

# **CONDOMINIUM “EL CARDON” HOA**

*At the islands of Loreto, B.C.S.*

## ***Architectural Design Guidelines***

MARCH 2016

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# ***Philosophy***

Condominium “EL CARDON” is a Golf & Ocean planned community located on Mexico’s Sea of Cortes at the Islands of Loreto Baja California Sur, with magnificent Ocean, Golf and Mountain views.

The purpose of these Architectural Design Guidelines is to provide an overall framework for development and to create a cohesive development within Condominium “EL CARDON”. The Design Guidelines will provide standards for architectural design, site planning and landscape architecture, a process for approval for all projects, and construction regulations. These Design Guidelines have been adopted by the Design and Image Committee (“DIC”). These Design Guidelines shall apply to all Lots and Residences built within Condominium “EL CARDON”.

## ***Section 1***

### **Architectural Design Guidelines**

The purpose of the architectural guidelines outlined within Condominium “EL CARDON” is not to require any specific style of architecture; they are instead an attempt to set forth standards by which design principles are followed. The intention of these guidelines is to provide the Owner with the greatest flexibility in personal expression while creating harmony between the built environment and the beauty of the Ocean and natural desert.

#### **1. Compliance**

All buildings and structures constructed within Condominium “EL CARDON” are required to comply with these Design Guidelines, all applicable local zoning and governmental code requirements as well as Condominium “EL CARDON” Rules and Regulations.

## **2. Architecture**

(a) Most architectural styles are appropriate, provided that they blend with the surrounding natural and built environment of Condominium “EL CARDON”. Prior to the preparation of final plans to be submitted for approval to the City of Loreto, review and approval of the Design and Image committee (DIC) for preliminary architectural designs for all buildings and structures must occur.

(b) The DIC requires that the detail, design, use of materials and architectural styles be consistent with the Natural Ocean and desert surroundings. Development of the site and structural elements must include:

1. Primary emphasis on design principles that enhance and preserve the natural surroundings;
2. Use of textural materials such as stone or decorative masonry as a prominent part of the design;
3. Massing and building articulation on all sides/elevations of the structure;
4. Detail of windows, entrances, and doors;
5. Breaks in the roofline with elevation changes;
6. Shade structures, canopies and walks; and
7. Appropriate screening for service spaces.

(c) When the building design has been approved by the DIC and the required building permit has been obtained from the City of Loreto, the applicant should, in a timely manner, begin and complete all construction work. The Owner will be allowed 20 months from receipt of building permit to complete construction. Such commencement shall occur within 90 days from the date of obtaining the building permit. If the applicant fails to comply with the 90-day commencement, the approval previously granted by the DIC may be revoked at the sole discretion of the DIC. If the construction is not completed within 20 months, the Association shall have the right to assess the Owner for the cost of completion, and to



collect such costs as provided in the Rules and Regulations. Said funds collected will be used to complete the construction according to the approved plans.

### **3. Exterior Colors**

(a) The exterior colors of all buildings and structures must be approved by the DIC based on a submitted 6-square-foot-minimum sample color panel of both principal and accent colors. Exceptionally bright and/or primary colors will not be permitted. The intent is to reflect the rich and varied desert colors. Specific exterior material colors (including, as applicable, main body color, trim color, roofs, window frames, doors, and accent color) shall not exceed a 40% Light Reflective Value (LRV) and must be submitted as samples for specific DIC approval.

(b) Detail of the exterior color scheme, including all exterior surfaces, must be included in the plans and specifications submitted to the DIC. Exterior surfaces must be compatible with the other buildings in the neighborhood.

(c) Any repainting or redecorating of exterior surfaces will also require submission of a color scheme to the DIC for approval unless repainting with the same colors.

### **4. Building Materials**

(a) Prior to the commencement of construction, all exterior building materials, and any exterior alteration must be approved by the DIC.

(b) Finished building materials must be applied to all exterior sides of building and structures and shall be compatible with the natural surroundings and other buildings and structures in the general vicinity.

Acceptable finish materials include:

1. Stuccoes masonry units;
2. Brick
3. Stone or decorative masonry;
4. Wood

5. Clay tile type.

6. Quarry stone. (Cantera)

Other exterior finish treatments may be utilized if deemed appropriate by the DIC. Use of wood-sheets or vinyl siding is strictly prohibited.

(c) REQUIRED: Each structure must include at least two different and distinct exterior materials. The materials may be selected from the list above, or an alternative material may be utilized if approved by the DIC.

## **5. Roofs**

All roofs shall be of material, texture and color approved by the DIC.

The appearance of the Residence overall will be a meaningful contemplation. The color of roofs must adhere to the color standards set forth by these Design Guidelines (see "Exterior Colors," above). Dominate colors such as black or white, detract from the natural colors of the desert and are not permitted.

Flat roofs are considered to be any roof area having a slope of less than 3 vertical inches per 12 horizontal inches. Flat roofs and the parallel parapet walls shall create rooflines compatible with the overall character of the foothill topography. All flat roofs shall be enclosed by a parapet wall that is a minimum of 18 inches taller than the immediately adjacent flat roof surface. Continuity of parapet walls in flat roof areas is required. Parapet walls are required between all level changes in adjacent flat roof areas. No roof area greater than 1,200 square feet shall occur without an intervening parapet. As such, flat roof designs with larger roof plane areas shall include false parapets to visually break up the roof plane. Flat roofs shall be finish coated with color blend with the Structure's exterior wall color. White, off-white or reflective finished/coated flat roofs are not permitted. All vents and other projections shall be colored to match the finished roof material coating color. No mechanical equipment of any kind will be permitted on flat roofs.

Pitched roofs shall be finished with a visually aesthetic material of rounded clay tile, rounded or flat concrete tile with a through color or other similar material, all of which shall exhibit muted earth-tone colors and a low sheen. Pitched roof colors shall complement the Structure's exterior wall color. Reflective materials, including all metal roof material, are not permitted. All vents and other projections shall be colored to match the finished roof material. No mechanical equipment of any kind will be permitted on pitched roofs.

## **6. Height of Structures**

The DIC intends to discourage, and has the right to prohibit, the construction of a Residence or other Structure, which would appear excessive in height when viewed from the street or other Lots anywhere in Condominium "EL CARDON." One story Residences must not exceed 16 feet. All two- story homes are allowed a maximum height of 26 feet. In some cases, the driveway may slope down or up to the benchmark in order to help the views. Heights for both one and two story homes are measured from the Natural Grade to the nearest high point of the Structure or any projection therefrom.

Retaining walls and other walls not directly supporting a building structure, except screen walls, shall not exceed 8 feet in height, measured from the lowest Natural Grade (measured on the outside of the wall) adjacent to the wall. Landscaping with Palm trees or large shrubs must soften the appearance of walls over 8 feet in height. On a case-by-case basis, the DIC may grant a wall height to exceed 6 feet. In such a case, it is required that more than one wall be used, provided there is a minimum planting area of four feet between each of the walls.

