

## SPECIAL WARRANTY DEED

VERDE HERITAGE RANCH, LLC, a Delaware limited liability company, whose address is 201 E. Main, 4<sup>th</sup> Floor, El Paso, TX 79901, for consideration paid, grants to DEER CANYON PRESERVE HOMEOWNER'S ASSOCIATION, a New Mexico nonprofit corporation whose address is 43 Deer Canyon Trail, Mountainair, New Mexico 87036, the following described real property located in Torrance County, New Mexico (the "**Property**"):

The following parcels of property as identified on the plat of Deer Canyon Preserve Phase I filed in the Office of the County Clerk of Torrance County, New Mexico, and recorded on December 2, 2002, in Plat Record E1 at Page 144, as amended by that amended plat recorded on October 5, 2005 in Plat Record E at Pages 304-306 ("**Phase I Amended Plat**"): those roads identified as "Deer Canyon Trail," "Jumano Trail," "Moho Trail," "Keres Trail," "Arenal Trail," and "Piro Trail," Open Space Nos. 1, 2, 3, 5, 6, and 7; "Common Area 5 acres"; and "Tract A Reserved for Emergency Services"; and

The following parcels of property as identified on the Deer Canyon Preserve II, Amended plat filed in the Office of the County Clerk of Torrance County, New Mexico, recorded on May 15, 2006 in Plat Record E at Pages 351-360 ("**Phase II Amended Plat**"): Open Space Nos. 1 and 2; that parcel described as "Ruin 2.00 acres"; and those roads identified as "Deer Canyon Trail," "Victorio Trail," "San Mateo Trail," "San Christobal Trail," "Chato Trail," "Tenado Trail," "San Marcial Trail," "Nana Trail," "San Miguel Trail," "Isidro Trail," and "Juh Trail;" together with that unidentified road lying adjacent to Lots 147-151, that unidentified road lying adjacent to Lots 150, 151, 152, 155, 147, and 154, and that unidentified road lying adjacent to Lots 2-9 as shown on the Phase II Amended Plat (the latter road being identified as Mangas Trail on that original plat of Deer Canyon Preserve II filed in the Office of the County Clerk of Torrance County, New Mexico, recorded on June 6, 2004 in Plat Record E1 at Page 211).

TOGETHER WITH all improvements thereon;

RESERVED FROM this conveyance and retained by Grantor are:

(i) the rights of "Heritage" as defined in that one certain AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS AND GRANT OF EASEMENTS FOR DEER CANYON PRESERVE recorded on November 28, 2006, at instrument number 2065305 in Book 311 at Page 00079 in the records of Torrance County, New Mexico, as amended by First Amendment to Amended and Restated Declaration of Protective Covenants and Grant of Easements for Deer Canyon Preserve, Torrance County, New Mexico, recorded August 27, 2008 in Book 317, Page 3026 in the records of Torrance County, New Mexico, and as it may be further amended (the "Declaration");

(ii) a non-exclusive easement hereby reserved to Grantor, for itself, its successors, assigns, and designees, over the Property (A) for pedestrian and vehicular access, (B) for parking of vehicles in roadways and places other than garages or driveways, (C) to access, locate, construct, install, connect to, inspect, maintain, and repair utility lines, facilities, and equipment, roads, and other subdivision improvements to serve any portion of properties described in the Phase I Amended Plat, the Phase II Amended Plat, or that final plat of Deer Canyon Preserve Phase III filed in the Office of the County Clerk of Torrance County, New Mexico, recorded on August 22, 2007 in Plat Record F at Pages 48-63 ("Phase III Plat"), whether or not such properties are subject to the Declaration (collectively, the "Plats"); (D) to sponsor and hold special events, and to construct, use, access and maintain such facilities, activities, improvements and personal property (including without limitation, business offices, signs, flags hung from flag poles or attached to a structure, model homes, sales offices, exterior lighting fixtures and displays) as, in the sole opinion of Grantor, may be reasonably required, convenient, or

incidental to the development, construction, marketing or sale of properties described on the Plats; and (E) to exercise any rights reserved to "Heritage" under the Declaration;

(iii) a right of entry hereby reserved to Grantor, its successors, assigns, and designees, to go upon the Property at any time to perform maintenance or repairs to the Property which Grantor deems necessary or appropriate to maintain the Property in a neat and attractive condition and in good order and repair, should Grantee fail to perform such maintenance within a reasonable time as specified by written notice from Grantor, its successors or assigns, together with the right of Grantor, its successors, or assigns to recover from Grantee all costs reasonably incurred in performing such maintenance or repairs; and

(iv) a nonexclusive right and easement for Grantor, its successors, assigns, and licensees to go upon the Property to engage in conservation and restoration efforts; to conduct scientific research and experiments relating to the environment, climate, atmospheric conditions, flora, and fauna; to install monitoring equipment, transmitters, repeaters, and other equipment for the collection, monitoring, and transmission of data in connection with such research and experiments; and for access, ingress and egress over the Property for such purposes; provided that upon completion of such research and experiments the persons exercising this easement for such purposes shall remove such equipment and restore the affected Property to its natural condition.

THIS CONVEYANCE IS FURTHER SUBJECT TO:

(i) all reservations, restrictions, and easements of record, including without limitation, the Declaration;

(ii) that certain Agreement to Allow Project for Riparian Restoration dated October 10, 2006 by and between Deer Canyon Preserve and Claunch-Pinto Soil and Water Conservation District having a term expiring October 18, 2010; and

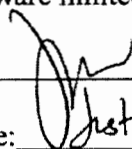
(iii) a perpetual, nonexclusive easement for ingress and egress over the roadways within the Property for vehicular and pedestrian access, subject to such reasonable rules and regulations as Grantee may adopt from time to time, which easement is hereby granted to the owners of all property subject to the Declaration, for the benefit of such owners, their successors-in-title, the occupants of such property, and their respective guests and invitees. The existence of this easement shall not preclude Grantee from maintaining gates or other devices or systems designed to limit general vehicular access to the properties described on the Plats, provided that Grantee at all times maintains systems and/or procedures to permit entry of persons authorized to exercise the easements granted herein without unreasonable interference or delay.

