

**DESIGN CONTROLS FOR
THE FAIRWAY VILLAGE SUBDIVISION**

ARTICLE I

STATEMENT OF INTENT

The goal of these Design Controls is to achieve a harmony of design within the Subdivision so that the reasonable expectations of Lot Owners regarding improvement and beautification of all property can be fulfilled for the benefit of all Lot Owners. To that end, all new houses, walls, fences, and front-yard landscaping, as well as alterations or additions thereto, within the Subdivision shall be built by a licensed contractor approved by the Design Control Committee, which approval shall not be unreasonably withheld; and the design of all new houses, walls, fences, and front-yard landscaping, as well as alterations or additions thereto, within the Subdivision shall be performed by a builder, designer, or architect approved by the Design Control Committee, which approval shall not be unreasonably withheld.

ARTICLE II

DESIGN REVIEW

No construction of a new house, walls, fences, or landscaping on any Lot in the Subdivision, and no alterations or additions of any kind thereto, shall commence without adherence to the process of approval set forth in the provisions of Article IV of the Declaration of Protective Covenants, Conditions, and Restrictions of the Fairway Village Subdivision. Lot Owners should note that, although this process of approval requires only one submittal of one complete set of plans, it is advisable and strongly recommended that a preliminary design conference be held with a representative of the Design Control Committee so that the party submitting plans can get an initial reaction to the proposed design prior to going to the expense of creating a complete set of plans. At the preliminary review stage, it is sufficient to provide

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only one copy of plans showing the conceptual design of the exterior elevations, the floor plan, and landscaping.

Drawings submitted for final review shall be in the form of one complete set and include the level of detail required for obtaining a building permit from the applicable governmental regulatory department, as well as details relating to texture and color of all exterior surfaces.

Any plans regarding landscaping shall include a site plan drawing; site contours; and details of plant materials (with indication of size), rocks or pebbles, boulders, ground cover, lawns, paths, decks or patios, swimming pool or spa, driveway, walls, fences, exterior lighting, and any other relevant features that may be applicable.

Neither the Declarant nor the Design Control Committee seeks to restrict individual preferences but does want to avoid harsh contrasts within the Subdivision and to encourage careful design so that there is harmony between buildings and their sites, and among buildings themselves. To this end, the Declarant has established a general design theme for the Subdivision that can best be described as traditional Southwest in style, featuring such exterior elements as rounded corners, viga stubs, and a tan/beige color scheme. Examples of styles and features that will not be approved include extreme contemporary styles, styles that the Committee believes bear little resemblance to traditional Southwest design, minimalist styles devoid of Southwest features, and coloration that is predominantly white or dark in tone. All houses in the Subdivision must adhere to this general design theme, the best guide to which will be the style of houses approved for the Subdivision.

ARTICLE III

FITTING THE SITE

On each Lot, the area on which a house can be built (the building pad) has been constructed during the course of the building of the Subdivision. In essence, the building pad for each Lot is the entire Lot less a front setback of 20 feet, a rear setback of 10 feet, and a

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south side setback of 14 feet. Lot Owners should take particular note that the Subdivision has been designed for each and every house to be a zero-lot-line patio home, with the north side of each house being positioned on the north lot line of each Lot.

ARTICLE IV
BUILDING DESIGN

1. Size. The minimum and maximum sizes of the living area of a house within the Sub-division (exclusive of basements, attics, carports, garages, and open courtyards and porches) shall be as follows: for a one-story house, a minimum of one thousand two hundred square feet, and a maximum of one thousand nine hundred square feet; for a two-story house, a minimum of one thousand seven hundred square feet, and a maximum of two thousand seven hundred square feet, with at least fifty percent of the total square footage of any two-story house being allocated to the first story.

2. Setbacks. The setbacks for each Lot within the Subdivision shall be as required by the Las Cruces Extra-territorial Zoning ordinances or other governmental regulations, as modified by any variances applied for and granted to the Declarant.

3. Height. All houses on the east side of the private drive through the Subdivision shall be limited to one story, with the maximum height, as measured from the finished floor slab, being fourteen feet for approximately two-thirds of the roof area and seventeen feet for approximately one-third of the roof area. All houses on the west side of the private drive through the Subdivision shall be limited to two stories, with the maximum height, as measured from the finished floor slab, being twenty-nine feet. The finished floor slab shall be constructed within 6 inches of the elevation of the building pad as built at the completion of the Subdivision infrastructure. For the purpose of measuring maximum height, a roof will be measured to the top of parapets. Flues and chimneys shall not be permitted to extend more than two feet above the maximum height.

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4. Parapets. Parapets must extend a minimum of one foot above any point in the adjoining truss system.

5. North Building Elevation. Because the north side of each house in the Subdivision will overlook the side and rear yard area of the Lot directly to the north, windows—with the exception of clerestory windows and windows with translucent glass—should be minimized on the north building elevation of each house, and no door shall be permitted on the north side of any house.

6. Roofs. Because of the zero-lot-line design, no pitched roofs shall be permitted within the Subdivision except for such accent areas as entrances, and only if no water from such areas drains onto an adjacent Lot. Moreover, no water from any roof shall be permitted to drain onto an adjacent Lot but must be directed entirely onto the Lot containing the house.

