

WHEN RECORDED RETURN TO:  
CityView Pineae Village 227, L.P., a Delaware limited partnership  
c/o Jed Stewart  
Fieldstone Homes of Utah, L.L.C.  
1265 E. Fort Union Blvd., Suite 350  
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Jed.Stewart@fieldstone-homes.com  
TID: 02-217-0101 thru 02-217-0150, 02-217-0158 thru 02-217-0164  
TID: 02-224-0001 thru 02-224-0025  
TID: 02-226-0001 thru 02-226-0067  
TID: 02-229-0001 thru 02-229-0052  
TID: 02-233-0001 thru 002-233-0040

**AMENDMENT TO  
PINEAE VILLAGE MASTER DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS, AND RESERVATION OF EASEMENTS**

This Amendment to Pineae Village Master Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements (the "Amendment") is made and executed by CityView Pineae Village 227, L.P., a Delaware limited partnership, whose local address is 1265 E. Fort Union Blvd., Suite 350, Midvale, UT 84047 (the "Declarant").

**RECITALS**

A. The Pineae Village Master Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements was recorded in the office of the County Recorder of Davis County, Utah on April 27, 2007 as Entry No. 2265491 in Book 4271 at Pages 392-468 of the official records (the "Master Declaration").

B. This document affects the real property located in Davis County, Utah, described with particularity on Exhibit "A," attached hereto and incorporated herein by this reference (the "Property").

C. Pursuant to Article XII, §§12.2, 12.3, and 12.4 of the Master Declaration, the Declarant reserved to itself and was granted the unilateral right to amend the Master Declaration to satisfy the requirements of Lenders.

D. The Declarant desires to amend the Master Declaration to satisfy the requirements of VA, HUD and other lenders.

NOW, THEREFORE, for the reasons recited above, and for the benefit of the Project and the Owners thereof, the Declarant hereby executes this Amendment to Pineae Village Master Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for and on behalf of and for the benefit of said Owners.

1. Whenever the term "Operating Expense" is used in the Master Declaration it shall be considered to include all "Common Expenses" as that term is defined in Article I, Section 15 of

the Master Declaration.

2. Article I, Section 35 of the Master Declaration is hereby amended to read as follows:

20. The term **Master Association** or **MHOA** shall mean and refer to the following Neighborhoods or Voting Groups: Pineae Condominium Homeowners Association, Pineae Village Patio Homes Owners Association and the Pineae Town Homes Owners Association acting or taken as a group in accordance with the Master Declaration.

3. Article III, Section 3 of the Master Declaration is hereby amended to add the following new Subsections:

**3.12 Master Association**

3.12.1 The Master Association shall have a corporate status. The Board of Directors may re-file the articles of incorporation of the Master Association if its status has been suspended or dissolved, and may adopt Bylaws if none exist.

3.12.2 The initial members of the Master Association are the Pineae Village Condominium Owners Association, the Pineae Village Patio Owners Association and the Pineae Village Town Homes Owners Association. Membership in the Association is mandatory. A member may not withdraw without the express prior written consent of all of the other members.

3.12.3 The Master Association shall register with the Department of Commerce and pay the Registration Fee.<sup>1</sup> The registration will include: (a) the name and address of the Association; (b) the name, address, telephone number, and, if applicable, e-mail address of the President of the Association; (c) the name and address of each member of the Board of Directors; (d) the name, address, telephone number, and, if the contact person wishes to use e-mail or facsimile transmission for communicating payoff information, the e-mail address or facsimile number, as applicable, of a primary contact person who will provide Association Payoff information.

3.12.3.1 The Registration shall be updated within ninety (90) days after a change in any of the information provided.

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<sup>1</sup> Currently \$37.00

3.12.3.2 If the Master Association has failed to register or update its registration with the State of Utah may not record a notice of lien against a Unit or Lot or enforce a previous lien.

3.12.4 The Master Association shall be governed by a Board of Directors.

3.12.4.1 The Board of Directors shall be comprised of at least three (3) and no more than seven (7) directors.

3.12.4.2 The Master Association shall be operated under a representative Director voting system. During the Period of Declarant's Control, the Directors shall be appointed by the Declarant. Thereafter, they shall be appointed by the Members of the Master Association. That means the Owners of Units at Pineae Village Condominium and the Owners of Lots at Pineae Village Patio Homes and the Owners of Lots at Pineae Village Town Homes shall elect a Board of Directors, who shall appoint a Director to serve on the Board of the Master Association. The Board of Directors of the Master Association must have a Director representing Pineae Village Condominium, Pineae Village Patio Homes and Pineae Village Town Homes.

3.12.4.3 Each Director shall be entitled to cast one (1) vote on each issue or matter. At each meeting of the Master Association, each Director shall cast his or her vote in such manner as such Director may, in his or her sole reasonable discretion, deem appropriate, acting in the best interest of his or her respective Member; provided, however, that a Member shall have the authority to call special meetings of the Owners in his or her Neighborhood for the purpose of obtaining instructions as to the manner in which its Director is to vote on any particular issue. In the absence of such a governing provision in the Declaration or Bylaws governing the Neighborhood, a meeting may be called by the Director for the purpose of deciding how the Director shall vote, and the vote of a majority of the Owners represented at that meeting in person or by proxy shall control the Director's vote on that issue. It shall be conclusively presumed for all purposes of the Master Association business that any Director casting votes on behalf of his or her Neighborhood will have acted with the authority and consent of all of the Owners in the Neighborhood. All agreements and determinations lawfully made by the Master Association in accordance with the voting procedures established herein shall be deemed to be binding on all Neighborhoods, Owners, and their successors and assigns.

