

Doc 285135 BK 1110 Pg 944
Date 12-Nov-2009 9:54AM Fee \$79.00
LuAnn Adams - Filled By dv
Box Elder Co., UT
For HIGH COUNTRY ESTATES

06-038-0019
thrv 0045

DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
HIGH COUNTRY ESTATES SUBDIVISION

This Declaration is made and executed this ____ day of November, 2009, by J. Alton Veibell, Aldrid Marius Christensen and Maja Johanne Christensen, owners of record ("Declarants").

ARTICLE I
RECITALS:

A. Declarants desire to create on their property the subdivision legally defined as High Country Estates and situate in Box Elder County, Utah to save and protect landscaped areas, open spaces, roads, recreational areas and facilities, and other areas to be managed as open space for the benefit of Owners, residents, and guests.

B. Declarants desire to provide for preservation of the values and amenities of the Subdivision and for maintenance of the open space. To this end and for the health safety and welfare of the residents, guests, employees, customers and clients thereof, Declarants desire to subject the property described in Article III of this Declaration to the covenants, restrictions, easements, charges, and liens hereinafter set forth.

C. Declarants deem it desirable, for the efficient preservation of the values and amenities of the property, to maintain and administer the open space and limited open space, to collect and disburse the assessments and charges hereinafter provided for, and otherwise to administer and enforce the provisions of this Declaration. For such purpose Declarants in conjunction with recordation of this Declaration, is operating under authority of the laws of the United States, and of the State of Utah, and of the ordinances and resolutions of Box Elder County, a subdivision of the State of Utah.

NOW, THEREFORE, for the foregoing purposes, Declarants declare that the property described in Article III of this Declaration is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

ARTICLE II
DEFINITIONS

When used in this Declaration (including in that portion hereof headed "Recitals") the following terms shall have the meaning indicated:

1. Association shall mean the High Country Estates Home Owners Association

whose responsibilities include, but are not limited to, enforcement of the terms and conditions of this declaration.

2. Declaration shall mean this Declaration of Covenants, Conditions and Restrictions.

3. Declarants are the owners of the property that is being developed subject to this Declaration..

4. Development shall mean High Country Estates, a subdivision situate in Box Elder State of Utah, together with adjacent or supportive residential, agricultural and recreational improvements

5. Governing Board shall mean and refer to the governing board of the High Country Home Owners Association as duly designated, appointed or elected in accordance with the terms and conditions of the Home Owners Association Articles of Incorporation, this Declaration and any bylaws duly adopted in fulfillment of said Declaration, any subsequent inclusive, improvement, or services provided thereunder.

6. Manager shall mean and refer to the High Country Estates Home Owners Association, a body corporate and public, which will own, operate and maintain the open space within and adjacent to the Development

7. Managing Agent shall mean and refer to any person or entity appointed or employed as the manager or managing agent by the Association.

8. Mortgage shall mean any first mortgage, first 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.

9. Open space shall mean and refer to all property owned or controlled through easement, right-of-way, or agreement or joint arrangement by the Association for the public use and enjoyment of the residents, customers, or guests together with all improvements thereon and all easements appurtenant thereto. The initial open space shall consist of all property described as such on the plat.

10. Owner - When the term owner is used without a modifier, it shall mean any private occupant who occupies or permits occupancy, whether through lease or purchase, a home, structure or facility on the property.

11. Plat shall mean and refer to a subdivision plat of "High Country Estates", executed and acknowledged by Declarants on September 30th, 2009, prepared and certified by Gardner Engineering (a duly registered Utah Land Surveyor), filed for record in the office of the County Recorder of Box Elder County, Utah on _____, in Book _____, Page _____, as Entry No. _____, creating separately numbered lots or any subsequent subdivision or development duly recorded in Box Elder County.

12. Property shall mean and refer to the entire tract of real property covered by the plat attached hereto and incorporated herein as Exhibit "A", a description of which is set forth in Article III of this Declaration.

13. Roads shall mean the private roads in the development as well as the private roads described herein that provide access to the development.

14. Voting Rights is the vote that is reserved for Owners of property within the Association and living therein.

ARTICLE III **PROPERTY DESCRIPTION**

Property which is or shall be held, transferred, sold, conveyed, and occupied subject to the provisions of this Declaration consists of the real property located in Cache and Box Elder Counties, State of Utah along with two private roads known as the North Access Road and the South Loop Road and described on Exhibit A attached hereto.

ARTICLE IV **DUTIES AND POWERS OF THE ASSOCIATION**

Section 1 - Duties of the Association. Without limiting any other duties which may be imposed upon the Association by this Declaration; the Association shall have the authority and duty to perform each and every one of the following for the benefit of the residents and the maintenance and improvement of the property and for the health, safety and welfare of the resident, Owners, or licensee:

- A. The Association shall accept title to all open space and roads conveyed to it by Declarants.
- B. The Association will maintain the roads in the development and the private roads leading to the development and provide snow removal for the same.
- C. The Association shall maintain, repair, and replace all landscaping and improvements in the open space, including but not limited to maintenance of exterior trees, shrubs, grass, roads, pastures, equestrian paths, post lamps and other public area improvements. The Association shall have no obligation to perform any exterior maintenance and/or repair of any part of any dwelling unit, any limited public area appurtenant thereto or any other landscaping installed by an owner or lessee.
- D. Each Owner shall paint, repair, and otherwise maintain the exterior and interior of all walls, fences and landscaping. If after reasonable notice, Owner fails or neglects to make such repairs, such maintenance and repairs may be made by the Association, and the cost

of such exterior maintenance (and governing expenses equal to ten percent (10%) of such costs) will become part of the reimbursement assessment (as set forth in Article V, Section 2) to which residential lots are subject; provided however, that such notice shall not be less than thirty (30) days with an additional sixty (60) days added for remedial action. The cost of such exterior maintenance (and governing expenses equal to ten percent (10%) of such costs) may be added to and become part of the assessment (as set forth in Article V, Section 2).

