

Amendment Number 2 (DESIGN CONTROLS)

**DESIGN CONTROLS FOR
THE PUEBLOS AT ALAMEDA RANCH PLANNED UNIT DEVELOPMENT**

ARTICLE I

STATEMENT OF INTENT

The goal of these Design Controls is to achieve a harmony of design within the residential areas of The Pueblos at Alameda Ranch Planned Unit Development ("PUD"), set out on the plats at Exhibit A annexed hereto and incorporated herein by this reference, 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, the construction of all houses and walls, as well as alterations and additions thereto, within the PUD shall be performed by a properly licensed contractor (or licensed subcontractor thereof).

ARTICLE II

DESIGN REVIEW

No construction of a new house, walls, or landscaping on any Lot in the PUD, 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 Pueblos at Alameda Ranch Planned Unit Development ("Declaration"). (1) Lot Owners should note that this process of approval requires the submittal of two complete sets of plans to the Design Control Committee. (2) Construction plans shall be in the form of two complete sets and shall include the level of detail required for obtaining a

building permit from the applicable governmental regulatory department, as well as details relating to texture, color, and special design features of all exterior surfaces. (3) Two sets of landscaping plans shall be submitted not later than 90 days after the submission of construction plans and shall include the following: a site plan drawing; site contours; and details of plant materials (with indication of size and quantity), rocks or pebbles, boulders, ground cover, lawns, paths, decks, patios, swimming pool, spa, driveway, walls, fences, flagpoles, clotheslines, playground equipment, exterior lighting, outdoor sculpture or other art, and any other relevant features that may be applicable, none of which shall be added to the Lot at any time without the written approval of the Design Control Committee. For the purpose of providing guidance to Owners regarding the type and level of landscaping required in the PUD, a list of approved plants, and sample landscaping plans that the Owners shall emulate in the creation of landscaping plans for their Lots is attached hereto and these documents appear as Exhibit B annexed hereto and incorporated herein by this reference.

The Design Control Committee does not seek to restrict individual preferences but does seek to avoid harsh contrasts within the PUD and to encourage careful design so that harmony exists between buildings and their sites, and among buildings themselves, so that the overall effect of the architecture of the houses in the PUD combined with the design of the PUD, is the creation of an outstanding, visually attractive neighborhood. To this end, a general design theme for the PUD has been established that can best be described as a blend of Pueblo, Mission, and traditional Southwest styles, featuring such exterior elements as multiple height levels for parapets and roofs, rounded corners, window-surround detailing, viga stubs, columns, corbels, ramadas, breezeways, porte-cochères, side-entry garages, terra-cotta tile, and a general sense of a hand-crafted design. For the purpose of providing guidance to Owners regarding the styles that

shall be permitted and the level of design detail that shall be the goal of every house plan for the PUD, attached hereto are three elevation sketches for the PUD that Owners shall emulate in the creation of elevation designs for the houses on their Lots; these three elevation sketches appear as Exhibit C annexed hereto and incorporated herein by this reference. Each party submitting plans to the Committee for approval shall have the responsibility of communicating to the Committee how his plans fit into the design theme for the PUD. Examples of styles and features that shall 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 or glaringly contrasting in its context.

ARTICLE III

FITTING THE SITE

On each Lot, the area on which a house can be located (the building pad) has been built during the course of the construction of the PUD. Unless a setback variance is approved by the Design Control Committee or an amendment to the PUD has been granted, the site plan submitted for approval of the building pad of each single-family Lot shall depict the front, rear and side setbacks that are set forth on the recorded plat for the PUD, the recorded replats for the PUD or the amendments to the PUD, whichever is applicable. Owners should take particular note that the PUD has been designed for the vast majority of houses to be zero-lot-line patio homes. Owners shall refer to the construction plans for the PUD and confirm with the Design Control Committee what side setbacks and variances apply to a particular Lot. For townhouse Lots, the site plan submitted for approval shall depict the locations of all attached and detached houses proposed for the Lot, the setbacks for which are indicated on the recorded plat for the

PUD, recorded replats for the PUD, or amendments to the PUD.

ARTICLE IV

BUILDING DESIGN

1. Size. The minimum and maximum sizes of the living area of a house within the PUD (exclusive of basements, attics, carports, garages, open courtyards, porches, and similar structures) shall be as follows: for a single-family house, a minimum of one thousand six hundred square feet, and a maximum of three thousand five hundred square feet; for a house on a townhouse Lot, a minimum of seven hundred square feet, and a maximum of two thousand six hundred square feet, with at least fifty percent of the total square footage of any two-story house on a townhouse Lot being allocated to the first story.