Screen walls may not exceed six feet in height measured from the Grade adjacent to the wall.

## **7. Antennae/Satellite Dishes**

There shall be no antennae or satellite dish of any sort (except 24-inch satellite dishes), either installed or maintained, which is visible from any neighboring Building Envelope. It is encouraged that any equipment is ground-mounted or installed on the sidewall of the Residence as to avoid view from adjacent properties or another private facility.

## **8. Architectural Openings: Doors, Windows, and Skylights**

All windows and doorways of the Residence must be recessed a minimum of six inches. Windows and clerestories of anodized aluminum, baked enamel or wood are preferred for the climate.

Skylights should be integrated into the design of the roof, energy-conservative, and consistent with the materials of the house. Skylight will be permitted on pitched roofs on a

case-by-case basis and must be integrated into the roof design, and glazing must be a color compatible with adjacent roof color.

## **9. Solar Application**

Solar energy collectors can result in excessive glare and reflection, and can only be approved in advance by the DIC if they are integrated into the structures or landscaping on a Lot and will not be visible from any neighboring Building Envelope.

## **10. Barbecues, Firepits, and Fireplaces**

Built-in barbecue units, fire pits, and/or fireplaces must be contained within the rear yard patio or courtyard. Chimney elements must be sited to avoid obstructing views from adjacent properties. Also, caution must be exercised to avoid the proximity of smoke to neighboring Residences. The chimney element of such Improvements must set back a minimum of 20 feet from any side or rear view fence panel.

## **11. Walls**

Walls of unit masonry with stucco or stone may be used for privacy, to delineate the Private Zones from the rest of the Building Envelope, and as screening for cars and service areas of the Residence. There should be a visible extension of the architecture of the Residence, and must be located within the Construction Envelope. The colors of exterior walls must conform to the same color standards as described above. They may not be used to delineate Lot lines, or to arbitrarily delineate the Building Envelope and/or Construction Envelope. Privacy or screen walls exceeding six feet in height from the lowest Natural Grade adjacent to the outside wall must be approved by the DIC.

Prior to the construction of any fence or wall, plans indicating location and materials to be used shall be submitted to the DIC for approval. The Builder and/or Owner shall verify Lot lines prior to constructing the Residence.

## **12. Service Yard**

Walls are required as screening for a service yard, if any, to enclose aboveground garbage, electric panels, air-conditioning units, pool equipment trash containers, and other outdoor maintenance and service facilities, which must be of sufficient height so equipment is not visible from a neighboring Lot or street.

### **13. Foundations**

All exterior wall materials must be continued down to finish grade, thereby eliminating unfinished foundation walls and/or footing, outside or inside.

### **14. Awnings**

No awnings of any kind will be permitted by the DIC.

### **15. Ancillary Structures**

All ancillary structures, including but not limited to gazebos and pool pavilions, should be designed in the same architectural style as the main Residence, including the use of colors, exterior material and landscaping. Walls, courtyards or other major design elements must visually connect them.

### **16. Basketball Hoops and Other Recreational Facilities**

Basketball hoops and backboards may be installed in any Residence when approved in advance by the DIC. However, no such structure shall be installed on the elevation or in the yard of a Residence that faces any street. The installation of such items will be subject to any stipulations imposed by the DIC. Particular attention will be given to the visual and acoustic privacy of adjacent Lots, as well as color and visibility of its location. Additional landscape material may be requested at the discretion of the DIC for screening purposes. Both the backboard and pole must be removable to allow the facility to be disassembled when not in use.

Lighting of the hoop and backboard is not permitted. It is within the sole discretion of the DIC to refuse the installation or use of any recreation facility if it is so determined to have an adverse impact on the community.

### **17. Ornamental Objects**

Exterior ornamental objects such as, but not limited to, metal, ceramic, or wood sculptures, fountains, ponds, statues, bird feeders and plastic characters require DIC approval. These objects are not permitted in front or street side yards. Approved fountains may be installed in rear yards and front walled courtyards only, and shall be no greater in height than that of the adjacent roofline. Any ornamental objects must be of a scale appropriate to the adjacent Residence and be compatible with the architectural character of the community.

### **18. Flagpoles**

Freestanding flagpoles will not be allowed on any Lot. An appropriate flag may be displayed on special occasions if it is hung from a plot bracket that is mounted to the Residence, or if it is suspended from a roof overhang.

### **19. Building Envelope or Area**

The Building Envelope is the portion of each Lot within which all Improvements must be built and alterations to the existing landscape may be permitted.

The most appropriate Building Envelope has been identified for each Lot based on the natural features of the Lot, view relationship to adjacent Building Envelopes and topography. All Lots may have a maximum Building Envelope of 20% of their total square footage.

If an Owner owns two contiguous Lots and wants to combine the two Lots into a single home site, the Owner may do so only with the prior consent of the DIC and only if the change, in the DIC's opinion, does not materially impair views and/or privacy from neighboring Lots or Common Areas. When considering combining Lots, the Owner must recognize that combining two Lots or Building Envelopes may be beneficial, as it could provide more natural Open Space between adjacent Lots and improve view corridors; it

may also have an adverse impact on the views and privacy of other nearby Lots or Common Areas, and, therefore, may not be approved by the DIC. .

The plot for a newly configured two lots into a single Lot must be approved by the City of Loreto and must be recorded. All expenses associated with recording the new Lot and pursuing any required governmental approvals are the responsibility of the Owner.

## **20. Site Work**

Owners should be creative in the design process. Owners are encouraged to alter as little of the site as possible from its original condition, protecting existing watersheds and drainage ways wherever possible. Structures should be limited to the areas on the site where drainage, soil, and geological conditions will provide a safe foundation. Typically, Residences should be nestled into the land, remaining low; in order to be a part of the site rather than being perched on it, which may result in the additional height of structures. Buildings and Improvements should step following slopes, using split and multi-level solutions wherever possible to follow existing contours and achieve a balance in earthwork requirements. When the construction is finished, the earth around the Residence and site wall should lie against the walls as nearly as possible to the original angle of slope.

## **21. Garage Doors and Parking Spaces**

Garage doors must be integrated with the design of the Residence in material and massing, and must be recessed a minimum of one foot. The articulation of any garage door must relate to other exterior doors of a Residence. Detached garages are permitted in compliance with applicable building codes. The DIC encourages site and building designs, which orient garage doors away from any adjacent street.

## **22. Driveways**

With the exception of a small widening where driveway pavement meets the edge of the street pavement, driveways shall be a maximum of 16 feet wide. Driveways are, however, permitted to widen within the Building Envelope to accommodate turning radii and guest parking areas. Large expanses of paving may require enhancement as deemed appropriate by the DIC.

Each Lot shall have a single vehicular access point, except that, in special circumstances, the DIC may approve a second entry, if deemed appropriate, on a case-by-case basis.

The situation of the driveway on the property shall take into consideration the location of utility services at the property line. To minimize the disturbance to the site, all utilities shall be brought into the property via a common trench in the driveway alignment, unless otherwise approved by the DIC.

