shall be checked for compliance with the Guidelines. Any and all plans for remodeling or exterior modifications to homes after completed construction shall also be reviewed by the ARC in accordance with the Guidelines.

The Guidelines are the criteria which must be met in order to build or remodel in the subdivision. Compliance with guidelines in no way guarantees any requested construction result with in Tuscan Estates.

These Guidelines are not, and not to be construed as, as recommendation or endorsement by Declarant, the Tuscan Estates Homeowners Association (HOA), or by its Board of Directors (the Board) or the ARC of any particular plan, design, or building material with may be contained herein. Neither the Declarant, the HOA, the Board, nor the ARC shall be held liable or bear any responsibility for any injury, damages, or loss arising out of the manner or quality of construction on any property within Tuscan Estates or any modifications thereto.

### **Design Review Procedure**

The Guidelines have been established to provide standards to assist each Owner to discover the unique opportunities for construction of a home through the use of design principles used by planners and landscape architects. The ARC has been established to administer the Covenants and Guidelines and in so doing will not seek to unreasonably restrict taste or individual preferences. The review will bring to the attention of the Owner and the architect or designer the many benefits of Tuscan Estates. Prior to commencement of any construction or improvements of a home or on a lot, the Owner shall submit plans for review and approval by the ARC.

I. Submission of Plans and Specification: Construction of any structure and landscaping on lots in Tuscan Estates shall be subject to site plan review by the ARC and the submission of the following:

A. Site Plan at a scale of not less than 1" = 10'-0" showing:

Entire Lot including Lot setback easement lines; and  
Location of all existing and proposed improvements; and  
Roof plan of all structures showing location of all plumbing, electrical, solar and mechanical equipment; and  
Changes in existing grade including contour lines for building sites, driveways and walkways; and  
Location of all existing and proposed landscaping; and  
Location of all utilities, including stubs, meters, transformers, etc. and location where utilities meet the structures.

B. Floor Plans at a scale of not less than 1/8" = 1'-0".

C. Exterior Elevations at a scale of not less than 1/8" = 1'-0" showing:

Character of the Exterior identifying all fenestrations; and  
Elevation Heights of Building construction; and  
Types of Materials to be used on Building Shell; and  
Pitch of all proposed Roofs;

D. Description of all exterior building materials including color samples.

E. In presentation of the plans, consideration should be given to show that the design requirements have been met. The party requesting approval shall submit a

completed copy of the "Plan Submittal Checklist" supplied by the Developer (if applicable).

F. An acceptable schedule of construction shall also be submitted.

II. All plans and specifications shall be prepared by a qualified person in a professional manner.

III. Final approval of plans will not be granted by the ARC until final working plans have been submitted to the ARC and a determination has been made in accordance with the Covenants and these Guidelines.

### **Design Standards**

The following design standards shall apply to all homes in Tuscan Estates.

**Site Details.** Site details such as transformer enclosure, planters, driveways and side walks shall be given special architectural design consideration.

**Utilities.** All utilities shall be underground.

### **Tuscan Estates Architecture**

The purpose of this section is to assist and guide all involved in the design and construction of new residences, remodeling of existing homes and/or improvement of properties and to promote the Tuscan/Old World European theme within the Development. The design guidelines are intended to assist in the implementation of the adopted design theme; create a visual environment and character that is attractive to all home owners within the Subdivision; allow for a reasonable degree of control to be exercised over the site development and architecture of the private buildings therein; recognizing the interdependence of land values, aesthetics and good development planning; and promote environmental well-being as it is affected by the distinctive character and natural attractiveness which this community is intended to generate.

In general, the ARC will review materials, colors, location, and scale of the proposed new construction or addition to determine the compatibility with surrounding structures and sites. The intent is to preserve the architectural character of the neighborhood and to maintain a cohesive architectural style.

