

Restrictive Page 1 of 48
Russell Shirts Washington County Recorder
11/30/2018 03:57:03 PM Fee \$104.00 By GT
TITLE SERVICES

WHEN RECORDED RETURN TO:
WCES, LLC
1192 E Draper Parkway #477,
Draper, UT 84020
APN H-3-2-4-1481

COURTESY RECORDING

This document is being recorded solely as
a courtesy and an accommodation to the
parties named herein. GT Title Services
hereby expressly disclaims any responsibility
or liability for the accuracy or content thereof.

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS**

FOR

ZION VISTA

A PLANNED COMMUNITY DEVELOPMENT

Table of Contents

RECITALS	1
DECLARATION	2
ARTICLE I	3
DEFINITIONS	3
A. Assessment	3
B. Association	3
C. Committee	3
D. Common Areas	3
E. Common Expenses	3
F. Common Utilities	4
G. Community	4
H. Community Standards	4
I. Declarant Rights	4
J. Declaration	4
K. Design Guidelines	4
L. Developed Lot	4
M. Dwelling	4
N. Lot	4
O. Official Records	4
P. Open Areas	4
Q. Owner	5
R. Plat	5
S. Project	5
T. Rules and Regulations	5
U. Sewer Costs	5
V. Water Costs	5
W. Water Detention Areas	5
ARTICLE II	5

USE RESTRICTION AND NATURE OF LOTS	5
A. Residential Purposes.	6
B. Structure	6
C. Leasing of Units	6
D. Owners' Easements of Enjoyment	7
E. Use of the Common Areas.	8
F. Association's Right to Use of Common Areas.	9
G. Easement for Encroachments.	9
H. Utility Easements.	9
I. Architectural Control.....	9
ARTICLE III.....	10
MAINTENANCE OBLIGATIONS.....	10
A. Nuisances.	10
B. Unsightly Articles.	10
C. Signs.....	10
D. Parking or Storage of Vehicles.....	10
E. Parking Enforcement.....	11
F. Garages.....	11
G. Trash.....	11
H. Exterior Fires.....	11
I. Windows.....	11
J. Repair of Improvements.....	11
K. Animal Restrictions.....	12
L. Antennas and Satellite Dishes.....	12
M. Diseases and Insects	12
N. Fire Hazards.	13
O. Hunting and Firearms.....	13
P. Fences/Gates/Privacy Walls.....	13
Q. Machinery and Equipment.	13

- R. Landscaping 13
- S. Vacant Lot Appearance..... 13
- T. Certain Lot Owners’ Obligations to Rebuild After Damage or Destruction..... 13
- U. Maintenance Violations and Association’s Right to Correct Maintenance Violation... 14
- W. No Waiver..... 16
- X. Restriction on Further Subdivision 16
- Y. Declarant’s Exemption..... 17
- Z. Utilities Easement and Right-of-Way..... 17
- ARTICLE IV 17
- ARCHITECTURAL CONTROL; DEVELOPMENT STANDARDS 17
- A. Architectural Review Committee..... 17
- B. Design Review Fees..... 18
- C. Commencement of Construction..... 18
- D. Construction..... 18
- E. Deadline for Completion of Landscaping and Automatic Sprinkling System..... 18
- F. Authority to Change Design Guidelines..... 19
- G. ARC Approval..... 19
- H. Interpretation..... 19
- I. Violations..... 20
- J. Intent..... 20
- K. Framework..... 20
- L. Availability..... 20
- M. Authority..... 20
- N. Views..... 20
- O. Declarant..... 20
- ARTICLE V..... 21
- THE ASSOCIATION..... 21
- A. Association..... 21
- B. Membership..... 21

C. Members' Rights and Duties.....	21
D. Transfer of Membership.....	21
E. Voting.....	21
F. Committee.....	22
G. Officers and Agents of the Association.....	24
H. Committee Meetings.....	24
I. Status and General Authority of Committee.....	25
J. Amendments.....	26
K. Owner's Meetings.....	27
L. Quorum.....	27
ARTICLE VI.....	27
ASSESSMENTS.....	27
A. Reinvestment Fee.....	28
B. Common Income, Expenses and Voting Rights.....	28
C. Declarant.....	28
D. Purpose of Common Expenses.....	28
E. Budget.....	28
F. Procedure for Establishing Annual Assessments.....	29
G. Method of Payment of Assessments.....	29
H. Personal Obligation of Owner.....	29
I. Equitable Changes.....	29
J. Reserve Account.....	29
K. Statement of Common Area Assessments Due.....	29
L. Superiority of Common Area Assessments.....	29
M. Suspension of right to Vote for Non-Payment.....	30
N. Special Assessments.....	30
O. Fines and Individual Assessments.....	30
P. Collections.....	31
Q. Late Fees and Accruing Interest.....	31