WITH SPECIAL WARRANTY COVENANTS.

Grantor does not, by the execution and delivery of this deed or any other instrument executed and delivered in connection with the conveyance of the Property, make any warranty, express or implied, of any kind or any nature whatsoever with respect to the Property or any improvements thereon, except the special warranty of title set forth herein.

Executed on the dates of the acknowledgements below to be effective May 1, 2009.

VERDE HERITAGE RANCH, LLC, a  
Delaware limited liability company

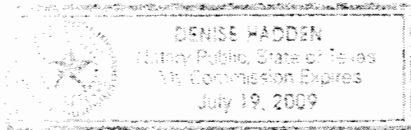
By:  \_\_\_\_\_

Name: Justin Ruby

Title: Vice President

THE STATE OF TEXAS                    )  
  ) SS.  
COUNTY OF EL PASO                    )

On this the 30<sup>th</sup> day of APRIL, 2009, before me personally appeared JUSTIN RUBY, VICE PRESIDENT of Verde Heritage Ranch, LLC, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed and in the capacity therein stated.



Den Hadden  
NOTARY PUBLIC

My Commission Expires: JULY 19, 2009

560202/SWD-CAs/031809

AMENDMENT TO THE BYLAWS OF  
DEER CANYON PRESERVE HOMEOWNERS ASSOCIATION  
(A New Mexico Nonprofit Corporation)

Deer Canyon Preserve Homeowners Association

WHEREAS, the undersigned, being all of the directors of Deer Canyon Preserve Homeowners Association, a New Mexico non-profit corporation, hereby consent to the following action taken at a special meeting, as permitted by the Bylaws of the Association:

WHEREAS, Article VIII, Amendments to Bylaws, Section 1 of the By-Laws states; "These bylaws may be at any time and from time to time be amended, altered or repealed by the Board or by vote of the members of the Corporation at any annual or special meeting provided that the notice of such meeting states that such amendment, alternation or repeal is to be considered."

WHEREAS, by unanimous consent of the Board at a special meeting held (the "**Unanimous Consent**") (a copy of which Unanimous Consent is attached hereto as Exhibit "A"), the Board agreed to amend the Bylaws of the Association.

NOW, THEREFORE, the Bylaws of the Association are amended, as follows:

1. **Article III, Members.** Section 5, **Annual Meeting**, is amended to read as follows:

**Annual Meeting.** An annual meeting of the members for the purpose of voting on such matters as properly may come before the meeting shall be held **at least once each year at such date, time and place as is determined by the Board.** Directors shall be elected at each such annual meeting, unless elected by mail as herein provided, or unless appointed by Deer Canyon Preserve, LLC during the Transition Period.

This is to certify that the foregoing resolution was adopted by the Board of Directors by unanimous consent, effective as of August 13, 2007 until such date as it may be modified, rescinded or revoked.

Deer Canyon Heritage Preserve  
Homeowners Association

By: \_\_\_\_\_

Its: President

By: \_\_\_\_\_

Its: Secretary

**SECOND AMENDMENT TO THE  
BYLAWS OF DEER CANYON PRESERVE HOMEOWNER'S ASSOCIATION  
(a New Mexico Nonprofit Corporation)**

**WHEREAS**, Deer Canyon Preserve Homeowner's Association ("**Association**") was incorporated as a nonprofit corporation under New Mexico law on July 15, 2002; and

**WHEREAS**, by resolution dated October 30, 2002, the Association's board of directors ("**Board**") adopted certain bylaws for the administration of the Association, which bylaws have previously been amended by resolution of the Board dated August 13, 2007 (as amended, the "**Bylaws**"); and

**WHEREAS**, pursuant to Article VIII, Section 1 of the Bylaws, the Bylaws may be amended at any time by the Board or by vote of the members at any annual or special meeting provided that the notice of such meeting states that such amendment is to be considered; and

**WHEREAS**, the Board desires to amend the Bylaws in various respects to make them consistent with that Amended and Restated Declaration of Protective Covenants and Grant of Easements for Deer Canyon Preserve, Torrance County, New Mexico recorded in the aforesaid records on November 28, 2006 in Book 311, Page 79, *et seq.*, as Instrument Number 2065305 (as amended and supplement, the "**Declaration**"); and

**WHEREAS**, a telephone meeting of the Board was duly called and held on March 6, 2009, and notice of such meeting stated the fact that these amendments were to be considered; and

**WHEREAS**, a resolution proposing these amendments was duly approved by at least a majority of the directors in attendance at such meeting, a quorum being present;

**NOW, THEREFORE**, the Bylaws are amended as follows:

1.

Article I, Section 1 of the Bylaws is amended by striking that section and substituting the following in its place:

**1. Declaration of Protective Covenants.** Deer Canyon Preserve Homeowner's Association (the "Association") has been established to function as the "Association" to which reference is made in that Amended and Restated Declaration of Protective Covenants and Grant of Easements for Deer Canyon Preserve, Torrance County, New Mexico recorded in the aforesaid records on November 28, 2006 in Book 311, Page 79, *et seq.*, as Instrument Number 2065305 (as amended and supplemented from time to time, the "**Declaration**"),

and to carry out the duties and exercise the powers of the "Association" stated therein.

2.

Article I, Section 2 of the Bylaws is amended by striking that section in its entirety and substituting the following in its place:

All terms defined in the Declaration shall have the same meaning when used in these Bylaws, including, without limitation, "Association," "Common Area," "Design Committee," "Heritage," "Homestead," and "Transition Period."

3.

The Bylaws are further amended by striking all references to the defined term "Corporation" and replacing them with the term "Association" and by striking all references to "Deer Canyon Preserve, LLC" and replacing them with the term "Heritage".