2. Number of Stories. A detached single-family house shall be limited to a single story and shall not be permitted to include any kind of deck, patio, porch, or similar feature on any part of the roof. A house on a townhouse Lot shall be limited to two stories and shall not be permitted to include any kind of deck, patio, porch, or similar feature on any part of the second-story roof.

3. Height. A single-family house shall have a maximum height, as measured from the finished floor slab, of 22 feet. A house on a townhouse Lot shall have a maximum height, as measured from the finished floor slab, of 32 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 PUD infrastructure. For the purpose of measuring maximum height, a roof will be measured to the top of parapets or to the peak of a pitched roof. Flues and chimneys shall not be permitted to extend more than three feet above the maximum height and shall be painted to match the color of the exterior of the house.

4. Parapets and Roofs. Parapets shall extend a minimum of eighteen inches above any point in the adjoining truss system. Roof vents and penetrations shall be grouped and screened to minimize their visual impact. Pitched roofs shall be covered with clay or cement tiles, the color and shape of which shall be subject to the approval of the Design Control Committee.

5. Zero-Lot-Line Elevation. Because the zero-lot-line side of each house so designed shall overlook the side and rear yard areas of the Lot adjoining the zero-lot-line side, no windows (with the exception of clerestory windows at least 8 feet above finished floor, and fixed windows with translucent glass); no doors; no utility meters, service boxes, wires, or cables; and no plumbing vents, dryer vents, or other penetrations shall be permitted on the zero-lot-line building elevation of a house, except in stepped-back sections as indicated below in this paragraph; nor shall water from the roof of any house be permitted to drain onto an adjacent Lot but must instead be directed entirely onto the Lot containing the house. For a Lot with its designated zero-lot-line side bordering a part of the Common Areas, a homebuilder has the option of positioning all or part of the typical zero-lot-line side of the house three feet off the lot line and thereby gaining the opportunity to include operable windows along the portion of the house so offset. Moreover, for any Lot with a zero-lot-line side, a homebuilder has the option to build a minimum of 25 feet of the structure on the zero-lot-line side and then step the house back from the zero-lot-line a minimum of 5 feet so that rooms located in the stepped-back portion can achieve egress on that side of the house.

6. HVAC Units. HVAC units shall not be permitted on the roofs of single-family homes in the PUD. The preferred location of the HVAC units is a fenced, walled, or otherwise screened from street view enclosure along the rear of a house or toward the rear of the side yard

of a house. The location of HVAC units and the method of screening them shall be depicted on the construction drawings submitted to the Committee; or, in the absence of such detail, construction drawings shall not be accepted for review.

HVAC units shall be permitted on the roofs of houses on townhouse Lots in the PUD but only where effective screening by parapets or other means largely screens the units from view. Both the location of the units on the roofs and the proposed method of screening shall be clearly depicted on the construction drawings submitted to the Committee; or in the absence of such detail, construction drawings shall not be accepted for review. The method preferred by the Committee for screening is the use of parapets of varying heights, designed so that it does not appear that the purpose of the parapets is to screen the units that they are in fact designed to screen.

7. Alterations and Additions. All construction and alteration work shall be prosecuted diligently. Any initial construction, alterations or additions to a house on any Lot within the PUD shall be entirely completed within eight months after commencement of construction.

8. Towers and Antenna. Pursuant to Federal Communications Commission ("FCC") rules adopted as directed by Congress in the Telecommunications Act of 1996 and thereafter, the Design Control Committee cannot unreasonable delay, prevent, or increase the cost of the ability of an Owner 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 PUD: none of the aforementioned equipment, as well as equipment to receive high-speed internet or other signals, shall be installed within the front yard (that is, any street-side yard) of

any house; no satellite dish more than 40 inches in diameter shall be installed anywhere in the PUD; no antenna shall extend more than one foot above the roof of a house; 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 the location of this conduit shall be depicted on the construction drawings submitted to the Committee; or, in the absence of such detail, construction drawings shall not be accepted for review); and all houses are also recommended to be equipped with conduit for the purpose of directing the installation of a satellite dish to an unobtrusive, yet effective, location in the rear yard of a house, this being the preferred location of the Committee for such installation.

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 PUD.

