



2023-02176

Page 1 of 13

ANITA MORENO, RECORDER

SANTA CRUZ COUNTY, ARIZONA

Requested By: CAMILLE LUCKADOO

04-13-2023 01:39 PM Recording Fee \$30.00

When Recorded Mail/Deliver To:

Goldschmidt|Shupe, PLLC

7400 N. Oracle Rd., Suite 301

Tucson, AZ 85704

RESTATEMENT OF THE DEED RESTRICTIONS

FOR

ALISO SPRINGS PROPERTY OWNERS ASSOCIATION

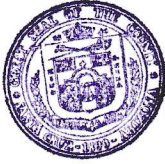
*RE: Section 23, Township 21 South, Range 12 East, Gila and Salt River Base and Meridian located
in Santa Cruz County, Arizona (also known as GT Ranches)*

THIS DOCUMENT WAS ORIGINALLY RECORDED UNDER 2023-01681

**THIS RECORDATION IS SOLEY FOR THE PUPOSE OF REMOVING PAGES
RECORDED IN ERROR**

DO NOT REMOVE

THIS IS PART OF THE OFFICIAL DOCUMENT



2023-01681

Page 1 of 17

ANITA MORENO, RECORDER

SANTA CRUZ COUNTY, ARIZONA

Requested By: CAMILLE NOELLE LUCKADOO

03-22-2023 10:48 AM Recording Fee \$30.00

When Recorded Mail/Deliver To:

Goldschmidt|Shupe, PLLC
7400 N. Oracle Rd., Suite 301
Tucson, AZ 85704

RESTATEMENT OF THE DEED RESTRICTIONS
FOR
ALISO SPRINGS PROPERTY OWNERS ASSOCIATION

*RE: Section 23, Township 21 South, Range 12 East, Gila and Salt River Base and Meridian located
in Santa Cruz County, Arizona (also known as GT Ranches)*

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**RESTATEMENT OF THE DEED RESTRICTIONS
FOR
ALISO SPRINGS PROPERTY OWNERS ASSOCIATION**

WHEREAS the Declaration of Establishment of Restrictions was originally executed on February 18, 1975, and recorded on March 21, 1975, in Docket 186 at Pages 470 - 481, inclusive, Official Records of Santa Cruz County, Arizona, by owners of the property described as follows:

Section 23, Township 21 South, Range 12 East, Gila and Salt River Base and Meridian, located in Santa Cruz County, State of Arizona; (also known and referred to as "GT Ranches"); and

WHEREAS the Declaration of Establishment of Restrictions was re-recorded on December 9, 1999, in Docket 818 at Pages 37 – 50, inclusive, (Instrument #9911466) Official Records of Santa Cruz County, Arizona, for the sole purpose of extending the Restrictions for another 25 years; and

WHEREAS an Amendment to Declaration of Establishment of Restrictions for GT Ranches was recorded on December 9, 1999, in Docket 818 at Pages 51 – 54, inclusive, (Instrument #9911467), Official Records of Santa Cruz County, Arizona; and

WHEREAS the Deed Restrictions for Aliso Springs Property Owners Association (aka Declaration of Establishment of Restrictions) were recorded on July 29, 2004, in Docket 1061 at Pages 801 – 809, inclusive, (Instrument #0408764), Official Records of Santa Cruz County, Arizona; and

WHEREAS the Deed Restrictions for Aliso Springs Property Owners Association (aka Declaration of Establishment of Restrictions) were recorded on July 20, 2005, in Docket 1131 at Pages 460 – 468, inclusive, (Instrument #0509229), Official Records of Santa Cruz County, Arizona; and

WHEREAS the Deed Restrictions for Aliso Springs Property Owners Association (aka Declaration of Establishment of Restrictions) were recorded on October 6, 2010, Reception Number 2010-07790, Official Records of Santa Cruz County, Arizona, to add and incorporate Exhibit #1, and Appendices A and B; and

WHEREAS the Deed Restrictions for Aliso Springs Property Owners Association (aka Declaration of Establishment of Restrictions) were recorded June 18, 2013, Reception Number 2013-04616, Official Records of Santa Cruz County, Arizona; and