IN WITNESS WHEREOF, the undersigned officers of the Corporation hereby certify that the foregoing amendments were duly adopted by a majority vote of the Board at its meeting duly called and held on March 6, 2009, and shall be effective immediately.

DEER CANYON PRESERVE HOMEOWNER'S  
ASSOCIATION

By: Alan C. Clark  
Its: President

Attest: \_\_\_\_\_  
Its: Secretary

**DEER CANYON PRESERVE HOMEOWNERS ASSOCIATION**  
**Covenant Violation Enforcement Policy**

**WHEREAS**, the Deer Canyon Homeowner Association Inc. ("Association") has authority pursuant to Article I of the By-Laws of Deer Canyon Preserve Homeowners Association and Section 9B of the Covenants and Grant of Easements for Deer Canyon Preserve "to have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservation, rules, regulations, standards, liens or charges now or thereafter imposed under the provisions of the Declaration";

**WHEREAS**, the Board of Directors of the Association ("Board") finds there is a need to establish procedures for the enforcement of the Covenants and architectural control provisions of the Covenants and for the elimination of violations found to exist with Deer Canyon Preserve;

**NOW THEREFORE, IT IS RESOLVED** that the following procedures and practices are established for the enforcement of violations of the use restrictions and architectural control provisions of the Covenants of Deer Canyon Preserve and for the elimination of violations of such provisions found to exist in, on or about any property within Deer Canyon Preserve and the same are to be known as the "Covenant Violation Enforcement Policy: of the Association in the discharge of its responsibilities for determination and enforcement of remedies for covenant violations within Deer Canyon Preserve:

**1. Establishment of a Violation**

- a. Architectural – Improvements of any kind or nature erected, placed or altered on any Lot which has not been first approved by the Design Review Committee ("DRC") or which does not in all respects conform to the Homestead Improvement Restrictions or to that which has been so approved is deemed a "Violation" under this Enforcement Policy for all purposes.
- b. Use Restrictions – Any activity or condition on any Lot that is in direct opposition to the Covenants and Grant of Easements which is not expressly authorized by the Board is deemed a "Violation" under this enforcement policy for all purposes.

**2. Filing a Violation**

- a. Any member authorized as a representative of the Association to conduct observations of community activity shall identify in writing the violation and file a notice as set forth in section 3 of this policy.
- b. A homestead owner that desires to enforce the Declarations against a party whom it believes is in violation of the Covenants, must submit in writing to the Board of

Directors the alleged violation, as described in the Covenants and Grant of Easements Section 9A, Covenant Enforcement Procedure By Homestead Owner.

**3. Notice of Violation**

- a. Initial Notice – Upon verification of the existence of a violation by the Management staff (“Management”) will send to the Lot Owner a written notice of the discovery of the Violation (“Initial Notice”). The Initial Notice will inform the recipient as follows:
  - (i) The nature, description and location of the Violation ; and
  - (ii) A request to remedy the Violation; and
  - (iii) Notice that if the Violation has already been corrected or plans and specifications for a subject improvement have been submitted to the Design Review Committee to disregard the notice.
- b. Second Notice of Violation – If the Lot Owner fails to remedy the Violation or fails to submit plans and specifications for the offending improvement to the DRC or if the DRC has denied approval of the plans and specifications submitted, and the violation is continuing, no earlier than ten (10) days from the Initial Notice, Management shall send to the Lot Owner a Second Notice of Violation informing the recipient as follows (A violation is considered “continuing” if the same violation occurs within a 6 month period):
  - (i) The nature, description and location of the Violation and the failure of the Lot Owner to correct the Violation, as previously requested; and
  - (ii) Notice that if the Violation is corrected or eliminated within ten (10) days from the delivery of the Second Notice of Violation, no further action will be taken; and
  - (iii) If necessary, work on any improvement must cease immediately and may not resume without the expressed written approval of the DRC; and
  - (iv) Failure to remedy or cease work on any subject improvement will result in the Association electing to pursue any one or more of the remedies available to the Association under the Covenants, By-Laws or this Enforcement Policy.
  - (v) The second letter may include the “Level” of the violation and the minimum amount the Board of Directors can fine the lot owner for the continued violation.
- c. Failure to Remedy – Failure to (i) cease all work immediately upon receipt of the Second Notice of Violation, or (ii) remedy the current violation existing upon the Lot within ten(10) days of the date of the 2<sup>nd</sup> Notice of Violation, or (iii) failure to

request a hearing in writing to Management, shall constitute a continuing Violation and result in one or more of the following: (a) a fine being levied by the Association against the Lot Owner, (b) correction of the offending improvement by the Association at the expense of the Lot Owner through a Benefited Assessment being levied against the Lot Owner, which may be recorded as a lien against the Lot or (c) any other remedy under law or at equity, the Covenants or this Enforcement Policy, including but not limited to injunctive relief. Management shall send to the Lot Owner a formal Notice of Fine informing the recipient of the continuing Violation and the remedy chosen as a result thereof. The date of the Notice of Fine shall be the "Notice of Fine Date."

- d. **Fine Structure** Any fine imposed pursuant to the provisions of Paragraph 2 shall be imposed at the minimum rate of \$50 per first level, \$100 per second level, and \$150 per third level violation to be assessed no earlier than ten (10) days following the Notice of Fine Date. At the Board's discretion, the Board may impose a daily accruing fine of up to \$50 per day in addition to the set fine levels and up to \$2,500 for violations of construction and architectural rules. Construction related fees (fines, sanctions, legal fees) that occur on lots where a builder bond is held may be deducted from said builder bond prior to reimbursement.
- e. **Hearing** Included in the "Second Notice of Violation Letter" will be the opportunity for the Lot Owner to request and be granted a hearing by the appropriate Committee or the Board prior to any fine or Benefited Assessment being levied upon the Lot Owner. The Notice of Fine will allow the Lot Owner ten (10) days to contact Management, in writing, to request a hearing upon the issue of the continuing Violation. Should the Lot Owner fail to contact Management within (10) days of the Notice of Fine Date, that party will have waived its opportunity for said hearing. All cases that are up for fine review will be heard by the Board of Directors at their regularly scheduled meetings.