All driveways must be constructed of pavers, integrally colored concrete, exposed aggregate concrete or flagstone. Alternative driveway treatments and feature bands of different materials may be considered on a case-by-case basis. No industry standard gray concrete or asphalt driveways will be permitted.

## **23. Storage Tanks**

All water tanks or similar storage facilities shall either be constructed to be shielded from view by walls or structures or shall be installed or constructed underground. Each residence should have a water storage tank of at least 10,000 liters.

## **24. Site Drainage and Grading**

Site drainage and grading must be accomplished with minimum disruption to the Lot and shall not drain into adjoining Lots and Common Areas, except as established by natural drainage patterns, nor cause a condition that could lead to soil erosion on Open Spaces. All grading must conform to Condominium "EL CARDON" grading standards. Water drainage patterns must remain unchanged to entering and exiting the Lot in the manner they did naturally prior to any construction.

Developing a proper drainage plan will be the responsibility of the Owner. Existing road shoulder drainage patterns should be maintained where driveways intersect streets. Any drainage damage that may occur from one Lot to other Lots or Common Areas because of



a change in natural conditions will be the responsibility of the Owner of the Lot that caused the unnatural drainage flow. Approval of a drainage plan by the DIC does not make the DIC liable or responsible to the Owner or others with respect to the adequacy of the engineering or otherwise, but merely implies compliance with the intent of these Design Guidelines and with design aesthetics. The DIC approval does not eliminate or reduce the obligation of the Owner to comply with all legal requirements and be responsible for all damages resulting from changes in natural conditions.

All culverts, bridges, or other drainage structures constructed must be finished with headwalls, wing walls, or other devices so as to prevent the erosion of slopes or soils and/or the exposure of the conduit or any unfinished structure. These structures must be finished in integrally colored concrete. Boulders, stone facing, decorative masonry, and landscaping are encouraged to screen drainage structures. Culverts must be sized to accommodate existing roadway drainage or site drainage.

## **25. Setbacks**

The Building Envelope and all Improvements therein shall have a minimum setback of 20 feet from the front of the property line. The side setback shall be a minimum of 10 feet and 30 feet minimum for the rear yard setback.

## **26. Swimming Pools and Spas**

Swimming pools and spas should be designed to visually connect with the Residence through walls or courtyards, and should be screened or separated from the Natural Zone or direct view from the street or from adjacent properties. They must be constructed according to City of Loreto regulations. All pools must be compatible in size and scale to the proposed Residence. Walls or structures must screen all pool equipment from direct view of neighboring properties.

## **27. Tennis Courts**

Tennis courts are not allowed except in certain situations on large Lots as approved by the DIC. If permitted, Tennis courts should be fenced and suited for minimal visual impact from the streets or from neighboring properties. Protection for the Natural Zone must be provided. The construction of tennis courts below grade helps to reduce the need for fencing and is encouraged. No tennis court lighting will be allowed. In any event, approval

of tennis or sports court will be made at the sole discretion of the DIC. Even if the design of tennis or sports court meets all of the above criteria, it may not be approved because of such considerations as slope conditions, vegetation or limited area.

## **28. Home Identification/Mailboxes**

A mailbox design standard, which includes address identification, must be placed at/near the access drive to each single-family Residence

## **29. Lighting**

The intent of the lighting guidelines is to create a combined, natural effect which will not interfere or compete with the dramatic nighttime panorama of views of the Ocean, desert, and surrounding mountains. Any additional lighting may be approved by the DIC only if it is limited to a small area within the Building Envelope and will not result in excessive glare. To accomplish these goals, the DIC has established Design Guidelines for residential lighting that addresses the common types and locations of lights and sets limits on numbers of fixtures, the wattage of lamps, etc. In an effort to allow each Owner the flexibility and freedom to creatively resolve unique conditions, the DIC will ultimately consider the acceptability of each installation and its resultant light levels and visual effects on surrounding properties and Common Areas on a case-by-case basis.

The DIC will not approve a lighting design as part of the design review process if it is not in strict compliance with these Design Guidelines; however, it will review alternative installations in the field if requested by the Owner in writing. In order to avoid excessive costs, it is required that any variations from the approved final design be mocked up for DIC review prior to permanent installation. The DIC accepts no liability for any costs or hardships resulting from lighting installations found to be unacceptable to the DIC. And all such finding shall be at the sole and final discretion of the DIC.

### **Exterior Lighting**

#### **(a). Safety Lighting**

Low-voltage lighting mounted in a low-profile manner may be used to illuminate vehicular and pedestrian circulation and assist in circulation outdoors.

### (b). Security Lighting

This lighting is intended to provide bright illumination during emergency situations only, which may include unauthorized trespass, unusual or threatening sounds, and/or activities. It must be circuited and controlled separately from any and all other lights. Sensors must control all security lighting. Details and plans for security lighting must be submitted and approved by the DIC prior to installation.

### (c). Visual Enjoyment Lighting

This light is intended to illuminate exterior living areas, such as access, patios, pool decks or landscaping behind walls or in Private Zones. Such light may be used only during waking hours. Light for visual enjoyment may often provide for safety requirements around outdoor living areas and security lighting may sometimes contribute to the visual enjoyment of the landscape. Because of differences in the frequency and duration of use and the objective of minimizing unnecessary light, these lighting functions must be circuited and controlled separately.

### Location/Use

Upward-directed lights will be limited to illumination of only large, mature specimen trees and boulder or rock features as specifically approved by the DIC. Lighting of individual trees or rocks will be limited to a combined total of 200 watts. Lighting systems that satisfy low-voltage criteria are required.

### *Wattage*

The maximum wattage of any single exterior light fixture is 50 watts.

### Mounting

Unless otherwise approved by the DIC, exterior lighting shall be mounted as follows:

- ⊕ In the ground or on a post not exceeding 18 inches above grade;
- ⊕ In or upon a wall not exceeding 66 inches above grade; or
- ⊕ Discretely attached to mature trees without causing sway at a height not exceeding 66 inches above grade.

### *Shielding*

Light sources (lamps and bulbs) of all exterior lighting must be completely shielded from view to eliminating glare from right standing, sitting or driving view angles from any neighboring Lot or Common Area. For example, lantern-type fixtures with an exposed bulb will not be permitted. Particular care must be taken when lighting homes that are visible from land at lower elevations.

### *Aiming*

All exterior lights shall be considered either uplights or downlights in accordance with the following requirements:

**Uplights-** must be aimed so that the focus of the light source is within 10 degrees of vertical. An exception would be those fixtures mounted below a roofed patio area that is aimed upward. The light source of such fixtures must be adequately shielded behind the eaves of a Residence. Uplights that cause light spill into the night sky will not be approved.

**Downlights-**Must be mounted in an approved manner and must be aimed at 10 degrees of vertical and shielded to allow for no light spill above 45 degrees from horizontal and no light source may be visible.

Site lighting must be directed downward and/or significantly shielded as to provide sufficient screening of any lamps or light source from adjacent property or Common Area.

