

After recording please return to:

Bennett Tueller Johnson & Deere, LLC
Attn: Jeffrey E. Matson
3165 East Millrock Drive, Suite 500
Salt Lake City, Utah 84121
R/v

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS**

for
THATCHILL SUBDIVISION

Mapleton, Utah County, Utah

This Declaration of Covenants, Conditions And Restrictions for Thatchill Subdivision (this "**Declaration**") is made this 14 day of November 2019 by Thatchill, LLC, a Utah limited liability company (the "**Declarant**"), in its capacity as an owner and developer of Thatchill Subdivision in Mapleton, Utah County, Utah, more particularly described on Exhibit A, attached hereto (the "**Subdivision**"), and Marcia Dickerson, an owner of within the Subdivision ("**Dickerson**").

RECITALS

A. Declarant is the owner of Lots 1 through 6, each located within the Subdivision, and Dickerson is the owner of Lot 7, located within the Subdivision.

B. The Declarant and Dickerson desire to adopt and record this Declaration as covenants, conditions, and restrictions that shall be binding upon all subsequent owners of the Subdivision and shall run with the land in order to protect the investment in the Subdivision made by subsequent owners and to keep the improvements upon the lots within the Subdivision desirable and suitable in architectural and landscape design.

COVENANTS, CONDITIONS AND RESTRICTIONS

NOW, THEREFORE, the Declarant and Dickerson hereby create and adopt the following limitations, restrictions, and uses to which lots in the Subdivision shall be subject:

1. **Scope of Application.** Except as otherwise specifically set forth herein, the restrictions, covenants, and conditions set forth herein shall apply to all lots in the Subdivision (each a "**Lot**" and collectively the "**Lots**"). As set forth in more detail below, the dwelling size and design restrictions shall initially apply only to Lots 3 through 7, inclusive (the "**Building Lots**").

2. **Use Restrictions.**

A. All of the Lots shall be used only for residential purposes. No dwelling shall be created, altered, placed, or permitted to remain on any Lot other than one (1) single-

family dwelling, not to exceed two (2) stories in height (subject to the approval of Mapleton City of the applicable building permit application) in addition to a basement level and a private garage. No split-entry (bi-level), modular, round, octagon, prefabricated, pre-built, all-wood, steel, or concrete homes, or any other similar styles of homes, shall be built or erected in the Subdivision. All dwellings must be built on site.

B. Any detached accessory building erected on any Lot after the date of this Declaration shall conform in design and materials with the primary dwelling on the Lot, unless otherwise approved in writing by the ACC.

C. Easements for installation and maintenance of utilities are reserved as noted on the recorded plat. All power and telephone lines must be run underground. Within these easements, no structure or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities and easement rights. The easement areas of each Lot and improvements therein shall be maintained continuously by the owner of such Lot, except for those improvements, if any, that are to be maintained by a public authority or utility company.

D. All building setbacks and side and yard setbacks shall conform to Mapleton City ordinances and regulations, provided, that such requirements shall not apply to any building existing as of the date of this Declaration.

E. All fences and walls shall be approved in writing by the ACC prior to construction and must meet Mapleton City ordinances and regulations. Fences may be constructed only of iron, masonry, stone, or white or earth-tone vinyl. No chain link or wood fences shall be allowed in the Subdivision, except for the decorative wood fencing located in those areas running along Main Street. No fence, wall, hedge, or other dividing structure may be constructed or installed within the front yard setback, except for the area running along Main Street.

F. No satellite dishes or antennas shall be placed in setback areas and are to be obscured from public view. Visible satellite dishes and antennae shall be allowed only after receiving the written approval of the ACC.

G. No noxious, illegal, or offensive activity shall be performed or allowed to continue in or upon any Lot, nor shall any activity be performed or allowed on any Lot that is or may become an annoyance or nuisance to the other Lot owners. Without limiting the foregoing, (i) no light shall be emitted from any Lot which is unreasonably bright or causes unreasonable glare; (ii) no sound shall be emitted from any Lot which is unreasonably loud or annoying, including without limitation, speakers, horns, whistles, bells or other sound devices, except security and fire alarm devices used exclusively to protect the Lot or improvements thereon; and (iii) no odors shall be emitted from any Lot which are noxious or offensive to others.

H. No structure of a temporary character, trailer, tent, shack, barn, or other outbuilding shall be used on any Lot at any time as a residence or any other use, whether temporary or permanent.

