



ENT 10052:2014 PG 1 of 20  
JEFFERY SMITH  
UTAH COUNTY RECORDER  
2014 Feb 13 2:32 pm FEE 102.00 BY CLS  
RECORDED FOR TOWN OF VINEYARD

WHEN RECORDED PLEASE RETURN TO:

Dennis M. Astill  
7730 S. Union Park Avenue  
Sandy, UT 84047

**DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR THE GARDEN PHASES 1 AND 2 TOWN OF VINEYARD, UTAH  
COUNTY, UTAH**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR "THE GARDEN PHASES 1 AND 2" located in Town of Vineyard, Utah County, Utah (this "Declaration") is made and executed this 12th day of February, 2014, by HOMESTEADS DEVELOPMENT 2012, LLC ("Declarant").

**RECITALS**

- A. Declarant is the owner of certain real property in Town of Vineyard, Utah County, Utah, more particularly described on Exhibit A attached hereto (the "Property").
- B. Declarant has entered into a Development Agreement with the Town of Vineyard, and has organized other lands and property adjacent or near to the Property in order to establish a common scheme for the development of the Property and nearby lands and for the possession, use, enjoyment, repair, maintenance, restoration, and improvement of the Property and other lands in order to enhance and improve the value of the Property and the neighboring lands. The neighboring lands are a part of a common development concept commonly known as the "Homesteads at Vineyard", which, inclusive of the Property are described at Exhibit B attached hereto (collectively the Homesteads at Vineyard as a common development scheme will be hereafter referred to as the "Project").
- C. Declarant intends that this Declaration benefit and burden the Property all to the benefit of the Project to the extent determined by Declarant and set forth herein.

**DECLARATION**

NOW, THEREFORE, the Declarant does hereby publish and declare that the Property is and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the following covenants, conditions, restrictions, uses, limitations and obligations all of which are declared and agreed to be in furtherance of a plan for the improvement of the Property and the division thereof, and shall be deemed to run with the land and shall be a burden and a benefit to Declarant, its successors and assigns and any person or persons acquiring or owning an interest in the Property or Project, and the improvements, their grantees, successors, heirs, executors,

administrators, devisees, assigns, tenants, employees, and any other person who may in any manner use the Property or any part thereof.

## **I. DEFINITIONS**

1.1 The following definitions shall apply:

(a) "ACC" or "Architectural Control Committee" shall mean the ACC established under this Declaration to provide for design review for all Buildings and improvements with the Property and Project. Initially the Declarant may constitute the ACC.

(b) "Building" means any building or residence and/or improvements constructed or to be constructed on any part of the Property.

(c) "Declarant" shall mean that person identified as the Declarant at the beginning of this Declaration, or its successors-in-interest and assignees-in-interest to the rights and obligations under this Declaration. The rights of Declarant are assignable.

(d) "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions, and all amendments thereto.

(e) "Lot" shall mean and refer to each and any subdivision of the Property resulting in the creation of a separate parcel of land or other unit of ownership in the Property as such Lot or unit is created and depicted in the Plat.

(f) "Owner" shall mean the person or persons owning a Lot or other ownership Unit in fee simple and any undivided interest in any common areas and facilities; provided, however, that the term "Owner" shall not refer to any mortgagee unless such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

(g) "Plat" or "plat" shall mean the official Plat and/or Record of Survey Map filed and recorded in the Official Records of the Utah County Recorder for the Property, presently known as The Garden Phases 1 and 2, and any and all supplements and amendments thereto.

(h) "Project" shall mean the land and improvements described at Exhibit B, attached hereto and by reference made a part hereof.

(i) "Property" shall mean the land and improvements described at Exhibit A, attached hereto and by reference made a part hereof.

(j) "Residence" shall mean any building intended for human habitation constructed within a Lot or the Property.

## **II. COVENANTS, CONDITIONS & RESTRICTIONS**

2.1 Land Use & Building Type. The Property shall be used for single family residential uses only. No Lot shall be used except for the residential purposes and purposes incidental thereto. No Building shall be erected, altered, placed, or permitted to remain on any Lot other than one (1) single-family dwelling not to exceed two (2) stories in height (not counting the basement) and private garage for not less than two (2) vehicles and not more than three (3) vehicles without the prior written approval of the ACC. No Lot in the subdivision shall have a building or structure which exceeds a height of two

stories (not counting the basement) or 35 feet, whichever is less. Height shall be measured as the vertical distance from average finish grade surface at the building wall to the deck line or a mansard roof or the mean level between eaves and ridge for gable, hip or gambrel roofs. Chimneys, flag poles and similar structures not used for human occupancy are excluded for purposes of calculating the height of a structure. If the Town of Vineyard Ordinances are more restrictive, then they shall govern. All Buildings and Residences shall be constructed in accordance with the building standards and requirements in this Declaration and in accordance with the requirements of any Development Agreement between Declarant and Town of Vineyard, and/or any successor or assign of Declarant.

2.2 General and Specific Size and Square Footage Requirements. Square footage of any Residence is expressed in terms which exclude garages, porches, verandas, patios, basements, eaves, overhangs and steps unless specifically stated. Any square footage with any portion thereof beneath the top grade of the foundations will not qualify to offset the minimum square footage requirement. Any deviations from the minimum square footage requirements must be approved in writing by the ACC, and must meet any requirements of any Development Agreement applicable to the Property.