WHEREAS a Certificate of First Amendment to the Deed Restrictions for Aliso Springs Property Owners Association was recorded on April 7, 2017, in Docket 2017-02875, Official Records of Santa Cruz County, Arizona, to amend Paragraph 13 of Restriction A, and to add and incorporate Appendix C;

WHEREAS a Certificate of Second Amendment to the Deed Restrictions for Aliso Springs Property Owners Association and a Certificate of Third Amendment to the Deed Restrictions for Aliso Springs Property Owners Association were recorded, together, on December 31, 2019, Reception Number 2019-08371, Official Records of Santa Cruz County, Arizona, to amend Paragraph 13 of Restriction A, and to amend Appendices A and B; and

WHEREAS a Certificate of Fourth Amendment to the Deed Restrictions for Aliso Springs Property Owners Association was recorded on July 12, 2022, Reception Number 2022-06127, Official Records of Santa Cruz County, Arizona to amend Paragraph 13 of Restriction A, and to delete a portion of Appendix A, and all of Appendices B and C, related to or pertaining to water service provided by the Aliso Springs Property Owners Association (the "Association") or the previous Association water system; and

WHEREAS the Association's Board of Directors desires to restate the Deed Restrictions for Aliso Springs Property Owners Association (the "Deed Restrictions") in order to compile and incorporate the First, Second, Third, and Fourth Amendments to the Deed Restrictions, as duly approved by at least a two-thirds majority of the Members of the Association consisting of the Owners of the parcels within GT Ranches, into a single instrument and otherwise make no other substantive changes whatsoever to the Deed Restrictions.

NOW THEREFORE, this Restatement of Deed Restrictions for Aliso Springs Property Owners Association, applicable to GT Ranches as herein legally described, fully and completely restates and replaces in their entirety all prior recorded Deed Restrictions and any amendments thereto.

DECLARATION OF ESTABLISHMENT OF RESTRICTIONS

That TIRSO TRUJILLO, ESPIRIDION TRUJILLO, AMELINA TRUJILLO VALDENEGRO, ABRAHAM TRUJILLO, JUAN de DIOS TRUJILLO, JOSEFINA TRUJILLO JOHNSON AND GUADALUPE T. TRUJILLO, being the owners of all of the certain property situated in the County of Santa Cruz, State of Arizona, more specifically described as follows:

Section 23, Township 21 South, Range 12 East, Gila and Salt River Base and Meridian, located in Santa Cruz, State of Arizona (also known and referred to herein as "GT Ranches").

Do hereby certify and declare that they have established and do hereby establish a general plan for the improvement and development of said property, and do hereby establish the provisions, conditions, restrictions, and covenants upon and subject to which all lots and portions of lots of said property shall be improved or sold and conveyed from them as such owners, each and all of which is, and are, for the benefit for each owner of land in said property for any interest therein, and shall inure and pass with each and every parcel of said property, and shall apply to, and bind, the respective successors in interests of the present owners thereof, and are, and each thereof is, imposed upon said property as a servitude in favor of each and every parcel of land therein as a dominant tenement or tenements, as follows, to-wit:

1. All restrictive covenants, listed and/or contained herein are subject, in all instances, to compliance with the State of Arizona and the County of Santa Cruz Health ordinances, restrictions and regulations, zoning regulations or any other duly enacted law or regulation.

2. NOW THEREFORE, upon the foregoing described real property, aka, GT Ranches, are hereby created, declared and established in Santa Cruz County, Arizona, the following restrictive covenants, easements, reservations and requirements upon the lands within said subdivision, which restrictive covenants, easements, and requirements shall run with the land and remain in full force an effect for a period of 25 years from the date hereof, or until GT Ranches shall become part of an incorporated municipality, or until amended or rescinded upon the written consent of the owners of record of a majority of the lots in said subdivision, whichever event shall first occur.

3. The GRANTOR, or its successors or assigns, as the case may be, shall have the right to enforce, either at law or in equity, any or all of the restrictions and covenants or any amendment or subsequent deeds of restrictions filed in the Public Records of Santa Cruz County, Arizona by the GRANTORS or its successors or assigns.

4. These restrictive covenants are severable and the invalidation of one shall not invalidate any other restrictive covenant herein, and each covenant shall be independent to such extent that the waiver of any one or more of these restrictive covenants by GRANTOR shall in no way be construed as a waiver of any of the other restrictive covenants.