All lighting design and location must be approved by the DIC.

### **30. Lot Restrictions**

No more than one Residence and one guesthouse may be constructed on any Lot.

### **31. Machinery and Equipment**

No machinery, fixtures or equipment of any type including, but not limited to, heating, cooling, air-conditioning and refrigeration equipment, propane tanks, and clotheslines may be placed on any Lot without the prior approval of the DIC. Approval shall be conditioned

upon proper screening or concealment from the view of a neighboring Lot. The selection or concealment shall be stable and integrated architecturally with the design of the building or structure and shall not have the appearance of a separate piece or pieces of machinery, fixtures or equipment. Said screening shall be constructed and positioned in such a manner so it is level and plumb with horizontal and vertical building components and shall be structurally stable in accordance with sound engineering principles. All air-conditioning units shall be ground-mounted and shall be concealed by a substantial enclosure on all sides visible from a neighboring property or the street. Location and screening shall be approved by the DIC. Wind turbines are not allowed. All pool equipment shall be screened from neighboring properties.

### **32. Garbage**

No garbage or trash may be placed on any Lot except in covered containers meeting the specifications of the DIC. These containers must be concealed from view of neighboring properties by use of site walls and screening. Rubbish, debris, and garbage shall not be allowed to accumulate. Each Owner shall be responsible for removal of waste and debris not only from their Lot but also from all public rights-of-way either fronting or sides his/her Lot.

### **33. Utility and Service Lines**

No gas, electric, power, telephone, water, sewer, cable television or other utility or service lines of any kind may be placed or maintained upon, or above the ground of any Lot except to the extent, if any, that underground placement may be prohibited by law or would prevent the subject line from being functional. Aboveground service pedestals, splice-boxes, switch cabinets, and transformers will be permitted, where required for public utilities or the landscaping of Common Areas. Such utility pedestals, cabinets, and transformers shall all be painted the same color, as approved by the DIC.

### **34. Size and Massing**

The sizes of Residences will be according to the maximum allowed by local zoning depending on the size of each lot. Where deemed appropriate by topography and the DIC, a Basement level of a Residence may be constructed. The square footage of any Basement level is not considered part of the total square footage allowed by any Residence.

Each Residence must be composed of multiple masses with each mass distinguished by a minimum vertical or horizontal offset of 2 feet. At least two distinct masses must be visible

from each building elevation. For those Residences that are 5,000 square feet or greater, at least, three separate masses must be visible from each building elevation. In all cases, no single building mass should exceed 2,500 square feet.

## ***Section II***

### **Landscape Design Guidelines**

#### **1. Landscaping**

Condominium “EL CARDON” landscape concept, is based on a philosophy of compatibility with the existing Baja Desert, sensitivity to its fragile ecosystems and a commitment to low water usage and energy-conserving techniques. To this end, existing natural indigenous vegetation, unique vegetative groupings, rock outcroppings and washes must be preserved wherever possible. The majority of introduced plant materials will be indigenous, arid or semi-arid plants ensuring minimal water usage and compatibility with the built and natural environments. An aggressive vegetation program will be implemented in all areas impacted by construction to provide an uninterrupted sense of “fit” between the community and its physical environment. Refer to Appendix A and Appendix B for a list of approved and prohibited plants.

Any disturbed areas (construction and utility trenches) within the Lots that are not covered by pavement or structure shall be landscaped in the existing natural desert manner, using indigenous plants and soil.

All original (or “first-time”) landscaping must be installed in accordance with a plan approved by the DIC.

All landscaping must reflect the ocean-desert character of the development:

All introduced boulder and rock features within landscape must be of similar color and form of existing onsite rock settings.

Rocks, patios, sidewalks, courtyards, and walls may be used to supplement and create imaginative landscaping design.

Special paving features are encouraged.

Artificially colored rock yards are not acceptable at any location.

In all site design and site layout, careful attention to Open Space and any view corridors is important.

## **2. Onsite Grading and Drainage**

No water shall be drained or discharged from any Lot, or building thereon, except in accordance with grading plans approved by the DIC, and all applicable local ordinances.

### ***Section III***

## **Construction Regulations**

### **1. Construction Envelope**

The Construction Envelope limits the area of actual above-grade Improvements of each Lot within the Building Envelope and is the area within which all activities related to the Improvements to be constructed must occur. Prior to the commencement of any construction activity on a Lot, the Owner and Builder shall provide a plan showing limits of Excavation, drive areas, parking, chemical toilet location, temporary structures, if any, dumpsters, storage of debris, fire extinguisher, utility trenching, and construction sign. To this end, a structure and drive entrance chain link fence with screens must be erected within twenty feet (20') of the Construction Envelope for the duration of construction. The fence shall have a single entrance located at the driveway entrance, and shall be maintained intact until the completion of construction. All construction activities, material, and equipment, must be kept within the construction fence at all times.

### **2. Debris and trash Removal**

Owners and Builders shall clean up all trash and debris on the construction site at the end of each day. Trash, material waste and debris shall be removed from each construction site at least once a week to a dumping site located outside Condominium "EL CARDON". Lightweight material, packaging, and other items shall be placed in a closed container, covered or weighted down to prevent the wind from blowing such materials off the construction site. Owners and Builders are prohibited from dumping, burying or burning trash anywhere on the Lot or in Condominium "EL CARDON", except in the areas, if any,

expressly designated by the DIC. Disposal of any type of chemical, cleaner, fuels, oils or any toxic or environmentally harmful materials is absolutely prohibited at Condominium "EL CARDON".

On each construction site, the Builder must designate a washout area within the Construction Envelope for contractors and suppliers to clean their equipment. The cleaning of equipment and effluent must remain within that specified area. Equipment cleaned in any field other than the designated area will result in the DIC imposing a fine or retaining the Builder's Deposit to repair any damages resulting from such equipment cleaning in improper areas.

### **3. Sanitary Facilities**

Each Owner and Builder shall be responsible for providing adequate sanitary facilities for their construction workers. One Portable toilet for every 15 workers or similar temporary toilet facilities shall be located only on the site itself. Facilities shall be emptied as necessary and contents removed from the site.

### **4. Vehicles and Parking Areas**

Construction crews will not park on, or otherwise use, other Lots or any Open Space. Private and construction vehicles and machinery shall be parked only in areas designated by the DIC. All vehicles will be parked so as not to inhibit traffic, and within the area designated by the DIC to avoid damage to the natural landscape. Owner and Builder are responsible for any damage that the construction equipment or personal vehicles cause, including but not limited to fuel or oil leaks, damage to roads and construction debris left on the road.

### **5. Conservation of Landscaping Materials**

Owners and Builders are advised of the fact that the Lots and Open Spaces contain valuable native plants and other natural landscaping materials that should be protected during construction, including topsoil, rock outcroppings, boulders and plant materials.



## **6. Excavation Materials**

Excess materials must be removed from Condominium “EL CARDON”.