2.3 Minimum Size. A Residence shall meet the following requirements:

1. Residential Units located in Pods 1 & 2, shall provide a minimum net floor area footprint of not less than ~~1100~~ square feet with a total net floor area of not less than ~~1800~~ square feet above grade.
2. Residential Units located in a in Pods 3, 4, 6, 7, 8, 9, 10 & 11 shall meet the following requirements:
  - a. All residential units without a basement shall provide a minimum net floor area or not less than 1,800 square feet above grade with a minimum net floor area footprint of not less than 1,200 square feet.
  - b. All residential units in Pods 6, 7, 8, 9, 10 & 11 with a basement shall provide a minimum net floor area or not less than 1,260 square feet above grade, a minimum net floor area footprint of not less than 1,000 square feet, and a total net floor area of not less than 2,520 square feet.
  - c. Sixty percent (60%) of all residential units in Pods 3 & 4 with a basement shall provide a minimum net floor area of not less than 1,260 square feet above grade, a minimum net floor area footprint of not less than 1,000 square feet, and a total net floor area of not less than 2,520 square feet.
  - d. Twenty five percent (25%) of all residential units in Pods 3 & 4 with a basement shall provide a minimum net floor area of not less than 1,260 square feet above grade, a minimum net floor area footprint of not less

than 800 square feet, and a total net floor area of not less than 2,070 square feet.

- e. Fifteen percent (15%) of all residential units in Pods 3 & 4 with a basement shall provide a minimum net floor area of not less than 1,260 square feet above grade, a minimum net floor area footprint of not less than 800 square feet, and a total net floor area of not less than 1,800 square feet.

2.4 Repetitive Elevations. Declarant desires that variations in architectural themes be present in all developments in the Project. Repetition of exterior elevations of Buildings constructed within the Property may be permitted by the ACC, except that no dwelling will be allowed to have the same exterior elevations within three Lots along the same side of the street from the nearest Residence with matching exterior elevations. The ACC may permit variances to this requirement subject to any Development Agreement with Town of Vineyard and other requirements that may be imposed in the discretion of the ACC.

2.5 Brick or Stone Face. A minimum of 40% of the front facing elevation surface area for a Residence shall be covered with or faced with Hardy Board material, brick or stone. The use of natural and synthetic stone or brick is allowed for all exterior elevations. Additionally, each dwelling shall incorporate a masonry wainscot return measuring a height of at least five (5) feet along the sides of a dwelling from the front facing elevation, with architecture approved by the ACC.

2.6 Architectural Review/Control/Discretion. To maintain a degree of protection to the investment which homeowners in this area may make, Residences of superior design are requisite. Designs shall be limited to those prepared by architects or by qualified residential designers of outstanding ability whose previous work may be reviewed as a part of the approval process. All improvements of any kind on any Lot are subject to the prior written approval of the ACC. No landscaping, grading, excavation, building, fence, wall, Residence, or other structure, or alteration of any kind, shall be commenced, erected, maintained, improved, or made until the design, construction plans and specifications, along with a topographical plan showing the locations of all improvements, including a detailed landscaping plan, have been approved in writing by the ACC. All subsequent additions to or changes or alterations in any building, fence, wall, or other structure, including exterior color scheme, material landscape changes, and all changes in the grade on any Lot, shall be subject to the prior written approval of the ACC. Subsequent to receiving approval of the ACC and prior to the commencement of construction, each Owner will be responsible for obtaining a building permit from the Town of Vineyard.

No construction of a Residence or landscaping may commence without approval by the ACC of the working drawings. The plans, specifications and working drawings to be submitted to the ACC shall be comprised of at least the following:

- (a) Plot Plans to scale showing the entire site (Lot), building, garages, walks, drives, fences, lights, and retaining walls, with elevations of the existing and finished grades and contours including those at the outside corners of the buildings and at adjacent property lines and street fronts and elevations of floors from a designated point of the street.
- (b) Detailed floor plans showing dimensions and measurements.
- (c) Detailed elevations, indicating all materials and showing existing and finished grades.
- (d) Detailed sections, cross and longitudinal.
- (e) Details of cornices, porches, windows, doors, garages, garden, walls, steps, patios, fences, carriage lights, etc.
- (f) Specifications shall give complete descriptions and color samples of materials to be used on the exterior of the Residence. At least three complete copies of the foregoing shall be provided to the ACC for purposes of approval.

Notwithstanding anything in this Declaration to the contrary, for all initial construction of Residences, Declarant shall have the absolute and sole right to approve or disapprove the size, architectural style, color, and materials of all Residences and Buildings, and all landscaping and improvements, and may waive, grant variances and otherwise modify the requirements of this Declaration. Declarant may require that any developer, builder or purchaser of Lots impose additional or more restrictive covenants, conditions and restrictions, subject to the approval of Declarant.

2.7 Construction Quality, Size, & Cost. The ACC will base its approval of construction plans, specifications, landscaping plans, and other alterations on the acceptability and harmony of the external design of the proposed structures with respect to topography and grade, quality of materials, size, height, color, etc., with due consideration of the surrounding Residences. All structures constructed on the Property shall be of new materials, except pre-approved used brick and shall be of good quality workmanship and materials and shall have a fair market value upon completion of not less than \$200,000 excluding land value, and closing fees. Only those exterior materials which will blend harmoniously with the natural environment, with earth-toned colors, shall be permitted unless a variance is approved by the ACC. All exterior material shall consist of brick, rock, stucco, siding of approved materials and design, or combinations approved in writing by the ACC. Aluminum soffit and fascia is acceptable. No aluminum exterior siding of Residences shall be permitted in the Project. No wood exterior siding shall be permitted in the Project with the exception of masonite-type material accents in combination with brick, rock and/or stucco if approved by the ACC. All exterior materials and colors are to be specified on plans and submitted for approval by the ACC. No pre-manufactured Residences shall be permitted.

2.8 Roof. No flat roofs shall be permitted in the Project. Pitched roofs shall be at least 6/12 pitch and no greater than 10/12 pitch. A minimum width of 6 inches shall be required on the fascia. All stacks and chimneys from fireplaces in which combustible materials other than natural gas are burned shall be fitted with spark arresters. All Owners shall strictly comply with all state laws and city ordinances pertaining to fire hazard control.

2.9 Construction Time. The ACC shall have final control for approval of all color and material plans. There is no time limit for beginning construction; however, upon commencement, the construction time for the exterior portion of any structure shall not exceed 18 months from start to finish. "Start" shall be the instant any foliage is cut or removed in anticipation of the landscaping or construction to begin. All building debris, excavation, dirt, etc. associated with the building process shall be removed at least each 2 weeks during and within the 18-month construction period, and shall be completely removed prior to completion of construction. Such debris and excavation dirt shall not be permitted on any of the streets, sidewalks other Lots or elsewhere within the Property.

