

# FRIO CAÑON

## FRIO CAÑON ARCHITECTURAL DESIGN GUIDELINES

### PREFACE

These Architectural Design Guidelines for Frio Cañon (sometimes hereafter referred to as Design Guidelines) provide the principles for locating a home and related improvements within Frio Cañon and guidelines for designing a home and related structures that conform to the vision and goals of the Frio Cañon Community. This document is applicable to the private, single-family residential areas of development at the Frio Cañon Community and does not apply to non-residential uses.

These Design Guidelines are subject to the "Declaration of Covenants, Conditions, Easements, and Restrictions of Frio Cañon " as recorded in the Official Public Records of Real Property of Real County, Texas for Frio Cañon (hereafter referred to as the Declaration). The Developer, or its legal assigns, may elect to create additional or supplementary guidelines applicable to subsequent units within Frio Cañon and to additional property, which may be annexed to Frio Cañon. Such units' design guidelines may add to or supplement general standards set forth in these Design Guidelines but will not materially contradict them or diminish the aesthetic and procedural standards stated herein.

These Design Guidelines are administered by the Frio Cañon Architectural Control Committee (ACC). No improvements of any kind shall commence on a Tract (as defined in the Declaration) without the prior approval of the ACC. As deemed appropriate by the ACC, and by its sole discretion, these Design Guidelines may be modified or supplemented but must maintain the vision and goals of Frio Cañon and retain its values.

We welcome you to Frio Cañon.

## **TABLE OF CONTENTS**

### **A. Introduction**

1. Frio Cañon Community Vision and Design Philosophy
2. Planning Objectives
3. Land Stewardship
4. The Architectural Control Committee (ACC)
5. Design and Plan Review Process

### **B. Site Development Guidelines**

1. General
2. The Tract
3. Combining Tracts
4. Sub-dividing Tracts
5. Setbacks
6. Access
7. Impervious Cover
8. Utilities
9. Walking Trail Easement
10. Watercourses and Drainage

### **C. Building Design Guidelines**

1. Design Style
2. Architectural Requirements
  - a. Building Heights
  - b. Building Sizes
  - c. Building Materials
  - d. Building Colors
  - e. Roofing and Gutters
  - f. Eaves and Overhangs
  - g. Fireplaces and Chimneys
  - h. Building Projections
  - i. Exterior and Site Lighting
  - j. Antennae and Satellite Dishes
  - k. Skylights and Windows
  - l. Porches, Patios and Outdoor Rooms
  - m. Screen Walls
3. Garages and Parking
4. Miscellaneous Parking
  - a. Miscellaneous Vehicle Parking and Storage
  - b. On-Street Parking
5. Outbuildings and Detached Structures
6. Temporary or Portable Structures
7. Above Ground Containers, Storage Tanks and Cisterns

## **TABLE OF CONTENTS (Continued)**

8. Fences and Walls
9. Mailbox and Address Identification
  - a. Mail Boxes
  - b. Address Identification
10. Recreational Facilities, Sport Courts, Pools and Spas
11. Landscape
  - a. Approved Plant List for Native Areas
  - b. Landscape Deposit

### **D. Construction Guidelines**

1. Construction Regulations
2. Construction/Compliance Deposit
3. Pre-construction Conference
4. Builder Requirements
5. Occupational Safety and Health Act Compliance (OSHA)
6. Temporary Facilities
7. Construction Temporary Fencing
8. Parking Areas
9. Excavation Materials and Other Debris
10. Conservation
11. Restoration or Repair of Property Damage
12. Construction Access
13. Dust and Noise
14. Temporary Construction Signage
15. Miscellaneous Prohibited Practices for Construction Guidelines
16. Hours and Daily Operation

### **E. Review and Approval Process**

1. Organization of the Architectural Control Committee (ACC)
2. Purpose and Authority of the ACC
3. The 5-Step Review Process
  - Step 1. Pre-Design Meeting
  - Step 2. Submittal #1 Preliminary Design Review
  - Step 3. Submittal #2 Design Development Plan Review
  - Step 4. Submittal #3 Final Plan Review and Approval
  - Step 5. Final Construction Compliance Inspection
4. Construction Permit
5. Additional Construction and Changes
6. Re-Submittal of Drawings
7. Work in Progress Inspections
8. Non-waiver

## **APPENDIX A**

### **A. Design Guidelines**

1. Founding of the Design Guidelines
2. The Architectural Control Committee (ACC)
3. Correspondence with the ACC
4. Non-liability of ACC and Developer
5. Enforcement
6. Right of Waiver
7. Estoppel Certificate
8. Commencement of Construction
9. The Frio Cañon Community Association

## **APPENDIX B**

### **A. Fees and Deposits**

1. Design Review Fee for New Construction
2. Subsequent Re-review Session Fee
3. Request for Variance Fee
4. Design Review Fee for Remodels and Additions
5. Standard Construction/Compliance Deposit

### **B. Simplified Application Submittal Form**

1. Type Submittal
  - a. Submittal #1 Preliminary Design Review
  - b. Submittal #2 Design Development Plan Review
  - c. Submittal #3 Final Plan Review
  - d. Construction Change Review
  - e. Request for Variance
  - f. Remodel/Addition Plan Review Submittal
2. Attachment Checklist
3. Review Fee
4. Standard Construction/Compliance Deposit Agreement
5. ACC Comments: Approval/Disapproval

# **FRIO CAÑON ARCHITECTURAL DESIGN GUIDELINES**

## **A. INTRODUCTION**

### **1. Frio Canon Community Vision and Design Philosophy**

#### **Community Vision**

The Frio Cañon is one of the most beautiful and scenic parcels of land in the state of Texas. Located in the sparsely populated Real County, Frio Cañon includes mountaintops, canyons, natural meadows and a spectacular stretch of the Frio River. With abundant wildlife, diverse tree cover, a big sky and spring fed crystal clear water, Frio Canon is naturally inspiring.

This property was purchased in order to keep its mountaintops from being developed and cluttered with buildings. The vision was to develop a low-impact community of waterfront homes on the relatively flat banks of the Frio river and Bybee Creek, create a few clusters of casitas nestled on the lower shoulders of the mountains while at the same time protect the lower open meadows and the majority of the mountainous land from development.

Frio Canon was conceived as a place for families to enjoy with other families. It is a place where our children and grandchildren will want to go, a place where we can wear ourselves out with recreational activity or simply relax and let our selves be inspired by the beauty of it all. Frio Canon is a relaxed community of folks who love the finest of nature, friendship, family and quality of life.

#### **Design Philosophy**

The design behind this development was for Frio Cañon property owners to be neighbors in a community of folks who share common interest, enjoy friendship and whose children can play together. The Frio Cañon Community will share in common close to 100 acres of wildlife management area in Texas' most scenic part of the Hill Country. At the center of it all is the Frio River, shaded by ancient Cypress trees, it flows cold and crystal clear refreshing everyone who will jump in.

The design philosophy of Frio Cañon is for construction to be careful and artistic with a special sensitivity to architecture and the land. The entry will be fine, functional yet simple and understated. Nothing should compete with the quality of the land, sky and water. The roads will be paved, practical and simple. The bridge will be strong, a pleasure to look at but not fancy. The Architectural Design Guidelines will be stringent and focus on ensuring craftsmanship and authenticity.

Buildings in Frio Cañon will be quaint in scale where masses are broken down into smaller elements. Oversized large-volume buildings will not be permitted. When a personal building program calls for a large amount of square footage, this can be accomplished by connecting small cottage-scale shapes together. Both indoor spaces and outdoor spaces should be connected with roofed or trellised areas to create a compound arrangement. Materials should be authentic, not

simulated and craftsmanship should be defined in the architectural details. Careful planning will take advantage of natural breezes, daylight and scenic views.