7. Cooling and/or Heating Units. Cooling and/or heating unit(s) shall be permitted on the rooftop of a house within the Subdivision only where effective screening by parapets or other means largely hides the view of such unit(s) from the Lots of the Subdivision. The location of the unit(s) on the rooftop and the proposed method of screening must be clearly depicted on the construction drawings submitted to the Design Control Committee.

8. Period of Construction. All construction and alteration work shall be prosecuted diligently. Any building of a new house on any Lot within the Subdivision shall be entirely completed within six months after commencement of construction. Any alterations or additions to an existing house on any Lot within the Subdivision shall be entirely completed within four months after commencement of construction.

9. Towers and Antennae. Pursuant to Federal Communications Commission rules adopted as directed by Congress in the Telecommunications Act of 1996, the Design Control Committee cannot unreasonably delay, prevent, or increase the cost of a Lot Owner's ability to receive video programming signals. However, since the Design Control Committee does have the authority to minimize the visual impact of equipment used to receive video programming signals, the Committee has adopted the following guidelines for the Subdivision: none of the

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aforementioned equipment shall be installed within the front yard (that is, the street-side yard) of any house; no satellite dish more than one meter in diameter shall be installed anywhere in the Subdivision; all houses shall be equipped with conduit for the purpose of directing the installation of a satellite dish or an antenna to the least obtrusive—yet still effective—location on the roof of a house; and all houses shall also be equipped with conduit for the purpose of directing the installation of a satellite dish to an unobtrusive—yet effective—location in the back yard of a house, this being the preferred location for such installation in the view of the Committee.

Ham radio antennas and towers, as well as any other antennas and towers that are not covered by the FCC rules cited above, shall not be installed anywhere in the Subdivision.

10. Outbuildings and Temporary Structures. No used or previously erected or temporary house, structure, house trailer, or permanent or nonpermanent outbuilding shall ever be placed, erected, or allowed to remain on any Lot, except during construction periods and only then with written approval of the Design Control Committee. No building shall be occupied in any manner prior to its completion.

11. Exterior Lighting. A front-yard exterior light fixture shall be installed for every residence in the Subdivision at the time of construction of each residence. It shall be the responsibility of the Owner of each Lot to maintain said fixture. Use of other than white or pale white exterior lights shall be allowed only with specific approval of the Committee. Holiday lighting during the Christmas season shall be allowed only from November 22nd through January 3rd and only in moderation. The Design Control Committee shall be the sole arbiter in deciding whether or not holiday lighting is excessive.

12. Utilities. All secondary utility extensions (from trunk lines to individual structures) must be underground.

13. Solar Panels. No roof-mounted solar panels or ground-mounted solar panels shall be permitted in the Subdivision.

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14. Driveways. All driveways in the Subdivision shall be concrete unless a specific variance is granted by the Design Control Committee for a driveway to be built with stone or brick pavers. Colored concrete shall be used in a driveway only with the specific approval of the Design Control Committee regarding the color to be used.

ARTICLE V

LANDSCAPING AND WALLS/FENCES

In order to achieve an attractive and harmonious appearance of landscaping throughout the Subdivision, use of plants native to the region is required. The use of exotic plants foreign to the region, except those proven over time as viable and appropriate, shall not be permitted. Scale, selection, and placement of plants and landscaping materials should be such that one senses the plants and materials have been integrated with the overall design theme of the Subdivision rather than contrast with or overpower it. In particular, because of the zero-lot-line design of the Subdivision, no tree or shrub shall be planted close enough to the south property of a Lot in a manner that is likely to cause damage to the zero-lot-line wall of the house on the Lot to the south. Furthermore, no Lot shall contain any tree or shrub that, upon reaching maturity, is likely to obstruct the views from any other Lot(s). Any Owner of a Lot who believes his view is being obstructed by a tree or shrub on another Lot can bring the matter to the attention of the Design Control Committee, which has the authority to require the Owner of the Lot containing the tree or shrub to trim it to eliminate the obstruction. In addition, the landscaping of each Lot shall be substantially completed prior to first occupancy of a house on each Lot.

In order for the Owner of each Lot to be able to enjoy a private outdoor space, and to establish a consistency of design throughout the Subdivision, a privacy wall or fence constructed of masonry, frame/stucco, or acceptable metal materials shall be built to a maximum height of three and one-half feet along the rear property line of each Lot and to a maximum of five and one-half feet along the side property lines of each Lot up to the front of each house,

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except for a transition area along the side property lines of each Lot within twenty feet of the rear property line, in which area the maximum height of the solid portion of any such wall or fence shall be four feet. All walls or fences shall be completed prior to first occupancy of a house on each Lot.

It is the specific responsibility of the Owner of each Lot to landscape and otherwise manage the terrain of his Lot to prevent damaging runoff onto neighboring properties, including any part of the Common Areas and the Right-of-Way. Any soil or debris from an Owner's Lot that runs onto any part of the Common Areas or the Right-of-Way shall be promptly cleaned up by the Owner of the Lot from which the soil or debris originated. In the event of a dispute regarding the point of origin of soil or debris that has run onto any part of the Common Areas or the Right-of-Way, the Design Control Committee shall be the sole arbiter to determine the point of origin and the responsible party or parties.

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