

**AMENDED AND RESTATED
DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS
FOR
COUNTRY COTTAGES
A PLANNED UNIT DEVELOPMENT SUBDIVISION**

Centerville, Utah

*02-159-0001 through 02-159-0020;
02-162-0021 through 02-162-0051;
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This AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR COUNTRY COTTAGES ("Declaration") is adopted by the Country Cottages Owners' Association, a Utah nonprofit corporation, ("Association") and is effective as of the date it is recorded in the office of the Davis County Recorder.

RECITALS

A. Country Cottages was originally made subject to that certain instrument entitled, "Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Country Cottages", as recorded on January 28, 1994 in the Davis County Recorder's Office as Entry No. 1093228, which was replaced by that certain instrument entitled, "Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Country Cottages ", as recorded on June 10, 1994 in the Davis County Recorder's Office as Entry No. 1124600 ("Original Declaration").

B. The Original Declaration was first amended by the "Amendment to Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Country Cottages" as recorded on December 28, 1994 in the Davis County Recorder's Office as Entry No. 1158866.

C. The Original Declaration was next amended by the "Amendment of Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Country Cottages" as recorded on March 28, 1995 in the Davis County Recorder's Office as Entry No. 1171655.

D. The Original Declaration was next amended by the "Amendment of Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Country Cottages" as recorded on June 27, 1995 in the Davis County Recorder's Office as Entry No. 1185990.

E. The Original Declaration was next amended by the "Amendment of Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Country Cottages" as recorded on October 12, 1995 in the Davis County Recorder's Office as Entry No. 1204922.

F. The Original Declaration was next amended by the "Amendment No. 2 of Declaration of Covenants, Conditions and Restrictions and Reservation of Easements of Country Cottages" as recorded on October 14, 1997 in the Davis County Recorder's Office as Entry No. 1353389.

G. The Original Declaration was next amended by the "Amendment to Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Country Cottages Association" as recorded on May 7, 2007 in the Davis County Recorder's Office as Entry No. 2267981.

H. The Association now desires to amend and restate the Original Declaration and all amendments and supplements thereto, regardless of whether they are listed above.

I. Article XV, Section 5 of the Original Declaration provides that it may be amended with the approval of not less than 75% of the voting power of the Association, and in some cases 75% of the first mortgagees. However, U.C.A. §57-8a-104 states that an amendment may not require a greater voting threshold than 67% of the voting interests or from first mortgagees. Therefore, 67% of the voting power of the Association (and in some cases first mortgagees) may amend the Original Declaration.

J. This *Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Country Cottages* is adopted to: (1) bring the governing documents up to date

and in harmony with current laws and trends; (2) remove superfluous language; (3) remove declarant references; (4) clarify and define the rights of the Association and the Owners, in and to the Project, (5) more effectively provide for a general plan for managing the Project, and (5) in furtherance of the effort to efficiently and economically provide a quality living environment and protect and enhance the value of the Project.

K. This Declaration, which (along with and subject to any future amendments) shall be the sole declaration for the Project and shall completely replace and supersede in all respects the Original Declaration and all supplements and amendments thereto, (whether recorded or not, properly adopted or not, or referenced in this Declaration or not), prior to the date of the recording of this Declaration.

L. This Declaration affects the real property situated in Davis County, Utah, described with particularity on Exhibit A, which exhibit is attached hereto and incorporated in this Declaration by reference (the "Project") and shall be binding on all parties having or acquiring any right, title, or interest to the Project or any part thereof.

M. The Bylaws of the Association attached hereto as Exhibit B supersede and replace any previous bylaws of the Association and any amendments thereto.

N. Pursuant to the amendment requirements contained in Article XV, Section 5 of the Original Declaration and U.C.A. §57-8a-104, the undersigned hereby certifies that this Declaration was approved by Owners holding at least sixty-seven percent (67%) of the voting power of the Association, as well as 67% of first mortgagees pursuant to U.C.A. §57-8a-210.

NOW, THEREFORE, pursuant to the Recitals set forth above and incorporated herein and subject to the covenants set forth below, the Association hereby adopts this Declaration. This Declaration, together with the Plat, Bylaws, and Rules adopted by the Association, shall define and govern the rights of the Owners and the Association related to the Project.

ARTICLE I. DEFINITIONS

1.1. **Act** shall mean the Utah Community Association Act, codified beginning at Section 57-8a-101, Utah Code Annotated, as the same may be amended from time to time.

1.2. **Architectural Control Committee** or **ACC** shall mean and refer to the Board or, if so appointed by the Board, a committee having architectural control powers as further described in Article X.

1.3. **Articles** shall mean the Articles of Incorporation for the Association, as amended and restated from time to time.

1.4. **Assessments** shall mean any charge imposed or levied by the Association against Owners including but not limited to Annual Assessments corresponding with the Common Expenses as well as Special Assessments, Individual Assessments, late fees, and fines, all as provided in this Declaration.

1.5. **Association** shall mean and refer to the Country Cottages Owners' Association, a Utah non-profit corporation. Failure of the Association to maintain its corporate status will not result in the dissolution of the Association. The Association, through the Board, may renew or reinstate its corporate status without Owner approval.

1.6. **Board** or **Board of Directors** shall mean and refer to the Board of Directors of the Association as duly elected in accordance with the terms and conditions of the Articles and Bylaws of the Association. The Board is the governing body of the Association.

1.7. **Board Member** shall mean a duly qualified and elected or appointed individual member of the Board of Directors.

1.8. **Bylaws** shall mean and refer to the Bylaws of the Association as the same may be amended from time to time.

1.9. **Common Areas** shall mean any land or improvement owned by the Association or installed for the benefit of the Owners collectively, including all private roads and roadway improvements within the Project, all land within the Project that is designated as open space or Common Areas on the Plat; utility lines servicing more than a single Residence; and other real property which the Association now or hereafter owns in fee for the benefit of Owners for as long as the Association is the owner of the fee, which includes without limitation: Association signs or monuments, walkways, landscaped areas, street signage, sidewalks, parking areas, and other similar improvements.

1.10. **Common Expenses** shall mean (a) all sums lawfully assessed against Owners; (b) expenses of administration, maintenance, management, operation, repair, and replacement of the Common Areas and any other area or item for which the Association has maintenance responsibilities; (c) expenses allocated by the Association among the Owners; (d) expenses agreed upon as common expenses by the Association or its Board of Directors; (e) expenses declared common expenses by the Declaration; and (f) other miscellaneous charges incurred by the Association or the Board pursuant to the Act or the Governing Documents.

1.11. **Declaration** shall mean and refer to this *Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Country Cottages*, as may be amended from time to time.

1.12. **Design Guidelines** shall mean the requirements governing the location, color, materials, and architectural design of Residences, structures, landscaping, and improvements within the Project.

1.13. **Governing Documents** shall mean and refer to the Declaration, Articles, Bylaws, Plat, Design Guidelines, and any Rules adopted by the Board.

1.14. **Limited Common Area** shall mean a portion of the Common Areas specifically designated in this Declaration or the Plat for the exclusive use of Owners of one or more Lots to the exclusion of other Owners. Conveyance of a Lot includes the use of the Limited Common Area designated for the use of the Owner of the Lot. The Board shall have the sole discretion to determine the boundaries of each Lot's Limited Common Area when not so indicated on the Plat.

1.15. **Lot** shall mean and refer to each of the individual Lots within the Project, as shown on the Plat, with the exception of the Common Areas and Limited Common Areas.

1.16. **Manager** shall mean a person, persons, or entity, if any, selected by the Board to manage the affairs of the Association and Project.

1.17. **Member** shall mean and refer to a Lot Owner.

1.18. **Mortgage** shall mean and refer to a mortgage, deed of trust, or trust deed or the act of encumbering any Lot or any property by a mortgage, trust deed, or deed of trust.

1.19. **Mortgagee** shall mean and refer to any person or entity named as a mortgagee of a mortgage or beneficiary under or holder of a deed of trust.

1.20. **Occupant** shall mean and refer to any person, other than an Owner, living, visiting, or staying in a Residence. This includes, but is not limited to, all lessees, tenants, and the family members, agents, and representatives living, visiting, or staying in a Residence.

1.21. **Owner** or **Lot Owner** shall mean and refer to the record owner, whether one or more Persons, of a fee simple title to any Lot which is a part of the Project, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation.

1.22. **Party Wall** shall mean and refer to a wall, including without limitation a foundation wall, that forms part of a Residence and is located on or adjacent to a boundary line between two or more adjoining Lots that are owned by more than one (1) Owner and is used or is intended to be used by the Owners of the benefitted Residences as a structural partition wall. A Party Wall may be separated by a sound board between two (2) or more Residences.

1.23. **Person** shall mean and refer to a natural individual, corporation, business entity, estate, partnership, trustee, association, joint venture, government, governmental subdivision, or agency or other legal entity capable of holding title to real property.

1.24. **Plat** shall mean and refer to all official subdivision plats of Country Cottages (including amendments, if any), filed and recorded in the official records of the Davis County Recorder's Office.

1.25. **Project** as hereinbefore defined shall at any point in time mean, refer to the Country Cottages Planned Unit Development Subdivision project and shall include the real property described in Exhibit A, together with the buildings, improvements, and permanent fixtures located thereon, and all easements and rights appurtenant thereto.

1.26. **Residence** shall mean and refer to an attached townhome structure which is designed and intended for use and occupancy as a single-family residence, together with all improvements used in connection with such Residence. The Residence shall include, without limitation, the garage for the Residence, the roofs and all exterior surfaces, exterior trim, gutters, downspouts, foundations, patios, and porches. The Residence shall also include any mechanical equipment and appurtenances located within any one Residence, or located without said Residence but designed to serve only that Residence, such as appliances, electrical receptacles and outlets, air conditioning compressors, furnaces, water heaters, apparatus, systems or equipment, fixtures and the like, shall be considered part of the Residence. All pipes, wires, conduits, fire sprinkler lines and systems, or other utility lines or installations constituting a part of the Residence or serving only the Residence, and any structural members, parts, components or any other property of any kind, including fixtures or appliances within any Residence, which are removable without jeopardizing the integrity, soundness, safety or usefulness of the remainder of the building within which the Residence is located shall be deemed to be a part of the Residence. Where the context so allows, reference to a Residence shall include reference to its corresponding Lot.

1.27. **Restrictions** shall mean the covenants, conditions, assessments, easements, liens, and restrictions set forth in this Declaration.

1.28. **Rules** shall mean and refer to the Rules, resolutions, regulations, policies, architectural guidelines, etc. adopted by the Association as allowed herein. Rules shall remain in effect until amended or repealed by the Board or as otherwise allowed by law.

ARTICLE II. PROJECT DESCRIPTION

2.1. **Submission.** The real property described with particularity on Exhibit A attached hereto and incorporated herein by this reference is hereby submitted to the Act. The Project and all of the Lots shall be held, conveyed, transferred, sold, mortgaged, encumbered, occupied, used, and improved subject to the Restrictions, which Restrictions shall constitute covenants and conditions running with the land and shall be binding upon and inure to the benefit of the Association and each Owner, including their respective heirs, successors, and assigns.

2.2. **Name.** The Project, as submitted to the provisions of this Declaration, shall be known as Country Cottages. The Project is not a cooperative nor is it a condominium.

2.3. **Description of Improvements.** The improvements contained in the Project include ninety-two (92) Lots with single family townhome Residences. Each Residence has an enclosed garage. The Residences have concrete foundations, are wood framed with an asphalt shingle roof. There are also other improvements detailed on the Plat, including sidewalks, guest parking spaces, and open lawn areas on the Common Area. The Association maintains the private roads within the Project which are detailed on the Plat. All improvements have been and shall continue to be constructed in a style and of materials architecturally compatible with the other improvements on the Project, as determined by the ACC. The Lots, their locations, and approximate dimensions are indicated on the respective Plats.

2.4. **Common Areas.** The Common Areas of the Project shall be as identified on the Plats and as defined in Article 1, Section 1.9 above.

2.5. **Limited Common Areas.** The Limited Common Area of each Lot shall consist of the areas that are spatially associated with that Lot that may not be located completely within the private areas designated on the Plat. This shall generally include, driveways, porches, patios, and backyard areas. The right to the exclusive use of the Limited Common Area shall be appurtenant to each respective Lot where so identified and may not be severed from the ownership of the Lot. Owners shall not install fences on the border of the Lot or Limited Common Areas behind the townhome buildings; however, fences existing at the time this Declaration is recorded may be replaced with the prior written approval of the ACC and shall be subject to the provisions in this Declaration related to exterior modification of Lots.

2.6. **Lots.** Subject to further specification herein, each Lot consists generally of all structures on or within the boundary of the Lot, including, but not limited to: (1) all interior and exterior walls, wall surfaces, floors, ceilings, roofs, foundations, and fixtures; and (2) in all walls shared with or abutting another Lot, the Lot shall extend to the center of the wall, which shall form the boundary of the Lots sharing that wall. Subject to dividing lines between Lots, any above-ground structure that extends beyond the vertical plane of the ground-level boundary of the Lot is part of the Lot if it: (1) is part of and an integral part of the Lot's structure (such as bay windows, pop-outs, eaves, etc., not to include fences, or other appurtenant structures that merely connect to the Lot structure); or (2) was constructed as part of the original construction of the Lot. Everything included as part of a Residence, including the exterior and interior doors, door jams, windows, window sills, window frames and all components therein, skylights, garages, and garage doors, are part of the Lot.

ARTICLE III. MEMBERSHIP AND VOTING RIGHTS

3.1. **Membership.** Every Owner shall be a Member of the Association. Membership in the Association shall be mandatory, shall be appurtenant to the Lot in which the Owner has the necessary interest, and shall not be separated from the Lot to which it appertains. Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the transfer of ownership of the Lot, and then only to the new Owner. Any attempt to make a prohibited transfer is void. In the event the Owner of any Lot should fail or refuse to transfer the membership registered in his name to the purchaser of his Lot, the Association shall have the right to record the transfer upon its books and thereupon the old membership outstanding in the name of the seller shall be null and void.

