

AMENDED AND RESTATED
DECLARATION OF
PROTECTIVE COVENANTS, CONDITIONS
AND RESTRICTIONS OF
THE FAIRWAY VILLAGE SUBDIVISION

WHEREAS, Bright View Land Company (as “Declarant”) caused a Declaration of Protective Covenants, Conditions and Restrictions (the “Covenants”) to be recorded in Book 348 at pages 353-369 of the records Dona Ana County, New Mexico;

WHEREAS, Covenants were amended by the Amendments to Protective Covenants, Conditions and Restrictions of the Fairway Village Subdivision (the “First Amendment”) which were filed of record on March 23, 2009, as Instrument #0907599 in the Records of Dona Ana County, New Mexico;

WHEREAS, certain amendments to the Covenants (the “Second Amendment”) were adopted by a two-thirds majority vote of the members present at a meeting of the Fairway Village Neighborhood Council on October 18, 2009, at which a quorum was present; and

WHEREAS, the Board of Directors of Fairway Village Neighborhood Council, Inc. (the “Council”) desires to set forth herein the entire Covenants, including the First Amendment and the Second Amendment

NOW, THEREFORE, the Board of Directors of the Fairway Village Neighborhood Council, Inc. hereby restates the Covenants as amended by the First Amendment and the Second Amendment:

ARTICLE I

PURPOSE OF COVENANTS

1. General Requirements. It is the intent, duly expressed in this instrument, that the lands within the Fairway Village Subdivision be developed and maintained as a highly desirable residential area. It is the purpose of these covenants that both the natural and the man-made beauty of the Fairway Village Subdivision shall always be protected and preserved insofar as is possible in connection with the uses and structures permitted by this instrument. It is of primary intent that the privacy and views of each home site in the Subdivision shall be protected insofar as is possible.

ARTICLE II

DEFINITIONS

1. Lot or Lots shall mean and refer to one or more of the 67 individually numbered lots shown on the plat of the Fairway Village Subdivision.

2. Subdivision shall mean and refer to the Fairway Village Subdivision.

3. Common Areas shall mean and refer to all of the land within the Subdivision with the exception of the Lots; Common Areas include the private drive, the entry gates, the activity path, the park, the lift station, the drainage ponds, and the drainage channels, all of which exist for the mutual benefit of the Owners of Lots in the Subdivision.

4. Right-of-Way shall mean and refer to both the paved and unpaved portions of the private drive located in the front of each Lot.

5. Committees shall mean and refer to the Design Control and Nominating Committees of the Council.

ARTICLE III

THE FAIRWAY VILLAGE NEIGHBORHOOD COUNCIL, INC.

1. Membership in the Fairway Village Neighborhood Council. All persons or other parties who own or acquire any of the Lots in the Fairway Village Subdivision, by whatever means acquired, shall be considered to be Owners and shall automatically become Members of the Fairway Village Neighborhood Council, Inc. in accordance with the Articles of Incorporation and the Bylaws of the Council, and as the same may be duly amended from time to time and filed or recorded in the Doña Ana County records.

2. Duties. The responsibility for maintaining, repairing or replacing the Common Areas resides with the Fairway Village Neighborhood Council, including the levying of any assessments necessary for their maintenance and repair.

3. Covenant for Maintenance Assessments. Each Owner of any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Fairway Village Neighborhood Council annual assessments or charges established by the Council in accordance with Paragraph 4 of this Article. The assessments levied by the Council upon the Lots shall be used exclusively for the purpose of maintaining and repairing the Common Areas referred to in Paragraph 1 of this Article shall include but not be limited to the cost of labor, equipment, materials, and supervision necessary for the task. The Board of Directors may allocate a portion of the annual assessment to a reserve for maintenance, repair or replacement of the Common Areas or for unforeseen expenses.

4. Annual Assessments. The Board of Directors of the Fairway Village Neighborhood Council shall fix the annual assessment within said range as it deems necessary at its discretion. From and after January 1, 2006, the minimum or maximum annual assessment

may be decreased or increased by up to ten percent annually by the assent of two-thirds of the voting Members who are voting in person or by proxy at a Council Meeting. The 2008 Annual Assessment of \$321.00 is the baseline for future assessments.

5. Special Assessments. The Fairway Village Neighborhood Council may adapt a Special Assessment for specific projects. The proposal for a Special Assessment shall state the scope of the project, itemize the costs of the project and set a timeline for completion of the project. Approval of a Special Assessment shall require an affirmative vote of two-thirds (2/3rds) of the Members of the Fairway Village Neighborhood Council.

ARTICLE IV

DESIGN CONTROL

1. Design Guidelines. Design controls for the Fairway Village Subdivision are appended to these Covenants as Appendix A and are a part hereof; and the Design Controls shall be followed by all Owners of Lots within the Subdivision. In order to achieve a harmony of design within the Subdivision so that the reasonable expectations of Owners regarding improvement and beautification of all property can be fulfilled for the benefit of all Owners, the design of all houses, walls, fences, and front-yard landscaping, as well as additions and alterations 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, and such design shall be in accordance with the Design Controls for the Subdivision.

