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AMENDED AND RESTATED DECLARATION
OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR
SUNSET RIDGE AT SOUTH MOUNTAIN
(INCLUDING BYLAWS)

A Planned-Unit Development

AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS
AND RESERVATION OF EASEMENTS FOR
SUNSET RIDGE AT SOUTH MOUNTAIN

TABLE OF CONTENTS

| | |
|--|----|
| RECITALS..... | 3 |
| ARTICLE I – DEFINITIONS..... | 3 |
| ARTICLE II – PROPERTY DESCRIPTION & OWNER’S RIGHTS | 7 |
| ARTICLE III – THE ASSOCIATION | 10 |
| ARTICLE IV – ASSESSMENTS | 13 |
| ARTICLE V – ARCHITECTURAL CONTROL COMMITTEE..... | 19 |
| ARTICLE VI – MAINTENANCE OBLIGATIONS | 21 |
| ARTICLE VII – USE RESTRICTIONS | 24 |
| ARTICLE VIII – COMPLIANCE, ENFORCEMENT, APPEAL | 32 |
| ARTICLE IX – INSURANCE..... | 35 |
| ARTICLE X – AMENDMENT AND DURATION..... | 37 |
| ARTICLE XI – MISCELLANEOUS PROVISIONS | 37 |
| EXHIBIT A – LEGAL DESCRIPTION | 40 |
| EXHIBIT B – BYLAWS | 41 |

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND RESERVATION OF EASEMENTS FOR SUNSET RIDGE AT SOUTH MOUNTAIN (hereafter "Declaration") is made on the date evidenced below by Sunset Ridge at South Mountain Property Owners Association, Inc. (hereafter "Association").

RECITALS

A. The property subject to this Declaration is the Sunset Ridge at South Mountain subdivision in Salt Lake County, State of Utah. **Exhibit A** of this Declaration further defines the property subject to this Declaration. All Lots therein are part of the Association and each Owner of a Lot is a member thereof. The Association is created as a planned-unit development and contains certain Common Area, Limited Common Area, and easements for the benefit of the Owners of Lots therein.

B. The Association desires to continue to provide for the preservation and enhancement of the property values and improvements of the Property and for maintenance of the Common Area.

C. This Amended and Restated Declaration of Covenants, Conditions, and Restrictions supersedes and replaces all prior declarations and amendments or supplements thereto, recorded against the subdivision, specifically the Declaration of Covenants, Conditions, and Restrictions and Reservation of Easements for Sunset Ridge at South Mountain, a Planned-Unit Development recorded January 24, 2005, as Entry No. 9280760, records of the Salt Lake County Recorder, State of Utah, as amended by Amendment No. 1 recorded December 28, 2006, as Entry No. 9955816, Amendment No. 2 recorded June 15, 2009, as Entry No. 10729652, and Amendment No. 3 recorded March 13, 2012, as Entry No. 11349784 (together, the "Original Declaration").

D. The Original Declaration and this Declaration have created a planned-unit development, not a condominium community, as further clarified below, which is subject to the Utah Community Association Act, Title 57, Chapter 8a.

E. Pursuant to Article XV, Section 4 of the Original Declaration, at least fifty-one percent (51%) of the total number of outstanding votes of Members in the Association have voted affirmatively to adopt this Declaration.

NOW, THEREFORE, the Association declares that the Property is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, conditions, restrictions, easements, charges, and liens hereinafter set forth:

ARTICLE I - DEFINITIONS

The following words when used in this Declaration (unless the context otherwise requires) shall have the following meanings:

- 1.1 “**Act**” means the Utah Community Association Act, Utah Code, Title 57, Chapter 8a, as the same shall be amended from time to time.
- 1.2 “**Approved Lease Agreement**” means the lease to be used by an Owner for all rentals or leases, which has been approved by the Board.
- 1.3 “**Architectural Committee**” means the committee created pursuant to this Declaration.
- 1.4 “**Articles of Incorporation**” or “**Articles**” means the Articles of Incorporation of the Association which have been filed in the Division of Corporations of the Department of Commerce of the State of Utah, as such Articles may be amended from time to time.
- 1.5 “**Assessments**” means any charge imposed or levied by the Association on or against an Owner or Lot pursuant to the terms of the Governing Documents or applicable law, including (1) Annual Assessments, (2) Special Assessments, and (3) Individual Assessments as set forth below.
- 1.6 “**Association**” means and refers to the Sunset Ridge at South Mountain Property Owners Association, Inc., or such successor association of the Lot Owners acting under this Declaration.
- 1.7 “**Board**” or “**Board of Directors**” means and refers to the governing body of the Association.
- 1.8 “**Bylaws**” means the Bylaws of the Association (attached hereto as **Exhibit B**), as they may be amended from time to time.
- 1.9 “**Common Area**” means and refers to the areas designated on the Plat Map(s) including, but not limited to any recreation facilities, landscaped areas, Private Streets and Common Walkways, Visitor Parking, and any and all utility systems which are owned by the Association for the common use and enjoyment of the Owners.
- 1.10 “**Common Expenses**” means and refers to all sums which are required by the Association and the Board to perform or exercise its functions, duties, or rights under the Act or the Governing Documents. Common Expenses include the actual and estimated costs of maintenance, management, operation, repair, and replacement of the Common Area (including unpaid Special Assessments), including those costs not paid by the Owner responsible for payment; costs of management and administration of the Association including, but not limited to attorneys and other employees and consultants; the costs of all utilities, landscaping, and other services benefitting the Common Area, and all recreational facilities thereon; the cost of insurance and taxes paid by the Association; amounts paid by the Association for discharge of any lien or encumbrance levied against the Property, or portions thereof; and the cost of any other item or items designed or incurred by the Association for any reason whatsoever in connection with the Property for the benefit of all the Owners.
- 1.11 “**Common Walkway**” or “**Sidewalk**” means a concrete surfaced walkway located on Common Area, which is adjacent to the Street, and is not located on a Lot, and does not lead directly to a specific Dwelling Unit, but meant for the use of all Owners, residents, and guests.
- 1.12 “**Community**” means all of the land described in the Plat Map duly recorded with the Salt Lake County Recorder’s Office.

1.13 “Demising Fire Wall” aka **“Shared Wall”** means the one-hour-fire-rated wall constructed as part of two or three attached Dwelling Units which is built parallel and adjacent to an adjoining property line of a Lot and which is centered over said property line of a Lot.

1.14 “Dwelling” or **“Dwelling Unit”** means a structure that is designed and intended for use and occupancy as a single-family residence and that is also attached to one or two other residences by a Demising Fire Wall, together with all improvements constructed on a Lot used in conjunction with such residence.

1.15 “Eligible Holder” means any holder, insurer, or guarantor of a first Mortgage who makes a written request to the Association to receive any of the notices or rights to vote provided to Eligible Holders under this Declaration. The request shall state the name and address of the Eligible Holder and the Lot number to which the Eligible Holder’s mortgage interest applies.

1.16 “Family” means one household of persons related to each other by blood, adoption, or marriage, or one group of not more than three (3) people not so related, living together in a Dwelling Unit, who maintain a common household.

1.17 “Fines” means and refers to fines levied by the Association against an individual or entity for violations of the Governing Documents. Fines shall be enforced and collected consistent with the Act and are deemed an assessment herein and may be collected as such.

1.18 “Governing Documents” means and refers to a written instrument by which the Association may exercise powers or manage, maintain, or otherwise affect the property under the jurisdiction of the Association, including Articles of Incorporation, Bylaws, Plat Map, this Declaration, Rules and Regulations, and architectural or design guidelines.

1.19 “Improvement” means all structures and appurtenances thereto of every type and kind (and any alteration or addition thereto), including, but not limited to buildings, out buildings, walkways, sprinkler pipes and systems, garages, carports, roads, fences, screening walls, retaining walls, protective screens and awnings required by governmental entities, stairs, decks, landscaping, hedges, windbreaks, plantings, planted trees and shrubs, poles, and signs. “Improvement” also includes any change to the exterior of a Dwelling or yard that is subject to the jurisdiction of the Architectural Control Committee.

1.20 “Limited Common Areas” means those portions of the Common Area referred to herein and designated on the Plat Map and reserved for the sole and exclusive use by an Owner to the exclusion of other Dwelling Units. Limited Common Areas include, but are not limited to any porch, patio, deck, or balcony associated exclusively with Dwelling Units.

1.21 “Lot” means any numbered residential Lot or parcel of land designated for separate ownership or occupancy shown on the recorded subdivision Plat Map.

1.22 “Manager” or **“Managing Agent”** means and refers to the person or entity retained to manage the Property and the Association according to the direction of the Board.

1.23 “Member” means and refers to the fee simple Owner of any Dwelling Unit who has, by virtue of such ownership, a voting right in the Association.

1.24 “Mortgage” means any mortgage or deed of trust encumbering any Lot and any other security interest existing by virtue of any other form of security instrument or arrangement, provided that such mortgage, deed of trust, or other form of security instrument and/or security arrangement has been recorded by the Salt Lake County Recorder's Office.

1.25 “Mortgagee” means the person or entity secured by a Mortgage.

1.26 “Owner” means the person, persons, or other entity owning any Lot as shown in the records of the Salt Lake County Recorder’s Office but does not include a tenant or holder of a leasehold interest or person holding only a security interest in a Lot. Regardless of the number of parties participating in ownership of each Lot, the group of those parties shall be treated as one “Owner.”

1.27 “Plat Map” means the official plat for Sunset Ridge at South Mountain Phase 1 as recorded in the office of the County Recorder, Salt Lake County, State of Utah, recorded January 24, 2005, as Entry No. 9280758, in Book 2005P of Plats at page 16, as the same may be amended.

1.28 “Private Driveway” or “Driveway” means the concrete surfaced area adjacent to a Dwelling Unit that provides access for vehicles and is used primarily by the Owner, residents, and guests of its adjacent Dwelling Unit, to the exclusion of others.

1.29 “Private Walkway” means a walkway, which leads to a specific Dwelling Unit, to be utilized primarily by that particular Owner, their residents, and guests of the adjacent Dwelling Unit.

1.30 “Property” or “Project” means all of the real property described in the Plat Map, including all of the real property described in attached **Exhibit A** and all Lots, Common Area, easements, and open space included on the Plat Map.

1.31 “Quorum” means the minimum number of Owners (as represented in person, proxy, written ballot, or any means permitted under the Bylaws) necessary to make the proceedings of a meeting or action valid. Quorum requirements are further set forth in the Bylaws, excepting certain provisions in this Declaration that require a higher quorum requirement for certain decisions to be made.

1.32 “Resolution(s)” or “Resolutions of the Board of Directors” means a formal writing which contains a Rule and Regulation of the Association. The term resolution may be used interchangeably with Rules or Rules and Regulations to mean policies set by the Board.

1.33 “Rules and Regulations” means and refers to those Rules and Regulations adopted by the Board from time to time that are deemed necessary by the Board for the enjoyment of, or furthering the purposes of, the Property and Association.

1.34 “Street” or “Private Street” or “Road” means those streets or roads within the Project, which are owned and maintained by the Association and are for the use of all Owners, residents, and guests.

1.35 “Subdivision” means the Sunset Ridge at South Mountain Phase 1 subdivision as shown on the Plat Map, including all Lots, Common Areas, and other property within the Subdivision as shown on the Plat Map covering the Property.

1.36 “Time Sharing” means any form of shared contractual ownership of a Dwelling Unit whereby each Owner’s right to the Dwelling Unit is limited to a certain period of time throughout any given year or series of years. Time Sharing shall include plans that employ contractual rights and those that employ estate in land, such as (a) vacation leases whereby the Owner conveys recurring leasehold interests to time-share purchasers and retains a reversion in fee simple and (b) interval ownership whereby the Owner conveys recurring leasehold interest to time-share purchasers and also conveys to them a co-ownership of a remainder in fee simple.

1.37 “Visitor Parking” means those parking spaces located within the Project on Private Streets, which are not assigned specifically to Lots but meant for the short-term vehicular use of Owners, residents, guests, and visitors.

ARTICLE II - PROPERTY DESCRIPTION & OWNER’S RIGHTS

2.1 Property Subject to the Declaration and Bylaws. The real property which is, and shall be, transferred, held, sold, conveyed, used, occupied, and improved subject to the Act and to this Declaration, the Governing Documents, and all agreements, decisions, and determinations made by the Board or Association is all of the real property and interests described in the Plat Map, including any property annexed into the Project, and including the Dwellings described on **Exhibit A** attached hereto. This Declaration and the covenants, conditions, restrictions and easements contained herein shall run with the land and shall be binding upon each and every party which shall at any time have any right, title, or interest in or to the Property or any part thereof, their heirs, successors, and assigns, and to any other person who may in any manner use the Property or any part thereof submitted to the provisions of this Declaration, and shall inure to the benefit of each Owner thereof. To the extent that the Governing Documents are or become inconsistent with the provisions of any future amendments to the Act, the Act, as amended, shall control.

2.2 Description and Legal Status of Dwellings. The Plat Map shows the Lots, Dwellings, and building designations, their locations, dimensions from which different areas may be determined together with the Definitions above, including the Common Area. All Dwellings are residential Dwellings. All Dwellings shall be capable of being independently owned, encumbered, and conveyed.

2.3 Use and Occupancy. Except as otherwise expressly provided in the Governing Documents, the Owner(s) of a Lot shall be entitled to the exclusive use and benefits of ownership of such Lot and Dwelling Unit. Each Lot and Dwelling Unit, however, shall be bound by, and the Owner shall comply with, the restrictions contained below and all other provisions of the Governing Documents of the Association for the mutual benefit of the Owners.

2.4 Easements Reserved. In addition to the easements shown on the Plat Map or provided for under this Declaration, the Bylaws, or law, the following easements are hereby reserved for the benefit of the Owners and the Association:

(a) Right of Entry. The Association and any person authorized by the Association may at any reasonable time, and from time to time at reasonable intervals, enter upon any Lot for the purpose of performing maintenance referred to herein and determining whether or not the Lot is in compliance with the Governing Documents or whether the use of the Lot is causing damage or harm to the Common Area. Requests for entry shall be made in advance and at a time convenient to the Owner, except in the case of an emergency, when such right shall be immediate. No such entry shall be deemed to constitute a trespass or otherwise create any right of action in the Owner of such Lot. This “right of entry” shall not include a right to enter Dwelling Units.