R. Foreclosure of Lien and/or Personal Judgment.....	31
S. No Waiver.....	31
T. Duty to Pay Independent.....	31
U. Foreclosure of Lien as Mortgage.....	32
V. Attorney-in-Fact.....	32
ARTICLE VII.....	32
INSURANCE.....	32
A. Casualty Insurance.....	32
B. Liability Insurance. The.....	33
C. Directors and Officers Insurance.....	33
D. Workers Compensation and Employer’s Liability Insurance. The.....	33
E. Fidelity Insurance.....	33
F. Other Insurance.....	34
G. Premiums and Reviews. Except.....	34
H. Forms.....	34
I. Cancellation.....	34
J. Owner’s Insurance Responsibilities.....	35
K. Association Right to Perform Work.....	35
ARTICLE VIII.....	35
MORTGAGEE PROVISIONS.....	35
A. Notices of Action.....	35
B. Failure of Mortgagee to Respond.....	35
C. HUD/VA Approval.....	35
ARTICLE IX.....	36
MISC. PROVISIONS, DISCLOSURES, DISCLAIMERS AND RELEASES.....	36
A. Covenants to Run with the Land.....	36
B. Enforcement and Right to Recover Attorney’s Fees.....	36
C. Limitation of Liability.....	36
D. Amendments.....	37

E. Duration.....	37
F. Interpretation.....	37
G. Construction Disclosures and Releases.....	37
H. Business of Declarant.....	39
EXHIBIT A.....	41
ZION VISTA LEGAL DESCRIPTION.....	41

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
ZION VISTA HOMEOWNERS ASSOCIATION
A PLANNED COMMUNITY DEVELOPMENT**

THIS DECLARATION (the Declaration) is adopted this ____ day of _____, 2018, by WCES, LLC, a Utah limited liability company (the Declarant).

RECITALS

- A. The Declarant is the owner of certain real property (the Property) located in Washington County, Utah, described on Exhibit A attached hereto.

- B. The Declarant has subdivided the Property into Lots 1 through 80, inclusive, which shall be known as the Zion Vista Subdivision.

- C. The Declarant is in the process of developing the Property as a planned community development.

- D. The Declarant desires to provide a general plan for the establishment of covenants, conditions and restrictions to enhance and protect the value and attractiveness of the Property, all in accordance with the provisions of this Declaration.

E. Declarant reserves the right to enter into a license agreement with an adjacent property whereby adjacent property and its residents, for a fee payable to the Association, may utilize the amenities of Zion Vista Homeowners Association without being members of the Association nor subject to the governing documents other than rules and regulations specifically relating to use of the amenities. Any agreement entered into must reduce monthly amenity costs to members of the Association.

F. Governing Documents of the Community consist of:

- Official Plats
- This Declaration and any Supplemental Declarations
- Association's Articles of Incorporation
- Association's Bylaws
- Design Guidelines and Community Wide Standards
- Rules and Regulations
- Resolutions of the Association's Committee or Board

DECLARATION

Now, therefore, Declarant hereby declares that the Property is and shall be held, conveyed, encumbered, leased, used, occupied, improved, and otherwise affected in any manner subject to the covenants, conditions, restrictions, easements and other provisions of the Declaration, all of which are hereby declared to be in furtherance of a general plan for the development, improvement, and sale of the Property, and are further declared to be for the purpose of enhancing, maintaining, and protecting the value and attractiveness of the Property. All provisions hereof shall be deemed to run with the land as covenants running with the land or as equitable servitudes, as the case may be, and shall constitute benefits and burdens to Association and its assigns and to all persons hereafter acquiring or owning any interest in the Property, however such interest may be obtained.

COVENANTS, CONDITIONS AND RESTRICTIONS

NOW, THEREFORE, for the reasons recited above, the undersigned covenant, agree and declare that the Property shall be subject to the following covenants, conditions and restrictions:

ARTICLE I DEFINITIONS

As used in this Declaration, each of the following terms shall have the indicated meaning:

- A. Assessment means an Owner's portion of the Common Expenses or any other amount charged by the Association.
- B. Association means the Zion Vista Homeowners Association, a nonprofit corporation whose members shall be the owners of the Lots in the Project.
- C. Committee means the committee of three (3) Owners elected or appointed to manage the Association and the Common Areas.
- D. Common Areas means the Common Roads if any, the Common Utilities if any, the Open Areas, the Parks, on-site/off-site Water Detention Areas and Landscaped Areas, Trails and the Entrance Areas, Improvements and any other areas used for the common good that are not the responsibility of Hurricane City.
- E. Common Expenses means all sums lawfully assessed against the Owners. Expenses of administration, maintenance, repair and replacement of the Common Areas. Expenses agreed on as Common Expenses by the Committee.