9. Utility Meters, Utility Boxes, and Wires. All exterior electric meters, electric disconnect controls, and electric service boxes shall be positioned in accordance with current City of Las Cruces, New Mexico codes and the requirements of the electric service provider and shall be positioned to make them as unobtrusive as possible as determined by the Design Control Committee. Gas meters, telephone service boxes, telephone hubs, cable TV service boxes, cable TV hubs, and all wiring and cabling associated with electric, telephone, cable TV, home security, and similar uses or with other utilities that may serve houses in the PUD shall be positioned completely behind a courtyard wall or similar wall of a house so that all such utility apparatus is screened from the Common Areas and from other Lots in the PUD, and under no circumstances shall any wiring or cabling associated with these utilities be installed in such a way that it is exposed or is located in visible conduit so that the wiring, cabling, or conduit can be seen from the Common Areas or from other Lots in the PUD. The location of such utility

apparatus and the method of screening it shall be depicted on the construction drawings submitted to the Design Control Committee; or, in the absence of such detail, construction drawings shall not be accepted for review.

10. Outbuildings and Temporary Structures. Except as otherwise provided in Declaration Article V, Section 13, no used, 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 or front-elevation exterior light fixture shall be installed for every house in the PUD at the time of construction of each house. The Owner of each Lot shall be responsible for maintaining said fixture. Use of other than white or pale white exterior lights shall be allowed only with specific approval of the Design Control 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. Any security lighting on any house or Lot in the PUD shall be designed, installed, and operated so that it is unobtrusive. The Committee shall be the sole arbiter in deciding whether or not security lighting is unobtrusive. Lighting shall comply with the Ordinances of the City of Las Cruces, New Mexico.

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

13. Solar Panels. Solar panels shall be permitted for installation on the roof of houses in the PUD. To insure that the installation is minimally intrusive to neighbors and the

aesthetic character of the subdivision, Owners of Lots shall submit their plans to the Design Control Committee for consideration and approval. Plans shall include sufficient detail to show installed height, location on the roof, and number and size of panels for the committee to assess the visual impact of the installation. The following guidelines are established for planning and installation of solar panels: Owners of Lots shall locate panels toward the center of the lower roof elevations (for multi-elevation roofs) so that the panels do not extend more than 30 inches above the parapets. It is recognized that each installation will differ and will face unique design challenges to be both efficient and to minimize its visual impact to neighbors and the larger subdivision.

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

15. Garages. No garage doors in any house in the PUD shall be more than nine feet in height. With the exception of being left slightly open for ventilation (not to exceed thirty-six inches), all garage doors shall be shut when not in use.

16. Front Courtyard Walls. Each single-family house in the PUD shall include a front courtyard wall that serves to enclose the side yard on the front side. The design of this wall, which shall be detailed in the same style and material as the house, and which shall be of a height sufficient to screen the utility apparatus referred to in Paragraph 9 of this Article, shall be included on the construction drawing submitted to the Design Control Committee; or, in the absence of such detail, construction drawings shall not be accepted for review.

ARTICLE V

LANDSCAPING AND WALLS/FENCES

In order to achieve an attractive and harmonious appearance of landscaping throughout the PUD, use of plants native to the region shall be 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 PUD rather than contrast with or overpower it. In particular, because of the zero-lot-line design of the PUD, no tree or shrub shall be planted close enough to the zero-lot-line elevation of the neighboring house so that it is likely to cause damage to the zero-lot-line elevation of the neighboring house. In addition, the front yard landscaping of each Lot shall be completed prior to first occupancy of a house on each Lot, unless the house is to be occupied during the months of November through February and the Owner of the Lot has obtained a written waiver from the Design Control Committee for occupancy of the house before completion of front yard landscaping; if the Owner of the Lot fails to abide by this provision, he shall be subject to the payment of liquidated damages in the amount of two hundred dollars (\$200.00).

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 PUD in accordance with Article V, Section 19 of the Declaration, privacy walls constructed of rock shall be built as follows: First, the Owner of the Lot shall build a four-foot high wall along the rear property line of each Lot and along the secondary front property line of each corner Lot. Second, the Association shall build a wall in a limited number of other locations where it decides that a wall is required for design continuity. Third, the Owner of each Lot shall build a wall along the zero-lot-line side property line of each Lot, entirely on that Lot, extending from the wall on the rear property line to the front of the

house, excluding the points occupied by the house on the zero-lot-line; and the height of this wall shall be greater of six feet as measured from the zero-lot-line side or four feet as measured from the elevation of the adjoining Lot, except for a transition area within ten feet of the rear property line, in which area the height of the side wall shall be adjusted in order to achieve an attractive transition with the rear wall. All walls shall be completed prior to first occupancy of a house on each Lot. The design of the rear and side walls appears as Exhibit D annexed hereto and incorporated herein by this reference. Any alteration to rear or side walls shall be subject to the approval of the Design Control Committee.