2.10 Building Location & Setback. No building shall be located on any lot nearer to the front lot line than twenty (20) feet, if it is a garage and eighteen (18) feet, if it is the house front. On corner Lots which have side yards that border a street, no building shall be located on that Lot nearer to the side Lot line than eighteen (18) feet, if it is the side of a garage and fifteen (15) feet if it is not a garage. No building shall be located on any Lot nearer to the rear Lot line than fifteen (15) feet if the lot is 90 feet deep or greater, and if the Lot is less than 90 feet deep, setback to be one (1) foot less for every foot under 90 feet. In any event, the minimum set back shall be 15 feet. Side setbacks; no building shall be located nearer than five (5) feet to the Lot line. These locations and setbacks shall be measured to the nearest projection, encroachment or overhang of a Building including roofs, soffits and fascia. If the Town of Vineyard Ordinances are more restrictive than the foregoing setback requirements, the Town of Vineyard Ordinances shall govern.

2.11 Landscaping. All landscaping plans and improvements, including lawn, patio, garden areas, plant selections and styles, must first be approved by the ACC. Owners are encouraged to plant trees and shrubs to enhance the natural beauty within the area, provide windbreaks, and improve erosion control. The planting of trees that will have a high profile and obstruct the view from neighboring Lots is prohibited. Such trees may be pruned or removed at the discretion of the ACC, at the owners cost.

No planting or structures shall be placed or permitted which may damage or interfere with established slopes, drainage plans, create erosion, or change the direction of drainage channels. All materials used to retain and contour the slope of any Lot or improvement must conform to the natural beauty and color of the Property and must be approved by the ACC.

Each dwelling shall have installed surrounding it an outdoor sprinkler system for fire protection and irrigation of all landscaping.

Landscaping may include a combination of lawn, shrubs, or ground cover. Ground cover may include vegetative vines, low-spreading shrubs, or annual or perennial flowering or foliage plants. Ground cover may also include mineral or non-living organic permeable material in not more than 15% of the net landscaping area, except in an approved xeriscape plan which will be in harmony with surrounding properties. Mineral ground cover may include such materials as rocks, boulders, gravel, or brick over sand. Species, size and placements of landscape elements must be approved by the ACC prior to the commencement of landscaping. No mineral or non-living organic material will be allowed in drive strips, except for accents consisting of 10% or less of park strip area and should be limited to the area at the base of the park strip trees (except a harmonious xeriscape plan approved by the ACC).

2.12 Deadline for Completion of Landscaping. The front yard of each Lot (from the street to the front line of the Residence on the Lot, or other dividing line such as front and rear yard fencing, end of drive, etc. as determined by the ACC) shall be landscaped within one (1) year of the occupancy date of any structure built upon the Lot. The remainder of the Lot shall be landscaped within two (2) years of the occupancy date of any structure built upon the Lot.

2.13 Revegetation of Slopes. Where any slope on any Lot has a slope of 30% or greater, the Owner thereof shall be required to immediately revegetate said slope and present a revegetation plan to the ACC for review and approval together with the building plans and specifications for the Residence. Such revegetation work shall commence within a period established by the ACC at the time the plans and specifications are reviewed and approved.

2.14 Temporary Occupancy & Temporary Buildings. No trailer, basement of any incomplete building, tent, shack, garage, or barn, and no temporary buildings or structures of any kind, shall be used at any time for a residence on any Lot, either temporary or permanent. Temporary buildings or structures used for and during the construction of a Residence shall be removed immediately after the completion of the construction.

2.15 Accessory Structures. Patio structures, trellises, sunshades, gazebos, and any other appurtenant buildings shall be constructed of materials consistent with the colors, textures, and materials approved for the Residence and shall be integral to the architecture of the house and subject to the prior written approval of the ACC. Outbuildings or features such as swimming pool and tennis court dressing facilities may be constructed on any Lot as long as they are in conformity with the requirements of the Declaration and subject to approval of the ACC. All pools must be fenced in strict compliance with local ordinances and are subject to the prior written approval of the ACC as to fence design and material and other features of the pool improvements.

Any detached accessory building erected on a Lot shall conform in design and materials with the Residence on the Lot and must be approved by the ACC prior to any construction.

2.16 Exterior Antennas, Lights & Power Lines. Exterior antennas are prohibited. Exposed metal flues, vents, ventilator, or other metallic rooftop protrusions shall be coated or painted with a neutral color which will blend harmoniously with the Residence and surrounding Property and will be consistent with roof color and architecture. TV dishes will be allowed, provided they are placed or screened so they are not readily visible to the neighboring Lots and public or private streets. The location of TV dishes must be approved by the ACC. Exterior lighting that is detached from the dwelling will not be allowed unless approved by the ACC. It is anticipated that variances for exterior lights, detached from the dwelling, that are positioned above a one-story level (i.e. tennis court lighting) will rarely be given. All power lines and similar type cables shall be buried underground. No shortwave radio antennas may be constructed on any Lot or attached to any structure thereon without the prior written approval of the ACC. Wireless internet dishes will be allowed only by following guidelines for TV dishes in this section.

2.17 Nuisances: Construction Activities. No rubbish or debris of any kind shall be placed or permitted to accumulate upon any Lot, or placed on any other Lot, and no unpleasant odors or loud noises shall be permitted to arise or emit from any Lot, which are in any way unsanitary, unsightly, offensive or detrimental to any other Lot or property or occupants in the Project. No nuisance shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any other property in the Project or to its occupants. Normal construction activities and parking in connection with the building of improvements on a Lot shall not be considered a nuisance or otherwise prohibited by this Declaration, so long as conducted during normal working hours, and avoiding excessively early or late working hours; but Lots shall be kept in a neat and tidy condition during construction periods, trash and debris shall not be permitted to accumulate, and supplies of brick, block, lumber, and other building materials will be stockpiled in a neat and orderly way and only in such areas as may be approved by the ACC. In addition, any construction equipment and building material stored or kept on any Lot during construction of improvements may be kept only in areas approved by the ACC, which may require screening of the storage areas.

