

FIESTA II SUBDIVISION  
DESIGN GUIDELINES  
Adopted \_\_\_\_\_

GENERAL PROVISIONS

**A. PURPOSE**

The Declaration of Covenants, Conditions and Restrictions for Fiesta II Subdivision (“CC&Rs”) and these Fiesta II Subdivision Design Guidelines (“Design Guidelines”) protect the Owners and the value of the homes in our neighborhood. All Owners, tenants, residents or other occupants are subject to both the CC&Rs and Design Guidelines, and have agreed to comply with them by purchasing or occupying a home in the Fiesta II Subdivision. Unnecessary complications and problems can be avoided by a thorough understanding of the CC&Rs and of these Design Guidelines. Compliance by all contributes to sustain property values and will allow all to enjoy the pleasing environment and attractive community. All capitalized words not defined in these Design Guidelines shall have the meaning ascribed to them in the CC&Rs.

**B. BASIS**

These Design Guidelines are intended to augment the CC&Rs, and do not replace or override them. These Design Guidelines may be amended by addition, deletion or alteration at any time by the Architectural Control Committee (“ACC”) as defined under the CC&Rs. The Fiesta II Subdivision is intended to be a cohesive development composed of homes of the highest quality and elegant appearance. Toward this end, it is intended that the ACC have the greatest degree of discretion possible in reviewing and approving or disapproving plans and improvements in the Fiesta II Subdivision.

**C. NEED FOR APPROVAL**

Any exterior addition, change or alteration which is visible from a street, Common Area or an adjacent property must have prior approval from the ACC. Shrubs and other live landscaping items are subject to approval. The ACC has the legal authority to require any Owner to remove or alter any modification which has not received prior approval or is not built according to approved plans. An ACC application is not required for maintenance or repairs provided no change in color or materials is made that alters the original appearance of the Lot or structures there upon. Repairs and maintenance are subject to provisions set forth in section F. *“Quality of Repairs”*.

**D. APPROVAL PHILOSOPHY**

The approval process is intended to minimize hardships or undue delays, while preventing additions or modifications to property that would be costly to correct if done improperly or in violation of the CC&Rs or Design Guidelines.

**E. PRECEDENTS**

The ACC and the Board renders decisions on a case-by-case basis and is not bound by previous decisions.

**F. QUALITY OF REPAIRS**

From time to time, Owners will be required to make repairs to portions of their property that may be damaged or deteriorated. This includes such items as curbs, sidewalks, stucco surfaces, porches, fences, walls, balconies, roofs, doors, etc. Repairs are required to be of equal or better quality than the original construction and of the same type. The quality of such work is within the scope of the ACC’s responsibilities and if the repair is done in such a way that it violates the CC&Rs or it would detract from the appearance of the neighborhood, the ACC may require corrective action.

**G. EMERGENCY AND DISASTER REACTION**

Disasters such as fire and weather may cause significant construction and repair activity to take place. Temporary repairs or structures (those that are present for no longer than six months during reconstruction) will be acceptable under such a condition. Reconstruction of equal or better quality than the original construction, the same location, using all the same materials and setbacks as existed before the disaster will be acceptable without approval by the ACC. Notwithstanding the foregoing, if any improvements were done in violation of the CC&Rs, nothing in this section shall be deemed to approve such non-conforming improvements.

Review of any requested changes to the former structure will be made with all haste possible so as to have no adverse impact on the Owner. The Board and the ACC will take whatever action is reasonable to expedite its responsibilities.

It is recognized that an Owner has the right to take temporary protective action in the event of certain weather conditions, such as flood or tornado warnings. No prior approval for such temporary action is required. However, all such installations must be completely removed and the property restored to its original condition within seven (7) days of the passing of the emergency. This rule specifically applies to, but is not limited to, the boarding of windows and doors during a weather-related threat.