3.13 The term Period of Declarant's Control and the Declarant's Class B Voting Rights shall mean and refer to the period during which the Declarant (a) is entitled to appoint *all* of the Directors serving on the Board of Directors, and otherwise direct and control the development, management and operation of the Project, and (b) hold voting rights weighted 3 to 1 in Declarant's favor. The Period of Declarant's Control and the Declarant's Class B Voting Rights shall expire upon the first to occur of the following: (a) One Hundred and Twenty (120) days after the date seventy-five (75%) percent of the total number of Lots and Units planned are conveyed to Owners other than the Declarant, or (b) the expiration of seven (7) years from the date of recordation of the Master Declaration or, if a phased project, then five (5) years after recordation of the most recently recorded annexation document, or (c) when, in its discretion, the Declarant so determines and records in the Office of the County Recorder a written "Notice of Termination of Period of Declarant's Control and Termination of Declarant's Class B Voting Rights."

3.14 The term **Voting Group** shall mean and refer to a Neighborhood or Neighborhoods, or Neighborhood Association or Neighborhood Associations, or other group of Lots or Units designated by the Declarant in writing expressly as a formal electoral district expressly granting the right to have a Voting Member/Director serving on the Board of Directors.

3.15 The term **Voting Member** shall mean and refer to the Director, the representative of a Voting Group, expressly designated in writing by the Declarant as such, who shall be responsible for casting the vote or votes attributable to the Lots or Units he or she represents as provided for in this Master Declaration. The Voting Member/Director from each Voting Group, unless otherwise decided by the Voting Group shall be the senior elected officer (e.g., President, Chair Person) from that body; the alternate Voting Member/Director shall be the next most senior officer. Each Voting Member/Director shall be entitled to cast all votes attributable to the Voting Group/Director he or she represents. Voting Members/Directors may be removed or replaced by the Voting Group in accordance with the express terms of its Neighborhood Declaration.

3.15 The term **Non-Voting Group** shall mean and refer to a Neighborhood or Neighborhoods, or Neighborhood Association or Neighborhood Associations, or other group of Lots or Units NOT designated by the Declarant as a Voting Group or electoral district.

3.16 The term **Non-Voting Member** shall mean and refer to the representative of a Neighborhood or Neighborhoods, or Neighborhood Association or Neighborhood Associations, or other Non-Voting Group. The Non-Voting Member concept is designed to facilitate the orderly voting procedure at Pineae Village while providing the Board of Directors with the consensus opinion of a Non-Voting Group.

4. Article IV of the Master Declaration is hereby amended to add the following new subsections:

4.4 **Designation of Voting Groups for the Master Association.** Anything to the contrary notwithstanding, the Declarant reserves to itself and is hereby granted the exclusive right to designate which Lots and Units comprise the following initial Voting Groups (electoral districts) for the Master Association: (a) SFR Neighborhood Association, (b) Commercial Neighborhood Association, (c) Lofts Neighborhood Association, (d) Townhomes Neighborhood Association, and (e) Declarant. The designations are subject to change by the Declarant until the termination of the Period of Declarant's Control. Thereafter the designations shall have a permanent character and may not be changed without the affirmative written consent or vote of at least two-thirds of all Lots and Units at Ivory Ridge; provided, however, the Declarant MAY NOT be removed as a Voting Group without its express prior written consent, the termination of the Period of Declarant's Control notwithstanding. Changes in designations shall be effective upon the recording of a "Notice of Change in Designation of Voting Groups" in the Office of the Utah County Recorder.

5. Article III, Section 6.1.24 of the Master Declaration is hereby amended to read as follows:

6.1.24 **Rental Restrictions.** The Board of Directors may limit the number of rentals allowed in the Project by rule.

6. Article III, Section 6.1.25.2 of the Master Declaration is hereby amended to read as follows:

6.1.25.2 **Leases Must Be In Writing.** All lease agreements must be in writing.

7. Article VII of the Master Declaration is deleted in its entirety and the following provision is substituted in lieu thereof:

**ARTICLE VII  
INSURANCE**

7.1 For condominiums, the Master Association or its designee shall purchase insurance coverage in compliance with Utah Code Ann., Section 57-8-43 (2011) as it may be amended and supplemented from time to time.

7.2 For non-condominiums, the Master Association or its designee shall purchase insurance coverage in compliance with Utah Code Ann., Section 57-8a-401 et seq. (2011) as it may be amended and supplemented from time to time.

7.3 The Board of Directors may adopt General Insurance Rules and Guidelines.

7.4 The Board of Directors shall purchase adequate D & O coverage if reasonably available.

7.5 The Board of Directors shall purchase an adequate fidelity bond.

7.6 Anything to the contrary notwithstanding, the Declarant hereby reserves to itself and the Board of Directors is hereby granted the exclusive right, power and authority to determine annually whether any Neighborhood, Neighborhood Association or other Voting Group or Non-Voting Group shall be required or permitted to obtain insurance coverage (in addition to that provided by the Master Association Policy) and, if so, the types and amounts of coverage required. In making that determination, the Declarant and/or Board of Directors shall consider the cost and benefit of the insurance, whether the Neighborhood or parcel contains Common Area or Exclusive Common Area and the expressed opinion of any Voting Member or Non-Voting Member. The decision of the Declarant or Board of Directors shall be final, binding and conclusive.