No articles, material, equipment, or vehicles of any nature shall be parked or stored on any street located within the Property. Licensed, regularly used passenger vehicles (i.e. visitor vehicles) may be parked on streets within the Project for brief periods of time (i.e. nor more than 24 hours). Overnight parking of such vehicles should generally be restricted to the driveway of the dwelling being visited.

The use or operation of snowmobiles on streets is not permitted. The use of motorcycles and other motorized recreational vehicles which may produce audible annoyance to the Owners shall be limited to ingress and egress of the Property.

No oil or gas drilling, development, operations, refining, storage, quarrying, or mining operation of any kind shall be permitted upon or in any Lot.

The burning of rubbish, leaves, or trash on the Property is prohibited. Trash containers shall be covered and kept screened from view from the street in suitable enclosed areas, except during collection.

No Owner shall permit anything or condition to exist upon any Lot which shall induce, breed, or harbor infectious plant diseases or noxious insects.

The ACC, in its sole discretion, shall have the right to determine the existence of any nuisance.

2.18 Signs. Except as provided in this Section 2.11, no signs of any kind shall be displayed to public view on any Lot except one sign of not more than five square feet advertising the property for sale or rent. Notwithstanding the foregoing, signs used by a builder or developer may be up to 160 square feet in size and may be displayed to advertise the improvements or Lot during the construction period. The placement of signs, graphics, or advertisements which are permanent in nature or represent advertisement for small business conducted in the Residence or on a Lot is prohibited. Town of Vineyard codes, if more restrictive, will govern sign usage.

2.19 Animals. The Declarant is committed to the preservation and protection of native animal wildlife which may from time to time wander onto and through the Property. Such wildlife shall not be fed or hunted within the Project. No animal, bird, fowl, poultry, or livestock of any kind shall be raised, bred, or kept on any Lot except that domestic dogs (a maximum 2/Lot), cats (maximum 2/Lot), and other household pets may be permitted as long as they are maintained in accordance with this Declaration and any additional rules and regulations imposed by the ACC and are not a nuisance or kept, bred, or maintained for any commercial purposes. No dog shall be allowed to roam unattended in the Project or Property. All dogs going outdoors within the Property and Project must be on a leash under the direct supervision and control of the Owner or confined to a dog run or kennel on the Owners Lot. The manner and location of all dog runs or kennels must be approved by the ACC. No farm animals are permitted.

2.20 Repairs. Each Owner shall be required to provide normal and regular maintenance and repair of any Residence, Building or improvement of any kind on a Lot, to keep and maintain such Residence, Building or improvement in a good, clean and sightly condition and repair. No Residence, or Building or other improvements on any Lot shall be permitted to fall into disrepair. In the event any Residence, Building or improvement is damaged or destroyed, then, subject to the approvals required herein for any construction of improvements, the Residence, Building or improvement shall be immediately repaired or rebuilt or shall be demolished and all rubbish removed. No Lot shall be allowed to remain partially improved. If only a portion of a Residence, Building or improvement is damaged or destroyed, the damaged portions shall be repaired and replaced within six (6) months of the date of damage. If the entire Residence is damaged

or destroyed, it shall be demolished and removed from the Lot within sixty (60) days. Any replacement Residence shall be subject to approval and completion the same as if it were being constructed new as set forth in this Declaration. All other Buildings or improvements to be constructed shall be subject to reasonable direction and discretion of the ACC.

2.21 Restriction on Further Subdivision, Property Restrictions & Rezoning. No Lot shall be further subdivided or separated into smaller lots by any Owner, and no portion less than all of any such Lot, nor any easement or other interest therein, shall be conveyed or transferred by any Owner, without the prior written approval of the ACC, which approval must be evidenced on the Plat or other instrument creating the subdivision, easement, or other interest. The ACC may refuse any such conveyance or further subdivision in its absolute discretion and without explanation. No application for rezoning of any Lot and no applications for variances or use permits shall be filed with any governmental authority unless the proposed change in zoning, variance or change in use of the Lot has first been approved by the ACC and the proposed use otherwise complies with this Declaration. The ACC may refuse any such proposed change in zoning, variance or change in use of the Lot in its absolute discretion and without explanation. Any action by an Owner which fails to comply with this section shall be a breach of this Declaration.

2.22 Further Covenants or Restrictions. No further covenants, conditions, restrictions, or easements shall be recorded by any Owner or other person against any Lot without the provisions thereof having been first approved in writing by the ACC, which approval shall not be unreasonably withheld or delayed in respect to any developer for the Property. Any covenants, conditions, or restrictions, or easements which are recorded without the approval being evidenced thereon shall be void and of no effect.

2.23 Non-Residential Use. Except as otherwise specifically provided in this Declaration, no gainful occupation, profession, or other non-residential use shall be conducted on the Lot, and no persons shall enter into any Lot for engaging in such uses or for the purpose of receiving products or services arising out of such usage without application to and approval of the ACC and the appropriate officials of the Town of Vineyard. Notwithstanding the foregoing, to the extent that any Owner conducts the Owners work or employment almost completely through means of internet and on-line, without the need to see customers or employees at the Residence or conduct manufacturing, assembly or shipping at, from or to the Residence, the Owner may do so, in addition to and not in derogation of residing at the Residence.

2.24 Fuel Storage. No tank for storage of fuel may be maintained on any Lot, whether above or below the surface of the ground, without the prior written consent of the ACC, which consent may be withheld for any reason or no reason.

