

**Declaration of Protective Covenants, Amendment No. 1  
Boulders on the Green at Sonoma Ranch  
Homeowners' Association, Inc.**

The Declaration of Protective Covenants, recorded April 18, 2006, in Book 703, at Pages 569-589 of the Records of the Dona Ana County Clerk, are hereby amended as follows:

**First-Paragraph IV. Miscellaneous Provisions, 2).** is eliminated in it's entirety and the following is substituted in it's place:

"Any provision hereof may be amended, changed, or rescinded by written instrument setting forth such amendment which has been approved by the owners of Sixty Percent (60%) of the lots, and executed by the President and Secretary of the Homeowners Association."

**Second-Paragraph IV. Miscellaneous Provisions, 3).** is eliminated in it's entirety and the following is substituted in it's place:

"The agent of the service of process upon the Homeowners Association is the President of the Homeowners Association."

**Third-Paragraph V. Owners' Association, 3), Administration of the Maintenance Area, D). Limitation of the Powers of the Board,** is eliminated in it's entirety and the following is substituted in it's place:

"The Board's powers herein above enumerated shall have no authority to acquire and pay for any capital addition or improvement (other than for purposes of replacing or restoring portions of the maintenance areas, subject to all of the provisions of this Declaration) having a total cost in excess of Fifteen Thousand dollars (\$15,000), nor shall the Board authorize structural alterations, capital additions to, or capital improvements requiring an expenditure in excess of Fifteen Thousand dollars (\$15,000), without in each instance obtaining the prior approval of Sixty Percent (60%) of the lot owners. The Board may adopt such reasonable rules and regulations for the maintenance, conservation, and beautification of the maintenance areas for the health, comfort, safety and general welfare of the owners and residents. Written notices of such rules and regulations shall be given to all owners and residents, and the areas shall at all times be maintained subject to such rules and regulations."

**Fourth-Paragraph 6. General Provisions, G).** is eliminated in it's entirety and the following is substituted in it's place:

"The agent of the service of process upon the Homeowners Association is the President of the Homeowners Association."

**Fifth-Paragraph 8. Amendment.** is eliminated in it's entirety and the following is substituted in it's place:

Any provision hereof may be changed, amended or rescinded by a written instrument setting forth such amendment which has been approved by sixty (60) percent of lot owners in attendance or by proxy at a meeting called for that purpose, and executed by the President of

the Board, except that the following paragraph 9, No Reversion of Title, may be changed only by the unanimous vote of the lot owners.

Executed at Las Cruces, New Mexico, this 24 day of May, 2016.

**Boulders on the Green at Sonoma Ranch Homeowners Association, Inc.**

By *Janice Gagnaro*

President

And by *Victoria S. Simonson*

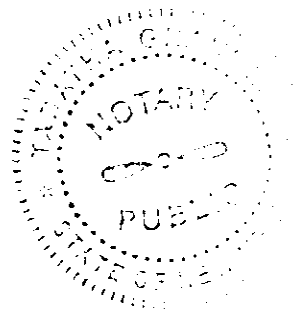
Secretary

STATE OF NEW MEXICO )  
 )ss.  
COUNTY OF DONA ANA )

The foregoing instrument was acknowledged before me this 24 day of May, 2016, by LOU ABBAGNARD and VICKY SIMONSON, President and Secretary, respectively, of the Boulders on the Green at Sonoma Ranch Homeowners Association, Inc.

*Deborah Granger*  
Notary Public

My Commission Expires: 9/10/16





4) **SEVERABILITY.** Invalidation of any one of these covenants by judgment or court order shall not affect any of the other provisions, which at all times shall remain in full force and effect.

5) **DESIGN REVIEW COMMITTEE.**

A. The Design Review Committee shall initially be composed of three persons to be chosen by the Developer. The Developer has the authority to remove any member of the initial committee, with or without cause. In the event of death, resignation or removal of any member of the initial committee, the above-mentioned Developer shall have full authority to designate a successor or successors. The Design Review Committee may designate one of its members to take any action or to perform any duties for and on behalf of the Committee. The members of the Committee shall not be entitled to any compensation for services performed pursuant to this Covenant. The initial Design Review Committee shall exist until such time as the Developer states in writing to all individual owners of lots in Boulders on the Green at Sonoma Ranch subdivision that control shall pass to whomever the majority of those lot owners shall elect. A majority of the lot owners shall determine the means of the continuation and succession of members of the Design Review Committee after notice has been served. Such notice shall be given at the latest after the conveyance by the Developer of the last lot in Boulders on the Green at Sonoma Ranch Subdivision; however, failure to give such notice shall not extend the term of any member of the Committee, nor shall Sonoma Ranch Construction, LLC, be liable therefore.

B. In addition to other powers and authority vested in the Design Review Committee, it shall also: rule upon any questions arising with respect to interpretation of the protective covenants; grant variations from these covenants at its discretion, and, if necessary, may, but shall not be required to, take any action necessary to enforce the same on behalf of all parties having an interest. Such shall not preclude any other person authorized by law from either enforcing or enjoining the enforcement of these restrictive covenants.

C. The Design Review Committee shall also serve as an architectural review committee. The Design Review Committee shall issue standards or rules ("Design Standards") relating to the procedures, materials to be submitted and additional factors which will be taken into consideration in connection with the approval of any proposed improvements to the property.

D. The review of any plans submitted to the Design Review Committee, and any approval thereof, is intended and shall be construed solely as review of compliance with these Protective Covenants, and shall not be deemed or construed in any way to include review and/or approval of compliance with applicable laws, codes or regulations, nor of safety, habitability, stability or any other matter, all of which are the responsibility solely of the architect, builder and/or owner of the improvements for which plans are submitted.

6) **DESIGN REVIEW.** No building, wall or fence shall be erected, placed or altered on any lot until the construction plans and specifications, and a plan showing the location of the structure having been approved by the Design Review Committee as to materials and compliance

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with these covenants. No exterior portion of a structure (including doors) may be painted until the Design Review Committee has approved the color. Approval shall be as provided in Paragraph I-6.

7) **PROCEDURE.** Owners shall submit plans and specifications to the Committee, along with forms designated and included in Design Standards. The Committee's approval or disapproval as required in these covenants shall be in writing, and given within ten (10) working days of the submission of all required information. In the event the Design Review Committee fails to act on submitted plans within the 10-working-day review period, then the plans shall be deemed approved.

8) **NON-LIABILITY.** Neither the Developer nor the Design Review Committee shall incur liability to anyone submitting plans for approval, or to any owner or owners of land subject to these covenants by reason of mistake in judgment, negligence or nonfeasance of itself, its agents or employees, arising out of or in connection with the approval, or disapproval, or failure to approve any such plans; anyone submitting plans for approval, by the submitting of such plans, and by acquiring title to any of the property covered hereby, waives his claim for any such damages.

9) **APPLICABILITY.** The conditions and restrictions imposed herein shall apply to all lots within Boulders on the Green at Sonoma Ranch Subdivision, unless the Design Review Committee as provided herein grants variations.

## II. GENERAL RESTRICTIONS

1) **R-1 ZONED LOTS.** The following restrictions as to use shall apply to all Single Family Residential lots within the subdivisions:

A. Only one single family dwelling on each lot is permitted. No geodesic dome, cubical, or A-frame structures are permitted as residences or for any other purposes. No mobile homes (single wide or double wide), manufactured housing, prefabricated or modular homes are permitted, whether or not they are permanently attached to the land, and whether or not improvements are added to such mobile homes or manufactured housing or modular homes. The temporary sales office of the Developer is not, however, subject to this paragraph.

B. No residence shall be erected, altered, placed or permitted to remain on any lot with fully enclosed living area of less than 1,600 square feet of heated living area, exclusive of garages, open porches, accessory buildings or other covered areas, with the exception of a temporary sales office placed upon a lot by the Developer, which shall remain only until the sale of the last lot in Boulders on the Green at Sonoma Ranch Subdivisions.

C. No structure on any lot shall exceed one story above grade, with a maximum height of twenty-three (23) feet above the highest finished grade of the lot, except for chimneys of reasonable size. Each dwelling shall have a two car garage, being a minimum size of 400 square feet, and having one 16' by 7' door or two 8' by 7' doors at a minimum.

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D. No building or any part thereof, including garages, shall be erected on any lot closer to the respective property line than as follows:

Front of garage	25 feet
Front of house	15 feet
Side street setback	12 feet
Side yard setback	5 feet
Rear yard setback	15 feet

E. All buildings erected, placed or permitted to remain on any lot shall be situated only within that portion of said lot not restricted from use by an easement or right-of-way. At street intersections, lots having frontage on two (2) streets shall have one (1) street declared by the Design Review Committee, on approval of structural plans, as the street where the "Front setback" applies. The other street shall have a minimum "Side street setback" which shall apply.

F. No variation from the "side yard setback" shall be approved.

G. Should any residence be constructed on more than one lot, the exterior lines of lot ownership shall be used for determining the front, rear and side lot setbacks subject to existing easements.

H. All buildings constructed in the Subdivision shall be frame and stucco, adobe, rammed earth or other such surfaces and materials as may be authorized by the Design Review Committee. Brick and wood siding are not acceptable surfaces. Garages, carports and permitted accessory buildings shall conform in material and design to the dwelling to which they pertain. No metal storage buildings shall be allowed on any lot. Only exterior surface materials in desert tone colors, in the Boulders' color palette adopted by the Declarant, shall be used for any residence, accessory structure, wall or fence. The construction of each building must comply with the New Mexico Uniform Building Code or the Building Code enforced by the City of Las Cruces.

I. No identical front elevations will be allowed side by side. Exterior elevations need to wrap around the house on four sides on all lots that back up to the golf course. Elevations shall be only those in the models in Boulders on the Green at Sonoma Ranch approved by the Declarant.

J. A grading plan showing finished elevations in the retention or detention areas has been approved by the City of Las Cruces. No grading, land filling, excavating, or other alterations will be done in the retention or detention areas except pursuant to the approved plan or revision approved by the City of Las Cruces and by the Design Review Committee.

K. No impervious materials can be used to replace or cover areas used for drainage or ponding.

L. No manufacturing or commercial enterprise of any kind for profit shall be maintained on, in front of, or in connection with single family residential lots in the subdivisions;

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except home occupations or professionals in businesses engaged in recognized non-manufacturing professions may be permitted which would be in accordance with the codes of the City of Las Cruces.

M. There shall be no fair, exhibition, festival, show or other activity that attracts or is intended to attract, divert, or collect a large number of persons. Such restrictions shall not prevent, however, what is commonly known as "garage sales" or backyard parties conducted by residents or their children living in the subdivisions, provided such are only occasional. Open houses for the purpose of selling a home and model home shows for the same purpose may be held.

N. No animals, livestock, including horses, donkeys, and mules, or poultry or swine of any kind shall be raised, bred, or kept on any lot. Dogs, cats or other domesticated, household pets may be kept; provided, however, that they are not kept, bred or maintained for any commercial purpose, and further provided they do not disturb other property owners or become a nuisance in any way.

O. Use and occupancy of all portions of the subdivisions shall be subject to zoning, building, health, sewage disposal and sanitation laws and regulations and all other applicable laws and regulations of the State of New Mexico and/or all government agencies having jurisdiction; the Declarants, its successors or assigns, may also impose rules and covenants regulating such matters from time-to-time.

P. Subdivision lots shall not be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing water, oil, gas or other hydrocarbons, minerals, rocks, stones, gravel or earth, nor shall oil wells, tanks, tunnels or mineral excavations or shafts be permitted upon the surface of any portion of the Subdivisions or within 500 feet below the surface of the Subdivisions.

Q. Each lot owner shall be responsible for removing weeds and other debris located on such Owner's lot and for maintaining, repairing and replacing in a good state of repair and in a neat and attractive condition all other improvements to Owner's lot.

## 2) TEMPORARY USES.

A. Any lot or portion thereof may be used temporarily by the Developer as a sales office, model home complex, or storage and construction yard during the construction and sales period, provided that all temporary uses defined herein must have the prior written approval of the Design Review Committee.

B. No lot shall be used for the storage of any construction or other materials except for a period of up to thirty (30) days prior to the start of construction and during the construction period.

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### 3) CONSTRUCTION.

A. R-1 ZONED LOTS. All construction, whether new construction, alterations, additions or exterior remodeling, shall be completed in accordance with plans approved by the Design Review Committee within six (6) months from commencement of construction. All construction shall commence upon each lot within eighteen (18) months from the date of purchase of said lot from the Developer or at the Developer's option, the Developer may re-purchase the lot at the original purchase price. The Developer must exercise this option within 30 days from the 18-month date or it shall lose the right to exercise this option.

B. R-1 ZONED LOTS. No building previously used at another location nor any building or structure originally constructed as a mobile dwelling, except when used as a temporary sales office, may be moved onto a lot, except as expressly approved by the Design Review Committee.

### 4) OCCUPANCY OF DWELLINGS WITHIN THE SUBDIVISION.

A. GENERAL. Dwellings on lots within the Subdivision (hereinafter "Dwelling") are intended for the housing of persons 55 years of age or older, although younger persons are not restricted from occupying Dwelling along with a person 55 years of age or older so long as such co-occupancy is in compliance with this Section II.4. The provisions of this Section II.4 are intended to be consistent with, and are set forth in order to comply with, the Fair Housing for Older Persons Act (the "Act") regarding discrimination based on familial status. Declarant, until the last lot within the Subdivision has been sold and conveyed, or the Association, acting through its Board, shall have the power to amend this Section II.4, without the consent of the Members or any person except Declarant, until the last lot within the Subdivision has been sold and conveyed, for the purpose of making this Article consistent with the Act, as it may be amended, the regulations adopted pursuant thereto, and any judicial decisions arising thereunder or otherwise relating thereto, in order to maintain the intent and enforceability of this Section II.4.

#### B. RESTRICTIONS ON OCCUPANCY.

(i) Except as may otherwise be permitted pursuant to Section II.4(B)(iv), each occupied Dwelling on a lot within the Subdivision shall at all times have as a permanent occupant at least one person who is 55 years of age or older (the "Qualifying Occupant"), except that in the event of the death of a person who was the sole Qualifying Occupant of a Dwelling, the spouse of such Qualifying Occupant may continue to occupy the Dwelling provided that the provisions of the Act and the regulations adopted thereunder are not violated by such occupancy. For purposes of this II.4(B), an occupant shall not be considered a "permanent occupant" unless such occupant considers the Dwelling to be his or her legal residence and actually resides in the Dwelling for at least six months during every calendar year or such shorter period as the dwelling is actually occupied by any person.

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(ii) Except as may otherwise be permitted pursuant to Section II.4(B)(iv), no Dwelling shall be occupied by any person under the age of 18. For purposes of this Section II.4(B), a Dwelling shall be deemed to be "occupied" by any person who stays overnight in the Dwelling more than 21 days in any 60-day period or more than 30 days in any 12-month period.