2. Appointment Duties. The Board of Directors of the Council shall appoint from two to five persons to serve as the Design Control Committee for the Subdivision. The Design Control Committee shall have the duty and the power by the exercise of its best judgment to see that any construction on any Lot conforms to and harmonizes with the design theme of the

Subdivision and abides by the Design Controls.

3. Approval of Plans by the Design Control Committee. No improvements of any kind, including but not limited to the houses, sheds, outbuildings, swimming pools, parking areas, fences, walls, garages, storage structures, patios, decks, carports, driveways, antennae, flagpoles, curbs and walks, solar energy systems, or additions thereto, shall be constructed or installed upon any lands within Fairway Village Subdivision, nor may landscaping be performed on any Lot, unless one complete set of plans for such construction or landscaping are submitted to the Design Control Committee and unless the plans are approved in writing by the Design Control Committee prior to the commencement of such work. In the event that the Design Control Committee fails to take any action within fifteen days after complete plans for such work have been submitted to it and a signed receipt issued, then all of such submitted plans shall be deemed to be approved. All submissions, approvals, and/or rejections shall be submitted in writing, shall be dated, and shall be signed for as proof of receipt. In the event that the Design Control Standing Committee rejects any plans, the Committee is required to state the reason(s) for rejection. Upon resubmittal of plans, the Committee must respond within ten days.

Application to Doña Ana County for a Building Permit shall not be made prior to approval of plans by the Design Control Committee. The Design Control Committee shall reject any plans submitted to it that are not sufficient for it to exercise the judgment required of it by these Covenants.

The Design Control Committee shall monitor all construction within the Subdivision to help see to it that trash and debris are disposed of properly and that no damage is done to the Common Areas or neighboring Lots during construction; and to this end the Committee shall, at the time of its approval of plans for construction on a Lot, collect a damage deposit of \$250.00 to

be used by the Committee at its sole discretion for clean up and/or repair made necessary by any construction. This deposit shall be held by the Committee and returned to the Owner of the Lot upon completion of construction, less any sums expended by the Committee for the clean up and/or repair referenced herein. In the event that the deposit is not sufficient to cover the cost of the clean up and/or repair, the Committee can require an additional damage deposit; or the Board of Directors of the Fairway Village Neighborhood Council may charge the balance of the cost of the clean up and/or repair to the Owner of the Lot as a special assessment against the Lot, to be collected in the manner of other assessments as provided in the Bylaws of the Fairway Village Neighborhood Council and by any rules and regulations passed by the Council. The Design Control Committee urges each Lot Owner to require contractors working for the Owner to control trash and debris during periods of construction. Specifically, the Covenants require that a trash dumpster and a portable toilet be located on each Lot –and not in the Common Areas or Right-of-Way – during the construction of a house on the Lot. Furthermore, these Covenants strictly forbid the following practices: unloading or storing construction materials, including plants or landscaping materials of any kind, within any part of the Common Areas, including the private drive, or on a neighboring Lot; rinsing of concrete trucks anywhere in the Subdivision except on the Lot to which the delivery has been made; and parking on any Lot without permission of the Owner of the Lot.

4. Design Control Committee Not Liable. The Design Control Committee shall not be liable for damages to any person(s) or party submitting any plans for approval, or to any Owner(s) of a Lot within the Fairway Village Subdivision, by reason of any action, failure to act, approval, rejection, or failure to approve or reject, with regard to such plans. Any person(s) or party acquiring title to any Lot in the Fairway Village Subdivision, or any person(s) or party

submitting plans to the Design Control Committee for approval, by so doing, does agree and covenant that he will not bring any action or suit to recover damages against the Design Control Committee, its members as individuals, or its advisors, employees, or agents.-

5. Written Record. The Design Control Committee shall keep and safeguard for at least four years complete permanent written records of all applications for approval (including one set of all plans so submitted) and of all actions of approval or rejection and all other actions taken under the provisions of this instrument.

ARTICLE V

GENERAL RESTRICTIONS

1. Zoning Regulations. No lands within the Fairway Village Subdivision shall be occupied or used for any purpose or in any manner that is contrary to the applicable zoning regulations, validly in force from time to time, except as the same may be allowed under said regulations as a non-conforming issue.

2. No Mining, Drilling, or Quarrying. No mining, quarrying, tunneling, excavating, or drilling for any substances within the earth, including oil, gas, minerals, gravel, sand, rock, and earth, shall ever be permitted within the limits of the Fairway Village Subdivision.

3... Signs. With the exception of Subdivision identification signs at the entry road and the entry gates, the Information Bulletin Board at the south entrance, Walking Path, and two “For Sale” signs (not to be larger than 48 x 48 inches) per Lot, no advertising signs or billboards shall be permitted to remain on any Lot in the Fairway Village Subdivision.