2.25 Building Material Storage. No building material of any kind or character shall be placed or stored upon any Lot until the Owner thereof is ready to commence improvements, and then the materials shall be placed within the property lines of the Lot

upon which the improvements are to be erected and shall not be placed in the streets or between the curb and the property line. In all cases, no building materials shall be stored on the Lot for more than 60 days without being incorporated into a Residence or Building or other improvement within that period of time.

2.26 Easements. Easements for installation of and maintenance of utilities, drainage facilities, and water lines are reserved as shown on the recorded Plat, including public utility easements. Within these easements, no structure, planting, or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or water lines or which may change the direction or flow of drainage channels in the area or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each of the Lots and all improvements in it shall be maintained continuously by the Owner or the Lot, except for those improvements for which a public authority or utility company is responsible. Lots are subject to all recorded utility easements and their provisions. The Declarant may, at any time, impose or create easements across any Lot within ten feet of any boundary line of the Lot, for purposes of water, sewer, utilities, cable, fiber optic cable, water lines, gas lines, electrical power lines, telephone lines, internet lines or other general and specific utility and public use purposes, even for-profit utility applications.

2.27 Paving. Driveway and other flat paved areas may be concrete, exposed aggregate concrete, stamped concrete, asphalt, quarry stone, tile, brick or paving blocks. Gravel areas will not be permitted in any area of any Lot, except as part of an approved landscape plan.

2.28 Solar Equipment. The use of Solar panels must first be approved in writing by the ACC. Any use of solar panels shall be integrated into the roof design of the Residence or Building. Panels and frames must be compatible with roof colors, and all such equipment must be screened from view and shall be designed and applied to be sightly and maintained in good and clean condition.

2.29 Pools, Spas, Fountains, Game Courts. Pools, spas, fountains, and game courts must be approved by the ACC and shall be located to avoid impacting adjacent properties with light or sound. No game courts shall be located in front yards. Pool heaters and pumps must be screened from view and sound insulated from neighboring houses. Nothing herein shall be construed as permitting the construction of skateboard areas and/or similar areas and ramps, which structures shall be prohibited.

2.30 Fences & Walls. Fencing and walls shall be wood, brick masonry, stone, wrought iron or vinyl (vinyl shall be limited to clay & almond colors only). Fences and walls are to be color coordinated with the approved dwelling colors and approved by the ACC. Use of landscaping materials for hedges and fencing is encouraged. No structures or fences shall be permitted in any area designated by the Town of Vineyard as non-buildable. Fences, walls, or hedges shall not exceed six (6) feet in height; provided, however, that no wall, fence, or opaque hedge or screening materials shall be maintained within: (i) a required front yard; (ii) in any portion of a rear yard which is highly visible

from any Project street or non-adjoining Lot because of the elevation or slope of the portion of the rear yard concerned unless specifically permitted by the ACC; and (iii) any portion of the Lot having a slope greater than 30%.

On corner Lots, no fence or other similar structure shall be erected to a height in excess of four (4) feet in any side yard bordering a street without approval of the ACC. All fences and walls require a building permit from the Town of Vineyard and must have prior written approval of the ACC.

2.31 Auto Repairs, Parking & Storage. No mechanic work or repairs are to be conducted in streets or front yards of houses (other than minor repair work that can be completed in less than two hours and without heavy equipment, lighting, lifts, noise, etc.). No inoperative automobile or vehicle shall be placed or remain on any Lot or adjacent street for more than 48 hours. No commercial-type vehicles or equipment and no commercial type trucks shall be parked or stored on the front yard setback of any Lot or within the side yard buildings setback on the street side of a corner Lot, or on the residential street except while actually engaged in transportation or immediate delivery to a Residence or Lot. Trailers, mobile homes, recreational type vehicles, ATV's, or yard maintenance equipment of any kind shall be parked or stored behind the front yard setback in an enclosed area screened from street view subject to approval of the ACC. Sufficient side yard gate access should be planned and provided for in the design of the Residence to permit ingress, egress, and storage of trailers and recreational type vehicles on the side and rear yards. The storage or accumulation of junk, trash, manure, or other offensive or commercial materials is prohibited. No pads used for the storage of vehicles or other material either temporarily or permanently shall be constructed within the front yard setback requirements of a Lot.

2.32 Water Discharge. It shall be unlawful for any person owing, occupying, or having control of any Lot to suffer or permit irrigation or water from the roof or eaves of any house, building, or other structure or from any source under the control of such person, to be discharged and spread upon the surface of any sidewalk, street, or adjoining Lot. This is intended to require that the Owner maintains water on his property, or to discharge any water to the public drainage facilities. The Lots have been designed with drainage and detention to be channeled. All drainage channels on any Lot shall be maintained and Lot contours shall not be modified in such a way as to change the drainage of water without the approval of the ACC.

2.33 Exemptions. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant, or its duly authorized agents, employees or contractors, of model homes, temporary structures, trailers, improvements or signs necessary or convenient to the development, marketing, or sale of the Property or other lands within the Project.

(a) Builders and Developers. Notwithstanding anything to the contrary in this Declaration, builders and developers, or their duly authorized agents, employees or contractors, shall have the right to erect and maintain model homes for purposes of

exhibition and for use as temporary sales offices. Use of any such model home shall be limited to the marketing and sale of only such Lots and/or Residences as are located within the Property.

2.34 Carports. No Carports may be built within the Property.

2.35 Requirements of Vineyard Town. Any requirements of Town of Vineyard shall be in addition to the architectural requirements herein and not in derogation thereof.

### **III. ARCHITECTURAL CONTROL COMMITTEE**

3.1 Purpose. In order to enforce, create, maintain and improve the Property as a pleasant and desirable environment, to establish and preserve harmonious design elements for the community and to protect and promote the value of the Property and Project, all exterior design, style, color and materials for any Residence, building, landscaping or improvements, and any changes or alterations to existing Residences, Buildings, landscaping or improvements, and all exterior design and development within the Property shall be subject to design review by an Architectural Control Committee (the "ACC") which is established hereunder.