(b) Utility Easements. The Association and any public utility provider shall have an easement through all Lots and the Common Areas for the installation, maintenance, and development of utilities and drainage facilities, as may be necessary. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may reasonably interfere with or damage utilities or drainage facilities. The easement area within each Lot and all improvements therein shall be maintained continuously by the Owner of the Lot in accordance with the terms herein, except for those improvements for which a public authority or utility provider is responsible. Each Lot Owner shall have an easement in common with all Owners to use all pipes, wires, ducts, cables, conduits, public utility lines, and other common facilities located in any of the other Lots and serving his or her Lot.

(c) Police, Fire, and Ambulance. An easement is hereby granted to all police, fire protection, ambulance services, and all similar persons to enter upon the Streets and Common Area in the performance of their duties.

(d) Common Areas. All Owners are hereby granted a non-exclusive right and easement of enjoyment to the Common Area. This easement is appurtenant to and passes with the title to every Lot and is subject to the following:

(1) The right of the Association to reasonably limit the number of guests of Members using the Common Area.

(2) The right of the Association to reasonably limit the number of guests or Owners using the Common Area facilities and the frequency thereof.

(3) The right of the Association to establish Rules and Regulations pertaining to the use of the Common Area and the recreational facilities thereof, including, but not limited to, the right and obligation of the Association to enforce all parking restrictions within the Common Area.

(4) The right of the Association to charge uniform and reasonable admission and other fees for the use of the recreational facilities, if any, situated upon a portion of the

Common Area; provided, however, that none of the Common Area facilities, recreational properties, parking spaces, or other amenities shall be leased to the Owners or any other parties.

(5) The right of the Association to suspend the voting rights of a Member for any period during which any assessment or portion thereof against his/her Lot remains unpaid for a period in excess of sixty (60) days for any infraction of its published Rules and Regulations.

(6) The right of the Association to grant easements for public utilities or other public purposes consistent with the intended use of the Common Area by the Association.

(7) The right of the Association to borrow money for the purpose of improving the Common Area.

(8) The right of the Association to take such steps as are reasonably necessary or desirable to protect the Common Area against foreclosure.

(9) The terms and conditions of the Governing Documents.

(e) Limited Common Areas. Each Lot Owner is hereby granted an irrevocable and exclusive license to use and occupy the Limited Common Areas appurtenant to said Owner's Lot as identified on the Plat Map filed for the Property. The exclusive right to use and occupy each Limited Common Area shall be appurtenant to and shall pass with the title to every Lot with which it is associated. A Lot Owner's exclusive right to use and occupancy of Limited Common Areas reserved for his/her Lot shall be subject to and in accordance with the Governing Documents.

(f) Parking. Temporary visitor parking shall be permitted within the Common Area only within paved spaces and areas clearly suitable for parking purposes as further described in Section 7.9. The Association, through its officers, committees, and agents is hereby empowered to establish "parking" and "no parking" areas within the Common Areas, as well as to enforce such parking limitations by all means lawful for such enforcement, including the removal of any violating vehicle by those empowered, and pursuant to Utah law; provided, however, no curbside parking shall be allowed within ten (10) feet of a fire hydrant and the portion of the curb within such restricted area may be marked as a no-parking zone.

(g) Vehicular Traffic. In addition to the general easements or use of the Common Area reserved herein, there shall be a non-exclusive easement appurtenant for vehicular traffic over all Roads within the Property, subject to the parking provisions set forth herein.

2.5 No Encroachment. No Lot shall encroach upon an adjoining Lot or Common Area without the express written consent of the Board. If, however, an encroachment occurs due to the settlement or shifting of a structure/building or any other reason whatsoever beyond the control of the Board or any Owner, there shall forthwith arise, without the necessity of any further or additional act or instrument, a good and valid easement for the maintenance of such encroachment, for the benefit of the Owner, its heirs, personal representatives, and assigns, to provide for the encroachment and non-disturbance of the structure. Such easement shall remain

in full force and effect so long as the encroachment shall continue.

2.6 Assignment and Delegation of Use. Any Owner may assign, in accordance with the Governing Documents, his right of enjoyment to the Common Areas and facilities to his/her family, tenants, guests, or purchasers who reside in the Dwelling Unit, subject to reasonable regulation of the Board. All such use by an Owner's family, tenants, guests, or purchasers shall be subject to all terms of the Governing Documents. Any damage caused by such users to the Common Area and facilities, including personal property owned by the Association, shall be the responsibility of the Owner and shall create a debt to the Association and be assessed by the Association as provided herein.

2.7 Waiver of Use. No Owner may exempt himself from personal liability for assessments duly levied by the Association, nor release the Lot or other property owned from the liens and charges thereof, by waiver of the use and enjoyment of the Common Area and the facilities thereon, or by abandonment of the Lot or any other property in the Property.

2.8 Taxes. Each Owner shall execute such instrument and take such action as may reasonably be specified by the Association to obtain a separate real estate tax assessment of each Lot. In the opinion of the Association, if any taxes or assessments may be a lien on more than one Lot not under common ownership, or any part thereof, they may be paid by the Association and each Owner shall be obligated to pay or to reimburse the Association for, as the case may be, the taxes and assessments assessed by the County Assessor or other taxing authority against his/her own Lot and interest, if any, in the Common Area.

ARTICLE III – THE ASSOCIATION

3.1 Organization.

(a) The Association has been organized as a nonprofit corporation under the nonprofit corporation laws of the state of Utah (Utah Code Annotated Titled 16 Chapter 6a, as may be amended from time to time).

(b) In the event the Association is at any time administratively dissolved by the Division of Corporations and Commercial Code, the Board may re-incorporate the Association without a vote of the Owners.

(c) The affairs of the Association shall be governed by a Board of Directors as provided herein and in the Bylaws.

3.2 Membership. Each Owner during the entire period of Owner's ownership of one or more Lots within the Community shall be a member of the Association. The membership shall commence, exist, and continue by simple virtue of the ownership, shall expire automatically upon termination of ownership, and need not be confirmed or evidenced by any certificate or acceptance of membership.

3.3 Voting Rights. The method of voting shall be as provided in the Bylaws. Each Owner shall have one (1) vote in matters of the Association for each Lot owned as set forth in the Bylaws. No more than one (1) vote may be cast with respect to any Lot.

3.4 Powers, Duties, and Obligations. The Association shall have such powers and duties as may be granted to it or imposed by this Declaration, the Articles of Incorporation, the Bylaws, and any applicable statute, as such statute may be amended, to expand the scope of association powers, including without limitation:

(a) Duties of the Association. Without limiting any other duties which may be imposed upon the Association by its Articles of Incorporation or this Declaration, the Association shall have the obligation and duty to do and perform each and every one of the following for the benefit of the Owners and the maintenance and improvement of the Property:

(1) Maintain the Common Area.

(2) Maintain, repair, and replace areas of Association responsibility as set forth in Section 6.2 herein.

(3) Grant easements, rights of way, or strips of land, where necessary, for utilities and sewer facilities over the Common Area to serve the Common Area and the Lots.

(4) To the extent not assessed to or paid by the Owners directly, the Association shall pay all real property taxes and assessments levied upon any portion of the Property, provided that the Association shall have the right to contest or compromise any such taxes or assessments.

(5) Obtain and maintain in force the policies of insurance required by the provisions of this Declaration.

(6) Employ or contract with a professional manager or management company to perform all or any part of the duties and responsibilities of the Community, subject at all times to direction by the Board of Directors, with such administrative functions and powers as shall be delegated to the Managing Agent by the Board of Directors.

(b) Powers and Authority of the Association. The Association shall have all the powers set forth in its Articles of Incorporation and any Bylaws, together with its general powers as a corporation, 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 levy and collect assessments and fines as provided in this Declaration. Without in any way limiting the generality of the foregoing, the Association shall have the following powers:

(1) The Association shall have the power and authority at any time and from time to time and without liability to any Owner for trespass, damage, or otherwise, to enter into any Lot for the purpose of maintaining and repairing such Lot or any improvement thereon if for any reason the Owner fails to maintain and repair such Lot or improvement, or for the purpose of

removing any improvement constructed, reconstructed, refinished, altered, or maintained upon such Lot in violation of this Declaration.

(2) The Association shall also have the power and authority from time to time in its own name, on its own behalf, or in the name and behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration or any Rules and Regulations promulgated by the Board of Directors, or to enforce by mandatory injunction or otherwise all of the provisions of this Declaration and such Rules and Regulations.

(3) In fulfilling any of its duties under this Declaration, including its duties for the maintenance, repair, operation, or administration of the Community or in exercising any of its rights to construct, maintain, and repair the Common Areas, the Association shall have the power and authority (i) to pay and discharge any and all liens placed upon any Lot 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 (ii) to obtain, contract, and pay for, or to otherwise provide for:

(i) Such utility services, including (without limitation) water, sewer, trash removal, snow removal, electrical, telephone, and gas services, as the Board of Directors may from time to time deem desirable;

(ii) The services of architects, engineers, attorneys, and certified public accountants and such other professional or nonprofessional services as the Board of Directors may deem desirable.

(iii) A professional manager or management company to perform all or any part of the duties and responsibilities of the Association, and to delegate its powers to committees, officers, and employees, as permitted by law.

(4) Telecommunications/Fiber Optic/Related Contracts. The Board of Directors shall have the power, in its own discretion and subject to federal law, to enter into, accept an assignment of, or otherwise cause the Association to comply with contracts with telecommunication service providers and telecommunication facilities owners (both, a "Telecommunication Provider"), pursuant to which the Telecommunication Provider serves as the exclusive provider of telecommunication services and/or telecommunication facilities to each Lot in the Property. The Board shall also have the power to enter into or contract on behalf of the Association for similar bulk-rate service contracts of any nature deemed in the Association's best interests.

3.5 Adoption of Bylaws. The Association has adopted Bylaws for the Association which are being recorded simultaneously with this Declaration.

ARTICLE IV – ASSESSMENTS

4.1 Covenant for Assessments.

(a) Each Owner, by acceptance of a deed hereafter conveying any Lot to it, whether or not so expressed in the deed or other conveyance, shall be deemed to have covenanted and agreed to pay the Association the following types of assessments:

- (1) Annual common assessments (the “Annual Assessment”) as provided below.
- (2) Special assessments (“Special Assessments”) as provided below.
- (3) Individual assessments (“Individual Assessments”) as provided below.

(b) No member may exempt itself from liability for Assessments by non-use of Common Areas or abandonment of any Lot owned by such member.

4.2 Purpose of Assessments. The Assessments levied by the Association shall be used for payment of Common Expenses and any other expense incurred by the Association, including, but not limited to: (a) the improvement and maintenance, operation, care, and services related to the Common Areas; (b) the payment of insurance premiums; (c) the costs of utilities and other services which may be provided by the Association for the Community; (d) the cost of labor, equipment, insurance, materials, management, legal, and administrative fees incurred or expended in performing the duties under this Declaration or the Bylaws; (e) for promoting the recreation, health, safety, and welfare of the residents of the Property; and (f) the cost of funding all reserves established by the Association, including a general operating excess and a reserve for replacements as provided below.

4.3 Annual Budget and Assessment.

(a) Annual Budget. The Board shall prepare, or cause the preparation of, and adopt an annual budget for the Association, which shall provide, without limitation, for the maintenance of the Common Areas and for the administration, management, and operation of the Association, and shall include a reserve fund line item in an amount the Board determines to be prudent based on the reserve analysis (as defined in Section 4.14). If the Board fails to adopt an annual budget, the last adopted budget shall continue in effect. The Board shall present the adopted budget to Owners at a meeting of the Owners.

(b) Determination of Annual Assessment.

(1) The Board shall fix the amount of the annual assessment (“Annual Assessment”) against each Lot for each assessment period at least thirty (30) days in advance of the beginning of the period. Written notice of the Annual Assessments shall be sent to all members of the Association at least fifteen (15) days in advance of the beginning of any assessment period, or fifteen (15) days in advance of any increase in the Annual Assessment that is to take effect during any assessment period.

(2) The omission by the Board, before the expiration of any assessment period, to fix the amount of the Annual Assessment for that or the next period, shall not be deemed a waiver or modification in any respect of the provisions of this article or a release of any member from the obligation to pay the Annual Assessment, or any installment thereof, for that or any subsequent assessment period. In the event of such omission, the Annual Assessment fixed for the preceding period shall continue until a new assessment is fixed.

(3) If the Annual Assessment levied at any time are, or will become, inadequate to meet the expenses incurred by the Association for any reason, including nonpayment of any Owner's Annual Assessment on a current basis, the Board may, at any time, determine the approximate amount of the inadequacy and adopt a Resolution which establishes a supplemental budget which establishes the equitable change in the amount of the Annual Assessment. Owners shall be given at least thirty (30) days' written notice of any changes in the amount of an Annual Assessment.

(c) Payment of Assessments. Installments of an Annual Assessment shall be levied and collected on a monthly basis. However, upon Resolution of the Board of Directors, installments of an Annual Assessment may be levied and collected on a quarterly, semi-annual, or annual basis. Any member may prepay one or more installments of any Annual Assessment levied by the Association, without premium or penalty.

(d) Capital Improvement Expenditures. There shall be no expenditures for a single capital improvement exceeding the sum of Twenty Thousand Dollars (\$20,000) unless it is first voted upon by the Owners and: (1) a quorum of members which shall be at least fifty-one percent (51%) of the total Association voting rights cast a vote; and (2) the votes cast favoring the action exceed the votes cast opposing the action.

4.4 Apportionment of Assessments. Assessments shall be apportioned as follows:

(a) Annual Assessments. The obligation to pay a Lot's Annual Assessment commences upon the closing of the sale of such Lot. The Annual Assessment due in a given year may be pro-rated according to the number of days the Owner holds title to the Lot during the year for which the Annual Assessment was levied. All Lots shall pay an equal share of the Annual Assessments.

(b) Special Assessments. Special Assessments are equal for all Lots, and the obligation to pay Special Assessments rests with the Owner holding title to the Lot at the time the Special Assessments are approved. All Lots shall pay an equal share of the Special Assessments.

(c) Individual Assessments. Individual Assessments shall be apportioned exclusively against the Lots benefitted or to which the expenses are attributable as provided for below.

4.5 Annual Assessment. Annual Assessments shall be used to satisfy Common Expenses of the Association, including accumulating reasonable reserve amounts. The annual assessment

may be increased by the Board each year in an amount that does not exceed fifteen percent (15%) of the previous year's Annual Assessment. An increase greater than fifteen percent (15%) requires the vote of at least fifty-one percent (51%) of the Members of the Association who are in attendance at a meeting (which shall be the required number for a quorum for this action) which was called for the purpose of dealing with such assessments.