(iii) Nothing in this Section II.4 is intended to restrict the ownership of or transfer of title to any Dwelling; however, no Owner may occupy the Dwelling unless the requirements of this Section II.4 are met, nor shall any Owner permit occupancy of the Dwelling in violation of this Section II.4. Owners shall be responsible for (i) including a statement that the Dwellings within the Community are intended for the housing of persons 55 years of age or older, as set forth in Section II.4(A), in conspicuous type in any lease or other occupancy agreement or contract of sale relating to such Owner's Dwelling, which agreements or contracts shall be in writing and signed by the tenant or purchaser, and (ii) clearly disclosing such intent to any prospective tenant, purchaser, or other potential occupant of the Dwelling. Every lease of a Dwelling shall provide that failure to comply with the requirements and restrictions of this Section II.4 shall constitute a default under the lease.

(iv) The Board of Directors retains the right to allow exceptions to section II.4, to the extent allowed by the Housing for Older Persons Act of 1995, [which (at the time these covenants are adopted) allow for up to twenty percent (20%) of the occupied units to deviate from the age requirements] and any other applicable law. +Any Owner, in writing, may request that the Board of Directors make an exception to the requirements of this section II.4 with respect to his or her Dwelling. The Board of Directors may, but shall not be obligated to, grant exceptions in its sole discretion, provided that the requirements for exemption from the Act would still be met.

C. CHANGE IN OCCUPANCY; NOTIFICATION. In the event of any change in occupancy of any Dwelling as a result of a transfer of title, a lease or sublease, a birth or death, change in marital status, vacancy, change in location of permanent residence, or otherwise, the Owner of the Dwelling shall immediately notify the Board in writing and provide to the Board the names and ages of all current occupants of the Dwelling and such other information as the Board may reasonably require to verify the age of each occupant. In the event that an Owner fails to notify the Board and provide all required information within 10 days after a change in occupancy occurs, the Association shall be authorized to levy monetary fines against the Owner and the Dwelling for each day after the change in occupancy occurs until the Association receives the required notice and information, regardless of whether the occupants continue to meet the requirements of this Section II.4, in addition to all other remedies available to the Association under this Declaration and New Mexico law.

D. MONITORING COMPLIANCE; APPOINTMENT OF ATTORNEY-IN-FACT.

(i) The Association shall maintain age records on all occupants of Dwellings. The Board shall adopt and publish policies, procedures, and rules to monitor and maintain compliance with this Section II.4, including policies regarding visitors, updating of age records, the granting of exemptions pursuant to Section II.4(B)(iv), and enforcement. The Association shall periodically distribute such policies, procedures, and rules to Owners and make

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copies available to Owners, their tenants, and Mortgagees upon reasonable request.

(ii) The Association shall have the power and authority to enforce this Section II.4 in any legal manner available, as the Board deems appropriate, including, without limitation, conducting a census of the occupants of the Dwellings, requiring copies of birth certificates, or other proof of age for each occupant of the Dwelling to be provided to the Board on a periodic basis, and taking action to evict the occupants of any Dwelling which is not in compliance with the requirements and restrictions of this Section II.4. **EACH OWNER HEREBY APPOINTS THE ASSOCIATION AS ITS ATTORNEY-IN-FACT FOR THE PURPOSE OF TAKING LEGAL ACTION TO DISPOSSESS, EVICT, OR OTHERWISE REMOVE THE OCCUPANTS OF HIS OR HER UNIT AS NECESSARY TO ENFORCE COMPLIANCE WITH THIS SECTION II.4.** Each Owner shall fully and truthfully respond to any and all requests by the Association for information regarding the occupancy of his or her Dwelling that, in the judgment of the Board, are reasonably necessary to monitor compliance with this Section II.4.

(iii) Each Owner shall be responsible for ensuring compliance of its Dwelling with the requirements and restrictions of this Article and the rules of the Association adopted hereunder by itself and by its tenants and other occupants of its Lot. **EACH OWNER, BY ACCEPTANCE OF TITLE TO A DWELLING, AGREES TO INDEMNIFY, DEFEND, AND HOLD THE ASSOCIATION HARMLESS FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, AND CAUSES OF ACTION THAT MAY ARISE FROM FAILURE OF SUCH OWNER'S DWELLING TO SO COMPLY.**

#### 5) LANDSCAPING.

Landscaping is required on all lots.

The Declarant will install the original landscaping in the front yard of each house within in the subdivision. Boulders on the Green at Sonoma Ranch Homeowners Association is responsible for the maintenance of the front yard, to include mowing, weeding, fertilizing, pruning and replacing plants that are damaged or destroyed. The Homeowners Association, however, may seek reimbursement for costs associated with such maintenance from any homeowner whose negligence has caused it to incur maintenance expenses.

Other than replacing landscaping items which have been damaged or destroyed or need to be replaced as a result of wear or tear, homeowners may not make changes in the landscaping in the front yard without first seeking and obtaining permission from the Design Review Committee.

Each lot owner must landscape the back yard of their lot. The landscaping in the back yard must be completed within ninety (90) days of closing when the lot owner purchases the lot.

A. R-1 ZONED LOTS. Typical desert environment and drought resistant landscaping is encouraged. However, a sufficiently visible amount of foliage must be present on each building lot to comply with the landscaping requirements herein established or subsequently amended. The

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Design Review Committee shall be the final authority as to acceptability and the following criteria shall be used as a guideline for the required landscaping:

1. One (1) two inch (2") caliper broadleaf tree which when mature will reach a minimum height of 20 feet. (Two required if the side yard abuts a street.) Should a second tree be required by FHA or other Governmental regulation, such tree can be a 1" caliper broadleaf, unless it is in the side yard tree on an abutting street, then it must be as required above. Examples are: seedless locust, ash, red leaf maple, and similar varieties.

2. One (1) intermediate size shrub-brush planting which, when mature will reach a minimum height and width of 8 feet. (Two required if the side yard abuts a street.) Examples are Photinia, Texas sage, oleander, India Hawthorne, pyracantha, forsythia, spirea, sumac, and similar varieties.

3. Six (6) lower foundation plantings which when mature will reach a height of 2 - 3 feet (eight required if the side yard abuts a street). Examples are: Most of the above shrubs, plus nandina, rosemary, mock orange, tam junipers and similar varieties, however, no more than 2 of the above required 5 plantings shall be a juniper variety.

4. An assortment of other hardy, drought-resistant broad leaf plantings, including cacti, yucca, cholla, agave, century plant, ocotillo and similar plantings are acceptable and encouraged in addition to or instead of the above required plantings.

5. No grass shall be used to cover those areas of the front yard not planted or covered otherwise. In no event is the natural sandy surface to be left exposed and un-landscaped. Examples of materials which can be used to cover the natural sandy surface are: crushed rock, crusher fines, brick, crushed brick, paving stone, and similar materials. A minimum of 6 mm. black plastic shall be used under any inorganic material in the front and side yards. The landscaping material shall cover the plastic in such quantity that the underlying plastic shall not show through the surface material.

6. Any variation in use or placement of materials as prescribed above must first be approved by the Design Review Committee.

B. At any time a substantial change, alteration or modification is made to the front yard or side yard of a lot relative to landscaping, the Committee must approve such substantial change, modification or alteration. Excluded shall be the instance where plants, trees, shrubbery or other landscaping materials may die, be destroyed, removed or similarly caused to be reduced in quantity and as such require replanting or replacement according to the same rules as apply to the initial planting requirements set forth above.

## **6) FENCING AND WALLS.**

A. Any fence, wall, building or structure placed on the lot shall be in compliance with the set back and zoning requirements of the City of Las Cruces, and shall not impair the

drainage function of the ponding areas, as shown on the plat. All perimeter and/or retaining walls and fences shall be placed on the dividing lines between lots, except that all lots that are immediately adjacent to and bounded by land not in the Boulders on the Green at Sonoma Ranch Subdivisions shall have walls or fences along said perimeter lines completely within the perimeter lot lines, and said perimeter wall shall not be party walls. All walls or fences adjoining the golf course property must be built within the perimeter lot line of said lots. Retaining walls shall be party walls if placed on the common property line between two (2) lots, and shall not be removed by either property owner without the written consent of the other party and the Design Review Committee.

All R-1 zoned lots are required to have perimeter walls or fences constructed. Such required walls must extend along the side lot lines from the rear most point of the dwelling to the rear lot line, and along the rear lot line in its entirety. Other walls and fences are optional. The party walls shall be a minimum of forty-two (42) inches in height, except where otherwise physically limited to a lower height. The party walls shall be no more than six (6) feet in height except retaining walls that are party walls.

B. All fences, perimeter walls, and retaining walls in view from at least one side, shall be constructed of rock or stone in conformance with what is known as "Las Cruces Rock Walls" standards, materials and styles, and shall be of a yellow, reddish or tan color, rather than gray in color. However, those walls, forming the "return" from the residence, or courtyard and patio walls tied to the residence, may be of the same material used in the residence construction.

C. Decorative wrought iron may be used for wall accents, gates and such, subject to Design Review Committee approval.

D. Tin or other sheet metal, chain link, wire and barbed wire are specifically prohibited, except wire fences may be constructed for dog runs when located within and enclosed by a permitted exterior fence. The fence height for such runs shall be a maximum of one (1) foot taller in height than the exterior fence.

E. Perimeter fences shall be six (6) feet in height or less, when measured directly from the highest adjacent ground surface, and may be erected on that portion of a lot situated to the rear of the front wall of the main building except retaining walls which may be higher.

F. Fences which are adjacent to the golf course may not permit direct access by means of gates or openings.

## **7) BOATS, TRAILERS, CAMPERS, AND RECREATIONAL VEHICLES.**

Boats, campers, other trailers, recreational and similar vehicles or equipment may not be parked or stored on any lot, street, or common area. Notwithstanding the foregoing, such a vehicle may be temporarily parked on a lot or on the street in front of a lot owner's property solely for the purposes of loading or unloading the vehicle. The vehicle shall remain there for no longer than is reasonably necessary to load or unload but, in no circumstances, more than 24 hours. If a lot owner's

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guest is driving a recreational vehicle, that recreational vehicle may be parked on the lot owner's property for a period not to exceed three (3) days.

**8) GARBAGE AND TRASH.**

No refuse, garbage, trash, collection container, lumber, grass, shrub or tree clippings, plant waste, compost, metal, bulk materials, scrap, junk cars, paint cans, oil, flammable objects, concrete tailings, rock wall residue, refuse or debris of any kind shall be kept, stored or allowed to accumulate on any lot except within an enclosed structure or area appropriately screened from view. Rubbish and garbage must be kept in suitable containers provided by the City of Las Cruces and removed from lots by such in accordance with ordinances, rules and regulations of the City of Las Cruces, and all regulations promulgated thereunder. No rubbish or garbage may be burned or dumped on lots or elsewhere in the subdivisions.

**9) ANTENNAE, EQUIPMENT, PIPES, UTILITY LINES, AND TRANSMITTERS.**

A. Pipes for water, gas, sewer, drainage, or other purposes, and wires, poles, aerials, antennae, satellite dishes and other facilities for the transmission or reception of audio or visual signals or electricity, and utility meters or other utility facilities, such as solar equipment, shall be kept and maintained, to the extent reasonably possible, underground or within an enclosed structure and shall not be visible from the street. Any items that can not meet these requirements shall be subject to the approval of the Design Review Committee. No transmission towers, or microwave equipment shall be erected or placed on the property.

B. Evaporative or refrigerated air cooler(s), if erected or maintained on the roof of any premises, shall be effectively screened or otherwise hidden from view from any public place or adjoining lot as determined by the Design Review Committee.

**10) SIGNS.**

No billboards or advertising signs of any character shall be erected, placed, permitted, or maintained on any residential lot or on any building erected thereon, other than one (1) name plate of the occupant of any residence upon which his or her professional or occupational title may also be added, and provided no such sign or name plate shall exceed a size of one square foot, and no such sign shall be lighted. Provided, however, that permission is granted for the erection and maintenance of not more than one signboard to each lot, during the course of its resale, which signboard shall not exceed forty-eight (48) square feet. Notwithstanding anything herein contained to the contrary, nothing herein shall be construed to prevent the Developer from erecting, placing, or maintaining sign structures and offices as may be determined necessary by the Developer to promote sale and development of lots or properties within the subdivision.

Notwithstanding the foregoing paragraph, until a dwelling has been erected on each lot within Boulders on the Green at Sonoma Ranch, and each such dwelling sold, the only sign which shall be used to advertise that the property is either for sale or for rent shall be the signed approved by the Developer, with an appropriate place to identify either the lot owner or the broker.

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## 11) FLAGS/PENNANTS

No flags or pennants may be used in the subdivisions on homes or lots without approval of the Design Review Committee. Notwithstanding anything contained herein to the contrary, however, each home may display an American flag provided that it is not bigger than three feet (3') by five feet (5').

## 12) SITE TRIANGLE AT INTERSECTIONS.

There is required an area of unobstructed vision at street intersections, entrances/exits, which permits a vehicle driver to see approaching vehicles to the right or left. Nothing over three (3) feet in height measured from the street at the point where the pavement meets the curb-stone, shall be permitted to obstruct a sight line which shall be the front street and side street lines of a corner lot and a line connecting points thirty (30) feet distance from the intersection of the property line of such lot.

Trees located within the clear sight triangle will be allowed if all branches are trimmed from a height between three (3) feet and eight (8) feet.

No single post or column within the designated triangle shall exceed twelve (12) inches in thickness at its greatest cross-section dimension.

## III. EASEMENTS, STORM DRAINAGE AND SUPPORT STRUCTURES

### 1) EASEMENTS.

A. Utility easements and rights-of-way designated on the plat of the Subdivision, as amended from time-to-time, are hereby reserved unto the Declarant, and the City of Las Cruces and all public and private utility companies (as specifically shown as such plat or assigned by the Declarant) for the construction, installation and maintenance of any and all utilities, such as power, cable, gas lines, drains, roads, water supply lines, telephone and telegraph lines or the like, necessary or desirable for public health, welfare and convenience.

B. Within these easements no structure shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or streets. Within each drainage easement, no temporary or permanent structure shall be placed, and no structure, or planting or movement of materials shall be permitted which may interfere with the direction of flow in the drainage channels in the easements, unless approval is first obtained from the City of Las Cruces and then once again by the Design Review Committee.

C. All easements shall be kept free from alteration, and owners of lots containing such easements shall keep them free from permanent structures and shall provide access without trespass by maintenance personnel for the installation, upkeep, repair, removal and replacement of such facilities which may be constructed within those easements.