- F. Common Utilities means Water Detention either on-site or off-site, Irrigation, Sewer, Water, Electrical, Communication systems or any other utilities in open space or park areas or not maintained by Hurricane City.
- G. Community means and refers to the residential planned unit development known as “Zion Vista”.
- H. Community Standards means the standards of conduct, maintenance, or other activity generally prevailing throughout the Community. Such standards shall or may be established initially by Declarant and may be more specifically defined in the Design Guidelines, the Rules and Regulations (if any), and Board resolutions. Any subsequent amendments to the standards shall meet or exceed the standards set by the Declarant during the Declarant Control Period. Such standards may contain both objective and subjective elements. The Community Standards may evolve as development progresses and demands of the Community change.
- I. Declarant Rights means and refers to all rights reserved by Declarant for itself under this Declaration which are personal to Declarant and may be exercised only by Declarant.
- J. Declaration means and refers to this instrument entitled “Declaration of Covenants, Conditions, and Restrictions for Zion Vista” and any and all amendments thereto.
- K. Design Guidelines means the architectural, design and construction guidelines and application and review procedures applicable to the Community as stated in Article IV.
- L. Developed Lot means a Lot on which a Dwelling has been legally approved for occupancy by Hurricane City.
- M. Dwelling means the residence, place of habitation, abode or living unit constructed on a Lot.
- N. Lot or Lots means the subdivided and recorded lot or lots within Property and, where the context so requires, any Dwelling constructed thereon.
- O. Official Records means the official records of the Washington County Recorder.
- P. Open Areas means those portions of the Property designated on the Plat as open area.

- Q. Owner or Owners means the record owner or owners, whether one or more persons, of fee simple title to any Lot, excluding those having such interest merely as security for the performance of an obligation.
- R. Plat means the plat for the Project, recorded in the Official Records
- S. Project means the Zion Vista Subdivision, a Planned Community Development.
- T. Rules and Regulations means and refers to such rules and regulations as the Committee from time to time may adopt pursuant to the terms of this Declaration concerning the use of the Community or any part thereof.
- U. Sewer Costs means the costs of providing sanitary sewer service to the Lots, which shall be provided and serviced by Ash Creek Sewer District.
- V. Water Costs means the costs of providing culinary water to the Lots, which shall be provided and serviced by Hurricane City.
- W. Water Detention Areas means areas as designated on the Plat or under agreement with adjacent property owners which are to be graded and maintained as detention areas for storm water and includes all piping, ponds, valves, manholes, sumps and other systems required to receive and detain water runoff.

ARTICLE II USE RESTRICTION AND NATURE OF LOTS

The Lots are subject to the following use restrictions which shall govern both the architecture of the Dwellings and the activities on and around the Lots:

- A. Residential Purposes. No Lot shall be used except for residential purposes and any Dwelling and structure thereon shall be maintained in good repair and in a clean and attractive appearance, compatible with surrounding Lots and Dwellings. Gainful occupational, professional, trade or other nonresidential use (such as a model home) may be conducted on a Lot only if permitted by Hurricane City and approved by the Committee. No person shall engage in such uses without the prior review and approval by the Committee and the appropriate officials of Hurricane City. All land use and buildings shall follow all zoning and land use ordinances as well as all regulations of the applicable municipalities and agencies governing land use and buildings. The limitations described shall not preclude any of the above-described activities which are conducted without external evidence thereof provided that all of the following conditions are fulfilled: (i) the patrons or clientele of such activities do not routinely or in significant numbers visit the Lot or park automobiles or other vehicles within the Property; (ii) the existence or operation of such activities is not apparent or detectable by sight, sound or smell from outside the boundaries of the residence of such Lot; (iii) no such activity increases the liability or casualty insurance obligation or premium of the Association; and (iv) such activities are consistent with the residential character of the Property and otherwise conform with the provisions of this Declaration.
- B. Structure. No structure such as a recreational vehicle, mobile home, shack, shed, tent, garage, barn or other out-building shall be occupied at any time for use as a dwelling.
- C. Leasing of Units. An Owner shall be permitted to lease their Unit provided that:
- a. The number of units permitted to be rental properties shall not exceed twenty percent (20%) of the total number of occupied units existing at any given time
 - b. A list of units currently renting shall be kept at the Association office.
 - c. An owner who wishes to rent their home must present a written request to the Association to verify eligibility prior to renting their unit.
 - d. The Association will respond in writing within 30 days to inform the owner of their eligibility status.
 - e. Once an owner has received verification of eligibility to rent their unit, eligibility remains until any of the following occur:

1. Owner sells unit
 2. Owner occupies unit
 3. The owner's lease with a tenant expires and no new lease is executed within 60 days.
- f. If any of the conditions listed above in section "e" occur, the eligibility for said unit will be deemed invalid and the next owner of a unit on a waiting list, if any, shall be eligible to apply to rent their unit.
- g. Any owner whose eligibility shall expire due to any condition in section "e" may re-apply for rental eligibility but will enter the waiting list at the bottom. All rental eligibility shall be on a first come basis with no priority given to prior rental unit owners.
- h. The Owner and all tenants ("tenant") enter into a written lease which provides that the terms of the lease shall be subject in all respects to the provisions of this Declaration and the Rules and Regulations, and that any failure by the Tenant to comply with the terms of such documents shall be a default under the lease;
- i. Any lease or rental agreement shall be in writing, be for a term of at least thirty (30) days, and no Owner shall rent or lease their Unit for transient or hotel purposes, nor shall any Unit be timed shared;
- j. The Tenant is furnished with a copy of the Rules and Regulations;
- k. The lease grants to the Association as a third-party beneficiary the right to evict the Tenant for failure to comply with this Declaration or the Rules and Regulations;
- l. The Secretary of the Association has been furnished with the name(s) and mailing addresses of the Tenant within five (5) business days after execution of the lease;
- m. Each Owner shall be responsible and liable for all activities of such Owner's Tenant which are in violation of this Declaration or the Rules and Regulations.
- n. Any owner who rents their unit without authorization of eligibility from the Association will be subject to fines and penalties.
- D. Owners' Easements of Enjoyment. Except as otherwise expressly provided elsewhere in this Declaration, each Owner shall have, and the Association hereby grants to each Owner, a non-exclusive easement of use and enjoyment in, to, and throughout the Common Areas and for ingress, egress, and support over and through the Common areas. Each such easement shall be appurtenant to and pass with title to each Unit, subject to the following rights and restrictions:

- a. The Association shall have the right to adopt, amend, and enforce Rules and Regulations affecting use of the Common Areas; provided, however, that such Rules and Regulations shall not be in conflict with the provisions of this Declaration.
 - b. The Association shall have the right to limit the number of guests of an Owner utilizing the Common Areas
 - c. The Association shall have the right to charge reasonable admission and other fee for the private use of any recreational facility situated upon the Common Areas.
 - d. The Association shall have the right to assign, rent, grant licenses, or otherwise designate and control the use of any parking or storage space within the Common Areas.
 - e. The Association shall have the right to enter into a license agreement with an adjacent property whereby adjacent property and its residents, for a fee paid to the Association, may utilize the amenities of Zion Vista Homeowners Association without being members of the Association nor subject to the governing documents other than rules and regulations specifically relating to use of the amenities. Any agreement shall not be entered into which will not reduce monthly amenity costs to members of the Association.
- E. Use of the Common Areas. Any Owner may extend their rights of use and enjoyment in the Common Areas, including any recreational facilities, to such Owner's family members, guests, and invitees, subject, however, to the provisions of this Declaration and the Rules and Regulations. If an Owner has rented all of such Owner's Unit to a tenant(s), then the Owner, such Owner's family, members, guests, and invitees shall not be entitled to use and enjoy the recreational facilities of the Common Areas while the Owner's Unit is occupied by such tenant(s). Instead, the tenant(s), while occupying such Unit, shall be entitled to use and enjoy the recreational facilities of the Common Areas and, during the period of such tenants' occupancy, such tenant(s) can extend to other persons the right of use and enjoyment in the same manner as if such tenant(s) were an Owner. Each Owner shall notify the secretary of the Association of the names of any tenants of such Owner's Unit. Each Owner or tenant also shall notify the secretary of the Association of the names of all persons to whom such Owner or tenant has extended any rights of use and enjoyment in the Common Areas and the relationship that each such person bears to the Owner or tenant. All permitted rights of use and enjoyment of the Common Areas are subject to suspension as set forth below in this Declaration. Each Owner shall at all times be responsible for any and all activities of their tenants, guest and invitees using the Common Areas. No Improvements within the Common Areas shall be altered or removed, except at the express direction of the Association.

- F. Association's Right to Use of Common Areas. The Association shall have a non-exclusive easement to make such use of the Common Areas as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration, including the right to construct and maintain in the Common Areas maintenance and storage facilities for use by the Association.
- G. Easement for Encroachments. If any part of the Common Areas encroaches or shall hereinafter encroach upon a Unit, an easement for such encroachment and for the maintenance of the same does and shall exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Areas, or upon an adjoining Unit, an easement for such encroachment and for the maintenance of the same does and shall exist. Such encroachments shall not be considered to be encumbrances either on the Common Areas or the Units. Encroachments referred to herein include, but and not limited to, encroachments caused by initial construction, settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of the Community or any part thereof. Notwithstanding the foregoing, no such encroachment shall exist to the extent it is caused by the willful misconduct of the Owner of the encroaching Unit or the failure of such Unit's Owner to cause the Unit to be repaired or reconstructed after damage or destruction in accordance with approved plans and specifications.
- H. Utility Easements. There is reserved for the benefit of each Unit easements for utility services over, under, or through such portions of the Community and other Units, where such utilities are constructed when construction of the Community is completed. In addition, Association reserves, and the Association is granted, the right to establish and convey subsequent utility easements; and each Owner in accepting a deed to a Unit, expressly consents to such easements.
- I. Architectural Control. No grading, excavation, building, fence, wall, Dwelling or other structure of any kind shall be commenced, erected, maintained, improved, altered or made until the construction plans and specifications along with a topographical plan showing the location of all improvements, including a detailed landscaping plan, have been approved in writing by the Committee. The Committee shall not give its consent to any improvements unless, in the opinion of the Committee, the proposed improvements meet all Design Requirements then in effect and are in harmony with existing structures and improvements in the Project and with the surrounding landscape. All subsequent additions or changes to or alterations in any building, fence, wall or other structure, including exterior color scheme, and all changes in the grade of any Lot, shall be subject to the prior written approval of the Committee. No changes or deviations in or from the plans and specifications once approved by the Committee shall be made without the prior written approval of the Committee.