5. The undersigned and their successors, assigns, or duly authorized agents, so long as they have any interest (whether as owner, mortgagee or otherwise) in the property as above referred to, reserve the right, by recorded instrument, to subsequently amend, alter or change these covenants and restrictions and to subsequently file, from time to time, additional covenants and restrictions hereto upon the Public Records of Santa Cruz County, Arizona, in respect to the property in which they at the time have any such interest.

6. All references hereto to GRANTOR shall be deemed to refer to either GRANTOR or to any successor to GRANTOR as owner of the property referred to herein or any part thereof.

7. The Board of Directors shall appoint the Committee of Architecture hereafter referred to as the COMMITTEE. The COMMITTEE shall have the further right and power to create and fill vacancies on the COMMITTEE. It shall be the general purpose of the COMMITTEE to provide for the maintenance of a high standard of architecture and construction in such a manner as to enhance the aesthetic properties and structural soundness of buildings and their appurtenances constructed at GT Ranches. The COMMITTEE shall be guided by and controlled by this Deed of Restrictions. The COMMITTEE shall further determine whether the conditions contained in this Deed of Restrictions are being complied with and shall have the power to enforce compliance in any manner they deem appropriate. The COMMITTEE may adopt such further reasonable rules and regulations necessary to carry out its duties.

8. Every present owner of a lot or parcel within these subdivisions upon endorsement by signature of this document and from this date every purchaser of a lot or parcel or portion thereof within GT Ranches by the payment of the purchase price and acceptance of and deed thereof, shall become a member of the Aliso Springs Property Owners Association, Inc., an Arizona corporation. Said Association shall hold title to such passageways, easements, drives, streets, avenues, roads and footways and shall then assume responsibility, maintenance, control and safety and liability of the rights of ways and common areas as conveyed to said Association and not otherwise.

All individual lot owners and members of their immediate families or their legal tenants shall be entitled and have the right to use all said passageways, easements, drives, avenues, roads, and footways; provided, however, multiple owners of a single parcel shall have the same voting power and privileges as a single owner.

Each Member, his heirs and assigns, shall be obligated to pay to the Association for the assessments levied by the Association for the purpose and purposes for which it is organized to meet all common expenses, including but not limited to insurance premiums, taxes, maintenance, repair and replacement of commonly used properties, reserve for contingencies, water charges, well and tank repair and replacement charges, utilities, maintenance and repair of roads, streets and alleys, administrative costs, legal and accounting fees, and any other charges agreed upon by two thirds (2/3) of the members of Aliso Springs Property Owners Association, Inc.

There is hereby created a lien on each lot or parcel or portion thereof within GT Ranches to secure payment of the share of common expenses chargeable or assessed to the owner or owners thereof, pursuant to the terms hereof, provided that no action shall be brought to foreclose such lien less than one hundred twenty (120) days after a notice of claim of lien is mailed to the owner of such lot or parcel or portion thereof and a copy thereof is recorded in the office of the Recorder in the County of Santa Cruz, State of Arizona.

9. All provisions, conditions, restrictions and covenants herein may be enforced by Aliso Springs Property Owners Association, Inc., or its successor, or any owner of property described herein; and any breach thereof shall be grounds for the Aliso Springs Property Owners Association, Inc., its successors or any property owner, to complain to any court of law or equity having jurisdiction thereof for proper relief, and if such relief be granted, the court may in its discretion award to the Plaintiff in such action his reasonable expenses in prosecuting such suit, including attorney's fees and damages.

Provided that any violation of the foregoing conditions, restrictions or covenants shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value as to any portion of said property. But such conditions, restrictions and covenants shall be enforceable against any portion of said property acquired by any person through foreclosure or by deed in lieu of foreclosure for any violation of the conditions, restrictions and covenants herein contained occurring after the acquisition of said property through foreclosure or deed in lieu of foreclosure.

10. No delay or omission on the part of the Aliso Springs Property Owners Association, Inc., or its successors as owner of the reversionary rights herein specified or the owner or owners of any lot in the said property in exercising any right, power or remedy herein provided for in the event of any breach of any of the restrictions and covenants herein shall be construed as a waiver thereof or acquiescence therein; and no right of action shall accrue nor shall any action be brought or maintained by anyone whomsoever against the undersigned, their successors, of assigns, for or on account of their failure or neglect to exercise any right, power or remedy herein provided for in the event of such breach, or for imposing herein provisions, conditions, restrictions or covenants which may be unenforceable.