3.2 Creation. Initially, Declarant shall constitute the ACC. The Declarant may at any point in time appoint the initial members of the ACC. Once an ACC is appointed by Declarant, it shall be comprised of three members. Declarant shall have the right to appoint the ACC until such time as a 2/3rds majority of Lots or dwelling units within the Property and the Project are sold by Declarant, or by Declarant's successor(s) and assigns, or sooner at Declarant's sole option, the Declarant shall have the right to elect the following options for the ACC:

(a) Dissolution of CCR's. Declarant may dissolve, terminate and render void and of no further force and effect these CCR's, it being understood that Declarant may determine that alternative means for maintaining the quality of development may be otherwise obtained through zoning, the Development Agreement, or other CCR's approved by Declarant for the Property. This election shall be made by Declarant recording an election and dissolution and termination of the Declaration solely for the Property, in Declarant's sole and absolute discretion; or

(b) Creation of Separate ACC for Property and Specific Parcels. The Declarant may elect to assign its rights to Owners of the Property, and/or to create an ACC which will have enforcement rights and powers granted herein solely for the Property, without connection or reference to the Project. This election shall be made by Declarant recording an election and designation of the ACC solely for the Property, in Declarant's sole and absolute discretion. If Declarant makes such an election, the members of the ACC shall be elected by a majority of the Owners of the Property; or

(c) Project-Wide ACC. If Declarant does not elect to limit or direct the ACC to be established solely for the Property, then Declarant may assign and grant its rights

hereunder to the Owners of the Project. In that case, the members of the ACC shall be elected by a majority vote of the Owners within the Project.

(d) Election With or Without Meeting. In all events, any Owner (whether for the Property or the Project) shall have the right to call a meeting of Owners for purpose of electing the members of the ACC. The Owners may elect the members of the ACC without a formal meeting, by Consent Resolution, signed by a majority of Owners (whether for the Property or the Project as the case may be).

(e) Death or Resignation of Member of ACC. In the event of death or resignation of any of the members of the ACC, the surviving members of the ACC shall have full authority to act, so long as at least two members continue to serve. Until a meeting of the Owners can be obtained, the members of the ACC may appoint another Owner to fill any vacancy.

(f) Qualifications. Except for any members of the ACC appointed by Declarant, all members of the ACC must be and remain Owners. Should any member move his or her residence outside of the Property or Project, as the case may be, such member shall be disqualified to serve on the ACC.

(g) Voting. Voting by Owners shall be one vote per Lot or dwelling unit, as the case may be. To the extent that there is more than one Owner the vote shall be apportioned according to the ownership, unless one Owner has been authorized in writing to vote. For so long as Declarant owns more than one-third (1/3) of the Property or Lots within the Property, Declarant shall have two votes for each Lot.

3.4 Powers. The ACC is hereby authorized to perform all review and approval services described herein for the ACC. The ACC is authorized to retain the services of one or more consulting architects, landscape architects, or urban designers, who need not be licensed to practice in the State of Utah, to advise and assist the ACC in performing the design review functions prescribed in this Declaration and to carry out the provisions set forth therein. The ACC may charge such fees for services as may be appropriate for all design review in order to have funds to pay for professionals or other costs and expenses of the ACC. The ACC members may charge reasonable fees for their time and services. Each Lot Owner may, in the discretion of the ACC, be required to pay a Design Review Fee per Lot to the ACC before any plans shall be reviewed or approved by the ACC. If the full amount of any fee is not fully utilized for any architectural review, the funds may be held by the ACC and used at its sole discretion for other costs associated with the Property or Project, including reimbursement or payment to ACC members, and payment of attorney fees or other costs for enforcement of this Declaration. Lot Owners are encouraged to submit preliminary schematic drawings or plans to the ACC as soon as possible in order to avoid unnecessary revisions and delays in construction. The ACC shall have a reasonable time to review any plans and submittals but shall provide a response to any Owner within 15 days of submittal of any plans. Failure of the ACC to respond to an Owner within 15 days of the submittal of plans shall be deemed acceptance by the ACC, provided the Owner has submitted such plans to all ACC members.

3.5 Enforcement. In the event of violation or breach of any of the covenants, conditions or restrictions of this Declaration, the ACC is authorized and empowered to take such action as may be necessary to restrain or enjoin any such violations, sue for damages, and seek any other applicable remedies, including, but not limited to the removal of all unauthorized construction or improvements. All costs and expenses incurred by the ACC in enforcing this Declaration, including attorney fees, costs of court, expert fees and costs or other costs incurred, without or without suit, shall be borne by the Owner in violation or breach hereof and shall be awarded to the ACC as part of its damages. The ACC may bill and collect all such fees and costs from the Owner in violation or breach on a current basis; as such costs are incurred, which amounts will be due upon invoice. Failure to pay any invoice shall result in penalties of 5% for failure to pay any amount when due, and shall accrue interest at twenty-one percent (21%) per annum, compounded on a daily basis.

#### IV. TERM/AMENDMENTS

4.1 Term: Method of Termination. Except as provided herein, this Declaration shall be effective upon the date of recordation hereof and, as amended from time to time, shall continue in full force and effect for a term of twenty (20) years from the date of recordation. From and after said date, the Declaration, as amended, shall be automatically extended for successive periods of ten (10) years each, unless there is an affirmative vote to terminate this Declaration by seventy-five percent (75%) of the then Owners of the Property. This may be obtained pursuant to a meeting or by written consent of an Owner. If the necessary votes and/or consents are obtained, the ACC shall cause to be recorded in the Utah County records a "Certificate of Termination", duly signed by a member of the ACC and acknowledged before a Notary Public affirming under oath that the number of votes was obtained. Thereupon the covenants herein contained shall have no further force and effect, and the ACC shall have no further force or effect.