3.2. **Voting Rights.** Except as otherwise disallowed in this Declaration or the Bylaws, Owners shall be entitled to one (1) vote per Lot owned.

3.3. **Multiple Ownership Interests.** In the event there is more than one Owner of a particular Lot, the vote relating to such Lot shall be exercised as such Owners may determine among themselves. A vote cast by any of such Owners, whether in person or by proxy or by written ballot, shall be conclusively presumed to be the vote attributable to the Lot concerned unless an objection is immediately made by another Owner of the same Lot. In the event such an objection is made or if there are conflicting votes from the same Lot, the vote involved shall not be counted for any purpose other than towards the establishment of a quorum.

3.4. **Proxies.** An Owner may give his proxy, either specific or general, to another Owner, a third person, or to a contract purchaser or his Lot to vote on all matters coming before the Association for vote provided the same is in writing, signed by the Owner (including electronic signature), and is presented to those Association officers conducting such vote or as may be further provided in the Bylaws.

3.5. **Record of Ownership.** Every Owner shall promptly notify the Association of any change in ownership of a Lot by providing the conveyance information to the secretary of the Association who shall maintain a record of ownership of the Lots. Any cost incurred by the Association in obtaining the information about an Owner as specified herein which is not furnished by such Owner shall nevertheless be at the expense of such Owner and shall be reimbursed to the Association as an "Individual Assessment" in accordance with the provisions of Article V.

3.6. **Registered Agent.** The Registered Agent of the Association shall be as provided in the entity filings with the Utah State Department of Commerce, Division of Corporations and Commercial Code. The Board may change the Registered Agent without Owner vote or approval.

ARTICLE IV. PROPERTY RIGHTS IN COMMON AREAS

4.1. **Easement of Enjoyment.** Each Member shall have a right and easement of use and enjoyment in and to the Common Areas. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom. Any Member may delegate the right and easement of use and enjoyment described herein to any family member, tenant, lessee, or contract purchaser who resides on such Member's Lot. With respect to the Limited Common Areas within the Project, this right of easement shall only extend to the

Limited Common Area appurtenant to the Member's Lot and not to other Limited Common Areas. Other easements may be provided on the Plat.

4.2. **Title to Common Areas.** The Association shall hold the title to the various Common Areas within the Project.

4.3. **Limitation on Easement.** A Member's right and easement for the use and enjoyment of the Common Areas shall be subject to the following:

- 1) The right of the Association to impose reasonable limitations on the number of guests per Member who at any given time are permitted to use the Common Areas;
- 2) The right of the Association to charge fees for the use of the Common Area parking stalls;
- 3) The right of Davis County and any other governmental or quasi-governmental body having jurisdiction over the Project to access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the Project for purposes of providing police and fire protection, transporting school children, and providing any other governmental or municipal service;
- 4) The right of the Association to suspend voting rights and right to use the Common Areas by an Owner for any period during which any Assessments against his Lot remain unpaid, and for a period not to exceed sixty (60) days for any infraction of the Rules;
- 5) The right of the Association to dedicate or transfer all or any part of the Common Areas, and any sewer, water, and storm drain lines to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association. Any such dedication or transfer must, however, be assented to by sixty-seven percent (67%) of all Lot Owners.

4.4. **Delegation of Use.** Any Owner may delegate his right of use and enjoyment to the Common Areas to family members, tenants, or contract purchasers who reside on such Owner's Lot. The rights and privileges of such delegee or assignee shall be subject to suspension in the same manner and to the same degree as those of an Owner, as described in above Section.

4.5. **Association Easement.** The Association, its Board, employees, agents, and contractors shall have non-exclusive easements to use the Common Areas to perform their duties as assigned by the Governing Documents. The Association shall also have a right and easement to access and use the Limited Common Areas for the purpose of carrying out its duties and fulfilling its obligations under the Declaration, including, without limitation, landscaping maintenance and snow removal. The Association shall also have a right and easement upon, across, over, or under a Lot or Residence as needed to carry out its duties and fulfill its obligations under the Declaration. Other easements may be provided on the Plat.

4.6. **Easement for Utility Services.** The Project is subject to a blanket easement over, across, above, and under it for ingress, egress, installation, maintenance, repair, and replacement of roads and utilities. Utilities include, without limitation, water, sewer, gas, telephone, electricity, data, video, and cable.

4.7. **Easements for Encroachments.** If any portion of a Common Area structure or improvement encroaches upon any Lot, or if any structure or improvement of a Lot encroaches

upon any other Lot or the Common Area as a result of the manner in which the improvements were initially approved and constructed or due to settling, shifting, alteration, replacement, repair, or restoration by the Association, a valid easement for encroachment, and maintenance of such encroachment, shall exist for the life of the improvement or structure.

4.8. **Party Wall Easement**. Each Owner hereby acknowledges and agrees that a Party Wall may presently encroach upon or overlap the Owner's Lot. Each Owner hereby grants to the adjoining Owner of the other Lot that shares the Party Wall an easement over and upon its Lot for the purpose of maintaining the Party Wall. By accepting a deed to a Lot, each Owner hereby covenants and agrees not to do anything or to erect any barrier that will hinder, delay or limit the maintenance of the Party Wall and the performance of each Owner's obligation to maintain and repair the Residence.

4.9 **Compliance with Restrictions and Rules**. Each Owner and Occupant shall comply with the Restrictions imposed by this Declaration. Further, each Owner and Occupant shall fully and faithfully comply with the Association's Rules.

ARTICLE V. BUDGET AND ASSESSMENTS

5.1. **Annual Budget**. The Board shall prepare, or cause the preparation of, and adopt an annual budget for the Association. The annual budget shall provide, without limitation, for the maintenance of the Common Areas and for the administration, management, and operation of the Association. The Board may revise the budget from time to time as the Board deems appropriate. If the Board fails to adopt an annual budget, the last adopted budget shall continue in effect until a new annual budget is adopted. The budget shall be made available at the request of an Owner within thirty (30) days after adoption. Owners may disapprove a budget according to the provisions of the Act.

5.2. **Covenant to Pay Assessments**. Each Owner of a Lot by the acceptance of a deed therefore, whether or not it be so expressed in the deed, hereby covenants and agrees with each other and with the Association to pay to the Association all Assessments, including without limitation, all Annual, Special, and Individual Assessments described below, and other fees, charges, levies, and fines as may be provided in the Governing Documents.

5.3. **Purpose of Assessments**. Assessments levied by the Association shall be used for the purpose of promoting the health, safety, and welfare of residents of the Project, including but not limited to the appearance and aesthetics of the Project. The use made by the Association of funds obtained from Assessments may include, but is not limited to: payment of the cost of taxes and insurance on the Common Areas; maintenance, repair, and improvement of the Common Areas; establishing and funding a reserve to cover major repair or replacement of improvements within the Common Areas; payment of common utility services such as garbage collection and sewer; and any expenses necessary or desirable to enable the Association to perform or fulfill its obligations, functions, or purposes under the Governing Documents.

5.4. **Annual Assessments**. Annual Assessments shall be made on a calendar year basis. The Board shall give written notice of each Annual Assessment not less than fifteen (15) days nor more than sixty (60) days prior to the beginning of the next calendar year. Each Annual Assessment shall be due and payable in monthly installments on dates established by the Board.

At least fifteen (15) days prior to the effective date of any change in the amount of the Annual Assessment, the Association shall give each Owner written notice of the amount.

5.5. **Special Assessments.** With the approval of a majority of the Association's voting interests that are present in person or by proxy, the Board may levy a Special Assessment payable over such a period as the Board may determine for the purpose of defraying, in whole or in part any expense or expenses not reasonably capable of being fully paid with funds generated by Annual Assessments; the cost of any construction, reconstruction, or unexpected repair or replacement of the Common Areas or Limited Common Area; or for any other expense incurred or to be incurred as provided in this Declaration. Notice in writing of the amount of any Special Assessments and the time for their payment shall be given as soon as is reasonably possible to the Owners. Payment shall be due on the dates and in the manner determined by the Board and provided in the notice.

5.6. **Individual Assessments.** In addition to Annual and Special Assessments authorized above, the Board may levy Individual Assessments against a Lot and its Owner for: (a) administrative costs and expenses incurred by the Board in enforcing the Governing Documents against the Owner or his/her Occupants; (b) costs associated with the maintenance, repair, or replacement of Common Areas caused by the neglect or actions of an Owner or his/her Occupants; (c) any other charge, fine, fee, expense, or cost designated as an Individual Assessment in the Governing Documents or by the Board, including, without limitation, action taken to bring a Lot and its Owner into compliance with the Governing Documents; (d) nonpayment of a Reinvestment Fee; (e) costs of providing services to the Lot upon request of the Owner; and (f) attorney fees, court or collection costs, fines, and other charges relating thereto as provided in this Declaration. In addition, Individual Assessments may be levied against a Lot and its Owner specifically benefited by any made at the written request of the Owner of the Lot to be charged. The aggregate amount of any such Individual Assessments shall be determined by the cost of such improvements, repairs, maintenance, or enforcement action, including all overhead and administrative costs and attorney fees, and shall be allocated among the affected Lots according to the special benefit or cause of damage or maintenance or repair work or enforcement action, as the case may be. Individual Assessments may be levied in advance of the performance of the work. If a special benefit arises from any improvement which is part of the general maintenance obligations of the Association, it shall not give rise to an Individual Assessment against the Lot(s) benefited, unless such work was necessitated by the Lot Owner's or his/her Occupants' negligence.

5.7. **Allocation of Assessments.** Annual and Special Assessments shall be fixed at a uniform rate for all Lots, unless otherwise provided in the Governing Documents.

5.8. **Application of Excess Assessments.** In the event the amount budgeted to meet Common Expenses for a particular fiscal year proves to be excessive in light of the actual Common Expenses, the Board in its discretion may apply the excess to reserves, credit the excess against future Assessments, or pay the excess to the Owners, as the Board deems appropriate. The decision of the Board shall be binding and conclusive. In addition, the Association shall not be obligated to reduce the amount of Assessments in succeeding years if an excess exists for a prior year.

5.9. **No Offsets.** Except as may otherwise be provided in the Governing Documents, all Assessments shall be payable in the amount specified by the Assessment and no offsets against such amount or withholding of any amount shall be permitted for any reason, including,

without limitation, a claim that the Association owes the Owner money, or that the Association is not properly exercising its duties and powers as provided in this Declaration.

5.10. **Certificate Regarding Payment.** Upon the request of an Owner, prospective purchaser, mortgagee, or encumbrancer of a Lot, the Association shall issue a certificate stating whether or not all Assessments respecting such Lot are current and, if not, the amount of the delinquency. Such certificate shall be conclusive in favor of all persons who in good faith rely thereon. The Association may charge the requesting Owner, prospective purchaser, mortgagee, or encumbrancer of a Lot a reasonable fee of up to twenty-five dollars (\$25) or an amount greater if so provided in the Act.

5.11. **Personal Obligation and Lien.** All Assessments, together with any interest, late fees, collection costs, and attorney fees if collection efforts become necessary shall be, constitute, and remain: (a) a charge and continuing lien upon the Lot with respect to which such Assessment is made; and (b) the personal obligation of the person who is the Owner of such Lot at the time the Assessment falls due. No Owner may exempt himself or his Lot from liability for payment of Assessments by waiver of his rights concerning the Common Areas or by abandonment of his Lot. In a voluntary conveyance of a Lot, the grantee shall be jointly and severally liable with the grantor for all such unpaid Assessments, late payment fees, interest, and costs of collection, including reasonable attorney fees, which shall be a charge on the Lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore.

5.12. **Billing and Collection Procedures.** The Board shall have the right to adopt Rules setting forth procedures for billing and collection of Assessments, provided that such procedures are not inconsistent with the provisions hereof. The failure of the Association to send an invoice to an Owner shall not relieve any Owner of liability for any Assessment or charge under this Declaration, but the Assessment lien therefore shall not be foreclosed or otherwise enforced until the Owner has been given not less than thirty (30) days written notice prior to such foreclosure or enforcement, at the address of the Owner on the records of the Association, of the Assessment or installment and of the amount owing. Such notice may be given at any time prior to or after delinquency of such payment. A copy of such notice may also be provided to the Occupant(s) of the Owner if the Owner is not a resident at the Project.

5.13. **Due Date and Delinquency.** Assessments shall be paid in a timely manner. Payments are due in advance on the first day of the month or the first day of such other period established for the payment of Assessments. Payments are delinquent if received more than ten (10) days from the date that they became due. Whenever an Assessment is delinquent, the Board may at its option invoke any one or more options or all of the sanctions granted in this Article or the Act.

5.14. **Collection Charge.** If the Association does not otherwise adopt or establish billing and collection procedures in the Rules, the following shall apply. Delinquent accounts shall be charged a twenty-five dollar (\$25) late fee each month until the Owner's account (including all collection charges, costs, and attorney fees) is paid in full. Interest may accrue on all unpaid balances at the rate of eighteen percent (18%) per annum. Collection charges and fees (including attorneys' fees), interest, and late fees shall constitute part of the Assessment lien provided above until paid.

5.15. **Collection Action at Law.** The Association may exercise any or all of the following remedies to collect delinquent Assessments:

1) The Association may suspend such Owner's voting rights.

2) The Association shall have a lien against each Lot for any Assessment levied against the Lot and any fines or other charges imposed under this Declaration or the Bylaws against the Owner of the Lot from the date on which the Assessment, fine, or charge is due. This lien shall arise and be perfected as of the date of the recording of this Declaration. At any time, any Assessment or installment thereof is delinquent, the Association, by and through its Board or any Manager, may file a notice of lien in the deed records of Davis County against the Lot with respect to which the delinquency pertains. Once filed, such lien shall accumulate all future Assessments or installments, interest, late fees, penalties, fines, attorney fees, and other appropriate costs properly chargeable to an Owner by the Association, until such amounts are fully paid. Said lien may be foreclosed at any time as allowed by law. The lien of the Association shall be superior to all other liens and encumbrances except: a lien or encumbrance recorded before the original Declaration was recorded; a first or second security interest on the Lot secured by a mortgage or trust deed that is recorded before the Association's notice of lien; or a lien for real estate taxes or other governmental assessments against the Lot. The Association through its duly authorized agents, may bid on the Lot at any foreclosure sale, and may acquire and hold, lease, mortgage, and convey the Lot.