11. Any owner aggrieved by a decision of the Board of Directors or of any committee appointed by the Board may appeal such decision in writing to the Board, by delivery of such appeal to the Secretary. The Board shall call a hearing on the appeal, at which time the aggrieved party may appear and testify. The Board shall have thirty (30) days from the date of the hearing in which to grant or deny the appeal and so notify the aggrieved party in writing.

RESTRICTION A UNIFORM GENERAL RESTRICTIONS

1. Easements and rights-of-way are hereby expressly reserved for the creation, construction and maintenance of roads and utilities, including, but not limited to gas, water, telephone, telegraph, T.V. cable, electricity, sewers, storm drains, as well as any function deemed necessary and/or expedient for the public health and welfare, be they public, quasi-public or private. Such easements and rights-of-way shall be confined to 15' on all boundaries of the GT Ranches with the exception of the recorded 40' easement to permit access to the original 7 parcel subdivision as shown in the enclosed **Exhibit #1**. All existing roads to remain as presently located to serve as ingress and egress until replaced with an improved road. This paragraph shall only apply to the original seven parcel subdivision as shown in **Exhibit #1**.

2. Within these easements no structure, planting (other than grass or suitable ground cover), walls or fences or other materials of any type may be constructed, placed, or permitted to remain thereon. These easements conform to the requirements of all lawful public authorities including but not limited to the County Engineers of Santa Cruz County.

3. All residential building exteriors erected in GT Ranches shall be constructed of stucco, masonry, or brick adobe or clay brick or part redwood. Other materials shall require approval in writing by GRANTOR, its duly authorized agent or the COMMITTEE, with either a gravel, shake or mission tile roof or such other materials as are approved by the GRANTOR, its authorized agent, or the COMMITTEE, if and when formed. No metal utility sheds will be allowed on any lot. All separate sheds will be constructed to harmonize with the external design of the building and enhance the aesthetic effect of the architecture.

4. Plans and specifications for all structures must be submitted to GRANTOR, its duly authorized agent or the COMMITTEE for written approval as to quality of workmanship, materials,

harmony of external design, aesthetic affect, size and existing structures, and as to location with respect to topography and finish grade elevation prior to the commencement of construction in GT Ranches. The issuance of approval shall be at the sole reasonable discretion of GRANTOR, its duly authorized agent, or the COMMITTEE, if and when formed. Any application that is failed to be acted upon within 30 days of application shall be considered approved unless written notice of disapproval.

5. No signs, advertisement or billboards of any kind shall be erected and/or exhibited in any manner on or above the property of GT Ranches, without prior written approval from the GRANTOR, or its authorized agent. The issuance of approval shall be within the sole discretion of GRANTOR or its duly authorized agent.

6. The native growth of GT Ranches shall not be harmed, destroyed or removed from any of the lots in said subdivision, except as may be necessary for the construction and maintenance of roads, driveways, residences, garages, and other buildings or for beautification purposes. In any event the native growth shall not be removed prior to the commencement of construction unless written permission is obtained from GRANTOR, its authorized agent, or the COMMITTEE, if and when formed.

7. No property shall be used for a real estate office or brokerage, unless prior written approval is obtained from GRANTOR or its duly authorized agent.

8. The keeping of ordinary domestic pet animals or riding horses will be permitted for owner and guest use only. However, no horses may be stabled or maintained on any lot having an area less than 30,000 square feet and not more than two (2) horses may be so stabled or maintained on any lot having only 30,000 square feet of lot area. Additional horses may be so stabled or maintained at the ratio of one (1) to every additional 15,000 square feet.

9. No fence or hedge shall be erected or maintained on the property of GT Ranches which shall unreasonably restrict or block the view from an adjoining lot, or which shall materially impair the continuity of the general landscaping plan of the subdivision. For this purpose, a hedge or fence may be maintained at no greater height than six (6) feet. No wall shall be erected or placed within the front setback lines of any lot, unless said wall or fence shall be ornamental and desirable feature and shall not in any manner impair the general scheme of the subdivision area. Owners will be responsible for constructing and maintaining fences to protect their property from adjacent open range land. The GRANTOR, its authorized agent, or the COMMITTEE, in its sole discretion, may approve minor projections above the restricted heights for architectural features. No wall or fence of any kind whatsoever shall be constructed on any lot until after the height, type, design and location thereof shall have been approved in writing by GRANTOR, its duly authorized agent, or the COMMITTEE.