I. No automobiles, trucks, campers, trailers, boats, equipment, recreational vehicles, motor homes, or other similar vehicles shall be parked or stored on a public street or right of way for more than 48 consecutive hours. The intent of this provision is to keep the roadway open to daily traffic and to avoid the unsafe and unsightly conditions of the vehicles parked on the street for long periods of time. Furthermore, no vehicles of the foregoing types shall be kept or stored on any Lot unless in a garage or parking stall (pad) located behind the front edge of the dwelling structure. The ACC may enforce this provision by first giving notice to the owner of the violation (or if the owner is not reasonably available, by giving notice in the form of a written demand placed on the vehicle or equipment in question) and subsequently causing that the offending vehicle or equipment be towed away at the owner's expense.

J. Commercial vehicles, other than vehicles used in connection with construction activities upon a Lot, shall not be parked on public streets and shall not be kept or stored on any Lot.

K. No mining, quarrying, tunneling, excavating, or drilling for any substances within or on the earth, including oil, gas, minerals, gravel, sand, rock, and earth, shall be allowed within the Subdivision. No oil development operations or oil refining shall be allowed within the Subdivision.

L. No tank for the storage of fuel is allowed in the Subdivision.

M. No septic tank shall be installed within the Subdivision.

N. No dwelling within the Subdivision shall (i) contain any coal- or wood-burning fireplace, stove, or other similar device unless the same is EPA approved or unless such fireplace, stove or other device is fueled by natural gas only; or (ii) contain a swamp cooler.

O. No signs, billboards nor advertising structures may be erected or displayed on any Lot, except that a single sign, not more than 3x5 feet in size advertising a specific Lot or dwelling for sale or rent, or construction sign, may be displayed on the premises affected, *provided, however*, that the restrictions set forth in this section shall not apply to the Declarant.

P. No storage of junk, inoperative vehicles, or other unsightly or offensive items or materials will be permitted outside of an enclosed structure on any Lot.

Q. No animals shall be kept on any Lot other than those ordinarily kept as family pets, including, cats, dogs, caged birds, chickens in a coop, or such other pets are approved in writing by the ACC.

3. **Architectural Control Committee.** The building covenants and restrictions set forth herein shall be administered by an Architectural Control Committee (the "ACC"). Initially, the Declarant shall be the sole member of the ACC, and shall act in such capacity until (i) Declarant resigns, or (ii) the Certificates of Occupancy have been issued by Mapleton City for each of the Lots. Thereafter, the ACC shall consist of three (3) members. Each member of the ACC shall be a resident of the Subdivision and shall be elected by the vote of the owners of the Lots, with each Lot entitling the owner thereof to one (1) vote. Should any member of the ACC (excluding Declarant) die, become incapacitated, or otherwise move his or her residence outside

of the Subdivision, he or she shall be disqualified to serve on the ACC, and the ACC shall declare a vacancy, which shall be promptly filled by the vote of the Lot owners as described above. A sale or transfer of all ownership interest in the Lot(s) owned by a member of the ACC shall constitute resignation from the ACC. Additionally, any member of the ACC may be removed by the vote of a majority of the owners of the Lots at any time and for any reason.

4. **Dwelling Quality and Size; Landscaping.** Initially, the dwelling quality and size restrictions set forth in this Section 4 shall apply only to the Building Lots; *provided, however,* that at any time that all or substantially all of the dwelling on Lot 1, as such dwelling exists as of the date this Declaration is recorded, is demolished or removed from such Lot, then all restrictions set forth in this Section 4 shall thereafter apply to Lot 1 and Lot 2 as well as all of the Building Lots.

A. Unless otherwise approved by the ACC, each single-level dwelling (rambler) within the Subdivision shall have a floor area of not less than 1,750 square feet above grade, exclusive of open porches and garages.

B. Unless otherwise approved by the ACC, each two-story dwelling within the Subdivision shall have a floor area of not less than 2,400 square feet above grade for both levels, exclusive of basements, steps, open porches and garages.

C. All dwellings must have a garage for at least two (2) vehicles.

D. All dwelling exteriors shall be constructed of stucco, brick, cultured stone, real stone, masonry board, or similar materials.

E. Thirty percent (30%) of exteriors must be stone or brick, unless otherwise approved by the ACC. Aluminum for soffits and eaves will be allowed.

F. All roofs must be built using a minimum of thirty-year architectural-grade shingle roofing.

G. Unless otherwise approved by the ACC, construction of a dwelling must be completed within twelve (12) months after the ground is first broken for such construction.