4.6 Special Assessments. In addition to the Annual Assessments authorized in this article, the Board may levy, in any assessment year, special assessments from time to time ("Special Assessments") for the purpose of defraying, in whole or in part, the costs incurred or to be incurred by the Association which cannot be paid for through other types of assessments. The Board may authorize Special Assessments for any lawful purpose, provided, however, that the total amount of the Special Assessments in excess of Ten Thousand Dollars (\$10,000) in the aggregate, may only be levied if it is first voted upon by the Owners and: (1) a quorum of members representing at least fifty-one percent (51%) of the total Association voting rights cast a vote; and (2) the votes cast favoring the action exceed the votes cast opposing the action.

4.7 Individual Assessments. Any expenses which are not common expenses, and which benefit or are attributable to fewer than all of the Lots, may be assessed exclusively against the Lot(s) affected or benefitted ("Individual Assessments"). Individual Assessments shall include, but are not limited to: (1) Assessments levied against any Lot to reimburse the Association for costs incurred in bringing the Lot or its Owner into compliance with the provisions of the Governing Documents, including fines, attorney fees, or other charges imposed for violations of the Governing Documents; and (2) Expenses relating to the cost of maintenance, repair, or replacement to the Common Areas, for damages, or expenses incurred, caused by an Owner, their family, guests, tenants, or invitees.

4.8 Nonpayment of Assessments. The Annual Assessments shall be due and payable on a monthly basis on the first (1st) calendar day of each month, unless otherwise provided by the Board, and shall be delinquent if not paid by the 15th of the month or within such other period established by the Board from time to time. The due date of any Special Assessments or Individual Assessments shall be fixed in the Resolution authorizing the assessment.

(a) Interest. Delinquent payments may bear interest in an amount as set forth in the Association's collection policies.

(b) Late Charge. Each delinquent payment shall be subject to a \$25 late charge or in the amount established by the Association in its collections policies.

(c) Acceleration. If paid by installments, the installments may, in the discretion of the Board, be accelerated (including interest as provided for above) and the entire balance declared due and payable upon not less than ten (10) days written notice to the Owner. If, however, the assessment is accelerated and an Owner subsequently files bankruptcy or the Board otherwise decides acceleration is not in its best interest, the Board, at its option and in its sole discretion, may elect to decelerate the obligation.

(d) Rent Payments by Tenant to Association. Prior to utilizing any remedies of this Section, the Association must give the Owner and tenant notice of its intentions to demand rent as required by Utah Code §57-8a-310. If the Owner of a Lot who is leasing the Lot fails to pay an assessment for more than sixty (60) days after the assessment is due, the Board may demand that the tenant pay to the Association all future lease payments due to the Owner, beginning with the next monthly periodic payment, until all amount dues to the Association are paid. Such demand to the tenant shall be made in accordance with the law and the written procedures of the Association. The Board, or its agent, shall give the Owner written notice of its intent to demand full payment from the tenant, and such notice shall be made in accordance with the law and the written procedures of the Association.

(e) Remedies, Including Suspension of Membership Rights and Services. All membership rights, including the right of a member to vote, shall be automatically suspended during any period of delinquency, unless otherwise determined by the Board. A Board member shall become immediately ineligible to serve on the Board and automatically dismissed from such position if delinquent more than sixty (60) days in the payment of any Assessment. Any service provided by the Association to the Owners shall also be terminated as to the delinquent Owner at the discretion of the Board. The Association shall have each and every remedy for collection of assessments provided in the Utah Community Association Act, Utah Code Title 57, Chapter 8a, as amended from time to time, and the provisions of the Act shall be deemed to be fully set forth herein when required by such Act in order to exercise any such remedy.

4.9 Lien. The Annual Assessment and all other authorized assessments imposed together with damages, fines, interest, costs of collection, late charges, and attorneys' fees provided for in this Declaration (whether or not a legal proceeding is initiated) or by law or awarded by a court for enforcement of the Governing Documents shall be a charge and continuing lien upon each of the Lots against which the assessment or charge is made in accordance with the terms and provisions of this Article and shall be construed as a real covenant running with the land. If an assessment is payable in installments, the lien is for the amount of each installment as such becomes due and this provision shall be deemed a notice of assessment. In a voluntary conveyance, the grantee of a Lot shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his/her share of the unpaid assessments up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the grantor the amounts paid by the grantee.

4.10 Subordination of Lien to Mortgages. The lien of the Assessments provided for in this article shall be subordinate to the lien of any first mortgagees or deeds of trust now or hereafter placed upon the Lot subject to assessment, except as follows: the sale or transfer of any Lot pursuant to mortgage or deed of trust foreclosure shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. Such sale or transfer shall not relieve the Lot from liability or lien for any assessments thereafter becoming due.

4.11 Enforcement of Lien. The lien for nonpayment of assessments may be foreclosed by the Board judicially or non-judicially consistent with the laws of the state of Utah for the non-judicial foreclosure of deeds of trusts. The Association, through duly authorized agents, shall

have the power to bid on the Lot at foreclosure sale, and to acquire and hold, lease, mortgage, and convey the same. Upon completion of the foreclosure sale, an action may be brought by the Association or the purchaser at the sale in order to secure occupancy of the defaulting Owner's Lot, and the defaulting Owner shall be required to pay the reasonable rental value of such Lot during any period of continued occupancy by the defaulting Owner or any persons claiming under the defaulting Owner. The Association shall be entitled to the appointment of a receiver to collect the rental income or the reasonable rental value without regard to the value of the security.

4.12 Personal Obligation and Costs of Collection. Assessments imposed under this Declaration, together with late charges and interest at a rate to be established by the Board, not to exceed the maximum permitted by law, and costs and reasonable attorneys' fees incurred or expended by the Association in the collection thereof (whether or not a lawsuit is initiated), shall also be the personal obligation of the Owner holding title to any Lot at the time when the assessment became due.

4.13 Appointment of Trustee. By acceptance of a deed for a Lot, each Owner as Trustor conveys and warrants to Trustee in trust for the Association, as Beneficiary, with power of sale, the Owner's Lot, and all improvements thereon for the purpose of securing payment of all assessments (including basis of collection) provided for in this Declaration. For purposes of this Section and Utah Code Ann. §§57-1-19, et seq., as amended from time to time, the Trustee shall mean the attorney for the Association, and the Association may provide notice and disclosure of the Trustee by recording an "Appointment of Trustee" on the records of the local County Recorder. Each Owner hereby also grants to the Association and Trustee all powers and rights of non-judicial trust deed foreclosure provided for in Utah Code Ann. §§57-1-19, et seq.

4.14 Reserve Analysis.

(a) Reserve Analysis Required. The Board shall cause a reserve analysis to be conducted no less frequently than every six years, and shall review and, if necessary, update a previously conducted reserve analysis no less frequently than every three years. However, the Board may decrease the frequency of conducting and updating a reserve analysis in a formal Resolution of the Board delivered to all Owners. The Board may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the Board, to conduct the reserve analysis.

(b) Reserve Analysis Defined. "Reserve analysis" means an analysis to determine the need for a reserve fund to accumulate reserve funds, and the appropriate amount of any reserve fund. A reserve analysis shall include:

(1) a list of the components identified in the reserve analysis that will reasonably require reserve funds;

(2) a statement of the probable remaining useful life, as of the date of the reserve analysis, of each component identified in the reserve analysis;

(3) an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis;

(4) an estimate of the total annual contribution to a reserve fund necessary to meet the cost to repair, replace, or restore each component identified in the reserve analysis during the component's useful life and at the end of the component's useful life; and,

(5) a reserve funding plan that recommends how the Association may fund the annual contribution described in subsection (4) above.

(c) Reserve Analysis Summary Provided to Owners. The Association shall: (a) annually provide Owners a summary of the most recent reserve analysis or update; and (b) provide a copy of the complete reserve analysis or update to an Owner who requests a copy.

4.15 Reserve Fund. The Association shall establish and maintain a reserve fund (also known as “reserve account”), separate from other Association funds, for repairs and replacement of the Common Areas; for any emergency, unforeseen, unusual, or unanticipated expenditure; and for any other purpose determined from time to time by the Board. As stated above, in formulating the budget each year, the Association shall include a reserve fund line item in an amount the Board determines, based on the reserve analysis, to be prudent. The Board may not use money in a reserve fund for daily maintenance expenses unless a majority of the Members vote to approve the use of reserve fund money for that purpose.

The Board’s reasonable determination with respect to the amount of the reserve fund contribution shall be conclusively deemed appropriate absent intentional misconduct or gross mismanagement of Association funds. Except in such instances, individual Board members shall not be held liable for any potential or alleged under-funding of the reserve account.

4.16 Duty to Pay Independent. No reduction or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, order, or directive of any municipal or other governmental authority, the obligation to pay assessments being a separate and independent covenant on the part of the each Owner.

4.17 Statement of Unpaid Assessment & Payoff Information. The Association shall, upon demand at any time, furnish to any Owner liable for assessment a receipt in writing signed by an officer of the Association setting forth whether an assessment has been paid. The receipt shall be conclusive evidence of payment of any assessment therein stated as having been paid. A reasonable charge may be levied in advance by the Association for each receipt so delivered. The Association may charge a reasonable fee for providing Association payoff information needed in connection with the financing, refinancing, or closing of the sale of an Owner's Lot up to the maximum amount allowed by law.

4.18 Reinvestment Fee Due on Transfer. Upon the transfer of title to a Lot from one person or entity to another, a reinvestment fee (“Reinvestment Fee” previously referred to as “transfer assessment”), in a reasonable amount determined by the Board, shall be charged and payable to the Association, in addition to any other required amounts. The parties to the transaction are responsible to negotiate who pays this fee. A separate Notice of Reinvestment Fee (as required by law) will be recorded providing additional notice to Owners and potential buyers.

ARTICLE V – ARCHITECTURAL CONTROL COMMITTEE

5.1 Architectural Control Committee. It is the intention and purpose of these covenants, conditions, and restrictions to allow the Architectural Control Committee (“ACC”) to: (1) impose architectural design standards on the Improvements to any Lot of a type and nature that result in buildings which are architecturally compatible in terms of Lot coverage, proportion, materials, colors, and general appearance; and (2) to impose construction rules on construction within the Subdivision. To this end, the Board may establish an Architectural Control Committee. The ACC shall consist of three (3) members, appointed and removed by the Board. The Board shall have the right to decrease or increase the number of members of the ACC, except that the number of members of the ACC shall not exceed five (5) or be decreased below three (3). In the event the Board does not create such ACC, the Board shall act as the ACC.

5.2 Approval Required. No accessory, attachment, or addition to a Dwelling, landscaping, patio enclosure, or other improvement of a Lot, specifically including the Limited Common Areas, shall be constructed, maintained, or accomplished; and no additions, alterations, repainting, refurbishing, additions or relocation of lighting to the exterior of any Dwelling Unit shall be performed, unless complete plans and specifications thereof have first been submitted to and approved in writing by the ACC. The ACC may condition its approval of proposals or plans and specifications on such changes therein as it deems appropriate, or upon the agreement by the Owner submitting the same to grant appropriate easements to the Association for the purpose of maintenance, and may require submission of additional plans and specifications or other information and agreements prior to approving or disapproving material submitted. However, the painting of exterior Dwelling doors and garage doors does not require ACC approval, so long as approved colors are used as established by Board or the ACC’s design guidelines, and the colors maintain the aesthetic harmony of the Community. In the case of attached Dwellings (duplex or triplex Dwelling Units), any and all exterior doors must be painted the same color as the adjoining Dwelling Units.

(a) **Plans Submitted.** Plans for the construction of any Improvements must be submitted to the ACC for review. It is recommended that a preliminary plan be submitted before the expense of final drawings is incurred. The plan must be in sufficient detail to show the location on the Lot of the exterior walls of a Dwelling (where applicable) and all other structures to be built with it; detailed drawings of all elevations of all proposed buildings showing locations of windows, doors, roof pitches, decks, and other exterior elements; a list of exterior siding and roofing materials and/or a sample, including color samples; and a landscape plan showing the location of landscaped areas, Private Driveways, Private Walkways, patios, decks, and other hard surfaced or irrigation areas and the areas to be disturbed by construction and the means of restoring those areas. In the case of an addition or modification of an existing Dwelling, the

ACC may waive any of the foregoing if it feels they are unnecessary to its review of the remodel or addition.

(b) Fees. The ACC may charge a uniform fee to be payable to the Association to accompany each submission by an Owner for approval. Such fee shall be an amount necessary to cover the costs of review and the administration of the program in an amount to be established from time to time by the ACC. In addition, the ACC may assess a fee for the professional review of the plans in accordance with the provisions of this Article.

5.3 Standard of Review. In deciding whether to approve or disapprove plans and specifications submitted, the ACC shall use its best judgment to ensure that all improvements, construction, landscaping, and alterations on Lots within the Property conform to and harmonize with existing surroundings and structures. The Board may further formulate general guidelines and procedures for the ACC's review process. If such guidelines are formulated, they shall be incorporated into the Association's Rules and Regulations adopted by the Board.

5.4 Meeting of the Architectural Committee. The ACC shall meet from time to time as necessary to perform its duties hereunder. The ACC may from time to time, by Resolution unanimously adopted in writing, designate a Committee Representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the ACC, except the granting of a variance pursuant to this Article. In the absence of such designation, the vote of any two (2) members of the Committee taken without a meeting shall constitute the act of the Committee.

5.5 Approval Procedures. Any plans and specifications initially presented to the ACC shall be either approved, approved pending appropriate revision, or disapproved in writing within thirty (30) days after submission. If the ACC has not approved or rejected any submission within thirty (30) days after payment of the review fee and submission of complete plans, the submission is deemed to have been disapproved, and the ACC shall refund the review fee to the Owner. Any such request shall be deemed to have been denied if the relevant Owner, including any subsequent Owner, cannot produce the written approval granted by the Board upon request, and any changes or alterations made by an Owner, or prior Owner, shall be removed and the property restored to its original condition at the request of the Board and at the cost of the Owner.

5.6 Construction and Inspection. Once construction of any Improvements, alterations, or changes to landscaping as approved by the ACC have commenced, the same shall be diligently pursued to completion. Upon completion of any Improvement for which approved plans are required, the Owner shall give notice of completion to the ACC. Within sixty (60) days thereafter, the ACC shall inspect such Improvement. If the Improvements are found to be non-compliant, according to the approved plans, or a failure to submit plans, the ACC shall require the Owner to remedy the same within thirty (30) days of notice of non-compliance from the ACC. Failure to do so shall allow the ACC or Board to remedy the non-compliance and seek reimbursement of such costs from the non-compliant Owner. Additionally, the Owner will be deemed in violation of the Governing Documents and shall be subject to any other fines or remedies allowable by law.