## **7. Blasting**

If any blasting is to occur, the DIC must be informed far enough in advance to make sure that the applicant has obtained the advice of an expert consultant and the necessary government and environmental permits, so that the proposed blasting may be accomplished safely. These consultants must so advise the DIC in writing. No blasting or impact digging causing seismic vibrations may be undertaken without the approval of the DIC based on such advice from a qualified consultant. Applicable governmental and environmental regulations should also be reviewed and observed prior to any blasting activities. The DIC’s only responsibility is to require evidence of such government and environmental permits and owner contract with an expert blasting consultant, and shall have no liability for blasting or impact digging.

## **9. Restoration or Repair of Other Lot Damages**

Damage and scarring to the Lot outside the Construction Envelope, including, but not limited to, Open Space, natural vegetation, other Lots, roads, driveways and/or other Improvements, will not be permitted. If any such damage occurs, the Owner of the Lot will be obligated to ensure that it is repaired and/or restored promptly at the expense of the person causing the damage or the Owner of the Lot within 30 days. Upon completion of construction, each Owner and Builder shall clean his construction site and repair all of the Lot which was damaged, including, but not limited to, restoring grades, planting shrubs and trees as approved or required by the DIC, and repair of streets, concrete curbs and gutters, driveways, pathways, drains, culverts, ditches, signs, lighting and fencing.

## **10. Miscellaneous and General Practices**

All Owners will be entirely and ultimately responsible for the conduct and behavior of their agents, representatives, Builders, contractors and subcontractors within Condominium “EL CARDON”. During the construction phase, the following practices are prohibited at Condominium “EL CARDON”, and will be considered a violation of these Design Guidelines.

- a) Changing oil on any vehicle or equipment anywhere within Condominium “EL CARDON” other than at a location designed for that purpose by the DIC.
- b) Allowing concrete suppliers and contractors to clean their equipment on the site itself.
- c) Removing any rock, plant material, topsoil or similar items from any other Lot within Condominium “EL CARDON”, including construction sites, unless it is from the site under construction. a
- d) Carrying any type of firearms within Condominium “EL CARDON”.
- e) Using disposal methods or units other than those approved by the DIC.
- f) Careless disposition of cigarettes, contaminated and other flammable material. At least one 10-point AVC-rated dry chemical fire extinguisher shall be present and available in a conspicuous place on the construction site at all times.
- g) Careless treatment or removal of any desert plant materials not previously approved by the DIC.
- h) Consumption of alcoholic beverage within Condominium “EL CARDON”.
- i) Use of transit over Natural Zones.
- j) Playing of loud music.
- k) Eating lunch outside designated areas.
- l) Driving vehicles that leak oil on roads.
- m) Driving over the 20 km speed limit.
- n) Damaging existing roads surfaces, sidewalks or curbs.
- o) Leaving nails or other hazardous material on or around the roadway.

## **11. Dust and Noise**

The Contractor shall be responsible for controlling dust and noise from the construction site in compliance with applicable government and Condominium regulations and Condominium “EL CARDON” grading standards.

## **12. Daily Operations and Access**

Daily contractor access will be through the designated construction access only during posted construction hours,

Monday – Saturday

9:00 a.m. – 6:00 p.m.

## **Section IV**

### **Review Fees**

The DIC has adopted the following fee schedule in connection with its review and appeal procedures. A review fee made payable to Condominium “EL CARDON”, as applicable, is required with each design review application. Review and appeal fees are subject to change at the sole discretion of the DIC.

Initial construction on a Lot: Review fee of \$750.00.

Major alteration-any modification significant enough to warrant the issuance of a building permit by the governing authority: Review fee of \$750.00

## **Section V**

### **Design Review**

#### **1. Members**

The Design and Image committee (DIC) shall consist of a consulting Architect appointed by the Developer; a representative of the Developer, and one member designated by the Condominium “EL CARDON”, for a minimum of two members to a maximum of three member total. Each member shall hold his office until such time as he has resigned or been removed or his successor has been appointed as set forth herein.

Except as herein provided, the right from time to time to appoint and remove all members of the DIC shall be reserved to and vested in the Developer.

#### **2. Resignation of Members**

Any member of the DIC may, at any time resign from the DIC upon written notice delivered to the Developer and/or to the HOA, whichever then has the right to appoint and remove members.

### **3. Duties**

It shall be the duty of the DIC to consider and act upon proposals or plans related to the development of Condominium "EL CARDON" that are submitted pursuant to the Design Guidelines, to enforce the Design Guidelines, and to amend these Design Guidelines when, and in a manner, deemed appropriate by the DIC.

### **4. Compensation**

The members of the DIC shall receive no compensation for services rendered unless authorized to do so by the Developer. Professional consultants and representatives of the DIC used in the review process shall be paid such compensation as the Developer or HOA determines.

### **5. Amendment of Design Guidelines**

The DIC, with the approval of the Developer, may from time to time at its sole discretion amend or revise any portion of these Design Guidelines. All such amendments or revision shall be appended to and made a part of the Design Guidelines.

Each Owner is responsible for obtaining from the DIC a copy of the most recently revised Design Guidelines before beginning on any Improvements to the Owner's Lot.

### **6. Non-liability**

Neither the DIC, any member thereof nor the Developer, shall be liable to the HOA or to any Owner or another person for any loss or damage claimed on account of any of the following:

The approval or disapproval of any plans, drawings, and specifications, whether or not defective.

The construction or performance of any work, whether or not it is pursuant to approved plans, drawings or specifications.

The development of any Lot within Condominium “EL CARDON”.

Every Owner and any other person, by submission of plans and specifications to the DIC for approval, agrees that he will not bring any action or suit against the DIC, any of its Members, nor the Developer regarding any action was taken by the DIC.

## **7. Enforcement**

The DIC may, at any time, inspect a Lot or Improvement and, upon discovering a violation of these Design Guidelines, provide a written notice of non-compliance to the Owner, including a reasonable time limit within which to correct the violation. If an Owner fails to comply within this time period, the DIC or it's authorized, agents may enter the Lot and correct the violation at the expense of the Owner of the Lot. Any such expense shall be secured by a lien upon the Lot enforceable in accordance with the Rules and Regulations.

In the event of any violation of these Design Guidelines, the DIC may, at its sole discretion and in addition to restoration expenses, impose a fine proportionate to the severity of the violation.

## **8. Severability**

If any provision of these Design Guidelines, or any section, clause, sentence, phrase or word or application thereof in any circumstance, is held invalid, the validity of the remainder of these Design Guidelines, and of the application of any such provision, section, sentences, clause, phrase or word in any other circumstance, shall not be affected thereby, and the remainder of these Design Guidelines shall be construed as if such invalid part where never included therein.

## **9. Meetings**

The DIC shall meet as required to review the application for approvals, but shall not be required to meet more frequently than once a month. All applications must be submitted to the Developer, at least, seven (7) calendar days prior to a meeting at which time an application shall be considered. The Chairman of the DIC may call special meetings of two (2) days prior written or oral notice to the other members. A quorum for each meeting shall consist of two (2) members. A designated alternate member may participate at any

meeting in which there is not a quorum of regular members present, and shall have all of the authority of a regular member while so participating.