**H. EASEMENT ENCROACHMENTS**

It is not the responsibility of either the ACC or the Board to police encroachments into utility easement areas or to police compliance with approved municipal zoning requirements. If possible and when the ACC has actual knowledge of an encroachment or zoning code violation, the ACC will advise the Owner of a possible encroachment or zoning code violation and recommend that the Owner seek approval or waiver from the appropriate utility. However, the ACC will not be liable for any expense incurred by an Owner as a

result of action by a utility or municipality if such encroachment or violation occurs, even if the ACC approved the change or addition without comment.

**I. SETBACK REQUIREMENTS**

No structure, or any portion thereof, including porches, steps, balconies, awnings, pools, patios and courtyards shall be placed, constructed, installed or maintained within twenty (10) feet of the front property line, five (5) feet of any side property line, or within five (5) feet of the rear property line; except driveways and free standing structures such as arbors, pergolas, gazebos or similar structures with approval from the ACC. The ACC shall have the absolute authority to grant a variance from these setback requirements should it conclude the configuration, size, location, or topography of any Lot justifies the variance. The home and auxiliary structure setback requirements are established within the approved Fiesta Area Plan as is adopted and may be amended from time to time.

**J. CONSTRUCTION MATERIALS**

All materials used during the initial construction of homes within the Fiesta II Subdivision must be approved by the ACC. Any alternate materials or colors must be specifically approved by the ACC prior to use in any exterior construction.

**K. MAINTENANCE**

All improvements on a Lot must be maintained in a state of good repair and shall not be allowed to deteriorate. Repairs shall include, but are not limited to, the following:

1. All painted surfaces must be clean and smooth with no bare areas or peeling paint, and all surfaces must be free of mildew.
2. All rotted and damaged wood must be replaced and any damaged stucco repaired.
3. Gutters must be kept in good repair and are not allowed to have missing pieces, large dents, sags, rust, or hanging parts.
4. Roofs must be maintained in good repair with no missing or curling shingles or broken or missing tiles.
5. All glass surfaces must be whole.
6. Walls and gates must be kept in good repair. This includes, but is not limited to, broken blocks, obvious lean of the wall structure, bent or broken gates, or peeling paint.
7. Garage doors must be undamaged and in good repair.
8. Sidewalks, driveways and curbs must be clean and undamaged. Seams must be kept free of weeds.
9. Lawns must be kept mowed, edged, and weed free; graveled areas and flower beds must be kept free of weeds; and shrubs and trees must be kept trimmed.
10. There must be no storage of toys, equipment, clutter and/or debris in public view.
11. Perimeter walls must be maintained and not be exposed to damage by adjacent plantings or land use.
12. Raised beds for composting or planting, composting boxes and flower boxes must

- not be in contact with the perimeter wall.
13. House numbers must be easily readable from the street.

## **L. YARD MAINTENANCE DRAINAGE AND IRRIGATION**

Landscaping on all Lots shall be kept in a healthful and attractive condition, all weeds removed and grass regularly mown and edged. Dead plants, trees, and bushes shall be promptly removed from the property. There must be no storage of toys, equipment, clutter and/or debris in public view.

Landscaping should be designed and constructed to minimize the potential for deep wetting of soils supporting any structures. If soils supporting structures are allowed to increase in moisture content to a depth greater than seven (7) feet, settlement of such structures is likely to occur. Landscaping that otherwise complies with these Design Guidelines should be hand-watered or watered using controlled irrigation and/or drip irrigation wherever feasible. If drip irrigation is used, emitters should discharge no more than 1 gallon per hour. It is preferred that non-grass landscaping be installed in side yards. However, if an Owner elects to plant grass in the side yard, watering should be carefully controlled to prevent over-watering. Grassed areas should be sloped so that excess irrigation will run off promptly. Sprinkler lines and irrigation/drip irrigation main lines should not be located in easements. Mowing strips, planters and sidewalks should not "dam" water, if necessary mowing strips should be perforated. All planters should be closed-bottom and watertight. Any request for approval of landscaping to the ACC must detail the type of landscaping, proposed watering method and the gradient of area of the Lot for which landscaping approval is being sought. The ACC shall have the absolute authority to approve or disapprove the proposed landscaping and ancillary irrigation system.