5.7 Non-Waiver and Disclaimer of Liability. Neither the ACC, nor any member thereof acting in good faith shall be held liable to the Association or to any Owner for any damage, loss, or prejudice suffered or claimed on account of the approval or rejection of, or the failure to approve or reject any plans, drawings, or specifications, or for the development or manner of development of any of the Property, or for any engineering or other defect in any approved plans and specifications. The approval of the ACC of any plans and specifications for any work done or proposed shall not constitute a waiver of any right of the ACC to disapprove any similar plans and specifications.

5.8 Variances. Variances to the design standards established by the Board or the ACC may be granted by the Board when strict application would create an unforeseen or unreasonable hardship to the Owner of any Lot. Each such variance must be approved by a majority of the Board.

5.9 Limitations on Review. The ACC's review is limited to those matters expressly granted in this Declaration. The ACC shall have no authority over the enforcement of building codes, zoning ordinances, or other statutes, laws, or ordinances affecting the development or improvement of real property and shall have no liability to any Owner whose plans were approved in a manner that included any such violation. Corrections or changes in plans to bring them into conformity with applicable codes must be approved by the ACC prior to construction.

5.10 City Approval. The powers and approvals of the Architectural Control Committee shall be subject to zoning and other regulatory powers and approvals of the City of Draper, Utah ("City").

5.11 Construction Rules. The Architectural Control Committee may impose reasonable Rules and Regulations to minimize the inconvenience to adjoining Owners during the periods of construction. The ACC may impose rules requiring pre-construction conferences and regulations regarding portable offices and trailers, construction debris removal, construction area appearance, sanitary facilities, construction parking and vehicles, construction signs, hours of work, soil conservation, dust, removal of mud, and duration of construction. Owners not in compliance with such rules are in violation of the Governing Documents and subject to fines or other enforcement remedies.

ARTICLE VI – MAINTENANCE OBLIGATIONS

6.1 Owner's Responsibility. Except to the extent that the Association is responsible therefore under Section 6.2, maintenance, repair, and replacement of the Lots and the Dwelling Units shall be the responsibility of the Owner(s) thereof, who shall maintain such Lots and Dwellings in good condition and repair. Specifically, each Owner is responsible for:

(a) Dwelling Units and Dwelling Interiors. All maintenance and repairs relating to the Dwelling, all interiors and contents of the Dwelling, and all items attached to the Dwelling.

(b) Exteriors. Each Owner shall be responsible for maintenance, repair, and replacement to the exterior of each structure which is associated with that Owner's Lot, which maintenance includes, but is not necessarily limited to: paint; repair, replacement, and care of garage doors; stucco and all other exterior surfaces; roofs (excepting the cost of shingle materials replacement), all parts and materials of the roof and roofing system including flashing, soffit, fascia, ventilation, ridges, gutters, downspouts, heat tape, etc.; cement patios and decks; all foundations; windows and window wells; fences (which create all or part of a yard enclosure); patio fences; exterior building surfaces; exterior doors and windows; all other exterior improvements; Private Walkways, Private Driveways, Limited Common Areas adjacent and appurtenant to the Dwelling Unit, as well as all Improvements constructed on the Lot.

(c) Landscaping. Any landscaping, other than grass, immediately adjacent to the Dwelling, including flowers and shrubs.

(d) Limited Common Areas. Each Owner shall, at his/her own cost, maintain, repair, and replace the Limited Common Areas appurtenant to his/her Dwelling Unit, and keep the same in a clean, sanitary, and attractive condition at all times. Alterations of the Limited Common Area without prior written approval of the ACC is prohibited. Limited Common Areas are defined in the Definitions of this Declaration and may be further clarified by Board Resolution.

(e) Utilities. The Owner shall pay for all utility services furnished to each Lot except utility services which are not separately billed or metered to individual Lots by the utility or other party furnishing such service. All utilities, fixtures, and equipment installed within a Lot, commencing at a point where the utility lines, pipes, wires, conduits, or systems are connected at a point that the lines/systems meet with a common line/systems, shall be maintained, replaced, and kept in repair by the Owner of the Lot. Specifically, Owners are responsible for the lateral water, sewer, and gas lines running from the point of common connection in the Street to and into the Dwelling Unit, and any underground utility infrastructure designed to serve a particular Dwelling Unit unless the utility line is owned and/or maintained by a third-party not a party to this Declaration. The Owner shall also pay for any water required for landscape maintenance connected to the house meter.

(f) Party Fences and Party Walls. Each wall or fence built between Dwelling Units and placed on the dividing line between the Lots shall constitute a "Party Wall," and to the extent not inconsistent with the provisions of this Declaration or other Rules and Regulations of the Association, the cost of reasonable repair and the responsibility for maintenance of a Party Wall shall be shared by the Owners in proportion to their ownership thereof. Any disputes which arise concerning a Party Wall shall be solved without Association involvement.

Each Lot and Dwelling shall be maintained so as to not detract from the appearance of the Community and so as to not adversely affect the value or use of any other Lot or Dwelling. An Owner shall not do any act or any work that will impair any easement nor do any act nor allow any condition to exist which will adversely affect the other Lots or Owners.

6.2 Maintenance by Association. The Association shall be responsible for maintenance, repair, and replacement of:

(a) Common Area landscape maintenance, including mowing, edging, and trimming of all lawns; sprinkler repair; adjusting sprinklers; spraying; baiting; fertilization; trees, plants, flowers, or other vegetation; weed control; and weeding of flower and shrub beds during the growing season.

(b) Maintenance of all yards.

(c) Snow and ice removal from Streets, Common Walkways, Private Driveways, and Private Walkways.

(d) Recreational facilities, including the pool, the interior and exterior of the Gazebo and Pool House, as well as the park and flagpole areas at the west end of the Property.

(e) Street maintenance and repair.

(f) Perimeter fencing and walls around the Property.

(g) Sidewalks adjacent to the Private Streets and other paved surfaces in the Common Area.

(h) Water for Common Areas.

(i) Providing shingle materials (but not the installation thereof) for the Dwelling Unit roofs.

(j) Maintain and repair the area drain system in the Common Area up to the point to its connection and outfall into the public storm drain system such as shall be maintained by Draper City. The area storm drain system consists of the plastic piping inlets and other appurtenances thereto designed to convey storm water away from Common Areas and Dwelling Units to the point that such water outfalls into the public system.

(k) Maintain and repair all erosion-control measures, such as retaining walls, including, but not limited to masonry walls, stone walls, cement walls, etc.

The Association shall also maintain all Common Areas and Common Area amenities which may be installed from time to time. However, if the Common Area is damaged by the willful misconduct or negligence of an Owner, his/her guests, tenants, or invitees, such Owner shall be responsible for all such damage.

Additionally, the Association, by and through the Board, may assume the Owner's general maintenance responsibility over a Dwelling Unit if, in the opinion of the Board, the Owner is unwilling or unable to adequately provide such maintenance. Before assuming such

maintenance responsibility, the Board shall provide notice to the Owner of its intention to provide maintenance, and if such Owner has not commenced and diligently pursued remedial action within thirty (30) days after the mailing or other delivery of such written notice, then the Association may proceed to maintain the Dwelling. The expenses of such maintenance incurred by the Association shall be reimbursed to the Association by the Owner. Such expenses shall constitute an assessment and may be collected in the same manner as assessments pursuant to this Declaration.

6.3 Access at Reasonable Hours. For the purpose solely of performing the maintenance required by this Article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot at reasonable hours.

6.4 Damage and Destruction Affecting Dwelling Unit and Duty to Rebuild. If all or any portion of any Lot or Dwelling Unit is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner of said Lot or Dwelling Unit to rebuild, repair, or reconstruct said Dwelling Unit in a manner which will restore it substantially to its appearance and condition immediately prior to the casualty.

6.5 Damage and Destruction to Common Areas. In the event of damage or destruction to the Common Area, the Association shall cause such Common Area to be repaired and any Improvement thereon to be reconstructed substantially as it previously existed. Each Owner shall be liable to the Association for any damage to the Common Area caused by negligent or willful misconduct of the Owner, its family, guests, and invitees. The cost of correcting such damage shall be an Individual Assessment against the Lot owned by the Owner.

6.6 Clarification and Alteration of Certain Maintenance Duties by Rule. To the extent not clarified herein and not inconsistent with the provisions of this Declaration, the Association may, by duly adopted Board Resolution, identify and assign those areas of maintenance and responsibility that are either (1) Owner responsibilities, or (2) Association responsibilities. Furthermore, the duty of maintenance for the area of a Lot may be altered by duly adopted Board Resolution. Such determinations shall be set forth in a Board Resolution distributed to all Owners, included with other rules of the Association, and shall be binding against all Owners.

ARTICLE VII – USE RESTRICTIONS

7.1 General Use Restrictions. All of the Property which is subject to this Declaration is hereby restricted to residential dwellings, and buildings in connection therewith, including, but not limited to community buildings on the Common Area. All buildings, structures or other Improvement erected on the Property shall be of new construction and no buildings or structures shall be removed from other locations to the Property. After initial construction on a Lot, no subsequent building or structure of a temporary character, trailer, basement, tent, camper, shack, garage, barn, or other building shall be placed or used on any Lot at any time without the prior written consent of the Board.

7.2 Residential Use. Each Lot shall be used for single-family, residential purposes in

accordance with, and subject to, the other provisions of this Declaration and the Bylaws and Rules and Regulations adopted pursuant thereto. Except as provided in this subsection, no trade, craft, business, profession, commercial, or similar activities that cause additional pedestrian or vehicular traffic, or create a sight or noise nuisance, shall be conducted on any Lot or Dwelling Unit or in any other portion of the Project.

7.3 Lease Restrictions. Consistent with the provisions of the Declaration and the Utah Condominium Ownership Act, the leasing and renting of Lots by Owners shall be in accordance with the terms herein.

The terms “lease,” “leasing,” “renting,” “rent,” or “rental” used in reference to any Lot within the Association shall mean and refer to the granting of a right to use or occupy a Lot to any person or entity for a specific term or indefinite term in exchange for the payment of rent (money, property, or other goods or services of value), but shall not mean nor include joint ownership of a Lot by means of joint tenancy, tenancy-in-common, or other forms of co-ownership.

(a) Restrictions. All Owners and Lots shall be subject to the following restrictions (“Rental Restrictions”) (subject to Section (b) below):

(1) Rental Cap. No more than ten percent (10%) of the Lots may be rented at any given time, except as provided within this Declaration or as may be required by law (“Rental Cap”). For clarification, ten percent of the Lots shall mean nine (9) Lots. By its Rules and Regulations, the Association shall create and adopt procedures to determine and follow the number of rentals subject to this Section and shall establish a waiting list for those Owners who desire to rent or lease their Lot or Dwelling Unit in the future as may be permissible.

(2) Short-Term Rental. No short-term, daily, weekly, or monthly rentals are permitted including, but not limited to, nightly or other short-term rentals through commercial rental programs, or similar arrangements. Individual room rentals are permitted only if the Owner also resides on the Lot.

(b) Exemptions. The following Owners and their respective Lots, upon proof sufficient to the Board of Directors, are **exempt** from the Rental Restrictions outlined herein below unless otherwise stated:

- (1) An Owner in the military for the period of the Owner’s deployment;
- (2) A Lot occupied by an Owner’s parent, child, or sibling;
- (3) An Owner whose employer has relocated the Owner for two (2) years or less;
- (4) A Lot owned by an entity that is occupied by an individual who:
 - (i) Has voting rights under the entity’s organizing documents; and

(ii) Has a 25% or greater share of ownership, control, and right to profits and losses of the entity; or

(5) A Lot owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for the estate of and occupied by:

(i) A current resident of the Lot; or,

(ii) The parent, child, or sibling of the current resident of the Lot.

(6) Hardship Exemptions. An Owner may appeal to the Board for a Hardship exemption from the Rental Cap by submitting a request in writing to the Board requesting a Hardship Exemption and setting forth in detail the reason why such Owner should be entitled to the same.

(i) A Hardship Exemption may be granted for a maximum of one (1) year, with the opportunity to obtain not more than one (1) year extension for the following reasons:

a. Religious or Charitable Service;

b. Civic or Humanitarian Service;

c. In the event the Owner must reside in a skilled nursing or assisted living facility.

(ii) The Board, at its sole discretion, may decide if an exemption shall be granted for any other reason.

(iii) In no event shall more than two (2) Hardship Exemptions, not including extensions, be given to an Owner.

(iv) Any Lease entered into under this Section shall be in writing and for a period of no less than six (6) months, and no more than one (1) year. The Lease will be subject to and must comply with all other requirements of this Declaration.

(c) Application and Approval. Owners desiring to rent or lease their Lots shall submit a written application to the Board of Directors (and/or its agent). Additionally, the Owner shall submit to the Board of Directors within ten (10) days of occupancy by the tenants the names of those occupying the Lot. The Board of Directors shall monitor and make a determination of whether the rental or lease will comply with the Rental Restrictions.

(1) The Board of Directors shall:

(i) Approve the application if it determines that the rental or lease will comply with the Rental Restrictions; or

(ii) Deny the application if it determines that the rental or lease of the Lot does not comply with the Rental Restrictions.

(2) Applications from an Owner for permission to rent or lease shall be reviewed and approved or denied by the Board of Directors pursuant to the policies of the Association not inconsistent with this Declaration.

(3) All Owners renting their Lot or Dwelling Unit shall use only an Approved Lease Agreement and shall provide the Board of Directors with a copy of the executed lease, which shall be kept on file with the books and records of the Association so that the Association may determine the number of Lots rented or leased.

(4) If an Owner fails to submit the required application, fails to use and submit a copy of the Approved Lease Agreement prescribed by Resolution of the Board of Directors, and/or rents or leases any Lot after the Board of Directors has denied the Owner's application, the Board of Directors may assess fines against the Owner or Tenant (as may be consistent with Utah law, Utah Code §57-8-8.1) and the Owner's Lot in an amount to be determined by the Board of Directors pursuant to a schedule of fines adopted by Resolution.

In addition, regardless of whether any fines have been imposed, the Board of Directors may proceed with any other available legal remedies, including, but not limited to an action to terminate the rental or lease agreement and removal of any tenant or lessee.

(5) The Association shall be entitled to recover from the offending Owner its costs and attorneys' fees incurred for enforcement of this Section regardless of whether any lawsuit or other action is commenced. The Association may assess such costs and attorneys' fees against the Owner and the Lot as an Individual Assessment pursuant to this Declaration.