**Architectural Style:** The architectural goal is to establish the highest standard of quality for the design of the homes of the Tuscan Estates. The architectural character should reflect the casual elegance of Tuscan/Old World European design, understanding that this Mediterranean type design is derived from a wide variety of historic, geographic, cultural, climatic and thematic influences including Italiante, Spanish, Grecian; British recreation of Italian Villas and the U.S. adaptation of Lombard and bracketed styles in the late 1800's.

At the Tuscan Estates, no residence should stand so apart in its design or construction as to detract from the visual harmony of the community. Builders and architects/designers are required to design homes to

capture the qualities of Tuscan/Old World European design, their early influences and/or their Tuscan influenced predecessors.

The Primary Architectural Style is identified as the following:

Tuscan Style featuring distinctive stucco exteriors and low-pitched barrel tile roof which consider such additional enhancements:

Balanced, symmetrical rectangular building shapes;  
Tall appearance of multiple floors;  
Wide overhanging eaves with brackets and cornices;  
Square cupolas;  
Tile insets  
Porches topped with balustraded balconies;  
Side bay windows;  
Molded double door entries;  
Roman arches above windows and doors; and  
Enclosed courtyards.

The additional following architectural styles may also be permitted by the ARC:

Italian Villa and Italianate Styles are characterized by shallow pitched tile roofs with broad overhangs decorated with exposed rafters, stucco walls with tall often arched windows and informal covered verandahs or porches. The Italian Villa frequently incorporates a rounded tower while Italianate incorporates a cupola on the roof. These styles may be referred to as Mediterranean.

Spanish Colonial Revival Style is characterized by tile roofs, simple forms subtly embellished at doorways and ornamental ironwork. This style often incorporates interior courtyards similar to the classic western haciendas.

Territorial Style is characterized by low, flat roofs with brick or tile copings on parapet caps, wood columns and decorative wood door and window casings.

Spanish Mission Style with pitched tile roofs, stucco finishes, exposed beams and soffits and open porches. This style may be referred to as Santa Barbara style or California Mission.

### **Building Heights**

Homes should be designed to minimize intrusion and impact on the views and visual beauty of the subdivision.

The maximum overall building height, shall not exceed:

- A. 35'-0' measured from the lowest natural grade adjoining the living space to the highest point on the building (except chimneys). Pitched roofs are measured to the ridge.
- B. 28'-0" maximum height of any wall measured from the highest natural grade adjoining each wall, to the highest point on each wall (except chimneys).



## **Building Massing Dermition**

**Building mass:** A volume of space that visually appears as a rectilinear form consisting of a roof and at least 3 walls. Building Massing is important to ensure that the elevations of the homes will have visual interest from all views. Design elements must be carried through the elevation to avoid "store-front" or movie-set type elements.

- A. Each building must have at least 3 distinct masses visible from all elevations.
- B. Each building mass must be offset from adjacent masses by at least 2'-0" vertically and 2'-0" horizontally.

## **Accessory Living Quarters**

Accessory Living Quarters are permitted. Such structures may be attached or detached but shall be in the same architectural style as the residence, and should be visually related to it by walls, courtyards or landscape elements. Any accessory living quarters must comply with all Covenants.

**Roof Pitch:** All roofs shall have pitches of either 5" in 10'-0" or less, or greater than 3'-0" in 12'-0".

**Approved Roofing Material for Semi-Flat Roofs:** Any roof with a pitch of 5" in 10'-0" or less may covered with one of the following materials: Formed asphalt sheathing, rolled roofing neoprene or other synthetic watertight roofing, or any class "A" approved watertight roofing material and must be painted same color as exterior all surface color.

**Approved Roofing Material for Pitched Roofs:** Any roof with a pitch of 3'-0" in 12'-0" (3:12) or greater may, may be covered with one of the following materials: glazed cement or clay shake or shingle roofing, plastic or aluminum shake or shingle roofing, natural stone or slate roofing, glazed cement or clay tile roofing and any copper or finished metal roofing. Other materials may used upon approval of the ARC. No gravel, crushed stone, galvanized or rusting materials, asphalt rolled roofing or standard weight asphalt shingle shall be allowed on pitched roofs.