NOTE: The CC&Rs give the Association the right and responsibility to have unkempt property maintained and to place a lien against the home for expenses.

## **M. PAINTING**

The intent of these Design Guidelines is for an Owner to be able to select and apply paint colors that match and replicate the original homebuilder/developer paint application. If an Owner wants to select and apply a different color to the exterior of the home, ACC approval must be sought and given and all paint guidelines shall apply. Paint applications submitted for approval must include a complete description of all colors used on the exterior of the home. Additionally, the application must be accompanied by paint color samples for the new paint colors proposed on the application. Any application submitted without a paint sample will not be reviewed until paint color samples are provided.

Any colors that do not match the original home color used on the exterior of the home or any accessory structures must be specifically approved by the ACC.

**N. ROOFING**

Re-roofing with the same material and color does not require approval from the ACC. Any change in material or color requires specific approval of the ACC.

**O. YARD WALLS/FENCES**

Wooden, chain link and other types of fences are not permitted. In order to preserve the overall architectural continuity; replacement, repair and alterations of walls should be of the same design, utilizing the same materials and colors as the original wall in that area. Regardless of design, ACC approval is required for all alterations of existing walls or installation of new walls. Applications must include a plot plan that clearly defines the project. Walls may not exceed (8) eight-feet or (12) courses from the high side of the wall. (Wall height will vary from one side of the wall to the other due to elevation differences from Lot to Lot.)

Any wall that separates two properties is jointly owned by both parties. Both parties must consent to any modification of the wall. All fences and walls shall be subject to the prior written approval of the ACC, and shall comply with all laws and applicable Supplemental Declarations. All fences and walls located anywhere on a Lot must comply with site distance requirements established by the Fiesta Area Plan, the Village of Los Lunas ordinances, and all other applicable laws. No fence or wall shall be erected, placed, or altered on any Lot nearer to the street than the minimum building setback line unless the same be a retaining wall of masonry construction which does not rise above the finished elevation of the earth embankment retained, reinforced, or stabilized more than 12”, except that this restriction shall not apply to fences or walls which have been approved by the ACC.

**P. YARD ORNAMENTS, FIXTURES, AND FURNITURE**

All lawn ornaments, fixtures and furniture, installed outside of the fenced portion of a Lot, whether temporary or permanent, will conform to the general restrictions of the CC&Rs. This includes the prohibition of certain materials and the limit of acceptable colors to reasonably subdued earth-tones compatible with the neighborhood. Any and all items kept or displayed outside of your home must be maintained to the same standards as required for a home and Lot.

Ornaments include, but are not limited to planters, statues, bird baths, lawn ornaments, borders, and other decorative items. Furniture includes chairs, benches, chaise lounges, tables, etc., designed for outdoor use. Fixtures include swings, lighting fixtures not described elsewhere in this document, barbecue grills, cookers, smokers, etc. Such items are encouraged to promote individuality. However, the following guidelines apply:

- 1. Items on Front Porches

Items kept on porches such as furniture and planters must meet the general restrictions

(CC&Rs) but will not require written permission unless a specific complaint is received. An Owner may keep for prolonged periods items of furniture, ornaments or planters on the front porch of his/her home without the written permission or consent of the ACC. The ACC or Board will only make a judgment if a specific complaint is received.

## 2. Items in Enclosed Yards

The intent of the ACC is to permit the greatest possible flexibility for use of improvements in enclosed yards. In general, items lower than the height of the wall or fence, of a temporary (48 hours or less in any six (6) month period) or mobile nature and kept within the confines of the fenced yard area will not require written approval. It will not matter whether the item(s) is visible from a street, Common Area or an adjacent property as in the case of items behind wrought iron fences.

## 3. Front Yard Items

Those items kept permanently or for prolonged periods outside of the fenced area of the property will receive the greatest attention and visibility and will require written approval of the ACC. For purposes of consistency, the term "prolonged periods" will mean more than 48 hours in any six (6) month period. All of the following paragraphs, unless otherwise specified, refer to items outside the fenced area and not to those on porches or within the fenced areas.