Frio Cañon Architecture: Creating a home for the soul.

A Relaxed community of artistic cottages and casitas focused on folksy and simple living where craftsmanship is respected and at the same time affordable.

## **2. Planning Objectives**

Frio Cañon was created by developers who share a desire to combine the best elements of life – community, exceptional living, fine architecture, scenic surroundings, and natural beauty. Frio Cañon is a community unlike any other in the Leakey area, offering modern amenities to both residents and visitors within a dramatic scenic setting. The development will include such amenities as:

Frio River Park, a waterfront grove of ancient trees located on Tract #39

Homestead Park located at the waterfalls which includes the historic homestead remodeled for a Community Center located on Tract #23

Private community-owned Frio River Crossing located on FVR#17 and Tract #20

Gated Entry with intercom and security card access

The Frio River and adjacent walking trails

Bybee Creek and adjacent walking trails

## **3. Land Stewardship**

The land plan takes full advantage of the rolling countryside and panoramic views. Each parcel being developed takes into account the importance of the site, environment and natural amenities, such as the beautiful Frio River and Bybee Creek, in order to conserve and enhance the natural landscape. The essence of Frio Cañon derives, in part, from a shared stewardship of the natural environment and a desire to perpetuate a private, rural, river getaway country way of life.

## **4. The Architectural Control Committee (ACC)**

### **a. Organization of the Architectural Control Committee (ACC):**

An Architectural Control Committee (ACC) has been created to oversee the overall residential development of Frio Cañon in accordance with these Design Guidelines and the Declaration.

### **b. Purpose and Authority of the Architectural Control Committee (ACC):**

The ACC has been established to assist each Owner in the planning and designing of his residence and any other improvement of that Owner's Tract or Tracts. This process provides an opportunity for the Owner to draw upon expertise and knowledge, which has been acquired by the ACC during the planning and development of Frio Cañon. As provided by the Declaration, the ACC is charged with the responsibility of maintaining the standards set forth in these Design Guidelines and as provided the ACC has the authority to issue all formal approvals or disapprovals of projects and enforce these Design Guidelines. Each residence and/or improvement on a Tract must meet the criteria of these Design Guidelines and the Declaration. The ACC reserves the right to approve, approve with stipulations, or disapprove plans submitted.

## **5. Design and Plan Review Process**

The principal goal of these Design Guidelines is to advise prospective homeowners and architects about ways to locate and design a home, and, at the same time, maintain the character of the community's natural setting.

The ACC will evaluate each proposed design for appropriateness to the subject Tract and compliance with the objectives of these Design Guidelines and the Declarations.

Each Owner shall retain competent professional services for planning and design. Architects and Designers for each home in Frio Cañon must be selected from the pre-approved list of Frio Cañon recommended Architects and Designers. If an Architect/Designer desired to be used by a property owner is not on the recommended list, he/she must be approved by the ACC prior to commencement of any design work. Said professional services shall convey knowledge of the compatibility of a particular Tract and the Owner's special needs to the ACC during the design review process. Each project designed within Frio Cañon must be unique to its site. No stock plans will be permitted.

In keeping with the development's concern for the natural environment, Frio Cañon encourages incorporating the following concepts each home:

- Using low flow plumbing fixtures.
- Installing drought tolerant indigenous landscaping.
- Reducing irrigation once plantings are established.
- Installing and maintaining a grey water or aerobic digestion system for irrigation.
- Installing a cistern to catch rainfall in order to provide or augment irrigation.
- Omitting the use of pesticides and fertilizers within natural drainage areas.
- Using high resistance insulation.
- Setting back thermostats.
- Installing high efficiency appliances.
- The use of appropriate passive energy technologies and renewable resources.

Good planning is the key to conservation. Each Owner, Architect/Designer and Builder should make every effort to:

- Properly orient the house on the Tract to save energy.
- Avoid west sun exposure and encourage capturing southeasterly breezes.
- Creatively protect glass areas to minimize heat gain.
- Incorporate energy saving techniques such as color, landscaping and shading.

## **B. SITE DEVELOPMENT GUIDELINES**

### **1. General**

The location of your building improvements is an important aspect in the design process. Accordingly, the ACC must approve building locations before construction approvals will be issued.

Each Tract must have a topographic and tree survey prepared prior to architectural design to understand and ensure proper building to ground/grade relationships.

- a. Establish a complementary and harmonious visual relationship among the structures on your property, with your immediate neighbors and with the development as a whole.
- b. As best possible, preserve the views and privacy for yourself and your neighbors. Minimize the visual impact of driveways, parking, garages and outbuildings. Position these structures as to not block views from inside the home.
- c. Integrate outbuildings, any Secondary Residence, and connecting walkways with the Primary Residence and surrounding landscape.
- d. Conserve the natural resources of your property. Keep in mind issues such as site drainage and building runoff. Consider capturing building runoff in a cistern for the conservation of water and for future irrigation or the simple use of rain barrels. Unnatural modifications of existing drainage can cause unwanted soil erosion. Seed natural grasses and other planting material on exposed or disturbed soils to ensure complete re-vegetation.
- e. In the event of any violation of the above, the ACC may cause the Tract to be restored immediately to its existing state prior to such violation.

## **2. The Tract**

Every Tract in Frio Cañon can be viewed as having a Natural Area and an Amendable Area with the intent to leave the Tract with a native appearance.

**The Natural Area** is that portion of the site that shall remain as an undisturbed buffer creating a native landscape between residences. This Natural Area consists of all site area outside of the building setback lines. This area may be enhanced with the addition of trees and shrubs native to the area to blend seamlessly into the existing flora, without creating a manicured appearance. The addition of trees and shrubs native to the area may be allowed with the approval of a Landscape Plan submitted to the ACC. Only plants indigenous to the Texas Hill Country should be used in the Natural Area. The sowing of a mix of native grasses and wildflowers to discourage erosion and to provide spring color is welcomed.

**The Amendable Area** consists of the remaining Tract area, including the Building Envelope and all access drives. The Building Envelope is defined as the area necessary to complete construction of the planned improvements within all set back lines described in these Design Guidelines. The Amendable Area shall be subject to the approval of the ACC to ensure the protection of any significant topographical features, drainage areas or archeological features. Natural terrain features such as slopes, ridges, knolls and rock formations should be carefully considered and integrated into the development of the Tract. Use native plants and trees in natural, informal patterns compatible with the existing vegetation.

## **3. Combining Tracts**

In cases where the Owner has purchased two (2) or more Tracts and would like to combine the Amendable Area into a single home site, the Owner may elect to combine all such Tracts into one "Combined Tract" under the terms and conditions set out in the Declaration. A relocated Building Envelope and Amendable Area may span a common Tract line, however, it is possible that such a location could have negative impacts such as impairing views from neighboring Tracts, blocking

natural drainage ways or harming geological features and therefore be deemed unacceptable by the ACC. The Owner, or his delegated representative must submit a plan for the reconfiguration of the Amendable Area prior to the Preliminary Submittal. If a common Tract line is abandoned in order to construct a building straddling an original Tract line, and a structure is built across an original Tract line, the Combined Tract on which such structure is located cannot thereafter be divided into separate Tracts. If two or more Tracts are combined into one Tract, only one Primary Residence (as defined in the Declaration) and one Secondary Residence (as defined in the Declaration) is permitted on the one Combined Tract.

#### **4. Sub-dividing Tracts**

No Tract may be subdivided.