## **10. Submittal Requirements**

- (a) Prior to preparing preliminary plans for any proposal, the Builder, Owner, or representative thereof should meet with a DIC Member to discuss the proposed plans and to explore and resolve any questions regarding building requirements in Condominium “EL CARDON.”
- (b) Submittals should be made to the DIC prior to being submitted to the City of Loreto for approval. The DIC will not review, and may reject, any submittal, which is incomplete. All preliminary plan submittals must include those times listed in Section 6, No. 7.

## **11. Decisions**

Approval by the DIC of the site plan, building plans, or variances does not guarantee approval by any governing agency.

## **12. Variances**

The DIC has the authority to deviate from the requirements contained in these Design Guidelines in extenuating circumstances if following the requirements would create an unreasonable hardship or burden for an Owner. An affirmative vote of a majority of the members of the DIC must be gained for a variance to be granted.

## **13. Appeal**

Except as otherwise provided in the Condominium “EL CARDON” Rules and Regulations, any Owner aggrieved by the decision of the DIC may appeal the decision to the Condominium “EL CARDON” HOA. Such an appeal must be made within seven (7) days after the decision notification has been given by the DIC. This motion must be **accompanied by the written** decision of the DIC together with, copies of the application and all items submitted to the DIC, and any other relevant evidence previously presented to the DIC.

## **14. Written Records**

The DIC shall keep and safeguard complete written records of all applications for approval submitted to it (including one (1) set of all preliminary sketches and all architectural plans),

all actions of approval or disapproval and of all other actions taken by it under the provisions of these Design Guidelines. All such records shall be maintained in the offices of the HOA for a minimum of three (3) years after approval or disapproval.

## **15. Nature of Approval**

Any approval of plans, specifications or proposed construction given by the DIC shall be only for the purpose of permitting and construction of proposed Improvements within Condominium “EL CARDON” and shall not constitute compliance with the city, state and federal laws. SUCH APPROVAL SHALL NOT CONSTITUTE ANY APPROVAL, RATIFICATION OR ENDORSEMENT OF THE QUALITY OR ARCHITECTURAL OR ENGINEERING SOUNDNESS OF THE PROPOSED IMPROVEMENT, AND NEITHER THE DIC, IT’S MEMBERS, THE BOARD, THE OFFICERS OF THE HOA, NOR THE DEVELOPER SHALL HAVE ANY LIABILITY IN CONNECTION WITH OR RELATED TO APPROVED PLANS, SPECIFICATIONS OR IMPROVEMENTS.

## ***Section VI***

### **Design Review Procedures**

#### **1. Design Review Architectural Representation**

The DIC anticipates employing the services of an Architect or Construction Designer to review submitted plans for conformance to the Design Guidelines. From time to time during the design review process, the Owner and/or his representative may meet or communicate informally with the DIC representative. While it is the intent of these informal meetings to provide direction to the Owner, the comments or suggestions made are done solely to provide direction and they do not represent any official approval or disapproval by the DIC.

#### **2. Qualified Design Services**

The DIC may require an Owner to retain Qualified Design Services after the rejection of two consecutive submittals before any additional submittals are reviewed.

### **3. Submission of Plans**

Plans and specifications shall be submitted to the DIC in accordance with the following conference and submittal requirements and review procedures.

### **4. Review of Plans**

The DIC shall conduct reviews of plans at such times as it deems appropriate. Owners, Architects or Builders shall have no right to attend any meeting of the DIC unless specifically requested by the DIC. The DIC will respond in writing within 10 working days after the review of a complete submittal, provided that the plans are in accordance with the requirements outlined. Members of the DIC will not discuss results of reviews over the telephone with an Owner or his Architect or Builder. Any response an Owner may wish to make in reference to issues contained in the DIC's notice following review of submitted plans must be addressed to the DIC in writing.

### **5. Preliminary Submittal**

When the initial design is complete, plans that are submitted must include all of the following exhibits; no review will commence until the submittal is complete. Three (3) sets of submittal plans are required.

- (a) Site Plan (scale at 1" = 20' or larger), showing the entire Lot, location of the proposed Building Envelope and Construction Envelope with the Residence and all other structures, driveway, parking area, existing and proposed topography, proposed finished floor elevations, all trees of 4-inch caliper or greater, all cactus locations and special terrain features to be reserved and trees to be removed.
- (b) Survey (scale at 1" = 20' or larger), by a registered land surveyor or licensed civil engineer showing Lot boundaries and dimension, easement, topography (2-foot contours or less), major terrain features, rock outcroppings, washes, and all trees of 4-inch caliper or greater, all cactus locations and edge of pavement or curb, and utility locations.
- (c) Roof plans and floor plans (scale ¼" = 1') showing proposed final floor configurations.
- (d) All exterior elevations (scale 1/8" = 1') showing both existing and proposed grade lines, elevation heights, roof pitch and an indication of all exterior materials and colors.



(e) Design review fee in the amount of \$750.00

## **6. Preliminary Review**

After receipt of a complete package of documents (see item 5) and after the posting and comment period, and the staking of the Lot when requested, the preliminary submission of the Owner will be deemed complete. The DIC will then review the plans and respond in writing within 10 days after the review, but no later than 30 days after the submittal is complete. Approval of a preliminary submittal will be considered valid for one (1) year from the date of approval. The submittal will be considered abandoned if final plans are not submitted within that period and the Owner will be required to start the design review process at the preliminary review stage if the plans become active again.

## **7. Final Design Submittal**

After preliminary approval is obtained from the DIC, the following documents are to be submitted for final review. The review will not commence until the submittal is complete. Three (3) sets of plans are required.

- (a) Site plans (scale at 1" = 20' or larger), showing the entire Lot, location of the Building Envelope and Construction Envelope with the Residence, and all building, driveways, parking areas, existing and proposed topography, finished floor elevations, all Protected Plants or special terrain features to be preserved, trees to be removed, all utility sources and connections and site walls.
- (b) Floor plans (scale ¼" = 1') showing finished floor elevations.
- (c) Roof plans (scale ¼" = 1') showing all roof pitches.
- (d) Building section (scale 1/8" = 1'), indicating existing and proposed grade lines.
- (e) All exterior elevations (scale ¼" = 1') showing both existing and proposed grade lines, plate heights, roof type and pitch, and an indication of exterior materials and colors.
- (f) Samples of all exterior materials and colors, and literature on window and glass specifications, as requested by the DIC, depicting or describing all exterior materials. Samples must be presented on a 3 ft x 3 ft mat board clearly marked with the Owner's name, filing date, and Lot number, and light reflectivity value.

- (g) Complete landscape plan (scale 1" = 20') showing size and type of all proposed plants, irrigation system, all decorative materials or boards, all retained plants, and transplanted plants, an indication of plant storage areas, materials, and debris confinement area.
- (h) Exterior lighting plan showing locations and manner of installation for each light, as well as cut sheet for each light to be used.
- (i) A grading and drainage plan showing existing and proposed topography at 2-foot contour intervals, and a driveway section.