4.2 Amendments. This Declaration may be amended by recording in the office of Utah County Recorder a "Certificate of Amendment," duly signed by a member of the ACC and acknowledged, affirming under oath that the number of votes stated herein was obtained from Owners. The Certificate of Amendment shall set forth in full the amendment adopted. The Declaration may be amended at any time if at least sixty-seven percent (67%) of the votes cast by Owners of the Property and Project (unless restricted to the Property by Declarant herein) shall be in favor of the Amendment except as noted in Sections 4.3 and 4.4 below. So long as Declarant owns more than one-third of the Property or Lots, Declarant shall have two votes for each Lot. The votes of Owners may be obtained pursuant to a meeting or by written consent of the Owners.

4.3 Allowed Amendments by Declarant. Until 90% of Lots within the Project are sold, Declarant may modify this Declaration to allow for and accommodate uses for any public purpose, school use, park use, church use, or street or easement use, or neighborhood commercial use less than two acres. Further, Declarant may declare that

this Declaration is restricted solely to the Property or the Property and any portion of the Project.

4.4 Corrections/Clarifications by Declarant. Until 90% of Lots within the Project are sold, Declarant may modify this Declaration to accommodate clerical errors, clarifications, correction of errors or make other needed adjustments to give effect to this Declaration.

4.5 Project. Declarant may at any time add to or subtract from this Declaration lands represented or described herein as the Project.

## V. MISCELLANEOUS

5.1 Interpretation of the Covenants. Except for judicial construction, the ACC, by its members, shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the ACC's construction or interpretation of the provisions hereof shall be final, conclusive, and binding as to all persons and property benefited or bound by the covenants and provisions hereof.

5.2 Severability. Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity or enforceability of any of the other provisions hereof.

5.3 Rules & Regulations. The ACC shall have the right to adopt rules and regulations with respect to the functions and activities of the ACC, including rules and regulations regarding the exercise of its rights, activities, and duties, provided such rules and regulations are not inconsistent with the provisions of this Declaration.

5.5 General Reservations. Declarant reserves the right to grant, convey, sell, establish, amend, release, and otherwise deal with easements, reservations, exceptions, and exclusions with respect to the Property which do not materially interfere with the best interests of Owners including, but not limited to, access and utility easements, pedestrian and equestrian easements, pedestrian and hiking trails, and easements for public and private utilities and drainage.

5.6 Run with the Land. Declarant for itself, its successors and assigns, hereby declares that all of the Property shall be held, used and occupied subject to the provisions of this Declaration, and to the covenants and restrictions contained herein, and that the provisions hereof shall run with the land and be binding upon all persons who hereafter become the Owner of any interest in the Property.

5.7 Arbitration. At the request of the Declarant or the ACC, in the event of any controversy which arises under this Declaration, the controversy may be submitted to binding arbitration, and/or non-binding mediation. Any arbitration shall be conducted by arbitrators having the expertise and education of (i) an attorney who regularly practices

real estate law, including the drafting and enforcement of CCR's, having at least ten (10) years of experience; (ii) a real estate broker/agent having at least ten (10 ) years of experience and who has sold, and/or marketed at least three residential subdivision developments containing CCR's, and who has a state accredited college or university bachelor's degree education; or (iii) a real estate developer having at least fifteen (15) years of experience who has developed at least three (3) residential subdivision developments as the principle owner/developer or manager of the development, all of which included residential CCR's. In the selection of arbitrators, the parties shall either (a) select an arbitrator acceptable to both parties having the foregoing qualifications, or (b) each party shall select an arbitrator with the qualifications set forth herein and the two arbitrators selected shall select a third arbitrator having the qualifications set forth herein. The election to require arbitration herein shall be made no later than 30 days after the filing of a lawsuit by any party and service of Summons and Complaint on all parties.

Any arbitration shall be conducted in Salt Lake City, Utah, subject to the Utah Arbitration Act, and the rules and regulations of the American Arbitration Association; and binding judgment based on the decision of the arbitrators may be entered in any court of competent jurisdiction. Any decision of the arbitration referee may include an award of attorneys fees and costs incurred in the enforcement or defense of this Declaration according to the provisions of this Declaration. The arbitrators shall provide a written decision of any arbitration proceeding, providing findings of fact and conclusions of law in support of the decision and based upon Utah law. Arbitrators shall have no power to reform or compromise this Agreement unless reformation would be available under Utah law. Any decision may be entered with a Utah District Court for enforcement. Any arbitration decision so entered may be appealed by either party to the Utah Court of Appeals, on the same basis as a decision from a Utah District Court. Any arbitration shall be completed within forty-five (45) days of the election to arbitrate, unless otherwise agreed by the parties.

IN WITNESS WHEREOF, Declarant has executed this Declaration this 12<sup>th</sup> day of February, 2014.

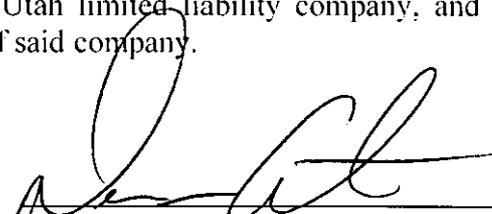
Vineyard Homesteads Development 2012, LLC  
By Pro Management-Utah, LLC  
It's Manager

By: \_\_\_\_\_

Glen R. Pettit, Manager

STATE OF UTAH                    )  
  SS:  
COUNTY OF SALT LAKE    )

On the 12th day of February, 2014, acknowledged before me by Glen R. Pettit, as the Manager for Pro Management-Utah, LLC, as Manager for Vineyard Homesteads Development 2012, LLC, a Utah limited liability company, and that the forgoing instrument was signed in behalf of said company.