#### **5. Setbacks**

Minimum setbacks for buildings from Tract lines are as follows:

1. Front yard setback: 50 feet.
2. Side yard setback: 10 feet. (Front yard setbacks for Tracts 15,16 & 18 of Frio Vista Ranch is measured from Hwy 83 even though driveway access will be off of Cascada Pass)
3. Rear yard setback: Buildings will have a 50 feet minimum rear yard set back.

Setbacks will be reviewed on the merits of the submitted site plan design. Final approval of any changes in setbacks shall be determined by the ACC.

#### **6. Access**

All access drives are considered to be part of the Amendable Area. To the extent practical, drives shall curve and follow the natural terrain. Washes and drainage ways may be bridged, but shall be left free and unimpeded in their natural state.

In keeping with the philosophy to minimize the disruption of the existing environment, align driveways to follow the natural contour of the land and blend with the natural setting.

- a. Entrance driveways should be located to minimize their visual impact on important natural features of a Tract.
- b. Driveways shall be a minimum of 12' and a maximum of 16' wide. Only one driveway entrance will be permitted for each Tract. Circular drives that are contained totally within the Tract will be considered by the ACC on an individual basis.
- c. In cases where the Owner has purchased two contiguous Tracts and desires to add a second entrance, the Owner must receive consent from the ACC.
- d. All driveways must be an all-weather surface constructed of stained concrete, chip- seal paving, asphalt, high quality pavers, decomposed granite gravel, or dark or earth-toned gravel. No white caliche, road base or white gravel will be permitted. No bright or unusually contrasting colors are allowed. If adjacent roadway is banded or bordered by a concrete or stone ribbon curb or gutter, than that same concrete band or gutter system must extend on either side of the entrance driveway from roadway to property line or entry gate, whichever is most restrictive.

## **7. Impervious Cover**

No Tract shall exceed the following Impervious Cover calculations:

- a. Footprints of main living structures: 25% of Tract area.
- b. Overall footprint of walks, drives, outdoor structures: 40% of Tract area.

Crushed granite or gravel drives are not included in impervious cover calculations.

## **8. Utilities**

All utilities are to be buried to meet governmental codes and standards.

## **9. Walking Trail Easement**

As identified on the subdivision plat, all river front Tracts contain a 20 foot walking trail easement at the rear of each Tract and certain creek fronting Tracts contain a 10 foot walking easement. Each 10' or 20' easement is measured from the existing bank/edge of the water and terminates at the base of any bluff. Walking easements only apply at the relative elevation height of the water and do not extend to the top of adjacent bluffs such as on Frio Cañon Tracts 11-19 or Frio Vista Ranch Tract 15. The easement is accessible to all Frio Cañon property owners for use as a "moving" walking access trail – meaning no loitering, day-use, no recreating or any activity other than continuous passing through the easement is permitted by anyone other than the individual property owner. The easement shall be contained within the boundary of the Tract and owned by the Tract owner, but shall be deemed "common area." Building or construction of any kind on the easement is limited to that expressly permitted in the Declaration.

## **10. Watercourses and Drainage**

With the understanding that the natural topography in Frio Cañon can vary from Tract to Tract, the following general guidelines shall be followed.

- a. Site drainage and grading should be done with the goal of minimum disruption to the Tract.
- b. Surface drainage shall not drain to adjoining Tracts or open spaces or cause a condition that could unnaturally lead to offsite soil erosion on open spaces except as established by natural drainage patterns. When a change in the drainage way within a given Tract is absolutely necessary, create positive drainage in a logical and natural manner.
- c. No change in natural or existing drainage patterns for surface waters shall be made upon any Tract that could adversely affect natural drainage patterns or another Tract.
- d. Natural drainage ways occur throughout Frio Cañon. These are important recharge features for the aquifer system and should not be significantly obstructed.
- e. Building improvements must be designed so as not to be situated within or obstruct 100-year storm flows. The 100-year flood zone boundary shown on the Frio Cañon plat is approximate. It is encouraged that building location and elevation of foundations takes into consideration potential 100-year storm flows. This approximate 100-year flood zone is of special consideration due to the potential for water flows of a high volume and must remain unaltered and unobstructed.
- f. In general, the surface drainage across a Tract must enter and leave the Tract in the same locations as before construction of improvements and in no condition may any improvements regarding natural drainage ways force water onto adjacent property.

## **C. BUILDING DESIGN GUIDELINES**

These Design Guidelines have been developed in order to establish a cohesive, aesthetically pleasing visual, architectural style throughout Frio Cañon. It is the intent to promote the desired architectural look and feel of Frio Cañon through thoughtful planning and design and through the use of appropriate scale, massing, materials and details.

### **1. Design Style**

Architectural design will be paramount at Frio Cañon. Homes built within the development will comply with these Design Guidelines and the Declaration to ensure quality, beauty, tranquility and consideration of neighbors. The ACC will carefully approve designs for each home to ensure harmony with the individual site, the surrounding environment, and neighboring buildings. Frio Cañon encourages creativity in design through the use of appropriate, locally available materials and incorporation of authentic materials and details. Casita, Cottage and Bungalow styles are encouraged and preferred. Contemporary interpretations are permitted provided that the project is designed in such a way to be harmonious and complimentary with the overall community concept and with the designs of adjacent properties.

Designs that consist of small-scale shapes connected by architectural links are encouraged.

Outdoor places are encouraged as connecting pieces to detached structures with such elements as trellises, outdoor rooms, porches with outdoor fireplaces and other outdoor living amenities.

Prohibited styles would include but not be limited to permanent or temporary pre-fabricated housing, factory-milled-round-log type cabins. Suburban traditional styles such as Georgian, Colonial and Tudor are prohibited except where interpretations are done in such a way where smaller cottage type scale is upheld and detailing is historically sensitive and not suburbanized with volume builder economized details. "Ultra-contemporary" styles are discouraged but will be reviewed by the ACC on a case by case basis; if the ACC feels the particular design is compatible with the overall community concept and meets all design guideline requirements these designs will be approved; this type of approval will depend greatly on the designs of the neighboring Tracts.

### **2. Architectural Requirements**

#### **a. Building Heights**

Frio Cañon encourages the design to blend and integrate structures with the site's topography and vegetation. No portion of any residence or man-made structure shall exceed two (2) stories or 35' maximum height from the main finish floor. Height shall be measured in a vertical plane from the highest roof ridge or parapet to the first floor slab grade. Despite the maximum heights generally permitted, the ACC may disapprove a proposed residence or outbuilding, which may be within the height guideline if it so deems the design inappropriate.

#### **b. Building Sizes**

Living area shall be defined as heated and cooled conditioned area and is measured to the outermost perimeter wall surface of the framed or structural wall surrounding the conditioned space. Total living area on a Tract shall be a minimum of 1500 square feet of air-conditioned space for one-story dwellings and a minimum of 1,800 square feet for two story units. Two story

buildings shall have a minimum of 1200 square feet on the main floor level and the upper level may not exceed 50% of the lower level. 3-story homes are prohibited.

Large buildings programs are required to be designed in such a way to break the scale of structures into smaller masses. Large volume buildings will be rejected such as traditional colonial buildings with 2-story tall columns on the front porch. Frio Cañon buildings are to be designed as a community of cottage and casita size structures. Large volume structures where the scale of the structure is not broken down into smaller masses will not be approved and will be required to be redesigned into smaller masses.

### **c. Building Materials**

All building materials shall be authentic, quality materials appropriate to the architectural style of the building. Salvaged materials are encouraged. On masonry (stone or stucco) veneered buildings, masonry ledges and stucco veneer must be dropped to within 6" (maximum) of finished grade. The stone, when used as a veneer, should be laid as if to resemble an actual masonry load-bearing wall.