- E. The Association shall obtain and maintain in force the policies of insurance required by the provisions of this Declaration.
- F. The Association may employ a responsible corporation, partnership, firm, person or other entity as the Managing Agent to manage and control the open space, with such governing functions and powers as shall be delegated to the managing agent by the Association. The compensation of the managing agent shall be such as shall be specified by the Association. Any agreement appointing a managing agent shall be terminable for cause and the term of any such agreement may not exceed three (3) years, and may be renewable by agreement of the parties for successive one-year periods. The managing agent may be an independent contractor.

Section 2. - Powers and Authority of the Association. The Association shall have all the powers set forth in its Articles of Incorporation and this Declaration, together with its general powers as a Home Owners Association, and the power to do any and all things which may be authorized, required or permitted to be done by the Association under and by virtue of this Declaration, including the power to make assessments, establish fee schedules and collect for services as hereinafter provided. Without in any way limiting the generality of the foregoing, the Association shall have the following powers:

- A. The Association through its agent or office may enter upon any lot for the purpose of maintaining and repairing such lot or any improvement thereon if for any reason the resident 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 Article VIII. The Association may in its own name, on its own behalf, or in the name and behalf of a resident, commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration or any rules and regulations promulgated by the Association, or to enforce by mandatory injunction or otherwise all of the provisions of this Declaration and rules and regulations.
- B. In fulfilling its duties under this Declaration, or in exercising any of its rights to construct, maintain and repair improvements or other work upon any of the open space, and provided that any contract for goods or services having a term of more than one (1) year shall state that it may be terminated by either party at the end of the first year or at any time thereafter upon not less than ninety (90) days written notice, the Association shall have the power and authority: (1) to pay and

discharge any and all liens placed upon any open space on account of any work done or performed by the Association in the fulfillment of any of its obligations and duties of maintenance, repair, operation or administration and (2) to obtain, contract and pay for, or to otherwise provide for:

- (1) Construction, maintenance, and repair, of roads and landscaping of the open space, or easements (and exterior repairs of structures and limited open space upon lots to the extent necessitated by the failure of the resident of such lots) on such terms and conditions as the Association shall deem appropriate.
- (2) Such insurance policies as the Association may deem appropriate for the protection or benefit of the Declarants, the Association, and the residents, employees, guests, and clients.
- (3) Such utility services, including (without limitation) water, snow removal, electrical, and telephone as the Association may from time to time deem desirable;
- (4) The services of architects, engineers, surveyors, attorneys and certified public accountants or other professional services as the Association may deem desirable.
- (5) Fire alarm and suppression, police and security, and such other protection services as the Association may deem desirable for the benefit of the residents or any of the property; and
- (6) Such materials, supplies, furniture, equipment, services and labor as the Association may deem necessary.

Section 3. - Association Rules. The Association from time to time and subject to the provisions of this Declaration, may adopt, amend, repeal and enforce rules and regulations governing, among other things: (a) the use of the open space; (b) the use of any roads trails, waterways, right of way easements, beautification strips and utility facilities owned by the Association; (c) the collection and disposal of refuse; (d) the use of residential structures for business or rental purposes; and (e) other matters concerning the use and enjoyment of the property and the conduct of residents. Rules and regulations adopted by the Association may be enforced in accordance with the provisions of Section 10 of Article VII.

Section 4. - Limitation of Liability. No officer, employee, or member of the Association's Governing Board acting in good faith shall be personally liable to any resident, guest, lessee or any other person for any error or omission of the Association, its representatives and employees, or any committee appointed by the Association Governing Board or under this Declaration.

ARTICLE V.
ASSESSMENTS

Section 1. - Purpose of Assessments. Assessments by the Association shall be used exclusively for the purpose of operation, maintenance and/or construction of services and facilities, including maintaining aesthetic and market values of the property. The use made by the Association of funds obtained from assessments may include payment of the cost of: insurance on the open space; maintenance, repair, and improvements of the open space and limited open space, establishment and funding of a reserve to cover major repair or replacement or improvements with the open space; maintenance and repair of exteriors of structures; and any expense necessary or desirable to enable the Association to perform or fulfill its obligations, functions or purposes under this Declaration or its Articles of Incorporation. The Association shall maintain an adequate reserve fund or funds for maintenance and repairs and replacement of those elements of the open space, and limited open space that must be replaced on a periodic basis and to redeem any instruments of debt insured in furtherance of its duties.

Section 2. - Special assessment on specific lot. In addition to the monthly assessment and any special assessment authorized pursuant to Section 1 above, the Association special assessments as provided by law (a) on every lot especially benefited by any improvement to adjacent roads, trails, planting areas or other portions of the open space made on the written request of the resident or occupant of the lot to be charged: (b) on every lot the resident or occupant of which shall cause any damage to the open space necessitating repairs; and (c) on every lot as to which the Association shall incur any expense for maintenance or repair work performed, or enforcement action taken, pursuant to Section 2 (a) of Article IV or other provisions of this Declaration (all or part of the foregoing being sometimes referred to as "Reimbursement Assessments"). The aggregate amount of any such special assessments shall be determined by the cost of such improvements, repairs, maintenance or enforcement actions including all overhead and governing costs, and shall be allocated among the affected lots, structures and living units according to the special benefit or cause of damage or maintenance or repair work or enforcement action, as the case may be, and such assessment may be made in advance of the performance of 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 a special assessment against the lots not benefited.

ARTICLE VI.
PROPERTY RIGHTS AND CONVEYANCES

Section 1. - Easement Concerning Open space. Each Owner of a residential lot on which buildings are constructed shall have a nonexclusive right of easement of use and enjoyment in and to the open space. Such right and easement shall be appurtenant to and shall pass with title to each lot or easement road, and in no event shall be separated therefrom. Any residential owner or lessee may delegate the right and easement of use and enjoyment described herein to any family member, household guest, contract purchaser, or other person who resides on such lot or is a bona fide guest or employee. Notwithstanding the foregoing, no owner shall have any

right or interest in any easements forming a portion of the open space except for the necessary parking, access, communication, utility and drainage purposes for which such easements are intended for use in public with others.