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D. Each R-1 zoned lot in the subdivision has an area designated on the Plat that is a ponding area. Each lot owner is responsible for retaining water on that owner's lot as called for on the Plat. The swale, slope or indentation which acts as the ponding area may not be altered unless consent is obtained from the City of Las Cruces and then again by the Design Review Committee.

E. Sale of any lot shall include all rights of Declarant in and to the street, road or highway affronting the same, subject however to the rights of all others to use the same as public or private thoroughfares. Declarant reserves the right to dedicate to the public all streets, roads and highways within or abutting the Subdivision without the consent of any owner within the Subdivision.

F. All public and private rights-of-way, including streets and roads shown on the recorded plats for the subdivision, shall also be considered a utility easement. Such easements shall be measured by a perpendicular (or radial on curves) from the front property corners of all lots to the centerline of such street or road.

## 2) SECURITY SERVICES

The Declarant, or Boulders on the Green at Sonoma Ranch Homeowners Association, may establish security for the subdivision, including a gatehouse and gates. Such security will be owned and operated by Boulders on the Green at Sonoma Ranch Homeowners Association, with the expense of the security to be borne as a common expense of the Association itself.

## IV. MISCELLANEOUS PROVISIONS

1) Each grantee of a lot within Boulders on the Green at Sonoma Ranch Subdivision by the acceptance of a deed or conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights and benefits hereby granted, created, reserved or declared, and all obligations hereby imposed shall be covenants running with the land, and shall bind any person having at any time any interest or estate in the land, and shall ensure to the benefit of such owner in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

2) Any provision hereof may be changed, amended or rescinded by written instrument setting forth such amendment which has been approved by owners of ninety (90) percent of the lots, and executed by the members of the Design Review Committee.

3) The agent for service of process upon the Developer is David M. Steinborn, 141 Roadrunner Parkway, Suite 141, Las Cruces, NM, 88011.

4) Any amendment, change, modification or rescission of this Declaration shall be effective only when filed for record in the office of the County Clerk of Dona Ana County, New Mexico. No amendment, change, modification or rescission of any provision of this Declaration shall

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be valid or effective if such amendment, change, modification or rescission violates or conflicts with any applicable statute of New Mexico.

5) Declarant shall have, retain, and reserve certain rights until the last lot within the subdivisions has been sold and conveyed.

6) Each grantee of a lot within the Subdivision is hereby placed on notice of the plans of the Developer to develop other lands, including other units or phases of both Sonoma Ranch South Subdivision and Boulders on the Green at Sonoma Ranch Subdivision, and other adjacent subdivisions, in the City limits of Las Cruces, having minimum lot sizes as required under districts zoned or classified R-1 by the City of Las Cruces zoning code and regulations and containing certain multi-family, and commercial lots. Each grantee accepting a grant of a lot, subject to these Protective Covenants, hereby consents to such development and covenants not to oppose such development, provided such development is not in violation of law.

## V. OWNERS' ASSOCIATION

Boulders on the Green at Sonoma Ranch Subdivision Owners Association, Inc., which is an incorporated association made up of all the lot owners in the Boulders on the Green at Sonoma Ranch Subdivision, has as its purpose the ownership, development, and maintenance of common areas and facilities within the subdivision.

### 1) DEFINITIONS.

For the purposes of this Declaration, the following terms are defined:

ASSOCIATION: All of the lot owners acting as a group in accordance with the By- Laws adopted by them and this Declaration.

MAINTENANCE AREAS: Maintenance areas are those areas which are to be maintained by the Association. They include all areas owned by the Association or owned by the Declarant and within the subdivision's boundaries, tracts designated as roads or rights-of-way, tracts designated as open areas, the front yards of all lots, the club house, park, hot tub and associated equipment, and such other areas designated as maintenance areas by the Association.

LOT OWNERS: Person(s) owning a lot within Boulders on the Green at Sonoma Ranch Subdivision in fee simple.

### 2) NON-PROFIT PURPOSE.

No director, officer, member or employee of the Owners' Association, or any other private individual shall receive at any time any of the earnings or funds of the Owners' Association; provided

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that this shall not prevent payment to any such person of reasonable compensation for services rendered, and no such person shall be entitled to share in the distribution of any of the Owners' Association assets upon the dissolution of the Owners' Association. At dissolution, excess assessments may be funded to the lot owners, and all other assets shall be transferred exclusively to charitable, religious, scientific, or educational institutions which would then qualify under the provisions of Section 501 (c)(3) of the Internal Revenue Code as it now exists, or as amended hereafter.

### 3) ADMINISTRATION OF THE MAINTENANCE AREAS.

The areas to be maintained shall be administered as follows:

**A. LOT OWNERS AND BOARD OF DIRECTORS:** The administration of the maintenance shall be vested in the lot owners, the owners of each lot having one vote. The owners shall elect and act through a Board of Directors (hereinafter called the "Board") in the manner set forth in the By-Laws attached hereto. Each member of the Board shall be a lot owner except that if a lot owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, then any director of such corporation, partner of such partnership, individual trustee of such trust, or manager of such other legal entity shall be eligible to serve as a member of the Board.

**B. INITIAL BOARD OF DIRECTORS:** The initial Board of Directors shall be composed of three persons to be chosen by the members of Sonoma Ranch Construction, LLC. The Board of Directors shall consist of the above members until either (a) the General Partners state in writing to all lot owners that control shall pass to a Board of Directors elected by the lot owners, or (b) the sale of all lots in the subdivisions.

**C. GENERAL POWERS AND DUTIES OF THE BOARD:** The Board shall have the duty and such powers as shall be reasonably required to direct, administer, manage and protect the maintenance areas in accordance with the provisions of this Declaration and said By-Laws and, without limiting the foregoing, the Board shall have the duty and power to acquire and pay for the following:

1. Water, waste removal, electricity and other necessary utility services for the maintenance areas. The Board of Directors will determine the manner in which utility services will be metered and charged.

2. A policy or policies in amounts determined by the Board, insuring the members of the Board and their agents and employees and the owners against any liability to the public or to the owners and their invitees and tenants.

3. Landscaping, gardening, snow removal, painting, clearing, maintenance, decorating, repair of facilities.

4. Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance or assessments, water, electricity, and other utility services

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for the areas and facilities which the Board is required to secure or pay for pursuant to the terms of this Declaration or By-Law or which, in the Board's opinion, are necessary or convenient for the benefit of the lot owners or for the enforcement of this Declaration and/or the By-Laws attached hereto.

5. Any amount necessary to discharge any mechanic's or materialmen's lien or other encumbrance levied against the maintenance areas or any part thereof. Where one or more owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred by the Board by reason of such lien or liens shall be specially assessed to said owners, including attorney's fees.

6. The services of any person or firm employed by the Board in furtherance of its general powers and duties herein stated, including but not limited to, accountants, bookkeepers, tax advisors, lawyers, architects, engineers, carpenters, electricians, plumbers, painters, gardeners, managers and others determined by the Board to be necessary or convenient.

7. Any income taxes payable by the Association.

**D. LIMITATION OF THE POWERS OF THE BOARD:** The Board's powers herein above enumerated shall be limited in that the Board shall have no authority to acquire and pay for any capital addition or improvement (other than for purposes of replacing or restoring portions of the maintenance areas, subject to all of the provisions of this Declaration) having a total cost in excess of \$4,000.00; nor shall the Board authorize any structural alterations, capital additions to, or capital improvements requiring an expenditure in excess of \$4,000.00, without in each case obtaining the prior approval of seventy-five (75%) of the lot owners. The Board may adopt such reasonable rules and regulations as it may deem advisable for the maintenance, conservation and beautification of the maintenance areas and for the health, comfort, safety and general welfare of the owners. Written notice of such rules and regulations shall be given to all owners and the areas shall be at all times maintained subject to such rules and regulations.

#### 4) ASSESSMENTS AND MAINTENANCE FUND

There shall be a maintenance fund and assessments against the lot owners as follows:

**A. CREATION OF MAINTENANCE FUND AND OBLIGATION FOR ASSESSMENTS:** The Board shall establish a maintenance fund for the administration, maintenance, repair, replacement and improvement of the maintenance areas and facilities and for the enforcement of the provisions of this Declaration and the By-Laws, which maintenance fund shall be financed or funded by assessments as herein provided, paid by all lot owners. Each future lot owner, including transferees of future lot owners, shall make monthly payments to the maintenance fund a sum of money determined by the Board to be adequate to pay the share of the maintenance fund of such future owner or transferee. If the Board fails to determine the amount of such sum, the amount shall be \$125.00 per month for each lot owner. The fund shall be administered on a fiscal year basis, which fiscal year shall end on December 31<sup>st</sup> of each year.

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Each year, on or before November 30<sup>th</sup>, the Board shall estimate the total amount necessary to pay the cost of wages, materials, insurance, services and supplies which will be required for the administration, tax and insurance payments, maintenance, repairs replacement and improvement of the maintenance areas during the ensuing fiscal year, for the exercise and performance of the owners and duties of the Board and for the enforcement of the provisions of this Declaration and the By-Laws, together with a reasonable amount considered by the Board to be necessary as a reserve for contingencies and replacements and shall notify each owner as to the amount of such estimate.

On or before the second day of each month, each owner shall be obligated to pay to the Board the assessments due pursuant to these covenants, unless other payment arrangements are made with approval of the Board.

**B. MANAGEMENT OF THE MAINTENANCE FUND AND COLLECTION OF THE ASSESSMENTS:** On or before the date of each annual meeting of the owners, the Board shall supply to each owner an itemized accounting of the administrative, maintenance and other expenses for the preceding fiscal year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the estimates provided, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited to the amount due from the owners next year's estimate, until exhausted, and any net shortage shall be added to the next year's estimate after rendering of the accounting. The Board shall build up and maintain a reasonable reserve for contingencies and replacements. Extraordinary expenditures not originally included in the annual estimate that may become necessary during the year shall be charged first against such reserve. If said estimated cash requirement proves inadequate for any reason, including non-payment of any owner's assessment, the Board may serve notice of such further assessment on all owners by a statement in writing, giving the amount and reasons therefor, and such further assessment shall become effective with the next payment.

All owners shall be obligated to pay the adjusted monthly assessments. The initial Board shall determine the "estimated cash requirement" as above defined. The failure or delay of the Board to prepare or submit the annual adjusted estimate on the owners shall not constitute a waiver or release in any manner of such owner's obligation to pay the maintenance costs and necessary reserves. The Board shall keep full and correct detailed books of account and records of the receipts and expenditures affecting the common areas, specifying and itemizing the maintenance and repair expenses of the common areas and any other expenses incurred. The records and the vouchers authorizing the payments shall be available to inspection by any owner or any representative of any owner at reasonable times. All funds collected hereunder shall be held and expended for the purposes designated herein and shall be deemed to be held for the benefit, use and account of all the owners.

If an owner is in default in the monthly payments of the aforesaid charges or assessments for thirty days or longer, the members of the Board may bring suit for and on behalf of themselves and as representatives of all owners to enforce collection thereof or to foreclose the lien therefor as hereinafter provided and there shall be added to the amount due the costs of such suit, together with legal interest and reasonable attorney's fees to be fixed by the court. To the extent permitted by any

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court decision or any statute or law now or hereafter effective, the amount of any delinquent and unpaid charges or assessments and interest, costs and fees, as above provided, shall be and become a lien or charge against the lot owned by the lot owner involved when payable and may be foreclosed by an action brought in the name of the Board as foreclosure of mortgage against real estate, and the period allowed for redemption shall be one month from and after the date of foreclosure suit. Said lien shall take effect and be in force, provided, however, that encumbrances owned or held by any bank, insurance company or savings and loan association shall be subject as to priority, after written notice to said encumbrances of unpaid maintenance expenses, only to the lien of all common expenses on the encumbered lot which become due and payable subsequent to the date said encumbrances either takes possession of the lot, accepts a conveyance of any interest therein, or files suit to foreclose his/her lien. In the event of a voluntary conveyance of ownership, the grantor and grantee shall be jointly and severally liable for all unpaid common expenses and assessments for common expenses related to said ownership to the time of such grant or conveyance. Amendments to this paragraph shall only be effective upon unanimous written consent of the owners and their mortgagees. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the maintenance areas or by abandonment of his/her lot.

#### **5) INSURANCE AND TAXES.**

The Board of Directors shall purchase such liability or casualty insurance as it deems advisable. The Board shall file the association's annual tax return, and annual election as a tax exempt homeowners association, if applicable; and shall pay property taxes and special assessments which are or could become a lien upon the maintenance areas.

#### **6) GENERAL PROVISIONS.**

The following general provisions shall govern the administration and management of the maintenance areas:

A. Until the Board of Directors provided for in this Declaration is formed, the Developer shall exercise the powers, rights and functions of the Board.

B. Upon written request to the Board, the holder of any duly recorded mortgage or deed of trust against any lot owner shall be given a copy of any and all notices permitted or required by this Declaration to be given to the owner or lot owners whose ownership is subject to such mortgage or deed of trust.

C. Notices required to be given to said board or the owners may be delivered to any member of the Board either personally or by mail addressed to such Board member at his home.

D. Notices required to be given any devisees or personal representative of a deceased owner may be delivered either personally or by mail to such personal representative at his/her or its address appearing in the records of the court wherein the estate of such deceased owner is being administered.

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E. Each grantee of the Developer, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and owners created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared and all obligations hereby imposed shall be covenants running with the land and shall bind any person having at any time any interest or estate in the land, and shall inure to the benefit of such owner in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

F. No covenants, restrictions, conditions, obligations or provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

G. The agent for service of process upon the Owners' Association is David M. Steinborn, 141 Roadrunner Parkway, Suite 141, Las Cruces, New Mexico 88011, until such time as the President of the Association is elected.

H. Any amendment, change, modification or rescision of this Declaration or the By-Laws hereto attached shall be effective only when filed for the record in the office of the County Clerk of Dona Ana County, New Mexico. No amendment, change, modification or rescision of any provision of this Declaration or the By-Laws shall be valid or effective if such amendment, change modification or rescision violates or conflicts with any applicable statute of New Mexico.

**7) BREACH OF COVENANTS.**

It is further stipulated that breach of any of the foregoing conditions and covenants shall not affect any mortgage or other lien which in good faith may be existing at the time upon said property or any improvements thereon.

**8) AMENDMENT.**

Any provision hereof may be changed, amended or rescinded by a written instrument setting forth such amendment which has been approved by ninety (90) percent of lot owners in attendance or by proxy at a called meeting for that purpose, and executed by the chairman of the Board, except that this provision (V, paragraph 9) may be changed only by unanimous vote of the lot owners.

**9) NO REVERSION OF TITLE.**

Nothing contained in this Declaration or in any form of deed which may be used by the Declarant or its successors and assigns in selling any lot shall be deemed to vest or reserve in Declarant or the owners association any right of reversion for breach or violation hereof, and any such reversionary right is hereby expressly waived by Declarant.