### a. Material Composition

The same general guidelines apply to these items as apply to other structures. Certain materials are generally unacceptable. Such materials include plastic, fiberglass, unpainted aluminum or steel, etc. Acceptable materials are wood (either unpainted or painted to blend into the natural background), brick, stone, stucco or cement/concrete, pottery, clay, tile and wrought iron. Exceptions can be made at the discretion of the ACC or the Board.

### b. Appearance

In order for an improvement or change to qualify for acceptance, it must blend with the composition and tone of the surrounding area. The ACC and the Board will exercise their best judgment to determine this compatibility.

### c. Specific Acceptable Items

The following items are generally acceptable as long as they are properly maintained in the unfenced portion of a lot, but still require specific approval from the ACC:

- i) Most lighting fixtures that do not exceed eight feet in height.
- ii) "Park" benches and gliders made of any combination of natural wood, wrought iron, brick, stone or concrete.
- iii) Planters made of any combination of natural wood, wrought iron, brick, stone, clay, pottery or concrete.

iv) Ornaments, such as statues, sculptures, bird baths, fountains, etc. that are of a size proportional to the surrounding landscape and are composed of natural wood, wrought iron, brick, stone, clay, pottery or concrete. The test for permissibility for this class of items will be the extent to which it blends into the overall landscape of the surrounding properties. As a general rule, the number of front yard ornaments should not exceed six, no more than one of which is over one foot tall.

v) Holiday decorations (see Section R, "Holiday Decorations" below).

d. Specific Unacceptable Items

The following items will not be considered acceptable for unfenced areas:

- i) Any item that can be considered playground equipment or children's toys, such as swings, slides, see-saws, etc.
- ii) Brightly painted items, the color of which makes them sufficiently conspicuous so as not to be compatible with the surrounding properties.
- iii) Any item greater than eight feet tall.
- iv) Trash and/or any refuse containers.

**Q. EXTERIOR LIGHTING**

In general, the addition of exterior lighting is both acceptable and desirable. This includes ground level lighting, stand-alone lamp posts and lighting mounted on a home or approved structure. Such lighting fixtures must be compatible with the general tone and design of the neighborhood. High intensity lighting is inappropriate for residential neighborhoods. In all cases, stand-alone lighting fixtures must adhere to the eight-foot maximum height rule. Flood and area lighting shall be positioned or shielded so as to not affect neighboring properties. An exception to this may be made when Owners of neighboring properties deem the lighting to be beneficial to their property and agree in writing to its installation. Generally, only white or yellow lighting shall be approved. The ACC has the right to approve the location, number, size and design of all proposed exterior lighting.

**R. HOLIDAY DECORATIONS**

Holiday decorations are both permitted and encouraged and will not require approval by the ACC. However, such decorations may be installed no sooner than 30 days prior to the holiday and must be removed within 30 days after the holiday for which they are intended. Furthermore, the ACC does reserve the right to require the removal of decorations that either generates complaints or are deemed offensive.

**S. BASKETBALL GOALS AND HOOPS**

Any permanent or portable basketball goal which will be placed in view of a street, Common Area or an adjacent property must be reviewed and approved by the ACC.

Portable basketball hoops may only be temporarily (48 hours in any six (6) month period)

located on the side of the driveway within the Lot, subject to Board-adopted rules and regulations.

**T. BACK YARD STRUCTURES**

1. Shade Structures

Shade and free-standing structures are permissible with the prior approval of the ACC and in compliance with local building codes. Roofing material will be of the same color, texture and weight as that utilized on the home. Wood surfaces may be left natural, stained or painted to match the home.

a. Free Standing Structures

Free-standing structures such as sun shelters, cabanas, gazebos and arbors may not exceed the ten (10) feet in height limitation measured from ground level.

b. Attached Structures

A patio cover or shade cover which is a) firmly and substantially affixed to the main existing home, and b) is adjacent to and abutting the home, may be considered a part of the existing structure. As such, it may exceed the height of ten (10) feet. Any cover NOT abutting and firmly and substantially affixed to the home is considered to be free-standing.