- 3. **Corrective Action** Where a Violation is determined to exist and referred to the Board of Directors of the Association, pursuant to any provision of this Enforcement Policy, Management, with the approval of the majority of the Board of the Association, may undertake to cause the Violation to be corrected, removed or otherwise abated by qualified contractors if Management, in its reasonable judgment, determines the Violation may be readily corrected, removed or abated without undue expense and without breach of the peace. Where management decides to initiate any action by qualified contractors, the following will apply:

- a. Management must give the Lot Owner and any third party directly affected by the proposed action prior written notice of undertaking of the action. The foregoing notice may be given at any time.

- b. Cost incurred in correcting or eliminating the Violation will be referred to the Association to be recovered from the Lot Owner as an Assessment as set forth in Section 8A or the Covenants.
  - c. The Association, and its agents and contractors will not be liable to the Lot Owner of any third party for any damages or costs alleged to arise by virtue of action taken under this Paragraph 3 where the Association and its agents have acted reasonably and in conformity with this Enforcement Policy.
4. **Referral to Legal Counsel** Where a Violation is determined to exist and is referred to the Board of Directors of the Association pursuant to any of the provisions of the provisions of this Enforcement Policy and where Management deems it to be in the best interests of the Association, the Board may, at any time during the enforcement process, refer the Violation to legal counsel for action seeking injunctive relief against the Lot Owner to correct or otherwise abate the Violation, or to pursue any other legal or equitable remedy that may be available to the Association.
5. **Notices**
- a. Any notice required by this Enforcement Policy to be given, sent, delivered or received in writing will be deemed to have been given, sent, delivered or received, as the case may be, upon the earlier to occur of the following:
    - (i) When the notice is delivered by telecopy, the notice is deemed delivered when the sender receives a facsimile acknowledgment acknowledging delivery of telecopy.
    - (ii) When the notice is placed into the care and custody of the United States Postal Service, the notice is deemed delivered as of the date the notice is deposited into a receptacle of the United States Postal Service with postage prepaid and addressed to the most recent address of the recipient according to the records of the Association. Any Second Notice of Violation will be sent certified mail, return receipt requested.
  - b. Where the interests of an Owner in a Lot have been handled by a representative or agent such Owner or where Owner has otherwise acted so as to put the Association on notice that its interests in a Lot has been and is being handled by a representative or agent, any notice or communication from the Association or Management pursuant to this Enforcement Policy will be deemed full and effective for all purposes if given to such representative or agent.
6. **Cure of Violation During Enforcement** A lot Owner may correct or eliminate a Violation at any time during the pendency of any procedure prescribed by this

Enforcement Policy. Upon verification by Management that the Violation has been corrected or eliminated, the Violation will be deemed no longer to exist and the Notice of Violation voided. The lot Owner will remain liable for all costs and fines under this Enforcement Policy, which costs and fines, if not paid upon demand thereof by Management, will be referred to the Association for collection as an assessment pursuant to Section 8F of the Covenants.

This is to certify that the foregoing Violation Enforcement Policy Resolution is adopted by the Board of Directors by unanimous consent, effective as of \_\_\_\_\_ until such date as it may be modified, rescinded or revoked.

\_\_\_\_\_  
Homer Luther, President

\_\_\_\_\_  
Alan Clute, Director

\_\_\_\_\_  
Robert Wilson, Vice President

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Dee Melaragno, Director

\_\_\_\_\_  
Justin Ruby, Secretary

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# DEER CANYON

## P R E S E R V E

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### **Designing and Building Your Home in Deer Canyon Preserve**

Designing and building your home can be rewarding, but it's easy to get overwhelmed along the way. We'd like to help you get started and provide some tips to get design approval so that you can design and build a home that fits your needs and blends into the natural environment. For assistance integrating green design features into your building, refer to our Building Green Suggested Reading located under Links/Resources, "Building Your Home."

#### **Designing Your Home**

##### **Put Your Dream on Paper**

You've probably worked up a fabulous design for your dream home—in your head, and in conversations with your partner or friends. Now is the time to put that dream on paper, the first step in making it a reality. Start big, with all the special features you can dream up. Have fun with this creative brainstorming process and don't be afraid to add in extravagant features. Once you define your budget, you will revisit your initial design and let monetary constraints help you define which building elements are absolutely and which are not.

You may choose to develop a full scale, professional design by yourself and then locate a builder who can build it for you. Or you may want to take your sketch and hire a designer or an architect to draw up the plans for you. In either case, we've included some points to consider below, both in the design of your home itself, as well as any other building elements that would need to be included in the design plan you will submit to the Design Review Committee.

##### **Considering DCP Restrictive Covenants in Your Design**

Carefully review all HOA Protective Covenants under HOA Information on this website and be sure to comply with restrictions in the design of your home. Three key restrictions are the following:

1. Homes must be at least 1600 feet in size.
2. Homes must be less than 25 feet in height. This figure includes solar panels and chimneys.
3. Building and roof colors must be of natural colors to not detract from the DCP natural character. Lightness ratio of colors must be at least 40 points.

### **Placement of Your Home**

When considering placement of your home you'll want to consider the following factors:

- **Views:** Where will you get the best views? How can placement reduce the visibility of your home for other homeowners?
- **Water Flow:** Pay careful attention to the flow patterns of water and try to place your home where the least amount of water naturally moves across the landscape, in order to avoid creating arroyos and gullies that will be difficult to remediate. You can call the Claunch-Pinto Water and Soil District to evaluate the water flow of your envelope.
- **Wildlife:** Note wildlife trails on your building envelope and try, where possible, to avoid building on or too near these trails.