8. Section 9.6 of Article III, entitled "Assessments," of the Master Declaration is hereby deleted in its entirety and the following provisions are substituted in lieu thereof:

9.6 The Master Association may adopt an annual operating Budget and may impose and collect assessments to meet the expenses of the Master Association. The Board of Directors is

hereby granted the power on behalf of the Master Association to levy both annual and additional assessments.

9.6.1 Lots and Units of a similar nature, receiving similar services, shall be assessed on a uniform basis except for the reduced assessment permitted for unoccupied units owned by the Declarant or a builder. If a different basis is used which allocates assessment liability among units based on different services provided to the units or the different nature of the units, the rationale for that basis must be fully explained by the Board of Directors.

9.6.2 If the Declarant furnishes a multi-year feasibility Budget, the Declarant and/or a builder may pay a reduced annual assessment on unoccupied Lots or Units only provided that such reduced assessment is not less than twenty-five (25%) percent of the full annual assessment. Alternatively, the Declarant or builder may pay a one-time assessment equal to twenty-five (25%) percent of the applicable annual assessment per Lot or Unit based upon the first year Budget at maximum build-out (or 5 years out if the Projects involves 250 or more Lots or Units). The Lots or Units for which the one-time assessment has been paid may be exempt from further assessment until the earlier of: (i) initial occupancy or (ii) two (2) fiscal years after submission to the Declaration, whichever first occurs. If unoccupied units are receiving the benefit of the reduced or one-time assessment, the Declarant, or builder, as appropriate, must provide for or pay for all maintenance to such Lots or Units and shall fund all operating budget deficits incurred during the Period of Declarant's Control, including reserves based upon expected lives of items for which reserved, but not including shortfalls caused by nonpayment of assessments by other members or extraordinary expenditures (e.g., expenses caused by natural catastrophes or environmental hazards). A Lot or Unit initially occupied or conveyed to an Owner other than the Declarant or a builder shall be fully assessed. The obligation to fund Budget deficits is a lien against all the land owned by the Declarant (or the Declarant and builder) in the project.

9.6.3 At least thirty (30) days prior to the Annual Meeting of the Master Association, the Board of Directors shall prepare and deliver to the Members of the Master Association a proposed Budget:

9.6.4 The Budget shall set forth an itemization of the anticipated Common Expenses (including that portion earmarked for the reserve account(s) and the Association's proportionate share

of the cost of maintaining the Recreation Amenity) for the twelve (12) month calendar year, commencing with the following January 1.

9.6.5 The Budget shall be based upon advance estimates of cash requirements by the Board of Directors to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Areas, including the Recreation Amenity, and regulation of the Association, which estimate shall include but is not limited to expenses of management, grounds maintenance, taxes and special assessments, premiums for all insurance which the Board of Directors is required or permitted to maintain, common lighting and heating, common water charges, trash collection, storm drain fees, common sewer charges, sewer maintenance costs, carpeting, painting, repairs and maintenance of the Common Areas, including the Recreation Amenity, and replacement of those elements of the Common Areas, including the Recreation Amenity, that must be replaced on a periodic basis, wages for Board of Directors employees, legal and accounting fees, any deficit remaining from a previous period; the creation of a reasonable contingency reserve, surplus or sinking fund, Capital Improvement reserve, and other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under and by reason of this Declaration. Until the Project is completed, and all Phases are added, this estimate may need to be adjusted periodically as each new Phase is completed.

9.6.6 The Members may call a special meeting within forty-five (45) days of the date of the meeting during which the proposed Budget was provided to vote to disapprove the Budget, although to set it aside and to reject a proposed Budget requires the affirmative written consent of at least a majority of total membership of the Master Association. If the new Budget is disapproved, then the prior year's Budget shall continue until such time as a new Budget is adopted.

9. Article III, Sections 9.9, 9.10, 9.11, 9.12.37, 9.12.38 and 9.12.39 of the Master Declaration are hereby deleted in their entirety and the following provisions are substituted in lieu thereof:

**9.9 Reserve Analysis and Reserve Fund.**

9.9.1 As used in this Section, the term "reserve analysis" means an analysis to determine: (1) the need for a reserve fund to accumulate money to cover the cost of repairing, replacing, and



restoring common areas and facilities that have a useful life of three years or more, but excluding any cost that can reasonably be funded from the general Budget or other funds of the Master Association of unit owners; and (2) the appropriate amount of any reserve fund.

9.9.2 After the expiration of the Declarant's Period of Control, the Board of Directors shall cause a reserve analysis to be conducted no less frequently than every five (5) years; and review and, if necessary, update a previously conducted reserve analysis no less frequently than every two (2) years.

9.9.3 The Board of Directors may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the Board of Directors, to conduct the reserve analysis.

9.9.4 The Board of Directors may not use money in a reserve fund: (i) for daily maintenance expenses, unless a majority of the members of the Master Association vote to approve the use of reserve fund money for that purpose; or (ii) for any purpose other than the purpose for which the reserve fund was established.