2. Detached Structures/ Outbuildings

No detached accessory buildings, including, but not limited to, detached garages (other than provided herein) and storage buildings, will be erected, placed or constructed upon any Lot without the prior consent of the ACC. Every outbuilding, inclusive of such structures as storage buildings or greenhouses, will be compatible with the home to which it is appurtenant in terms of its design and material composition. Exterior paint and roofing materials of such outbuildings shall be consistent with the existing paint and roofing materials of the home.

3. Play Structures/Recreational Equipment

Outdoor athletic and recreational facilities such as playscapes, swing sets and sports courts of a permanent nature will not be placed on any Lot unless approved by the ACC pursuant to Article IX of the CC&Rs. Basketball goals are address in Section S above.

**U. WINDOWS AND TREATMENTS**

No aluminum foil, reflective film or similar treatment will be placed on windows or glass doors. Temporary window treatments must be removed within forty-five (45) days from close of escrow.



1. Glass Block Windows

Glass block windows are allowed on the home with specific approval.

2. Security/Storm Shutters

Security and storm shutters are generally allowed on the exterior of the home with specific approval. All shutters shall be required to be painted so as to blend with the coloring of the home and the design of the community.

3. Storm Doors

Security and/or storm doors will be allowed on the exterior of a home provided that they meet one of the following options:

- a. Metal frame with glass or screen insert. Color and style must match or compliment the architecture and color of the home.
- b. Security/storm door combination utilizing wrought iron. Color and style must match or compliment the architecture and color of the home.

**V. ANTENNA AND SATELLITE DISHES**

Except as may otherwise be permitted by law or the ACC, subject to any provisions of any guidelines or standards adopted by the ACC, no exterior radio antenna, television antennae, or other antennae, satellite dish, or audio or visual reception device of any type shall be placed, erected, or maintained on any Lot except inside a home placed in a location where it will not be visible to a person driving on the public streets. Satellite dish antennae should be installed in the least conspicuous location on the roof when viewed from the street in front of the home where an acceptable quality signal can be received, or in the rear yard of the Lot with landscape screening and with approval of the ACC.

**W. WOODPILES**

Stacked/stored firewood must be stored behind the fence and not visible from any street.

**X. WINDMILLS/WEATHER VANES/TOWERS**

Windmills, weather vanes and towers of any type are not allowed.

**Y. SIGNS, FLAGS, FLAGPOLES AND STATUES**

- 1. No sign or emblem of any kind may be kept or placed upon any Lot or mounted, painted or attached to any structure, wall or other improvement upon such Lot so as to be visible from public view or mounted on any vehicle or trailer parked or driven in the property or the Fiesta II Subdivision or carried by any person or by any other means displayed within

the property or the Fiesta II Subdivision except the following:

- a. For Sale Signs. One "For Sale", sign may be posted on each Lot pursuant to the CC&Rs. No sign may be placed in the Common Area without permission from the Board of Directors as specified in the CC&Rs.
- b. Declarant's or Builder's Signs. Signs or billboards may be erected by the Declarant or Builders conducting business within the community.
- c. Political Signs. Political signs may be erected upon a Lot by the Owner of such Lot advocating the election of one or more political candidates or the sponsorship of a political party, issue or proposal provided that such signs will not be erected more than 45 days in advance of the election to which they pertain and are removed within 2 days after the election. Additionally, no more than one (1) political sign which shall be no larger than 24 inches by 24 inches shall be placed on a Lot.
- d. School and Business Logos. Emblems or bumper stickers advertising an Owner's school or business mounted upon vehicles parked or driven in the Fiesta II Subdivision.
- e. Legal Signs. Such signs as may be required by legal proceedings, or prohibition of which is precluded by law.
- f. Traffic Regulation Signs. Such signs as may be required for traffic control and regulation of Common Areas.
- g. Directional Signs. Street and directional signs, as may be approved by Declarant or Board.
- h. Security monitoring signs - security monitoring window emblems - maximum of one per window.
- i. American Flags and Flagpoles. Within the front yard area, but set back at least 15 feet from the front property line, Owners may display a standard sized American Flag from a wall mounted standard or from a residentially scaled flag pole, not to exceed 18 feet in height. Proper flag etiquette must be observed (flag not torn or faded, right side up, lighted at night etc.).
- j. Banners & Decorative Flags. Except as stated in this Section regarding American flags and Builder signs, as used by the Declarant, no advertising flagpoles, standards, decorative or school flags, banners, balloons, billboards, flashing lights or lighted panel signs are allowed to be placed anywhere within the Subdivision or in the public rights-of-way or landscape areas immediately adjacent to the Subdivision.