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**VI. DEFINITION**

The term "Declarant," as used herein, means Sonoma Ranch Construction, LLC, a New Mexico limited liability company, and its successors or assigns as Developer of the Subdivision. Any such successor or assign intended to become the "Declarant" hereunder shall be designated as such in the instrument of conveyance from the then-Declarant to such successor or assign.

**VII. EFFECTIVE DATE**

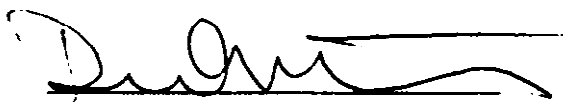
These restrictions, covenants and reservations, and any amendments or exceptions thereto shall be effective as of the date of their filing with the County Clerk of Doña Ana County, New Mexico.


DATED at Las Cruces, New Mexico, this 10 day of April, 2006.

**SCHUELLER HOMES, LLC**

By:   
Dale A. Schueller, its Managing Member

**SONOMA RANCH CONSTRUCTION, LLC**

By:   
David M. Steinborn, Member

  
George B. Rawson, Member

  
Dale A. Schueller, Member

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STATE OF NEW MEXICO )  
 ) ss.  
COUNTY OF DOÑA ANA )

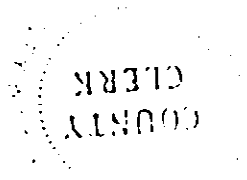
The foregoing instrument was acknowledged before me this 10 day of April, 2006, by David M. Steinborn, George B. Rawson, Members of Sonoma Ranch Construction, LLC, a New Mexico limited liability company, and Dale A. Schueller, Member of Sonoma Ranch Construction, LLC, a New Mexico limited liability company, and President of Schueller Construction Co. Ltd.

*Melissa K.*  
Notary Public



My Commission Expires: August 4, 2008

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703 569 589  
*Approved*



COUNTY OF DONA ANA )  
STATE OF NEW MEXICO ) ss  
DECLARATION OF COVENANTS  
PAGES: 23

Hereby Certify That This Instrument Was Filed for  
Record On JUN 6, 2016 09:17:53 AM  
And Was Duly Recorded as Instrument # 1612407  
Of The Records Of Dona Ana County



Witness My Hand And Seal Of Office,  
Lynn J. Ellins, County Clerk, Dona Ana, NM

Deputy Renee Torres

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**Declaration of Protective Covenants, Amendment No. 1  
Boulders on the Green at Sonoma Ranch  
Homeowners' Association, Inc.**

The Declaration of Protective Covenants, recorded April 18, 2006, in Book 703, at Pages 569-589 of the Records of the Dona Ana County Clerk, are hereby amended as follows:

**First-Paragraph IV. Miscellaneous Provisions, 2).** is eliminated in it's entirety and the following is substituted in it's place:

"Any provision hereof may be amended, changed, or rescinded by written instrument setting forth such amendment which has been approved by the owners of Sixty Percent (60%) of the lots, and executed by the President and Secretary of the Homeowners Association."

**Second-Paragraph IV. Miscellaneous Provisions, 3).** is eliminated in it's entirety and the following is substituted in it's place:

"The agent of the service of process upon the Homeowners Association is the President of the Homeowners Association."

**Third-Paragraph V. Owners' Association, 3), Administration of the Maintenance Area, D). Limitation of the Powers of the Board,** is eliminated in it's entirety and the following is substituted in it's place:

"The Board's powers herein above enumerated shall have no authority to acquire and pay for any capital addition or improvement (other than for purposes of replacing or restoring portions of the maintenance areas, subject to all of the provisions of this Declaration) having a total cost in excess of Fifteen Thousand dollars (\$15,000), nor shall the Board authorize structural alterations, capital additions to, or capital improvements requiring an expenditure in excess of Fifteen Thousand dollars (\$15,000), without in each instance obtaining the prior approval of Sixty Percent (60%) of the lot owners. The Board may adopt such reasonable rules and regulations for the maintenance, conservation, and beautification of the maintenance areas for the health, comfort, safety and general welfare of the owners and residents. Written notices of such rules and regulations shall be given to all owners and residents, and the areas shall at all times be maintained subject to such rules and regulations."

**Fourth-Paragraph 6. General Provisions, G).** is eliminated in it's entirety and the following is substituted in it's place:

"The agent of the service of process upon the Homeowners Association is the President of the Homeowners Association."

**Fifth-Paragraph 8. Amendment.** is eliminated in it's entirety and the following is substituted in it's place:

Any provision hereof may be changed, amended or rescinded by a written instrument setting forth such amendment which has been approved by sixty (60) percent of lot owners in attendance or by proxy at a meeting called for that purpose, and executed by the President of



the Board, except that the following paragraph 9, No Reversion of Title, may be changed only by the unanimous vote of the lot owners.

Executed at Las Cruces, New Mexico, this 24 day of May, 2016.

**Boulders on the Green at Sonoma Ranch Homeowners Association, Inc.**

By *Ann C. Gaspar*

President

And by *Victoria D. Simonson*

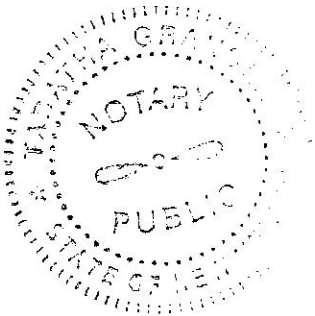
Secretary

STATE OF NEW MEXICO )  
 )ss.  
COUNTY OF DONA ANA )

The foregoing instrument was acknowledged before me this 24 day of May, 2016, by Ann ABBAGNARD and Victoria SIMONSON, President and Secretary, respectively, of the Boulders on the Green at Sonoma Ranch Homeowners Association, Inc.

*Sabatha Granger*  
Notary Public

My Commission Expires: 9/10/16





The Boulders on the Green Pool and Spa are located in the club house. They are opened each year from May 1 to October 31 (Weather Permitting), and closed during the winter. The pool and spa are for the use of all residents and their guests. Following are a list of rules set out by the BOG Board of Directors.

#### RULES FOR THE POOL AT BOULDERS ON THE GREEN

1. WHILE POOL PARTIES ARE ALLOWED THE POOL WILL REMAIN OPEN TO ALL ASSOCIATION MEMBERS.
2. POOL PARTIES WITH 10 OR FEWER GUEST DO NOT NEED TO BE CLEARED BY THE BOULDERS ON THE GREEN ASSOCIATION, BUT IT IS REQUESTED THAT ASSOCIATION MEMBER HOSTING SUCH A PARTY, GIVE THE BOULDERS ON THE GREEN ASSOCIATION AT LEAST FOUR DAYS NOTICE. DURING SCHEDULED PARTY, THE POOL WILL REMAIN AVAILABLE TO OTHER ASSOCIATION MEMBERS. SUCH POOL PARTIES ARE THE SOLE RESPONSIBILITY OF THE MEMBER HOLDING THE PARTY, WHO IS RESPONSIBLE FOR PROPER SUPERVISION.
3. UNDER NO CIRCUMSTANCES CAN THE POOL BE RESERVED FOR A PRIVATE PARTY.
4. IT IS THE ASSOCIATION MEMBER'S RESPONSIBILITY TO CLEAN THE POOL AREA. IF THE AREA IS NOT CLEANED, THE BOULDERS ON THE GREEN ASSOCIATION WILL HIRE A SERVICE AND THE ASSOCIATION MEMBER WILL BE RESPONSIBLE FOR THE COST.
5. ONLY ONE PARTY PER DAY MAY BE SCHEDULED AND ARE LIMITED TO BE HELD BETWEEN THE HOURS OF 9AM AND 9 PM.
6. POOL WILL BE OPEN ON HOLIDAYS.
7. POOL CAPACITY IS 25 PEOPLE AND ONE ADULT MEMBER IS REQUIRED TO BE PRESENT AT ALL TIMES FOR EVERY 5 CHILDREN IN THE POOL. THE MEMBER REQUESTING THE POOL PARTY IS SOLELY RESPONSIBLE FOR MAKING SURE THAT THERE ARE THE REQUISITE NUMBER OF ADULT MEMBERS AT ALL TIMES.
8. BANDS ARE NOT PERMITTED. IF USING A DJ OR OTHER PERSONAL MUSIC, SET UP SHOULD BE SET WITH CONSIDERATION OF THE HOME LOCATED CLOSEST TO THE POOL. ALL MUSIC MUST COMPLY WITH THE CITY OF LAS CRUCES NOISE ORDINANCE.
9. NO PETS OR ANIMALS ALLOWED IN THE POOL AREA.

10. CHILDREN WEARING DIAPERS ARE NOT PERMITTED IN THE WATER UNLESS THEY ARE WEARING SPECIALLY SEALED SWIM PANTS DESIGNED FOR THIS PURPOSE.
11. POOL HOURS ARE FROM 8AM TO 9PM. THERE WILL BE NO LIFEGUARD ON DUTY.
12. PERSONS UNDER 16 MUST BE ACCOMPANIED BY AN ADULT.
13. GATES MUST BE SECURED AT ALL TIMES.
14. THERE WILL BE NO DIVING ALLOWED IN ANY OF THE POOLS AT ANY TIME.
15. ANY PERSON UNDER THE INFLUENCE OF ALCOHOL OR EXHIBITING ERRATIC BEHAVIOR SHALL NOT BE PERMITTED IN THE FACILITY AREA.
16. THE BOULDERS ON THE GREEN ACCEPTS NO RESPONSIBILITY FOR MONEY, VALUABLES, OR OTHER ARTICLES BELONGING TO THOSE USING THE POOL, OR LOSS OR DAMAGE TO PERSONAL PROPERTY.
17. BOG HOA IS REMINDING ALL RESIDENCES THAT OUTSIDE GUESTS USING THE POOL NEED TO BE ACCOMPANIED BY A RESIDENT AND PLEASE LIMIT THE # OF TIMES THIS IS DONE TO 3 TIMES PER MONTH

THE BOARD OF DIRECTORS OF THE BOULDERS ON THE GREEN HOMEOWNERS ASSOCIATION, AND THEIR AUTHORIZED PERSONNEL HAVE THE RIGHT, BUT NOT THE DUTY, TO EVICT ANY MEMBER VIOLATING OR FAILING TO COMPLY WITH THESE RULES AND TO ENFORCE SUCH ADDITIONAL RULES AND REGULATIONS AS NECESSARY FOR THE PROPER AND SAFE OPERATION OF THE POOL. NOTHING IN THESE RULES SHOULD BE CONSTRUED TO MEAN THAT THE ASSOCIATION OR ITS BOARD OF DIRECTORS WILL PROVIDE ANY OVERSIGHT OF THE USE OF THE POOL.

## Clubhouse Cleanup Guidelines

The Homeowners of Boulders on the Green have made a serious effort to outfit the Clubhouse with all the basic necessities for a good party or gathering. One of the benefits in our community is that all residents may schedule use of our Clubhouse for community or private functions. Out of respect to all the other residents, we ask that the Clubhouse be left in the same condition as you found it.

Following is a list of guidelines for cleaning the Clubhouse:

- Broom sweep the whole floor where necessary – A broom and dust pan are located in the small closet in the kitchen. If a spill has occurred in the room, please be sure to wipe it up promptly.
- Make sure the countertops and tables are wiped down and any spills are cleaned up.
- The sink should be empty and clean, and the counters free of any utensils or dishware. Please try to replace items where they were found.
- The refrigerator shelves should be clean. Please remove any leftover food and clean up any spills.
- Clean the Oven and Microwave so they are spotless. Please clean up any stains. The main oven has a self clean mode. Remember to remove the wire racks before you set the oven to “Self Clean”. After the self clean cycle is completed, please come back to remove and remaining residue in the oven.
- The dishwasher should be emptied by the morning following your use - in case there is another party that day.
- The bathrooms should be neat and tidy, with any empty toilet tissue rolls replaced. (Pinch the roll and the clips release).
- The garbage and recycling should be removed to the outside bins.
- Please place all furniture back in its original place. If you use extra chairs or tables from the storage area, please return them.
- Make sure all doors are locked and the heater / air conditioner is set to 81 in the summer or 68 in the winter.
- Please also check for any items your guests may have left behind, such as sun glasses, clothing dishes, pans, etc.

**DECLARATION OF PROTECTIVE COVENANTS  
BOULDERS ON THE GREEN  
AT SONOMA RANCH SUBDIVISION  
DOÑA ANA COUNTY, NEW MEXICO**

KNOW ALL BY THESE PRESENTS: That Sonoma Ranch Construction, LLC, a New Mexico limited liability company, developer and Schueller Homes, LLC, owners of all o f the land located Boulders on the Green at Sonoma Ranch Subdivision in Doña Ana County, New Mexico, according to the plats thereof on file in Plat Records Book 21, pages 547-549 and Plat Records Book 21, pages 311-313, of the County Clerk's office of Doña Ana County, New Mexico, in consideration of the mutual interest of the owners of real estate in Boulders on the Green at Sonoma Ranch Subdivision covenants and agrees with all future purchasers of lots or building sites in said Subdivision that the following restrictions and obligations shall apply to all lots and building sites in said Subdivisions, and all conveyances of any lot therein shall likewise be subject to said restrictions and obligations as follows:

**I. ESTABLISHMENT OF COVENANTS**

**1) ADDITIONAL COVENANTS.** All owners within the Sonoma Ranch South Subdivision are subject to covenants which relate to the subdivisions within the approximately 395 acres of Sonoma Ranch South. Those covenants burden properties within all of the subdivisions within Sonoma Ranch South, and their owners. The Covenants set forth herein are in addition to, and not in lieu of, the covenants for Sonoma Ranch South. The owners within Boulders on the Green at Sonoma Ranch are obliged to abide by both sets of covenants, and to pay the assessments due to the Sonoma Ranch South Homeowners' Association as well as the assessments due under these covenants.

**2) TERM.** All of the restrictions, conditions, covenants and reservations set forth in the Declaration shall be covenants running with the land and shall continue and remain in full force and effect at all times until January 1, 2026, and shall thereafter be automatically continued without further notice from that time for successive periods of ten (10) years without limitation, unless there shall be recorded a written instrument, approved by the then-record owners of seventy-five percent (75%) of the lots in the subdivisions and executed by the members of the Design Review Committee, modifying or extinguishing this Declaration in whole or in part.

**3) ENFORCEMENT.** All persons, firms, associations, and corporations who now own, or who may in the future own, property in the subdivisions are specifically given the right to enforce these covenants through any proceeding, at law or in equity, against any person or persons, firms and corporations violating or threatening to violate such covenants, and to recover any damages suffered by them from any violation thereof. Neither the Declarant nor the Design Review Committee shall be obligated to enforce any covenant through legal proceedings.