4. Unsightly objects. Unsightly objects or nuisances, as determined by the Design Control Committee, which are visible from the road and/or from side yards of neighbors, shall

not be erected or permitted to remain on any Lot in the Fairway Village Subdivision. Trash barrels are not to be left in places visible from the street and are allowed on the street only on the night before and day of trash collection.

5. No Resubdivision. No Lot described on the recorded plat of the Fairway Village Subdivision shall ever be resubdivided into smaller tracts or lots nor conveyed or encumbered in any less than the full original dimensions as shown on the recorded plat of the Fairway Village Subdivision, except that conveyances or dedications of utilities may be made for less than all of one Lot.

6. Trash. Each Owner of any Lot shall have the responsibility to remove all weeds and trash from his Lot in the Fairway Village Subdivision and shall not be allowed to burn weeds or trash thereon. In the event that weeds or trash accumulates on any Lot, the Design Control Standing Committee shall have the authority and responsibility to clean up the Lot and charge the Owner up to \$200 per clean-up. If said charge is not paid within thirty days, the Design Control Standing Committee has the authority to file a lien against any Lot that has failed to pay said charge. Trash barrels should not be left in places visible to the street but stored or kept in garages or behind gates, except for the evening before or the day on which the trash is collected.

7. Public Nuisance. No obnoxious or offensive activity shall be carried on within the Fairway Village Subdivision, nor shall anything be permitted that shall constitute a public nuisance thereon.

8. Hunting. There shall be no hunting of any animals within the boundaries of the Fairway Village Subdivision, nor shall there be any discharge of firearms.

9. Maintenance of Right-of-Way. Each Lot owner shall be responsible for maintaining the unpaved portion of the Right-of-Way contiguous with the Owner's Lot. This

area will be maintained as if it were a part of the Owner's Lot. Upon failure of the Owner to maintain this area, the Board of Directors of the Fairway Village Neighborhood Council may, at its discretion, after giving the Owner thirty days written notice, have the area maintained. The cost of this maintenance may be charged to the Lot Owner as a special assessment against the property by the Fairway Village Neighborhood Council.

10. Sidewalks. There will be no sidewalks running parallel with the private drive within the Fairway Village Subdivision.

11. On-Street Parking. The combined area of the garage(s) and driveway of each house in the Subdivision shall be sufficient to accommodate at least four motor vehicles. There shall be no overnight on-street parking of any motor vehicle, trailer, or the like, nor shall any motor vehicle, trailer or the like ever be parked within the Common Areas. Short-term (up to five hours) on-street guest parking shall be allowed, but not on a regular basis, and only if no other motor vehicle(s) is parked on the opposite side of the Right-of-Way within 200 feet. The purpose of this provision is to ensure safe and convenient passage of motor vehicle traffic, emergency vehicles and pedestrians on the Right-of-Way.

12. Animals. The keeping of ordinary household pets shall be permitted in the Subdivision. When off the Owner's Lot, such pets must be kept on a leash and shall not be permitted to run at large. In addition, dogs shall not be permitted to bark outside to the extent that an average person would find annoying. The Fairway Village Neighborhood Council may enforce this provision by whatever means may be legally available to it. All Owners exercising their pets must clean up after them and dispose of the waste in their own trash container.

13. Garage Sales. There shall be no outside sales of any kind commonly known as garage sales anywhere in the Subdivision, except for those directly involving the sale of Real Estate.

14. Easements Reserved. Perpetual easements on the Common Areas for constructing, maintaining, operating, replacing, enlarging, and repairing electric, telephone, cable TV, water irrigation, sewer, gas, and similar lines, pipes, wires, poles, ditches and conduits have been reserved. The Council may convey or grant by license, lease, deed, lien, deed of trust, mortgage, or otherwise any right, title, or interest in or to any and all easements and reservations contained within documents of conveyance, these Covenants, or the plat of the Fairway Village Subdivision to public utilities and governmental entities as may be reasonably necessary to effect the developmental and residential intentions as set forth in the plat and these Covenants.

15. Shared Walls/Fences. Pursuant to Article V of the Design Controls, privacy walls or fences shall be built along the side property lines of each Lot. These side walls or fences shall be built half on one side of the property line and half on the other side (that is, half shall be built on the adjoining lot) and shall extend along both sides of every Lot from the rear property line to a point approximately parallel with the front elevation of each house, except that no wall or fence shall be built at the points occupied by a house on the north (or zero lot line) side of the Lot. If at the time of construction of a house on a Lot, one or both of the side walls or fences along the Lot have not been built, it shall be the responsibility of the Lot Owner whose house is under construction to build the side walls or fences that have not yet been built and that Lot Owner shall be reimbursed for one-half the cost of each side wall or fence so constructed. This reimbursements shall be calculated based on a cost of \$3.50 per cubic foot of rock wall, including footings, actually built (or, if the wall or fence is built of material other than rock, the

reimbursement shall be calculated based on the documented cost of the wall or fence), with the amount to be reimbursed being one-half of the result of said calculation. If the Declarant has sold the Lot or Lots that benefit from the construction of one or two side walls or fences, then the Lot Owners(s) who build the side walls or fences shall be reimbursed by the purchaser(s) of the Lot or Lots the benefit from the construction of one or both side walls or fences, and this reimbursement shall be made at the time of sale(s) of the Lot or Lots by the Declarant. In summary, this provision is meant to provide a framework through which side walls and fences will be built in a timely manner, with the cost thereof to be shared equitably by the benefiting parties.