(d) Grandfathering Clause. All Owners of record prior to the recordation of this Declaration who currently rent or lease their Lot may do so until such time as: the Lot Owner occupies the Lot; a person holding ownership of an entity or trust occupies the Lot; title to a Lot is transferred, pursuant to Utah Code 57-8-209; or an exemption (above) is required ("grandfathered status"). At such time title changes as stated herein, the grandfathered status is lost. Owners renting or leasing their Lot upon the recording of this Declaration shall count against the Rental Cap.

(e) Lease Agreement. Rental and lease agreements shall comply with this subsection.

(1) The Owner shall provide the tenant or lessee with a copy of the Declaration, the Bylaws, including any relevant amendments to such documents, and all Rules and Regulations then in effect and shall take a receipt for delivery of the documents. Tenant shall be required to sign an agreement that tenant has reviewed these documents and agrees to be bound by the terms of the documents. In the event any such documents are amended, revised, changed, or supplemented by the Association, the Owner shall provide the tenant or lessee with a copy of the amendments, revisions, changes, or supplements within ten (10) calendar days of

adoption by the Association, its Board of Directors, or its membership.

(2) Upon the commencement of the rental or lease period, the Owner shall provide the Association with a signed copy of the Approved Lease Agreement.

(f) Remedies. In addition to any other remedies available to the Association, the Board of Directors may require the Owner to terminate a lease or rental agreement if the Board of Directors determines that any lessee or tenant has violated any provision of this Declaration, the Articles of Incorporation, the Bylaws, or the Rules and Regulations adopted thereto as then in effect. If an Owner fails to correct any such violations related to his/her tenants or fails to terminate the lease pursuant to the above, the Owner hereby grants the Board of Directors standing to initiate eviction proceedings against the tenant and considers the Association a third-party beneficiary to its rental/lease agreement.

(g) Additional Rules. The Board of Directors is authorized to promulgate additional rules, procedures, and requirements regarding rentals and the rental process as it deems necessary from time to time to give effect to, or further clarify, this Declaration.

(1) Fines, Sanctions and Attorneys' Fees. The Board of Directors shall have the power to enforce the Association's governing documents, including by obtaining injunctive relief from the courts, by issuing fines, by terminating any common service paid for as a common expense, and by utilizing any other remedy authorized by law or the governing documents in order to maintain and operate the Project and to enforce these Rental Restrictions. The Association shall be entitled to its attorneys' fees and costs in any action to enforce the terms of this Declaration or its Bylaws or Rules and Regulations.

(2) Lease Payments by Tenant to Association. If an Owner who is renting his or her Lot fails to pay an assessment for more than sixty (60) days after the assessment is due, the Board of Directors may demand that the tenant pay to the Association all future lease payments due the Owner, beginning with the next monthly payment, until the amount due to the Association is paid in accordance with the procedures established by law, and such amounts shall be the personal obligation and debt of the tenant to the Association, jointly and severally with the Owner.

(3) Owner responsible for Actions of Tenant. Any Owner allowing a non-owner occupant to occupy his or her Lot shall be responsible for the occupant's compliance with the Declaration, the Bylaws, and the Rules and Regulations.

(h) Limitation of Lot Ownership.

In order to help assure that Lots within the Association qualify and are eligible for loans on the primary and secondary mortgage market, as also may be required by Fannie Mae, Freddie Mac, and/or the Federal Housing Administration, which helps with the ability to purchase or securitize mortgages within the Project, no single entity (the same individual, investor group, entity, partnership, or corporation) may own more than five percent (5%) of the total number of Lots within the Project at any given time.

Should this provision be violated, the Association, through the Board of Directors, shall be able to enforce this restriction to protect the interests of the Association and its members, with or without legal action as deemed necessary, and the offending purchaser or Owner shall be responsible for all costs and attorney fees associated with said enforcement.

7.4 Time Sharing. The Time Sharing of any Lot or Dwelling built thereon in any form whatsoever is prohibited within the Association.

7.5 Animals. No exterior barn, coop, shed, sty, or building of any type shall be constructed, kept, maintained, or permitted for the purpose of housing dogs, cats, pigs, cows, sheep, goats, horses, poultry, or other livestock at any place within the limits of the Property. Each Lot Owner may keep and maintain no more than three (3) common household pets, as permissible within current zoning regulations, provided that they are not kept, bred, or maintained for any commercial purpose. Those animals which are permitted shall not cause any noise or disturbance that would be deemed a nuisance to other Owners or residents within the Community. Any inconvenience, damage, or unpleasantness caused by such pets shall be the responsibility of the respective Owners thereof and Owners shall be responsible for removal of waste of their animals. The Association may, by rule, further restrict or regulate the keeping of pets. An Owner may be required to remove a pet that is in violation of the Governing Documents or if the animal is considered dangerous or unsafe to the Members or his/her guests.

7.6 Nuisances or Offensive Activities. No noxious, offensive, or unsightly conditions or activities, including, but not limited to the major repair of motor vehicles, shall be permitted on any Lot or other portion of the Common Areas, nor shall anything be done in or placed thereon that becomes an unreasonable annoyance or nuisance to any other Owner or resident. No loud noises or noxious odors shall be permitted on the Property, and the Board shall have the right to determine what constitutes a nuisance. Without limiting the foregoing, no exterior speakers, horns, whistles, bells, or other sound devices (other than a security device used solely for security purposes), noisy or smoky vehicles, large power equipment or large power tools, satellite reception devices or antennas (except as allowed pursuant to law), evaporative coolers, or permanent flag poles, shall be placed on any portion of the Property or exposed to the view of others without the prior written approval of the ACC. No noise or activity shall interfere with or jeopardize the enjoyment of other Lots or which is a source of annoyance to residents.

7.7 Unlawful Activities. No unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be observed.

7.8 Signs. The Association may from time to time, in its Rules and Regulations, reasonably restrict the time and placement of signs, advertisements, posters, flags, and banners of any kind displayed to the public view on or from any Lot, Dwelling Unit, or the Common Area.

7.9 Rubbish and Trash. No part of the Property may be used or maintained as a dumping ground for rubbish, trash, garbage, or any other waste. No garbage, trash, or other waste may be kept or maintained on any part of the Property except in a sanitary container as specified by the Association or within a trash enclosure screened from public view. All such waste and garbage

must be promptly and periodically removed.

7.10 Parking.

(a) **Visitor Parking.** Visitor Parking areas are intended for the use of visitors. However, when not in use, Owners may use the Visitor Parking areas, as long as this privilege is not abused in the sole discretion of the Board of Directors. An Owner's use of a Visitor Parking space should not exceed two (2) days. A visitor's use of Visitor Parking should not exceed five (5) days. Exceptions may be granted by the Board if necessary.

(b) **Limited or Prohibited Parking.** Throughout the Property, parking is allowed only on the Sidewalk side of the Street. Street parking is not allowed on mornings when garbage is collected. During the winter months when there is snow on the Streets, Street parking is prohibited to allow for snow removal. During the summer months, Owners and visitors are permitted to use the Visitor Parking adjacent to the pool for a maximum of four (4) hours to allow as many as possible access to the pool area.

(c) **Recreational Vehicles.** Boats and other watercraft, snowmobiles, campers, trailers, and motor homes may be parked along the Sidewalk side of the Street for loading and unloading purposes for a period not to exceed 24 hours. Recreational vehicles may be parked in Private Driveways overnight (24-hour time limit) but should otherwise be parked in the garage.

7.11 External Apparatus. No Lot Owner shall cause or permit anything (including, without limitation, awnings, canopies, shutters, or lights) to hang, be displayed, or otherwise be affixed to or placed on the exterior walls or roof or any part thereof, or on the outside of windows or doors, without the prior written consent of the Board of Directors. Notwithstanding the above, holiday lights may be hung from the roof of a Dwelling no sooner than October 1, and they must be removed no later than February 1 of the following year. No sheds or outbuildings are permitted.

7.12 Solar and Energy Devices. Solar panels or other solar energy devices are not permitted within the Project; but they may be allowed in the future if approved by the Owners of fifty-one percent (51%) of the total number of outstanding votes of the Members.

7.13 Front Window Treatment. No blinds, draperies, or other window coverings or treatments shall be permitted with respect to Dwelling Unit windows which face any road, whether public or private, except those which are conservative in style and neutral in color or otherwise approved by the Architectural Committee.

7.14 Party Walls. In the case of a common wall or concrete foundation between any two Dwelling Units ("Party Wall"), if any, the cost of reasonable repair and maintenance of the Party Wall shall be shared equally by the Owners whose Dwelling Units make use of the Party Wall. No Owner, his/her family, guests, or invitees shall, through willful or negligent action, breach or in any way compromise a Party Wall. In the event of willful or negligent acts, the party causing any damage to a Party Wall shall immediately act to repair or replace the Party Wall in a condition equal or better than the original construction.

7.15 Demising Fire Walls. The following obligations, rules, and restrictions shall apply to all

Demising Fire Walls which are constructed as a part of a Dwelling Unit to separate such Dwelling Unit from an adjacent Dwelling Unit:

(a) No Owner, his family, guests, or invitees shall through willful or negligent action breach or in any way compromise the Demising Fire Wall of the Owners' Dwelling Unit, and/or the Demising Fire Wall of the adjoining Dwelling Unit in such a way as to void the fire rating of the Demising Fire Wall or walls. The Demising Fire Wall(s) shall be deemed breached if any act or combination of actions would result in the failure of the fire wall to meet the standards of a one-hour fire rated wall assembly as defined by the pertinent code and as interpreted by local building officials of the City. In the event of any such breach or breaches of the Demising Fire Wall(s), the party causing such breach shall immediately act to repair and/or replace all or a portion of the Demising Fire Wall(s) in such a manner as to restore its one-hour fire rating.

(b) In the case of a common concrete foundation wall between any two Dwelling Units, if any, and upon which the Demising Fire Walls are constructed, the cost of reasonable repair and maintenance of this Demising Fire Wall or foundation wall shall be shared equally by the Owners whose Dwelling Units make use of such wall.

(c) If a Demising Fire Wall is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of the insurance, the Owner(s) of the Dwelling Unit(s) to which the destroyed or damaged Demising Fire Wall is or was attached shall be obliged to restore the Demising Fire Wall to comply with the requirements for one-hour fire rated wall assembly.

7.16 Use of Common Area. Except for the rights of ingress and egress, Owners are hereby prohibited and restricted from using any of the Common Areas, other than as permitted in this Declaration or as may be allowed by the Board. It is expressly acknowledged and agreed by all parties concerned that this restriction is for the mutual benefit of all Lot Owners in the Property and is necessary for the protection of interests of all said Owners in and to the Common Area.

7.17 Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in the Property or any Lot. No derrick, lift, shaft, or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon the Property or any Lot.

7.18 Antenna and Dish Policy. Owners are encouraged to use cable service for television and internet when available. Satellite dishes and antennas not regulated by the FCC are prohibited. Satellite antennas, such as Direct Broadcast Satellite ("DBS") antennas/dishes one meter in diameter or less, and designed to receive direct broadcast satellite service, including direct-to-home satellite service, or receive or transmit fixed wireless signals via satellite, may be installed; provided the dish and any wires are installed so as to not be visible from the streets. If locating the dish so that it is not visible from the streets precludes reception of an acceptable quality signal, the dish shall be installed with the least visibility from the streets possible. Location of an FCC approved dish may not be restricted by the Association so as to cause unreasonable delay in installation; unreasonably increase the cost of the equipment or its installation, maintenance, or use; or preclude reception of an acceptable quality signal. No dish may encroach upon the Common Area or the property of another Owner.

The Owner shall keep the dish in good repair so that it does not violate any portion of this Declaration. The terms “dish” and “antenna” are to be used interchangeably in the interpretation of the above policy.

7.19 Increase in Insurance Cost. Nothing shall be done or kept within any Lot or on the Common Areas, including Limited Common Areas, which will increase the cost of insurance to the Association or to other Owners. No Owner shall permit anything to be done or kept within his or her Lot or Common Areas which will result in cancellation of insurance on any Lot.

7.20 Association Rules and Regulations. In addition to the restrictions and requirements above, the Board of Directors from time to time may, by Resolution, adopt, modify, or revoke such Rules and Regulations reasonably governing the conduct of persons within the Common Area and the operation and use of the Lots and Common Area as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Property. Reasonable fines may be levied and collected as an assessment for violations of said Rules and Regulations and for violations of any restrictions contained in this Declaration. A schedule of fines may be adopted by the Board of Directors specifying the amounts of such fines, and any other provisions or procedures related to the levying of such fines.

ARTICLE VIII – COMPLIANCE, ENFORCEMENT, APPEAL

8.1 Rules and Regulations.

(a) The Board may adopt, amend, modify, cancel, limit, create exceptions to, expand, or enforce the Rules and Regulations, subject to limitation and requirements of the law, including the right of the Owners to disapprove a rule pursuant to law, and subject to the Board’s duty to exercise business judgment on behalf of the Association and the Owners.

(b) Before adopting, amending, modifying, canceling, limiting, creating exceptions to, or expanding the Rules and Regulations, the Board shall:

(1) at least fifteen (15) days before the Board will meet to consider a change to the Rules and Regulations, deliver notice to the Owners that the Board is considering a change to the Rules and Regulations;

(2) provide an open forum at the Board meeting giving Owners an opportunity to be heard at the Board meeting before the Board takes action under this Article; and,

(3) deliver to the Owners a copy of the change in the Rules and Regulations approved by the Board within fifteen (15) days after the date of the Board meeting.

(c) The Board may adopt a rule without first giving notice to the Owners if there is an imminent risk of harm to the Common Area, an Owner, an occupant of a Lot, a Lot, or a Dwelling. The Board shall provide notice to the Owners of such a rule within fifteen (15) days of adoption by the Board.

8.2 Compliance. Each Owner, tenant, or occupant of a Lot shall comply with the provisions of this Declaration, the Bylaws, and the Rules and Regulations adopted pursuant thereto and any applicable statute. Failure to comply therewith shall be grounds for levying of a fine and an action or suit maintainable by the Association or an aggrieved Owner.