Section 2. - Form of Conveyancing. Any deed, mortgage, deed of trust, or other instrument conveying or encumbering title to a lot shall describe the interest or estate involved substantially as follows:

Lots numbered 1-27 as identified in the plat recorded in Book 1110, Page 939-940, as Entry No. 285133, contained within the High Country Estates Planned development identified in the "Declaration of Covenants, Conditions, and Restrictions of High Country Estates Subdivision" recorded in the office of the Box Elder County Recorder in Book 1110, at Page 944. TOGETHER WITH a right and easement of use and enjoyment in and to the open space described, and as provided for, in said Declaration of Covenants, Conditions and Restrictions.

Whether or not the description employed in any such instrument is in the above-specified form, however, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in the property or lot therein.

Section 3. - Limitation on Easement. Owners or lessees and visitors and guests shall have a right and easement of use and enjoyment to the open space which shall be subject to the right of the Association to govern by rules and regulations for the use of the open space so as to provide for the enjoyment of the open space by those authorized hereby in a manner consistent with the preservation of quiet enjoyment of the lots by every owner, user or guest.

Section 4. - Reservation of Access and Utility Easements. Declarants reserve easements for access, electrical, gas, communications, television, and other utility purposes, drainage, wells and water facilities (whether servicing the property or other properties or both) over, under, along, across and through, together with the right to grant easements and rights to any public utility upon the usual terms and conditions required by the Association such easement rights; provided however, that such easement rights must be exercised in such manner as not to interfere unreasonably with the use of the property by the Owners and those claiming by, through or under the Owners; and in connection with the installation, maintenance or repair of any facilities provided in such easements, the property shall be promptly restored by and at the expense of the person owning and exercising such easement rights to the approximate condition of the property immediately prior to the exercise thereof.

Section 5. - Easements for Encroachments. If any part of the open space as improved by Association now or hereafter encroaches upon any lot or if any structure constructed by Declarants on any lot now or hereafter encroaches upon any other lot or upon any portion of the open space, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall exist. If any structure on any lot shall be partially or totally destroyed and then rebuilt in a manner intended to duplicate the structure so destroyed, minor encroachments of

such structure upon any other lot or upon any portion of the open space due to such reconstruction shall be permitted; and valid easements for such encroachments and the maintenance thereof, provided that the encroached property is restored to its original condition or otherwise in accordance with the restrictions of this Declaration.

Section 6. - Easements for Construction and Development Activities. Declarants reserve easements and rights of ingress and egress over, under, along, across and through the property and the right to make such noise, dust and other disturbance and to post such signs and advertisements as may be reasonably incident to or necessary for the (a) construction of structures or buildings on lots. (b) improvement of the open space and construction, installation and maintenance thereof, roads, walkways, buildings, structures, landscaping, and other facilities designed for the use and enjoyment of some or all of the Owners, lessees, or bona fide guests or patrons; (c) construction, installation and maintenance on lands within, adjacent to, or serving the property over roads, trails and other facilities planned for dedication to Association; and (d) the marketing and sale or lease of buildings or lots.

ARTICLE VII. **USE RESTRICTIONS**

Section 1. - Use of Public Area. The open space shall be used only in a manner consistent with their community nature and with the use restrictions applicable to residential units.

Section 2. - Parking and Recreational Vehicles. Except for temporary and guest parking in accordance with rules and regulations established by the Association (which rules and regulations shall not permit over-night parking on streets or parking lots), each owner shall be required to park automobiles and other vehicles in garages designed for such purposes and Owners shall not be permitted to maintain or park additional automobiles or vehicles on any undeveloped lot, or common or open space owned or controlled by the Association, except upon any portion of said property expressly designated by the Governing Board for such use. No motor vehicle of any kind shall be repaired, constructed or reconstructed upon any lot, street or other open space, except that these restrictions shall not apply to emergency or short term (not exceeding seventy-two hours) repairs and maintenance to vehicles, all of which shall be performed within enclosed garages.

Section 3. - Pets. Owners, lessees, guests and patients may be allowed a pet on a leash or in a designated area outside their lot. Pets shall not be allowed to make an unreasonable amount of noise or otherwise to become a nuisance. No exterior structure or fence for the care, housing or confinement of any such pets shall be allowed except as may be approved by the Architectural Control Committee. Any owner, lessee or guest within the Development who violate this Section shall be subject to such penalty or fines as the Association by resolution or regulation may provide, including but not limited to a requirement that such pet be permanently removed from the development. Pets shall not be allowed or permitted to disturb or annoy any equestrian stock of the residents or Association, and any owner or lessee who allows such disturbance shall be subject to such fine or penalties.

Section 4. - Antennas, Exterior Appliances, Etc. Absent prior written approval of the Association, no antenna for radio or television reception, air conditioning unit or other appliance or apparatus, laundry, bedding, garment of other like item, shall be placed within the open space, or outside of any living unit. No such item placed within any living unit shall be located so as to be readily visible from the open space.

Section 5. - Insurance. No use shall be made of any living unit which shall cause the improvements within the Development or any part thereof to be uninsurable against loss by fire or other perils included in insurance contracts or cause such insurance to be cancelled or suspended or cause any company issuing such insurance to refuse renewal thereof. Each residential owner shall be responsible for securing insurance presently known as Homeowners special form coverage (Form 3, or better) unless the Association elects to obtain Homeowners special form coverage insurance for all residence lots. Each homeowner's coverage shall specifically include an endorsement covering activities upon and risks associated with the limited open space without any requirement for contribution by the Association or its insurance carriers.

Section 6. - Machinery and Equipment. No machinery or equipment shall be placed, used, operated or maintained in or adjacent to any residential unit, except such machinery or equipment as is usual and customary in connection with the use, maintenance or construction of a living unit or appurtenant structures.

Section 7. - Maintenance and Repair. No building or structure upon any lot shall be permitted to fall into disrepair, and subject to the requirements herein as to approval by the Architectural Control Committee, each such building or structure at all times shall be kept in good condition and painted or otherwise maintained. In explanation of the foregoing but not in limitation each owner, lessee, shall provide exterior maintenance to his structure such as painting, repair, replacement and care of roofs, gutters, downspouts, exterior building surfaces, and landscaping. Failure to perform such maintenance and repair may result in a reimbursement assessment in accordance with the provisions of Section 2 of Article V. No owner shall modify any existing structure upon any lot or limited public area appurtenant thereto, without satisfaction of the conditions set forth in Article VIII.