ARTICLE III
MAINTENANCE OBLIGATIONS

- A. Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate on or adjacent to any Lot, and no odors or loud noises shall be permitted to arise or emit from any Lot to render all or any portion of any Lot or activity thereon unsanitary, unsightly, offensive or detrimental to the Owners or occupants of any other Lot in the vicinity. No other nuisance shall be permitted to exist or operate upon any Lot to be offensive or detrimental to any other Lot in the vicinity or to its occupants
- B. Unsightly Articles. No unsightly article, facility, equipment, object or condition (including but not limited to, clotheslines, garden or maintenance equipment, inoperable vehicle or furniture which is not deemed "outdoor furniture") shall be permitted to remain on any unit so as to be reasonably visible from any street or other unit or common areas.
- C. Signs. No sign, poster, billboard, advertising device or other display of any kind shall be displayed without the approval of the ARC, except the Owner or resident may place two (2) customary 18" x 24" free-standing "for sale" or "for lease" signs on the Unit. No more than one (1) sign may be placed in the front yard of a unit, one (1) additional sign may be placed in the side or back yard. Signs used by licensed real estate brokers may be used in the marketing and sale of a home. Any other signage shall require ARC approval. Nothing herein contained shall restrict the right of Association to maintain street signs, Community monuments signs, and other Community signs in the Common Areas.
- D. Parking or Storage of Vehicles. No articles, material, equipment or vehicles of any nature shall be parked or stored on any street located within the Project, except as expressly provided in this paragraph. Licensed, regularly used passenger vehicles may be parked on the street of the Project however, overnight parking of vehicles shall be restricted to the driveway of the Owner's dwelling. Automobiles, vans, sport utility vehicles, trucks, campers, motor homes, trailers, boats, watercraft, snowmobiles, recreational, oversized or other vehicles shall not be stored on driveways, streets or in front yards, or anywhere other than within the garage or behind an approved gate at the side of the dwelling. No cars on blocks or non-running vehicles are permitted within the Project. In addition, no Owner shall park, store or keep anywhere within the Property any vehicle or vehicular equipment, mobile or otherwise, deemed to be a nuisance by the Committee. Commercial vehicles may be parked on the street or in the driveway while repairs or maintenance is being provided to the house or landscaping. Except in case of emergency, no repairs shall be made to a vehicle in the driveway or a street.

- E. Parking Enforcement. The Committee shall have the power but not the obligation to enforce all parking and vehicle use restrictions applicable to the Property. The Committee shall have the right to have any truck, mobile home, travel trailer, camper shell, recreational vehicle, boat, boat trailer or similar equipment or vehicle or any automobile, motorcycle or other motor vehicle parked, kept, maintained, constructed, reconstructed or repaired in violation of the Association documents towed away at the sole expense of the owner of the vehicle or equipment. Any expense incurred by the Association in connection with the towing of any vehicle or equipment shall be paid to the Association upon demand by the owner of the vehicle or equipment. If the vehicle or equipment is owned by an Owner, then the cost incurred by the Association in towing the vehicle or equipment shall be assessed against the Owner and said Owner's lot.
- F. Garages. Garage doors shall not be left open at night, when away from home or for more than two continuous hours during the day. Vehicle repair which shall only be performed with the garage door closed excepting for emergencies.
- G. Trash. No rubbish, trash, garbage or other waste material shall be kept or permitted on or within any Unit, Dwelling, or otherwise within the Project, except in sanitary containers located in appropriate areas screened and concealed from view, and no odors shall be permitted to arise therefrom to render the Project, or any portion thereof, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. Such containers shall be exposed to the view of the neighboring Units only when set out for a reasonable period (not exceeding twenty-four (24) hours before and after scheduled trash collection hours).
- H. Exterior Fires. There shall be no exterior fires whatsoever except barbecue and approved fire features contained within appropriate receptacles.
- I. Windows. Each Owner shall have complete discretion as to the choice of furniture, furnishings, and interior decoration; however, all draperies, curtains, shutters, or other window coverings shall be of good quality and of such color, design and construction so as to be in accord with the attractive appearance of the Community. Plastic, aluminum foil, bedroom sheet or other unsuitable coverings may not be placed in or on the windows, except for blinds, shutters or other window coverings which may be constructed of plastic materials. Window tinting shall require the prior written approval of the ARC and shall be properly installed and maintained so as not to become damaged, scratched, discolored or otherwise unsightly.
- J. Repair of Improvements. No improvements on any Lot shall be permitted to fall into disrepair and all improvements shall always be kept in good condition and repair and adequately painted or otherwise finished. In the event any Dwelling or other structure is damaged or destroyed, then, subject to the requisite Committee approvals, such Dwelling or other structure shall be repaired, rebuilt or demolished at the sole expense of the Owner of such Lot, within a reasonable amount of time.