3) The Association may bring an action to recover a money judgment for unpaid Assessments, fines, and charges under this Declaration against the Lot Owner without foreclosing or waiving the lien described above. Recovery on any such action, however, shall operate to satisfy the lien, or the portion thereof, for which recovery is made.

4) If a delinquent Owner is leasing his Lot or any portion thereof, the Board may, at its option, so long as such default shall continue, demand and receive from any tenant of the Owner the rent due or becoming due and the payment of such rent to the Board shall discharge such tenant for rent due, and shall discharge the Owner for such Assessments to the extent of the amount so paid.

5) The Association may terminate utilities paid out of the Common Expense and the right to use the Common Areas.

6) Payments shall be credited first to collection costs (including attorney fees), then to interest and late fees, then to the oldest Assessments, then the most recent Assessments.

7) The Association shall have any other remedy available to it whether provided in the Governing Documents, the Act, or other law or in equity.

5.16. **Power of Sale.** The Association shall have all rights of foreclosure granted by the Act, both judicially and non-judicially. Pursuant to Utah Code §§57-1-20 and 57-8a-302, an Owner's acceptance of an interest in a Lot constitutes a simultaneous conveyance of the Lot in trust, with power of sale, to the Association's attorney of record, as trustee, for the benefit of the Association, for the purpose of securing payment of Assessments under the terms of this Declaration. The Association may appoint a qualified successor trustee by executing and recording a substitution of trustee form.

5.17. **Reserve Account.** The Board shall establish a reserve account to fund long-term maintenance, repairs, and replacement of Common Areas. The Board shall follow any statutory requirement to conduct a reserve analysis and utilize such reserve analysis in making decisions regarding the funding of a reserve account. The Board shall not be personally liable for failure to fund the reserve unless willful or intentional misconduct is proven in a court of law.

5.18. **Reimbursement of Tax Collection by County Authorized.** It is recognized that under the Declaration that the Association will own the Common Areas, which may obligate it to pay property taxes or other fees to Davis County. Each Owner shall be required to reimburse the Association for its pro rata share of such taxes paid. Notwithstanding anything to the contrary contained in the Declaration, Davis County shall be authorized to collect such pro rata share of taxes directly from each Owner by inclusion of said share with the tax levied on each Lot.

5.19. **Reinvestment Fee.** The Board shall have the right to establish from time to time (but shall not be required to establish) a Reinvestment Fee assessment in accordance with this Section and Utah Code § 57-1-46. If established by the Board, the following terms and conditions shall govern Reinvestment Fees:

1) Upon the occurrence of any sale, transfer, or conveyance of any Lot as reflected in the office of the Davis County Recorder, regardless of whether it is pursuant to the sale of the Lot or not (as applicable, a "Transfer"), the party receiving title to the Lot (the "Transferee") shall pay to the Association a Reinvestment Fee in an amount to be established by the Board in the Rules, provided that in no event shall the Reinvestment Fee exceed the maximum rate permitted by law.

2) The Association shall not levy or collect a Reinvestment Fee for any Transfer exempted by Utah Code § 57-1-46.

3) The Reinvestment Fee shall be due and payable by the Transferee to the Association at the time of the Transfer giving rise to the payment of such Reinvestment Fee and shall be treated as an Individual Assessment for collection purposes.

5.20. **Association Responsibility after Foreclosure.** If the Association takes title to a Lot pursuant to a foreclosure (judicial or non-judicial), it shall not be bound by any of the provisions related to the Lot that are otherwise applicable to any other Owner, including but not limited to obligations to pay assessments, taxes, or insurance, or to maintain the Lot. By taking a security interest in any Lot governed by this Declaration, Lenders cannot make any claim against the Association for nonpayment of taxes, Assessments, or other costs and fees associated with any Lot if the Association takes title to a Lot related to a failure to pay Assessments.

5.21. **Account Payoff Fees.** The Association may charge a fee for providing Association payoff information needed in connection with financing, refinancing, or closing of the sale of a Lot as provided for in Utah Code §57-8a-106. The amount of such fee may be fifty dollars (\$50.00) or as otherwise established in the Rules and allowed by the Act. Additional paperwork required in a private sale between an Owner and purchaser may be obtained from the Association but may incur additional fees.

5.22. **Homestead Waiver.** Pursuant to Utah Code §57-8a-301, and to the extent any liens are created pursuant to this Declaration, whether such liens are now in existence or are created at any time in the future, each Owner waives the benefit of any homestead or exemption laws of the State of Utah now in effect, or in effect from time to time hereafter.

ARTICLE VI. DUTIES AND POWERS OF THE ASSOCIATION

6.1. **Organization of Association.** The Association shall serve as the governing body for all Owners. The Association shall make provisions for the maintenance, repair, replacement, administration, and operation of the Common Area and Common Expenses, and other matters

as provided in the Act, this Declaration, and the Bylaws. The Association shall have all rights and powers granted to it under the Act and in this Declaration, the Articles, and the Bylaws. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the Owners in accordance with this Declaration, the Articles, and the Bylaws. Except as specifically authorized in this Declaration, the Articles, or the Bylaws, no Owner or group of Owners shall have authority to take any action on behalf of the Owners, the Association, or the Board.

6.2. **Legal Organization.** The Association is incorporated as a nonprofit corporation. In the event the nonprofit corporate status expires or is invalidated in any manner, the Board, in its sole discretion, may renew and/or reincorporate the Association. Any such expiration or invalidation shall not relieve any Owner from paying Assessments and abiding by all Restrictions contained in this Declaration.

6.3. **General Powers and Obligations.** The Association shall have, exercise, and perform the following powers, duties, and obligations:

- 1) The powers, duties, and obligations granted to the Association by this Declaration, its Bylaws, and the Articles;
- 2) The powers and obligations of a nonprofit corporation pursuant to the general nonprofit corporation laws of the State of Utah;
- 3) The powers, duties, and obligations of a homeowner's association pursuant to the Utah Community Association Act, or any successor thereto;
- 4) The powers, duties, and obligations not reserved specifically to Lot Owners; and
- 5) Any additional or different powers, duties, and obligations necessary or desirable for the purpose of carrying out the functions of the Association pursuant to this Declaration or otherwise promoting the general benefit of the Owners within the Project.

The powers and obligations of the Association may from time to time be amended, repealed, enlarged, or restricted by changes in this Declaration made in accordance with the provisions herein, accompanied by any necessary changes in the Articles or Bylaws of the Association made in accordance with such instruments and with the nonprofit corporation laws of the State of Utah.

6.4. **Specific Powers and Duties.** The powers and duties of the Association shall include, without limitation, the following:

- 1) **Maintenance and Services.** The Association shall provide maintenance and services for the Project as provided in Article VII and other provisions of this Declaration.
- 2) **Insurance.** The Association shall obtain and maintain in force policies of insurance as provided in this Declaration, the Act, or the Bylaws of the Association. The Association shall have no obligation to obtain or maintain any insurance covering the personal and real property of any Owner(s), and each Owner shall be responsible for obtaining and maintaining such personal and real property insurance.
- 3) **Rulemaking.** The Association, through its Board, shall make, establish, promulgate, amend, and repeal Rules governing the conduct of persons and the operation and use of the Project as it may deem necessary or appropriate in order to assure a clean, aesthetically pleasing, peaceful, and orderly use and enjoyment of the Project. The Board may adopt reasonable hearing procedures for Owners who may dispute fines assessed for

violations of the Rules or other Governing Documents. Rules adopted by the Board shall remain in full force and effect until they are amended or repealed by the Board or as otherwise allowed by law.

4) **Assessments.** The Association shall adopt budgets and impose and collect Assessments as provided in Article V of this Declaration.

5) **Enforcement.** The Association shall perform such acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary to enforce the provisions of the Governing Documents of the Association, including the levying of fines to Owners for violations of the Governing Documents. The Board may adopt reasonable hearing procedures for Owners who may dispute fines assessed for violations of the Rules or other Governing Documents.

6) **Title to Common Areas.** The Association shall hold title to all Common Areas conveyed to it by its developer and pay all real property taxes and assessments levied upon any portion of the Common Areas, unless paid by the Owners, provided that the Association shall have the right to contest or compromise any such taxes or assessments.

7) **Employment of Agents, Advisers, and Contractors.** The Association may employ the services of any person or corporation as managers, hire employees to manage, conduct, and perform the business, obligations, and duties of the Association, employ professional counsel and obtain advice from such persons or firms or corporations such as, but not limited to, community association managers, landscape architects, accountants, recreational experts, architects, planners, lawyers, reserve study specialists, or what is convenient for the management, maintenance, and operation of the Project. Any agreement with a Manager shall not exceed a term of two (2) years, renewable by agreement of the parties for a successive two (2) year term.

8) **Litigation.** The Board may instigate litigation to enforce or defend the provisions of this Declaration or any other Common Law or statutory right which the Association is granted.

9) **Loans.** The Board may obtain financing for Association improvements or obligations. Any debt exceeding ten thousand dollars (\$10,000) must be approved by a majority of the Owners present in person or by proxy at a meeting called for such purpose.

6.5. **Liability.** A member of the Board or an officer of the Association shall not be liable to the Association or any Member thereof for any damage, loss, or prejudice suffered or claimed on account of any action or failure to act in the performance of his or her duties, except for willful or intentional misconduct. If a Board Member or any officer of the Association is made a party to any proceeding because the individual is or was a director or officer of the Association, the Association shall indemnify such individual against liability and expenses incurred to the maximum extent permitted by law, except where the Board Member or officer is found by a court of law to have acted with willful or intentional misconduct in carrying out his/her duties.

6.6. **Board of Directors.** The governing body of the Association shall be the Board of Directors. Except where a matter or vote is specifically reserved to the Owners, the Board shall act in all instances on behalf of the Association. Board Members shall be elected pursuant to the provisions set forth in the Bylaws which may set forth requirements for serving on the Board. Without limiting the generality of the foregoing, the Board may appoint one or more "Committees", and such Committees (which may consist of one or more members, as determined by the Board) shall have such authority and duties as may be determined from

time to time by the Board relating to the budgeting, operation, financial management and administration of the Project. While any Committee established by the Board shall report to the Board regularly regarding its activities, the Board may by express directive relinquish and transfer all authority and responsibility with respect to such prior delegated duties.

6.7. **Registration with the State.** In compliance with Utah Code §57-8a-105, the Association shall be registered with the Utah Department of Commerce and shall update its registration to keep any required information current as required by law.

6.8. **Management.** The Board may hire a Manager and delegate such of its powers and duties to the Manager as it deems appropriate; reserving the right, however, to control and oversee the administration thereof. Any powers and duties delegated to any Manager may be revoked by the Board at any time.

ARTICLE VII. MAINTENANCE

7.1. **Association Maintenance.** The Association shall maintain, repair, and replace all Common Areas together with all improvements thereon and all easements appurtenant to the Common Area including, but not limited to landscaping on Common Area open space land. The Association shall maintain, replace, and repair the Common Area roads throughout the Project. The Association shall maintain all storm drains, sprinkler systems, and landscaping on private Lots or Limited Common Area that are not enclosed by Owner fencing. The Association shall also be responsible for the maintenance, repair, and replacement of the fences located around the perimeter boundaries of the Project. The Association shall maintain, repair, and replace the roofs, soffit, fascia, gutters, downspouts, foundations, and exterior building surfaces (except glass surfaces) of the Residences. Front doors and garage doors shall be painted by the Association. All other components of the Residences shall be maintained, repaired, and replaced by the Owners as further detailed below.

The Association shall, as reasonably necessary, remove snow upon the Common Area roads and sidewalks throughout the Project.

The Common Areas and all facilities and structures thereon shall be maintained by the Association in a safe condition and in a good and workmanlike manner such as to carry out the purpose for which such areas are intended. The Board in its sole discretion shall determine the maintenance standard of the Common Areas and the exterior of the townhome buildings.

Further descriptions of Association and Owner maintenance, repair, and replacement responsibilities are contained in the "HOA Maintenance Chart" attached hereto as Exhibit "C". Unless the maintenance, repair, and replacement obligation is expressly assigned to the Association herein, such obligation shall be fulfilled by the Owner(s). In the event that there is a conflict between this Article VII and the HOA Maintenance Chart, the HOA Maintenance Chart shall control.

7.2. **Services.** The Association shall provide or contract for such services as the Board of Directors may reasonably deem to be of benefit to the Project, including, without limitation, landscaping, snow removal, water system maintenance, and garbage/trash removal services for all Lots.

7.3. **Owner Maintenance.** Each Owner shall have the obligation to provide all interior maintenance, repair, and replacement of their Residence. Except for those exterior building components specifically reserved to the Association herein, each Owner shall have the

obligation to provide all exterior maintenance, repair, and replacement of their Residence, including, but not limited to, windows, doors, electric outlets, spigots, and all landscaping and sprinklers within their enclosed backyard, except that trees shall be maintained by the Association. Any new trees must be pre-approved by the Board, who is under no obligation to approve such trees. Owners shall be responsible for the maintenance and repair of all utility lines (sewer, water, gas, electricity, etc.) that solely service their Lot or Residence as outlined in the "HOA Maintenance Chart" (See Exhibit C). Owners shall also be responsible for the maintenance, repair, and replacement of the fencing that encloses their Lot. While the Association is required to paint the front doors and garage doors, the Owners are responsible to repair and replace them. If it becomes necessary to replace an exterior door, garage door, or window, the Owner shall be required to obtain approval from the ACC and to replace such item per the standards and specifications set forth by the Board in the Rules or Design Guidelines. Owners shall be required to maintain all Owner installed landscaping and planter beds, and all landscaping within fenced in areas.