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4) **SEVERABILITY.** Invalidation of any one of these covenants by judgment or court order shall not affect any of the other provisions, which at all times shall remain in full force and effect.

5) **DESIGN REVIEW COMMITTEE.**

A. The Design Review Committee shall initially be composed of three persons to be chosen by the Developer. The Developer has the authority to remove any member of the initial committee, with or without cause. In the event of death, resignation or removal of any member of the initial committee, the above-mentioned Developer shall have full authority to designate a successor or successors. The Design Review Committee may designate one of its members to take any action or to perform any duties for and on behalf of the Committee. The members of the Committee shall not be entitled to any compensation for services performed pursuant to this Covenant. The initial Design Review Committee shall exist until such time as the Developer states in writing to all individual owners of lots in Boulders on the Green at Sonoma Ranch subdivision that control shall pass to whomever the majority of those lot owners shall elect. A majority of the lot owners shall determine the means of the continuation and succession of members of the Design Review Committee after notice has been served. Such notice shall be given at the latest after the conveyance by the Developer of the last lot in Boulders on the Green at Sonoma Ranch Subdivision; however, failure to give such notice shall not extend the term of any member of the Committee, nor shall Sonoma Ranch Construction, LLC, be liable therefore.

B. In addition to other powers and authority vested in the Design Review Committee, it shall also: rule upon any questions arising with respect to interpretation of the protective covenants; grant variations from these covenants at its discretion, and, if necessary, may, but shall not be required to, take any action necessary to enforce the same on behalf of all parties having an interest. Such shall not preclude any other person authorized by law from either enforcing or enjoining the enforcement of these restrictive covenants.

C. The Design Review Committee shall also serve as an architectural review committee. The Design Review Committee shall issue standards or rules ("Design Standards") relating to the procedures, materials to be submitted and additional factors which will be taken into consideration in connection with the approval of any proposed improvements to the property.

D. The review of any plans submitted to the Design Review Committee, and any approval thereof, is intended and shall be construed solely as review of compliance with these Protective Covenants, and shall not be deemed or construed in any way to include review and/or approval of compliance with applicable laws, codes or regulations, nor of safety, habitability, stability or any other matter, all of which are the responsibility solely of the architect, builder and/or owner of the improvements for which plans are submitted.

6) **DESIGN REVIEW.** No building, wall or fence shall be erected, placed or altered on any lot until the construction plans and specifications, and a plan showing the location of the structure having been approved by the Design Review Committee as to materials and compliance

with these covenants. No exterior portion of a structure (including doors) may be painted until the Design Review Committee has approved the color. Approval shall be as provided in Paragraph I-6.

7) **PROCEDURE.** Owners shall submit plans and specifications to the Committee, along with forms designated and included in Design Standards. The Committee's approval or disapproval as required in these covenants shall be in writing, and given within ten (10) working days of the submission of all required information. In the event the Design Review Committee fails to act on submitted plans within the 10-working-day review period, then the plans shall be deemed approved.

8) **NON-LIABILITY.** Neither the Developer nor the Design Review Committee shall incur liability to anyone submitting plans for approval, or to any owner or owners of land subject to these covenants by reason of mistake in judgment, negligence or nonfeasance of itself, its agents or employees, arising out of or in connection with the approval, or disapproval, or failure to approve any such plans; anyone submitting plans for approval, by the submitting of such plans, and by acquiring title to any of the property covered hereby, waives his claim for any such damages.

9) **APPLICABILITY.** The conditions and restrictions imposed herein shall apply to all lots within Boulders on the Green at Sonoma Ranch Subdivision, unless the Design Review Committee as provided herein grants variations.

## II. GENERAL RESTRICTIONS

1) **R-1 ZONED LOTS.** The following restrictions as to use shall apply to all Single Family Residential lots within the subdivisions:

A. Only one single family dwelling on each lot is permitted. No geodesic dome, cubical, or A-frame structures are permitted as residences or for any other purposes. No mobile homes (single wide or double wide), manufactured housing, prefabricated or modular homes are permitted, whether or not they are permanently attached to the land, and whether or not improvements are added to such mobile homes or manufactured housing or modular homes. The temporary sales office of the Developer is not, however, subject to this paragraph.

B. No residence shall be erected, altered, placed or permitted to remain on any lot with fully enclosed living area of less than 1,600 square feet of heated living area, exclusive of garages, open porches, accessory buildings or other covered areas, with the exception of a temporary sales office placed upon a lot by the Developer, which shall remain only until the sale of the last lot in Boulders on the Green at Sonoma Ranch Subdivisions.

C. No structure on any lot shall exceed one story above grade, with a maximum height of twenty-three (23) feet above the highest finished grade of the lot, except for chimneys of reasonable size. Each dwelling shall have a two car garage, being a minimum size of 400 square feet, and having one 16' by 7' door or two 8' by 7' doors at a minimum.

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D. No building or any part thereof, including garages, shall be erected on any lot closer to the respective property line than as follows:

Front of garage	25 feet
Front of house	15 feet
Side street setback	12 feet
Side yard setback	5 feet
Rear yard setback	15 feet

E. All buildings erected, placed or permitted to remain on any lot shall be situated only within that portion of said lot not restricted from use by an easement or right-of-way. At street intersections, lots having frontage on two (2) streets shall have one (1) street declared by the Design Review Committee, on approval of structural plans, as the street where the "Front setback" applies. The other street shall have a minimum "Side street setback" which shall apply.

F. No variation from the "side yard setback" shall be approved.

G. Should any residence be constructed on more than one lot, the exterior lines of lot ownership shall be used for determining the front, rear and side lot setbacks subject to existing easements.

H. All buildings constructed in the Subdivision shall be frame and stucco, adobe, rammed earth or other such surfaces and materials as may be authorized by the Design Review Committee. Brick and wood siding are not acceptable surfaces. Garages, carports and permitted accessory buildings shall conform in material and design to the dwelling to which they pertain. No metal storage buildings shall be allowed on any lot. Only exterior surface materials in desert tone colors, in the Boulders' color palette adopted by the Declarant, shall be used for any residence, accessory structure, wall or fence. The construction of each building must comply with the New Mexico Uniform Building Code or the Building Code enforced by the City of Las Cruces.

I. No identical front elevations will be allowed side by side. Exterior elevations need to wrap around the house on four sides on all lots that back up to the golf course. Elevations shall be only those in the models in Boulders on the Green at Sonoma Ranch approved by the Declarant.

J. A grading plan showing finished elevations in the retention or detention areas has been approved by the City of Las Cruces. No grading, land filling, excavating, or other alterations will be done in the retention or detention areas except pursuant to the approved plan or revision approved by the City of Las Cruces and by the Design Review Committee.

K. No impervious materials can be used to replace or cover areas used for drainage or ponding.

L. No manufacturing or commercial enterprise of any kind for profit shall be maintained on, in front of, or in connection with single family residential lots in the subdivisions;

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except home occupations or professionals in businesses engaged in recognized non-manufacturing professions may be permitted which would be in accordance with the codes of the City of Las Cruces.

M. There shall be no fair, exhibition, festival, show or other activity that attracts or is intended to attract, divert, or collect a large number of persons. Such restrictions shall not prevent, however, what is commonly known as "garage sales" or backyard parties conducted by residents or their children living in the subdivisions, provided such are only occasional. Open houses for the purpose of selling a home and model home shows for the same purpose may be held.

N. No animals, livestock, including horses, donkeys, and mules, or poultry or swine of any kind shall be raised, bred, or kept on any lot. Dogs, cats or other domesticated, household pets may be kept; provided, however, that they are not kept, bred or maintained for any commercial purpose, and further provided they do not disturb other property owners or become a nuisance in any way.

O. Use and occupancy of all portions of the subdivisions shall be subject to zoning, building, health, sewage disposal and sanitation laws and regulations and all other applicable laws and regulations of the State of New Mexico and/or all government agencies having jurisdiction; the Declarants, its successors or assigns, may also impose rules and covenants regulating such matters from time-to-time.

P. Subdivision lots shall not be used for the purpose of mining, quarrying, drilling, boring or exploring for or removing water, oil, gas or other hydrocarbons, minerals, rocks, stones, gravel or earth, nor shall oil wells, tanks, tunnels or mineral excavations or shafts be permitted upon the surface of any portion of the Subdivisions or within 500 feet below the surface of the Subdivisions.

Q. Each lot owner shall be responsible for removing weeds and other debris located on such Owner's lot and for maintaining, repairing and replacing in a good state of repair and in a neat and attractive condition all other improvements to Owner's lot.

## **2) TEMPORARY USES.**

A. Any lot or portion thereof may be used temporarily by the Developer as a sales office, model home complex, or storage and construction yard during the construction and sales period, provided that all temporary uses defined herein must have the prior written approval of the Design Review Committee.

B. No lot shall be used for the storage of any construction or other materials except for a period of up to thirty (30) days prior to the start of construction and during the construction period.

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### 3) CONSTRUCTION.

A. R-1 ZONED LOTS. All construction, whether new construction, alterations, additions or exterior remodeling, shall be completed in accordance with plans approved by the Design Review Committee within six (6) months from commencement of construction. All construction shall commence upon each lot within eighteen (18) months from the date of purchase of said lot from the Developer or at the Developer's option, the Developer may re-purchase the lot at the original purchase price. The Developer must exercise this option within 30 days from the 18-month date or it shall lose the right to exercise this option.

B. R-1 ZONED LOTS. No building previously used at another location nor any building or structure originally constructed as a mobile dwelling, except when used as a temporary sales office, may be moved onto a lot, except as expressly approved by the Design Review Committee.

### 4) OCCUPANCY OF DWELLINGS WITHIN THE SUBDIVISION.

A. GENERAL. Dwellings on lots within the Subdivision (hereinafter "Dwelling") are intended for the housing of persons 55 years of age or older, although younger persons are not restricted from occupying Dwelling along with a person 55 years of age or older so long as such co-occupancy is in compliance with this Section II.4. The provisions of this Section II.4 are intended to be consistent with, and are set forth in order to comply with, the Fair Housing for Older Persons Act (the "Act") regarding discrimination based on familial status. Declarant, until the last lot within the Subdivision has been sold and conveyed, or the Association, acting through its Board, shall have the power to amend this Section II.4, without the consent of the Members or any person except Declarant, until the last lot within the Subdivision has been sold and conveyed, for the purpose of making this Article consistent with the Act, as it may be amended, the regulations adopted pursuant thereto, and any judicial decisions arising thereunder or otherwise relating thereto, in order to maintain the intent and enforceability of this Section II.4.

#### B. RESTRICTIONS ON OCCUPANCY.

(i) Except as may otherwise be permitted pursuant to Section II.4(B)(iv), each occupied Dwelling on a lot within the Subdivision shall at all times have as a permanent occupant at least one person who is 55 years of age or older (the "Qualifying Occupant"), except that in the event of the death of a person who was the sole Qualifying Occupant of a Dwelling, the spouse of such Qualifying Occupant may continue to occupy the Dwelling provided that the provisions of the Act and the regulations adopted thereunder are not violated by such occupancy. For purposes of this II.4(B), an occupant shall not be considered a "permanent occupant" unless such occupant considers the Dwelling to be his or her legal residence and actually resides in the Dwelling for at least six months during every calendar year or such shorter period as the dwelling is actually occupied by any person.

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(ii) Except as may otherwise be permitted pursuant to Section II.4(B)(iv), no Dwelling shall be occupied by any person under the age of 18. For purposes of this Section II.4(B), a Dwelling shall be deemed to be "occupied" by any person who stays overnight in the Dwelling more than 21 days in any 60-day period or more than 30 days in any 12-month period.

(iii) Nothing in this Section II.4 is intended to restrict the ownership of or transfer of title to any Dwelling; however, no Owner may occupy the Dwelling unless the requirements of this Section II.4 are met, nor shall any Owner permit occupancy of the Dwelling in violation of this Section II.4. Owners shall be responsible for (i) including a statement that the Dwellings within the Community are intended for the housing of persons 55 years of age or older, as set forth in Section II.4(A), in conspicuous type in any lease or other occupancy agreement or contract of sale relating to such Owner's Dwelling, which agreements or contracts shall be in writing and signed by the tenant or purchaser, and (ii) clearly disclosing such intent to any prospective tenant, purchaser, or other potential occupant of the Dwelling. Every lease of a Dwelling shall provide that failure to comply with the requirements and restrictions of this Section II.4 shall constitute a default under the lease.

(iv) The Board of Directors retains the right to allow exceptions to section II.4, to the extent allowed by the Housing for Older Persons Act of 1995, [which (at the time these covenants are adopted) allow for up to twenty percent (20%) of the occupied units to deviate from the age requirements] and any other applicable law. Any Owner, in writing, may request that the Board of Directors make an exception to the requirements of this section II.4 with respect to his or her Dwelling. The Board of Directors may, but shall not be obligated to, grant exceptions in its sole discretion, provided that the requirements for exemption from the Act would still be met.

C. CHANGE IN OCCUPANCY; NOTIFICATION. In the event of any change in occupancy of any Dwelling as a result of a transfer of title, a lease or sublease, a birth or death, change in marital status, vacancy, change in location of permanent residence, or otherwise, the Owner of the Dwelling shall immediately notify the Board in writing and provide to the Board the names and ages of all current occupants of the Dwelling and such other information as the Board may reasonably require to verify the age of each occupant. In the event that an Owner fails to notify the Board and provide all required information within 10 days after a change in occupancy occurs, the Association shall be authorized to levy monetary fines against the Owner and the Dwelling for each day after the change in occupancy occurs until the Association receives the required notice and information, regardless of whether the occupants continue to meet the requirements of this Section II.4, in addition to all other remedies available to the Association under this Declaration and New Mexico law.

D. MONITORING COMPLIANCE; APPOINTMENT OF ATTORNEY-IN-FACT.

(i) The Association shall maintain age records on all occupants of Dwellings. The Board shall adopt and publish policies, procedures, and rules to monitor and maintain compliance with this Section II.4, including policies regarding visitors, updating of age records, the granting of exemptions pursuant to Section II.4(B)(iv), and enforcement. The Association shall periodically distribute such policies, procedures, and rules to Owners and make

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copies available to Owners, their tenants, and Mortgagees upon reasonable request.

(ii) The Association shall have the power and authority to enforce this Section II.4 in any legal manner available, as the Board deems appropriate, including, without limitation, conducting a census of the occupants of the Dwellings, requiring copies of birth certificates, or other proof of age for each occupant of the Dwelling to be provided to the Board on a periodic basis, and taking action to evict the occupants of any Dwelling which is not in compliance with the requirements and restrictions of this Section II.4. **EACH OWNER HEREBY APPOINTS THE ASSOCIATION AS ITS ATTORNEY-IN-FACT FOR THE PURPOSE OF TAKING LEGAL ACTION TO DISPOSSESS, EVICT, OR OTHERWISE REMOVE THE OCCUPANTS OF HIS OR HER UNIT AS NECESSARY TO ENFORCE COMPLIANCE WITH THIS SECTION II.4.** Each Owner shall fully and truthfully respond to any and all requests by the Association for information regarding the occupancy of his or her Dwelling that, in the judgment of the Board, are reasonably necessary to monitor compliance with this Section II.4.