H. Landscaping shall be designed by a professional landscape architect with plans, showing in sufficient detail the proposed landscaping to be done, provided to and approved by the ACC. Landscaping of each Lot must be completed within six (6) months after a Certificate of Occupancy is issued with respect to the dwelling on such Lot. Landscaping shall include automatic sprinkling systems throughout, including the park strip. Landscaping of the park strip in front of each Lot shall include grass and at least two (2) Autumn Blaze Maple trees no less than 30 feet off center and not less than 2" caliper. If landscaping is not complete upon receipt of a Certificate of Occupancy with respect to the dwelling located on the Lot, the owner of such Lot shall provide a cash bond in the amount of \$10,000, or such other amount as reasonably required by the ACC, to be held until the landscaping is completed as required herein. If the landscaping is not completed as required herein, then the ACC may at its sole discretion proceed to have the landscaping complete and use the cash bond posted by such owner to pay for such landscaping.

5. **Architectural Control Committee Approval.**

A. No building, structure, landscaping, or fence of any kind shall be constructed, and no alteration, repainting, or refurbishing of the exterior of any building, structure, or fence shall be performed, unless and until the applicable plans and specifications are first submitted to and approved in writing by Mapleton City (if required) and the ACC. Any changes in such plans and specifications must also be approved in writing prior to such change being effected. If any proposed construction work involves excavation or the erection of any significant structure, a report of a soils test, performed by a geotechnical engineer acceptable to the ACC, shall accompany such plans and specifications. All requirements described in such report applicable to the proposed construction shall be complied with in connection with the construction of such improvements.

B. To maintain a degree of protection to the investment owners of the Lots will make in the Subdivision, dwellings of superior design are requisite. Designs shall be limited to those prepared by architects licensed to practice in the State of Utah or by designers of outstanding ability whose previous work may be reviewed as a part of the approval process.

C. Two (2) complete sets of plans and specifications (including elevations), together with proof of approval from Mapleton City shall be submitted to the ACC. Such plans and specifications shall include a plot plan showing the location on the Lot of building, walls, fences, and all other structures proposed to be constructed, altered, placed, or maintained, together with the proposed construction materials and color schemes.

D. In deciding whether to approve or disapprove plans and specifications submitted to it, the ACC shall use its best judgment to ensure that all improvements, construction, landscaping and alterations on Lots conform to and harmonize with existing surroundings and structures and that such proposed improvements enhance the value and aesthetics of the Subdivision.

E. The ACC shall approve or disapprove plans and specifications submitted to it within ten (10) days after receiving a complete set of such plans and specifications and all other materials to be submitted to the ACC in connection therewith. In the event the ACC fails to take any action within such specified period, it shall be deemed to have approved the material submitted except in those respects that such material is not in conformity with the provisions of this Declaration, as to which respects it shall be deemed disapproved. One (1) set of such plans and specifications shall be retained by the ACC. The other set of plans and specifications, with approval or disapproval noted thereon, shall be returned to the Lot owner.

F. The ACC shall have the right to disapprove any plans, specifications, or details submitted to it in the event the same are not in accordance with all of the provisions and the intent of this Declaration. Further, if the design or color scheme of the proposed building or structure is not in harmony with the general surroundings of such Lot or with the adjacent building or structures, or if the plans, specifications, or details or any part thereof are contrary to the interest, welfare or rights of all or part of the other owners of the Lots, then the ACC shall have the right to disapprove such plans, specifications, and/or details submitted to it. The vote or consent of a majority of the members of the ACC shall be the decision of the ACC.

G. The ACC shall have the right to revoke any approval given by it if the plans, specifications, or details submitted to the ACC in connection with such approval are incomplete, incorrect, or misleading.

H. The ACC shall not be responsible in any way for any defects in any plans or specifications submitted, revised, or approved in accordance with this Declaration or for any defects in any work done according to such plans and specifications. The ACC has no responsibility to ensure that any plans or specifications comply with any building codes, zoning requirements, local ordinances and regulations, or other laws, ordinances, regulations, or standards.

I. The ACC shall have the authority to create regulations, not inconsistent with this Declaration, as to height, architectural plans and design and the size requirement for dwellings and other buildings and structures (including fences and walls).