## **8. Final Design Review**

The DIC will review the plans and respond in writing within 10 days after the review, but no later than 30 days after a submittal is complete.

Any response an Owner may wish to make regarding the result of a design review must be addressed to the DIC in writing.

## **9. Resubmittal of Plans**

In the event of any disapproval by the DIC of either a preliminary or a final submittal, a resubmittal of plans should follow the same procedure as an original submittal.

## **10. Commencement of Construction**

Upon written receipt of final approval from the DIC, and having satisfied City of Loreto review process, the Owner shall post a completion bond, deposit or other DIC-approved guarantee providing sufficient coverage to finish the exterior appearance of the home including exterior building and site Improvements.

The Owner shall satisfy conditions and commence the construction of any work pursuant to the approved plans within 6 months from the date of such approval. If the Owner fails to begin construction within this time period, any approval given shall be deemed revoked unless, upon the written request of the Owner made to the DIC prior to the expiration of said six-month period and upon a finding by the DIC that there has been no change in circumstances, the time for such commencement is extended in writing by the DIC.

It will be considered that construction has commenced once the Lot has been disturbed. Construction must proceed in a continuous manner until the completion of the Residence. If construction ceases for a period greater than 45 days, the DIC may require that either construction immediately resumes or the Lot is returned to its natural condition. The

Builder's Deposit may be forfeited if either alternative is not achieved within 45 days of written notice to the Owner by the DIC.

The Owner shall, in any event, complete construction of any Improvement on his Lot within twenty (20) months after receiving building permit thereof, except and for so long as such completion is rendered impossible or would result in great hardship to the Owner due to labor strikes, fires, natural emergencies or natural calamities.

If the Owner fails to comply with this schedule, the DIC shall have the right (but no obligation) to either have the exterior of the Improvement completed in accordance with the approved plans or remove the Improvement, with all expenses incurred reimbursed to the DIC by the Owner.

### **11. Subsequent Changes**

Additional construction or other Improvements to a Residence or Lot, or changes during construction or after completion of an approved structure, must be submitted to the DIC for approval prior to making changes or additions.

### **12. Final Inspection of the Improvements**

Upon completion of any Residence or other Improvement, and prior to occupancy, the Owner shall give written notice of completion (see Exhibit C) to the DIC. Within 10 days of such notification, a representative of the DIC may inspect the Residence or other Improvements for compliance. If all Improvements comply with these Design Guidelines, the DIC will issue a written approval to the Owner, constituting a final release of the Improvements by the DIC, said release to be issued within 10 days of the final inspection. If a notice of approval is made by the DIC, the completion bond will be released and any unused portion of the Builder deposit will be refunded within thirty (30) days after approval.

If it is found that the work was not done in strict compliance with approved plans or any portion of these Design Guidelines, the DIC may issue a written notice of noncompliance to the Owner, specifying the particulars of noncompliance, said notice to be issued within 10 days of the final inspection. The Owner shall have 30 days from the date of the notice of noncompliance within which to remedy the noncompliance portions of his Improvement. The Owner may request additional time. However, if an extension is not granted, and the Owner has failed to remedy the noncompliance, the DIC may take action to remove, at the Owner's cost, the non-complying Improvements as provided in these Guidelines, including, without limitation, injunctive relief of the imposition of a fine.

If, after receipt of written notice of completion from the Owner, the DIC fails to notify the Owner of any failure to comply within 60 days following the DIC's inspection, the Improvements shall be deemed in accordance with the final plan.

### **13 Non-waivers**

The approval by the DIC of any plans, drawings, or specifications for any work done or proposed shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, or specification subsequently or additionally submitted for approval. Failure to enforce any of the Design Guidelines shall not constitute a waiver of the same.

### **14 Right of Waiver**

The DIC reserves the right to waive or vary any of the procedures set forth herein at its discretion, for good cause shown.

## ***Section VII***

### **Definitions**

Unless the context otherwise specifies or requires, the following words or phrases when used in the Design Guidelines shall have these specific meanings. Terms defined in the Declaration shall have the meaning specified therein.

#### **Architect**

"Architect" means a person appropriately licensed to practice architecture or landscape architecture and which provides "Qualified Design Services."

#### **Basement**

"Basement" refers to that portion of a Residence that is constructed underground, and as such, no more than one-third of any exterior elevation can be visible from any property within Condominium "EL CARDON."

## Builder

“Builder” means a person or entity engaged by an Owner for the purpose of constructing any Improvement within the Project. The Builder and Owner may be the same person or entity.

## Building Envelope

“Building Envelope” means that portion of a Lot that encompasses the maximum allowable construction area of the Lot as specified by the City of Loreto zoning code.

## Common Area

“Common Area” means all land and Improvements now or hereafter designated as such on the Plat, the Condominium Regime or the Rules and Regulations of Condominium “EL CARDON.”

## Conservation Easement

“Conservation Easement” as marked on any Lot or Common Area or which is so identified on the Plat refers to those areas that are protected and are to remain untouched by any person or entity.

## Construction Envelope

“Construction Envelope” is the specified area of a Lot or parcel within which all structures, driveways, parking, non-native landscaping, water surfaces, decks, walls, and improved recreation facilities are located. Underground utilities may be located outside the Construction Envelope.

## Rules and Regulations

“Rules and Regulations” means the Declaration of Rules and Regulations for Condominium “EL CARDON,” as recorded.

## Design Guidelines

“Design Guidelines” means the restrictions, review procedures, and construction regulations adopted and enforced by the DIC as set forth herein and as amended and supplemented from time to time by the DIC.

## Designer

“Designer” means an individual who has demonstrated competency in the site analysis, planning, and technical knowledge. (See Qualified Design Services)

## Design and Image committee (the “DIC”)

“Design and Image Committee” means the committee established pursuant to the Condominium Regime and the Rules and Regulations.

## Developer

“Developer” means the seller and/or builder of Condominium “EL CARDON,” a Mexican Corporation, its successors, and assigns, or any Person to whom Developer’s rights hereunder are hereafter assigned in whole or in part by recorded instrument.

## Excavation

“Excavation” means any disturbance of the surface of the land (except to the extent reasonably necessary for planting of approved vegetation), including any trenching which results in the removal of earth, rock, or other substance from a depth of more than 12 inches below the natural surface of the land or any grading of the surface.

## Fill

“Fill,” means any addition of earth, rock or other material to the surface of the land, which increases the natural elevation of such surface.

## Improvements

“Improvements” means any change, alteration, or addition to a Lot, including an Excavation, Fill, Residences or buildings, outbuildings, roads, driveways, parking areas, walls, retaining walls, stairs, patios, courtyards, hedges, poles, signs, and any Structure or amenity of any type or kind. Exterior art and sculptures which are visible from a Neighboring Lot or Common Area are also considered and Improvement.