7.4 Party Wall Maintenance. By acceptance of a deed to a Lot, each Owner hereby acknowledges, agrees, and understands that it is essential that the Party Walls be maintained in good condition and repair to preserve the integrity of the Residences as they are used and occupied by Owners. Each Owner hereby covenants and agrees not to do anything or to erect any barrier that will hinder, delay, or limit the maintenance of the Party Wall. With respect to the surface components of the Party Wall, each Owner agrees to maintain and keep in good condition and repair, including the making of replacements as needed, all surface components which face into such Owners' respective Residence. With respect to pipes, conduits, ducts, and other utility service lines and connections which benefit one or more, but fewer than all, of the Owners, the Owner(s) benefited thereby shall be fully and personally responsible for the cost of maintaining such items in good condition and repair, including the making of replacements as needed. If the need for maintenance or repair of a Party Wall is caused through the willful or negligent act of any Owner or his/her Occupant, the cost of such maintenance or repairs shall be the sole and exclusive expense of such Owner. With respect to structural components of the Party Wall, except as may be otherwise provided in the immediately preceding sentences, the Owners benefitted by the Party Wall agree to share equally in the cost of maintenance and upkeep thereof in good condition and repair, including the replacement thereof as necessary. If there is a dispute over the responsibility for maintenance or repair of a Party Wall, the Association may, but shall not be required to, intervene and determine each Owner's responsibility. The Association shall have the powers set forth in Section 7.5 below to remedy any neglect in performing Party Wall maintenance responsibilities.

7.4. Owner Maintenance Neglect. The Association shall have the power and authority without liability to any Owner for trespass, damage, or otherwise, to enter upon any Lot for the purpose of maintaining and repairing such Lot or any improvement thereon (including a Residence); but only if the Owner fails to maintain and repair such Lot or improvement, or for the purpose of removing any improvement constructed, reconstructed, refinished, altered or maintained upon such Lot in violation of this Declaration or any Rules of the Association. Except as necessary to prevent personal injury or property damage in an emergency, the Association shall first provide reasonable notice and an opportunity to cure before exercising the power granted herein.

The Association shall also have the power and authority from time to time in its own name, on its own behalf, or in the name and behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoy any breach or threatened

breach of this Declaration or any Rules promulgated by the Board, or to enforce by mandatory injunction or otherwise all the provisions of this Declaration and such Rules.

7.5. **Common Area Maintenance Caused by Owner Negligence.** If the need for maintenance or repair of Common Areas, fences, exterior walls, roofs, or other area is caused through the willful or negligent acts of an Owner, or through the willful or negligent acts of the family, guests, tenants, or invitees of an Owner, the Board may cause such repairs to be made by the Association and the cost of such maintenance or repair work shall be added to and become an Individual Assessment (as set forth above) to which such Lot is subject.

ARTICLE VIII. INSURANCE

NOTICE: The Association's Insurance Policy does not cover the personal property or personal liability of the Owners or their Occupants.

8.1. **Insurance.** The Board shall obtain insurance as required in this Declaration, the Act, or other applicable laws. The Association may obtain insurance that provides more or additional coverage than the insurance required in this Declaration. Different policies may be obtained from different insurance carriers and standalone policies may be purchased instead of, or in addition to, embedded, included coverage, or endorsements to other policies. Insurance premiums shall be a Common Expense.

8.2. **Property Insurance.**

1) The Association shall maintain a blanket policy of property insurance covering the entire Project, including the Common Area and all buildings including all Residences, fixtures, and building services equipment as provided in the Act. The Association may maintain broader coverage if afforded by the insurance contract.

a) The blanket policy shall exclude land and other items not normally and reasonably covered by such policies. The blanket policy shall be an "all in" or "all inclusive" insurance as those terms are used in the insurance industry and shall include insurance for any fixture, improvement, or betterment installed in or to the Residence or any Limited Common Areas or otherwise permanently part of or affixed to Common Areas, Residences, or Limited Common Areas, including but not limited to floor coverings, cabinets, light fixtures, electrical fixtures, heating and plumbing fixtures, paint, wall coverings, windows.

b) At a minimum, the blanket policy shall afford protection against loss or damage by: (1) fire, windstorm, hail, riot, aircraft, vehicles, vandalism, smoke, and theft; and (2) all perils normally covered by "special form" property coverage.

c) The blanket policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all property covered by such policy (including the Residences) at the time the insurance is purchased and at each renewal date. The actual replacement cost of the property shall be determined by using methods generally accepted in the insurance industry.

d) The blanket policy shall include either of the following endorsements to assure full insurable value replacement cost coverage: (1) a "Guaranteed Replacement Cost Endorsement" under which the insurer agrees to replace the insurable property regardless of the cost; and (2) a "Replacement Cost Endorsement" under which the insurer agrees to pay up to one hundred percent (100%) of the

Project's insurable replacement cost but not more. If the policy includes a coinsurance clause, it must include an "Agreed Amount Endorsement" which must waive or eliminate the requirement for coinsurance.

e) Each property policy that the Association is required to maintain shall also contain or provide for the following: (i) "Inflation Guard Endorsement," if available, (ii) "Building Ordinance or Law Endorsement," (the endorsement must provide for contingent liability from the operation of building laws, demolition costs, and increased costs of reconstruction), and (iii) "Equipment Breakdown," if the project has central heating or cooling or other equipment or other applicable fixtures, equipment, or installation, which shall provide that the insurer's minimum liability per accident at least equals the lesser of two million dollars (\$2,000,000) or the insurable value of the building containing the equipment.

2) **Owner Responsibility for Payment of Deductible.** If a loss occurs that is covered by a property insurance policy in the name of the Association and another property insurance policy in the name of an Owner:

a) Except as provided below, the Association's policy provides primary insurance coverage, and:

- i) the Owner is responsible for the Association's policy deductible; and
- ii) the Owner's policy, if any, applies to that portion of the loss attributable to the Association's policy deductible.

b) An Owner that has suffered damage to any combination of a Residence or a Limited Common Area appurtenant to a Residence ("Residence Damage") as part of a loss, resulting from a single event or occurrence, that is covered by the Association's property insurance policy ("a Covered Loss") is responsible for an amount calculated by applying the percentage of total damage resulting in a Covered Loss that is attributable to Residence Damage ("Residence Damage Percentage") for that Residence to the amount of the deductible under the Association's property insurance policy; and

c) If an Owner does not pay the amount required under Subsection b) above within 30 days after substantial completion of the repairs to, as applicable, the Residence or the Limited Common Area appurtenant to the Residence, the Association may levy an assessment against the Owner for that amount.

3) **Claims Under the Deductible.** If, in the exercise of its business judgment, the Board determines that a claim is likely not to exceed the Association's policy deductible: (a) the Owner's policy is considered the policy for primary coverage to the amount of the Association's policy deductible; (b) an Owner who does not have a policy to cover the Association's property insurance policy deductible is responsible for the loss to the amount of the Association's policy deductible; and (c) the Association need not tender the claim to the Association's insurer.

4) **Deductible Notice.** The Association shall provide notice to each Owner of the Owner's obligation under Subsection (b) above for the Association's policy deductible and of any change in the amount of the deductible. If the Association fails to provide notice of the initial deductible, it shall be responsible for the entire deductible in case of any loss. If the Association fails to provide notice of any increase in the deductible, it shall be

responsible for paying any increased amount that would otherwise have been assessed to the Owner. The failure to provide notice shall not invalidate or affect any other provision in this Declaration.

5) The Association shall have no obligation to obtain or maintain any insurance covering Owners' personal and real property, and each Owner shall be responsible for obtaining and maintaining such personal and real property insurance.

8.3. **Comprehensive General Liability (CGL) Insurance.** The Association shall obtain CGL insurance insuring the Association, the agents and employees of the Association, and the Owners, against liability incident to the use, ownership or maintenance of the Common Area or membership in the Association. The coverage limits under such policy shall not be less than One Million Dollars (\$1,000,000.00) covering all claims for death of or injury to any one person or property damage in any single occurrence. Such insurance shall contain a Severability of Interest Endorsement or equivalent coverage which would preclude the insurer from denying the claim of an Owner because of the negligence acts of the Association or another Owner.

8.4. **Director's and Officer's Insurance.** The Association shall obtain Directors' and Officers' liability insurance protecting the Board of Directors, the officers, and the Association against claims of wrongful acts, mismanagement, failure to maintain adequate reserves, failure to maintain books and records, failure to enforce the Governing Documents, and breach of contract (if available). This policy may also provide coverage for, if reasonably available: (1) volunteers and employees, (2) monetary and non-monetary claims, (3) claims made under any fair housing act or similar statute or that are based on any form of discrimination or civil rights claims, and (4) defamation. In the discretion of the Board, the policy may also include coverage for any manager and any employees of the manager and may provide that such coverage is secondary to any other policy that covers the Manager or any employees of the Manager.

8.5. **Theft and Embezzlement Insurance.** The Association may obtain insurance covering the theft or embezzlement of funds to: (1) provide coverage for an amount of not less than the sum of three (3) months' regular assessments in addition to the prior calendar year's highest monthly balance on all operating and reserve funds, and (2) provide coverage for theft or embezzlement of funds by: (a) officers and Board Members of the Association, (b) employees and volunteers of the Association, (c) any Manager, and (d) officers, directors, and employees of any Manager..

8.6. **Worker's Compensation Insurance.** The Board shall purchase and maintain in effect workers' compensation insurance for all employees of the Association to the extent that such insurance is required by law and as the Board deems appropriate.

8.7. **Certificates.** Any insurer that has issued an insurance policy to the Association shall issue a certificate of insurance to the Association, and upon written request, to any Owner or Mortgagee.

8.8. **Named Insured.** The named insured under any policy of insurance shall be the Association. Each Owner shall also be an insured under all property and CGL insurance policies.

8.9. **Right to Negotiate All Claims & Losses & Receive Proceeds.** Insurance proceeds for a loss under the Association's property insurance policy are payable to an Insurance Trustee if one is designated, or to the Association, and shall not be payable to a holder of a security interest. An Insurance Trustee, if any is appointed, or the Association shall hold any insurance proceeds in trust for the Association, Owners, and lien holders. Insurance proceeds shall be disbursed first for the repair or restoration of the damaged property, if the property is to

be repaired and restored as provided for in this Declaration. After any repair or restoration is complete and if the damaged property has been completely repaired or restored, any remaining proceeds shall be paid to the Association. If the property is not to be repaired or restored, then any remaining proceeds after such action as is necessary related to the property has been paid for, shall be distributed to the Owners and lien holders, as their interests remain with regard to the Lots. Each Owner hereby appoints the Association, or any Insurance Trustee, as attorney-in-fact for negotiating all losses related thereto, including the collection, receipt of, and appropriate disposition of all insurance proceeds; the execution of releases of liability; and the execution of all documents and the performance of all other acts necessary to administer such insurance and any claim. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors, or assigns of the Owner.

8.10. **Insurance Trustee**. In the discretion of the Board or upon written request executed by Owners holding at least 50% of the entire voting interest of the Association, the Board shall hire and appoint an insurance trustee ("Insurance Trustee"), with whom the Association shall enter an insurance trust agreement, for the purpose of exercising such rights under this paragraph as the Owners or Board (as the case may be) shall require.

8.11. **Owner Act Cannot Void Coverage Under Any Policy**. Unless an Owner is acting within the scope of the Owner's authority on behalf of the Association and under direct authorization of the Association, an Owner's act or omission may not void an insurance policy or be a condition to recovery under a policy.

8.12. **Waiver of Subrogation against Owners and Association**. All property and CGL policies must contain a waiver of subrogation by the insurer as to any claims against the Association and the Owners and their respective agents and employees.

8.13. **Applicable Law**. This Declaration is specifically subjecting the Association to the insurance requirements and provisions in Part 4 of the Act, and any amendments thereto and thereafter enacted by law. It is the intent of this provision that any future changes to the insurance law applicable to community associations shall apply to this Association.

ARTICLE IX. USE RESTRICTIONS

9.1. **Use of Common Areas**. The Common Areas shall be used only in a manner consistent with their community nature and with the use restrictions applicable to Lots.

9.2. **Use of Lots**. All Lots are intended to be improved with a townhome style single-family Residence and are restricted to such use unless approved by the Board to the contrary. No gainful occupation, business, trade, or other nonresidential use shall be conducted on any Lot without the prior written consent of the Board and applicable governmental entities. Notwithstanding the foregoing, activities otherwise prohibited by this Section are permitted without Board approval if only normal residential activities would be observable outside of the Residence; the business activity does not involve persons coming on to the Project who do not reside in the Project; the business activity does not involve the solicitation of Occupants or Owners; the business will not result in the increase of the cost of the Association's insurance; and that the activities would not be in violation of applicable local ordinances. All activity upon a Lot shall also conform to the requirements and ordinances of Centerville City.

9.3. **Offensive or Unlawful Activities.** No noxious or offensive activities shall be carried on upon any Lot, or Common Area, nor shall anything be done or placed on any Lot or Common Area which interferes with or jeopardizes the quiet enjoyment of other Lots or the Common Areas, or which is a source of annoyance to residents. No unlawful use shall be made of a Lot or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. No use shall be made of any Lot which would result in an increase in the cost of the Association's insurance or which would cause the improvements within the Project or any part thereof to be uninsurable against loss by fire or other perils included in insurance contracts, or cause such insurance to be canceled or suspected, or cause any company issuing such insurance to refuse renewal thereof.

9.4. **Recreational Vehicles.** Boats, trailers, ATVs, motorhomes, large trucks and commercial vehicles, or the like, as determined by the Board, belonging to Owners or other Occupants of the Project shall not be parked within the Project except within a garage or for a period not to exceed six (6) hours to accommodate temporary loading and unloading. The Board is authorized to adopt Rules that vary or expand upon the restrictions set forth in this Section. In no event shall any recreational vehicle be parked in a manner that would prevent the flow of traffic or an Owner from accessing his/her parking stall and/or Residence.