Prohibited materials include but are not limited to the following:

Siding: round pre-fabricated milled logs, EIFS stucco systems, plywood, vinyl, aluminum or plastic. Any siding material that is made to look like something that it is not will not be approved.

Windows: volume-builder type aluminum windows and doors are prohibited. Aluminum and steel windows are acceptable only when appropriate in a contemporary design and then must be made by a metal window manufacturer that fabricates custom sizes and shapes. Steel windows such as Hope Window Manufacturer are acceptable.

Roofing: Concrete tiles, simulated materials, dimensional or simulated slate composition shingles, or exposed fastener "channel-drain" profile metal roofing are not acceptable. Small amounts of salvaged tin requiring exposed fasteners may be approved by the ACC if in keeping with structures built with an emphasis on using reclaimed materials.

### **d. Building Colors**

Colors shall be appropriate to how the architectural style being utilized has been historically interpreted. Generally color is limited to earth tones that harmonize with the natural landscape. Stone and brick shall be limited to regional colors and materials. Colors of bold and contrasting color will not be allowed except where fitting to the style such as bright accent colors on window sashes of cottage style buildings. Similarly, choice of plaster colors should imitate regional, natural, earth tone colors, compatible with the colors of the native landscape, soils or stones. Color will be considered first in terms of its architectural authenticity, second how the scheme interacts with the neighboring structures as well as the overall community

Accents colors on front doors, window sash and screens or other incidental elements are allowed as long as, in the opinion of ACC, the accent does not overwhelm the building's basic color or create a visual distraction. Fluorescent colors are prohibited.

### **e. Roofing and Gutters**

In keeping with goals of visual harmony, the ACC requires pitched roofs for the main body of the house. A limited number of appropriately designed and positioned flat or low-slope roofs may be allowed within a structure, approved by the ACC on a case-by-case basis. No entire structure may be flat or low-pitched roofing. Slopes of less than 4:12 shall be permitted at a limited number of areas of metal shed roofs, porches, etc. for architectural interest. Metal roofing shall be a minimum of 24 gauge standing seam. Tile roofing must be authentic clay or salvaged antique material. Slate roofing tile must be authentic slate material. No mechanical equipment shall be located on roofs.

For proper water management, gutters are allowed on all structures. Gutters and downspouts must be a historic profile, round or half round profile, as approved by the ACC. All gutters and downspouts shall be copper, paint-grip, natural galvanized or galvalume, or painted galvanized. Aluminum gutters and downspouts are prohibited.

#### **f. Eaves and Overhangs**

All roof eaves shall be constructed with exposed rafter tails or outriggers. Areas without eaves or overhangs may be considered by the ACC if appropriate to the design. Boxed soffits or enclosed traditional soffits are prohibited.

#### **g. Fireplaces and Chimneys**

Fireplaces must be built of true masonry construction or “Isokern” type masonry composite approved equals. Pre-fab, metal box or direct-vent fireplaces are prohibited except in certain contemporary designs and approved by the ACC. New wood stoves are acceptable.

Chimneys shall be 100% masonry construction in a color and material complimentary to the main structure. ACC approved architectural caps or clay chimney pots are required on all chimneys. No siding or combustible materials are permitted on any chimneys.

#### **h. Building Projections**

All projections from a building, including but not limited to chimney caps, vents, gutters, down spouts, utility boxes, porches, railings and exterior stairways shall be visually integrated into the overall design, unless otherwise approved by the ACC. All building projections must be contained within the Building Envelope.

#### **i. Exterior and Site Lighting**

Frio Cañon is committed to ensuring the community maintains the beauty and character of the natural environment and adopts the following guidelines to minimize the light pollution of the night sky.

Definitions:

“Site lighting” is exterior lighting mounted either on the ground, in trees or on site walls for the purpose of providing safe passage between building improvements, accent lighting of building improvements themselves or accent lighting of trees and other landscape features.

“Building mounted lighting” is lighting built into or attached to buildings on the walls, ceiling, eaves, fascias or other locations for the purpose of providing general illumination, area illumination, security illumination or landscape illumination.

“Security lighting” is lighting intended to provide bright general illumination of the area adjacent to a residence during emergency situations.

1. Site lighting must be directed onto trees, vegetation or prominent site features. The accent lighting of the building improvements themselves is discouraged but allowed on a low-level illumination basis.
2. Building mounted lighting must be directed downward away from adjacent Tracts, streets and open spaces and may not be used to light walls or building elements for decorative purposes.
3. All exterior lighting must provide for complete shielding of light sources; no bare lamps will be permitted. Care should be taken to shield the lamp from view.
4. Only lamps with a maximum wattage of 45 watts will be allowed unless approval is received from the ACC.
5. Security lighting, which by its nature, is bright and of a general nature, will be permitted with the understanding that it will only be used in emergencies. Its separate circuiting and controls shall be shown on the final plan submittal. Pole mounted mercury vapor lights are prohibited.
6. Up lighting on buildings will generally be disallowed, as will an excessive number of fixtures, or excess light levels and glare. Tree up-lighting is permissible with ACC approval.
7. Motion activated lighting will be restricted in the event it becomes a nuisance to the neighboring tract owner.

#### **j. Antennae and Satellite Dishes**

There shall be no antennae or satellite dishes of any sort visible from neighboring property, streets or common areas except as expressly permitted by the ACC.

#### **k. Skylights and Windows**

Care must be taken in locating, positioning and sizing of all windows and skylights.

1. Skylights must be either tinted bronze or gray, or must match the adjacent roof color. Lenses must be tinted bronze or gray, no white or clear lenses are permitted.
2. All windows must be wood, clad wood, or steel.

#### **l. Porches, Patios and Outdoor Rooms**

Porches, Patios and Outdoor Rooms are encouraged and should be designed as integral parts of the residence taking full advantage of the climate and views. Connecting Outdoor structures with Indoor buildings in a compound type arrangement is strongly encouraged.

#### **m. Screen Walls**

Architectural walls and screen walls should be a visual extension of the architectural design of the residence. Finish materials on all building walls and screen walls should be continued down to finish grade to the extent possible, thereby eliminating unfinished foundation walls. Architectural walls are encouraged to connect Indoor buildings with Outdoor spaces. Architectural walls and screen walls are limited to within the amendable building footprint.

### **3. Garages and Parking**

Each Primary Residence shall include an enclosed garage for one automobile and one golf cart.

Every residence shall contain guest parking spaces within the Tract for at least two automobiles. Garage structures may be attached to or detached from the Primary Residence. In addition to the required garage structure, porte-cochere and carport structures are permissible and must be compatible with and integrated architecturally into the design of the Primary Residence. No pre-fab, kit or fence pole type carport structures are allowed. All Garage doors must have clad overlay applied to standard segmented Garage door panels or must be solid doors. No standard segmented Garage doors without cladding will be permitted. Steps must be taken to ensure proper storage of all tools, lawn equipment and sport equipment in an appropriately designed, enclosed structure. All such structures must be compatible with and integrated architecturally into the design of the Primary Residence and are subject to the approval of the ACC.

#### **4. Miscellaneous Parking**

##### **a. Miscellaneous Vehicle Parking and Storage**

No temporary or permanent onsite storage of recreational vehicles, boats, campers, hunting vehicles, etc. will be permitted on any Tract unless stored within the enclosed Garage. Such vehicles are only allowed if they fit within a typical standard sized one car Garage. Oversized Garages for motor homes are not permitted.