10. No house trailers shall be allowed on any of the lots in GT Ranches except for use as construction trailer or as living quarters only during the course of construction of a permanent home as allowed by the Santa Cruz County Planning and Zoning Department on special variance.

Recreational vehicles may be stored on premises, but may not be used for living quarter.

11. No lot in GT Ranches shall be used as a junk yard or auto storage or graveyard. No lot in GT Ranches shall be used for depositing, dumping, burning or storing of any refuse, trash, garbage or discarded building materials. All rubbish, trash, or garbage shall be removed from the lots and shall not be allowed to accumulate thereon.

12. All exterior lighting shall be installed and maintained so as not to disturb unreasonably the holder of any other lot in GT Ranches.

13. The water services for domestic, commercial, industrial, farm or ranch use, shall be taken from service offered by the Trujillo Trail Domestic Water Improvement District, and not from any other party. This paragraph shall not apply to wells existing as of the date of the creation of the Trujillo Trail Domestic Water Improvement District, which were not connected to the previous potable water system maintained by the Association. Use of such preexisting wells shall not be expanded and shall be limited to their current use and for no other purpose. After the date of the creation of the Trujillo Trail Domestic Water Improvement District, new individual wells or similar systems for water service other than those owned and operated by the Trujillo Trail Domestic Water Improvement District shall not be permitted.

14. No roof top evaporative or air heating or conditioning units shall be allowed unless camouflaged or otherwise made to conform to the architecture of the house. Any such units, clothes lines, equipment, fixtures, swimming pool filters, water systems, wood piles or storage piles shall be walled in or kept screened by adequate plantings, walls or other means in such a manner as to conceal them from the view of neighboring lots and streets.

15. Should it become necessary at any time that GRANTOR employ counsel to enforce any of the provisions, conditions, restrictions, or covenants herein contained, all costs incurred in the enforcement of such provisions, conditions, restrictions or covenants herein contained including but not limited to a reasonable fee for counsel, shall be paid by the owner or owners of a lot or lots who through their breach make it necessary for GRANTOR to enforce such provisions, conditions, restrictions, or covenants herein contained. GRANTOR shall have a lien upon such lot or lots to secure payment in restitution caused by any breach of the provisions, conditions, restrictions or covenants herein contained.

16. Existing natural drainage may not be changed or altered without the approval of the Board of Supervisors of Santa Cruz County, Arizona.

17. Easements and rights-of-way are hereby expressly reserved on all quarter section boundaries of Seven and one-half (7 1/2) feet of each Ranch for the use of the owners of GT Ranches and their guests for the purposes of horseback riding and hiking only. Within these easements, any permanent fences erected shall have gates that may be opened and kept unlocked at all times. These easements conform to the requirements of all lawful authorities including but not limited to the County Engineers of Santa Cruz County.

18. The top floor of any structure shall not be more than 2 feet above natural grade, and the total structure no higher than 25 feet above natural grade, except as may be required by Santa Cruz County regulations.

19. These Declarations of Restrictions shall automatically renew for a further twenty-five (25) year period at their original stated termination date and renew automatically for further twenty-five (25) year periods thereafter. They may be amended by a two-thirds (2/3) majority at any time.

**RESTRICTION B
COMMERCIAL**

In addition and supplemental to the Uniform General Restrictions, the following restrictions, reservations and easements shall apply to and govern the erection and maintenance of commercial buildings:

Notwithstanding anything contained herein to the contrary, the construction of a commercial building shall only be permitted in those areas zoned for the construction of commercial buildings by Santa Cruz County, Arizona, and provided further there exists no use restriction by the GRANTOR filed of record prohibiting the construction of a building for commercial purposes. No commercial building may be built within the GT Ranches until such time as a complete set of plans and specification for any contemplated commercial structure, including ground usage plan and parking provisions, have been submitted and approved by the Board or its duly authorized agent or the COMMITTEE.