### **Foundation on Slopes**

If building your home on a steep slope, consider using a post-and-beam foundation rather than traditional concrete slab, as this will require less earth-moving, and have impact on the environment.

### **Building Style**

- **Stick-frame**, or buildings built with a framework of timber are one of the most popular building style at Deer Canyon Preserve as they tend to be the most cost-effective. They can be built in a Southwestern pueblo style, as demonstrated in several of Deer Canyon Preserve's homes.
- **Insulated Concrete Form (ICF)** is a building material composed of concrete and Styrofoam. This material has also been utilized by Deer Canyon homeowners, and produces superior insulation and air filtration.
- **"Natural" building** includes adobe, rammed earth, and straw bale, some of which will be found at Deer Canyon. While the cost of building natural can be higher, due to their labor intensive nature, these buildings, when designed correctly, offer superior insulation, and a minimized ecological footprint.

For more information on the relative benefits and drawbacks of these building styles in terms of environmental impact, see our Building Green Suggested Reading located under Links/Resources, "Building Your Home."

### **Water System**

Water conservation is a key element of our stewardship ethic at Deer Canyon Preserve. Our shared well system is designed to promote water conservation. When designing the water system of your home note that we also require each homeowner install a 500 gallon water holding tank.

We also recommend designing rainwater catchments from the roof of your home, to be used either for landscaping or even drinking needs. You can capture approximately 7.5 gallons of water per square foot, per year off your roof surface. With a roof of about 2,500 square feet you can capture about 20,000 gallons of water from a typical year's precipitation on your roof.

For more information on designing your water system, refer to our Water Conservation link located under Links/Resources, “Building Your Home.”

### **On-site Sewage Options**

As you design your home you will need to consider placement and type of sewage system. Your builder will need to obtain a permit to install a septic tank and construct a leach field from the New Mexico Environmental Department (NMED) before your system can be installed.

While the septic system is the standard choice, in some areas a sand filter or other alternative method may be more appropriate to the site. For a list of advanced systems approved by NMED see:

[www.nmenv.state.nm.us/fod/LiquidWaste/adv%20sys.pdf](http://www.nmenv.state.nm.us/fod/LiquidWaste/adv%20sys.pdf).

### **Defensible Area**

To protect your home as well as your neighbors’ from fire, we require that you create a “defensible area” of 100 feet around your home. This does not mean removal of all trees, which would cause erosion. Two features that slow spread of fire in our piñon-juniper habitat are the low height of the trees and, in many areas, lack of significant ground cover. Thus, within your defensible area you will need to remove all dead trees and limbs, as well as low lying tree branches. It is also wise to thin your trees. Forest Service officials recommend fifteen feet distance between trees in this area. See Fire Prevention link located under Links/Resources, “Building Your Home.”

### **Choosing a Builder**

If you need to find a builder and building green is a priority for you, you can find lists of green New Mexico builders in our Building Green Suggested Reading located under Links/Resources, “Building Your Home.” Also, see ideas on home design whether or not you use Sun Light Homes: <http://www.sunlighthomes.com/design/index.html>.

Never sign a contract without first setting up an appointment to view several of the builder’s homes. In addition, ask for references, and interview former clients, to make sure this builder can deliver the product you want. Some questions to ask are the following: Can the builder complete the home within the one year time-frame required by Deer Canyon covenants? Is he or she responsive to calls?

You’ll also want to look at your interpersonal dynamic. Do you like this person? Can you work together? Nothing can make the process of designing and building your home more or less enjoyable than the synergy—or lack of it—as you plan your design together. Finally, look around before making a final decision. We recommend you consider at least three separate job bids before signing a final contract.

### **After Design Completion**

Be sure, once your design plan is completed, that you are truly satisfied with the design. No matter how flexible your builder may be, major changes will cost him or her, and at some point you, more money. This is the place to work out as many of the bugs as possible. Once you’re sure this is your ideal design, get it to the Design Review

Committee in a timely fashion. While reviews are typically completed within a week, the Committee has up to 45 days to make its decision.

### **Design Review Committee Procedure**

Prior to any construction on site, homeowners must submit all their building plans to the Design Review Committee, including exterior wall and roof swatches (if not flat); and a site plan showing the location of all proposed buildings, driveways, and other changes. See all the requirements in the Design Review Application under HOA Information, “Design Review.”

You must also name the primary contractor and give a general construction schedule and anticipated completion date. You should detail all proposed buildings; fences and gates; excavation, filling or other disturbance to the features of the land; any change of grade, stream bed, ground level or drainage pattern; and all landscaping addition or removal of trees, shrubs, or plants.

You must also include exterior elevations clearly indicating height and use of spark arrestors on chimneys. Additionally, you must demonstrate plans to manage storm water, so as to avoid causing erosion off-site.

## **Building Your Home**

### **Protect the Preserve**

Some key points to communicate with your contractors are the following:

- **Water** - Hookups must be charged and metered before construction begins—this must be the **only** water source used during construction, and you are responsible for the cost of this water.
- **Utilities**-Need a 10-foot clearance for repairs or installations.
- **Prohibited on Site**-Drugs, alcohol, and campfires. Shooting of firearms is prohibited in DCP. All firearms should be kept inside cars at all times.
- **Construction Debris**-Builder must rent an onsite dumpster, and dispose of all debris at an appropriate facility off DCP. Must not burn, or dump at transfer station serving Mountainair. Any debris cleaned up by the HOA will be billed directly to the homeowner.

### **After Building Completion**

Before signing off on your finished home, be sure to go through each feature, making sure everything functions as it should, and that you are pleased with the final product. You may want to make a “punch list” of things that need to be fixed or improved before you feel your contract has been fully met. Finally, ask for a guarantee. Most builders will offer a guarantee of at least one year on a completed home.