- K. Animal Restrictions. No insects, reptiles, poultry or dangerous or poisonous animals of any kind shall be raised, bred or kept on or within any Lot, Dwelling, or otherwise within the Project, except that usual and ordinary dogs, cats, fish, birds and other household pets (excluding without limitations, equine, bovine, sheep, swine, goats and other such animals) may be kept on or within the Project Lots, subject to rules and regulations adopted by the Association, and provided that they are not kept, bred or maintained for commercial purposes or in unreasonable quantities. As used in this Declaration, unreasonable quantities shall ordinarily mean more than two (2) pets per household, provided, however, that the Association (or the Architectural Committee or other such person or entity as the Association may from time to time designate) may determine that a reasonable number in any instance may be. The Association acting through the Board of Trustees, shall have the right to prohibit maintenance of any animal which constitutes, in the opinion of the Board, a nuisance to any other Owner. Animals belonging to Owners, occupants or their licensees, tenants or invitees within the Project shall not be permitted to roam at large at any time and must be either kept within a house or an enclosure, or on a leash being held by a person capable of controlling said animals. The enclosure must be so maintained that the animal cannot escape therefrom and shall be subject to the approval of the Architectural Committee. Should any animal belonging to an Owner be found unattended, out of the enclosure, or not being held on a leash by a person capable of controlling the animal, such animal may be removed by the Association or a person designated to do so, to a shelter under the jurisdiction of the local governmental entity in which the Project is situated and subject to the laws and rules governing such shelter, or to a comparable animal shelter. Furthermore, any Owner shall be liable to each and all remaining Owners, their families, guests, tenants and invitees, for any unreasonable noise or damage to person or property caused by any animals brought or kept with the Project by an Owner or by members of his family, his tenants or guests; and it shall be the absolute duty and responsibility of each such Owner to clean up after such animals which have used any area within the Project. All owners must comply with any ordinances imposed by Hurricane City.
- L. Antennas and Satellite Dishes. No exterior radio antenna or aerial, television antenna or aerial microwave antenna aerial or satellite dish, CB antenna or other antenna or aerial of any type which is visible from any street or from anywhere in the Community shall be erected or maintained on any unit. Notwithstanding the foregoing, "Permitted Devices" (defined as antennas or satellite dishes: (1) which are one meter or less in diameter and designed to receive direct broadcast satellite service or (2) which are one meter or less in diameter or diagonal measurement and designed to receive video programming services via multi-point distribution services) shall be permitted, provided that such permitted device is mounted on the rear of the dwelling furthest from the street or not more than 10 feet closer to the street from side of the dwelling in a manner intended to minimize the visibility of the permitted device from all streets to the extent reasonably possible.
- M. Diseases and Insects. Owner shall not permit any item(s) or condition(s) to exist upon their Lot that shall induce, breed, or harbor infectious plant or tree diseases or noxious insects or harbor infectious plant or tree diseases or noxious insects, rodents, birds, or other

animals, i.e., rabbits, etc. The owner of each Lot is responsible for pest control at their sole and separate expense.

- N. Fire Hazards. All stacks and chimneys from fireplaces with combustible materials other than gas shall be fitted with a spark arrester. All Owners shall strictly comply with all state laws and county ordinances pertaining to fire hazard control.
- O. Hunting and Firearms. The discharge or shooting of firearms in the Project is prohibited. Hunting in the Project is prohibited.
- P. Fences/Gates/Privacy Walls. All fence, gates and privacy wall enclosures must be approved in writing by the Architectural Committee prior to installation. Once installed, fences, gates and privacy walls must be maintained in "like new" condition.
- Q. Machinery and Equipment. No heavy machinery or construction equipment of any kind shall be placed, operated, or maintained upon or adjacent to any Unit except such machinery or equipment as is usual and customary in connection with and during the construction or approved improvement of a residence or other structure. No equipment for air conditioning, heating, fuel storage or other uses shall protrude through the walls, windows, or roof of any Improvement in the Community except for such equipment needed during the initial construction of a unit unless prior approval has been received from the Architectural Committee.
- R. Landscaping. It shall be the obligation of each owner to maintain their landscaping in front, side and rear yards in a neat and attractive condition. Unit owner shall periodically replace when necessary trees, plants, grass, synthetic turf and other vegetation. The ARC may adopt rules and regulations to regulate landscaping permitted and required in the Properties. Each owner shall keep free from weeds, debris and other unsightly objects all portions of their yard.
- S. Vacant Lot Appearance. Vacant lots must be cleared of weeds, debris and vegetation at least every 6 months or more frequently if notified by the Association. Lot owners are responsible for clearing their lot and may do so themselves or hire a service of their choice. In the event the lot owner does not keep their lot clean to the standards of the Association, the owner will be notified of a maintenance violation. The Association will clean the lot and charge the owner for the service if owner does not comply with the maintenance violation notification. Unpaid fees will be subject to a lien.
- T. Certain Lot Owners' Obligations to Rebuild After Damage or Destruction. Each Owner of a Lot upon which a Residence is located shall carry casualty insurance insuring the residence on such Owner's Lot with coverage for all hazards, except earthquakes and floods and other acts of God which are normally excluded from standard form coverage policies ("Excluded Hazard"), which insurance shall be maintained in an amount equal to the full replacement cost of such residence. The Association shall have no duty to enforce the foregoing provision of this Declaration; provided, however, that if a residence is