  
Notary Public

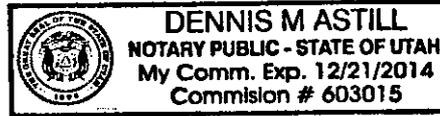


EXHIBIT A to CCR's  
For The Garden Phases I  
Town of Vineyard, Utah County

PARCEL OF LAND SITUATED IN THE SOUTHEAST QUARTER OF SECTION 18, AND THE SOUTHWEST QUARTER SECTION 17, TOWNSHIP 6 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN, AND LOCATED IN THE TOWN OF VINEYARD UTAH COUNTY, UTAH AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT BEING LOCATED NORTH 89°38'03" EAST 1431.11 FEET ALONG THE CENTER SECTION LINE OF SECTION 17, FROM THE WEST QUARTER OF SAID SECTION AS DEFINED BY THE FOUND BRASS CAP MONUMENTS MARKING THE EAST AND THE WEST QUARTER CORNER OF SECTION 17, AND NORTH 78.99 FEET TO A POINT ON THE WEST LINE OF THE WINN PARCEL AND THE POINT OF BEGINNING; AND RUNNING THENCE SOUTH 89°38'03" WEST 15.17 FEET TO A POINT OF CURVATURE; THENCE SOUTHWESTERLY ALONG THE ARC OF A 2051.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 4°35'28" A DISTANCE OF 164.34 FEET (CHORD BEING SOUTH 87°20'19" WEST 164.30 FEET); THENCE SOUTH 85°02'35" WEST 189.34 FEET TO A POINT OF CURVATURE; THENCE SOUTHWESTERLY ALONG THE ARC OF A 1950.00 FOOT RADIUS CURVE THE RIGHT THROUGH A CENTRAL ANGLE OF 4°35'28" A DISTANCE OF 156.25 FEET (CHORD BEING SOUTH 87°20'19" WEST 156.21 FEET); THENCE SOUTH 89°38'03" WEST 22.52 FEET TO A POINT OF CURVATURE; THENCE NORTHWESTERLY ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 90°00'00" A DISTANCE OF 23.56 FEET; (CHORD BEING NORTH 45°21'57" WEST 21.21 FEET); THENCE NORTH 00°21'57" WEST 5.50 FEET; THENCE SOUTH 89°38'03" WEST 56.00 FEET; THENCE SOUTH 00°21'57" EAST 5.50 FEET TO A POINT OF CURVATURE; THENCE SOUTHWESTERLY ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 90°00'00" A DISTANCE OF 23.56 FEET (CHORD BEING SOUTH 44°38'03" WEST 21.21 FEET); THENCE SOUTH 89°38'03" WEST 753.94 FEET TO A POINT OF CURVATURE; THENCE SOUTHWESTERLY ALONG THE ARC OF A 220.50 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 16°48'21" A DISTANCE OF 64.68 FEET (CHORD BEING SOUTH 81°13'52" WEST 64.44 FEET); THENCE SOUTH 72°49'42" WEST 19.01 FEET TO A POINT OF CURVATURE; THENCE WESTERLY ALONG THE ARC OF A 19.50 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 49°48'19" A DISTANCE OF 16.95 FEET (CHORD BEING NORTH 82°16'09" WEST 16.42 FEET); THENCE NORTH 57°21'59" WEST 31.88 FEET TO A POINT OF CURVATURE; THENCE NORTHWESTERLY ALONG THE ARC OF A 29.50 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 41°08'25" A DISTANCE OF 21.18 FEET (CHORD BEING NORTH 36°47'46" WEST 20.73 FEET); TO A POINT OF CURVATURE; THENCE NORTHWESTERLY ALONG THE ARC OF A 879.50 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 16°13'34" A DISTANCE OF 249.07 FEET

CHORD BEING NORTH 08°06'47" WEST 248.24 FEET); THENCE NORTH 36.88 FEET TO A POINT ON A 449.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 5°23'24" A DISTANCE OF 42.24 FEET (CHORD BEING NORTH 02°41'42" EAST 42.24 FEET) TO A POINT ON A 477.25 FOOT NON TANGENT RADIUS CURVE TO THE RIGHT; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 12°25'28" A DISTANCE OF 103.49 FEET (CHORD BEING NORTH 18°39'56" EAST 103.29 FEET) ; THENCE NORTH 18°49'48" EAST 108.20 FEET TO A POINT OF CURVATURE; THENCE NORTHEASTERLY 23.49 FEET ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 89°44'21" (CHORD BEARING NORTH 63°41'58" EAST 21.16 FEET); THENCE SOUTH 71°25'51" EAST 0.57 FEET; THENCE NORTH 18°49'48" EAST 56.00 FEET; THENCE NORTH 71°25'51" WEST 12.67 FEET TO A POINT OF CURVATURE; THENCE NORTHWESTERLY ALONG THE ARC OF A 15.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 88°24'32" A DISTANCE OF 23.14 FEET (CHORD BEARING NORTH 27°13'35" WEST 20.92 FEET) TO A POINT OF REVERSE CURVATURE OF A 451.00 FOOT RADIUS CURVE TO THE LEFT; THENCE CONTINUING 65.57 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 08°19'47" (CHORD BEARS NORTH 12°48'47" EAST 65.51 FEET) ; THENCE SOUTH 62°39'11" EAST 111.91 FEET; THENCE SOUTH 81°12'17" EAST 102.69 FEET; THENCE SOUTH 125.26 FEET; THENCE SOUTH 89°38'03" WEST 25.42 FEET; THENCE SOUTH 0°21'57" EAST 100.00 FEET; THENCE SOUTH 03°31'15" WEST 56.13 FEET; THENCE SOUTH 0°21'57" EAST 94.60 FEET; THENCE EAST 280.01 FEET; THENCE SOUTH 59°05'30" EAST 65.52 FEET; THENCE NORTH 89°38'03" EAST 88.00 FEET; THENCE NORTH 0°21'57" WEST 28.36 FEET; THENCE NORTH 89°45'36" EAST 328.23 FEET; THENCE NORTH 86°38'03" EAST 57.22 FEET; THENCE NORTH 82°29'58" EAST 62.02 FEET; THENCE NORTH 80°18'27" EAST 111.03 FEET; THENCE SOUTH 73°34'59" EAST 65.42 FEET; THENCE NORTH 76°40'26" EAST 123.25 FEET; THENCE SOUTH 25°55'41" EAST 279.18 FEET TO THE POINT OF BEGINNING.

Part of Tax Parcel No. 18:016:0012