All colors shall be Natural Earth Tones and the material shall be installed in a good and workmanlike manner.

**Roofscape:** Each multi-story Structure with a semi-flat roof shall either have a minimum pitch of 3:12 for 25% of the roof area over the Conditioned area, or a minimum ceiling height of 12'-0" on both the first and second floors for 40% of the roof structure over the Conditioned area. Each single story Structure with a semi-flat roof shall be required to have either 30% of the total roof area with a minimum pitch of 3:12 or 35% of the total roof must have a minimum ceiling height of 12'-0".

## **Roof-Mounted Equipment**

- Mechanical Equipment - Evaporative coolers, refrigeration units and heat pumps shall not be permitted on pitched roofs. They shall be permitted on semi-flats roofs only if no reasonable alternative exists but shall be shielded from view from streets and adjacent Lots by enclosures or wall extensions of identical materials and finishes as the exterior walls of the Structure.

- Vent Stacks & Flues - Mechanical vents and flues shall be collected into a minimum number of chimney-like chases and placed where their visual impact is minimized.
- False balconies, false chimneys, railings, and parapet walls may be utilized as long as they do not detract from the Tuscan Old World European theme.

**Skylights and Solar Collectors:** Skylights and solar collectors shall be permitted if they unobtrusive in appearance and an integral part of the Structure. The Design ARC recommends the use of clear story windows and dormers as an alternative to skylights.

**Exterior Wall Materials:** Exterior wall materials of any Structure may be of slump or mission stone, stabilized and sun baked adobe, stucco or thin coat plaster veneer, glass block, ceramic tile, or ornamental iron (if design is approved). Other materials may be used upon approval of the ARC.

**Exterior Trim Materials:** The exterior trim material (fascia, soffit, etc.) shall be of low maintenance or maintenance free materials. The ARC urges the use of treated woods, redwood, cedar, aluminum, finished metals and plastics to reduce the maintenance on exterior trim.

**Color Coordination:** All exterior finish materials shall be color coordinated as to each individual Structure and as to the effect on other Structures in the neighborhood. All exterior finishes shall meet the definition of Natural Earth Tones.

**Garage Size and Design:** Every dwelling within the Subdivision shall have as minimum, a two (2) car enclosed garage. This Structure may be attached or free standing (but shall connect to the main house by a roof or screen), and shall have a minimum area of 450 square feet including outside walls. Such garage shall be constructed within 20 foot minimum interior width. A garage shall not be required if a carport or porte cochere is provided and there is also provided an ample outside storage structure.

**Chimneys:** All exterior chimneys must be of a material and of such a color as to blend in aesthetically with the residence and will be subject to approval by the ARC.

**Gutters and Downspouts:** All gutters and downspouts shall be designed as a continuous architectural design feature. Exposed gutters and downspouts shall be colored to blend in with the surface to which they are attached.

**Exterior Lighting Standards:** Plans for lighting the yard areas and exterior of the home will be reviewed by the ARC during the planning stage, using these Guidelines.

- Exterior fixtures not mounted on a building must be located and oriented to focus light inward to minimize light encroachment onto neighboring areas and homes.
- Building mounted exterior lighting must be directed downward and away from adjacent home streets and open spaces. The fixtures shall be mounted no higher than the line of the first story eave, or where no eave exist, no higher than 12 feet above finish grade.
- Walkways from the street to the front door and around the driveway should be the minimum necessary for safe passage.
- Lighting of plant materials shall be achieved with hidden light sources. These can include surface mounted fixtures on the ground and lamps hidden by plant materials.
- Game court light fixtures must be fully shielded with sharp cut-off lighting, and comply

- with all other type and shielding requirements outlined in these guidelines.
- Security lighting directed away from the home and activated by heat, movement, etc. are permissible but must not remain on constantly or be used as general lighting. Placement should be shown on the plans. Alternatives to floodlight type security lighting must be used.
  - Warm white and natural lamps are preferred.