Any alteration to an existing side wall or fence shall be paid for solely by the Lot Owner who wants the alteration, and any alteration must be approved by the Design Control Committee.

16. Temporary Walls/Fences. When a house is being built on a Lot prior to construction of a house on the Lot to the south, the owner or builder of the house under construction has the right to build a temporary wall/fence near the south property line in order to create and enclosed yard for the house under construction. Such a temporary wall/fence must be constructed of wood, iron, or other material approved by the Design Control Committee, must be of a style approved by the Committee, must be set back at least two feet from the south property line, must be removed promptly upon receipt of notice from the owner or builder of the Lot to the south that framing of the house on that Lot is scheduled to begin within one week, and its the sole responsibility of the owner on whose behalf the wall/fence was built.

17. Construction and Maintenance of House Exterior on the Zero Lot Line. Because of the zero-lot-line design of the Subdivision, a Lot Owner or his representative shall require reasonable access upon the adjacent Lot to the north for the purpose of constructing and

maintaining the zero-lot-line (that is, the north) wall of the house and these Covenants establish a six-foot wide access easement for those purposes. A Lot Owner has the sole responsibility to construct and maintain the north side of this house even though that side is on the zero lot line. For the purposes of construction or maintenance, a Lot Owner shall make mutually acceptable arrangements for access with the Lot Owner directly to the north. If such arrangements prove difficult to make, the Lot Owner requiring access for construction or maintenance shall contact the Declarant or the Fairway Village Neighborhood Council, either of whom shall have the authority under these Covenants to intervene and arrange for fair access from the neighboring Lot Owner so that construction or proper and necessary maintenance can be undertaken. In the event of damage to the neighboring Lot in the course of construction or maintenance of the north side of the house, the Lot Owner engaged in the construction or maintenance shall in a timely manner either repair or pay for the repair of any and all damage.

18. Rentals. Homeowners renting their property must inform the FVNCI Board of Directors and provide renters and sub lessees with the Renter's Guidelines, which is to be signed by the renter or sub lessee stating that they have read and will abide by these Amended and Restated Covenants, Conditions and Restrictions.

ARTICLE VI

RESTRICTIONS ON RESIDENTIAL LOTS

1. Number of Buildings. No buildings or structures shall be placed, erected, altered, or permitted to remain on any residential Lots other than one single family dwelling house with attached garage.

2. Parking and Storage of Vehicles. No campers, recreational vehicles, boats, trailers, commercial-type vehicles, or trucks shall be stored or parked on any Lot except in a closed garage, nor parked anywhere in the Common Areas, except for a period of up to twelve hours for loading and unloading. No vehicle or trailer measuring longer than 25 feet may be parked in a driveway or on the street except for a period of up to 12 hours for loading and unloading. For the purposes of this restriction, a truck having a three-quarter-ton manufacturer's rated capacity, commonly known as a pick-up truck, shall not be deemed to be a commercial vehicle or a truck. In addition, personal-type vehicles, such as All Terrain Vehicles (ATVs), motorcycles and golf carts shall not be parked or stored on a regular basis on any Lot (except in a closed garage) or in the Common Areas. 'Project vehicles' or long-term immobile vehicles undergoing restoration/repair must not be parked in the driveway or on the street.

3. Deadline for Commencement of Building. Construction must commence on the building of a house on each Lot within 18 months of the purchase of the Lot from the Declarant.

In the event that the Owner of any Lot in the Subdivision fails to commence construction of a house as specified above, that Owner shall be required, upon expiration of the deadline specified above that pertains to the Lot, to list the Lot for sale with a licensed New Mexico real estate broker at the current fair market price, as determined by an independent appraiser. The purchaser of any such Lot sold under these circumstances shall be required, without exception, to commence construction of a house on the Lot within twelve months of the new Owner's purchase of the Lot.

In the event that the Owner of any Lot in the Subdivision fails to commence construction of a house as specified above, that Owner shall be required, upon expiration of the deadline specified above that pertains to the Lot, to list the Lot for sale with a licensed New Mexico real

estate broker at a listing price no more than twenty percent greater than the price at which the Owner originally purchased the Lot. The purchaser of any such Lot sold under these circumstances shall be required, without exception, to commence construction of a house on the Lot within three months of the new Owner's purchase of the Lot.