8.3 Remedies. Violation of any provisions of the Governing Documents, or of any decision of the Association made pursuant to such documents, shall give the Board the right, but not the obligation, in addition to any other rights set forth in this Declaration or the Bylaws, or under law, to do any or all of the following after giving notice:

(a) Subject to the provisions of this Declaration, to enter the Lot (not the Dwelling Unit) in which a violation exists, having given Owner prior notice of such violation and the opportunity to cure such violation, as set forth in the Act, as well as reasonable notice of the intent to enter the Lot, and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing, or condition that may exist contrary to the intent and meaning of such provisions, and the Board of Directors shall not thereby be deemed guilty of any manner of trespass, provided that judicial proceedings shall be instituted before any items of construction may be altered or demolished;

(b) To enjoin, abate, or remedy such thing or condition by appropriate legal proceeding;

(c) To levy fines, and a violation of any specific and express rule, regulation, covenant, restriction, or term of any Governing Document of the Association (a "violation"), and any subsequent occurrence of such violation, shall be subject to a fine in the amount determined by the Board from time to time. A subsequent occurrence of the same violation occurring within twelve (12) months of a prior occurrence is and shall be deemed the same violation for purpose of notice, and each such subsequent occurrence shall be subject to an immediate fine without further warning or notice;

(d) To suspend the right to receive access or use any services or facilities provided by or through the Association until the violation is corrected;

(e) To suspend the voting rights of an Owner, but not for longer than sixty (60) days except in the case of a continuous violation; or

(f) Bring suit or action against the Owner on behalf of the Association and other Owners to enforce this Declaration, the Bylaws, and the Rules and Regulations. The Association shall be entitled to an award of its attorneys' fees and costs in any action taken for the purpose of enforcing or otherwise implementing the terms of the Governing Documents, or for any action taken pursuant to the Governing Documents, if it prevails in such action, regardless of who instituted the action.

8.4 Fines. As set forth in the Association’s fining policy, the Board may assess a fine against an Owner for a violation of the Governing Documents in accordance with the following provisions.

(a) Warning. A written warning (“Warning”) shall be sent to the Owner of the Lot. The Warning shall:

- (1) describe the violation,
- (2) state the rule or provision of the Governing Documents that the Owner has violated,
- (3) state that the Board may, in accordance with the provisions of the law, assess fines against the Owner and suspend membership rights if a continuing violation is not cured or if the Owner commits similar violations within one year after the day on which the Board gives the Owner the Warning or assesses a fine against the Owner,
- (4) if the violation is a continuous violation, state a time by which the Owner must cure the violation (which time must be at least 48 hours after the day the Owner is given the Warning), and
- (5) state the amount of the fine that will be assessed if a continuous violation is not cured within 48 hours or if the Owner commits similar violations within one year after the day on which the Board gives the Owner the Warning.

(b) Initial Fine. The Board may assess a fine against an Owner if: (i) within one year after the day on which the Board gives the Owner a Warning, the Owner commits another violation of the same rule or provision identified in the Warning; or (ii) for a continuing violation that the Owner does not cure within 48 hours after the day the Owner is given the Warning.

(c) Subsequent Fines for Same Violation. After a fine is assessed against an Owner, the Board may, without further warning, assess an additional fine against the Owner each time the Owner: (i) commits a violation of the same rule or provision within one year after the day on which the Board assesses a fine for a violation of the same rule or provision; or (ii) allows a violation to continue for 10 days or longer after the day on which the Board assesses the fine.

8.5 Appeal by Owner. Any Owner who is assessed a fine or other penalty or who has rights suspended may request an informal hearing before the Board to dispute the fine, penalty, or suspension within thirty (30) days after the date of the notice stating that the fine or penalty is assessed or that rights have been suspended. The hearing requested shall be conducted in accordance with procedures promulgated by Resolution of the Board from time to time, or if none, in accordance with the standards determined by the Board at the hearing.

8.6 Action by Owners. Subject to any limitation imposed under the Governing Documents or Utah law, an aggrieved Owner may bring an action against such other Owner or the Association to recover damages or to enjoin, abate, or remedy such thing or condition by appropriate legal proceedings.

8.7 Injunctive Relief. Nothing in this section shall prevent an Owner, the Association, or other interested party from resorting to a court of competent jurisdiction in those instances where injunctive relief may be appropriate.

8.8 Purchase Subject to Violations. Buyers shall take ownership of Lots subject to any violations of the Governing Documents which may exist concerning the Lot, whether or not such violations were disclosed by the seller of the Lot and whether or not the Association knew of the violations at the time of sale. Such buyers shall be liable for correcting such violations upon demand by the Association.

ARTICLE IX – INSURANCE

9.1 Types of Insurance Maintained by the Association.

(a) The Board shall at all times purchase, maintain in force, and pay the premiums for, if reasonably available:

(1) Property insurance for the Common Area, if required by law or deemed necessary by the Board;

(2) Liability insurance with adequate limits of liability for bodily injury and property damage, but in no event less than one million dollars (\$1,000,000) per occurrence; and

(3) Directors and Officers (D & O) liability insurance coverage.

(b) The Board may purchase and maintain in force, if and as deemed reasonable, the following types of insurance:

(1) Fidelity. Fidelity insurance or bond covering all Board members, officers, employees, and other persons handling or responsible for the funds of, or administered by, the Association. Where a Managing Agent has the responsibility for handling or administering funds of the Association, fidelity coverage shall include coverage for its officers, employees, and agents handling or responsible for funds of, or administered on behalf of, the Association. Such fidelity bond or insurance shall name the Association as an obligee and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or Managing Agent, as the case may be, at any given time during the term of each bond or policy, and in no event, no less than a sum equal to three months' aggregate assessments on all Lots plus reserve funds. The bonds or policies shall contain waivers by the issuers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees," or similar terms or expressions. The bonds or policies shall provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least 10 days' prior written notice to the Association or insurance trustee.

(2) Other. Any other policy as determined by the Board.

(c) Miscellaneous Items. The following provisions shall apply to all insurance coverage of the Association:

(1) Certificate of Insurance. Evidence of insurance shall be issued to each Owner and Mortgagee upon request.

(2) Deductible. The Association shall pay for the deductible on any claim made against the Association's property insurance policy, except where the claim is made because of the negligence or willful acts of an Owner or occupant, including a guest, invitee, or visitor, as determined by the Board. In such cases, the corresponding Owner shall pay the deductible amount.

(3) Waiver of Subrogation; Individual Neglect. All policies shall include a waiver of the right of subrogation against Owners individually. All policies shall include a provision that the insurance is not prejudiced by any act or neglect of an individual Owner.

(4) Intent. The foregoing provisions shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Board or Association may deem necessary or appropriate from time to time.

9.2 Owner's Insurance. Each Owner and any lessee shall purchase and maintain adequate liability and property insurance on his or her Lot and Dwelling subject to the following:

(a) Primary Coverage. The insurance coverage of an Owner shall be primary. The Association shall not maintain insurance on an Owner's Lot, Dwelling, personal property, or contents.

(b) Prompt Repair. Each Owner further covenants and agrees that in the event of any partial loss, damage, or destruction of its Lot or Dwelling, the Owner shall promptly proceed to repair or to reconstruct the damaged structure in a manner consistent with the original construction.

(c) Failure to Repair. If the Board determines that any Owner has failed to properly discharge its obligation with regard to the repair or reconstruction of the damaged structure, then the Association may, but is not obligated to, provide such repair or reconstruction at the Owner's sole cost and expense.

(d) Coverage Requirements. Each Owner shall insure his/her entire Dwelling Unit, including the structural portions of the Dwelling Unit from the foundation to the roof, interior and exterior, against loss or damage by fire or by any other casualty, under the standard form now in use in the State of Utah or under such other insurance as may be required by a Mortgagee of a Dwelling Unit. All such insurance shall be for the full replacement value of the Dwelling Unit with automatic inflation coverage. All such policies shall contain a provision that the same shall not be cancelled or terminated except upon at least thirty (30) days written notice to the Association.

ARTICLE X – AMENDMENT AND DURATION

10.1 Amendments.

This Declaration, as well as the Plat Map, may be amended if any provision, covenant, condition, or restriction whatsoever may thereby be added, modified, or deleted, if such amendment is approved by Owners holding fifty-one percent (51%) of the total number of outstanding votes of the Members, except with respect to matters dealt with herein that require a higher percentage for approval thereof. An amendment shall not be effective until the amendment is certified by the president of the Association as being adopted in accordance with this Declaration, is acknowledged, and is recorded in the appropriate Salt Lake County Recorder's Office.

10.2 Duration.

(a) Period. All provisions, covenants, conditions, and restrictions contained in this Declaration shall continue and remain in full force and effect until there is recorded an instrument directing the termination of this Declaration after the vote and approval of the Owners of at least seventy-five percent (75%) of the Lots.

(b) Execution and Recording of Termination Certificate. Any such termination shall become effective only if a certificate of the president and secretary of the Association, certifying that termination as of a specified termination date has been approved in the manner required herein, is duly acknowledged and recorded in the Salt Lake County Recorder's Office not less than six (6) months prior to the intended termination date.

ARTICLE XI – MISCELLANEOUS PROVISIONS

11.1 Priority of Governing Documents. In the event of any conflict between or among this Declaration and any other Governing Document, the document in the highest priority beginning with the first document listed hereinafter shall prevail (as to any such conflict) over any later listed document: this Declaration, the Articles of Incorporation, Bylaws, Rules and Regulations.

11.2 Recovery of Costs and Attorney Fees. The Association shall be entitled to recover its costs and attorneys' fees incurred for enforcement of this Declaration regardless of whether any lawsuit or other action is commenced. Such costs and attorneys' fees shall automatically be and constitute an assessment against the Owner and the Lot. Additionally, the prevailing party shall be entitled to its attorney fees and costs in any dispute concerning any Governing Document, including an action dealing with the declaration of rights and obligations thereunder with or without a defaulting party, whether such costs and expenses are incurred with or without suit, before or after judgment, in any appeal, in any bankruptcy or receivership proceeding, or in connection with any alternative dispute Resolution proceeding.

11.3 Invalidity, Number, and Captions. The invalidity of any part of this Declaration shall not impair or affect in any manner the validity, enforceability, or effect of the balance of this

Declaration. As used herein, the singular shall include the plural and the plural the singular. The masculine and neuter shall each include the masculine, feminine, and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Declaration.

11.4 Joint Owners. In any case in which two or more persons share the ownership of any Lot, regardless of the form of ownership, the responsibility of such persons to comply with this Declaration shall be a joint and several responsibility, and the act or consent of any one or more of such persons shall constitute the act or consent of the entire ownership interest; provided, however, that in the event such persons disagree among themselves as to the manner in which any vote or right of consent held by them shall be exercised with respect to a pending matter, any such person may deliver written notice of such disagreement to the Board of Directors, and the vote or right of consent involved shall then be disregarded completely in determining the proportion of votes or consents given with respect to such matter in accordance with the Bylaws.

11.5 Lessees and Other Invitees. No damage to or waste of the Common Areas or any part thereof shall be committed by any Owner or any Lot occupant, guest, invitee, lessee of any Owner, and each Owner shall indemnify and hold the Board and the other Owners harmless against all loss resulting from any such damage or waste caused by any such person. Lessees, invitees, guests, Lot occupants, contractors, family members, and other persons entering the Property under rights derived from an Owner shall comply with all of the provisions of the Governing Documents restricting or regulating the Owner's use, improvement, or enjoyment of such Owner's Lot and other areas within the Property. The Owner shall be responsible for obtaining such compliance and shall be liable for any failure of compliance by such persons in the same manner and to the same extent as if the failure had been committed by the Owner.

11.6 Waiver, Precedent, and Estoppel. No restriction, condition, obligation, or provision contained in this Declaration, the Bylaws, or the Rules and Regulations adopted pursuant hereto shall be deemed to have been abrogated or waived by the Association, the Board, or any Owner by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur, and any failure to enforce the same shall not be deemed to constitute precedent or estoppel impairing the right of the Association, Board, or Owner as to any similar matter.

11.7 Interpretation. All questions of interpretation or construction of any of the covenants or restrictions in this Declaration shall be resolved by the Board, and its decision shall be final, binding, and conclusive on all parties affected for all purposes. The covenants, restrictions, and terms of this Declaration are to be interpreted broadly to give effect to the Association's role as the governing body of the Project and to grant all the powers necessary for management of the Common Area, administration of the servitude regime, carrying out other functions set forth herein, and furthering the purposes of the Association. The enumeration of specific items, acts, rights, or powers in this instrument does not limit or restrict, and is not to be construed or interpreted as limiting or restricting, the general powers granted to the Association or Board except where powers are expressly restricted.

11.8 Indemnification and Liability. The Association and the Board is and shall remain wholly free and clear of any and all liability to, or claims by, all Owners and all persons and

entities, of whatever kind or character, whether sounding in contract or tort, deriving from the occurrence of any injury or damage to any person or property on, or in respect of the use and operation of, the Common Area or any of its improvements, fixtures, and facilities, and an Owner shall defend, indemnify, and hold harmless the Association and Board against such claim, loss, or liability asserted by such Owner or his or her guest, invitee, licensee, tenant, or visitor. In this respect, it shall be the affirmative duty and responsibility of each Owner and user of the Common Area facilities to continuously inspect the same for any defects or perils or other unsafe conditions or circumstances, prior to and during such use or enjoyment thereof; and all users of and visitors to the Common Area and its improvements and facilities shall use, enjoy, and visit the same at his/her own risk and peril.

11.9 Notice of Sale, Mortgage, Rental, or Lease. Immediately upon the sale, mortgage, rental, or lease of any Lot, the Owner shall promptly inform the Board secretary or Manager of the name and address of said grantee, vendee, mortgagee, lessee, or tenant.

IN WITNESS WHEREOF, Sunset Ridge at South Mountain Property Owners Association, Inc. has executed this Declaration this 4th day of December, 2020.

SUNSET RIDGE AT SOUTH MOUNTAIN PROPERTY OWNERS ASSOCIATION, INC.

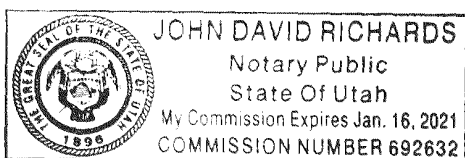
David McAllister
David McAllister

Richard Anderson
Richard Anderson

Annie Walker
Annie Walker

STATE OF UTAH)
) ss:
County of Salt Lake)

The foregoing instrument was acknowledged before me on this 4th day of December, 2020 by David McAllister, Richard Anderson and Annie Walker, of the Sunset Ridge at South Mountain Property Owners Association, Inc. Board of Directors.



[Signature]
Notary Public for Utah

EXHIBIT A

LEGAL DESCRIPTION

All Lots and Common Area, SUNSET RIDGE AT SOUTH MOUNTAIN PHASE 1 according to the official plat thereof, as recorded in the office of the Salt Lake County Recorder, State of Utah, recorded January 24, 2005, as Entry No. 9280758, in Book 2005P of Plats at Page 16, as the same may be amended.