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 (Declaration Article IV, Section 4). Any soil or debris from an Owner's Lot that runs onto neighboring properties, including any part of the Common Areas, 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 neighboring properties, including any part of the Common Areas, the Design Control Committee shall be the sole arbiter to determine the point of origin and the responsible party, and it has the sole discretion whether to refer such disputes to the Board of Directors for enforcement action pursuant to the provisions of Article IV, Section 3 of the Declaration.

DESIGN GUIDELINES FOR FRONT LANDSCAPING

Landscaping and automatic irrigation is required on all lots from the front courtyard wall or dwelling entrance, to the curb or sidewalk.

Landscape Plans.

Owners or Builders shall submit a landscape plan, with irrigation annotations, to the Design Review Committee for approval. Plans must be rendered to scale using one of the following methods: Architects' Scale of 1/4", 3/16", 1/8", 3/32", or 1/16"=1'.

Engineers' Scale of 1"=10' or 1"=20'.

Irrigation Plans.

No irrigation plans are required; however, irrigation annotations are required on the landscape plan, specifically identifying the location of the backflow device and the irrigation controller. No exposed backflow preventer devices nor controllers will be allowed within sight of the street. Decorative enclosures (see Architectural Elements below) are allowed, provided they are not the rectangular, pre-manufactured enclosures commonly referred to as "hot boxes."

Landscape Themes and Styles.

A Xeriscape theme and informal style is highly encouraged. However, the design goal should be to integrate the dwelling's different architectural elements with the surrounding landscape. An Approved Plant List and Examples of Recommended Landscape Models are included with Design Guidelines.

Elevation Changes.

Grading and sculpting (by way of terracing, swaling and berming) plays an important aesthetic role and is essential in tying the house to the surroundings.

Architectural Elements.

Skillful use of boulders, low-voltage or solar landscape lighting (no plastic fixtures are allowed) and water features, such as waterfalls and freestanding fountains, are encouraged. No railroad ties, scalloped edging (or similar edging products), nor plastic edging are permitted. Decorative enclosure rocks, such as those manufactured and sold by Dekorra Replicated Rock (www.dekorraproducts.com) are allowed in instances where the backflow enclosure needs to be concealed.

Aggregates and Ground Cover.

No lawns (organic nor synthetic), ground cover vines, ground cover ivy, wildflower meadows, nor prairie grass blends are allowed in front landscapes. Cultivated areas for vegetable and herb gardens will not be allowed either. Under no circumstances shall bare soil be left exposed and unimproved. No gray (presently known as Antique Screenings, Chat, 1/4" Minus and Natural Rock Fines) crusher fines are permitted. No Crystal White Rock, Synthetic Bagged Rock, Volcanic Cinders, Organic Bark Mulches, Pecan Shells and Shredded Bark (when used as ground cover; acceptable when used as soil amendments) are permitted. Acceptable aggregates are Rose Crusher Fines and Rock (aka Franklin Red), Sierra Brown Crusher Fines and Rock (aka Desert Gold), Mesa Red Crusher Fines and Rock, Tan Crusher Fines and Rock (aka Desert Tan).

Arroyo Rock, Cobblestone, Salt River Rock, Riverstone and McNutt Rock are allowed, but not in quantities greater than 33% of the front landscaped area. All aggregates sold in grades of 3/8" or greater, require a porous underlayment (aka as weed mat). No plastic underlayment will be approved.

Plant Material.

All plant material must conform to the standards set forth in the *American Standard for Nursery Stock* found at www.anla.org (American Nursery & Landscape Association, 2004). Caliper measurements of tree trunks shall be taken six inches above the soil line.

Trees: Two (2) 24" box or 25 gallon equivalent, single or multi-trunk tree are required per front yard. Minimum size at time of planting must be 2" caliper. In the case of multi-trunk trees, the caliper shall be interpreted to be equal to one-half of the total caliper of up to the three of the largest trunks. For instance, if the caliper of three of the largest trunks totals four inches, the tree meets the minimum requirement of two inches. Bare-root or balled-in-burlap palm trees must have a minimum trunk height (after planting) of six feet. Clump or bush-type palms (such as Mediterranean Fan Palm) will meet the minimum standard by container size specified above.

Shrubs: A minimum of six (6) 15 gallon plants and six (6) 5 gallon plants (deciduous shrubs, canes, broadleaf evergreens, coniferous evergreens, palms, succulents, cacti or ornamental grasses are required per front yard.

Ground Cover: A minimum of fifteen (15) 1 gallon plants (perennials, biennials, ornamental grasses, corms, tubers, bulbs, succulents and cacti) are required per front yard.