(iii) Each Owner shall be responsible for ensuring compliance of its Dwelling with the requirements and restrictions of this Article and the rules of the Association adopted hereunder by itself and by its tenants and other occupants of its Lot. **EACH OWNER, BY ACCEPTANCE OF TITLE TO A DWELLING, AGREES TO INDEMNIFY, DEFEND, AND HOLD THE ASSOCIATION HARMLESS FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, AND CAUSES OF ACTION THAT MAY ARISE FROM FAILURE OF SUCH OWNER'S DWELLING TO SO COMPLY.**

#### 5) LANDSCAPING.

Landscaping is required on all lots.

The Declarant will install the original landscaping in the front yard of each house within in the subdivision. Boulders on the Green at Sonoma Ranch Homeowners Association is responsible for the maintenance of the front yard, to include mowing, weeding, fertilizing, pruning and replacing plants that are damaged or destroyed. The Homeowners Association, however, may seek reimbursement for costs associated with such maintenance from any homeowner whose negligence has caused it to incur maintenance expenses.

Other than replacing landscaping items which have been damaged or destroyed or need to be replaced as a result of wear or tear, homeowners may not make changes in the landscaping in the front yard without first seeking and obtaining permission from the Design Review Committee.

Each lot owner must landscape the back yard of their lot. The landscaping in the back yard must be completed within ninety (90) days of closing when the lot owner purchases the lot.

A. R-1 ZONED LOTS. Typical desert environment and drought resistant landscaping is encouraged. However, a sufficiently visible amount of foliage must be present on each building lot to comply with the landscaping requirements herein established or subsequently amended. The

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Design Review Committee shall be the final authority as to acceptability and the following criteria shall be used as a guideline for the required landscaping:

1. One (1) two inch (2") caliper broadleaf tree which when mature will reach a minimum height of 20 feet. (Two required if the side yard abuts a street.) Should a second tree be required by FHA or other Governmental regulation, such tree can be a 1" caliper broadleaf, unless it is in the side yard tree on an abutting street, then it must be as required above. Examples are: seedless locust, ash, red leaf maple, and similar varieties.

2. One (1) intermediate size shrub-brush planting which, when mature will reach a minimum height and width of 8 feet. (Two required if the side yard abuts a street.) Examples are Photinia, Texas sage, oleander, India Hawthorne, pyracantha, forsythia, spirea, sumac, and similar varieties.

3. Six (6) lower foundation plantings which when mature will reach a height of 2 - 3 feet (eight required if the side yard abuts a street). Examples are: Most of the above shrubs, plus nandina, rosemary, mock orange, tam junipers and similar varieties, however, no more than 2 of the above required 5 plantings shall be a juniper variety.

4. An assortment of other hardy, drought-resistant broad leaf plantings, including cacti, yucca, cholla, agave, century plant, ocotillo and similar plantings are acceptable and encouraged in addition to or instead of the above required plantings.

5. No grass shall be used to cover those areas of the front yard not planted or covered otherwise. In no event is the natural sandy surface to be left exposed and un-landscaped. Examples of materials which can be used to cover the natural sandy surface are: crushed rock, crusher fines, brick, crushed brick, paving stone, and similar materials. A minimum of 6 mm. black plastic shall be used under any inorganic material in the front and side yards. The landscaping material shall cover the plastic in such quantity that the underlying plastic shall not show through the surface material.

6. Any variation in use or placement of materials as prescribed above must first be approved by the Design Review Committee.

B. At any time a substantial change, alteration or modification is made to the front yard or side yard of a lot relative to landscaping, the Committee must approve such substantial change, modification or alteration. Excluded shall be the instance where plants, trees, shrubbery or other landscaping materials may die, be destroyed, removed or similarly caused to be reduced in quantity and as such require replanting or replacement according to the same rules as apply to the initial planting requirements set forth above.

## **6) FENCING AND WALLS.**

A. Any fence, wall, building or structure placed on the lot shall be in compliance with the set back and zoning requirements of the City of Las Cruces, and shall not impair the

drainage function of the ponding areas, as shown on the plat. All perimeter and/or retaining walls and fences shall be placed on the dividing lines between lots, except that all lots that are immediately adjacent to and bounded by land not in the Boulders on the Green at Sonoma Ranch Subdivisions shall have walls or fences along said perimeter lines completely within the perimeter lot lines, and said perimeter wall shall not be party walls. All walls or fences adjoining the golf course property must be built within the perimeter lot line of said lots. Retaining walls shall be party walls if placed on the common property line between two (2) lots, and shall not be removed by either property owner without the written consent of the other party and the Design Review Committee.

All R-1 zoned lots are required to have perimeter walls or fences constructed. Such required walls must extend along the side lot lines from the rear most point of the dwelling to the rear lot line, and along the rear lot line in its entirety. Other walls and fences are optional. The party walls shall be a minimum of forty-two (42) inches in height, except where otherwise physically limited to a lower height. The party walls shall be no more than six (6) feet in height except retaining walls that are party walls.

B. All fences, perimeter walls, and retaining walls in view from at least one side, shall be constructed of rock or stone in conformance with what is known as "Las Cruces Rock Walls" standards, materials and styles, and shall be of a yellow, reddish or tan color, rather than gray in color. However, those walls, forming the "return" from the residence, or courtyard and patio walls tied to the residence, may be of the same material used in the residence construction.

C. Decorative wrought iron may be used for wall accents, gates and such, subject to Design Review Committee approval.

D. Tin or other sheet metal, chain link, wire and barbed wire are specifically prohibited, except wire fences may be constructed for dog runs when located within and enclosed by a permitted exterior fence. The fence height for such runs shall be a maximum of one (1) foot taller in height than the exterior fence.

E. Perimeter fences shall be six (6) feet in height or less, when measured directly from the highest adjacent ground surface, and may be erected on that portion of a lot situated to the rear of the front wall of the main building except retaining walls which may be higher.

F. Fences which are adjacent to the golf course may not permit direct access by means of gates or openings.

## **7) BOATS, TRAILERS, CAMPERS, AND RECREATIONAL VEHICLES.**

Boats, campers, other trailers, recreational and similar vehicles or equipment may not be parked or stored on any lot, street, or common area. Notwithstanding the foregoing, such a vehicle may be temporarily parked on a lot or on the street in front of a lot owner's property solely for the purposes of loading or unloading the vehicle. The vehicle shall remain there for no longer than is reasonably necessary to load or unload but, in no circumstances, more than 24 hours. If a lot owner's

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guest is driving a recreational vehicle, that recreational vehicle may be parked on the lot owner's property for a period not to exceed three (3) days.

**8) GARBAGE AND TRASH.**

No refuse, garbage, trash, collection container, lumber, grass, shrub or tree clippings, plant waste, compost, metal, bulk materials, scrap, junk cars, paint cans, oil, flammable objects, concrete tailings, rock wall residue, refuse or debris of any kind shall be kept, stored or allowed to accumulate on any lot except within an enclosed structure or area appropriately screened from view. Rubbish and garbage must be kept in suitable containers provided by the City of Las Cruces and removed from lots by such in accordance with ordinances, rules and regulations of the City of Las Cruces, and all regulations promulgated thereunder. No rubbish or garbage may be burned or dumped on lots or elsewhere in the subdivisions.

**9) ANTENNAE, EQUIPMENT, PIPES, UTILITY LINES, AND TRANSMITTERS.**

A. Pipes for water, gas, sewer, drainage, or other purposes, and wires, poles, aerials, antennae, satellite dishes and other facilities for the transmission or reception of audio or visual signals or electricity, and utility meters or other utility facilities, such as solar equipment, shall be kept and maintained, to the extent reasonably possible, underground or within an enclosed structure and shall not be visible from the street. Any items that can not meet these requirements shall be subject to the approval of the Design Review Committee. No transmission towers, or microwave equipment shall be erected or placed on the property.

B. Evaporative or refrigerated air cooler(s), if erected or maintained on the roof of any premises, shall be effectively screened or otherwise hidden from view from any public place or adjoining lot as determined by the Design Review Committee.

**10) SIGNS.**

No billboards or advertising signs of any character shall be erected, placed, permitted, or maintained on any residential lot or on any building erected thereon, other than one (1) name plate of the occupant of any residence upon which his or her professional or occupational title may also be added, and provided no such sign or name plate shall exceed a size of one square foot, and no such sign shall be lighted. Provided, however, that permission is granted for the erection and maintenance of not more than one signboard to each lot, during the course of its resale, which signboard shall not exceed forty-eight (48) square feet. Notwithstanding anything herein contained to the contrary, nothing herein shall be construed to prevent the Developer from erecting, placing, or maintaining sign structures and offices as may be determined necessary by the Developer to promote sale and development of lots or properties within the subdivision.

Notwithstanding the foregoing paragraph, until a dwelling has been erected on each lot within Boulders on the Green at Sonoma Ranch, and each such dwelling sold, the only sign which shall be used to advertise that the property is either for sale or for rent shall be the signed approved by the Developer, with an appropriate place to identify either the lot owner or the broker.

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**11) FLAGS/PENNANTS**

No flags or pennants may be used in the subdivisions on homes or lots without approval of the Design Review Committee. Notwithstanding anything contained herein to the contrary, however, each home may display an American flag provided that it is not bigger than three feet (3') by five feet (5').

**12) SITE TRIANGLE AT INTERSECTIONS.**

There is required an area of unobstructed vision at street intersections, entrances/exits, which permits a vehicle driver to see approaching vehicles to the right or left. Nothing over three (3) feet in height measured from the street at the point where the pavement meets the curb-stone, shall be permitted to obstruct a sight line which shall be the front street and side street lines of a corner lot and a line connecting points thirty (30) feet distance from the intersection of the property line of such lot.

Trees located within the clear sight triangle will be allowed if all branches are trimmed from a height between three (3) feet and eight (8) feet.

No single post or column within the designated triangle shall exceed twelve (12) inches in thickness at its greatest cross-section dimension.

**III. EASEMENTS, STORM DRAINAGE AND SUPPORT STRUCTURES**

**1) EASEMENTS.**

A. Utility easements and rights-of-way designated on the plat of the Subdivision, as amended from time-to-time, are hereby reserved unto the Declarant, and the City of Las Cruces and all public and private utility companies (as specifically shown as such plat or assigned by the Declarant) for the construction, installation and maintenance of any and all utilities, such as power, cable, gas lines, drains, roads, water supply lines, telephone and telegraph lines or the like, necessary or desirable for public health, welfare and convenience.

B. Within these easements no structure shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or streets. Within each drainage easement, no temporary or permanent structure shall be placed, and no structure, or planting or movement of materials shall be permitted which may interfere with the direction of flow in the drainage channels in the easements, unless approval is first obtained from the City of Las Cruces and then once again by the Design Review Committee.

C. All easements shall be kept free from alteration, and owners of lots containing such easements shall keep them free from permanent structures and shall provide access without trespass by maintenance personnel for the installation, upkeep, repair, removal and replacement of such facilities which may be constructed within those easements.

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D. Each R-1 zoned lot in the subdivision has an area designated on the Plat that is a ponding area. Each lot owner is responsible for retaining water on that owner's lot as called for on the Plat. The swale, slope or indentation which acts as the ponding area may not be altered unless consent is obtained from the City of Las Cruces and then again by the Design Review Committee.

E. Sale of any lot shall include all rights of Declarant in and to the street, road or highway affronting the same, subject however to the rights of all others to use the same as public or private thoroughfares. Declarant reserves the right to dedicate to the public all streets, roads and highways within or abutting the Subdivision without the consent of any owner within the Subdivision.

F. All public and private rights-of-way, including streets and roads shown on the recorded plats for the subdivision, shall also be considered a utility easement. Such easements shall be measured by a perpendicular (or radial on curves) from the front property corners of all lots to the centerline of such street or road.

## 2) SECURITY SERVICES

The Declarant, or Boulders on the Green at Sonoma Ranch Homeowners Association, may establish security for the subdivision, including a gatehouse and gates. Such security will be owned and operated by Boulders on the Green at Sonoma Ranch Homeowners Association, with the expense of the security to be borne as a common expense of the Association itself.

## IV. MISCELLANEOUS PROVISIONS

1) Each grantee of a lot within Boulders on the Green at Sonoma Ranch Subdivision by the acceptance of a deed or conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights and benefits hereby granted, created, reserved or declared, and all obligations hereby imposed shall be covenants running with the land, and shall bind any person having at any time any interest or estate in the land, and shall ensure to the benefit of such owner in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

2) Any provision hereof may be changed, amended or rescinded by written instrument setting forth such amendment which has been approved by owners of ninety (90) percent of the lots, and executed by the members of the Design Review Committee.

3) The agent for service of process upon the Developer is David M. Steinborn, 141 Roadrunner Parkway, Suite 141, Las Cruces, NM, 88011.

4) Any amendment, change, modification or rescission of this Declaration shall be effective only when filed for record in the office of the County Clerk of Dona Ana County, New Mexico. No amendment, change, modification or rescission of any provision of this Declaration shall

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be valid or effective if such amendment, change, modification or rescission violates or conflicts with any applicable statute of New Mexico.

5) Declarant shall have, retain, and reserve certain rights until the last lot within the subdivisions has been sold and conveyed.

6) Each grantee of a lot within the Subdivision is hereby placed on notice of the plans of the Developer to develop other lands, including other units or phases of both Sonoma Ranch South Subdivision and Boulders on the Green at Sonoma Ranch Subdivision, and other adjacent subdivisions, in the City limits of Las Cruces, having minimum lot sizes as required under districts zoned or classified R-1 by the City of Las Cruces zoning code and regulations and containing certain multi-family, and commercial lots. Each grantee accepting a grant of a lot, subject to these Protective Covenants, hereby consents to such development and covenants not to oppose such development, provided such development is not in violation of law.

## V. OWNERS' ASSOCIATION

Boulders on the Green at Sonoma Ranch Subdivision Owners Association, Inc., which is an incorporated association made up of all the lot owners in the Boulders on the Green at Sonoma Ranch Subdivision, has as its purpose the ownership, development, and maintenance of common areas and facilities within the subdivision.

### 1) DEFINITIONS.

For the purposes of this Declaration, the following terms are defined:

ASSOCIATION: All of the lot owners acting as a group in accordance with the By- Laws adopted by them and this Declaration.