9.5. **Pets.** The Board may adopt Rules and restrictions related to pets including, but not limited to, requirements for registration, the use of leashes, waste clean-up, and noise and barking limitations. All pets must abide by all pet Rules adopted by the Board and at no time shall a pet create a nuisance as determined in the sole discretion of the Board. Owners are fully responsible for any property damage or personal injury to others caused by their animals. If no pet Rules are adopted, the following shall apply. No animals, livestock, or poultry of any kind, including chickens, shall be raised, bred or kept on any Lot, except that dogs, cats or other common household pets, may be kept, provided that they are not kept, bred or maintained for any commercial purpose, and provided that they are kept so as to avoid becoming a nuisance to the neighborhood or to any adjoining property owners, and do not roam unattended outside of a Residence. Domestic pets shall be limited to two (2) four legged animals per Residence. Domestic pets shall not include miniature pigs, horses, or other hybrid livestock or farm animals. The Board shall have the sole discretion to determine whether a pet qualifies as a domestic pet pursuant to this Section. Pets shall be registered, licensed, and inoculated as required by law. Owners shall be responsible for the immediate clean-up and removal of their pets' waste from any other Lot and the Common Area. Centerville City ordinances applicable to pets shall apply to the Project, except where the Declaration and/or Rules deviate therefrom.

9.6. **Machinery and Equipment.** No machinery or equipment of any kind shall be placed, used, operated, or maintained on or adjacent to any Lot except such machinery or equipment as is usual and customary in connection with the use, maintenance, or construction of a Residence or appurtenant structures.

9.7. **Nuisances.** No Owner or Occupant shall create, maintain or permit a nuisance in, on or about the Project. For purposes of this Section a "nuisance" includes any behavior which annoys, disturbs or interferes with other residents and interferes with their right to the quiet and peaceful enjoyment of their property. A nuisance includes, but is not limited to, the following:

- 1) The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about a Lot or the Common Areas;

- 2) The storage of any item, property or thing that will cause any Lot or the Common Area to appear to be in an unclean or untidy condition or that will be noxious to the senses;
- 3) The accumulation of rubbish, unsightly debris, garbage, equipment, or other things or materials that constitute an eyesore as reasonably determined by the Board;
- 4) The storage of any substance, thing or material upon any Lot or in the Common Areas that will emit any foul, unpleasant or noxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the other residents at the Project;
- 5) Actions or activities tending to cause embarrassment, discomfort, annoyance, distress or a disturbance to any other residents, their guests or invites, particularly if the police or sheriff must be called to restore order;
- 6) Maintaining any plants, animals, devices or items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature that diminishes or destroys the enjoyment of the Association by other residents, their guests or invitees;
- 7) Too much noise or traffic in, on or about any Lot or the Common Area, especially after 10:00 p.m. and before 7:00 a.m., or excessive use of outside speakers or amplifiers;
- 8) Operating a motor vehicle in excess of 15 mph within the Project;
- 9) Allowing a pet to be unleashed while outside an Owner's Lot or continuous barking, meowing, or other animal noises;
- 10) Allowing a pet to urinate or defecate in the Common Areas or another Lot; or failing to clean up immediately any feces deposited by a pet in the Common Area or another Owner's Lot or Limited Common Area.

9.8. **Signs.** The Association may regulate and restrict signs in the Project to the extent permitted by law in the Rules. Unless otherwise designated in the Rules, lawn signs are prohibited, except "For Sale" or "For Rent" signs. All other signs may only be erected or maintained in the Project, whether in a window or otherwise, with the prior approval of the Board.

9.9. **Trash Collection.** All garbage and trash shall be placed and kept in covered containers. The garbage containers shall be stored in garages so they are not visible from outside of any Residence, except for the day the container is emptied. The Association may adopt additional Rules for the storage and use of trash containers.

9.10. **Parking.** Parking is prohibited on all Association's private streets, which include 100 West, 175 West, 50 West, and 275 North. Parking on 200 North shall comply with Centerville City ordinance. Guest parking spaces shall be regulated by the Rules of the Association. At no time shall any vehicle be parked in a manner that would block access to another's Residence or which would impair vehicular or pedestrian access or snow removal. Parking shall be subject to and governed by Association Rules and may be assigned by the Board. Common Area parking may be designated as guest-only parking areas and the Association may charge a fee for the use of any assigned Common Area parking. The Board may adopt additional Rules relating to the parking of vehicles within the Project, including, without limitation: the size and dimensions of the vehicles parked within the Project; the admission and temporary parking of vehicles within the Project; the right to remove or cause to be removed any vehicles that are improperly parked; the levying of towing charges for the

removal of vehicles improperly parked; and the levying of fines to Owners and Occupants who violate, or whose invitees violate, such Rules.

9.11. **Unightly Items and Storage**. No observable outdoor storage of any kind shall be permitted on front yards, porches, etc., which may be seen from the Association's roads or another Lot except for patio furniture in good condition. Said patio furniture shall conform with standards set by the Architectural Control Committee. Junk and other unsightly items shall not be maintained or stored on any Lot or in the Common Areas.

9.12. **Exterior Fixtures**. Every Owner shall be obligated to ensure that window coverings are installed within their Residence. Furthermore, the ACC is authorized to adopt and implement reasonable Rules or Design Guidelines pertaining to the type, color, material, etc. of window coverings, awnings, doors, lighting fixtures, and other exterior fixtures placed on or around a Residence.

9.13. **Leases**.

1) **Leases Subject to Governing Documents**. Any lease, rental, or other occupancy agreement (hereinafter in this Section 9.13 referred to as a "lease" or "lease agreement") between an Owner and an Occupant respecting a Residence shall be subject in all respects to the provisions and requirements in the Governing Documents and any failure by an Occupant to comply therewith shall be a default under the lease agreement. An Owner shall be responsible and liable jointly and severally with its Occupant(s) for any damage to the Project caused by such Occupant(s) or for any fines levied by the Association for violations made by the Occupants.

2) **Restrictions on Leasing**.

a) Any Owner shall apply to and receive prior written approval from the Board in the event (i) an Owner does not use his/her Residence as such Owner's primary residence, and (ii) such Owner intends to rent, lease, or otherwise cause or allow any other person to occupy such Residence (hereinafter in this Section 9.13 referred to as a "Non-Owner Occupant").

b) No Non-Owner Occupant shall be allowed to use or occupy a Residence without Board approval. The Board may withhold its approval if: (i) the Owner is not current in the payment of all Assessments; or (ii) if more than 10% of the Residences are already occupied or used by other Non-Owner Occupants.

c) The following shall not count towards and are exempt from the 10% Non-Owner Occupant limits: (i) any lease by an Owner during military deployment; (ii) any lease to an Owner's parent, grandparent, child, grandchild, or sibling; (iii) a Residence owned by an entity that is occupied by an individual who has voting rights under the entity's organizing documents, and has a 25% or greater share of ownership, control, and right to profits and losses of the entity; (iv) a Residence that is owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for the estate of a current resident of the Residence, or the parent, child, or sibling of the current resident of the Residence; or (v) any lease by an Owner who was relocated by his/her employer for less than two (2) years.

d) All lease agreements shall be in writing. Any lease agreement between an Owner and a Non-Owner Occupant that does not have the written

approval of the Board shall be null and void. Any Owner that causes or allows a Non-Owner Occupant to occupy or use such Owner's Residence without Board approval shall be in default of this Declaration.

e) Owners shall provide the Board or Manager with the names and contact information for all adult Non-Owner Occupants, along with their vehicle descriptions. Upon request of the Board, copies of lease agreements shall be provided to the Association. All lease agreements shall be for an initial term of no less than six (6) months. Daily or weekly rentals are prohibited.

f) All lease agreements must be for the entire Residence. The leasing of individual rooms is prohibited, unless the Owner utilizes the Residence as his/her primary residence.

g) An Owner may apply to the Board for a hardship exemption, but the Board is under no obligation to provide it. Hardship exemptions may include, without limitation, difficulty in selling a Residence due to market conditions, charitable or religious service or missions, a recent disability of the Owner. A hardship may not be granted by the Board for more than two (2) years.

3) Occupant Nuisance. Within ten (10) days after delivery of written notice of the creation of a nuisance or violation of the Governing Documents by a tenant, the Owner shall proceed promptly to either abate or terminate the nuisance, or cure the default, and notify the Board in writing of his or her intentions. If the Owner fails to act accordingly, the Board may initiate eviction proceedings on behalf of the Owner, and through this Declaration the Owner hereby assigns the Association the authority to do so. All costs incurred by the Association to enforce the terms of the Governing Documents against a tenant shall be assessed to the Owner as an Individual Assessment, whether a lawsuit is filed or not.

9.14. **Smoking and Drugs**. Smoking is prohibited in the Common Areas. Smoking in a Limited Common Area is allowed so long as it is done away from the windows of neighboring Residences so as not to interfere with their rights to be free from the effects of second-hand smoke. Smoking shall include the inhaling, exhaling, breathing, carrying, or possession of any lighted cigarette, cigar, vape, pipe, e-cigarette, other product containing any amount of tobacco, or other similar heated, smoldering, or lit product. The use, manufacture, and/or selling of illegal drugs is also prohibited throughout the Project.

9.15. **Holiday Decorations**. Holiday decorations may be displayed on the outside of a Residence for a reasonable amount of time, as determined by the Board, before and after the related holiday. The Association may adopt additional Rules to regulate holiday decorations in the Project, to the extent permitted by law. Holiday decorations shall include any type of object (including, but not limited to, lights, wreaths, plants, trees, displays, inflatable items, religious iconography or symbols) relating to any national or religious holiday or for any other purpose that holiday decorations are typically understood and which are placed in, on, or outside of a Residence with the apparent purpose, in whole or in part, of making it visible to people outside of the Residence.

9.16. **Smoke and Carbon Monoxide Detectors**. Each Residence shall have an operable carbon monoxide detector and smoke detectors as required by building code.

9.17. **Residence Heating**. Each Residence shall be heated to at least fifty-five (55) degrees at all times to prevent pipes from freezing.

9.18. **Motor Vehicles; Repairs.** No motor vehicle of any kind shall be repaired, constructed, or reconstructed within the Project except for limited emergency repairs needed to get the vehicle to a location where it can be repaired or other repairs made within a garage. No inoperable, unlicensed, or unregistered vehicle shall be parked at the Project except inside a garage and then only for a temporary time to allow the vehicle to be repaired.

9.19. **Variances.** The Board may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in this Article if the Board determines in its discretion (by unanimous vote): (1) either that the restriction would create an unreasonable hardship or burden on an Owner or Occupant, or that a change of circumstances since the recordation of this Declaration has rendered such restriction obsolete and unreasonable to enforce; and (2) that the activity permitted under the variance will not have any financial affect or any other substantial adverse effect on the other Owners or Occupants of the Project and is consistent with the high quality of life intended for residents of the Project. Any such variance shall be unenforceable and without any effect whatsoever unless reduced to writing and signed by every member of the then-existing Board. No variance may be granted that is inconsistent with the Act.

ARTICLE X. ARCHITECTURAL CONTROLS

10.1. **Architectural Control Committee.** The Board may appoint a three (3) member Architectural Control Committee, the function of which shall be to ensure that all improvements and landscaping within the Project harmonize with existing surroundings and structures (herein the "ACC"). The ACC need not be composed of Owners. If such a committee is not appointed, the Board shall perform the duties required of the ACC. The ACC's responsibilities include but are not limited to reviewing and approving all exterior improvements within the Project and to ensure that Lot Owners maintain their Lot appearance and conditions in accordance with the terms of the Governing Documents.

10.2. **Architectural Controls.** To maintain a degree of protection to the investment which Owners have made, exterior alterations of structures, fences, or landscaping shall be limited to those approved by the ACC. In the event of any reconstruction of an improvement or Residence due to a casualty, the design, quality, and appearance of the reconstructed home shall be substantially the same as the structure initially built, unless otherwise approved by the ACC. No exterior landscaping, grading, excavation, building, fence, wall, or other structure, or alteration of any kind to any Residence, Lot, or Limited Common Area shall be commenced, erected, maintained, improved, altered, or made until the plans and specifications, have been approved in writing by the ACC. All subsequent additions to or changes or alterations in any building, fence, wall, or other structure, including exterior color scheme, and all changes in the grade within the Project, shall be subject to the prior written approval of the ACC. Once approved by the ACC, no changes or deviations in or from the plans and specifications shall be made without the prior written approval of the ACC. Subsequent to receiving approval of the ACC and prior to the commencement of construction, each Owner will be responsible for obtaining a building permit from the city when required. Plans and specifications submitted to the ACC shall give complete descriptions and color samples of materials to be used. The ACC will base its approval of plans, specifications, landscaping plans, and other alterations upon compliance with the Design Guidelines, and any other guidelines adopted by the Association.

10.3. **Design Guidelines.** The Board may adopt Design Guidelines for the purpose of maintaining a consistent character and quality of appearance of the improvements within the Project.

(1) The Design Guidelines may designate the design, style, model, and manufacturer of any materials to be used for an exterior improvement or alteration that is acceptable to the Board and ACC. The Design Guidelines may also designate landscaping requirements. Such designations shall be for the purpose of achieving uniformity of appearance and preservation of property values.

(2) Amendments to the Design Guidelines shall apply prospectively only. They shall not require modifications to or removal of any structures previously approved once the approved construction or modification has begun. However, any new work on such structures must comply with the Design Guidelines as amended.

10.4. **Enforcement.**

(1) The ACC shall have the right to refuse to approve any plans or specifications, including grading and location plans, which are not suitable or desirable in its opinion, for aesthetic or other considerations.

(2) Construction of alterations in accordance with plans and specifications approved by the ACC pursuant to the provisions of this Article shall be commenced within six (6) months following the date of approval and completed within twelve (12) months of commencement of the alterations, or within such other period as the ACC shall specify in its approval. In the event construction is not commenced within the period aforesaid, then approval of the plans and specifications by the ACC shall be conclusively deemed to have lapsed and compliance with the provisions of this Article shall again be required.