##### **b. On-Street Parking**

Except for special events, no on-street parking will be permitted for residents or their guests' vehicles. When a Frio Cañon Community tract owner plans a special event or party that might require on-street parking, notice should be given to the Community Association at least 7 days prior.

#### **5. Outbuildings and Detached Structures**

Outbuildings, a Secondary Residence, and various appropriately designed detached structures are encouraged. Such buildings may be attached by covered links or be completely detached but should be compatible to the general architectural style, scale, massing, materials, colors and level of detailing as the Primary Residence located on the Tract.

#### **6. Temporary or Portable Structures**

No portable storage barns, garden sheds, garage covers or temporary “kit” structures will be allowed at any time.

#### **7. Above Ground Containers, Storage Tanks and Cisterns**

All above ground garbage and trash containers, mechanical equipment and other outdoor maintenance and service facilities must be screened by walls from other Tracts, streets or public spaces. No fuel storage tanks or pumps shall be allowed. Cisterns for water collection are encouraged but must be aesthetically pleasing if visible and fit appropriately into the overall architectural design concept.

#### **8. Fences and Walls**

Fences are not permitted on property lines except on the outermost perimeter boundary of the Frio Cañon Subdivision and in certain Common Area boundaries as approved by the Community Association. Fencing is discouraged except as required for swimming pool safety. Walls and

architectural fencing that are part of the architectural design are permissible within the amendable building area provided that such walls connect architectural structures and gardens that tie together and relate to each other in the overall site design concept. The ACC will give special exceptions to corner Tracts, particularly Frio Vista Ranch Tracts 15, 16 & 18 since these Tracts have driveways that will enter from a side Tract line.

### **9. Mail Boxes and Address Identification**

No on-site mailboxes are permitted. All mail delivery to be arranged via off-site Postal Box or private mailbox services.

ACC address markers and identification are required at each Tract access point (driveway entrance). Required address markers will be provided by the Community Association for \$250 each.

No additional signage detached from the residence will be permitted, except one temporary construction sign approved by the ACC.

### **10. Recreation Facilities, Sport Courts and Pools/Spas**

a. Tennis courts, sport courts, swimming pools and other recreational sport surfaces will be considered on a case-by-case basis and must be approved by ACC. No facilities shall be permitted beyond the front face of the Primary Residence. All structures must be shielded from view from any street or neighboring properties.

b. Sports lighting for all sports courts and facilities will be stringently limited and subject to the adjoining tract owners written approval.

c. Basketball hoops and backboards may be installed on any Residence when approved by the ACC. The installation of game backboards and such should consider the privacy of adjacent Tracts, as well as color and obtrusiveness of its location. The basketball hoop and/or game backboards should be dismantled when no longer utilized. Portable basketball hoops, soccer nets and any portable, temporary sports fixtures are allowed but must be put away when not in use.

d. Swimming pools should be designed to be visually connected to the residence and must be constructed within the Amendable Building Area. Swimming pools must be aesthetically pleasing to neighboring Tract owners or must be screened from view from adjacent Tracts, streets and public spaces. Above ground pools will not be permitted. Pools may be constructed on slopes exposing one or more sides of the pool, although the exposed sides should be concealed either in approved building materials, plants, vines or aesthetically pleasing foliage or by decks or platforms approved by the ACC. Fencing must meet governmental requirements and insurance regulations. All pool equipment must be screened from view by solid wall screening.

### **11. Landscape**

Frio Cañon property owners are encouraged to maintain the existing natural character of the property. Landscaping is not required, but if landscaping is installed, Owners should utilize drought-tolerant, "xeri-scape" landscaping and sound water conservation practices. Landscaping within the Amendable Area may be kept groomed and formally landscaped. Irrigation must be installed within the groomed area. The Natural Area and all remaining Tract areas must remain native. Any native areas damaged or disturbed during construction, or as a result of flooding or drought, or through owner activity on the Tract, must be repaired, re-vegetated and restored to the original native condition.

Gardening is encouraged. Vegetable gardens and flower gardens are encouraged throughout the Frio Cañon Community. Rainwater collection for gardening is encouraged as well.

Driveway entrances and access drives may remain totally native or may contain limited landscaping approved by the ACC.

Residents must comply with Real County rules regarding irrigation and burn bans during times of drought. Additional site planning approval concerning vegetation removal, site grading, surface drainage, erosion control and landscaping shall be part of the architectural review process.

Before any landscaping installation, the landscape layout and plans shall be submitted to the ACC. Plans will include all landscaping, garden plots, plant materials, irrigation, walls, walks, swimming pools, architectural fencing or other features to be installed or constructed on any portion of the Tract.

Landscape plans must be submitted for review by the ACC within six (6) months after commencement of construction of structures and no later than thirty (30) days prior to home completion. Landscaping must be completed within sixty days (60) after the completion of home construction unless otherwise approved by the ACC.

#### **a. Approved Plant List for Native Areas**

The ACC has found the plant lists developed by the National Wildflower Research Center, [www.wildflower.org](http://www.wildflower.org) very helpful for native landscape design. This website includes a compilation of "Recommended Species for Southwest Texas". This includes "Recommended Species for Central Texas" and "Recommended Species for South Texas". Additional National Wildflower Research Center publications "Native Plant Bibliography for Texas," "Texas Sources for Native Plants and Seeds," " Gardening and Landscaping with Native Plants," and "Wildflower Meadow Gardening" are also included herewith. Plants must come from these resources or from an equally approved source for our planting/climate zone.

In addition, the National Wildflower Research Center has consultants available at a nominal fee to help you either by prepaid telephone conversations or by personal appointments.

All plant materials are subject to approval by ACC.

Other available resources include:

Native & Adapted Landscape Plants, [www.growgreen.org](http://www.growgreen.org).  
Texas A&M University, Horticulture, [www.aggie-horticulture.com](http://www.aggie-horticulture.com).  
Lady Bird Johnson Wildflower Center, [www.wildflower.org](http://www.wildflower.org).  
Your local County Extension Office.

#### **b. Landscape Deposit**

A Landscape Deposit is required and included as part of the Construction Compliance Deposit.

## **D. CONSTRUCTION GUIDELINES**

All Owners will be absolutely and totally responsible for the conduct and behavior of their agents, representative, builders, contractors and subcontractors while on the premises of Frio Cañon. Failure to comply with Construction Guidelines, after written notification, may result in fines deducted from the Standard Construction Deposit or assessed in addition to the amount on deposit.

### **1. Construction Regulations**

In order to assure that the natural landscape of Frio Cañon is not unduly damaged during construction, the following Construction Regulations shall be made a part of the construction contract documents for each residence or other improvements on a Tract. All Builders and Homeowners shall be bound by these Construction Regulations and any violation, regardless if by a Builder or subcontractor/supplier, shall be deemed to be a violation by the Owner of the Tract.

The ACC members and the Directors of the Frio Cañon Community Association or their agents will do policing of building sites during the construction of any improvement to the Tract. Violations of the Construction Regulations will be reported to the Board of Directors of the Frio Cañon Homeowners' Association, who will send a letter to the Builder and/or Homeowner involved. A copy of the letter will be sent to the ACC.

### **2. Construction Compliance Deposit**

To guarantee that these Regulations are adhered to, each Tract Owner, before beginning any construction, shall post a cash bond or other acceptable means of surety in the amount of \$2,500.00 with the ACC. Should it become necessary for either the ACC or the Board to remedy any violation of these Regulations, including but not limited to Repair of Property, Landscape guarantee, the costs of such remedy will be charged against the bond. The determination of a violation shall be by the sole discretion of the ACC.