MAINTENANCE AREAS: Maintenance areas are those areas which are to be maintained by the Association. They include all areas owned by the Association or owned by the Declarant and within the subdivision's boundaries, tracts designated as roads or rights-of-way, tracts designated as open areas, the front yards of all lots, the club house, park, hot tub and associated equipment, and such other areas designated as maintenance areas by the Association.

LOT OWNERS: Person(s) owning a lot within Boulders on the Green at Sonoma Ranch Subdivision in fee simple.

### 2) NON-PROFIT PURPOSE.

No director, officer, member or employee of the Owners' Association, or any other private individual shall receive at any time any of the earnings or funds of the Owners' Association; provided

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that this shall not prevent payment to any such person of reasonable compensation for services rendered, and no such person shall be entitled to share in the distribution of any of the Owners' Association assets upon the dissolution of the Owners' Association. At dissolution, excess assessments may be funded to the lot owners, and all other assets shall be transferred exclusively to charitable, religious, scientific, or educational institutions which would then qualify under the provisions of Section 501 (c)(3) of the Internal Revenue Code as it now exists, or as amended hereafter.

### 3) ADMINISTRATION OF THE MAINTENANCE AREAS.

The areas to be maintained shall be administered as follows:

**A. LOT OWNERS AND BOARD OF DIRECTORS:** The administration of the maintenance shall be vested in the lot owners, the owners of each lot having one vote. The owners shall elect and act through a Board of Directors (hereinafter called the "Board") in the manner set forth in the By-Laws attached hereto. Each member of the Board shall be a lot owner except that if a lot owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, then any director of such corporation, partner of such partnership, individual trustee of such trust, or manager of such other legal entity shall be eligible to serve as a member of the Board.

**B. INITIAL BOARD OF DIRECTORS:** The initial Board of Directors shall be composed of three persons to be chosen by the members of Sonoma Ranch Construction, LLC. The Board of Directors shall consist of the above members until either (a) the General Partners state in writing to all lot owners that control shall pass to a Board of Directors elected by the lot owners, or (b) the sale of all lots in the subdivisions.

**C. GENERAL POWERS AND DUTIES OF THE BOARD:** The Board shall have the duty and such powers as shall be reasonably required to direct, administer, manage and protect the maintenance areas in accordance with the provisions of this Declaration and said By-Laws and, without limiting the foregoing, the Board shall have the duty and power to acquire and pay for the following:

1. Water, waste removal, electricity and other necessary utility services for the maintenance areas. The Board of Directors will determine the manner in which utility services will be metered and charged.

2. A policy or policies in amounts determined by the Board, insuring the members of the Board and their agents and employees and the owners against any liability to the public or to the owners and their invitees and tenants.

3. Landscaping, gardening, snow removal, painting, clearing, maintenance, decorating, repair of facilities.

4. Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance or assessments, water, electricity, and other utility services

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for the areas and facilities which the Board is required to secure or pay for pursuant to the terms of this Declaration or By-Law or which, in the Board's opinion, are necessary or convenient for the benefit of the lot owners or for the enforcement of this Declaration and/or the By-Laws attached hereto.

5. Any amount necessary to discharge any mechanic's or materialmen's lien or other encumbrance levied against the maintenance areas or any part thereof. Where one or more owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred by the Board by reason of such lien or liens shall be specially assessed to said owners, including attorney's fees.

6. The services of any person or firm employed by the Board in furtherance of its general powers and duties herein stated, including but not limited to, accountants, bookkeepers, tax advisors, lawyers, architects, engineers, carpenters, electricians, plumbers, painters, gardeners, managers and others determined by the Board to be necessary or convenient.

7. Any income taxes payable by the Association.

**D. LIMITATION OF THE POWERS OF THE BOARD:** The Board's powers herein above enumerated shall be limited in that the Board shall have no authority to acquire and pay for any capital addition or improvement (other than for purposes of replacing or restoring portions of the maintenance areas, subject to all of the provisions of this Declaration) having a total cost in excess of \$4,000.00; nor shall the Board authorize any structural alterations, capital additions to, or capital improvements requiring an expenditure in excess of \$4,000.00, without in each case obtaining the prior approval of seventy-five (75%) of the lot owners. The Board may adopt such reasonable rules and regulations as it may deem advisable for the maintenance, conservation and beautification of the maintenance areas and for the health, comfort, safety and general welfare of the owners. Written notice of such rules and regulations shall be given to all owners and the areas shall be at all times maintained subject to such rules and regulations.

#### 4) ASSESSMENTS AND MAINTENANCE FUND

There shall be a maintenance fund and assessments against the lot owners as follows:

**A. CREATION OF MAINTENANCE FUND AND OBLIGATION FOR ASSESSMENTS:** The Board shall establish a maintenance fund for the administration, maintenance, repair, replacement and improvement of the maintenance areas and facilities and for the enforcement of the provisions of this Declaration and the By-Laws, which maintenance fund shall be financed or funded by assessments as herein provided, paid by all lot owners. Each future lot owner, including transferees of future lot owners, shall make monthly payments to the maintenance fund a sum of money determined by the Board to be adequate to pay the share of the maintenance fund of such future owner or transferee. If the Board fails to determine the amount of such sum, the amount shall be \$125.00 per month for each lot owner. The fund shall be administered on a fiscal year basis, which fiscal year shall end on December 31<sup>st</sup> of each year.

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Each year, on or before November 30<sup>th</sup>, the Board shall estimate the total amount necessary to pay the cost of wages, materials, insurance, services and supplies which will be required for the administration, tax and insurance payments, maintenance, repairs replacement and improvement of the maintenance areas during the ensuing fiscal year, for the exercise and performance of the owners and duties of the Board and for the enforcement of the provisions of this Declaration and the By-Laws, together with a reasonable amount considered by the Board to be necessary as a reserve for contingencies and replacements and shall notify each owner as to the amount of such estimate.

On or before the second day of each month, each owner shall be obligated to pay to the Board the assessments due pursuant to these covenants, unless other payment arrangements are made with approval of the Board.

**B. MANAGEMENT OF THE MAINTENANCE FUND AND COLLECTION OF THE ASSESSMENTS:** On or before the date of each annual meeting of the owners, the Board shall supply to each owner an itemized accounting of the administrative, maintenance and other expenses for the preceding fiscal year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the estimates provided, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited to the amount due from the owners next year's estimate, until exhausted, and any net shortage shall be added to the next year's estimate after rendering of the accounting. The Board shall build up and maintain a reasonable reserve for contingencies and replacements. Extraordinary expenditures not originally included in the annual estimate that may become necessary during the year shall be charged first against such reserve. If said estimated cash requirement proves inadequate for any reason, including non-payment of any owner's assessment, the Board may serve notice of such further assessment on all owners by a statement in writing, giving the amount and reasons therefor, and such further assessment shall become effective with the next payment.

All owners shall be obligated to pay the adjusted monthly assessments. The initial Board shall determine the "estimated cash requirement" as above defined. The failure or delay of the Board to prepare or submit the annual adjusted estimate on the owners shall not constitute a waiver or release in any manner of such owner's obligation to pay the maintenance costs and necessary reserves. The Board shall keep full and correct detailed books of account and records of the receipts and expenditures affecting the common areas, specifying and itemizing the maintenance and repair expenses of the common areas and any other expenses incurred. The records and the vouchers authorizing the payments shall be available to inspection by any owner or any representative of any owner at reasonable times. All funds collected hereunder shall be held and expended for the purposes designated herein and shall be deemed to be held for the benefit, use and account of all the owners.

If an owner is in default in the monthly payments of the aforesaid charges or assessments for thirty days or longer, the members of the Board may bring suit for and on behalf of themselves and as representatives of all owners to enforce collection thereof or to foreclose the lien therefor as hereinafter provided and there shall be added to the amount due the costs of such suit, together with legal interest and reasonable attorney's fees to be fixed by the court. To the extent permitted by any

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court decision or any statute or law now or hereafter effective, the amount of any delinquent and unpaid charges or assessments and interest, costs and fees, as above provided, shall be and become a lien or charge against the lot owned by the lot owner involved when payable and may be foreclosed by an action brought in the name of the Board as foreclosure of mortgage against real estate, and the period allowed for redemption shall be one month from and after the date of foreclosure suit. Said lien shall take effect and be in force, provided, however, that encumbrances owned or held by any bank, insurance company or savings and loan association shall be subject as to priority, after written notice to said encumbrances of unpaid maintenance expenses, only to the lien of all common expenses on the encumbered lot which become due and payable subsequent to the date said encumbrances either takes possession of the lot, accepts a conveyance of any interest therein, or files suit to foreclose his/her lien. In the event of a voluntary conveyance of ownership, the grantor and grantee shall be jointly and severally liable for all unpaid common expenses and assessments for common expenses related to said ownership to the time of such grant or conveyance. Amendments to this paragraph shall only be effective upon unanimous written consent of the owners and their mortgagees. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the maintenance areas or by abandonment of his/her lot.

**5) INSURANCE AND TAXES.**

The Board of Directors shall purchase such liability or casualty insurance as it deems advisable. The Board shall file the association's annual tax return, and annual election as a tax exempt homeowners association, if applicable; and shall pay property taxes and special assessments which are or could become a lien upon the maintenance areas.

**6) GENERAL PROVISIONS.**

The following general provisions shall govern the administration and management of the maintenance areas:

A. Until the Board of Directors provided for in this Declaration is formed, the Developer shall exercise the powers, rights and functions of the Board.

B. Upon written request to the Board, the holder of any duly recorded mortgage or deed of trust against any lot owner shall be given a copy of any and all notices permitted or required by this Declaration to be given to the owner or lot owners whose ownership is subject to such mortgage or deed of trust.

C. Notices required to be given to said board or the owners may be delivered to any member of the Board either personally or by mail addressed to such Board member at his home.

D. Notices required to be given any devisees or personal representative of a deceased owner may be delivered either personally or by mail to such personal representative at his/her or its address appearing in the records of the court wherein the estate of such deceased owner is being administered.

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E. Each grantee of the Developer, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and owners created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared and all obligations hereby imposed shall be covenants running with the land and shall bind any person having at any time any interest or estate in the land, and shall inure to the benefit of such owner in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

F. No covenants, restrictions, conditions, obligations or provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

G. The agent for service of process upon the Owners' Association is David M. Steinborn, 141 Roadrunner Parkway, Suite 141, Las Cruces, New Mexico 88011, until such time as the President of the Association is elected.

H. Any amendment, change, modification or rescision of this Declaration or the By-Laws hereto attached shall be effective only when filed for the record in the office of the County Clerk of Dona Ana County, New Mexico. No amendment, change, modification or rescision of any provision of this Declaration or the By-Laws shall be valid or effective if such amendment, change modification or rescision violates or conflicts with any applicable statute of New Mexico.

**7) BREACH OF COVENANTS.**

It is further stipulated that breach of any of the foregoing conditions and covenants shall not affect any mortgage or other lien which in good faith may be existing at the time upon said property or any improvements thereon.

**8) AMENDMENT.**

Any provision hereof may be changed, amended or rescinded by a written instrument setting forth such amendment which has been approved by ninety (90) percent of lot owners in attendance or by proxy at a called meeting for that purpose, and executed by the chairman of the Board, except that this provision (V, paragraph 9) may be changed only by unanimous vote of the lot owners.

**9) NO REVERSION OF TITLE.**

Nothing contained in this Declaration or in any form of deed which may be used by the Declarant or its successors and assigns in selling any lot shall be deemed to vest or reserve in Declarant or the owners association any right of reversion for breach or violation hereof, and any such reversionary right is hereby expressly waived by Declarant.

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**VI. DEFINITION**

The term "Declarant," as used herein, means Sonoma Ranch Construction, LLC, a New Mexico limited liability company, and its successors or assigns as Developer of the Subdivision. Any such successor or assign intended to become the "Declarant" hereunder shall be designated as such in the instrument of conveyance from the then-Declarant to such successor or assign.

**VII. EFFECTIVE DATE**

These restrictions, covenants and reservations, and any amendments or exceptions thereto shall be effective as of the date of their filing with the County Clerk of Doña Ana County, New Mexico.


DATED at Las Cruces, New Mexico, this 10 day of April, 2006.

**SCHUELLER HOMES, LLC**

By:   
Dale A. Schueller, its Managing Member

**SONOMA RANCH CONSTRUCTION, LLC**

By:   
David M. Steinborn, Member

  
George B. Rawson, Member

  
Dale A. Schueller, Member

STATE OF NEW MEXICO )  
 ) ss.  
COUNTY OF DOÑA ANA )

The foregoing instrument was acknowledged before me this 10 day of April, 2006, by David M. Steinborn, George B. Rawson, Members of Sonoma Ranch Construction, LLC, a New Mexico limited liability company, and Dale A. Schueller, Member of Sonoma Ranch Construction, LLC, a New Mexico limited liability company, and President of Schueller Construction Co. Ltd.

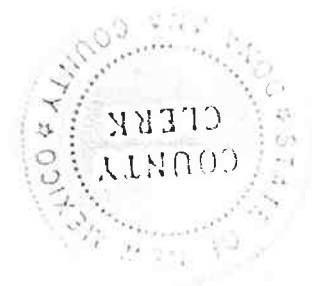
*Melissa Lujan*  
Notary Public



My Commission Expires:

August 9, 2008

State of New Mexico  
County of Dona Ana  
RECEPTION NO. 13387  
I hereby certify the  
instrument was filed  
recording and duly recorded on  
APR 18 2006  
at 4:48 o'clock PM  
Book 203 Page 569-589  
of the Records of Dona Ana County.  
Rita Torres, County Clerk  
*Rita Torres*



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DONANA RANCH CONDO INC.  
CF + ACC / Sylvia

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**BY-LAWS OF  
BOULDERS ON THE GREEN AT SONOMA RANCH  
HOMEOWNERS' ASSOCIATION, INC.**

1. Name of Association. The name of this Corporation shall be Boulders on the Green at Sonoma Ranch Homeowners' Association.
2. Association is Nonprofit. The Association has been formed pursuant to the New Mexico Non-Profit Corporation Act.
3. Specific Purpose. The specific and primary purposes of this Association shall be to repair, maintain and manage the Maintenance Areas within Boulders on the Green at Sonoma Ranch Subdivision, located in the City of Las Cruces, Doña Ana County, State of New Mexico, to enforce the Declaration of Protective Covenants and the Rules adopted by the Board of Directors, from time-to-time, and to otherwise enhance and promote the use and enjoyment of the Maintenance Areas by the Owners in common.
4. Declaration. "Declaration" means all of the Declaration of Protective Covenants filed or to be filed for Boulders on the Green at Sonoma Ranch Subdivision.
5. Owners' Meetings. The Owners shall hold meetings as follows:
  - a. Lot owners in Boulders on the Green at Sonoma Ranch Subdivision are owners for purposes of these By-Laws.
  - b. No Owners' meeting shall be held until such time as the members of Sonoma Ranch Construction, LLC, the Developer of Boulders on the Green at Sonoma Ranch, state in writing to all lot owners that control shall pass to the lot owners. The first meeting shall be called by the said members and be held at a place in Las Cruces, New Mexico, or in the subdivision, designated by the members.
  - c. The Annual Owners' Meeting shall be held on the 1<sup>st</sup> Thursday of November of each year for the purpose of electing Directors and transacting any other business authorized to be transacted by the Owners. If that day is a legal holiday, the meeting shall be held at the same hour on the next day which is not a legal holiday.
  - d. Special Owners' Meeting shall be held whenever called by the President or Vice President or a majority of the Board of Directors, and must be called by such officers upon receipt of a written request from one-third of the lot owners.
  - e. Notice of all Owners' meetings stating the time and place and the object for which the meeting is called shall be given by the President, Vice President or Secretary unless waived in writing. Such notice shall be in writing to each lot owner at his or her address as it appears on the records of the Association and shall be mailed not less than ten nor more than

sixty days prior to the date of the meeting. Proof of such mailing shall be the certificate of the person giving notice. Notice of meeting may be waived before or after meetings.

f. The Owner of each lot shall be entitled to cast one vote. If there are multiple owners of one lot, and they are unable to agree upon the casting of one vote, no vote shall be counted for that lot.

g. A quorum at lot owners' meetings shall consist of persons entitled to cast twenty percent (20%) of the votes. The owner of each lot is entitled to one vote. If any meeting of the Owners cannot be organized because a quorum has not attended, the Owners who are present either in person or by proxy, may adjourn the meeting for at least ten days and adequate notice of the new date shall be given as described in subparagraph (d) of this section 5. At a subsequent rescheduled meeting, a quorum shall consist of ten percent (10%).