In the event that the Owner of any Lot in the Subdivision fails to commence construction of a house as specified above and has not sold the Lot within six months of listing the Lot for sale as specified above, the Declarant or its successors or assigns shall have the right, but not the obligation, to repurchase the Lot at the original purchase price at which the Owner acquired the Lot.

ARTICLE VII

ENFORCEMENT

1. Enforcement Actions. The Design Control Standing Committee shall have the right to prosecute any action to enforce the provisions of these Covenants by injunctive relief, on behalf of itself and all or part of the Owners of Lots within the Fairway Village Subdivision. In addition, each Owner of a Lot within the Fairway Village Subdivision, as well as the Fairway Village Neighborhood Council shall have the right to prosecute any action for injunctive relief and for damages by reason of any violation of these Covenants. Any Owner of a Lot determined to be in violation of these Covenants by a court of appropriate jurisdiction agrees to pay the reasonable attorneys' fees incurred by the person(s) or entity bringing such successful action.

ARTICLE VIII

GENERAL PROVISIONS

1. Covenants to Run. All of the Covenants contained in this instrument shall be a burden on the title to all of the lands in the Fairway Village Subdivision, and the benefits thereof shall inure to all Lot Owners in the Fairway Village Subdivision, and the benefits and burdens of all said Covenants shall run with the title to all of the lands in the Fairway Village Subdivision.

2. Termination of Covenants. The Covenants contained in this instrument shall remain in full force and effect for thirty years after the date of the execution of this instrument and shall thereafter automatically be renewed for successive ten-year periods without limitation. Except for the provisions dealing with the Design Controls, the annual assessments, and the maintenance and repair of the Common Areas, all of which provisions shall not be altered, these Covenants may be amended by a vote of two-thirds of the votes cast by the members of the Fairway Village Neighborhood Council at annual or special meetings thereof, said vote to be cast at any meeting of the members duly held in accordance with the Articles of Incorporation and the Bylaws of the Neighborhood Council, provided a properly acknowledged copy of the resolution of amendment be placed on record in Doña Ana County upon adoption.

3. Severability. Should any part or parts of these Covenants or the Design Controls attached hereto be declared invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining Covenants.

4. Paragraph Headings. The paragraph headings in this instrument are for convenience only and shall not be construed to be part of the Covenants contained herein.

These Second Amended and Restated Declaration of Protective Covenants, Conditions and Restrictions of the Fairway Village Subdivision were approved by a majority vote of the Members of the Fairway Village Neighborhood Council, Inc., at a meeting held on October 15, 2009, at which a quorum was present.

FAIRWAY VILLAGE NEIGHBORHOOD COUNCIL, INC.

By: _____
Kathy Rodger, Its President

County of Dona Ana }
 } ss:
State of New Mexico }

This instrument was acknowledged before me this ____ day of October, 2009, by Kathy Rodger, President of the Fairway Village Neighborhood Council, Inc., a New Mexico nonprofit corporation, on behalf of said corporation.

My commission expires:

Notary Public

**AMENDED AND RESTATED BYLAWS OF
THE FAIRWAY VILLAGE NEIGHBORHOOD COUNCIL, INC.**

Preamble

The Inaugural Council Meeting of the Fairway Village Subdivision was held on the 22nd day of January, 2004, at which time Phases One and Two of Fairway Village Subdivision were conveyed from Bright View Land Company to the Fairway Village Neighborhood Council, Inc. Phase Three was conveyed to the Fairway Village Neighborhood Council, Inc on the 15th day of July, 2004.

1. Identity. These are the Amended and Restated Bylaws of the Fairway Village Neighborhood Council, Inc. Members of the Council are the record title owners of all Lots within Fairway Village, a subdivision located in Doña Ana County, New Mexico.

2. Council Meetings. Council Meetings shall be held as follows:

a. All Members shall be notified in writing of the time and place of any Council Meeting, said notice to be sent to Members not less than fifteen days and not more than thirty days prior to the meeting.

b. The Annual Council Meeting shall be held on a designated Sunday in January of each year for the purpose of electing Directors and transacting any business authorized by the Members.

c. Special Council Meetings shall be held whenever called by the President of the Board of Directors or a majority of the Board of Directors, or whenever requested in writing by a total of one-third of the Members.

d. A quorum shall consist of one-half of the total number of Members including proxies (For purposes of considering whether or not a quorum is present, a Member shall be counted only once, regardless of the number of Lots that a Member owns.) If a Council Meeting cannot be held

because a quorum is not present, the Members who are present shall adjourn the meeting for at least fifteen days, whereupon notice of the new date shall be given pursuant to Subparagraph (a) above. A quorum at the subsequent Council Meeting shall consist of one-quarter of the total number of Members.

e. If a Lot is owned by one person, the right of that person to vote at a Council Meeting shall be established by the record title to the Lot. If a Lot is owned by more than one person, or is under lease, the person entitled to cast the vote of that Lot shall be designated in a certificate of appointment signed by all of the owners of record of the Lot. If a Lot is owned by a corporation, the person entitled to cast the vote shall be designated in a certificate of appointment signed by the president of the corporation. Such certificates shall be filed with the Council's Secretary and shall be valid until revoked, or until superseded by a subsequent certificate, or until a change in the record ownership of the Lot.

f. Votes may be cast in person or proxy. Votes by proxy shall be recognized only when the proxy is signed by the record Owner or by the person designated by a certificate of appointment.