## DESIGN REVIEW APPLICATION

### PROJECT LOCATION:

Homestead:	
Street Address:	

### OWNER:

Name:	
Mailing Address:	
City/State/Zip:	
Phone:	
Fax:	

### ARCHITECT / DESIGNER:

Firm:	
Contact:	
Mailing Address:	
City/State/Zip:	
Phone:	
Fax:	

### CONTRACTOR / BUILDER:

Firm:	
Contact:	
Mailing Address:	
City/State/Zip:	
Phone:	
Fax:	

### CONTRACTOR/BUILDER PERSONNEL CONTACT

Name:	
Phone:	
Email:	
Name:	
Phone:	
Email:	

### SUB-CONTRACTOR CONTACT INFO

Name:	
Phone:	
Email:	
Name:	
Phone:	
Email:	

### SITE INFORMATION:

Homestead Size:		acre
Envelope Size:		sq. ft.

### MAIN HOUSE INFORMATION

Encl Livable Square Feet:		sq. ft.
Encl Livable & Non-Livable Ft Print:		sq. ft.

### ADDITIONAL BUILDING:

Encl Livable Square Feet:		sq. ft.
Encl Livable & Non-Livable Ft Print:		sq. ft.

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**PRE-CONSTRUCTION CONFERENCE CHECKLIST**

Prior to commencing construction (including but not limited to erecting a fence, delivering a trash container or portable toilet, and staging materials, etc.), the builder must meet with the Design Review Committee to review submittal packet and insure that all items listed below have been satisfied as per the approval the Design Review Committee.

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- ☐ Copy of Contractor's License & Certificate of Insurance
- ☐ Copy of the Torrance County Building Permit.
- ☐ Copy of Storm Water Pollution Prevention Plan (SWPPP) Permit.
- ☐ One full size set of Construction Documents (drawings) as submitted and approved by Torrance County.
- ☐ Builder's Construction Damage Deposit - \$2500 made payable to: DCP Homeowners Association. Onetime fee covers builder while working at Deer Canyon Preserve.
- ☐ Construction Schedule
- ☐ Field Verification that construction water supply is provided at homestead.
- ☐ COMPLETED DESIGN REVIEW PACKET (Application, Design Submittal, Building Material List, Paid Fees (owner and builder), Lockdown Agreement/Survey and Acknowledgement of Construction Guidelines.)

**Builder Acknowledgement of Guidelines**

I have read and understand that all Construction Guidelines for Deer Canyon Preserve shall be enforced during the construction period of all home site improvements. Any violation of these regulations by an owner's agent, representative, builder, contractor or subcontractor, shall be deemed a violation by the owner and dealt with accordingly.

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BUILDER REPRESENTATIVE

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DATE

### Design Review Fee Structure

**\$350 non-refundable Design Review fee will include:**

- ☐ 1 (one) DRC- Submission Review Packet ( Builder Present)
- ☐ 1 (one) Site observation
- ☐ 1 (one) Framing Observation – (Review as-built and height)
- ☐ 1 (one) Final Site Observation (Color)

Any additional reviews, site observations or special meetings requested are required to pay an additional fee (\$150). Modifications that require a building permits or additional packet review are required to submit an additional \$350 Design Review Fee.

**APPLICANT:**

As Applicant, either as Owner or Owner's Agent, I have read and understood the Design Review Fee Structure, Deer Canyon Preserve Design Review Guidelines in the CCR's and requirements included in Design Review Submittal packet.

I also acknowledge that the Design Review Fee is non-refundable.

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Check Amount

\_\_\_\_\_  
Date

## **DESIGN SUBMITAL**

The Design Review Committee has 15 business days to respond once a **complete** Design Submittal has been received.

### **THE DESIGN REVIEW COMMITTEE WILL NOT REVIEW INCOMPLETE SUBMITTALS.**

#### **REQUIRED MATERIAL**

- ☐ Design Review Application Form
- ☐ Design Review Fee; non-refundable fee payable by check to the Deer Canyon Preserve Homeowners Association
- ☐ One full size set of drawings (24" x 36")
- ☐ One reduced size set of drawings (8 1/2" x 11")
- ☐ Building Material Samples (One time submission)
- ☐ Building Material List
- ☐ Building Lockdown Agreement and survey, signed by Property Owner
- ☐ Storm Water Pollution Prevention Plan (SWPPP) and permit (State and EPA required)
- ☐ Show proposed solar equipment on Site Plan, Roof Plan and Building Elevations, where applicable. Provide details of proposed usage.

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#### **DRAWING SUBMITTAL CONTENT**

1. Site Plan (scale at 1" = 10'-0" or 1/8" = 1'-0"), show the following:

- ☐ Building Envelope and setbacks.
- ☐ Footprint of Residence with all floor elevations.
- ☐ Show all proposed buildings, fencing, corrals and location for housing animals.

**NOTE: Areas outside of the Building Envelope and driveway must be left undisturbed. Proposed grading shall not extend outside of the Building Envelope.**

2. Survey/Grading and Drainage Plan (scale at 1" = 10'- 0"), show the following:

- ☐ Provide spot elevations at each building corner.
- ☐ Show spot elevations at the top and bottom of all retaining walls.

**NOTE: All grading must be entirely within the Building Envelope.**

3. Floor Plans (scale 1/4" or 1/8" = 1'-0"), show the following:

- ☐ Provide floor plan for each proposed structure.
- ☐ Note floor elevations at every level of each structure.
- ☐ Provide overall building dimensions of each structure.

4. Roof Plan (scale 1/4" or 1/8" = 1'-0"), show the following:

- ☐ Note the elevation of all roof ridges.

5. Exterior Building Elevations (scale 1/4" or 1/8" = 1'-0"), show the following on all elevations:

- ☐ Existing and proposed grade lines.
- ☐ Ridge Heights (elevation heights).
- ☐ Indicate all exterior materials and colors (coordinate with Material List).