**Trash Receptacles and Collection:** Trash, garbage and other waste shall be kept in approved sanitary containers. Each Owner shall make or cause to be made appropriate arrangements with the local waste removal agency for collection and removal of garbage and trash on a regular basis. Each and every Lot Owner shall observe and comply with any and all reasonable regulations or requirements promulgated in connection with the storage and removal of trash and garbage. Trash containers shall be enclosed in a closet or other architecturally compatible enclosure.

**Utility Meter Enclosures:** Utility meters shall be enclosed or screened from view in a manner architecturally compatible with the main structure.

**Utilities:** All connections from trunk lines to individual structures must be underground. Exposed plumbing and electrical lines are not allowed. Materials must conform to the current Electrical and Plumbing Codes. Water and sewer hookups must be inspected by the appropriate inspectors. All excavation for site utility hookups must be restored to its natural condition.

**Accessory Buildings:** Only buildings to be used as temporary construction shelter may be erected on a lot prior to construction of the main residence building. Temporary structures including trailers, mobile homes, trailer homes, tents, shacks or other temporary buildings shall not be used on any lot at any time as a residence. Structures such as dog houses, tool sheds, and playhouses which are intended for permanent or semi-permanent use, are not specifically prohibited. Any accessory building must be placed in the rear of the lot and must conform to setback requirements. Location must take into consideration neighboring lots. All structures are subject to ARC approval.

**Parking:** No utility trailer, boat trailer, camper or other trailer, mobile home, commercial vehicle, tins, truck (other than standard size pick up truck), inoperable automobile, boat, or similar equipment, and no vehicle which is in an extreme state of disrepair, shall be permitted to remain on the street or on any Lot other than; temporarily (for the purpose of loading and unloading of passengers or personal property), unless placed within an enclosed garage.

**Antennae:** Exposed roof TV and/or radio antennae are prohibited, unless specifically approved by the ARC. Satellite dishes smaller than 18" are approved. Satellite dishes shall be mounted in an inconspicuous location.

**Sight Lines, Visibility, Shrubs, and Trees:** No shrub or tree planting which obstructs sight lines at elevations between two and six feet above the roadway shall be planted or permitted to remain on any corner Lot within the triangular area formed by the curb-lines of such intersecting streets and a line connecting such curb-line at points twenty-five feet from their intersection, or, in the case of a rounded corner form the intersection of the curb-lines as extended. The same sight line limitations shall apply on any Lot within ten feet of the intersection of a street curb-line and the edge of a driveway or alley. No trees shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at a height of more than six feet above ground level.

**Signs:** Limitations on the size and placement of residential identification signs may be imposed by the ARC. All signs and their proposed locations must first be approved by the ARC. No lighted signs shall be permitted. All residences shall have a designated street number that is easily viewed from the road.

One sign identifying the contractor during construction, or advertising a home for sale is permitted, provided it is single sided, with a maximum area of 200 square inches and the longest dimension is not greater than 40 inches. The sign is to be on its own post and shall not be placed higher than 60 inches from the prevailing ground plane. The sign must be placed no closer than 10 feet from the nearest roadway and be approximately parallel to the centerline of the roadway. Subcontractor and materialmen signs are prohibited. No other signs shall be permitted except as specified in this section, unless otherwise approved by the ARC.

**Fences, Hedges, Privacy and Garden Walls:** All fences and retaining walls shall be made of masonry, rock, or contain metal or a combination of these materials. No barbed wire or chain link fences shall be permitted except as follows. For special situations such as tennis courts, dog runs, the Owner shall submit a detailed request for Variance to the ARC. No fence or garden walls shall be erected, placed or altered on any Lot nearer to any street than the minimum building setback lines, except where allowed or directed by the ARC.