(3) If any structure is altered, erected, placed or maintained on any Lot other than in accordance with approved plans and specifications therefor and applicable law, such action shall be deemed to be a violation of the provisions of this Declaration and, promptly after the Association gives written notice thereof to its Owner, such Structure shall be removed or restored to its condition prior to such action, and such use shall cease, so as to terminate such violation. If within thirty (30) days after having been given such notice, such Owner has not taken reasonable steps to terminate such violation, any agent of the Association may enter upon such Lot and take such steps as are reasonably necessary to terminate such violation. Such Owner shall be personally liable to the Association for the cost thereof, to the same extent as he is liable for an Assessment levied against such Lot, and, upon the failure of the Owner to pay such cost within ten (10) days after such Owner's receipt of written demand therefor from the Association, the Association may establish a lien therefor upon such Lot in accordance with and subject to the provisions of this Declaration applicable to an assessment lien.

(4) Any member of the ACC, upon the occurrence of a violation of the provisions of this Declaration, and after the Association or the ACC gives written notice thereof to the Owner of the applicable Lot, at any reasonable time, may enter upon and inspect any Lot and the exterior of any Structure thereon to ascertain whether the maintenance, construction or alteration of such Structure or Alteration are in accordance with the provisions hereof.

(5) The ACC shall have the right to charge a reasonable processing fee for the review of alteration requests. Unless otherwise stated in the Rules or Design Guidelines, the fee shall be fifty dollars (\$50) for such requests.

10.5. **Variances.** The ACC may authorize variances from compliance with any of the architectural provisions of this Declaration or Design Guidelines when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental consideration may

require. Such variances must be in writing and must be signed by all of the members of the ACC (or Board if acting as the ACC). If a variance is granted, no violation of the Governing Documents shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of a variance shall not operate to waive any Restrictions of the Governing Documents, other than those specifically identified in the variance, nor shall it affect an Owner's obligation to comply with all governmental laws and regulations.

10.6. **Liability for Damages.** The ACC shall not be held liable for damages because of any action, inaction, approval, or disapproval by it made pursuant to this Article.

ARTICLE XI. ENFORCEMENT

11.1 **Enforcement of Governing Documents.** The Association or any Owner shall have the right to enforce, by proceedings at law or in equity, each provision of this Declaration and other Governing Documents, including the right to prevent any violation of such, and the right to recover damages and other sums for such violation(s). The prevailing party in any action for the enforcement of any provisions of the Governing Documents (including but not limited to litigation and the appeal thereof) shall be entitled to collect court costs and reasonable attorney fees. Occupants, guests, and invitees shall be personally liable for any fine assessed as a result of their action in violation of the provisions of the Governing Documents. Failure to enforce any covenant or restriction within the Governing Documents shall in no event be deemed a waiver of the right to do so thereafter. An Owner in violation of the Governing Document shall be responsible to reimburse the Association for its attorneys' fees and costs expended in remedying the violation against the Owner or his/her Occupants regardless of whether a lawsuit is filed or not.

ARTICLE XII. RIGHTS OF FIRST MORTGAGEE

12.1. **Title in Mortgagee.** Any first Mortgagee who obtains title to a Lot pursuant to the remedies provided in the Mortgage or foreclosure of the Mortgage will not be liable for such Lot's Assessments or charges which accrue prior to the acquisition of title of such Lot by the Mortgagee. However, such first Mortgagee shall be responsible for Assessments levied while it holds title to the Lot.

12.2. **Notice of Default by Owner.** In the event an Owner neglects for a period of sixty (60) days or more to cure any failure on his part to perform his obligations under this Declaration or other Governing Documents, the Association, upon written request from the Mortgagee, shall give written notice of such fact to the Mortgagee covering such Owner's Lot.

12.3. **Priority.** No provision herein is intended, nor shall it be construed, to give any Lot Owner, or any other party, priority over any rights of the first Mortgagee of a Lot pursuant to its Mortgage in the case of a distribution to such Lot Owner of insurance proceeds or condemnation awards for losses to or a taking of Common Areas.

ARTICLE XIII. RIGHT OF ENTRY

13.1 **Right to Enter Lots.** The Association acting through the Board or its duly authorized agent shall have the right at all times upon reasonable notice of at least forty eight (48) hours to enter upon any Lot or Residence, without trespass, to abate any infractions, to

fulfill its responsibilities, to exercise its rights, to make repairs or correct any violation of any of the Declaration or Rules, and in connection therewith shall have the further right to assess all costs incurred against the Owner, such Assessment to be secured by a lien provided in Article V. Notice shall not be necessary in case of an emergency originating in or threatening such Residence or any other part of the Project, including the sound or sight of running water reasonably believed to be causing damage to the Residence or an adjoining Residence; the smell or sight of smoke, abnormal or excessive noises; and foul smell. Owners shall also maintain up-to-date emergency contact information records with the Association, including any local representative an Owner may have. Owners shall be responsible for any costs incurred by the Association as a result of entering a Lot under this Section and shall indemnify and hold harmless the Association for all damages related to such entry, except for such damages resulting from recklessness or bad faith. No notice is required for the Association to perform its landscaping duties on any Lot or Limited Common Area.

ARTICLE XIV. AMENDMENTS

14.1 **Amendments.** This Declaration and Plat may be amended upon the affirmative vote of at least sixty percent (60%) of the voting interests of the Association. Any amendment(s) shall be effective upon recordation in the office of the Davis County Recorder. In such instrument the Board, or the president of the Association, shall certify that the vote required by this Section for amendment has occurred. If a Lot is owned by more than one Owner, the vote of any one Owner shall be sufficient to constitute approval for that Lot under this Section. If a Lot is owned by an entity or trust, the vote of any one officer, trustee, or agent of the entity shall be sufficient to constitute approval for that Lot under this Section. No acknowledgment of any signature used for voting shall be required. Amendments may be proposed by a majority of the Board or by Owners holding at least 40% of the Association's voting interests. All amendments must be reduced to writing and sent to all Owners for official vote by the Association.

ARTICLE XV. MISCELLANEOUS

15.1. **Notices.** Any notice required or permitted to be given to any Owner or Member according to the provisions of this Declaration shall be deemed to have been properly furnished if personally delivered, emailed, sent by text message, or if mailed, postage prepaid, to the Person who appears as an Owner, at the latest email, phone number capable of receiving text messages, or mailing address for such Person appearing in the records of the Association at the time notice is sent. Owners shall register with the Association their mailing address, email address, and a phone number capable of receiving text messages. If no mailing address has been provided, the physical address of the Lot owned by said Owner shall be used for notice purposes. The Association may also send notices to Owners by posting the notice on an official Association website, if any.

15.2. **Consent in Lieu of Voting.** In any case in which this Declaration requires authorization or approval of a transaction the assent or affirmative vote of a stated percentage of the votes present or represented at a meeting, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Members entitled to cast the required percentage of membership votes. The Association may use any method allowed under the Act or the Utah Revised Nonprofit Corporation Act.

15.3. **Interpretation and Severability.** The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is constructed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any party thereof, and any gender shall include the other gender. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof.

15.4. **Covenants to Run with Land.** This Declaration and all provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of the Association and all parties who hereafter acquire any interest in a Lot or in the Common Areas shall be subject to the terms of this Declaration and the provisions of any Rules, agreements, instruments, and determinations contemplated by this Declaration; and failure to comply with any of the foregoing shall be grounds for an action by the Association or an aggrieved Owner for the recovery of damages, or for injunctive relief, or both. By acquiring any interest in a Lot or in the Common Areas, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

15.5. **Reasonable Accommodations.** Notwithstanding anything to the contrary in this Declaration, the Association, upon receipt of a written opinion from its counsel that such action is required, may make or permit reasonable accommodations or modifications to the Project that are otherwise prohibited by the Governing Documents, as required under Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act) as amended, to accommodate a Person with a disability (as defined by Federal law at the time the accommodation is requested). Reasonable accommodations or modifications may include modifications to a Lot, Common Area facilities and buildings, or deviations from provisions of the Governing Documents. Any modification or accommodation made under this section shall not act as a waiver of the provisions of the Governing Documents with regard to anyone else.

15.6. **No Waiver.** Failure by the Association or by any Owner to enforce any Restriction or provision herein contained, or contained in the Bylaws or the Rules, in any certain instance or on any particular occasion shall not be deemed a waiver of such right of enforcement as to any such future breach of the same or any other Restriction or provision.

15.7. **Condemnation.** If a portion of the Common Area is taken by eminent domain, or sold under threat thereof, and is not comprised of and does not include any Lot, the Board shall cause the award to be utilized for repairing or restoring that area in the Project adjacent to the taking, and the portion of the award not used for restoration shall be added to the general funds of the Association. If a Lot is taken by eminent domain, or sold under threat thereof, leaving the Owner with a remnant that may not be practically or lawfully used for any purpose permitted by this Declaration, then that Lot's interest in the Common Areas shall be reallocated to the remaining Lots in proportion to their respective interests immediately before the taking.

15.8. **Security.** The Association shall in no way be considered an insurer or guarantor of security within or relating to the Project, including any Common Area in which the Association may have an obligation to maintain, and the Association shall not be held liable for any loss or damage by reason of any failure to provide adequate security or any ineffectiveness of security measures undertaken. Owner(s) agree by purchasing a Lot in this Association that the Association and Board are not insurers of the safety or well-being of Owners or Occupants or of their personal property, and that each Owner or Occupant assumes all risks for loss or damage to persons, the Lots, the Common Areas, and to the contents of improvements located thereon

to the extent not insured by the Association. EACH OWNER AND OCCUPANT UNDERSTANDS AND ACKNOWLEDGES THAT THE ASSOCIATION, AND BOARD HAVE NOT MADE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, AND THAT EACH OWNER OR OCCUPANT HAS NOT RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO THE SECURITY OF THE PROJECT.

15.9. **Effective Date.** The Declaration and any amendment hereof shall take effect upon its filing in the office of the Davis County Recorder.

IN WITNESS WHEREOF, the Board of Directors has executed this Amended and Restated Declaration of Covenants, Conditions and Restrictions for Country Cottages as of the day and year written below.

DATED as of the 25 day of FEB, 2020.

Country Cottages Owners' Association
A Utah Nonprofit Corporation

By: *Christopher Hall*

Its: President

State of Utah)
) ss.
County of Davis)

On the 25th day of February 2020, personally appeared before me Christopher Hall who by me being duly sworn, did say that she/he is the President of Country Cottages Owners' Association, and that the foregoing instrument is signed and executed by authority of the consent of its members.

Notary Public *Cynthia Peterson*

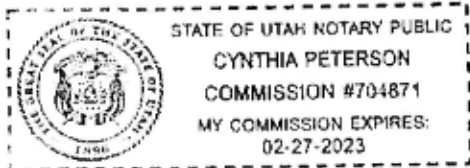


EXHIBIT A
LEGAL DESCRIPTIONS
(92 Lots and 3 Common Areas)

Lot Descriptions and Serial Numbers:

All of Lots 1-20, Country Cottages Plat A Amended, A PUD, Centerville City, Davis County, Utah. [02-159-0001 through 02-159-0020]

All of Lots 21-51, Country Cottages Plat B Amended, A PUD, Centerville City, Davis County, Utah. [02-162-0021 through 02-162-0051]

All of Lots 52-92, Country Cottages Plat C Amended, A PUD, Centerville City, Davis County, Utah. [02-164-0052 through 02-164-0092]

Common Area Descriptions and Serial Numbers:

- 02-159-0021: Common Areas, Country Cottages Plat A Amended, A PUD, Centerville City, Davis County, Utah
- 02-162-0052: Common Areas, Country Cottages Plat B Amended, A PUD, Centerville City, Davis County, Utah
- 02-164-0093: Common Areas, Country Cottages Plat C Amended, A PUD, Centerville City, Davis County, Utah

Project Legal Description

Beginning at the Southeast Corner of Lot 5 of Block 21, Big Creek Plat, Centerville Townsite Survey, which point is South 0 degrees 09'48" East 1,020.43 feet along the centerline of Utah State Highway 106 (a 66 foot wide road) and North 89 degrees 56'11" West 33.0 feet from an existing brass monument at the centerline intersection of Highway 106 and Parrish Lane and running thence North 89 degrees 56'11" West 826.35 actual feet (829.62 feet by deed) along an existing wooden fence on the North line of Cedar Springs Condominiums (said North line of condominiums is also described as the South line of said Lot 5); thence North 0 degrees 05'45" West 594.32 actual feet (593.00 feet, more or less, by deed) along an existing barbed wire fence on the East boundary of the old Bamberger Right-of-Way; thence South 89 degrees 15'16" East 457.29 feet along the South boundary L. Marlene Villa Subdivision; thence South 0 degrees 09'48" East 313.88 feet; thence South 89 degrees 56'11" East 368.41 feet; thence South 0 degrees 09'48" East 275.0 feet along the West line of said Highway 106 to the point of beginning.

Together with all easements and rights-of-way appurtenant thereunto.

EXHIBIT B
AMENDED BYLAWS
OF
COUNTRY COTTAGES OWNERS' ASSOCIATION

These AMENDED BYLAWS OF COUNTRY COTTAGES OWNERS' ASSOCIATION are effective upon recording in the Davis County Recorder's Office pursuant to the Utah Community Association Act and the Utah Revised Nonprofit Corporation Act (referred collectively herein as the "Acts").

RECITALS

A. The Association is organized for any and all lawful purposes for which a nonprofit corporation may be organized under the Utah Revised Nonprofit Corporation Act, as amended, subject to the terms and conditions contained in the Declaration and Articles of Incorporation.

B. These Bylaws are adopted to complement the Declaration, to further define the rights of the Association and the Owners, to provide for the ability to effectively govern and operate the Association and the Project known as Country Cottages, and to further the Association's efforts to safely, efficiently, and economically provide a quality living environment.

ARTICLE I
DEFINITIONS

1.1 Except as otherwise provided herein or as may be required by the context, all capitalized terms used herein shall have the same meaning and effect as used and defined in the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Country Cottages.

ARTICLE II
APPLICATION

2.1 All present and future Owners, Mortgagees, Occupants, and their invitees, and any other persons who may use the facilities of the Project in any manner are subject to these Bylaws and the Rules. The mere acquisition or rental of any of the Residences or the mere act of occupancy or use of any said Residences or the Common Areas will signify that these Bylaws and the Rules are accepted, ratified, and will be complied with by said persons.