9.9.5 The Board of Directors shall maintain a reserve fund separate from other funds of the Master Association.

9.9.6 This Subsection (4) may not be construed to limit the Board of Directors from prudently investing money in a reserve fund provided it is government insured.

9.9.7 The Master Association shall: (1) annually, at the annual meeting of the Master Association or at a special meeting of the Master Association: (a) present the reserve study; and (b) provide an opportunity for Unit Owners to discuss reserves and to vote on whether to fund a reserve fund and, if so, how to fund it and in what amount; (2) prepare and keep minutes of each meeting so held and indicate in the minutes any decision relating to funding a reserve fund; provided, however, and anything to the contrary notwithstanding, the Master Association shall fund and maintain a reserve account sufficient to satisfy the requirements for certification by VA, HUD or other lenders.<sup>2</sup>

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<sup>2</sup> Currently (2011) HUD requires a 10% reserve fund and a 10% contribution from annual assessments as they accrue, and that the percentages be noted as line items or otherwise clearly documented.

9.9.8 Anything to the contrary notwithstanding, this section does not apply to the Master Association during the Period of Declarant's Control.

9.9.9 The Master Association may but is not obligated to delegate the responsibility for the Reserve Study and the Reserve Fund, in whole or in part, to a Neighborhood or Neighborhoods, or Neighborhood Association or Neighborhood Associations.

10. Article III, Subsection 9.12.43 of the Master Declaration is hereby amended to read as follows:

**9.12.43 Initial Working Capital Fund.** The initial buyer of a Lot or Unit from the Declarant shall at the time of closing or settlement make an initial contribution to the Working Capital Fund in an amount equal to two monthly Master Assessments on the property. Such amount paid shall not be considered to be an advance payment of the Master Assessment or any other assessment but shall be made in addition thereto. The Declarant expressly reserves the right to change the amount and allocation of the Working Capital Fund contributions.

11. Article III, Section 9 of the Master Declaration is hereby amended to add the following new subsection:

**12. Foreclosure of Lien as Mortgage or Trust Deed.** The lien for nonpayment of Master Assessments may be enforced by sale or foreclosure of the Owner's interest therein by the Board of Directors. The sale or foreclosure shall be conducted in the same manner as foreclosures in deeds of trust or mortgages or in any other manner permitted by law. In any foreclosure or sale, the Owner shall pay the costs and expenses of such proceedings, including but not limited to the cost of a foreclosure report, reasonable attorney's fees, and a reasonable rental for the Lot or Unit during the pendency of the foreclosure action. The Master Association in the foreclosure action may require the appointment of a receiver to collect the rental without regard to the value of the mortgage security. The Board of Directors may bid for the Lot or Unit at foreclosure or other sale and hold, lease, mortgage, or convey the same.

(a) A Lot or Unit may be auctioned publically and sold through either a non-judicial foreclosure (like a bank foreclosing a deed of trust) or through judicial foreclosure. A court order of sale is required for a judicial foreclosure which includes a six (6) month redemption period.

(b) For purposes of a non-judicial foreclosure, when a person accepts a deed or other document of conveyance to a Lot or Unit, it is considered the same, like a bank and a deed of trust, as conveying the Lot or Unit in trust to as trustee<sup>3</sup> appointed by the Master Association to secure payment of all assessments and costs of collection.

(c) The Master Association must appoint a qualified trustee, by signing and recording in the office of the county recorder a written substitution of trustee form in order to foreclose upon a Lot or Unit non-judicially.<sup>4</sup>

(d) At least thirty (30) days prior to starting its non-judicial foreclosure, the Master Association must send written notice to the Owner informing him or her of the Master Association's intent to foreclose non-judicially and the Owner's right to demand judicial foreclosure. The notice must be in the form provided by the statute and sent by certified mail.<sup>5</sup> The Owner may object to the non-judicial foreclosure by sending a written demand for judicial foreclosure. The Owner's objection and written demand must be sent within fifteen (15) days. The Owner's objection and written demand must also be sent by certified mail.

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<sup>3</sup> Bank, Title Company or Utah attorney

<sup>4</sup> No redemption period. A notice of default is prepared and recorded. The Owner has 90 days to cure the default or the Unit may be sold by the Trustee. The notice of sale usually takes 30+ days. A non-judicial foreclosure takes approximately 120 days.

<sup>5</sup> NOTICE OF NONJUDICIAL FORECLOSURE AND RIGHT TO DEMAND JUDICIAL FORECLOSURE

The (insert the name of the association of unit owners), the association for the project in which your unit is located, intends to foreclose upon your unit and allocated interest in the common areas and facilities using a procedure that will not require it to file a lawsuit or involve a court. This procedure is being followed in order to enforce the association's lien against your unit and to collect the amount of an unpaid assessment against your unit, together with any applicable late fees and the costs, including attorney fees, associated with the foreclosure proceeding. Alternatively, you have the right to demand that a foreclosure of your property be conducted in a lawsuit with the oversight of a judge. If you make this demand and the association prevails in the lawsuit, the costs and attorney fees associated with the lawsuit will likely be significantly higher than if a lawsuit were not required, and you may be responsible for paying those costs and attorney fees. If you want to make this demand, you must state in writing that "I demand a judicial foreclosure proceeding upon my unit", or words substantially to that effect. You must send this written demand by first class and certified U.S. mail, return receipt requested, within fifteen (15) days after the date of the postmark on the envelope in which this notice was mailed to you. The address to which you must mail your demand is (insert the address of the association of unit owners for receipt of a demand).