3. Voting. Members holding an interest in any one Lot shall collectively be entitled to one vote for each Lot. Members owning more than one Lot shall have the number of votes equal to the number of Lots owned. The vote for each Lot shall be exercised by the Owners thereof as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

4. Directors. The business of the Council shall be managed by a Board of Directors as follows:

a. Except as noted below, the Board shall consist of not less than three and not more than seven Directors elected by and from the Members. The exact number (which shall be an odd number) shall be determined by the Members at the time of the election of the Directors

b. Election of Directors shall be conducted at each Annual Council Meeting. Nominations for Directors shall be made from the floor. The election shall be by ballot and by a plurality of votes cast, each person voting being entitled to cast his or her votes for each of as many nominees as there are vacancies to be filled.

c. Any Director may be removed by concurrence of two-thirds of the votes of all of the Members at a Special Council Meeting called for that purpose. The vacancy on the Board so created shall be filled by the Members at the same meeting.

d. Except as to vacancies created by removal of Directors by the Members, vacancies in the Board occurring between Annual Council Meetings shall be filled as follows:

i) Notify all Members of the vacated position.

ii) The Nominating Committee will seek interested individuals from the Membership.

iii) Within two weeks of identifying replacement candidate(s), every member will receive a ballot to be completed and returned to the Board of Directors.

iv) The number of returned ballots must represent a quorum and the majority vote wins. If an insufficient number of ballots are returned, within fifteen days, a second set of ballots will be sent to Members and the appointment(s) will pass with a quorum consisting of one-quarter of the total number of Members.

v) If no candidates come forward, the Board may designate a candidate who will serve the remainder of the vacating Director's term of office. If the candidate is not confirmed, then another will be offered to the Membership.

vi) The prospective candidate, when confirmed, will serve the remainder of the vacating Director's term of office.

e. It is the responsibility of the President to assign all Board Members with specific project responsibilities, including Design Control and Nominating Standing Committees, at the beginning of their term.

f. Each Director shall be elected for a term of two years.

5. Directors' Meetings. The Directors shall hold meetings as follows:

a. Regular Meetings of the Board of Directors may be scheduled as shall be determined, from time to time, by a majority of Directors. Notices of Regular Meetings shall be given to each Director and to the Membership, in a manner to be determined by the Board, at least three days prior to the date named for such a meeting.

b. Special Meetings of the Board of Directors maybe called by the President or, through the Secretary, at the request of any Director. Notice of Special Meetings shall be given to each Director and to the Membership, in a manner to be determined by the Board, at least three days prior to the date named for such a meeting.

c. Any Director may waive notice of a meeting, and such waiver shall be deemed equivalent to the giving of notice.

d. A quorum at a Directors' Meeting shall consist of a majority of the entire Board of Directors. If at any meeting less than a quorum is present, those Directors present may adjourn from time to time until a quorum is present. The acts approved by a majority of those present at a meeting for which there is a quorum shall constitute the acts of the Board of Directors.

6. Powers and Duties of the Board of Directors. All of the powers and duties of the Fairway Village Neighborhood Council, Inc. that exist under the Amended and Restated Declaration of Protective Covenants, Conditions and Restrictions of the Fairway Village Subdivision shall be exercised exclusively by the Board of Directors, its agents, contractors, or employees, subject only to approval by the Members when such approval is specifically required.

7. Officers. The officers of the Council shall be as follows:

a. The President, who shall be the chief executive officer of the Council and of the Board of Directors, and who shall have all of the powers and duties that are normally vested in the office of President, including, but not limited to, the power to appoint committees from among the Members from time to time;

b. The Secretary, who shall be the recording officer of the Council and of the Board of Directors, who shall attend to all necessary notices, who shall keep the records of the Council and of the Board of Directors, and who shall exercise the powers of the President in the absence of the President; and

c. The Treasurer, who shall be the financial officer of the Council and of the Board of Directors, who shall be in charge of the funds and expenditures of the Council, who shall keep the financial books of the Council in good order, and who shall perform all other duties related to the office of Treasurer. Financial reports can be obtained by any member, by attending any of the Board Meetings or by making a request to the Treasurer, including the status/completion of any special assessments. Quarterly Financial Reports will be disseminated to all Members.

d. Officers and Directors shall receive no compensation for the performance of their duties.