Wire link or chain link fencing shall be used only if each section of fence is strung between columns of wood or masonry; no pipe or metal columns shall be allowed. The fence material itself must be either covered with a vinyl or plastic coating in Natural Earth Tones or must be supporting full-height cedar or redwood slats or must be painted in Natural Earth Tones.

Exposed galvanized metal products shall not be used for fence gates.

**Recreational Equipment:** Whenever possible, equipment should be placed in rear yards, interfering as little as possible with neighboring houses. Equipment should be placed so that errant shots and out-of-bounds shots will not wind up in neighboring lots.

Portable basketball goals placed in streets must be moved from the street when not in use and stored close to the house (not at the street end of a driveway). Permanent basketball goals are allowed only when adjacent to or fixed to the home.

**Mail Boxes and Newspaper Receptacles:** Individual mail boxes and newspaper receptacles are prohibited. Group mail boxes will be provided at central locations by the developer.

### **Landscaping Guidelines**

**Purpose:** The purpose of these regulations is to achieve a unified neighborhood character, encourage the responsible use of water, decrease the urban "heat island" effect, increase neighborhood aesthetics, and increase the home value for this subdivision.

**Applicability:** The landscape areas addressed herein apply to the front, back and side yards of the home.

**Time Requirement:** Landscape installation for the front and sideyards must begin within thirty (30) days from the date of sale or substantial completion of a home, whichever occurs later, and must be completed within ninety (90) days. Landscape installation for the rear yard must be completed within one (1) year after the later of the sale or substantial completion of the home.

### **Landscape areas:**

- 50% front yard (defined as the landscape area between the street or sidewalk and the farthest façade of the home) shall be landscaped with living plant material. Coverage shall be based on anticipated mature sizes of plant, as shown in the Approved Plant List.
- 50% of plants used must be evergreen or semi-evergreen.
- Sod-type turf shall be allowed in parkways only if using subsurface irrigation.
- All El Paso County requirements shall be followed with respect to landscape and irrigation.
- Low walls dividing properties shall not be allowed in the setback area. Instead, homeowners are encouraged to blend landscapes using similar plants and construction materials. Where mulches vary in type or color, a 6" header curb or mortared brick row-lock shall divide mulches.
- Landscape areas shall be maintained such that 50% of the yard (not including driveway) remains permeable to rainfall. Non-permeable surfaces include (but are not limited to) concrete, mortared flagstone, mortared brick, and stabilized screenings.
- A combination of flowering and evergreen plants is recommended, for year-round interest.
- Variation in landscape topography in the form of berms and swales is encouraged, as is placement of varied mulch sizes and inclusion of boulders. It is suggested that plant materials be located at bottom of swales for optimal water usage.
- Underground cisterns, or above-ground barrels, are recommended for rain storage.
- For home energy efficiency, a deciduous tree is recommended at the south or west face of the home.
- For homes with distinctly Italianate features, the following, additional Mediterranean plants (and plant genera) are recommended: Italian cypress (*Cupressus sempervirens*), yarrow (*Achillea*), lavender (*Lavandula*), agave (*Agave*), Santolina, *Artemisia*, *Euphorbia*, *Iris*, *Penstemon*, *Agapanthus*, rosemary (*Rosmarinus*), germander (*Teucrium*), thyme (*Thymus*), *Vinca*, *Abelia*, *Buddleja*, oleander (*Nerium*), catmint (*Nepeta*), *Photinia*, *Pittosporum*, Spanish broom (*Spartium*), lilac (*Syringa*), Aleppo pine, Italian stone pine, pinon pine, crape myrtle, European olive, English ivy, trumpet vine (*Campsis*) and *Clematis*

### **Allowable Plants**

All plants used towards the requirement shall be chosen from the Approved Tree and Plant List. Other plants may be added as additions to the required landscaping.