CONCLUSION

If the parties hereto, or any of them, or their heirs or assigns, or successors in interest, shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person or persons owning any real property situated in said GT Ranches, or upon or within the limits of the property legally described herein, to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant and either to prevent him or them from so doing or to recover damages or other dues for such violations. Provided that any violation of the foregoing provisions, conditions, restrictions or covenants shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value as to any portion of said property. But such provisions, conditions, restrictions and covenants shall be enforceable against any portion of said property acquired by any persons through foreclosure or by deed in lieu of foreclosure for any violation of the provisions, conditions, restrictions and covenants herein contained occurring after the acquisition of said property through foreclosure of deed in lieu of foreclosure.

<<SIGNATURES ONLY NEXT PAGE>>

Exhibit #1
Declaration of Easement

KNOW ALL MEN BY THESE PRESENTS:

That TIRSO TRUJILLO, ESPIRIDION TRUJILLO, AMELINA TRUJILLO, VALDENEGRO, ABRAHAM TRUJILLO, JUAN de DIOS TRUJILLO, JOSEFINA TRUJILLO JOHNSON, and GUADALUPE T. TRUJILLO, being the owners of all of that certain property situated in the County of Santa Cruz, State of Arizona, more specifically described as follows:

Section 23, Township 21, South, Range 12 East, Gila and Salt River Base and Meridian, located in Santa Cruz, State of Arizona.

(also known and referred to as "GT Ranches")

Do hereby certify and declare that they have established Easement for the purpose of ingress and egress to various portions of the property described herein, do hereby declare the following described Easement to be imposed upon said property as servitude in favor of each and every parcel of land therein, as follows, to-wit:

A Forty (40) Foot Wide Easement for Ingress and Egress lying within the Section 23, Township 21 South, Range 12 East, Gila and Salt River Base and Meridian, Santa Cruz County, Arizona, the Centerline of which is more particularly described as follows:

BEGINNING at the Northeast Corner of said Section 23;

THENCE South 00 08' 57" West, 1,694.67 feet along the East Line of said Section 23 to a point, said point being the TRUE POINT OF BEGINNING of the Centerline of said Easement;

THENCE North 89 55' 50" West, 20.00 feet to a point; THENCE South 00 08' 52" West, 952.12 feet to a point; THENCE North 89 55' 50" West, 1,682.39 feet to a point; THENCE South 66 47' 08" West, 1,478.19 feet to a point; THENCE North 31 54' 52" West, 1,367.19 feet to a point;

THENCE South 89 55' 50" East, 1,152.95 feet to a point, said point being the

END of the Centerline of said Easement.

Appendix A

ROAD ACCEPTANCE POLICY

General Policies for Roads maintained by ASPOA

1. Maintenance is dependent upon necessity determined by the Road Committee (RC).
2. Maintenance is dependent upon available funds determined by the Treasurer.
3. Speed limit within the Association is 17.5 miles per hour, paved and non-paved alike.

Acceptance Policy

1. Any road which is constructed in order to give access to any ASPOA property shall be engineered and constructed so as to provide proper drainage, crowning and road base if such a road is intended to be considered by ASPOA for maintenance. The occasional summer downpours should not seriously affect the road.
2. The criteria for acceptance by Aliso Springs Property Owners Association for maintenance responsibility shall be that the road in question will not be more than 10% grade, will be made up of recycled asphalt-based (RAP) material or better, and will be constructed such that it will maintain itself through one full year of use and weather exposure. This is designed to ensure that the road construction is adequate to survive the often-heavy rains we experience. The owner must submit the road to the road committee in writing – the date of the letter will begin the trial period. During the yearlong trial period it will be the responsibility of the road committee to monitor the road.
3. Once the year has elapsed, the BOD and road committee will make a decision on acceptance. If the road acceptance is denied, then a written explanation along with accompanying reasons and recommendations shall be made to the property owner(s).
4. It will be the property owner's responsibility to make these corrections to ensure acceptance. A new trial period will also be determined.

Abandonment Policy

Any road previously accepted may be abandoned by the association in the event the road has been restricted by residents i.e. fenced or gated, etc. (see Deed Restrictions, p4, Restriction A, Uniform General Restrictions, Paragraph 2)

Fines

Road Damage: if the RC determines there was 'abnormal' damage due to construction, vandalism and/or negligence, the member is charged a flat fee to be determined by the RC not to exceed the total clean up and/or repair charge.