Section 8. - Nuisances. No rubbish or debris of any kind shall be placed or permitted by an owner, lessee or guest upon or adjacent to any lot, so as to render such lot or portion thereof unsanitary, unsightly, offensive, or detrimental to other residential Owners of the Development. No living unit or lot shall be used in such manner as to obstruct or interfere with the enjoyment of occupants of other living units. Without limiting any of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices (except security devices used exclusively for security purposes) shall be located or placed on lots or on the exterior of structures.

Section 9. - Trash Collection. The Association is not responsible for trash collection. Each owner or lessee must at all times and at his expense contract with Econowaste or other collection company for pickup. Insofar as possible, trash containers shall be maintained so as not to be visible from neighboring lots except to make them available for collection and then only for the shortest time necessary to effect such collection.

Section 10. - Enforcement of Land Use Restrictions. The following persons shall have the right to exercise or seek any remedy at law or in equity to enforce strict compliance with this Declaration:

- A. Declarants, so long as they have any interest in any of the property;
- B. Any residential lot owner;
- C. Any bona fide lessee;
- D. The Association, by its Board;

The prevailing party in an action for the enforcement of any provisions of this Declaration shall be entitled to collect court costs and reasonable attorney's fees.

Section 11. - Exception for Declarants. Notwithstanding the restrictions contained in this Article VIII, for the ten (10) years following the date on which this Declaration is filed for record in the office of the County Recorder of Cache and Box Elder Counties, Utah, Declarants shall have the right to use any lot or living Unit owned by them, and any part of the open space reasonably necessary or appropriate, in furtherance of any construction, marketing, sales, management, promotional, or other activities designed to accomplish or facilitate improvement of the open space or improvement and/or sale of all lots or pads owned by the Declarants.

Section 12. - Water source protection regulations.

A. No resident shall store or dispose of any pesticides, herbicides, or fertilizer in excess of that, that is necessary to maintain a garden or lawn. In no case shall any of these substances be disposed of in the sewer system. Pesticides should be used sparingly and only when deemed necessary and must be disposed of at an approved hazardous waste disposal site.

B. Samples of household wastes that must be disposed of properly include: batteries, cleaners, fluorescent light bulbs, glues, heating oil, ink, medicines, motor oil and automotive supplies, paints, thinners, stains and varnishes, swimming pool chemicals, smoke detectors and thermometers.

C. No resident shall dispose of any hazardous waste or oil or grease in the septic tank. The use of household chemicals should be minimized. Items such as cigarette butts, sanitary napkins, tampons, condoms, diapers, paper towels, egg shells, and coffee grounds, should be disposed of in the proper disposal waste manner. Trees may not be planted close to the system where roots can enter and clog it.

D. Each resident shall be responsible for the cleaning and upkeep of the septic sewer system on their property. Tanks and drainfields shall be located on the property so as to minimize spillage on to others property. In the event of clogging or breakage all repairs shall be

performed as soon as possible, the area of any spillage decontaminated with disinfectant and any earth returned to its original state.

Section 13. – Water. Willow Creek Water Co. Inc. will furnish water to High Country Estates Home Owners Association by Source No. (0206201), Water Right No. 29-1334 (A12000). The Water Shares belong solely to the owner of the specific lots and their assigns and the share automatically transfers when the ownership of the lots transfers. Owners are responsible to pay water assessments to Willow Creek Water Co. which is separate from the Home Owners Association.

ARTICLE VIII. **ARCHITECTURAL CONTROL**

Section 1. - Architectural Committee. The Governing Board of the Association shall appoint an Architectural Control Committee, the function of which shall be to insure that all improvements and landscaping within the property harmonize with existing surroundings and structures. The Committee need not be composed of residents. The Architectural Control Committee shall be appointed for staggered 6 year terms; i.e., one appointee for a two year term, one for four years and one for six years. When the initial terms of the first Board expire, all subsequent terms shall be for six (6) years. Should a replacement not be appointed or otherwise fail to qualify the Board itself shall perform the duties required of the Committee.

Section 2. - Submission to Committee. No accessory or addition to a structure or building which is visible from the open space shall be constructed or maintained, and no alteration, repainting with a different color, or refurbishing of the exterior of any Building or Structure, nor of any patio enclosure, except as herein otherwise mentioned, shall be performed, unless complete plans and specifications therefor have first been submitted to and approved by the Committee.

Section 3. - Standard. In deciding whether to approve or disapprove plans and specifications submitted to it the Committee shall use its best judgment to insure that all improvements, construction, landscaping, and alterations on lots within the property conform to and harmonize with existing surroundings and structures. No structure shall obscure the view of other Owners. In this regard, the Committee will necessarily render decisions in part or in whole on aesthetic judgments and such decisions if reasonable shall nevertheless be binding.

Section 4. – Building Code.

- All lots will be known as “residential lots” No structure will be erected, altered, placed or permitted to remain on any “residential lot” other than one detached single family dwelling and other complimentary “residential use” structures approved by the Architectural Control Committee.
- No dwelling will be erected with a finished living area of less than 1400 square feet exclusive of attic space lofts, one story open porches and garages.

- All dwellings will have at least a two or three car attached garage and paved driveway running from the street to said garage with sufficient space to provide off street parking for all vehicles kept at said dwelling, garages must be completed upon occupancy.
- All roofs will have a minimum pitch of 5 feet rise to 12 feet of vertical distance.
- All dwellings will be held to a minimum of 40% masonry product with a variation of siding products and must be approved by the Architectural Control Committee and conform to the Box Elder County Building Code.

Section 5. - Approval Procedure. Any plans and specifications submitted to the Committee shall be approved or disapproved by it in writing within thirty (30) days after submission. Submission shall be deemed to have been made only in the event applicant obtains from a committee member a signed receipt specifying the date and material submitted. In the event the Committee fails to take any action within such period it shall be deemed to have approved the material submitted.