damaged or destroyed and the event causing the damage or destruction was not an Excluded Hazard, then the Owner(s) of the residence shall be jointly and severally liable to the Association to rebuild the residence on the Lot within community standards as established in the Architectural Guidelines.

- a. In the event the Lot Owner(s) of the damaged or destroyed residence fail to commence repair or reconstruction of the residence including the removal of debris associated with the initial damage or destruction, within the longer of one hundred twenty (120) days after the event causing the damage or destruction, or forty-five (45) days after the insurance proceeds are made available for reconstruction purposes, then the failure to commence repair or reconstruction shall be deemed to be a Maintenance Violation. Each Owner shall maintain and provide insurance coverage under their homeowner's policy for any rear and side yard walls or wrought iron rear yard walls. If an Owner or resident fails to perform necessary maintenance and repair, the Association shall have the right, after ten (10) day prior notice requesting such work be done and the Owner or resident not having done so, to enter upon such Lot for purposes of performing such work and the cost thereof, together with interest thereon as provided by applicable law, shall be charged to an Owner, and shall be deemed a Maintenance Violation.

U. Maintenance Violations and Association's Right to Correct Maintenance Violation.

- a. A maintenance violation exists if any Owner allows, permits or causes any condition to exist on such Owner's Unit or within such Owner's residence which in the sole reasonable discretion of the Board is unsightly, unsanitary or hazardous, or is deemed not to conform to Community Wide Standards (including, but not limited to, a condition which causes dust to carry to another Owner's lot), or fails to maintain their Unit, the exterior of the residence on such Unit or the Improvements thereon in accordance with the provisions of this Declaration and if no emergency exists, then written notice will be given specifying the nature of the Maintenance Violation and a reasonable time period within which the Owner(s) must correct such Maintenance Violation. If an emergency exists, then the Association shall give the Owner of the Unit on which such condition exists, whatever notice is appropriate under the circumstances in whatever manner is appropriate under the circumstances, including no notice.
- b. The Owner of the Unit to whom a Maintenance Violation Notice is given, shall have the right to file a written objection thereto with the Secretary of the Association within ten (10) days after such Owner is deemed to have received such Maintenance Violation Notice. In the event such an objection is filed, and within thirty (30) days after the objection is filed, the Board shall hold a hearing regarding such Maintenance Violation. Notice of such

hearing and the time and place thereof, shall be given to the Owner to whom the Maintenance Violation Notice is given at least five (5) business days prior to the date set for such hearing. The Board shall give written notice of its decision to the Owner against whom the Maintenance Violation Notice was given as to whether or not a Maintenance Violation exists and the nature of such violation. The decision of the Board shall be conclusive as to whether or not a Maintenance Violation in fact exists. The notice period within which a Maintenance Violation must be cured shall be tolled from the date of filing such objection until the date the Board notifies the Owner in Writing of its decision.

c. If any emergency exists or if the Owner fails to correct a Maintenance Violation within the period specified in the notice (as such Period may have been extended by the filing of an objection), then the Association, acting through the Board, shall have the right, but not the obligation (unless an Owner Complaint is filed), to undertake and perform such work through its agents and employees as the Board may deem be necessary or desirable to remedy the Maintenance Violation. Neither the Association, the Board, nor any of their agents or employees shall be liable for failure to correct a Maintenance Violation.

d. Procedure for Association's Correction of Maintenance Violation

- i. Bids. In the event the Association elects to correct a Maintenance Violation and if no emergency exists, then prior to commencement of work to correct the Maintenance Violation and promptly after the expiration of the cure period afforded a defaulting Owner, the Board shall obtain a written bid to perform the required work and shall mail the bid to the Owner of the Lot on which a Maintenance Violation exists. Such Owner shall have the right to approve the bid by notifying the Board in writing within fourteen (14) days after the bid is mailed by the Board to the Owner. In the event the Owner fails to approve the bid within such time period, the Board shall approve the bid and commence work. If an emergency exists, the Association may commence work to correct the Maintenance Violation immediately without notice and without obtaining a written bid.
- ii. Special Assessment. When the bid has been approved or when an emergency exists, the Board shall levy a Special Assessment against the Owner of the Lot on which a Maintenance Violation exists to pay for the cost of correcting the Maintenance Violation.