## Indigenous Species

“Indigenous Species” means a species of plant, whether groundcover, shrub, cactus, or tree, which is listed in Appendix A, or from time to time reference in the Design Guidelines.

### Light Reflective Value

“Light Reflective Value” is the reflectivity of a surface measured by a calibrated light meter. The value of 100 percent represents the percentage of light reflected from a space-pure white; flat black will equal a value of 0 percent.

### Lot

“Lot” means a subdivided Lot or another building site as shown on the Plat.

### Lot Survey

“Lot Survey” means that information obtained from an engineer depicting existing features, inventory, and Lot configuration.

### Natural Zone

“Natural Zone” means that portion of the natural desert lying within a Lot, but outside of the Building Envelope, Condominium “EL CARDON” Recommended Plant List contains all Indigenous Species approved for planting in Natural Zone.

### Natural Grade

“Natural Grade” is the existing contours of a home site, prior to the time any alterations, grading or site work is done to the Lot.

### Neighboring Lot Visibility

“Neighboring Lot Visibility” shall mean any given object or activity that is or would be visible without artificial aids from 6 feet above any other Lot of similar elevation, provided such other Lot is within any of the Lots or Common Areas.

### Owner

“Owner” means the Owner of a Lot. For the purpose herein, the Owner may act through an agent, provided that such agent is authorized in writing to act in such a capacity.

## Private Zone

“Private Zone” refers to that part of the Building Envelope, which is not visible from the street or from adjacent properties because it is hidden behind walls or Structures. It is separated from the Natural Zone either by the Transition Zone or a design element such as an approved wall or fence.

## Protected Plants

“Protected Plants” in the area are the Indigenous Species “Palo Fierro” (*Olneya tesota*) and “Garambullo” (*Lophocereus schottii* ssp *schottii*)

## Qualified Design Services

“Qualified Design Services” refer to an individual or company that has demonstrated competency in the site analysis, planning, and technical knowledge. Further, it is essential that the Designer be able to communicate the potential of the site based on its physical configuration and the requirements of the Design Guidelines to an Owner, and then be able to translate the needs and wants of the Owner to a design that remains consistent with the requirements of the site and the Design Guidelines. An individual deemed qualified shall also show a complete understanding of the Design Guidelines and the desire to abide by them.

## Residence

“Residence” means the building or buildings, including any garage, and other accessory buildings, used for residential purposes on a Lot, and any Improvements constructed in connection therewith. Unless otherwise defined, “Residence” shall mean single-family Residence.

## Structure

“Structure” means anything constructed or erected on a Lot, the use of which requires location on the ground or attachment to something having a location on the ground.

## Transition Zone

“Transition Zone” refers to that part of the Building Envelope that is visible from the street and from adjacent properties, and is adjacent to the Natural Zone.



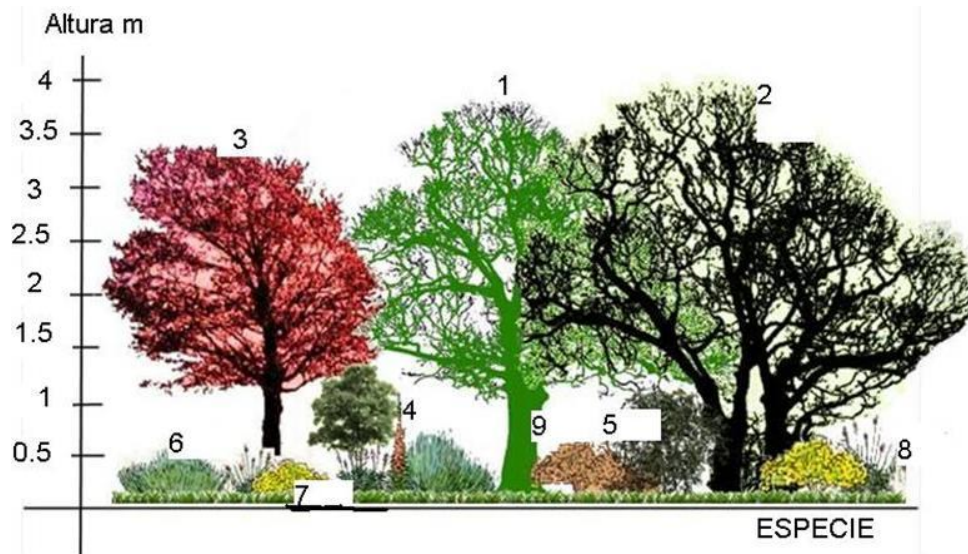
# Appendix A

## Approved Plants List

Following is the list of plants that are approved for Condominium “EL CARDON” in designated areas.



Tall shrub	Medium shrub	Herbs
1 <i>Stenocereus spp Pitaya agría &amp; Pitaya dulce</i>	7 <i>Cercidium frondum ssp.penninsularis Dipua</i>	11 <i>Celosia foribunda</i>
2 <i>Bursera spp. Torotes</i>	8 <i>Opuntia spp. Cholla y Nopal,</i>	12 <i>Brickellia glabrata Amargosa</i>
3 <i>Pachycormus discolor Copalquín,</i>	9 <i>Atriplex semibaccata Salado</i>	13 <i>Pennisetum ciliaris Zacate bufel</i>
4 . <i>Lycium fremontii Frutilla</i>	10 <i>Ceanothus spp. Granjeno</i>	14 <i>Ruellia penninsularis Flor de camarón</i>
5 <i>Prosopis juliflora Mezquite</i>	15 <i>Jatropha spp Lombo &amp; Matacora</i>	
6 <i>Pachycereus pringlei Cardón</i>	16 <i>Lophocereus schottii Senita</i>	



Tree	Hedgerow of bush	Herbaceous
1 <i>Ficus palmeri</i> zalate	4 <i>Acacia peninsularis</i> Palo chino	7 <i>Marina</i> spp
2 <i>Dalea spinosa</i> corona de cristo	5 <i>Atriplex semibacatta</i> Saladillo	8 <i>Cyperus dioicos</i> Papiro
3 <i>Bursera</i> spp. Torote	6 <i>Fraxinus trilobata</i> Fresno	9 <i>Distichlis spicata</i> Pasto Salado

# Appendix B

## Prohibited Plants List

1. Any species of tree or shrub whose mature height may reasonably be expected to exceed twenty-six (26) feet, with the exception of those species specifically listed in Appendix A, or those approved by the DIC, are prohibited.
2. Fountain grass (*Pennisetum setaceum*) and pampas grass (*Cortaderia selloana*) will be prohibited as a defined weed with the potential to spread through the development.
3. All trees whose mature height may reasonably be expected to exceed six (6) feet will be prohibited for an aesthetic reason.
4. Common Bermuda grass will be prohibited as a defined weed and for its lavish production of allergy-producing pollen.
5. All varieties of citrus will be prohibited for aesthetic reasons and their lavish production of allergy-producing pollen. Dwarf varieties are permissible within enclosed private areas with approval of the DIC.