Parcel Numbers: 34082510010000 through 34082510390000
 34082520010000 through 34082520060000
 34082530010000 through 34082530140000
 34082760010000 through 34082760160000
 34082770010000 through 34082770070000

EXHIBIT B

BYLAWS

OF

SUNSET RIDGE AT SOUTH MOUNTAIN
PROPERTY OWNERS ASSOCIATION, INC.
(A PLANNED-UNIT DEVELOPMENT)

ARTICLE 1 – DEFINITIONS42

ARTICLE 2 – MEETINGS OF MEMBERS.....42

ARTICLE 3 – NOTICE & VOTING – ELECTRONIC MEANS.....45

ARTICLE 4 – BOARD OF DIRECTORS, SELECTION, TERM OF OFFICE.....45

ARTICLE 5 – MEETINGS OF THE BOARD OF DIRECTORS46

ARTICLE 6 – POWERS, RIGHTS, AND DUTIES OF THE BOARD47

ARTICLE 7 – OFFICERS AND THEIR DUTIES49

ARTICLE 8 – COMMITTEES.....51

ARTICLE 9 – INDEMNIFICATION OF OFFICERS AND BOARD MEMBERS.....52

ARTICLE 10 – RECORDS AND AUDITS.....52

ARTICLE 11 – AMENDMENTS54

ARTICLE 12 – MISCELLANEOUS54

ARTICLE 1 – DEFINITIONS

1.1 **Definitions.** The definitions contained in or adopted by the Declaration shall be applicable to these Bylaws.

ARTICLE 2 – MEETINGS OF MEMBERS

2.1 **Place of Meeting.** The Association shall hold meetings at such suitable place as may be designated by the Board from time to time.

2.2 **Annual Meetings.** Each regular annual meeting of the Members shall be held each year on the day and at a time and place within the state of Utah selected by the Board.

2.3 **Notice of Meetings.** Written notice of each meeting of the Members shall be given by a person authorized to call the meeting, in a fair and reasonable manner, including by delivering a copy of such notice to each Member entitled to vote thereat, in accordance with the notice requirements specified in these Bylaws and sufficiently in advance of the meeting to provide fair and reasonable notice of the meeting, as determined by the Board. Notice shall always be deemed fair and reasonable if given no more than sixty (60) nor less than thirty (30) days before the meeting, but shorter notice may also be fair and reasonable when all the circumstances are considered. The notice shall specify the place, day, and hour of the meeting and must include a description of any matter that must be approved by the Members and, in the case of a special meeting, the purpose of the meeting.

2.4 **Special Meetings.** The Association, by and through the Board, shall notice, hold, and conduct a special meeting of its Members: (1) on call of the President or a majority of the Board, or (2) if the Association receives one or more written demands for the meeting that state the purpose or purposes for which the meeting is to be held and are signed and dated by Members holding at least 10% of the voting rights of the Association. When a special meeting is demanded by the Members, the Board shall set the time and date for the meeting so that the meeting occurs within 65 days of receipt of the demand; and if notice of the meeting is not given by the Board within 30 days after the date of the written demand is delivered to an Association officer, a person signing the demand may set the time and place of the meeting and give notice pursuant to the requirement herein. Business transacted at a special meeting shall be confined to the purposes stated in the notice of the meeting.

2.5 **Voting.** Each Owner shall have one (1) vote in matters of the Association for each Lot owned.

2.6 **Qualified Voters.** An Owner shall be deemed to be in “good standing” and “entitled to vote” at any meeting of the Association if the Owner is in full compliance with all the terms, covenants, and conditions of the Governing Documents, and shall have fully paid his/her share of

the Common Expenses and all other assessments and/or any additional charges due as of the date of the meeting.

2.7 **Proxies and Absentee Ballots.** The votes appertaining to any Dwelling Unit may be cast pursuant to a proxy or proxies duly executed by or on behalf of that Dwelling Unit Owner, or in cases where the Owner is more than one person, by or on behalf of all such persons. Any proxy shall be void if it is not dated, if it purports to be revocable without notice, or if it is not signed by a person having authority, at the time of the execution thereof, to execute it on behalf of that person. Unless it expressly states otherwise, a proxy shall terminate automatically (a) if the Owner attends the meeting in person, (b) it is revoked in writing and written notice of the revocation is given to the Secretary of the Association prior to the meeting, and (c) upon adjournment of the first meeting held on or after the date of that proxy. Each proxy must be filed with the Secretary of the Association prior to the meeting. Only individual Owners or the legal representative of an institutional Owner may be proxies.

2.8 **Fiduciaries and Joint Owners.**

(a) **Fiduciaries.** An executor, administrator, guardian, or trustee may vote in person, by proxy, or by written ballot at any meeting of the Association with respect to any Lot held in such capacity, whether or not the same shall be transferred to his or her name; provided that the person shall satisfy the Secretary that he or she is the executor, administrator, guardian, or trustee holding the Lot in such capacity.

(b) **Joint Owners.** Whenever any Lot is owned by two or more persons jointly, according to the records of the Association, the vote of the Lot may be exercised by any one of the Owners then present, in the absence of the protest by a co-owner. In the event of a protest, no one co-owner shall be entitled to vote without the approval of all co-owners. In the event of a disagreement among the co-owners, the vote of the Lot shall be disregarded completely in determining the proportion of votes given with respect to the matter.

2.9 **Quorum Voting.** Those qualified Members of the Association who are in attendance in person or by proxy shall constitute a quorum for the adoption of a decision. When a quorum is present at any meeting, the vote of the Owners representing a majority of the Members then present in person or by proxy shall decide any question brought before the meeting. If the Declaration requires a fixed percentage of Owners to approve any action, however, that percentage shall be required anything to the contrary notwithstanding.

2.10 **Order of Business.** The order of business at annual meetings of the Association shall be according to the order established by the President, and by way of example, may include the following: (a) Calling the roll and the certifying of proxies; (b) Proof of notice of meeting or waiver of notice; (c) Reading of minutes of the preceding meeting; (d) Reports of officers; (e) Reports of committees, if any; (f) Election of Board members; (g) Unfinished business; (h) New business; and (i) Adjournment.

2.11 **Conduct of Meeting.** The President shall, or in his absence the Vice President, preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting as well as record all transactions occurring thereat. The President shall conduct the meetings according to procedures he or she shall deem fit, provided such procedures are not inconsistent with the Bylaws and the other Governing Documents.

2.12 **Action by Written Ballot in Lieu of a Meeting.** Any action that may be taken at any annual, regular, or special meeting of Members may be taken without a meeting if the Association causes to be delivered a written ballot to every Member entitled to vote on the matter not less than fifteen (15) days prior to the date on which the ballots must be received by the Association in order to be counted. A written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Approval by written ballot pursuant to this section shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. All solicitations for votes by written ballot shall indicate the number of responses needed to meet the quorum requirements; state the percentage of approvals necessary to approve each matter other than election of Directors; specify the time by which a ballot must be received by the Association in order to be counted; and be accompanied by written information sufficient to permit each person casting such ballot to reach an informed decision on the matter. In the event the action is for election of Board members, there shall be space on the ballot to write in nominations. Action taken under this section has the same effect as action taken at a meeting of Members and may be described as such in any document. The Board may elect to conduct a vote pursuant to this section by a secrecy procedure whereby a written ballot is accompanied by: (1) a secrecy envelope; (2) a return identification envelope to be signed by the Owner; and (3) instructions for marking and returning the ballot. Written ballots that are returned in secrecy envelopes may not be examined or counted before the deadline for returning ballots has passed.

2.13 **Action without Notice and a Meeting.** Any action required to be taken or which may be taken at a meeting of Members may be taken without a meeting and without prior notice if one or more Members consents in writing, setting forth the action so taken, and such written consents are signed by Members having not less than the minimum voting power that would be necessary to authorize or take the action at a meeting at which all Members entitled to vote on the action were present and voted. All such writings must be received by the Association within a sixty-day period. Any such writing may be received by the Association by electronically transmitted facsimile or other form of communication providing the Association with a complete copy thereof, including a copy of the signature thereto. Action taken pursuant to this section shall be effective when the last writing necessary to effect the action is received by the Association, unless the writings describing and consenting to the action set forth a different effective date.

ARTICLE 3 – NOTICE AND VOTING

3.1 **Notices to the Association.** All notices to the Association or the Board of Directors shall be sent either to (a) the Managing Agent, or if there is no Managing Agent, to (b) a member of the Board of Directors. Notices may be sent through the postal service by mail or by email to either the Managing Agent or a member of the Board of Directors or both.

3.2 **Notices to Members.** All notices to Members from either the Managing Agent or from the Board of Directors may be sent through the postal service by mail or by the use of email. Each Member has the responsibility of providing his/her personal contact information to the Association.

ARTICLE 4 – BOARD OF DIRECTORS – SELECTION, TERM OF OFFICE

4.1 **Number, Term, and Qualifications.**

- (a) **Number.** The affairs of the Association shall be governed by a Board of Directors composed of either three (3) or five (5) Board members.
- (b) **Term.** Members of the Board shall serve for a term of three (3) years. The terms shall be staggered so only one Board member (or if there are five Board members, only two) is elected each year.
- (c) **Qualifications.** All Board members must be an Owner, spouse, or significant other of an Owner of a Lot, all of whom must reside in the Community while serving, except that no more than one (1) Lot may be represented on the Board at one time., Only one representative of an entity which owns a Lot may serve on the Board, such that a shareholder of a corporation, a member of an LLC, a partner of a partnership, a trustee or beneficiary of a trust, or a personal representative of an estate, may serve on the Board if the corporation, LLC, partnership, trust, or estate owns a Lot.

4.2 **Nomination.** Nomination for election to the Board shall be made in the manner determined by the Board, which may include a nominating committee as well as nominations from the floor at a meeting. If a nominating committee is established, the nominating committee must submit its names of candidates in time to be included with the first formal “notice of meeting” sent to the Owners. Regardless, at any meeting at which Board elections are to take place, nominations from the floor may occur and one may nominate him or herself.

4.3 **Election.** At the election, the Owners or their proxies may cast, in respect to each vacancy, one vote for each Lot owned or for which such Owner holds a proxy. Voting in a Board election shall be by written ballot. Once a quorum is established, the persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

4.4 **Vacancies.** Vacancies on the Board caused by any reason other than the removal of a Board member by vote of the Association shall be filled for the balance of the term by vote of a

majority of the remaining Board members even though they may constitute less than a quorum. Each person so elected shall be a Board member until a successor is elected upon expiration of the term for which the person was elected by the other Board members to serve.

4.5 **Removal of Board Members.**

(a) **Removal by Vote.** At any annual or special meeting, any one or more of the Board members, other than interim Board members, may be removed, with or without cause, by a majority of the voting interests of the Members. A successor may be elected at that meeting to fill the vacancy thus created for the remainder of the term of the Board member removed. The notice of the meeting must state that the removal is to be considered and any Director whose removal has been proposed by the Owners may be given an opportunity to be heard at the meeting.

(b) **Removal by Board of Directors.** The Board may declare the office of a member of the Board to be vacant in the event such member is absent from three (3) consecutive regular meetings of the Board or from more than 25% of the regular meetings held in any 12-month period. The vacancy shall be filled as provided in Section 4.4 above.

4.6 **Compensation.** No Board member shall receive compensation for any service he or she may render to the Association as a Board member. However, any Board member may be reimbursed for actual expenses incurred in the performance of his or her duties.

4.7 **Action Taken without a Meeting.** The Board shall have the right to take any action in the absence of a meeting which they could take at a regular or special meeting if all the Board members agree in writing to take a vote or an action without a meeting. The action being taken shall not require unanimous consent of the Board. Any action so taken shall have the same effect as though taken at a meeting of the Board members.

ARTICLE 5 – MEETINGS OF THE BOARD OF DIRECTORS

5.1 **Organizational Meeting.**

(a) **Location, Date, and Time.** The first meeting of a newly-elected Board shall be held within fourteen (14) days of election at such place, date, and time as shall be fixed by the Board members at the meeting at which the Board members were elected. No notice shall be necessary to Owners or to the newly elected Board members in order to legally hold the meeting, provided a majority of the elected Board members are present.

(b) **Procedure and Business.** Until the election of new officers, the meeting shall be chaired by the outgoing President, or in the absence of such person, the outgoing Secretary, regardless of whether the outgoing President or Secretary is a member of the newly-constituted Board. At the organizational meeting, the Board shall elect officers in accordance with the Section 7.2 below and may conduct any other Association business.

5.2 **Regular Meetings.** Regular meetings of the Board shall be held from time to time and at such time and place as shall be determined by a majority of the members of the Board, but no less than semi-annually.

5.3 **Special Meetings.** Special meetings of the Board may be called by the President, Vice President, or a majority of the Board members on at least forty-eight (48) hours' prior notice to each Board member. Such notice shall be given either by email, by regular U.S. Mail postage prepaid, personally, or by telephone, and such notice shall state the time, place, and purpose of the meeting. Any meeting attended by all members of the Board shall be valid for all purposes.

5.4 **Open Meetings; Executive Sessions.**

(a) **Open Meetings.** Except as provided in subsection 5.4(b), all meetings of the Board shall be open to Lot Owners. However, no Owner shall have a right to participate in the Board meeting unless the Owner is allowed by the President to speak. The President or Board shall have the authority to exclude an Owner who disrupts the proceedings at a Board meeting.

(b) **Executive Sessions.** In the discretion of the Board, they may agree to meet in executive session to discuss matters of a sensitive, private, or privileged nature. The decision to meet in executive session must be included in the minutes of the meeting.

5.5 **Meetings by Telephonic or Electronic Communications.** In the event of an emergency, or as a matter of convenience, meetings of the Board may be conducted by telephonic communications or by the use of a means of communication that allows all members of the Board participating to hear each other simultaneously or otherwise to be able to communicate during the meeting.

5.6 **Waiver of Notice.** Before or at any meeting of the Board, any Board member may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Board member at any meeting of the Board shall constitute a waiver of notice. If all Board members are present at any meeting of the Board, no notice shall be required, and any business may be transacted at such meeting.

5.7 **Quorum and Acts.** At all meetings of the Board, a majority of the existing Board members shall constitute a quorum for the transaction of business, and the acts of a majority of the Board members present shall be the acts of the Board. If, at any meeting of the Board, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

ARTICLE 6 – POWERS, RIGHTS, AND DUTIES OF THE BOARD

6.1 **General Powers and Duties.** The Board shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not, by law, the Declaration, or by these Bylaws directed to be exercised and done by the Owners. The Board shall have the power from time to time to adopt any Rules and Regulations deemed proper for the exercise of its management powers. The Board may delegate its authority to a Manager or Managers. Subject to any limitations or provisions contained in the Declaration, the Board shall be responsible for at least the following:

- (a) Preparing an annual budget.