Section 6. - Construction. Once begun, any improvements, construction, landscaping, or alterations approved by the Committee shall be diligently prosecuted to completion. If reasonably necessary to enable such improvement, construction, landscaping, or alteration, the person or persons carrying out the same shall be entitled to temporarily use and occupy unimproved portions of the open space and of the lots in the vicinity of the activity. In the event of non-compliance with the provisions of this section, the Association may determine, in accordance with the provisions of Section 2 of Article V, to cause such item to be completed and the cost of the same shall become a reimbursement assessment upon such lot

Section 7. - Liability for Damages. The Committee shall not be held liable for damages by reason of any action, inaction, approval, deferral or disapproval for requests, complaints or petitions before it made pursuant to this Article VIII.

Section 8 - Exception for Declarants. The foregoing provisions of this Article VIII shall not apply to any improvement, construction, landscaping, or alteration which is carried out by Declarants on any lot on any part of the open space or limited open space and which occurs at any time during the ten (10) year period following the date on which this Declaration is filed or record in the office of the County Recorder of Box Elder County, Utah.

Section 9. - Association's Obligation. Association hereby covenants in favor of each owner that all living units or utility structures erected by it and all improvements on the open space accomplished by it in the Development (i) shall be architecturally compatible with respect to one another; and (ii) that on or before ten (10) years from the date on which this Declaration is filed for record in the office of the County Recorder of Box Elder County, Utah there shall be substantially completed and usable all open space of the Development, all approximately in the locations shown on the plat.

ARTICLE IX.
GENERAL CONDITIONS

Section 1 – Control of Nuisances:

- A. Dirt, dust and waste discharge: No use of the property will be permitted which emits dust, sweepings, dirt or cinders into the atmosphere, or discharges liquid, which in the opinion of the Association, may adversely affect the health, safety, comfort of, or intended property use by persons within the area. Nor shall waste or any substance or materials of any kind be discharged into any body of water or drainage way, or any part thereof, in violation of regulations of any public body having jurisdiction.
- B. Fumes, gases, odors, etc.: No fumes, odors, gases, vapors, acids or other substances shall be permitted to escape or be discharged into the atmosphere which may be under local jurisdiction or, in the opinion of the Declarants, may be detrimental to the health, safety or welfare of persons or which may be harmful to property or vegetation.
- C. Glare or heat: Any operation producing intense glare or heat shall be performed only within an enclosed or screened area and then only in such a manner that the glare or heat emitted will not be discernable from any exterior lot line.
- D. Noise: Save and except for mowing, tilling and maintaining of the yard, at no point outside of any property plane shall the sound pressure level of any machine, device, or any combination of same, from any individual residential unit exceed the noise levels of reasonable human audio ranges. (Never to exceed 90db)
- E. Hazardous Waste: Operations which generate quantities of hazardous wastes, by-products, or hazardous materials requiring on site storage or back pressure shall be subject to local, State and Federal jurisdiction as well as the written approval by the Association. Identification of all human, animal and agricultural wastes will be managed and mechanically secured and shall be submitted to the Association for approval.
- F. Plans, proposals or practices by residents or Owners deemed by the Architectural Control Committee to be unsightly, environmentally offensive or which may be hazardous to the health, safety, and welfare of the residents or of the greater community will not be condoned or approved.

Section 2. - Conditions of Property. The owner of any lot shall at all times keep the premises, buildings, water elements, improvements and appurtenances in a safe, clean and wholesome condition and comply in all respects with all government, health, fire and police regulations and requirements, and the owner will remove at his or its own expense any rubbish of any character

whatsoever which may accumulate on such site or lot. In the event such owner fails to comply with any or all of such specifications or requirements, the Association shall have the right, privilege and license to enter upon such premises and make any and all corrections or improvements that may be necessary to meet such standards and to charge such owner the expenses incurred in doing so. Association or any of its agents shall not thereby be deemed to have trespassed upon such lot and shall be subject to no liability to the owner or occupant of such lot for such entry and any action taken in connection with the removal of any violation.

The cost of any repairs, maintenance, abatement or removal undertaken by Association hereunder shall be a binding personal obligation on such owner and such costs shall be paid by such owner to Association within five (5) days of written demand, and such costs shall be a lien (enforceable in the same manner as a mortgage) upon the lot in question. The lien provided in this Section shall not be valid as against a bona fide purchaser (or a bona fide mortgagee) of a lot in question unless a suit to enforce said lien shall have been filed in a court of record in Box Elder County, Utah, prior to the recordation among the land records of Box Elder County, of the deed (or mortgage) conveying the lot in question to such purchaser, or subject the same to such mortgage.

Section 3. - Repair of Buildings. No building or structure upon any lot shall be permitted to fall into disrepair, and such building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished.

Section 4. - Right of Entry. During reasonable hours, and subject to reasonable security requirements, Association, or its authorized representative shall have the right to enter upon and inspect any building, site or parcel and the improvements thereon for the purpose of ascertaining whether or not the provisions have been or are being complied with, and neither the Association nor its authorized representative, shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection or incur any liability by reason of such entry or inspection to the owner, lessee, licensee or occupant.

Section 5. - Refuse Collection Areas. All outdoor refuse collection areas shall be visually screened so as not to be visible from the streets, highways and neighboring properties. No refuse collection areas shall be permitted between a street and the front of any building.

Section 6. - Improvements. The Association reserves the sole right to grant consents for the construction and operation of communication and entertainment infrastructure, public utility infrastructure,, electric light, telephone and cable lines, above ground or underground conduits, and gas pipes in and upon any and all streets now existing or hereafter established upon which any portion of the premises may now or hereafter front or abut. The Association reserves and is hereby granted the exclusive right to grant consents and to petition the proper authorities for any and all street improvements such as grading, seeding, tree planting, sidewalks, paving, and water installation, whether it be on the surface or sub-surface which in the opinion of the Association are necessary in or to the property subject to these restrictions. The Association reserves the right to approve above ground utility lines across any property subject to these restrictions, when such utility lines, in the opinion of the Association, are necessary to the property subject to these

restrictions. Association reserves the right to grant public utility easements to any utility company for the installation of lines, apparatus, or facilities necessary for or incident to installations on any lot or property subject to these restrictions.