If a lot is owned by one person, his right to vote shall be established by the record title to his lot. If a lot is owned by more than one person, the person entitled to cast the vote for that lot shall be designated by a certificate signed by all of the record owners of that lot and filed with the Secretary of the Board of Directors. If a lot is owned by a partnership or corporation, the person entitled to cast the vote for the lot shall be designated by a certificate of appointment signed by the President or Vice President and attested by the Secretary or Assistant Secretary of the corporation and filed with the Secretary of the Board of Directors. Such certificates shall be valid until revoked, or until superceded by a subsequent certificate, or until a change in the record ownership of the lot concerned. A certificate designating the person entitled to cast the vote of a lot may be revoked by any Owner thereof.

h. Votes may be cast in person or by proxy. Owners may, by written proxy, authorize others to cast votes on their behalf. A written proxy shall be limited to six months duration. Proxies should be filed with the Secretary. Owners who have given proxies shall be counted for purposes of a quorum.

i. Until the developer of Boulders on the Green at Sonoma Ranch Subdivision, hereinafter "the Developer," has completed and sold all of the lots in the subdivisions, or until the Developer elects to terminate its control of the subdivision, whichever shall first occur, there shall be no meeting of the owners of the lots unless a meeting is called by the Developer.

6. Directors. The affairs of the association shall be managed by a Board of Directors as follows:

a. The Board shall consist of not less than three Directors, the exact number (which shall be an odd number) to be determined by the lot Owners at the time of election of the Directors. The original Board of Directors shall consist of three, as follows: David M. Steinborn, George B. Rawson, and Dale A. Schueller. Directors, other than the original Board of Directors, shall be lot owners. The original Board shall serve at no pay.

b. Election of Directors shall be conducted at the Annual Meeting of the Owners. Nominations for Directors shall be made from the floor. The election shall be by ballot

(unless dispensed with by unanimous consent) and by a plurality of the votes cast, each person voting being entitled to cast his/her votes for each of as many nominees as there are vacancies to be filled. There shall be no cumulative voting.

c. Except as to vacancies provided by removal of Directors by Owners, vacancies in the Board of Directors occurring between annual meetings of Owners shall be filled by the remaining Directors.

d. Any Director may be removed by a two-thirds (2/3) majority vote of the Owners at a Special Meeting of the Owners called for that purpose. The vacancy in the Board of Directors so created shall be filled by the Owners at the same meeting.

e. Until the Developer has completed and sold all of the lots in the subdivisions, or until the Developer elects to terminate its control of the Owners Association, whichever shall first occur, the original Directors above-named shall serve, and in the event of vacancies the remaining Directors shall fill the vacancies, and if there are no remaining Directors the vacancies shall be filled by the Developer. Thereafter, each Director shall be elected for a term of three (3) years except that the first Board of Directors elected thereafter shall consist of one-third (1/3) of the Directors whose terms expire in one (1) year, one-third (1/3) of the Directors whose terms expire in two (2) years, and one-third (1/3) of the Directors whose terms expire in three (3) years.

f. Notwithstanding the foregoing, each Director shall serve until his successor is duly elected or appointed and qualified, or until he resigns or is removed in the manner elsewhere herein provided.

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

a. Regular meetings of the Board of Directors may be held at such times and places as shall be determined, from time-to-time, by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or otherwise at least three (3) days prior to the date named for such meeting.

b. Special Meetings of the Directors may be called by the President and must be called by the Secretary at the written request of any Director. Notice of the meeting shall be given personally or by mail, telephone or otherwise, at least three (3) days prior to the date named for such meeting, and shall state the time, place and purpose of the meeting.

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

d. A quorum at Directors' meetings shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except where approval by a greater number of Directors is required by the Declaration or these By-Laws. If at any meeting of the Board of Directors less than a quorum is present, the majority of those present may adjourn from time-to-time until a quorum is present. The joinder of a Director in the action of a

meeting by signing and concurring in the minutes thereof shall constitute the presence of such Director for the purpose of determining a quorum.

8. Powers and Duties of the Board of Directors.

a. All of the powers and duties of the Owners existing under the Declaration and these By-Laws shall be exercised exclusively by the Board of Directors, its agents, contractors, or employees, subject only to approval by the Owners when such approval is specifically required.

b. The Board of Directors is empowered to adopt rules concerning the Homeowners' Association and all its assets. This power includes, but is not limited to, the authority to adopt rules allowing the private use of the common areas.

9. Officers. The executive officers of the Homeowners' Association shall be:

a. The President, who shall be a Director; a Vice President, who shall also hold the office of assistant secretary and who shall be a Director; a Secretary, who shall be a Director; and a Treasurer, who shall be a Director, all of whom shall be elected annually by the Owners at their annual meeting and who may be removed by vote of a majority of the votes of the Owners at any meeting called for such purpose. The Board of Directors may, from time-to-time, elect other officers to exercise such powers and duties as the Board may find necessary to manage the affairs of the Association. No compensation of officers shall be paid, unless a decision to pay compensation is made by majority vote of the lot Owners.

b. The President shall be the chief executive officer of the lot Owners and of the Board of Directors. He/she shall have all of the powers and duties which are usually vested in the office of President, including, but not limited to, the power to appoint committees from among the lot Owners from time-to-time, as he/she may in his/her discretion deem appropriate to assist in the conduct of the affairs of the Association.

c. The Vice President and Assistant Secretary shall, in the absence or disability of the President, notify the owners and perform the duties of the President and, in the absence or disability of the Secretary, exercise and perform the duties of the Secretary. He shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Directors.

d. The Secretary shall keep the Minutes of all proceedings of the Directors and of the Owners. He/she shall attend to the giving, mailing and serving of all notices to the Owners and Directors and other notices required by law. He/she shall keep the records of the Owners and the Board of Directors, except those of the Treasurer, and shall perform all other duties incident to the office of Secretary and as may be required by the Directors or the President.

e. The Treasurer shall have custody of all property of the Owners' Association, including funds, securities and evidence of indebtedness. He/she shall keep the books of the Owners' Association in accordance with good accounting practices and shall perform all other duties incident to the office of Treasurer.

f. Any person may hold more than one office, except that, in all events, the President and Secretary shall be two different individuals.

10. Accounting. The funds and expenditures of the Association shall be credited and charged to accounts under the following classifications as shall be appropriate, all of which expenditures shall be common maintenance expenses:

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 and working funds, except expenditures chargeable to reserves, to additional improvements or to operations. 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 deferred maintenance and replacement," which shall include funds for maintenance items which occur less frequently than annually, and funds for repair or replacement required because of damage, depreciation or obsolescence.

c. "Capital Additions and Improvements," which shall include the funds to be used for capital expenditures for additional improvements.

11. Expenditures.

a. Budgets. As soon as insurance rates, utility rates and other expenses can be determined for each fiscal year, the Board of Directors shall adopt a budget for that fiscal year which shall include the estimated funds required to defray common expenses and funds for the accounts listed in Paragraph 10 of these By-Laws. Copies of the budget and proposed assessments shall be transmitted to each lot Owner as soon as practicable. If the budget is subsequently amended, a copy of the amended budget shall be furnished to each lot Owner.

b. Limits. No expenditure for any capital addition or improvement having a total cost in excess of Four Thousand Dollars (\$4,000.00) shall be made without the prior approval of seventy-five percent (75%) of the lot Owners in attendance at a membership meeting, general or special, where a quorum is present. Said approval may also be given in writing.

c. Nonprofit Purpose. No director, officer, member or employee of the Owners' Association, or any other private individual, shall receive at any time, any of the earnings or funds of the Owners' Association; provided that this shall not prevent the payment to any such person of reasonable compensation for services rendered, and no such person shall be entitled to share in the distribution of any of the Owners' Association assets upon the dissolution of the Owners' Association. At dissolution, excess assessments may be refunded to the lot Owners, and all other assets shall be transferred exclusively to charitable, religious, scientific, or educational institutions which would then qualify under the provisions of Section 501(c)(3) of the Internal Revenue Code as it now exists, or as amended hereafter.

12. Assessments. Assessments shall be made as follows:

a. Assessments against each lot Owner for his share of the budget shall be set on or before November 30 of the year prior to which the assessment is applicable. Such assessment shall be due and payable in monthly payments with each payment due no later than the second day of the month. The Board of Directors shall have the power to increase or decrease such assessment during the fiscal year for which the assessment is made as expenses may require. If an assessment is not made as required, an assessment shall be presumed to have been made in the amount of \$125.00 per month. If the assessment proves to be insufficient, the budget and assessments may be amended at any time by the Board of Directors. Increases in excess of fifteen percent (15%) shall be made only by the Owners, by majority vote at a special meeting called for that purpose.

b. The depository of the Owners shall be such bank or banks as shall be designated from time-to-time by the Directors. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the Directors.

c. Fidelity bonds may be required by the Board of Directors for all persons handling or responsible for funds of the lot Owners. The amount of such bonds, if required, shall be determined by the Directors and the premiums on such bonds shall be paid by the Directors and shall be common expenses.

13. Amendments. These By-Laws 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 Owners' meeting at which a proposed amendment is to be considered.

b. A Resolution adopting a proposed amendment may be proposed by either the Board of Directors or by the Owners. Directors and Owners not present in person or by proxy at the meeting considering the amendment may express their approval or lack thereof in writing, either before or after the meeting. All amendments must be approved by a majority of the votes of all the Owners, with the owner of each lot entitled to cast one vote, and the owners of multiple lots entitled to cast the number of votes equal to the number of lots owned.

c. No amendments shall discriminate against any Owner, unless the Owner so affected shall consent thereto in writing. No amendment shall change the share in the common areas and facilities appurtenant to any lot (except as provided in the Declaration in the event of expanding the property by adding additional land), nor increase the Owner's share of the common expenses, nor change the voting rights or members (except as provided in the Declaration in the event of expansion of the property by addition of real estate) or amend Section 11(b) hereof, unless the record Owner of lot concerned and all record Owners of liens thereon shall join in the execution of the amendment.

d. A copy of each amendment shall be certified by the president and Secretary as having been duly adopted and shall be effective only when recorded in the office of the County Clerk of Doña Ana County, New Mexico, and no modification of or amendment to



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these By-Laws shall be valid unless set forth in an amendment to the Declaration and the amendment duly recorded in the office of the County Clerk of Doña Ana County, New Mexico.

The foregoing are adopted as the By-Laws of the lot Owners and the Board of Directors of Boulders on the Green at Sonoma Ranch Homeowners' Association, by the undersigned sole Owner of all property within said subdivision and shall be attached to and recorded in the office of the County Clerk of Doña Ana County, New Mexico.

BOULDERS ON THE GREEN AT SONOMA RANCH HOMEOWNERS' ASSOCIATION, INC.

*[Handwritten signature of David M. Steinborn]*

David M. Steinborn, President and Chief Executive Officer

*[Handwritten signature of George B. Rawson]*

George B. Rawson, Secretary

STATE OF NEW MEXICO )  
 ) ss.  
COUNTY OF DOÑA ANA )

The foregoing instrument was acknowledged before me this 10 day of April, 2006, by David M. Steinborn, President and Chief Executive Officer, and George B. Rawson, Secretary, of Boulders on the Green at Sonoma Ranch, Homeowners' Association, Inc.

*[Handwritten signature of Notary Public]*  
Notary Public

My Commission Expires:  
August 4, 2008

State of New Mexico  
County of Doña Ana  
RECEPTION NO. 13388  
I hereby certify the  
instrument was filed in  
the office of the County Clerk

4:50 P  
723 590 596  
*[Handwritten signature]*



## Clubhouse Cleanup Guidelines

The Homeowners of Boulders on the Green have made a serious effort to outfit the Clubhouse with all the basic necessities for a good party or gathering. One of the benefits in our community is that all residents may schedule use of our Clubhouse for community or private functions. Out of respect to all the other residents, we ask that the Clubhouse be left in the same condition as you found it.

Following is a list of guidelines for cleaning the Clubhouse:

- Broom sweep the whole floor where necessary – A broom and dust pan are located in the small closet in the kitchen. If a spill has occurred in the room, please be sure to wipe it up promptly.
- Make sure the countertops and tables are wiped down and any spills are cleaned up.
- The sink should be empty and clean, and the counters free of any utensils or dishware. Please try to replace items where they were found.
- The refrigerator shelves should be clean. Please remove any leftover food and clean up any spills.
- Clean the Oven and Microwave so they are spotless. Please clean up any stains. The main oven has a self clean mode. Remember to remove the wire racks before you set the oven to “Self Clean”. After the self clean cycle is completed, please come back to remove and remaining residue in the oven.
- The dishwasher should be emptied by the morning following your use - in case there is another party that day.
- The bathrooms should be neat and tidy, with any empty toilet tissue rolls replaced. (Pinch the roll and the clips release).
- The garbage and recycling should be removed to the outside bins.
- Please place all furniture back in its original place. If you use extra chairs or tables from the storage area, please return them.
- Make sure all doors are locked and the heater / air conditioner is set to 81 in the summer or 68 in the winter.
- Please also check for any items your guests may have left behind, such as sun glasses, clothing dishes, pans, etc.