6. Building Sections (scale 1/4" or 1/8" = 1 '0"). Provide 2 Building Sections. One Building Section shall be transverse and the other shall be longitudinal. Each section shall show the following:

- ☐ Draw the existing natural slope with a dashed line through the building and site.
- ☐ Show the cut and fill at the natural grade.
- ☐ Note all floor elevations.
- ☐ Note all roof ridge elevations.

### **BUILDING MATERIAL LIST**

#### **ROOFING**

- ☐ Roofing Type:
- ☐ Manufacturer:
- ☐ Color, I.D. Number:
- ☐ Flammability Rating:

#### **MAIN EXTERIOR FINISH**

- ☐ Primary Material Type:
  - ❖ Color, Manufacturer, I.D. Number:
- ☐ Trim Material Type:
  - ❖ Color, Manufacturer, I.D. Number:
- ☐ Accent Material Type:
  - ❖ Color, Manufacturer, I.D. Number:

#### **SECOND EXTERIOR FINISH**

- ☐ Primary Material Type:
- ☐ Color, Manufacturer, I.D. Number:

#### **THIRD EXTERIOR FINISH**

- ☐ Primary Material Type:
- ☐ Color, Manufacturer, I.D. Number:

#### **STONE**

- ☐ Stone Type:
- ☐ Manufacturer:
- ☐ Color, I.D. Number:

#### **WINDOWS**

- ☐ Material:
- ☐ Manufacturer:
- ☐ Color, I.D. Number:

**Check boxes & include this page with your Submittal**

**BUILDING ENVELOPE LOCKDOWN AGREEMENT**

**DECLARATION**

DESIGNATED BUILDING SITE -UNDER COVENANTS AND GRANT OF EASEMENTS FOR DEER CANYON PRESERVE, TORRANCE COUNTY, NEW MEXICO

\_\_\_\_\_, and Verde Heritage Ranch, LLC, Grantee and Grantor, respectively, under that certain Warranty Deed conveying Tract \_\_\_\_\_, Deer Canyon Preserve recorded at Book \_\_\_\_\_, Page \_\_\_\_\_, Torrance County, New Mexico Deed Records which is subject to a certain Declaration of Protective Covenants and Grant of Easements recorded in Book \_\_\_\_\_ at Pages \_\_\_\_\_, of the Deed Records of Torrance County, New Mexico, hereby acknowledge and confirm that the designated building site required by Section 4 of the above referenced covenants and grant of easements is more particularly describe on Exhibit A attached hereto.

Grantee further acknowledges that they are informed and familiar with the covenants and restrictions described above and shall comply therewith.

DATED this \_\_\_\_\_ day of, 20\_\_\_\_.

\_\_\_\_\_  
Grantee

APPROVED:

Verde Heritage Ranch, LLC,  
By \_\_\_\_\_  
Vice President

\_\_\_\_\_  
Grantee

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## **CONSTRUCTION GUIDELINES**

To ensure that the natural landscape of each homestead is preserved and the nuisances inherent to any construction process are kept to a minimum, the following regulations shall be enforced during the construction period of all improvements.

**Any violation of these regulations by an owner's agent, representative, builder, contractor or subcontractor, shall be deemed a violation by the owner and subject to a fine. Consistent violations may result in shutting down construction until corrective measures are proven or worker(s) will be denied access into the community.**

### **State – Environmental - OSHA Compliance**

- All applicable New Mexico State and EPA regulations must be observed at all times.
- Storm Water Pollution Prevention Plan (SWPPP) permit must be posted on job site with building permit, and Plan objectives observed at all times.
- All applicable Occupational Safety and Health Act (OSHA) regulations and guidelines must be observed at all times.

### **Speed Control**

- The speed limit on roads within Deer Canyon Preserve is 25 mph. Violators may be subject to monetary fines, as well as being prohibited from entering the community.

### **Water Usage**

- Well water is not to be used for construction unless there is prior written consent by the shared wells administrator. If no water is used from a shared well, then a separate tank must be installed or a portable tank used, with water for construction obtained from off site.
- Damage to shared well systems caused by construction activity will be billed to the property owner.
- No contractor is allowed to change valves or meters on shared well systems without prior written consent from the Shared Well Administrator.

### **Trash Receptacles and Debris Removal**

- An approved trash receptacle must remain on the site at all times.
- Owners and builders shall clean up all trash and debris at the end of each day.
- Owners and builders are prohibited from dumping, burying, or burning trash anywhere on the homestead or anywhere else in Deer Canyon Preserve.
- Heavy debris, such as broken stone, wood scrap, or the like must be removed from the site immediately upon completion of the work of each trade that has generated the debris.
- All concrete wash-out, from both trucks and mixers, must occur within the Building Envelope of the homestead in a location where it will be ultimately concealed by a structure. Wash-out in road rights-of-way, setbacks, adjacent properties or common areas are strictly prohibited.
- Any clean-up costs incurred by the Association in enforcing these requirements shall be payable by the owner.

### **Sanitary Facilities**

- Portable toilets must be located within the construction fence & Building Envelope.

### **Construction Trailers**

- Upon commencement of construction, a construction trailer or portable field office may be located on the building site within the area approved during the Design Review process.
- The type, size and color of any portable office must be approved by a representative of the Design Review Committee during the pre-construction conference.
- A construction trailer may not remain on site exceeding construction of the home.

### **Construction Access**

- The approved access drive will be the only construction access to any homestead.

### **Vehicles and Parking Areas**

- Construction crews will not park on, or otherwise use, common areas, neighboring homesteads, nearby driveways or open space.
- Vehicles must be off the roadway or cul-de-sac, parked in a single row to allow continual unconstrained access by normal traffic.
- Changing oil or other vehicle maintenance is prohibited.
- Parking or storing vehicles on roadways and driveways over night is prohibited.