Section 7. - Other Operations and Uses. Operations and uses which are neither specifically prohibited nor specifically authorized by these restrictions may be permitted in a specific case if operational plans and specifications are submitted to and approved in writing by the Association. Approval or disapproval of such operational plans and specifications shall be based upon the effect of such operations or uses on other property subject to these restrictions or upon the occupants thereof, but shall be in the sole discretion of Association.

ARTICLE X. **DURATION, MODIFICATION, AND REPEAL**

Section 1. - Duration of Restrictions. The Association restrictions shall continue and remain in full force and effect at all times with respect to all property, and each part thereof, now or hereafter made subject thereto (subject, however, to the right to amend and repeal as provided for herein) until January 1, 2015. However, unless within one (1) year prior to January 1, 2015, there shall be recorded an instrument directing the termination of the Association restrictions signed by the Owners of not less than two thirds (2/3) of the property then subject to these restrictions, based on the number of square feet subject to these restrictions (excluding dedicated streets), the Association restrictions, as in effect immediately prior to the expiration date shall be continued automatically without any further notice for an additional period of ten (10) years and thereafter for successive periods for ten (10) years unless within one (1) year prior to the expiration of any such period the Association restrictions are terminated as set forth above in this Section.

Section 2. - Termination and Modifications. This Declaration or any provision thereof, or any covenant, condition or restriction contained herein, may be terminated, extended, modified or amended, as to the whole of said property or any portion thereof, with the written consent of the Owners of sixty-six and two-thirds percent (66 2/3%) of the property subject to these restrictions, based on square feet subject to these restrictions (excluding dedicated streets), provided, however, that so long as Declarants own at least twenty-five percent (25%) of the property subject to these restrictions, or for a period of fifteen (15) years from the effective date hereof, whichever period is longer, no such termination, extension, modification or amendment shall be effective without the written approval of Declarants thereto. No such termination, extension, modification or amendment shall be effective until a proper written instrument setting forth the terms thereof has been executed and acknowledged by the Owners of not less than two-thirds (2/3) (based on square footage) of the real property subject to these restrictions and recorded in the official records of Box Elder County, Utah.

ARTICLE XI. **ENFORCEMENT**

Section 1. - Abatement and Suit. Violation or breach of any restriction herein contained shall give to Association the right to enter upon the property upon or as to which said violation or breach exists and to summarily abate and remove at the expense of the owner, lessee or occupant thereof, any structure, thing or condition that may be or exist thereon contrary to the intent and meaning of the provisions hereof, or to prosecute a proceeding at law or in equity against the person or persons who have violated or are attempting to violate any of these restrictions to enjoin or prevent them from doing so, to cause said violation to be remedied or to recover damages for said violation.

Section 2. - Deemed to Constitute a Nuisance. The result of every action or omission whereby any restriction herein contained is violated in whole or in part is hereby declared to be and to constitute a nuisance, and every remedy allowed by law or equity against an owner, either public or private, shall be applicable against every such result and may be exercised by Declarants.

Section 3. - Attorneys' Fees. In any legal or equitable proceeding for the enforcement of this Declaration or any provision hereof, whether it be an action for damages, declaratory relief or injunctive relief, the losing party or parties shall pay the attorney's fees of the prevailing party or parties, in such reasonable amount as may be fixed by the court in such proceedings, or in a separate action brought for that purpose. The prevailing party shall be entitled to said attorney's fees, even though said proceeding is settled prior to judgment. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.

Section 4. - Failure to Enforce not a Waiver of Rights. The Association is hereby authorized and empowered to grant reasonable variances from the provisions of this Declaration in order to overcome practical difficulties and in order to prevent unnecessary hardship on the application of the provisions contained herein, provided, however, that said variances shall not materially alter or be inconsistent with the general plan and intent of this Declaration. The failure of Association to enforce any requirement, restriction or standard herein contained, shall in no event be deemed to be a waiver of the right to enforce any other restriction.

Section 5. - Association's Right. Association or its duly authorized agents shall have the right at any time or from time to time following violation or breach of any restriction contained herein, without any liability to the owner, lessee, occupant or licensee for trespass or otherwise, to enter upon the real property upon or as to which said violation or breach exists and to summarily abate and remove, at the expense of the owner, lessee, occupant or licensee thereof, any structure, thing or condition that may be or exist thereon contrary to the intent and meaning of this Declaration, or to prosecute a proceeding at law or in equity against the person or persons who have violated or are attempting to violate any of the provisions of this Declaration to enjoin or prevent them from doing so to cause said violation to be remedied or to recover damages for said violation.

Section 6. - Cumulative Remedies. The remedies hereby specified are cumulative, and this specification shall not be deemed to preclude Association from resorting to any other remedy at law, in equity or under any statute. Any assignment or appointment made under this Section

foreclosure, any purchaser of such sale or any such grantee and its successors and assigns shall hold any and all property so purchased or acquired, subject to all the restrictions and other provisions of this Declaration.

Section 11. - Paragraph Headings. Paragraph headings, where used herein, are inserted for convenience only and are not intended to be a part of this Declaration or in any way define, limit or describe the scope and intent of the particular paragraphs to which they refer.

Section 12. - Effect of Invalidation. If any provision of this Declaration is held to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof.

ARTICLE XII.
INSURANCE

Section 1. - Hazard Insurance. The Association shall procure and maintain from a company or companies, a policy or policies of hazard insurance in an amount or amounts equal to or exceeding the full replacement value (exclusive of the value of land, foundations, excavation and other items normally excluded from coverage) of the common property owned by the Association (including all building service equipment, if any, and the like) with an agreed amount endorsement or its equivalent, if available, or an inflation guard endorsement and, if required by any mortgagee of any lot, demolition and contingent liability from operation of building laws endorsement, an increased cost of construction endorsement, and such other endorsements as any first mortgagee of a lot shall reasonably require. Such insurance policy or policies shall name Association as insured for the benefit of the residents and shall afford protection, to the extent applicable, against at least the following:

- A. loss or damage by fire and other hazards covered by the standard extended coverage endorsement, and by debris removal, cost of demolition, vandalism, malicious mischief, windstorm, and water damage; and
- B. such other risks as shall customarily be covered with respect to projects similar in construction, location and use.