## **Irrigation Systems**

- All landscaping shall be regulated through the use of a timer/controller.
- Drip irrigation is recommended for all applications.
- Proper permitting shall be acquired, as per El Paso County.
- Proper backflow requirements on irrigation systems must be met.
- Irrigation systems must be installed by a State of Texas Licensed Irrigator, or a Licensed installer under the direct guidance of a Licensed Irrigator.
- "Smart" timer/controllers are recommended This includes systems which use a weather station, systems which have a satellite connection measuring evapotranspiration, and systems which employ the use of underground sensors.

## **Allowable Landscape Materials**

- All landscape areas shall receive mulch of one (or a combination) of the following types: Franklin Red gravel (or equal) - any size; pea gravel, cobble stone -- any size; river stone - any size, desert tan gravel - any size; lavender gravel - any size; grey gravel - any size, desert brown gravel - any size, camp green gravel -- any size. No white, black, or mesa red rock shall be allowed. Bark mulch or other organic mulches may be utilized in combination with other landscape mulches, though not in excess of 25% of site coverage. Gravel mulches shall be applied over water-permeable weed barrier fabric only. Absolutely no plastic weed barrier shall be allowed. Mulch must meet minimal requirement of 3'depth.
- Any additional landscape materials - mow strips, pavers, boulders, bricks, etc., shall match in general the colors of the allowed mulches listed above, as well as the approved home colors.
- Landscape strips such as those occurring near the curb and at the sides of the house shall remain free of non-pervious paving such as concrete. Non-mortared pavers only are acceptable in these areas. Alteration of parkways/landscape strips, such as the addition of pavers, shall require review by the ARC.
- Any desire for statuary, lawn art, fountains, fencing, or other architectural element desired as an addition to the front yard shall also be submitted to the ARC for review and approval.

The ARC will make available a list of the many plants that do well in the area. Selections should consider the characteristics of growth rates, deciduous or evergreens, sun or shade preferences, flowering and many other characteristics as well as disease and insect problems. Use of landscape architects or other landscape professionals is strongly recommended. The following trees are restricted and shall not be planted or allowed to grow on any lot:

- A. Cedars, salt
- B. Cottonwoods, native female
- C. Elms, Siberian (Chinese)
- D. Mulberry, fruiting
- E. Poplars, Carolina, Balm and Lombardy

**Excavation:** All excavation must be done so as to create a minimum disturbance on the site. All dirt and debris as a result of excavation must be leveled and/or removed from the site.

**Maintenance:** It is the responsibility of each homeowner to maintain their property in such a manner that adds to the overall beauty and harmony of the neighborhood. Each homeowner should take this responsibility seriously, as failure to do so can negatively impact the value of the property, surrounding properties, and the entire Subdivision.

There are many areas in and around the home that should be inspected regularly to ensure that the property is in good repair. These include (but are not limited to):

- Lawn care
- Tree and shrubbery trimming
- Landscaping
- Decks
- Fences
- Driveways and sidewalks
- Playground equipment
- Paint
- Trash container storage
- Debris and trash removal

**Deterioration:** Any time that the HOA has been made aware that a property has deteriorated to the point that it is affecting the aesthetics of the community, the Association will be asked to make an inspection of the property. If the ARC inspecting the property finds the property needs maintenance, the homeowner will be notified and told of the specific violation(s). The ARC will also inform the Board of the violation.

If the violation(s) are not corrected within a reasonable period of time (as determined by the HOA), the HOA will take action in compliance with the Declaration of Covenants.

**Coordination with Covenants:** In the event of any inconsistency or conflict between the Architectural Guidelines and the Covenants, the Covenants shall control.

**Adoption:**

These Guidelines are adopted by the ARC on this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

BY: \_\_\_\_\_  
NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_

Doc# 20120025250  
#Pages 31 #NFPages 1  
4/5/2012 9:31:21 AM  
Filed & Recorded in  
Official Records of  
El Paso County  
Delia Briones  
County Clerk  
Fees \$136.00

32 RC

I hereby certify that this instrument was filed on the date and time stamped hereon by me and was duly recorded by document number in the Official Public Records of Real Property in El Paso County.



*Delia Briones*

EL PASO COUNTY, TEXAS