### **Fencing and Conservation of Native Landscape**

- It is strongly recommended to install a construction fence to protect your jobsite. It may serve to contain trash that is generated from construction activity, preserve areas outside the building envelope from being unnecessarily destroyed and help protect the construction project from unwanted vandalism or theft.
- The Deer Canyon Preserve Homeowners Association will continue to monitor activity and revisit this issue to potentially make the installation of construction fencing mandatory.
- The construction fence should be a sectional at least five feet (5') high and secured by driving support posts into the ground. Leaning the fence on native trees for support is not allowed.
- A single entrance located at the driveway entrance shall be maintained intact until the completion of construction.
- No natural plants outside the Building Envelope may be destroyed, and if so may be required to be replaced at the owner's expense.

### **Excavation Materials and Blasting**

- Design Review Committee must be notified two weeks in advance.
- Blasting should be done by licensed demolition personnel only.
- Design Review Committee shall have the authority to require in writing documentation of anticipated seismic effects; with confirmation such effects will not be injurious to other persons or properties.
- Design Review Committee shall have the authority to require blasting insurance.

### **Noise Control**

- The contractor is responsible for controlling noise from the construction site.
- If Deer Canyon Preserve Personnel or other representative deems noise control necessary, then the contractor shall immediately (as reasonably possible) comply with the request.

### **Material Deliveries**

- All building materials, equipment and machinery must be delivered to and remain within the approved designated area of each homestead.
- Material delivery vehicles may not drive on anything but roads to access a construction site.

- Accessing any construction site through an adjacent Homestead or Common Area for the purpose of delivering materials or executing any aspect of construction is strictly prohibited without the written consent of the adjacent Homestead owner, or the deeded owner. All builders will be responsible for all costs incurred by Deer Canyon Preserve Homeowners Association to restore the landscaped right-of-way, reinstall the lot sign and property corner pin, etc. Builders will be billed for labor and materials upon completion of all work.
- No construction activity of any nature, including but not limited to delivery of construction fences, portable restroom, trash containers, and material staging shall be delivered to the site prior to the Pre-Construction Conference.

#### **Firearms**

- Hunting, target shooting or discharge of any type of firearm by anyone at Deer Canyon Preserve is prohibited.

#### **Hunting**

- Hunting or intentionally harming of any type of wildlife within Deer Canyon Preserve is strictly prohibited.
- Anyone found guilty of this type of activity will be prosecuted to the fullest possible extent.

#### **Alcohol and Controlled Substances**

- The consumption of alcohol or use of any controlled substance by construction personnel is prohibited. Anyone found with alcohol or controlled substance will be immediately escorted off the property.

#### **Fires and Flammable Materials**

- At least two 20-pound ABC-Rated Dry Chemical Fire Extinguishers shall be present prior to construction start, fully operational and available in a conspicuous place on the construction site at all times.
- No on-site fires are allowed.

#### **Pets**

- Pets must be restrained at all times while on the Preserve.

#### **Preservation of Property**

- The use of or transit over any other homestead, common area or amenity is prohibited. Similarly, the use of or transit over the natural area or setbacks outside the Building Envelope of any homestead is prohibited.

#### **Restoration of Property**

- Upon completion of construction, each owner and contractor shall clean his construction site and repair all property which has been damaged, including but not limited to, restoring grades, planting shrubs and trees as approved or required by the Design Review Committee, and repair of streets, driveways, pathways, drains, culverts, signs, lighting and fencing.

#### **Construction Signage**

- No signs or advertising devices shall be installed on a homestead, other than one (1) Builder Identification sign for the benefit of sub-contractor location identification.
- Signs allowed to be constructed of wood, compatible in nature to the area, be as small in size as reasonably possible and shall have the approval of the Design Review Committee.
- Individual signs, identifying individual subcontractors, tradesmen, or suppliers are prohibited.
- Attachment of signs or similar material to trees is prohibited.

**Daily Working Hours**

- Daily working hours for all construction sites is from sunrise to sunset.
- Work that requires special consideration must be authorized with the Homeowners Association office prior to starting the work.

**Site Visitation**

- Construction personnel may not bring family members or friends, especially children, to the job site.
- Minimum age of any worker on job site is 18 years old.

**Access Denial**

- At its sole discretion, the Deer Canyon Preserve Design Review Committee can deny access to the community to any contractor or subcontractor for violations of any regulations contained herein.

Acknowledgement of Guidelines:

We, \_\_\_\_\_ and \_\_\_\_\_  
Property Owner General Contractor

acknowledge receipt of these Construction Guidelines and understand that the Property Owner is fully responsible for any damage or negligence of these Construction Guidelines caused by Owner's contractors while under Owner's hire while on the property of Deer Canyon Preserve..

\_\_\_\_\_  
Date

## CONTRACTOR INFORMATION

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**GATE CODE :** Deer Canyon Preserve is a gated community. A gate code must be obtained from the Homeowners Association (HOA) for access to the community. The General Contractor is responsible to notify the HOA of the subcontractors working on the property and obtaining gate codes as well as when subcontractors are released, to deactivate their gate access.

**TEMPORARY STRUCTURES:** A full description of any temporary structure must be submitted to the Design Review Committee with the owner's building plans. A schedule of when the structure will be placed on the site and when it will be removed must accompany the plan.

**PRE-CONSTRUCTION MEETING:** The General Contractor must meet with representatives of the DCP Design Review Committee prior to the start of any work on the homestead. A schedule of required materials for the Pre-Construction Meeting can be obtained from the Design Review Committee representatives. The project supervisor, owner, or other owner representative must attend this meeting.

**SHARED WELL ASSIGNMENT:** Contractor must obtain information from the Shared Well Administrator regarding the Shared Well assigned to each homestead. The assignment includes location of the well, OSE number, depth, production information, and design specs.

## DESIGN REVIEW COMMITTEE CONTACTS:

	<u>Phone:</u>	<u>E-mail:</u>
Roy Taylor	505-847-0054	royltd@aol.com
Kent Potter	505-847-0295	kentfp720@yahoo.com
Justin Ruby	915-521-5406	justin.ruby@verderealty.com
Robert Wilson	915-225-3279	robert.wilson@verderealty.com