- (b) Allocating the Common Expenses.
- (c) Monitoring and determining the adequacy of Reserves for capital Improvements.
- (d) Determining the Annual Assessments for operations and reserves.
- (e) Providing for the operation, care, upkeep, replacement, maintenance, and regulations of the Common Area and facilities.
- (f) Collecting and depositing Assessments.
- (g) Making, amending, and enforcing the Rules and Regulations.
- (h) Opening and closing of bank accounts for and on behalf of the Association and designating the signatories required therefor.
- (i) Making or contracting for the repairs, additions, and improvements to, or alterations of, and restoration of, the Common Area in accordance with the Declaration and other provisions of the Bylaws after damage or destruction by fire or other casualty or, as allowed by the Governing Documents, individually affected Lots.
- (j) Enforcing by legal means the Governing Documents.
- (k) Purchasing and maintaining insurance.
- (l) Keeping books and records.
- (m) Providing, where and when necessary, all water, electricity, and other utility services for the Common Areas.
- (n) Making emergency repairs.
- (o) At the sole expense and risk of the Owner, impounding, immobilizing, towing, or otherwise removing any motor vehicle parked, stored, or standing in violation of the Declaration and Rules and Regulations related to parking.
- (p) Create and amend reasonable Rules and Regulations.

6.2 **Appointment of Committees**. In addition to powers granted by the Declaration, these Bylaws, or by Resolutions of the Association, the Utah Revised Nonprofit Corporation Act or other applicable law, in the Board's discretion, it may appoint such committees as deemed appropriate in carrying out its purposes.

6.3 **Duty to Act in Good Faith.** A Board member or officer shall discharge the Board member or officer's duties (a) in good faith, (b) with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and (c) in a manner the Board member or officer believes to be in the best interests of the Association. The Board members shall, at all times, keep themselves reasonably informed and take such steps and necessary actions as a reasonable, prudent person would do to serve the best interests of the Association.

6.4 **Reliance on Information.** In discharging duties, a Board member or officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by: (a) one of more officers or employees of the Association whom the Board members or officer reasonably believes to be reliable and competent in the matters presented, (b) legal counsel, a public accountant, or another person as to matters the Board member or officer reasonably believes are within the person's professional or expert competence, or (c) in the case of a Board member, a sub-committee of the Association or Board of which the Board member is not a member if the Board member reasonably believes the sub-committee merits confidence.

ARTICLE 7 – OFFICERS AND THEIR DUTIES

7.1 **Designation and Qualification.** The principal officers of the Association shall be a President, a Vice President, a Secretary, and a Treasurer, all of whom shall be elected by the Board. The Board may appoint assistant secretaries and such other officers as in its judgment may be necessary, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

- (a) **Qualifications.** The President, Vice President, Secretary, and Treasurer shall be members of the Board of Directors.
- (b) **Multiple Offices.** Two or more offices may be held by the same person, except the President shall not hold any other office.

7.2 **Elections and Vacancies.** The officers of the Association may be elected by the Board at the organization meeting of each new Board or any Board meeting thereafter to serve until their respective successors are elected at the next organizational meeting. If any office become vacant by reason of death, resignation, removal, disqualification, or any other cause, the Board shall elect a successor to fill the unexpired term.

7.3 **Resignation.** Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. The resignation shall take effect on the date of the receipt of the notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of the resignation shall not be necessary to make it effective.

7.4 **Removal of Officers.** Officers shall hold office at the pleasure of the Board. Upon an affirmative vote of a majority of the members of the Board, any officer may be removed, either with or without cause.

7.5 **Compensation of Officers.** No member of the Board may receive any compensation from the Association for acting as an officer unless the compensation is authorized by a vote of the Owners. However, an Officer of the Board may be reimbursed for expenses incurred in the performance of his/her duties to the extent that such expenses are documented and approved by the Board of Directors.

7.6 **Duties of Officers.** Officers shall have such duties prescribed with respect to the office by the Declaration, Bylaws, and by the Board, to the extent not inconsistent with these Bylaws or the Declaration. The Board may delegate any powers or duties of officers to other persons or agents as the Board deems necessary or appropriate from time to time. Any principal officer may prepare, execute, certify, and record amendments to the Declaration on behalf of the Association in accordance with the amendment provisions of the Declaration. The general duties of the officers are as follows:

(a) **President.** The President shall be the chief executive officer of the Association. He or she shall preside at all meetings of the Association and of the Board. The President shall have all of the general powers and duties which are usually vested in the office of president of an association. The President shall have the authority to sign all leases, mortgages, deeds, and other written instruments, including amendments to the Governing Documents.

(b) **Vice President.** The Vice President shall act in the place and stead of the President in the event of the President's absence, inability, or refusal to act, and shall exercise and discharge such other duties as may be required by the Board. The Vice President shall likewise have the authority to sign all leases, mortgages, deeds, and other written documents.

(c) **Secretary.** The Secretary shall prepare and maintain the minutes of all meetings of the Board and minutes of all meetings of the Association, have charge of such books, papers and records as the Board may direct, shall have the responsibility for preparation and maintenance of other records and information required to be kept by the Association under the Act and under Section 16-6a-1601 of the Revised Nonprofit Corporation Act, and for the authenticating of records of the nonprofit corporation, and in general shall perform all the duties incident to the office of Secretary. Specifically, the Secretary shall compile and keep current a complete list of the Owners and their contact information, including address, phone, and email address, as well as a list of all tenants, including appropriate contact information. A folder or file containing certificates of insurance for each Dwelling Unit will be updated annually.

(d) **Treasurer.** The Treasurer shall have responsibility for the Association's funds and securities not otherwise held by a Managing Agent and shall be responsible for causing full and accurate accounts of all receipts and disbursements to be kept in books belonging to the Association. The Treasurer shall be responsible for causing the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may, from time to time, be designated by the Board and disbursing funds

as directed by Resolution of the Board. The Treasurer shall be responsible for the studies and reports on the adequacy of the Reserves and make recommendations as to the amount of Annual Assessments to Members in order to maintain the adequacy of the reserves.

ARTICLE 8 – COMMITTEES

8.1 **Designation of Committees.** The Board of Directors may, from time to time by Resolution, designate such committees as it may deem appropriate in carrying out its duties, responsibilities, function, and powers. The Board may also designate specific committees to carry out the work of the Association.

8.2 **Compensation.** No committee member shall receive compensation for services that he or she may render to the Association as a committee member; provided, however that a committee member may be reimbursed for expenses incurred in the performance of his/her duties as a committee member to the extent that such expenses are documented and approved by the Board of Directors.

8.3 **Proceedings of Committees.** Each committee may appoint its own presiding and recording officer and may meet at such places and times and upon such notice as such committee may from time to time determine. Each committee shall keep a record of its proceedings and shall regularly report such proceedings to the Board of Directors.

8.4 **Quorum and Manner of Acting.** At each meeting of any committee, the presence of at least two members shall constitute a quorum for the transaction of business, and the act of a majority of the members present at any meeting at which a quorum is present shall be the act of such committee. The members of any committee designated by the Board shall act only as a committee, and the individual members thereof shall have no powers as such.

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

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

ARTICLE 9 – INDEMNIFICATION OF OFFICERS AND BOARD MEMBERS

9.1 **Indemnification.** Each Board of Director member, committee member, and officer of the Association, in consideration of his or her services, shall be indemnified by the Association to the extent permitted by the Utah Revised Nonprofit Corporation Act against expenses and liabilities reasonably incurred by him or her in connection with the defense of any actual or threatened action, suit, or proceeding, civil, or criminal, to which he or she may be a party by reason of being or having been a Board member or officer of the Association. The foregoing indemnification shall not be exclusive of any other rights to which the Board member or officer or person may be entitled by law or agreement or vote of the Board members or otherwise.

ARTICLE 10 – RECORDS AND AUDITS

10.1 **General Records.** The Association shall maintain within the State of Utah all documents, information, and other records of the Association in accordance with the Declaration, these Bylaws, and the Utah Revised Nonprofit Corporation Act.

(a) **Permanent Records.** The Association shall keep (or cause to be kept) as permanent records: (1) The Declaration, Bylaws, and Articles of Incorporation, (2) minutes of all meetings of the Association and of the Board of Directors, (3) a record of all actions taken without a meeting by the Members or the Board of Directors; and (4) a record of all actions taken by a committee in place of the Board of Directors on behalf of the Association.

(b) **Resolutions and Rules.** The Association shall maintain (1) a record of the rules, regulations, and policies adopted by the Association, (2) appropriate accounting records, and (3) a record of its Members in a form that permits preparation of the list of the name and address of all Members in alphabetical order.

(c) **Assessment Roll.** The assessment roll shall be maintained in a set of accounting books in which there shall be an account for each Lot. The account shall designate the Lot number, the name and address of the Owner or Owners, the amount of each assessment against the Owners, the dates and amounts in which the assessment comes due, the amounts paid upon the account, and the balance due on the assessments.

(d) **Records at Principal Office.** The Association shall keep a copy of each of the following records at its principal office (copies of such records kept electronically by an Association officer or Manager shall satisfy this requirement regardless of where located as long as such electronic records are capable of being transmitted to or viewed by others, such as via email from an electronic storage medium or via website): (1) all Governing Documents; (2) the minutes of all Owners' meetings for a period of three years; (3) a list of the names, addresses, email address, and phone numbers of the current Board of Directors members and officers; (4) a copy of its most recent annual report (annual renewal) delivered to the Division of Corporations under Utah Code Section 16-16a-1607; and (5) all financial statements prepared for the periods ending during the last three years that show in reasonable detail the assets and liabilities and results of the operations of the Association.

(e) **Form of Records.** The Association shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time. “Written form” does not mean paper form. The Association may maintain any of its records by retaining an electronic record of the information in the record that: (1) accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise, and (2) remains accessible for later reference.

10.2 **Financial Reports and Audits.** Upon written request by an Owner or mortgagee of a Lot, an annual report of receipts and expenditures of the Association and a balance sheet showing assets and liabilities shall be rendered by the Board of Directors to the person(s) making the request within ninety days after the end of each fiscal year. From time to time, the Board of Directors, at the expense of the Association, may obtain an audit by a certified public accountant or other financial review of the books and records pertaining to the Association.

10.3 **Availability of Records to Owners.**

(a) **Owner May Elect Method.** An Owner may elect whether to: (1) view and copy records in person, (2) receive hard copies of records, or (3) receive the records electronically.

(b) **In Person.** If an Owner elects to view and copy records in person, the Owner must bring imaging equipment to the inspection which shall be at a reasonable place, and during such hours specified by the Association, and the Association shall provide the necessary space, light, and power for the imaging equipment.

(c) **Receive Hard or Electronic Copies.** If an Owner elects to receive hard copies or records or to receive records electronically, the Owner may request a recognized third-party duplicating service to make the copies and any necessary electronic scans of documents, in which case, the Association shall arrange for the delivery and pick up of the original documents, and the Owner shall pay the duplicating service directly. If the Association makes the copies or electronic scans, the Owner shall pay the Association the reasonable cost of the copies or of any necessary electronic scans of documents, which may not exceed: (1) the actual cost that the Association paid to a recognized third-party duplicating service to make the copies or electronic scans; or (2) if an agent of the Association makes the copies or any electronic scans, 10 cents per page and \$15 per hour for the person’s time making the copies or electronic scans.

(d) **Availability of Records Kept at Principal Office.** An Owner shall give the Association written request at least five (5) business days before the date on which the Owner wishes to inspect, copy, or receive any of the records stated herein.

(e) **Availability of Other Records – Proper Purpose Required.** An Owner shall give the Association written request at least five (5) business days before the date on which the Owner wishes to inspect any of the other records of the Association and: (1) the request must be made in good faith and for a proper purpose; (2) the Owner must describe with reasonable particularity the purpose and the records the Owner desires to inspect; and (3) the records must be directly connected with the described purpose.

(f) **Redaction; Records Not Subject to Inspection.** The Association may redact a Social Security number, a bank account number, and any communication subject to attorney-client privilege from any document the Association produces for inspection or copying. The Board of Directors may withhold from inspection or copying any records: (1) considered by the Board of Directors in executive session and the minutes of any executive session, or (2) that in the reasonable business judgment would constitute an unwarranted invasion of privacy (including, if so determined by the Board of Directors, a list of phone numbers or email addresses of Owners) or involve pending or anticipated litigation or contract negotiations.

ARTICLE 11 – AMENDMENTS

11.1 **Amendments to Bylaws.** Approval by at least fifty-one percent (51%) of a quorum of Members at a duly noticed meeting of Owners is required for approval of any amendments to these Bylaws. An amendment shall not be effective until certified by the President of the Association as being adopted in accordance with these Bylaws, acknowledged, and recorded with the Salt Lake County Recorder’s Office.

ARTICLE 12 – MISCELLANEOUS

12.1 **Utah HOA Registry.** The Association shall register with the Utah Department of Commerce in the manner established by the department and in compliance with the Act (the “Homeowner Association Registry”).

12.2 **Waiver, Precedent, and Estoppel.** No restriction, condition, obligation, or provision contained in these Bylaws or the Rules and Regulations adopted pursuant hereto shall be deemed to have been abrogated or waived by the Association by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur, and any failure to enforce the same shall not be deemed to constitute precedent or estoppel impairing the right of the Association as to any similar matter.

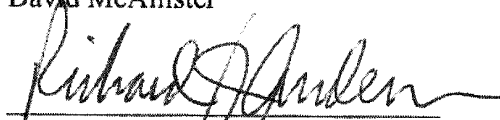
12.3 **Invalidity; Number; Captions.** The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws. As used herein, the singular shall include the plural and the plural the singular. The masculine and the neuter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

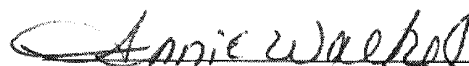
12.4 **Fiscal Year.** The fiscal year of the Association shall be the calendar year, commencing on January 1 of each year and terminating on December 31 of the same year. The fiscal year herein established shall be subject to change by the Board should it be deemed to the best interest of the Association.

12.5 **Conflicts.** In the case of any conflicts between the Articles of Incorporation and these Bylaws, the Articles shall control, and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

IN WITNESS WHEREOF, the Association has caused these Bylaws to be executed by its duly authorized officers on the 4th day of December, 2020.


David McAllister


Richard Anderson


Annie Walker