J. The protective covenants, conditions, and restrictions set forth in this Declaration are established for the benefit of the Subdivision and the owners thereof. Any damage, loss, claim, or liability that might arise due to any decision, act, or failure to act regarding this Declaration by the Declarant, any agent of the Declarant, or any member of the ACC (with respect to actions taken in such capacity) shall be exempt from any civil claim or action brought by a person owning or having an interest in any Lot or property within the Subdivision or any other person. The Declarant, its agents, and the members of the ACC shall be held harmless from any such action or failure to act and exempt from any civil claim or action resulting from any act or failure to act (whether intended or incidental).

6. **Refuse and Debris.**

A. Each Lot owner shall be required to use a dumpster, trailer, or similar receptacle in which to place all refuse resulting from any construction activity on such Lot. Such receptacle must be on site no later than the beginning of the framing process. If a refuse receptacle is not used, the Lot owner will be charged a \$300.00 clean up fee, which fee will constitute a lien against such Lot until such amount is paid or until the debris is cleaned up in a manner acceptable to the ACC.

B. No Lot may be used or maintained as a dumping ground for rubbish or debris. Trash, garbage, and other waste shall not be kept except in sanitary containers. All containers used for the storage or disposal of such materials shall be kept in a clean and sanitary condition.

C. All Lots, whether improved or unimproved, must be kept free from rubbish, weeds, trash, and all debris of every kind and must be maintained in such a manner as to not distract from the Subdivision as a whole. Sidewalks, parkways, curbs, and gutters must be kept clean, unobstructed, and in good repair. Any vacant Lot must be mowed no less than twice each growing season.

D. No contractor or Lot owner shall use another Lot to hold topsoil, gravel, sand, or other building material without the written consent of the owner of the other Lot.

E. Each resident shall subscribe to city garbage disposal service. Trash cans must be stored out of public sight.

7. **Miscellaneous.**

A. This Declaration and all the provisions hereof shall constitute covenants to run with the land and shall be binding upon and shall inure to the benefit of Declarant, all parties who hereafter acquire any interest in a Lot, and their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Lot owner or occupant of a Lot shall comply with, and all interests in all Lots shall be subject to, the terms of this Declaration and the provisions of any rules and regulations, agreements, instruments, and determinations contemplated by this Declaration. Every person who owns, occupies or acquires any right, title, estate or interest in any Lot in the Subdivision shall be conclusively deemed to have consented and agreed to every limitation, restriction, condition and covenant contained, referred to, or incorporated herein, whether or not any reference to this Declaration is contained in the instrument by which such person acquired an interest in said Lot.

B. The ACC or any owner of an interest in a Lot shall have the right to exercise or seek any remedy at law or in equity to interpret, to enforce compliance with, or to obtain redress for violation of this Declaration. The prevailing party in an action for the interpretation of, the enforcement of, or to obtain redress for violation of any provisions of this Declaration shall be entitled to collect court costs and reasonable attorney's fees.

C. This Declaration may be amended at any time by an instrument, in recordable form, executed by the owners of not less than two-thirds of the Lots; *provided, however,* that if any proposed amendment would result in a material adverse effect with respect to one or more Lots but not all Lots equally, then such amendment must be executed by all Lot owners to be effective. Any amendment shall be effective upon being recorded in the Utah County Recorder's Office.

D. Each Lot owner shall be responsible to ensure that all persons supervising or performing work upon such owner's Lot receive a copy of this Declaration and abide by the provisions hereof. Each Lot owner is responsible for repairing (or causing to be repaired) any and all damage to sidewalks, streets, fences, curbs, gutters, utility installations, and other improvements that is caused by such owner or any other person performing work with respect to such Lot.

E. Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Subdivision to the public or for any public use.

F. Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity or enforceability of any other provision of this Declaration.

G. No failure on the part of the ACC or the owners of the Lots to enforce the provisions of this Declaration or to exercise any right they may have by the terms hereunder or by law upon a violation of this Declaration, and no delay in the exercise thereof by the ACC and/or any owner of any Lot at any time as such violation may continue to exist, shall operate as

a waiver of any such violation or as a modification in any respect of the provisions of this Declaration.

[END]

IN WITNESS WHEREOF, Dickerson has caused this Declaration to be executed as of the date first set forth above.

DICKERSON:

Marcia Dickerson
Marcia Dickerson

STATE OF UTAH)
)ss.
COUNTY OF UTAH)

The foregoing instrument was acknowledged before me this 14 day of November 2019 by Marcia Dickerson.

Karen Weeks
Notary Public



EXHIBIT A

All of Lots 1 through 7, inclusive, Plat A, Thatchill Subdivision, according to the official plat thereof recorded and on file in the Utah County Recorder's Office.