8. Accounting. The funds and expenditures of the Council shall be credited and charged to accounts under the following classifications as shall be appropriate:

a. “Current Expenses,” which shall include all funds and expenditures to be made within the fiscal year for which the funds are budgeted, including a reasonable allowance for contingencies. (The Council’s fiscal year shall be the calendar year) The balance in this fund at the end of each fiscal year shall be applied to reduce the assessments for current expenses for the succeeding year.

b. “Reserve for Maintenance and Replacement,” which shall include funds for maintenance items that occur less frequently than annually, and funds for repair or replacement required because of damage, depreciation, or obsolescence or other unforeseen expenses.

c. “Capital Improvements,” which shall include the funds to be used for capital expenditures for additional improvements.

9. Expenditures. The expenditure of funds shall be determined as follows:

a. Budgets. The Board of Directors shall adopt a budget for each fiscal year that shall include the proposed assessments required to defray all of the expenses and costs of the accounts contained in Paragraph 8 above. Copies of the budget and proposed assessments shall be transmitted to each Member prior to the Annual Council Meeting. If the budget is subsequently amended, a copy of the amended budget shall be furnished to each Member within fifteen days of its adoption by the Board.

b. Limitations. No expenditure for any capital addition or improvement having a total cost in excess of \$3,000.00 shall be made without the prior approval of the Members at a Council Meeting called for that purpose.

10. Assessments. Assessments shall be made as follows:

a. Annual assessments are set at the Annual Meeting. Each voting Member's liability for the assessment shall commence upon the date of the Member's closing on the purchase of a Lot in the Subdivision and shall be prorated for the initial year. The assessment shall be due and payable in full on March 15, for the current year-

b. Special Assessments which have been approved by a two-thirds (2/3rds) majority of the Members of the Fairway Village Neighborhood Council shall be due and payable as provided in the Special Assessment.

c. A Member who owns more than one Lot shall be assessed by a multiple equal to the number of Lots owned by that Member.

d. If a Member is in default in the payment of an assessment, the Board of Directors may, not less than fifteen days after the mailing of a notice to the Member by certified mail, declare such Member in default and take whatever measures it deems appropriate to collect the assessment. Late fees may be imposed at the discretion of the Board of Directors.

e. All assessments or additional assessments shall be deposited by the Treasurer into an account or accounts at a bank to be designated from time to time by the Board of Directors. Withdrawal of funds from such accounts shall be made only by checks signed by two persons so authorized from time to time by the Board of Directors.

11. Board of Directors Not Liable. The Board of Directors, both as a group and individually, shall not be liable for damages to any Owner(s) of land within Fairway Village Subdivision by reason of any action or failure to act. Any person(s) or company acquiring title to any property in the Fairway Village Subdivision does agree and covenant that he will not bring any action or suit to recover damages against the Board of Directors, its members as individuals, or its advisors, employees, or agents.

12. Standing Committees. There are two standing Committees of the Fairway Village Board of Directors: Design Control and Nominating.

a. Design Control shall be comprised of from two to five members whose duties are set forth in the Design Controls and the Amended and Restated Declaration of Protective Covenants, Conditions and Restrictions for the Fairway Village Subdivision.

b. Nominating shall be comprised of two to three members who will canvas and recruit possible nominees to the Board of Directors.

13. Amendments. These Bylaws may be amended in the following manner:

a. Notice of the subject matter of a proposed amendment shall be included in the notice of any Council Meeting at which a proposed amendment is to be considered.

b. A resolution to adopt a proposed amendment may be made by any voting Member. An amendment shall be adopted only if approved by a majority of voting Members at a Council Meeting.

c. No amendment shall discriminate against any Member. No amendment shall limit the Council's responsibility to maintain and repair the Common Areas as indicated in the Declaration of Protective Covenants, Conditions and Restrictions of the Fairway Village Subdivision. No amendment shall limit the annual assessments in a way that materially obstructs the maintenance and repair of the Common Areas. No amendment shall affect the provision in Paragraph 11 above concerning the absence of liability for the Board of Directors.

d. A copy of each amendment that is approved by the voting Members shall be certified by the President and Secretary as having been duly adopted and shall be in full force and effect only when recorded in the office of the County Clerk of Doña Ana County, New Mexico.

The undersigned hereby certify that they are the duly elected President and Secretary and that the foregoing were adopted as the Amended and Restated Bylaws of the Fairway Village Neighborhood Council, Inc. by its Members at a meeting held on October 15, 2009, at which a quorum was present.

FAIRWAY VILLAGE NEIGHBORHOOD COUNCIL, INC.

By: _____
Kathy Rodger, President

By: _____
, Secretary

COUNTY OF DONA ANA }
 } ss:
STATE OF NEW MEXICO }

The foregoing instrument was acknowledged before me this ___ day of October, 2009, by Kathy Rodger, President, and _____, Secretary, respectively of FAIRWAY VILLAGE NEIGHBORHOOD COUNCIL, INC., a New Mexico nonprofit corporation, on behalf of said corporation.