### **3. Pre-construction Conference**

Prior to commencing construction, the Builder must meet with the ACC Representative to review construction procedures and to coordinate construction activities. Builders will be asked to fill out a form including a list of subcontractors and suppliers, in order for them to gain access to the project.

### **4. Builder Requirements**

Frio Cañon welcomes qualified and pre-approved custom builders that meet the following criteria:

- a. All builders working at Frio Cañon will show proof of general liability insurance.
- b. Builders will be registered with the TRCC.
- c. All subcontractors must be insured and licensed.
- d. Builders will provide third party inspections with an inspector approved by Frio Cañon for the following phases of work:
  1. Pre-pour steel inspection by qualified structural inspector or licensed structural engineer.
  2. Framing, Plumbing top-out, Electrical rough, Mechanical rough inspections prior to sheetrock installation.
  3. Final Inspection upon building completion, including final plumbing, mechanical and electrical.

## **5. Occupational Safety and Health Act Compliance (OSHA)**

All applicable OSHA regulations and guidelines must be strictly observed at all times.

## **6. Temporary Facilities**

a. Any Owner or Builder who desires to bring a construction trailer field office to Frio Cañon shall first apply for and obtain written approval from the ACC. To obtain such approval, the Homeowner or Builder shall submit a copy of the architect's site plan with proposed locations of the construction trailer field office, the portable toilet and the trash receptacle noted thereon. The location should be out of sight from the street and adjacent neighbors to the extent possible. Such construction trailer field office shall be removed immediately upon completion of construction.

b. Portable toilets are required on each Tract during construction and must be regularly serviced at least weekly during any and all construction operations or phases.

c. Construction trailers, portable toilets, construction material storage and staging areas, dumpsters and parking areas should all be grouped together and condensed on the site as much as practicable.

## **7. Construction Temporary Fencing**

a. The natural landscape of each Tract will be protected during construction. All trees within the construction fencing will be protected with tree-protection construction fencing to prevent damage to roots, trunks or limbs. Tree protection fencing will remain intact until the completion of construction.

b. Properly installed silt fences are required.

## **8. Parking Areas**

Private and construction vehicles and machinery shall be parked only within the Amendable Area. Parking may be permitted within the Tract's Natural Area only when designated by the ACC. All vehicles shall be parked so as not to inhibit traffic. Construction crews shall not park on, or otherwise use, other Tracts or any open space. Each Builder shall be responsible for its subcontractors and suppliers obeying the speed limits posted within the development. Fines will be imposed against the Builder and/or its Building Bond for repeated violations. Adhering to the speed limits shall be a condition included in the contract between the Builder and its subcontractors/suppliers. Repeat offenders may be denied future access to Frio Cañon by the ACC.

## **9. Excavation Materials and Other Debris**

Excess excavation materials, trash and debris on the construction site must be hauled away from Frio Cañon to an approved dumpsite at the end of each week. Lightweight materials, packaging and other items shall be covered or weighted down to prevent their being blown off the construction site. Builders must provide a "roll-off" or site-constructed trash bin or receptacle on site. Builders are prohibited from dumping, burying or burning trash anywhere in Frio Cañon.

## **10. Conservation**

Tree removal is subject to any jurisdictional (City, County, State) requirements and regulations which may be in place governing tree removal and replacement provisions.

No hardwood tree with a diameter of 20" or greater may be removed without ACC approval.



### **11. Restoration or Repair of Property Damage**

Damage and scarring to any property, open space or other Tract, including, but not limited to roads, driveways, concrete curbs, gutters, utilities, vegetation and/or other improvements resulting from construction operations will not be permitted. If any such damage occurs, it must be repaired and/or restored promptly and any expenses are those of the Builder, and, in the event of default by the Builder in meeting these obligations, the Tract Owner who has retained the Builder shall be responsible.

### **12. Construction Access**

The only approved construction access during the time a residence or other improvement is under construction will be over the approved driveway for the Tract unless the ACC approves an alternate access point. When required for drainage, a culvert must be installed at the construction access point.

### **13. Dust and Noise**

The Builder shall be responsible for controlling dust and noise, including, without limitation, music from the construction site.

### **14. Temporary Construction Signage**

Only one temporary construction sign will be allowed at the construction entrance point. This sign should state the name and phone number of the builder and/or the architect/designer. Construction safety signs as required by OSHA should be posted on site within the building area.

### **15. Miscellaneous Prohibited Practices for Construction Guidelines**

The following practices are prohibited by Construction Contractors:

- a. Changing oil on any vehicle or equipment on the site itself or at any other location within Frio Cañon other than at a location, if any, designated for that purpose by the ACC.
- b. Cleaning and dumping of concrete, plaster, mortar by subcontractors to clean their equipment is only allowed within the building envelope Amendable Area unless another area is specifically approved by the ACC.
- c. No left over material will be allowed to be kept on site unless utilized within 2 months after building completion and specifically approved by the ACC.
- d. Carrying any type of firearms within Frio Cañon.
- e. Trash disposal methods or equipment other than those approved by the ACC.
- f. Careless disposition of cigarettes and other flammable material.
- g. At least one 10-pound ABC rated dry chemical fire extinguisher shall be present and available in a conspicuous place on the construction site at all times.
- h. Careless treatment or removal of protected plant materials or plants not previously approved for removal by the ACC.
- i. Cleaning of any equipment of any disposable of materials, trash or construction debris of any kind into River is strictly prohibited.

Repeated violations of these requirements will result in being denied admittance to the property.

## **16. Hours and Daily Operation**

Daily working hours for each construction site shall be Monday through Saturday, from 30 minutes before sunrise to 30 minutes after sunset, unless other hours are designated in writing by the ACC. No work on Sunday or national holidays.

## **E. REVIEW AND APPROVAL PROCESS**

### **1. Organization of the Architectural Control Committee (ACC)**

An Architectural Control Committee (ACC) has been created to oversee the overall residential development of Frio Cañon in accordance with these Design Guidelines and the "Declaration of Covenants, Conditions, Easements, and Restrictions."

### **2. Purpose and Authority of the Architectural Control Committee (ACC)**

The ACC has been established to assist each Owner in the planning and designing of his residence and any other improvement of the Tract. This process provides an opportunity for the Owner to draw upon expertise and knowledge, which has been acquired by the ACC during the planning and development of Frio Cañon. As provided by the Declaration, the ACC is charged with the responsibility of maintaining the standards set forth in these Design Guidelines and as provided the ACC has the authority to issue all formal approvals or disapprovals of projects and enforce these Design Guidelines. Each residence and/or improvement on the Tract must meet the criteria of these Design Guidelines. The ACC reserves the right to approve, approve with stipulations or disapprove plans submitted.

The ACC will review designs only after determining that it has all information necessary.

### **3. The 5-Step Review Process**

Frio Cañon has established a 5-step review process to assist the homeowner through the design process in a logical sequence. This 5step process begins with a Pre-Design Meeting and is followed by 3 Design Submittals to the ACC and a Final Inspection after construction is substantially complete.

Although the ACC will enforce all provisions of the Declaration and these Design Guidelines, the following will be of particular concern:

- (a) site planning for all building improvements, including locations, and how such improvements will affect the views and privacy of other Tracts in the development;
- (b) building heights and rooflines;
- (c) exterior elevations of residences and outbuildings in an effort to maintain a high level of aesthetic quality consistent with the vision of Frio Cañon;
- (d) building materials and finishes, including, but not limited, to paint and material colors;
- (e) landscaping provisions within the Tract, including preservation of native vegetation and use of drought-resistant native plants and materials in order to maintain the natural character of Frio Cañon.