## **Z. SWIMMING POOLS**

Backyard pools require ACC approval. As with all property improvements, Owner is solely responsible for easements, property encroachments, spoils disposal, and drainage issues. At a minimum, applications should show property and easement lines along with an outline of the new pool.

**AA. DESIGNATED PET AREAS/ENCLOSURES**

All pet enclosures must be approved by the ACC. Pet areas/enclosures must not be visible from any street, Common Area or an adjacent property. All pet areas and enclosures must be constructed in a style harmonious with the home and confirm to these Design Guidelines. Animal kennels are prohibited. No animal enclosure shall provide shelter for more than 2 dogs over 6 months of age. Standard chain link fencing is prohibited.

**BB. SOLAR EQUIPMENT**

Installation of any type of solar equipment requires specific approval of the ACC.

**CC. LANDSCAPING**

1. The landscape area includes the entirety of the space located in front of the side yard wall returns not covered by concrete lead walks and drive pads. It also includes that portion of the public street right-of-way that lies between the back of the curb and the front edge of the sidewalk, which Owner is required to maintain.
2. The color and type of gravel, crushed rock, or other ground covering used in the public street right-of-way and Common Areas of the Fiesta II Subdivision shall be used within the public right-of-way area between the back of the curb and the front edge of the sidewalk. No plant, tree or other vegetation shall be permitted in this area.
3. The use of larger cobbles and aggregates of contrasting subdued earth-tone colors is encouraged.
4. Light weight volcanic rock or colored scoria that can be easily blown, washed or kicked out of place may not be placed within 48" from the edge of any drive pads, sidewalks or the curb.
5. The use of red colored aggregate should be limited to accents only; white, green, blue or other bright colored aggregates are not permitted.
6. Tree bark or wood chips are not permitted for use as ground cover, except they may be used in limited amounts as a mulching material in planting beds or tree rings.
7. The required plant minimums set by the ACC must be maintained by all Owners; required plants that die must be removed immediately and replaced as soon as weather conditions and growing seasons allow.

8. A minimum of one 15 gallon tree and five 5 gallon shrubs shall be required on each Lot.

9. The use of non-living objects such as driftwood, petrified wood, animal skulls, wagon wheels and other similar items, for landscape accent materials is generally discouraged and will only be allowed with specific approval of the ACC.

#### **DD. OTHER DEED RESTRICTION PROVISIONS**

These Design Guidelines are not intended to expand upon all provisions of the CC&Rs. Owners should ensure they are familiar with both the CC&Rs and with these Design Guidelines t.

#### **EE. VARIANCES**

Variances to these Design Guidelines and/or the CC&Rs may be made in exceptional and unusual cases to accommodate federal, state and local laws.

Owner may be granted a variance on a temporary basis for only that period during which the exceptional or unusual case exists. A formal document will be drafted and signed by the ACC and the Board and the Owner as to the specifics of the variance. The document will clearly state when the exceptional or unusual case no longer exists, the temporary variance will no longer be in effect. Variances will not be made for reasons of economic convenience or hardship, to accommodate recreation activities, or for reasons of individual taste, appearance or beautification.