(e) The Master Association may not use a non-judicial foreclosure to enforce a lien if the Owner mails the Master Association a written demand for judicial foreclosure: (a) by U.S. mail, certified with a return receipt requested; (b) to the address stated in the Master Association's Notice of Non-judicial Foreclosure and Right to Demand Judicial Foreclosure under Subsection (4); and (c) within fifteen (15) days after the date of the postmark on the envelope of the Master Association's Notice of Non-judicial Foreclosure and Right to Demand Judicial Foreclosure.

(f) The Master Association must follow the provisions of the law applicable to the non-judicial foreclosure of deeds of trust.

12. Article III, Subsection 10.4.1 of the Master Declaration is hereby amended to read as follows:

**10.4.1 Rules and Regulations** To adopt, amend, modify, create, expand, or enforce rules and regulations as well as architecture and landscape design criteria. The rules, however, are subject to:

10.4.1.1 Any express provisions, restrictions and limitations in the Declaration;

10.4.1.2 The Business judgment rule<sup>6</sup>; and

10.4.1.3 The right of Owners to notice and to disapprove.

Before it adopts or changes a rule or regulation, the Board of Directors must provide the Members within **fifteen (15) days** of its meeting advance notice of its intention. Notice is not required in an emergency.<sup>7</sup> The Board of Directors must provide an open forum at a Board meeting and provide Members with a chance to be heard. The Members may, within **sixty (60) days**, and by a vote of at least a majority of the total ownership at a special meeting called for this purpose disapprove the proposed rule or regulation.<sup>8</sup>

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<sup>6</sup> The business judgment rule is a presumption of the law that the governing board is acting in best interest of the Association and, as a result, the decisions it makes are protected from judicial review in the event there is a loss or the decision turns out to be wrong, so long as the board did not violate its fiduciary duty to act in good faith and not commit a fraud, self-deal or have a conflict of interest, essentially, not to be guilty of intentional misconduct.

<sup>7</sup> Imminent risk of immediate and substantial harm to person or property.

<sup>8</sup> Note: The Board of Directors is NOT required to call a special meeting unless a petition is submitted to it in accordance with the requirements of the Bylaws for a petition to require a special meeting.

#### 10.4.1.4 **Equal Treatment; Rule Limitations**

10.4.1.4.1 The rules must treat similarly situated people the same, although the rules may vary according to the type of service provided.

10.4.1.4.2 The rules may not violate the right of Owners to display religious and holiday signs inside their Dwelling, although the rules may define the time, place, and manner of displays visible from outside the Unit or Lot.

10.4.1.4.3 The rules may not regulate the content of political signs, although the Rules may define the time, place, and manner of displays visible from outside the Unit or Lot.

10.4.1.4.4 The rules may not interfere with an Owner's determination of the composition of his or her household, although they may legally require the occupants to be members of a single housekeeping unit and may limit the total number of occupants permitted in a home or Unit based upon its size, configuration and a fair use of the common areas.

10.4.1.4.5 The rules may not interfere with activities within a Lot or Unit if the activity is legal. Limits may be made if the activities are not considered typical for a residential neighborhood, or if the activities create an additional expense for the Association, or if the activities are dangerous or pose a health concern, or if the activities constitute a nuisance, create unreasonable noise or traffic, or are unsightly or annoying, or create secondary smoke issues.

10.4.1.4.6 If federal, state or local law permits, rules may be adopted regulating use or behavior inside a Dwelling or Lot, including by way of illustration but not limitation smoking, rentals, noise, traffic and nuisance.

10.4.1.4.7 The rules may address a variety of matters such as user fees, the availability of the Common Area and Facilities, the denial of access and use of recreational amenities to trespassers, violators, misusers or abusers, the transfer of lots, rental terms, the disposal of personal property, etc.

10.4.1.4.8 The rules may regulate the maintenance and use of the Common Area and Facilities, late fees, accruing interest, indemnity, etc.

10.4.1.4.9 No rule may be in conflict, inconsistent or incongruent with the Declaration and Bylaws. If any provision of this subsection is held to be illegal, invalid, or unenforceable under any present or future law, then that provision will be fully severable. This subsection will be construed and enforced as if the illegal, invalid, or unenforceable provision had never comprised a part hereof, and the remaining provisions of this subsection will remain in full force and effect and will not be affected by the illegal, invalid, or unenforceable provision or by its severance from this subsection. Furthermore, in lieu of each such illegal, invalid, or unenforceable provision, there will be added automatically, as a part of this subsection, a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid and enforceable.

13. Article III, Section 10.4.15 of the Master Declaration is hereby deleted and the following language is substituted in lieu thereof:

**Books, Records and Production of Documents.** The Master Association shall: (a) keep detailed, accurate records in chronological order, of the receipts and expenditures affecting the Common Areas and Facilities, specifying and itemizing the maintenance and repair expenses of the Common Areas and Facilities and any other expenses incurred; and (b) make those records available for examination by any Owners at a convenient hour during the regular work week no later than fourteen (14) days after the Owner makes a written request to examine the records.