## **The 5-step review process includes:**

### **Step 1: PRE-DESIGN MEETING**

Prior to preparing any drawings other than sketches for a proposed improvement, the Owner and/or the Owner's Architect/Designer and/or Builder shall meet with the ACC to discuss the proposed project and answer any questions regarding the Declaration, these Design Guidelines and Construction Guidelines, pre-construction or construction phase issues or requirements, the design review process or any Tract constraints as may be pertinent.

### **Step 2: SUBMITTAL #1 Preliminary Design Review**

This phase of the submittal process is intended to provide the ACC with a purely schematic design concept which will demonstrate the flavor of the house, its plan, and basic materials.

Drawings and forms to be submitted must include:

- a. Conceptual floor plan
- b. Conceptual "representative" front exterior elevation
- c. Filled-out ACC Submittal Review Form indicating the type of submittal being made, \$500 Design Review Fee and a list of the attachments.

These drawings are not necessarily intended to be specific to the ultimate design, but are meant to convey the general concept and architecture for the proposed residence.

If in compliance, the ACC will indicate its approval with signature on the ACC Submittal review form, keep one copy in its file and give one copy to the Owner or Owner's rep.

### **Step 3: SUBMITTAL #2 Design Development Plan Review**

Design Development drawings, including all of the exhibits outlined below and submittal fees must be submitted to the ACC. Submittal must include all data as noted or requested in the Preliminary/Schematic submittal and review process.

Drawings and forms to be submitted include:

- a. Filled-out ACC Submittal Review Form indicating the type of submittal being made, and a list of the attachments.
- b. SITE PLAN at a scale no less than 1"=30' (1"=20' preferable) on a 24"x 36" or a 30"x 42" sheet including the locations and areas of all building improvements or major structures, distances from proposed structures to nearest structures (if any) on adjacent Tracts, driveway, parking areas, patios, pools, walls, proposed utility service facilities and routes, site grading, including existing and proposed contours at two foot intervals and major topographic features such as washes, rock outcroppings and existing trees and major shrubs to be retained and relocated or that are within 30 feet of the proposed improvements, any disturbed areas and grade elevations of all building floors, patios and terraces, shown in relation to site contour elevations. Each Owner shall be responsible for the accuracy of all information contained therein.
- c. ROOF and FLOOR PLANS at no less than 1/4"= 1'-0". Roof plans will show areas of sloped and flat roofs, porch roofs and all skylights and solar collectors if any.
- d. EXTERIOR ELEVATIONS of all sides of the residence, at the same scale as the floor plans, with both existing and proposed grade lines. Exterior materials and colors shall be indicated. All

roofing materials must be identified. Elevations (heights) of all roof ridgelines, cupolas or parapets shall be shown.

e. Any other drawings, materials or samples requested by the ACC.

f. All ancillary improvements contemplated on the Tract must be shown.

If in compliance, the ACC will indicate its approval with signature on the ACC Submittal review form, keep one copy in its file and give one copy to the Owner or Owner's rep.

#### **Step 4: SUBMITTAL #3: Final Plan Review and Approval for Construction**

After approval of the Design Development Phase drawings, the following documents are to be submitted to the ACC for final approval before commencement of construction:

a. Filled-out ACC Submittal Review Form indicating the type of submittal being made, and a list of the attachments.

b. Complete ARCHITECTURAL CONSTRUCTION DOCUMENTS for the residence including all data noted required in the Preliminary and Design Development reviews and approvals, as required to illustrate the site, building, and utility locations. Drawings must include final SITE PLAN, final FLOOR & ROOF PLANS, and final EXTERIOR ELEVATIONS of all sides of residence along with specifications. Site plan shall be at a minimum scale of 1" = 10'-0". All other architectural drawings must be at a minimum scale of 1/4" = 1'-0".

c. ENGINEERED FOUNDATION DRAWINGS including signature and stamp by registered structural engineer.

d. ENGINEERED SEPTIC PLANS along with Real County septic permit.

e. SAMPLES OF EXTERIOR MATERIALS AND COLORS, window specifications and accent items including color photographs of any exterior artwork. These should be mounted on an 18"x 24" board clearly marked with Owner's name, filing date and Tract number.

f. A LANDSCAPE PLAN at the same scale as the site plan, showing: areas to be irrigated (if any), locations and sizes of all existing and proposed plants, a plant list and any decorative features such as pools or sculptures.

g. An approximate CONSTRUCTION TIME SCHEDULE indicating approximate dates for starting and completion of construction, utility hookup, completion of landscaping work and anticipated occupancy date.

h. TEMPORARY UTILITY LOCATIONS, including construction sanitary facilities.

i. \$2500 STANDARD CONSTRUCTION COMPLIANCE DEPOSIT

j. SITE STAKEOUT of building locations should have been completed and a site inspection to review final staking will be conducted as a part of the Final Review process.

## **FINAL APPROVAL**

Upon receipt of the complete Final Submittal, the ACC will review the submittal for conformance to these Design Guidelines and any preliminary approval stipulations within 30 days. Upon determining that the required submittals have been received, fees paid and are in a form acceptable to the Committee, the ACC will indicate its approval with signature on the ACC Submittal review form, keep one copy in its file and give one copy to the Owner or Owner's rep. Approval of the plans by the ACC does not relieve the applicant from complete responsibility for compliance with these Design Guidelines and any regulatory agencies.

The ACC, prior to construction of any improvements, must approve and qualify the builder/general contractor. If an Owner wishes to propose a non pre-approved builder/general contractor, the name of the contractor and four (4) references (including one banking reference) must be submitted to the ACC. All non pre-approved builders/general contractors must be approved on a project-by-project basis. The ACC, however, by giving approval of a contractor makes no implicit or explicit guarantees of any kind for the performance either fiscally or for the quality of actual construction of the approved contractor or builder.

After receipt of Final Approval and before commencement of construction, builder should install silt fences, tree protection and vegetation protection fencing.

## **Step 5: FINAL CONSTRUCTION COMPLIANCE INSPECTION**

Upon substantial completion of any residence or other improvement for which final approval was given by the ACC, the Owner shall give written request for Final Inspection. Inspection shall occur within 7 working days from receipt of such written notice.

Upon determining that the work was done in strict compliance with the approved Final Submittal and these Design Guidelines, the ACC will indicate its approval with signature on the ACC Final Submittal review form, keep one copy in its file and give one copy to the Owner or Owner's rep.

If it is found that such work was not done in strict compliance with the approved Final Submittal and these Design Guidelines, the ACC shall notify the Owner in writing of such noncompliance within 7 days after completion of its Final Inspection, specifying in reasonable detail the particulars of noncompliance and shall require the Owner to remedy the same.

If upon the expiration of 30 days from the date of such notification by the ACC, the Owner shall have failed to remedy such noncompliance, the ACC shall notify the Owner and may take such action to remedy this noncompliance as is provided for in these Design Guidelines or the Declaration including, but without limitation, injunctive relief or the imposition of a fine.

## **4. Construction Permit**

Securing of any and all construction and occupancy permits as may be required are the responsibility of the Owner and/or Builder. Construction shall be in accordance with the Final Submittal approved by the ACC, these Design Guidelines, the Declaration, and in accordance with all applicable governmental rules and regulations.

## **5. Additional Construction and Changes**

Any substantial or significant changes to the approved exterior drawings prior to or during construction must be submitted for approval by the ACC.

## **6. Re-Submittal of Drawings**

In the event of disapproval by the ACC of either a Preliminary or a Final Submittal, any resubmission of drawings must follow the same procedure as the original submittal along with any appropriate Re-review fees.