ARTICLE III
OWNERS

3.1 **Annual Meetings.** The annual meeting of the Owners shall be held each year during the month of May on a day and time established by the Board. The purposes of the annual meeting may include the election of Board Members, the distribution of financial reports and budget, a review of any revisions to the Rules, distributing the most recent reserve study, and to transact such other business as may come before the meeting. If the election of Board Members cannot be held during the annual meeting, or at any adjournment thereof, the Board shall cause the election to be held either at a special meeting of the Owners to be convened as

soon thereafter as may be convenient or at the next annual meeting. The Board may from time to time by resolution change the month, date, and time for the annual meeting.

3.2 **Special Meetings.** Special meetings of the Owners may be called by a majority of the Board, the President, or upon the written request of Owners holding not less than thirty-five percent (35%) of the voting interests of the Association. Any written request for a special meeting presented by the Owners shall be delivered to the President and shall include the original signature of each Owner affirmatively supporting such request along with a complete statement of the purpose of the meeting on each page containing signatures. The President shall then call, provide notice of, and conduct a special meeting within 45 days of receipt of the Owners' request.

3.3 **Place of Meetings.** The Board may designate any place in Davis County that is reasonably convenient for the Owners as the place of meeting for any annual or special meeting. If no designation is made, the place of the meeting shall be held at the office of the Association or its Manager.

3.4 **Notice of Meetings.** The Board shall cause written or printed notice of the date, time, and place (and in the case of a special meeting, the purpose or purposes) for all Owner meetings. Such written or printed notice shall be delivered to each Owner of record entitled to vote at such meeting not more than sixty (60) nor less than fifteen (15) days prior to the meeting. Such notice may be sent via email, text, hand-delivery, posting on the Association's website (if any), or regular mail. If sent by email or text, such notice shall be deemed delivered and effective on the date transmitted to the Owner's email address or telephone number registered with the Association. If mailed, such notice shall be deemed to be delivered and effective on the date deposited in the U.S. mail if addressed to the Owner's address registered with the Association. Each Owner shall register with the Association such Owner's current email address, phone number, and mailing address for purposes of notice hereunder. Such registered email, phone number, and mailing address may be changed from time to time by notice in writing to the Association. If no address is registered with the Association, an Owner's Residence shall be deemed to be the Owner's registered address and notice to the Residence address may be made by first-class mail or by posting the meeting notice on the front door.

3.5 **Qualified Voters.** An Owner shall be deemed to be in "good standing" and entitled to vote at any Owner meeting if he or she has fully paid his or her Assessment account (together with interest or other fees) at least 48 hours prior to the commencement of the meeting and is not in violation of any provision of the Governing Documents.

3.6 **Record Date for Notice Purposes.** The Board may designate a record date, which shall not be more than sixty (60) nor less than fifteen (15) days prior to the meeting, for the purpose of determining Owners entitled to notice of any meeting of the Owners. If no record date is designated, the last date on which a notice of the meeting is mailed or delivered shall be deemed to be the record date for determining Owners entitled to notice. The persons or entities appearing in the records of the Association on such record date as the Owner(s) of record of Lots in the Project shall be deemed to be the Owners of record entitled to notice of the Owner meeting.

3.7 **Quorum.** At any Owner meeting, the presence, either in person or by proxy, of at least 33% of the Owners shall constitute a quorum for the transaction of business.

3.8 **Proxies.** Owners shall be entitled to vote in person or by proxy at each meeting provided, however, that the right to vote by proxy shall exist only where the instrument

authorizing such proxy to act shall have been signed by the Owner or by the Owner's attorney. A proxy may be written on paper or received via email, facsimile, text, or any other electronic or physical means. A signature as required herein shall mean any indication that the document is from and consented to by the person who is purported to have sent it. If a Lot is jointly owned, the instrument authorizing a proxy to act may be executed by any one (1) Owner of such Lot or the Owner's attorney when duly authorized in writing. A proxy given to a Person who represents an Owner at Association meetings shall be in writing, dated, and signed by such Owner. Such instrument authorizing a proxy to act shall set forth the specific matters or issues upon which the proxy is authorized to act and may allow the proxy to vote on any issue arising at any particular meeting or meetings. Proxies shall be filed with the Secretary (or with such other officer or person who may be acting as secretary of the meeting) before the meeting is called to order. The Secretary shall record all proxies in the meeting minutes.

3.9 **Votes**. With respect to each matter submitted to an Owner vote, each Owner entitled to vote at the meeting shall have the right to cast, in person or by proxy, the number of votes appertaining to the Lot of such Owner, as shown in the Declaration. The affirmative vote of a majority of the votes entitled to be cast by the Owners present or represented by proxy at a meeting at which a quorum was initially present shall be necessary for the adoption of any matter voted on by Owners, unless a greater proportion is required by the Articles, these Bylaws, or the Declaration. The election of Board Members may be by secret ballot. When a Lot is jointly owned, any Owner may exercise the vote for such Lot on behalf of all co-Owners of the Lot. In the event of two (2) conflicting votes by co-Owners of a Lot, no vote shall be counted for that Lot. In no event shall fractional or cumulative votes be exercised with respect to any Lot. Only those Owners whose accounts with the Association are not more than thirty (30) days delinquent shall be entitled to vote.

3.10 **Waiver of Irregularities**. All inaccuracies and irregularities in calls or notices of meetings and in the manner of voting, in the form of proxies and the method of ascertaining Owners present, and in the decision and votes of the Board or of the Owners shall be deemed waived by those Members in attendance if no objection is made at the meeting. For those Members who are not in attendance at the meeting, the right to challenge inaccuracies and irregularities in calls, notices, voting, and decisions shall be waived if no objection is made within thirty (30) days of the date of the meeting.

3.11 **Action Taken Without a Meeting**. Owners have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of Owners in accordance with the requirements of Utah Code §16-6a-707 or §16-6a-709 and any other applicable section of the Acts. Any action so approved shall have the same effect as though taken at an Owner meeting. Ballots or written consents may be obtained via any electronic or physical means including but not limited to email, facsimile, text, or paper document.

3.12 **Minutes of Meetings**. The Secretary shall take minutes of all meetings of the Owners. The minutes shall include, at a minimum, (1) the identification of the Persons present in person and by proxy, (2) the meeting date, (3) the identification of any issue that is voted on or decided in the meeting, (4) the number of votes cast for and against any issue decided upon, and (5) the exact wording of any resolution passed at the meeting. The failure to take appropriate minutes or otherwise comply with this section does not invalidate any action taken at a meeting. Draft meeting minutes for each annual meeting of the Owners shall be made available to all Owners within thirty (30) days of the annual meeting.

ARTICLE IV BOARD OF DIRECTORS

4.1 **Powers.** The Project and the affairs and business of the Association shall be managed by the Board of Directors. The Board may exercise business judgment and all of the powers of the Association, whether derived from the Declaration, these Bylaws, the Articles, or the Acts except such powers that the Declaration, these Bylaws, the Articles, and the Acts vest solely in the Owners.

4.2 **Number and Qualifications.** The property, business, and affairs of the Association shall be governed and managed by a Board of Directors composed of five (5) individuals. Board Members must be at least 18 years old, physically reside at the Project (use the Residence as his/her primary residence), and must be an Owner or the spouse of an Owner of a Lot in the Project. If an Owner is a corporation, partnership, limited liability company, or trust, an officer, partner, member, manger, agent, trustee, or beneficiary of such Owner may be a Board Member. No two Board Members may reside in the same Unit, be the spouse of one another, or be business partners if the business is related to their ownership of a Unit(s). If a Board Member ceases to meet any required qualifications during the Board Member's term, such person's membership on the Board shall automatically terminate.

4.3 **Election.** The election of Board Members shall be made by a vote of the Owners. At such election, the Owners or their proxies may cast, with respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted. The Board may, but shall not be required to, designate a nominating committee to make nominations for election to the Board. Nominations may also be made from the floor at the annual meeting. If a nomination is made from the floor, then such member nominated must be in attendance in person at the meeting.

4.4 **Term of Office.** At each annual meeting, the Owners shall elect Board Members to replace those Board Members whose terms are to expire. Board Members shall serve for two (2) year terms. The terms shall be staggered and overlap so that elections for Board Member positions are held each year (2 in one year; 3 the next year). Board Members may serve consecutive terms if reelected.

4.5 **Regular Meetings.** The Board shall hold meetings regularly as needed in the discretion of the Board.

4.6 **Special Meetings.** Special meetings of the Board may be called by the President or a majority of Board Members on at least three (3) days' prior notice to each Board Member.

4.7 **Board Meeting Notice.** Notice may be given to Board Members and Owners personally, by email, or by telephone, including text message at least 48 hours in advance of the Board meeting. Notice shall be provided to Owners in the same manner as provided to Board Members. By unanimous consent of the Board, meetings may be held without call or notice to Board Members, but notice shall always be provided to those Owners who have requested notice of Board meetings. Board meetings may also be posted as otherwise allowed by the Act, or by posting notice at the mailbox kiosks or other prominent location within the Project.

4.8 **Quorum and Manner of Action.** A majority of then authorized Board Members shall constitute a quorum for the transaction of business at any Board meeting. The act of a majority of the Board Members present at any meeting at which a quorum is present and for

which proper notice was provided shall be the act of the Board. The Board Members shall act only as the Board of Directors, and individual Board Members shall have no powers as such.

4.9 Owner Attendance. Any Owner may request notice of Board meetings (regular or special) by requesting such notice from a Board Member or the Manager and providing a valid email address at which the Owner will receive notice. Owners who have requested notice of Board meetings shall be given notice along with the Board Members and shall be provided any call-in number or other means of attendance by electronic communication that is provided to Board Members. If Owners attend a Board meeting, the Board may select a specific period of time during the meeting and limit Owner comments to such time period. The Board in its sole discretion may set a reasonable length of time that each Owner may speak.

4.10 Open Meetings. Except as provided below in (a) through (f), Board meetings shall be open to Owners. The Board may hold a closed executive session during a meeting of the Board if the purpose of the closed executive session is to:

- (a) Consult with legal counsel of the Association to obtain legal advice and discuss legal matters;
- (b) Discuss existing or potential litigation, mediation, arbitration, or an administrative proceeding;
- (c) Discuss a labor or personnel matter;
- (d) Discuss a matter relating to the initial contract negotiations, including the review of a bid or proposal;
- (e) Discuss a matter involving a Person, if the Board determines that public knowledge of the matter would violate the Person's privacy; or
- (f) Discuss a delinquent Assessment.

4.11 Board Meetings Generally. The Board may designate any place within 20 miles of the Project as the place of meeting for any regular or special Board meeting. The Board may allow attendance and participation at any Board meeting by telephone or any other electronic means that allows for Board Members or Owners to communicate orally in real time. If a Board meeting is held by telephone, the Association shall provide the call-in information such that Owners, who have requested notice of the meeting, may call-in to access the meeting.

4.12 Board Action. Notwithstanding noncompliance with any provision within this Article, Board action is binding and valid unless set aside by a court of law. A person challenging the validity of a Board action for failure to comply with this Article may not bring the challenge more than sixty (60) days after the Board has taken the action in dispute.

4.13 Compensation. No Board Member shall receive compensation for any services that such member may render to the Association as a Board Member; provided, however, that a Board Member may be reimbursed for expenses incurred in performance of such duties as a Board Member to the extent such expenses are approved by a majority of the other Board Members. Nothing herein contained shall be construed to preclude any Board Member from serving the Project in any other capacity and receiving compensation therefore, so long as approved in advance by a majority of disinterested Board Members.

4.14 Resignation and Removal. Board Members may resign at any time by delivering a written resignation to either the President or the Secretary. Unless otherwise specified therein, such resignation shall take effect upon delivery. A Board Member may be removed at any time,

with or without cause, at a special meeting of the Owners duly called for such purpose upon the affirmative vote of more than fifty percent (50%) of the entire voting interests of the Association. At such a meeting, the Owners shall vote for a new Board Member to fill the remaining term of the removed Board Member. Board Members may also be removed by the other active Board Members upon the occurrence of any of the following: failure to attend seventy-five percent (75%) of Board meetings in a calendar year, failure to attend at least three (3) consecutive Board meetings, or failure to remain current on Assessments. If removal occurs based on the preceding sentence, then the remaining Board Members may appoint a replacement to serve the remaining term of the removed Board Member.

4.15 **Vacancies**. If vacancies shall occur in the Board for any reason (including death, resignation, or disqualification) except removal by the Owners, the Board Members then in office shall continue to act, and such vacancies shall be filled by a majority vote of the Board Members then in office, though less than a quorum. Any vacancy in the Board occurring by reason of removal of a Board Member by the Owners may be filled by election of the Owners at the meeting at which such Board Member is removed. Any Board Member elected or appointed hereunder to fill a vacancy shall serve for the unexpired term of his predecessor. Except by reason of death, resignation, disqualification, or removal, Board Members shall continue to serve until their successors are elected.

4.16 **Action Without a Meeting**. Board Members have the right to take any action in the absence of a meeting which they could take at a meeting subject to the requirements of Utah Code §16-6a-813 and any other applicable sections of the Acts. Any action so approved shall have the same effect as though taken at a meeting of the Board.

4.17 **Waiver of Notice**. Before or at any meeting of the Board, any Board Member or Owner may waive notice of such meeting and such waiver shall be deemed the equivalent of proper notice. Attendance by a Board Member or Owner at any meeting thereof shall be a waiver of notice by that Board Member or Owner of the time, place, and purpose thereof.

4.18 **Meeting**. A Board meeting does not include a gathering of Board Members at which the Board does not conduct or vote on Association business.

ARTICLE V OFFICERS

5.1 **Officers**. The officers of the Association shall be a President, Vice President, Secretary, Treasurer, and such other officers as may be appointed by the Board.