14. Article III, Section 11.1 of the Master Declaration is hereby amended to read as follows:

11.1 Termination. The Project may be terminated only by the unanimous agreement of all Owners, giving each Owner one (1) vote for each Lot or Unit owned and the consent of VA, if required by Article III, Subsection 12.9.6 of the Master Declaration below.

15. Article III of the Master Declaration is hereby amended to add the following new Sections:

**12.9 Consent of Material Amendments or Extraordinary Actions.** Material Amendments and Extraordinary Actions must be approved by Owners entitled to cast at least sixty-seven (67%) percent of the votes of Owners present, in person or by proxy, and voting at any meeting of the Master Association held in accordance with this Section, such vote including at least a majority of the

votes of all Owners present, in person or by proxy, and voting at any meeting of the Master Association, such vote including the vote of a majority of all of the Owners other than the Declarant. Notwithstanding the foregoing, the Declarant hereby expressly reserve the right to make changes or revisions to comply with the requirements of VA, HUD, Fannie Mae, Freddie Mac, or other lenders.

12.9.1 A Material Amendment includes adding, deleting, or modifying any provision regarding the following:

- (A) Assessment basis or assessment liens;
  - (B) Any method of imposing or determining any charges to be levied against individual unit owners;
  - (C) Reserves for maintenance, repair, or replacement of common area improvements;
  - (D) Maintenance obligations;
  - (E) Allocation of rights to use common areas;
  - (F) Any scheme of regulation or enforcement of standards of maintenance, architectural design, or exterior appearance of improvements on units;
  - (G) Reduction of insurance requirements;
  - (H) Restoration or repair of common area improvements;
  - (I) The addition, annexation, or withdrawal of land to or from the project;
  - (J) Voting rights;
  - (K) Restrictions affecting leasing or sale of a unit;
- or
- (L) Any provision which is for the express benefit of mortgagees.

12.9.2 An Extraordinary Action includes:

(A) Merging or consolidating the association (other than with another non-profit entity formed for purposes similar to the subject association);

(B) Determining not to require professional management if that management has been required by the association documents, a majority of eligible mortgagees, or a majority vote of the members;

(C) Expanding the association to include land not previously described as additional land which increases the overall land area of the project or number of units by more than 10 percent;

(D) Abandoning, partitioning, encumbering, mortgaging, conveying, selling, or otherwise transferring or relocating the boundaries of common areas except for: (i) granting easements which are not inconsistent with or which do not interfere with the intended common area use; (ii) dedicating common area as required by a public authority; (iii) limited boundary-line adjustments made in accordance with the provisions of the declaration, or (iv) transferring common area pursuant to a merger or consolidation with a non-profit entity formed for purposes similar to the subject association;

(E) Using insurance proceeds for purposes other than construction or repair of the insured improvements; or

(F) Making capital expenditures (other than for repair or replacement of existing improvements) during any period of twelve (12) consecutive months costing more than twenty (20%) percent of the annual operating budget.

12.9.3 For meetings of the Owners to approve a Material Amendment or Extraordinary Action: (i) at least twenty (25) days advance notice to all members is required (at least seven (7) days notice is required in the case of a meeting for other purposes); (ii) the notice shall state the purpose of the meeting and contain a summary of any Material Amendment or Extraordinary Action proposed; (iii) the notice contains a copy of the proxy that can be cast in lieu of attendance at the meeting; and (iv) if the Project has, or is planned to have, 250 Lots or Units, or less, then the quorum must be at least twenty (20%) percent of the total number of votes; or, on the other hand, (v) if the Project has, or is planned to have,



more than 250 Lots or Units, but less than 1,000, then the quorum must be at least five (5%) percent.

12.9.4 Any Material Amendment which changes the rights of any specific class of Owners (e.g., Condominium, Patio Homes, Town Homes, etc.) must also be approved by Owners entitled to cast at least fifty-one (51%) percent of the votes of all Owners of such class present, in person or by proxy, and voting at any meeting of the Master Association held in accordance with this Section, or at least fifty-one (51%) percent of the total authorized votes of all members of such class.

12.9.5 The following Material Amendments and Extraordinary Actions must be approved by Owners entitled to cast at least sixty-seven (67%) percent of the total authorized votes of all Owners in the Project, including at least a majority of the total authorized votes entitled to be cast by Owners other than the Declarant.

(A) Termination of the declaration or other termination of the planned unit development.

(B) Dissolution of the association except pursuant to a consolidation or merger; and

(C) Conveyance of all common areas.

12.9.6 During the Period of Declarant's Control all Material Amendments and Extraordinary Actions must have the express written approval of VA, if VA has guaranteed any loans secured by Lots or Units in the Project.

12.9.7 All other amendments (other than Material Amendments or Extraordinary Actions) must be approved by at least a majority of the votes entitled to be cast by all Owners present, in person or by proxy, and voting at any meeting of the association at which a quorum is present or in writing by Owners entitled to cast at least a majority of the total authorized votes of all Owners in the Project.

12.9.8 In the event of any conflict, inconsistency or incongruity between the provisions of Section 12.9 and the other provisions of Section 12, the former shall in all respects govern and control.