## **7. Work in Progress Inspections:**

Although not required, the ACC shall have the authority to inspect the construction project at various times during construction to ensure that the improvements are in compliance with the approved plans. Any notice of non-compliance with the approved drawings must be resolved promptly.

## **8. Non-waiver**

Any approval by the ACC of any drawings or specifications or work done or proposed or in connection with any other matter requiring such approval under these Design Guidelines or Declaration, including a waiver by the ACC, shall not be deemed to constitute a waiver of any right to withhold approval as to any similar drawing, specification or matter whenever subsequently or additionally submitted for approval. For example, the ACC may disapprove an item shown on the Final Submittal even though it may have been existent in previous submittals and was not disapproved. The Owner and his representative shall make known to the ACC any variances from these Design Guidelines. Furthermore, should the ACC overlook or not be aware of any item of noncompliance at anytime during the review process, construction process or during its final inspection, the oversight of the ACC in no way relieves the Owner from compliance with these Design Guidelines and all other applicable codes, ordinances and laws.

Adopted this 19<sup>th</sup> day of December, 2007, by Frio Cañon Architectural Control Committee.

---

David Dalglish, Sole Member

## **APPENDIX A**

### **A. Design Guidelines**

#### **1. Founding of the Design Guidelines**

These Design Guidelines and the ACC were created and reference through and in the Declaration. Other provisions within the Declaration that are applicable to design and landscape control are incorporated herein by reference and control over the provisions herein. Capitalized terms used within these Design Guidelines, but not defined herein, shall bear the same meaning as in the Declaration.

#### **2. The Architectural Control Committee (ACC)**

The ACC may, from time to time and in its sole discretion, adopt, amend and repeal by unanimous vote, rules and regulations to be incorporated into these Design Guidelines or the design guidelines of any additional unit or annexation which, among other things interpret, supplement, implement or entirely revise the provisions of these Design Guidelines. All such rules, regulations, or amendments, as may from time to time be adopted, amended or repealed, should be appended to and made a part of these Design Guidelines or the design guidelines of the units affected, and shall have the same force and effect as if they were set forth in, and were part of, the applicable Design Guidelines.

Each Owner is responsible for obtaining from the ACC a copy of the most recently revised Design Guidelines, and should inquire if any substantive amendments to these Design Guidelines have been adopted since the most recent printing of these Design Guidelines. The sale of each Tract includes one Design Guideline Book and a copy of any subsequent released revisions.

**3. Correspondence with the Architectural Control Committee:** All notices and correspondence required herein shall be made to:

Frio Cañon Land, LLC  
4019 Spicewood Springs Rd.  
Austin, TX 78759  
Phone: (512) 346-8554  
Fax: (512) 346-8667

#### **4. Non-liability of Architectural Control Committee and Developer.**

Neither the ACC, any member thereof nor the Developer or their respective successors or assigns, shall be liable in damages to anyone submitting drawings or specifications to them for approval or to any Owner or other person by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve any drawings or specifications or by the approval or disapproval of the primary contractor by the ACC. By submission of such for approval, an Owner agrees that he will not bring any action or suit against the ACC, any member thereof or Frio Cañon Land, LLC, the Developer. Approval of a submittal or of a contractor shall not be deemed to be a representation or warranty that the Owner's drawings or specifications for the actual construction of a residence or other improvement complies with applicable governmental ordinances or regulations, or of any ability fiscal or otherwise of the contractor. Furthermore, any approval by the Committee does not warrant habitability or soundness

of structure in any way. It shall be the sole responsibility of the Owner or any agent of the Owner on his behalf submitting drawings or specifications to the ACC as well as any person performing any construction to comply therewith.

#### 5. Enforcement

These Design Guidelines may be enforced by the ACC or the Frio Cañon Community Association as provided herein, or in the Declaration, or in the Bylaws of the Association.

#### 6. Right of Waiver

The ACC reserves the right to waive procedures or standards set forth at its sole discretion for good cause.

#### 7. Estoppel Certificate

Within 30 days after written demand is delivered to the ACC by any Owner, and upon payment therewith to the ACC of a reasonable fee from time to time to be fixed by it, the ACC shall record an Estoppel Certificate executed by any two of its members certifying with respect to any Tract of said Owner, that as of the date thereof either all improvements and other work made or done upon said Tract: (a) comply with these Design Guidelines and the Declaration, or (b) do not so comply. In the event the improvements do not comply, the certificate shall also (1) identify the noncomplying improvements and/or work and (2) set forth particularly the cause or causes for such noncompliance. Any purchaser from the Owner or mortgagee or other encumbrancer shall be entitled to rely on said certificate with respect to the matters therein set forth, such matters being conclusive as between the Frio Cañon Homeowners' Association, the ACC, Developer, all Owners and other interested Persons, and such purchaser, mortgagee or other encumbrancer.

#### 8. Commencement of Construction

Upon receipt of approval from the ACC, the Owner shall satisfy all conditions thereof and commence the construction, reconstruction, refinishing, alterations or other work pursuant to the approved drawings within one year from the date of such approval. If the Owner shall fail to comply with this paragraph, any approval given shall be deemed revoked after said one-year period, and upon finding by the ACC that there has been no change in circumstances, the time for such commencement may be extended in writing by the ACC. The Owner shall, in any event, complete the construction, reconstruction, refinishing or alteration of the foundation and all exterior surfaces (including the roof, exterior walls, windows, and doors) of any improvement of his Tract within one year after commencing construction thereof, except when, and for so long as, such completion is rendered impossible or would result in great hardship to the Owner due to strikes, fires, national emergencies or natural calamities. If Owner fails to comply with this paragraph, the ACC may notify the Board of Directors of Frio Cañon Community Association of such failure and the Board, at its option, shall either complete the exterior in accordance with the approved drawings or remove the improvement and return the Tract to its natural state prior to construction. The Owner shall reimburse the Frio Cañon Community Association for all expenses incurred in connection therewith.

#### 9. Frio Cañon Community Association (FCCA)

The Frio Cañon Community Association is responsible for managing Frio Cañon's common areas and enforcing any covenants, conditions and restrictions that apply to Frio Cañon.

## APPENDIX B

### A. Fees and Deposits

The following is a list of standard Design Review Fees and Additional Service Fees.

1. Design Review Fee for New Construction (initial review) .....	\$500
(Design Review Fee includes one re-review session)	
2. Subsequent Re-review Session .....	\$200
3. Request for Variance Fee (per occurrence) .....	\$500
4. Design Review Fee for Remodels and Additions .....	\$250
(Design Review Fee includes one re-review session)	
5. Standard Construction Compliance Deposit .....	\$2,500
(includes Construction and Landscape Deposit, Repair of Property Guarantee. Deposit must be paid prior to commencement of any construction)	

Interest will not be returned with any deposit.

Checks should be made out to the Frio Cañon Community Association.

### B. Simplified Application Submittal Form

1. Type Submittal
  - a. Submittal #1 Preliminary Design Review
  - b. Submittal #2 Design Development Plan Review
  - c. Submittal #3 Final Plan Review
  - d. Construction Change Review
  - e. Request for Variance
  - f. Remodel/Addition Plan Review Submittal
2. Attachment Checklist
3. Review Fee
4. Standard Construction/Compliance Deposit Agreement
5. ACC Comments: Approval/Disapproval
6. Standard Construction/Compliance Deposit Agreement

These Design Guidelines are subject to the Declaration. In the event of conflict or inconsistency between these Design Guidelines and the Declaration, the Declaration shall control. The Developer, the Board of Directors of the Association, and the ACC each reserves the right to amend these Design Guidelines as needed to protect the architectural and environmental integrity of Frio Cañon.