5.2 **Election, Tenure, and Qualifications**. Officers shall be elected by the Board at the first Board meeting following each Annual Meeting of the Owners. Each such officer shall hold such office until the next ensuing meeting of the Board following the Annual Meeting of the Owners and until a successor has been elected and qualified, or until such officer's death, or until resignation, disqualification, or removal in the manner provided in these Bylaws, whichever first occurs. Any person may hold any two (2) or more of such offices, except that the President may not also be the Secretary. No person holding two (2) or more offices shall act in or execute any instrument in the capacity of more than one (1) office.

5.3 **Subordinate Officers**. The Board may appoint such other officers or agents as it may deem advisable, each of whom shall have such title, hold office for such period, have such authority, and perform such duties as the Board may from time to time determine.

5.4 **Resignation and Removal.** An officer may resign at any time by delivering a written resignation to any member of the Board or to any managing agent of the Association. Unless otherwise specified therein, such resignation shall take effect upon delivery. An officer may be removed and replaced upon the affirmative vote of a majority of the Board Members at any time, with or without cause.

5.5 **Vacancies.** If a vacancy shall occur in any office by reason of death, resignation, removal, disqualification or any other cause, or if a new office shall be created, such vacancies or newly created offices may be filled by majority vote of the Board at any regular or special Board meeting.

5.6 **President.** The President shall be the chief executive of the Association. The President shall preside at meetings of the Board of Directors and at meetings of the Owners. At the meetings, the President shall have all authority typically granted to the person presiding over the meeting including but not limited to: (1) the right to control the order of the meeting, (2) the right to arrange for the removal of any disruptive Owner or person, (3) the right to impose and enforce reasonable rules and procedures related to the meeting such as those found in "Robert's Rules of Order" or "The Modern Rules of Order." The President shall sign on behalf of the Association all conveyances, mortgages, documents, and contracts, and shall do and perform all other acts and things as required by the Board.

5.7 **Vice President.** The Vice President shall perform all duties of the President when the President is absent or unable or refuses to act at any meeting of the Board or Owners. The Vice President shall perform such other duties as required by the Board.

5.8 **Secretary.** The Secretary shall keep the minutes of the Association and shall maintain such books and records as these Bylaws, the Declaration, Rules, or any resolution the Board may require. The Secretary shall also act in the place of the Vice President in the event of the President's and Vice President's absence or inability or refusal to act.

5.9 **Treasurer.** The Treasurer shall have the custody and control of the funds and financial accounts of the Association, subject to the action of the Board, and when requested by the President, shall report the state of the finances of the Association at each meeting of the Owners and at any meeting of the Board. The Treasurer shall perform such other duties as required by the Board.

5.10 **Compensation.** No officer shall receive compensation for any services rendered to the Association as an officer, provided, however, that an officer may be reimbursed for expenses incurred in performance of such duties as an officer to the extent such expenses are approved by the Board.

ARTICLE VI COMMITTEES

6.1 **Designation of Committees.** The Board may designate committees as it may deem appropriate in carrying out its duties, responsibilities, functions, and powers. No member of such committee shall receive compensation for services rendered to the Association as a member of the committee; provided, however, that the committee member may be reimbursed for expenses incurred in performance of such duties as a committee member to the extent that such expenses are approved by the Board. A committee shall not have any powers, duties, or responsibilities beyond those specifically assigned by the Board in a written resolution. The Board may terminate a committee at any time.

6.2 **Proceeding of Committees.** Each committee may appoint its own presiding and recording officers and may meet at such places and times and upon such notice as such committee may determine. Committees shall keep records of its proceedings and shall regularly report such records to the Board.

6.3 **Quorum and Manner of Acting.** At each committee meeting, the presence of members constituting at least a majority of the authorized membership of such committee (but in no event fewer than two (2) members) shall constitute a quorum for the transaction of business, and the act of a majority of the members present at any meeting at which a quorum is present shall be the act of such committee. The committee members shall act only as a committee, and the individual members thereof shall have no powers as such. A committee may only exercise the authority granted by the Board.

6.4 **Resignation and Removal.** A committee member may resign at any time by delivering a written resignation to the President, the Board, or the presiding officer of such committee. Unless otherwise specified therein, such resignation shall take effect upon delivery. The Board may at any time, with or without cause, remove any committee member.

6.5 **Vacancies.** If a vacancy shall occur in any committee due to disqualification, death, resignation, removal, or otherwise, the remaining members shall, until the filling of such vacancy by the Board, constitute the then total authorized membership of the committee and, provided that two (2) or more members are remaining, may continue to act. Such vacancy may be filled at any meeting of the Board.

ARTICLE VII INDEMNIFICATION

7.1 **Indemnification.** In addition to the indemnification provisions and requirements set forth in the Declaration, no Board Member, officer, or committee member shall be personally liable for any obligations of the Association or for any duties or obligations arising out of any acts or conduct said Board Member, officer, or committee member performed for or on behalf of the Association. The Association shall and does hereby indemnify and hold harmless each person who shall serve at any time as a Board Member, officer, or committee member of the Association, as well as such person's heirs and administrators, from and against any and all claims, judgments and liabilities to which such persons shall become subject, by reason of that person having heretofore or hereafter been a Board Member, officer, or committee member of the Association or by reason of any action alleged to have been heretofore or hereafter taken or omitted to have been taken by him as such Board Member, officer, or committee member and shall reimburse any such person for all legal and other expenses reasonably incurred in connection with any such claim or liability; provided that no such person shall be indemnified against or be reimbursed for or be defended against any expense or liability incurred in connection with any claim or action arising out of such person's willful or intentional misconduct. The rights accruing to any person under the foregoing provisions of this Section shall not exclude any other right to which such person may lawfully be entitled, nor shall anything herein contained restrict the right of the Association to indemnify or reimburse such person in any proper case, even though not specifically provided for herein or otherwise permitted. The Association, its Board Members, officers, committee members, employees, and agents shall be fully protected in taking any action or making any payment or in refusing so to do in reliance upon the advice of counsel.

7.2 **Other Indemnification.** The indemnification provided herein shall not be deemed exclusive of any other right to indemnification to which any person seeking indemnification may be under the Acts or under any agreement, vote of disinterested Board Members or otherwise, both as to action taken in any official capacity and as to action taken in any other capacity while holding such office. It is the intent hereof that all Board Members, officers, and committee members be and hereby are indemnified to the fullest extent permitted by the laws of the State of Utah and these Bylaws. The indemnification provided herein shall continue as to any person who has ceased to be a Board Member, officer, committee member, or employee and shall inure to the benefit of the heirs, executors and administrators of any such person.

7.3 **Insurance.** The Board, in its discretion, may direct that the Association purchase and maintain Directors and Officers insurance on behalf of any person who is or was a Board Member, officer, committee member, or employee of the Association or is or was serving at the request of the Association as a Board Member, officer, committee member, employee, or agent of another association, corporation, partnership, joint venture, trust or other enterprise against any liability asserted against, and incurred by, such person in any such capacity or arising out of such person's status as such, whether or not the Association would have the power to indemnify such person against liability under the provisions of this Article.

7.4 **Settlement by Association.** The right of any person to be indemnified shall be subject always to the right of the Association through the Board, in lieu of such indemnity, to settle any such claim, action, suit or proceeding at the expense of the Association by the payment of the amount of such settlement and the costs and expenses incurred in connection therewith.

ARTICLE VIII RULES AND REGULATIONS

8.1 **Rules.** The Board shall have the authority to adopt and establish by resolution such Association Rules as it may deem necessary for the maintenance, operation, management, and control of the Project. The Board may from time to time, by resolution, alter, amend, and repeal such Rules and use their best efforts to see that they are strictly observed by all Owners and residents. Owners are responsible to ensure that their lessees, invitees, and guests strictly observe the Rules then in effect as well as the covenants and restrictions of the Declaration and shall be jointly and severally liable for their violations and resulting fines. Copies of all Rules adopted by the Board shall be sent to all Owners at least ten (10) days prior to the effective date thereof.

ARTICLE IX AMENDMENTS

9.1 **Amendments.** The Bylaws may be amended upon the affirmative vote of at least fifty-one percent (51%) of the voting interests of the Association. Any amendment(s) shall be effective upon recordation in the office of the Davis County Recorder. In such instrument, the President shall execute the amendment and certify that the vote required by this Section has occurred. If a Lot is owned by more than one Owner, the vote of any one Owner shall be sufficient to constitute approval for that Lot under this Section. If a Lot is owned by an entity or trust, the vote of any one officer, trustee, or agent of the entity shall be sufficient to constitute approval for that Lot under this Section. No acknowledgment of any Owner or Board Member signature shall be required. Amendments may be proposed by a majority of the Board or by Owners holding at

least 40% of the Association's voting interests. All amendments must be reduced to writing and sent to all Owners for official vote by the Association.

**ARTICLE X
MISCELLANEOUS PROVISIONS**

10.1 **Waiver.** No restriction, condition, obligation, or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

10.2 **Invalidity; Number; Captions.** The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws. As used in these Bylaws, the singular shall include the plural, and the plural the singular. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions are intended solely for convenience of reference and shall in no way limit any of the provisions of these Bylaws.

10.3 **Conflicts.** These Bylaws are intended to comply with the Declaration. In case of any irreconcilable conflict, the Declaration shall control over these Bylaws.

IN WITNESS WHEREOF, the Board of Directors has executed these Amended Bylaws of the Country Cottages Owners' Association as of the day and year written below.

DATED as of the 25 day of FEB, 2020.

Country Cottages Owners' Association
A Utah Nonprofit Corporation

By: *Christopher Hall*

Its: PRESIDENT

State of Utah)
) ss.
County of Davis)

On the 25th day of February 2020, personally appeared before me Christopher Hall who by me being duly sworn, did say that she/he is an authorized representative of Country Cottages Owners' Association, and that the foregoing instrument is signed and executed by authority of the consent of its members.

Notary Public *Cynthia Peterson*

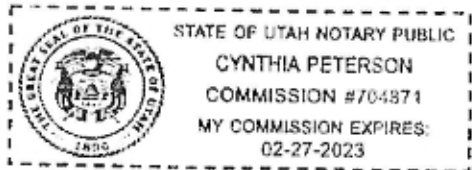


EXHIBIT C

CENTERVILLE COUNTRY COTTAGES: HOA MAINTENANCE CHART

This chart details the division of responsibility for maintenance and repair of property between the Association and the Owners. Note that in all cases, damage in a common area, limited common area, or structure which is caused by an Owner or the Owner's guests, tenants, invitees, etc. shall be repaired at the expense of the Owner. If not listed below or elsewhere in the Declaration, maintenance and repair responsibilities shall be determined by the Board.

	EXTERIOR BUILDING	HOA	OWNER	NOTES
1	Roofs	X		
2	Siding and shutters	X		
3	Lighting (front porch, and garage) fixtures	X		Back porch fixture, and all bulbs on any Residence fixture are the responsibility of the owner.
4	Windows, frames, glass, and screens		X	
5	Window wells	X		Window well covers and ladders are the responsibility of the owner.
6	Foundation, structural	X		Cracks and cosmetic repair are the responsibility of the owner
7	Brickwork	X		
8	Address numbers	X		
9	Rain gutters and down spouts	X		
10	Exterior doors, frames, hardware, and doorbell		X	Painting must be performed or approved by ACC
11	Screens, screen doors, storm doors.		X	The addition of storm doors and screen doors must be approved by the ACC
12	Garage doors and openers.		X	Painting must be performed or approved by ACC
13	Handrails		X	The addition of handrails by owners on approval of ACC
14	Front porch, garage front, and patio lighting		X	Replacements must be approved by ACC
15	A/C and pad		X	
16	Culinary water pipes	X	X	Main line before entry into Unit = HOA Inside Unit = Owner
17	Landscaping water	X		Unless metered to the unit
18	Hose bib, spigot, faucet		X	
19	Weather stripping		X	
20	Vents, dryer and fans		X	Including cleaning

	INTERIOR	HOA	OWNER	NOTES
1	Attic		X	
2	Circuit breakers		X	
3	Fireplace		X	
4	Water heater		X	
5	Furnace		X	
6	Phone/cable lines		X	
7	Plumbing		X	Interior valves including water valve from the main line, pressure regulator,
8	Smoke alarms, carbon monoxide detectors, alarm systems		X	
9	Floor coverings		X	
10	Walls, bearing interior and partition		X	
11	Repairs of damage resulting from surface water		X	
12	Repairs of damage resulting from static water seepage from underground		X	
13	Repairs of damage resulting from interior plumbing		X	

	GROUNDS	HOA	OWNER	NOTES
1	Front sidewalks	X		
2	Driveways	X		
3	Mailboxes and kiosks	X		If must be rekeyed, cost is responsibility of the owner
4	Perimeter fencing	X		
5	Fencing around limited common areas	X	X	Replacement and repair costs shared between owner and HOA 50/50
6	Private streets and guest parking	X		
7	Sprinkling system in common areas	X		
8	Sprinkling system in limited common areas	X	X	Replacement and repair costs may be the responsibility of the owner, the HOA, or shared between them as determined by the HOA on a case-by-case basis.
9	Original patio		X	
10	Mowing and trimming, common areas	X		
11	Mowing and trimming, enclosed limited common areas		X	
12	Lawn, flowers, and shrubs in common areas	X		
13	Lawn, flowers, shrubs in enclosed limited common areas		X	
14	Trees, all	X		Planting of new trees in limited common areas must be approved by ACC
15	Snow removal, private roads and all sidewalks	X		
16	Snow removal, driveways, stoops, porch, and patio	X	X	As determined by the Board
17	Signage	X		
18	Street lights	X		
19	Storm drains	X		
20	All semi-permanent items installed in limited common area by an owner		X	Awnings, decks, patios, pathways, etc. All must be approved by ACC

	OTHER	HOA	OWNER	NOTES
1	Trash collection	X		
2	Pest control, common areas	X		
3	Pest control limited common areas		X	
4	Pest control, units		X	
5	Sewer pipes	X	X	Main line before entry into Unit = HOA Inside Unit = Owner
6	Natural gas lines	X	X	Before entering a Unit= HOA Inside Unit = Owner