16. Article III of the Master Declaration is hereby amended to add the following new Section:

17. During the Period of Declarant's Control: (a) the Declarant must provide a copy of all amendments to VA; and (b) the Master Association may not make any Material Amendments or take any Extraordinary Actions without the express prior consent of VA. In addition, Eligible Mortgagees, that is, Mortgagees who have requested in writing notice, shall have the following rights:

17.1 The right to inspect Master Association documents and records on the same terms as Owners.

17.2 Notice of all Material Amendments to the Master Association documents.

17.3 Notice of any Extraordinary Actions of the Master Association.

17.4 Notice of any property loss, condemnation or eminent domain proceeding affecting the Common Area resulting in losses greater than ten (10%) of the annual budget or any property insured by the Master Association in which the mortgagee held an interest.

17.5 Notice of any termination, lapse or material modification of an insurance policy held by the Master Association.

17.6 Notice of any default by an Owner of a Lot or Unit subject to a mortgage held by the Eligible Mortgagee in paying assessments or charges to the Master Association which remains uncured for sixty (60) consecutive days.

17.7 Notice of any proposal to terminate the Master Declaration or dissolve the Master Association at least thirty (30) days before any action is taken.

17.8 A majority of the Eligible Mortgagees are hereby granted the right to demand professional management and/or an audit of the Master Association's financial records.

17.9 Any proposed action which would require the consent of a specified percentage of Mortgagees, if proper notice is given to a Mortgagee or other creditor, then a legal presumption is created that the Mortgagee and/or creditor consented, absent the delivery of a written objection within thirty (30) days of the date of delivery of the notice;

provided, however, actual express written approval must be obtained from VA anything to the contrary notwithstanding.

18. The Association shall: (a) keep detailed, accurate records in chronological order, of the receipts and expenditures affecting the Common Areas and Facilities, specifying and itemizing the maintenance and repair expenses of the Common Areas and Facilities and any other expenses incurred; and (b) make those records available for examination by any Unit Owners at a convenient hour during the regular work week no later than fourteen (14) days after the Unit Owner makes a written request to examine the records.

19. The Association may not prohibit the display of a U.S. flag inside a Dwelling, Unit or Limited Common Area, if the care of the flag and display is consistent with federal law. The Association may control and restrict the display of a flag in the Common Area. The rights of Owners and occupants to display religious and holiday signs, symbols, and decorations on their Lots of the kinds normally displayed in residences located in single-family residential neighborhoods shall not be abridged, except that the Association may adopt time, place, and manner restrictions regulating displays which are visible from outside the Unit.

20. The Board of Directors may exercise its business judgment in deciding whether to impose sanctions or pursue legal action against violators and shall consider common concerns when taking or deciding not to take formal action, such as a weak legal position, conflict with current law, technical violations, minor or collateral issue, and whether or not it is in Association's best interests to pursue the matter and, if so, to what extent.

21. Notice given in accordance with the provisions of the Revised Nonprofit Corporations Act, Title 16 Chapter 6a shall be considered fair and reasonable notice.

22. The Master Association may give notice by text message, e-mail, text message, the Master Association website, or other electronic notice; provided, however an Owner may by making a written demand to the Master Association require written notice.

11. The Master Association may charge a fee for providing Master Association payoff information needed in connection with the closing of an Owner's financing, refinancing, or sale of the Owner's property (the "Payoff Fee"). The Master Association may not require that the Payoff Fee be paid before closing and the Payoff Fee may not exceed \$50.00 without a change in the statute. If the Master Association fails to

provide the payoff information requested within five (5) business days after the closing agent requests the information may not enforce a lien against that Lot or Unit for money due to the Master Association at closing; provided, however, a request shall not be considered effective unless the request is conveyed in writing to the designated contact person for the Master Association on record with the State of Utah and contains: (1) the name, telephone number, and address of the person making the request; and (2) the facsimile number or email address for delivery of the payoff information; and (3) is accompanied by a written consent for the release of the payoff information: (a) identifying the person requesting the information as a person to whom the payoff information may be released; and (b) signed and dated by an authorized agent.

17. The Master Association may charge a Reinvestment Fee as permitted by state law.

18. Any reference to an Affidavit of Withdrawal or "blank lines" related thereto for recording information in supplemental declarations means and refer to the supplement/amendments to the Master Declaration withdrawing and subsequently resubmitting a phase or phases to the Project. No separate or independent "Affidavit of Withdrawal" was ever recorded.

19. It is expressly agreed by the parties that this document is supplemental to the Master Declaration, which is by reference made a part hereof, and all of the terms, conditions, and provisions thereof, unless specifically modified herein, are to apply to the Property and are made a part of this document as though they were expressly rewritten, incorporated and included herein.

20. In the event of any conflict, inconsistency or incongruity between the provisions of the Master Declaration and this Amendment, the latter shall in all respects govern and control.

21. The effective date of this Amendment shall be the date on which said instrument is filed for record in the Office of the County Recorder of Davis County, Utah.

[SIGNATURE PAGE ATTACHED]

IN WITNESS WHEREOF, the Declarant has hereunto set his hand this 1<sup>st</sup> day of November, 2011.