My commission expires: _____
Notary Public

Fairway Village Neighborhood Council, Inc.

P. O. Box 1199

Fairacres, NM 88033

Website: fairwayvillagenm.com

FVNCI Covenants, Conditions and Restrictions; Design Controls; By-Laws

Fairway Village is a covenant-protected community. Our covenants are legal agreements called CC&Rs. These agreements, which are signed by each homeowner, create the Fairway Village Neighborhood Council, Inc. (FVNCI). The purpose of these covenants is to ensure that our village is safe, comfortable and attractive for all who live here and who come to our neighborhood as visitors.

The Fairway Village Neighborhood Council, Inc. is responsible for the repair and maintenance of the north and south gates and our wastewater lift station pumps. Also, the FVNCI cares for the landscaping of the common areas, walking paths and the drainage ponds on the east and west sides of Fairway Village.

The FVNCI Board of Directors consists of seven members of the community. They are elected from a slate of volunteers at the January Annual Meeting and serve staggered two-year terms. The Board is comprised of a President, Treasurer, Secretary and four Directors-at-Large. The Fairway Village residents' property interests are protected through the adherence to the Covenants, Design Controls and By-Laws. The treasurer collects yearly dues, which have been approved by the homeowners, to cover on-going maintenance of the common areas. In addition, the homeowners contribute to a reserve fund established for future capital expenses.

All residents of Fairway Village – both owners and renters – should have copies of three (3) documents:

- 1) Declaration of Protective Covenants, Conditions and Restrictions of the Fairway Village Subdivision (revised)
- 2) Design Controls for the Fairway Village Subdivision
- 3) By-Laws of the Fairway Village Neighborhood Council, Inc. (revised)

These documents should be read closely as they contain important information about Fairway Village and the expectations of all its residents.

Guidelines for All Fairway Village Residents (Owners and Renters)

- All Owners of lots/homes in Fairway Village are automatically members of the Fairway Village Neighborhood Council, Inc.
- The Common Areas in this subdivision are the private roadway of Fairway Village Drive, the north and south entry gates, the lift station pumps, walking paths, parks at the north and south entrances, drainage ponds, drainage channels and traffic circles.

- The Design Control Standing Committee for Fairway Village:
 - Regulates and approves the design of all houses, walls, fences and front-yard landscaping, as well as additions and alterations.
 - Exercises its best judgment in assuring that all construction conforms to and harmonizes with the design theme of the subdivision.
 - Monitors all construction ensuring that trash and debris are disposed of properly and that no damage is done to the common areas or neighboring properties.

- Pets are allowed in Fairway Village with the following rules:
 - All pets must be kept on a leash and are not allowed to run at large.
 - Dogs should be properly curbed and their droppings picked up and disposed of by their owners.
 - Dog barking is discouraged outside the house to the extent that the average person would find annoying.

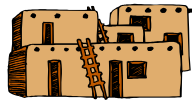
- All residents are expected to engage the Mesilla Valley Disposal Company (575-647-9094) to collect their trash. Pickup day is Monday. Residents should place their trash in the bin provided by MVDC. Bins should be removed from the street once the trash has been collected and not left outside gates and/or garages where they can be seen from the street.

- Each homeowner/resident is responsible for removing all weeds and trash from his/her property and disposing of it properly in either a trash bin or compost pile. Burning weeds or trash anywhere within Fairway Village is not allowed.

- Our community does not tolerate obnoxious or offensive activities or any activity that constitutes a public nuisance.

- Under our CC&Rs, advertising or political signs or billboards are not allowed. The only exception to this is real estate signs.

- The neighborhood needs to ensure the safe passage of motor vehicle traffic, pedestrians and emergency response vehicles on the Fairway Village Drive Right-of-Way. Therefore:
 - Vehicles may be parked on the street for up to 5 hours only with NO over-night street parking.
 - No vehicles may be parked on the common areas, on empty lots or within 15 feet of a fire hydrant.
 - For loading and unloading only, cars, campers, RVs, boats, trailers, commercial-type vehicles or trucks may park for a maximum of 12-hours.
 - Currently our CC&Rs allow no garage sales on Fairway Village Drive.



Fairway Village Neighborhood Council, Inc.

PO Box 1199

Fairacres, NM 88033

DATE:

HOME/LOT OWNER:

STREET ADDRESS:

CITY/STATE/ZIP:

DEAR _____
(Name of Home/Lot Owner)

The purpose of this letter is to inform you that _____
(Name of Renters)

Residing at your property located at _____
(Fairway Village Address)

is currently in violation of the Fairway Village Subdivision CC&Rs. Specifically:

We request that you address this problem immediately with your renter(s).
The appropriate response/remedy to this CC&R infraction should be/is:

Please inform us within 7 days, **by signing and returning this form** that you have addressed this matter with your renter(s) and please provide information regarding the action you are taking.

Sincerely,

FVNCI Board of Directors

Signature of Homeowner