Section 2 - Lots and Living Units Not Insured by Association. The Association shall have no duty or responsibility to procure or maintain any fire, liability, extended coverage or other insurance covering any lot and acts and events thereon. Accordingly, Owners of residential units in the Development shall obtain fire, extended coverage and liability insurance to the full replacement value of all facilities.

ARTICLE XIII.
MISCELLANEOUS

Section 1. - Notices. Any notice required or permitted to be given to any owner or lessee of

shall be in recordable form and shall be recorded with the Office of the County Recorder of Box Elder County. If at any time the Association ceases to exist and has not made such an assignment, a successor Association agency may be appointed in the same manner as these provisions may be terminated, extended, modified or amended under Article X Section 2. Any assignment or appointment made under this Section shall be in recordable form and shall be recorded in the county where the land is situated.

Section 7. - Construction, Notice and Acceptance. Every owner, lessee, licensee and occupant, by acceptance of deed conveying title to a part of the Association, or the execution of a contract to the purchase thereof, or the acceptance of a lease or license therefor, or the taking possession thereof, whether from Declarants or a subsequent owner or lessee, shall accept such deed, contract, lease, license or possession upon and subject to each and all of the terms of this Declaration, and also the jurisdiction, rights and powers of Declarants and their successors and assigns, and by such an acceptance shall for himself, his heirs, personal representatives, successors and assigns, covenant consent and agree to and with Declarants, their successors and assigns and to and with the other Owners, lessees, licensees, and occupants to keep, observe, comply with, perform and enforce the terms of this Declaration, and every provision thereof, whether or not any reference of this Declaration is contained in the instrument by which such person or entity acquired said real property. Every person or other entity who now or hereafter owns or acquires any right, title or interest in or to any portion of the Home Owners Association, whether or not any reference to this Declaration is contained in the instrument by which such person or entity acquired an interest in said real property.

Section 8. - Waiver. Neither Declarants nor their successors or assigns shall be liable to any owner, lessee, licensee or occupant of real property subject to this Declaration by reason of any mistake in judgment, negligence, nonfeasance, action or inaction or for the enforcement or failure to enforce any provision of this Declaration. Every owner, lessee, licensee, or occupant by acquiring his interest in the Association agrees that he will not bring any action or suit against Association, its successors and assigns, to recover any damages or to seek injunctive relief.

Section 9. - Mutuality, Reciprocity - Runs with Land. All covenants, conditions, restrictions and agreements contained herein are made for the direct mutual and reciprocal benefit of each of and every part and parcel of the property now or hereafter made subject to this Declaration; and each such covenant, condition, restriction and agreement shall create mutual, equitable servitude upon each parcel in the Association in favor of every other parcel in the Association and shall create reciprocal rights and obligations between the respective Owners of such parcels and privity of contract and estate between all grantees of said parcel, their heirs, successors and assigns; and shall, as to the owner of each such parcel, his heirs, successors and assigns, operate as covenants running with the land, for the benefit of all other parcels in the Association.

Section 10. - Rights of Mortgages. No breach of the restrictions and other provisions contained herein, or any enforcement thereof, shall defeat or render invalid the lien of any mortgage or deed of trust now or hereafter executed upon land subject to these restrictions; provided, however, that if any portion of said real property sold under foreclosure of any mortgage or under the provisions of any deed of trust or as conveyed to the parties so secured in lieu of

record under the provisions of this Declaration shall be deemed to have been properly furnished if personally delivered, downloaded to residents e-mail address or facsimile machine, or if mailed, registered or certified mail, postage prepaid, return receipt requested, or to the person named as the owner, at the latest address for such person as reflected in the records of the Association at the time of delivery or mailing. Any notice required or permitted to be given to the Architectural Control Committee may be given by delivering or mailing the same to the Managing Agent or any member of the Architectural Control Committee, or the Association, as the case may be.

Section 2. - Amendment. Except as provided below, this Declaration may be amended by a written instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

Section 3. - Consent in Lieu of Vote. In any case in which this Declaration requires for authorization or approval of a transaction the assent or affirmative vote of a stated percentage or number of the Residents, whether present or represented by proxy at a meeting, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from residents entitled to cast at least the stated percentage or number of all membership votes outstanding. The following additional provisions shall govern any application of this Section 3:

- A. All necessary consents must be obtained prior to the expiration of ninety (90) days after the first consent is given by the owner.
- B. The total number of votes required for the applicable authorization or approval shall be determined as the date on which the last consent is signed.
- C. Except as provided in the following sentence, any change in Ownership of a lot which occurs after a consent has been obtained from the owner thereof shall not be considered or taken into account for any purpose.
- D. Unless the consent of all residents whose memberships are appurtenant to the same lot are secured, the consent of none of such residents shall be effective.

Section 4. - Declarants' Rights Assignable. All or any portion of the rights of Declarants under this Declaration or in any way relating to the property may be assigned.

Section 5. - Interpretation. 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 construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, and any gender shall include both other genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof, which shall remain in full force and effect.

Section 6. - Covenants to Run with Land. This Declaration and all the provisions hereof shall

constitute covenants to run with the land or equitable servitude, as the case may be, and shall be binding upon and shall inure to the benefit of Declarants, all parties who hereafter acquire any interest in a lot, their representatives, successors, and assigns. Each owner or occupant of a lot or living unit shall include the plural, the plural shall include the singular, and any gender shall include both other genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof, which shall govern the validity construction and enforcement of this Declaration.

Section 7. - Declarants' Right to Amend. Declarants shall have, and are hereby vested with, the right to amend this Declaration as may be reasonably necessary or desirable: (a) to more accurately express the intent of any provisions of this Declaration in light of then existing circumstances or information; or (b) to better insure, in light of then existing circumstances or information, workability of the arrangement which is contemplated by this Declaration.