DECLARANT:  
CityView Pineae Village 227, L.P.,  
a Delaware limited partnership

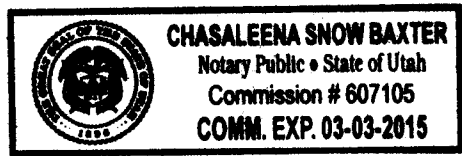
By: CityView Pineae Village, LLC  
a Delaware limited liability company  
Its: General Partner

By: [Signature]  
Name: Jed Stewart  
Title: Authorized Person

STATE OF UTAH                    )  
  )ss:  
COUNTY OF SALT LAKE    )

On the 1<sup>st</sup> day of November, 2011, personally appeared before me Jed Stewart, who by me being duly sworn, did say that he is the Authorized Person of CityView Pineae Village, LLC, a Delaware limited liability company, the General Partner of CityView Pineae Village 227, L.P., a Delaware limited partnership, and that the within and foregoing instrument was signed in behalf of said Partnership by authority of a resolution of its Partners or its Limited Partnership Agreement, and said Jed Stewart, duly acknowledged to me that said Limited Partnership executed the same.

[Signature]  
NOTARY PUBLIC



**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**TOTAL SITE AREA FOR PINEAE VILLAGE**

The land described in the governing documents as the Total Site Area for Pineae Village is located in Davis County, Utah and is described more particularly as follows:

BEGINNING AT A POINT WHICH IS NORTH 00°24'15" EAST, 1033.69 FEET AND N89°35'45"W, 33.00 FEET SAID POINT BEING THE SOUTHEAST CORNER OF LOT 3, BLOCK "B" BIG CREEK PLAT CENTERVILLE TOWNSITE SURVEY AND NORTH 00°24'15" EAST, 75.25 FEET FROM A COUNTY MONUMENT LOCATED AT THE INTERSECTION OF PARRISH LAND AND MAIN STREET AND RUNNING THENCE NORTH 89°50'00" WEST, 832.44 FEET; THENCE SOUTH, 567.17 FEET; THENCE WEST 69.30 FEET; THENCE NORTH 00°04'57" EAST, 242.94 FEET; THENCE NORTH 89°39'51" WEST, 861.63 FEET; THENCE NORTH 00°07'35" EAST, 907.83 FEET; THENCE NORTH 89°49'43" EAST, 276.16 FEET; THENCE NORTH 00°05'01" EAST, 0.52 FEET; THENCE EAST 587.28 FEET; THENCE CONTINUE EASTERLY ALONG SAID LINE A DISTANCE OF 66.50 FEET; THENCE NORTH 89°30'06" EAST, 700.55 FEET; THENCE SOUTH, 100.32 FEET; THENCE NORTH 88°59'28" WEST, 20.00 FEET; THENCE SOUTH 275.29 FEET; THENCE EAST, 150.63 FEET; THENCE SOUTH 209.42 FEET; THENCE SOUTH 00°24'15" WEST 13.83 FEET TO THE POINT OF BEGINNING. 29.95 acres.

Which is currently known as:

All of Lots 101 thru 150, and Open Spaces, PINEAE VILLAGE P.U.D., according to the Official Plat thereof as recorded April 7, 2007, as Entry No. 2265490, in the Office of the Davis County Recorder, State of Utah.

Tax ID No. 02-217-0101 thru 02-217-0150, 02-217-0158 thru 02-217-0164

All of the land described in PINEAE VILLAGE CONDO, PLAT I, according to the Official Plat thereof as recorded January 14, 2008, as Entry No. 2333775, in the Office of the Davis County Recorder, State of Utah, to wit: Which is an amendment of All of Lots 152 and 153 of PINEAE VILLAGE P.U.D., recorded April 7, 2007, as Entry No. 2265490, Davis County Recorder's Office, described with particularity in said Plat I. 1.320 acres.

Tax ID No. 02-224-0001 thru 02-224-0025

All of the land described in PINEAE VILLAGE PLAT III, LOTS 151 A-F, according to the Official Plat thereof as recorded November 20, 2008, as Entry No. 2405944, in the Office of the Davis County Recorder, State of Utah, to wit: Which is an amendment of All of Lot 151 of PINEAE VILLAGE P.U.D., recorded April 7, 2007, as Entry No. 2265490, Davis County Recorder's Office, described with particularity in said Plat III . 4.32 acres.

Tax ID No. 02-226-0001 thru 02-226-0067

All of the land described in PINEAE VILLAGE PLAT II, PUD, according to the Official Plat thereof as recorded April 22, 2009, as Entry No. 2443977, in the Office of the Davis County Recorder, State of Utah, to wit: Which is an amendment of All of Lots 154 and 155 of PINEAE VILLAGE P.U.D., recorded April 7, 2007, as Entry No. 2265490, Davis County Recorder's Office, described with particularity in said Plat II. 3.412 acres.

Tax ID No. 02-229-0001 thru 02-229-0052

All of the land described in PINEAE VILLAGE PLAT IV, PUD, according to the Official Plat thereof as recorded June 25, 2010, as Entry No. 2536348, in the Office of the Davis County Recorder, State of Utah, to wit: Which is an amendment to All of Lots 156 and 157 of PINEAE VILLAGE P.U.D., recorded April 7, 2007, as Entry No. 2265490, Davis County Recorder's Office, described with particularity in said Plat IV. 2.275 acres.

Tax ID No. 02-233-0001 thru 02-233-0040