Section 8. - Effective Date. This Declaration, any amendment or supplement hereto, and any amendment or supplement to the plat survey map shall take effect upon its being filed for record in the offices of the County Recorder of Box Elder County, Utah.

EXECUTED by Declarants on the day and year first above written.

J. Alton Veibell
J. Alton Veibell,
Aldrid Marius Christensen
Aldrid Marius Christensen,
Maja Johanne Christensen
Maja Johanne Christensen

STATE OF UTAH)
 : ss
County of Box Elder)

On this 12th day of Nov, 2009, personally appeared before me J. Alton Veibell, Aldrid Marius Christensen and Maja Johanne Christensen who being by me duly sworn duly acknowledged to me that they executed the same.

 NOTARY PUBLIC
SUSAN R. PUGSLEY
4310 W 9600 N., PO Box 47
Tremonton, Utah 84337
My Commission Expires
October 8, 2010
STATE OF UTAH

Susan R. Pugsley
NOTARY PUBLIC

EXHIBIT A

SubdivisionDescription.

BOUNDARY DESCRIPTION

PART OF THE EAST 1/2 OF SEC. 23, T12N, R2W, SLB&M BEGINNING AT A POINT S00°10'27"E 1598.31 FEET AND S81°33'56"W 1457.97 FEET FROM THE NE COR. OF SAID SECTION 23 (BASIS OF BEARING BEING THE LINE RUNNING S00°10'27"E BETWEEN THE NE COR. AND THE SE COR. OF SEC. 23); AND RUNNING THENCE

S03°34'48"E	2083.99 FEET	THENCE
S54°10'49"W	66.54 FEET	TO A ROW BEING A NON TANGENT CURVE RIGHT; THENCE
SOUTHEASTERLY	59.90 FEET	ALONG SAID ROW CURVE RIGHT (R=433.00', DELTA=7°55'36", T=30.00', LC=59.86', CHB=S31°51'23"E); THENCE
N62°06'25"E	30.84 FEET	THENCE
S38°20'54"E	622.15 FEET	ALONG THE BOX ELDER COUNTY LINE; THENCE
S21°44'08"W	812.61 FEET	ALONG THE BOX ELDER COUNTY LINE; THENCE
S84°33'17"W	98.85 FEET	THENCE
S11°27'23"W	88.79 FEET	TO A POINT ON THE SOUTH LINE OF SEC. 23;
S89°46'53"W	455.53 FEET	ALONG SAID SECTION LINE; THENCE ALONG THE EAST BOUNDARY OF LEOLA J. ERICKSON PARCEL 06-038-0005 THE FOLLOWING THREE COURSES:
N07°04'06"E	1324.67 FEET	THENCE
N16°01'54"W	1089.50 FEET	THENCE
N05°12'06"E	347.44 FEET	TO THE SW COR. OF R.H.N. CORPORATION PARCEL 06-038-0010; THENCE ALONG THE BOUNDARY OF SAID PARCEL THE FOLLOWING THREE COURSES:
EAST	362.27 FEET	THENCE
NORTH	351.66 FEET	THENCE
WEST	330.25 FEET	THENCE ALONG THE EAST BOUNDARY OF LEOLA J. ERICKSON PARCEL 06-038-0005;
N05°12'06"E	391.25 FEET	THENCE
N81°33'33"E	410.24 FEET	TO THE POINT OF BEGINNING.
CONTAINS 1,710,322 SQ. FT.		39.264 ACRES

North Access Road

A 66' wide parcel within Cache County in the northeast quarter of Section 23, T12N, R2W, Salt Lake Base & Meridian beginning a point on the west right of way line of 8000 West (Cache County) also known as 400 West (Box Elder County) S. 00°10'27" E. 2036.02 feet and N. 89°23'09" W. 49.50 feet from the northeast corner of said Section 23; thence the following courses to describe the centerline of said 66' strip:

N 89°23'09" W	811.54 feet	; thence
N 88°31'39" W	396.56 feet	to a tangent curve to the left; thence
Westerly	88.19 feet	along said curve to the left (Delta = 5°03'09", R = 1000.00' T = 44.12', I.C = 88.16', CHB = N.88°56'46"W.) to a tangent line; thence
S 86°25'12" W	85.14 feet	to the Box Elder County Line which is the point of termination.

Area: 90,687 sq.ft./ 2.082 acre

South Loop Road

A 66' wide parcel within Cache County in the southeast quarter of Section 23, T12N, R2W, Salt Lake Base & Meridian beginning at a point on the centerline of 800 West (Cache County) also known as 400 West (Box Elder County) N. 00°10'27" W. 1150.98 feet from the southeast corner of Section 23 the boundaries of said 66' wide strip to be extended or shortened from west right of way line of 8000 West (Cache County) also 400 West (Box Elder County) to the Box Elder County Line; thence the following courses:

S. 32°12'43" W. Southerly	774.30 feet 48.89 feet	to a tangent curve to the left; thence along said curve to the left (Delta = 9°20'14", R = 300.00', T = 24.50', LC = 48.84', CHB = S.27°32'36"W.) to a tangent line; thence
S. 22°52'29" W. Westerly	230.13 feet 219.58 feet	to a tangent curve to the right; thence along said curve to the right (Delta = 125°48'31", R = 100.00', T = 195.45', LC = 178.05', CHB = S.85°46'45"W.) to a tangent line; thence
N. 31°19'00" W. Northwesterly	304.88 feet 112.07 feet	to a tangent curve to the left; thence along said curve to the left (Delta = 32°06'28", R = 200.00', T = 57.55', LC = 110.62', CHB = N.47°22'14" W.) to a tangent line; thence
N. 63°25'28" W.	109.11 feet	to the Box Elder County Line.

Area: 112,462 sq.ft./ 2.582 acre

**LOTS 1 THROUGH 27 HIGH COUNTRY ESTATES SUBDIVISION TO BE
RECORDED IN THE OFFICE OF THE BOX ELDER COUNTY RECORDER,
BOX ELDER COUNTY, UTAH**