- iii. Performance of Corrective Work by Association. The Board shall have the duty to cause the corrective work to be commenced promptly after the Special Assessment has been levied against the defaulting Owner; provided, however, that if the cost of such corrective work exceeds two (2) times the amount of the periodic installment of the Annual Assessment against one Lot for the fiscal year in which the Maintenance Violation is required to be corrected, then the Association may, in the sole discretion of the Board, elect to levy a Special Assessment against the defaulting Owner prior to performing the corrective work, and perform such corrective work when the Special Assessment is paid in full. Neither the Association, the Board, nor any of the Association's agents or employees shall be liable for any damage which may result from any work performed by the Association to cure a Maintenance Violation.

- V. Association's Right of Entry for Repair, Maintenance and Emergencies. Each of the Unit Owners hereby grants to the Association and its duly authorized agents, representatives, employees and contractors the right of entry onto such Owner's Unit and residence, and within the Improvements thereon, which right shall be irrevocable, to make such repairs and perform such maintenance work which the Association is required or entitled to do pursuant to the provisions of this Declaration. Except as provided herein below with respect to emergencies, such right of entry shall be exercised only during reasonable hours and after reasonable notice. In the event any officer of the Association believes, in his or her sole discretion, that an emergency situation exists and that immediate repairs are necessary to prevent or mitigate damage to the Common Areas or to the residence or Unit of another Owner, then such officer shall have the right to exercise such right of entry without notice.

- W. No Waiver. The failure to enforce the provisions of any covenant, condition, or restriction contained in this Declaration shall not constitute a waiver of any right to enforce any such provisions or any other provisions of this Declaration.

- X. Restriction on Further Subdivision; Property Restrictions and Rezoning. No Lot shall be further subdivided or separated into smaller lots by any Owner without the prior written approval of the Committee, which approval must be evidenced on the official plat or other instrument creating the subdivision. No further covenants, conditions, restrictions or easements shall be recorded by any Owner, or other person against any Lot without having been first approved in writing by the Committee. Any covenants, conditions, restrictions or easements recorded without such approval shall be null and void. 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 use of the Lot has been approved by the Committee and the proposed use otherwise complies with the provisions of this Declaration.

- Y. Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by the Declarant or its duly authorized agents of temporary structures, trailers, improvements or signs necessary or convenient to the development, marketing or sale of Lots.
- Z. Utilities Easement and Right-of-Way. Easements and rights-of-way for the installation and maintenance of utilities and drainage facilities and other uses are reserved as shown on the Plat, and all Lots shall have a utility easement and right-of-way in compliance with Hurricane City's PDO requirements and surrounding all sides for installation of various utilities and equipment, such as water, sewer, storm drainage, telephone, electricity, secondary water, natural gas, etc., as shown on the Plat. All easements may be utilized by the various utility companies at their discretion for placement of utilities and/or equipment. Within this easement and right-of-way, no structure, large planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, change the direction or flow of drainage channels in the area, or obstruct or retard the flow of water through drainage channels or easements. The easement and right-of-way area of each Lot and all improvements within said area shall be maintained continuously by their Owners, excepting those improvements for which a public authority or utility company is expressly responsible.

ARTICLE IV

ARCHITECTURAL CONTROL; DEVELOPMENT STANDARDS

- A. Architectural Review Committee. There shall be an "Architectural Review Committee" (sometimes hereinafter "ARC") consisting of one or more members of the Committee and may also have non-committee members in an advisory capacity. The Committee shall have the power to appoint all members of the ARC. The ARC shall have the authority to establish Design Guidelines and Standards. The Design Guidelines and Standards may be amended from time to time by the Committee.

- B. Design Review Fees. For initial construction of a unit a fee of \$200.00 will be assessed to each builder/homeowner by the Committee for architectural compliance review, to be completed by the Committee within two weeks after complete submission. One resubmission will be allowed at no cost, and the Committee will complete a review of a resubmission within one week. A fee of \$100.00 will be charged for any other resubmission(s), each of which may take up to three weeks for review. Fees do not apply to construction to be performed on lots controlled by Declarant. After receiving approval of the Committee and prior to the commencement of construction, each Owner shall be responsible for obtaining a building permit from Hurricane City and connection of all utilities to such Owner's Lot.
- C. Commencement of Construction. If construction does not commence on a project for which plans have been approved within 90 days after the date of approval, such approval shall be deemed withdrawn and it shall be necessary for the Owner to reapply for approval before commencing any work.
- D. Construction. The original purchaser of the Lot must start construction on such Lot not later than twelve (12) months from the date of closing and complete construction of all structures not later than twelve (12) months from the date construction starts. The start of construction shall be when any construction activities are commenced on a Lot. All building debris, excavation dirt and the like associated with the building process shall be removed within such twelve (12) month period. Such debris and excavation dirt shall not be permitted on any of the streets or sidewalks in the Project. In the event of a resale of a Lot, no extension of time will be granted without written approval of the Committee prior to the resale of the Lot. 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. However, all Lots shall be kept in a reasonably neat and orderly condition during construction periods. Trash and debris shall not be permitted to accumulate, and supplies of brick, block, lumber and other building materials shall be piled only in such areas as may be approved by the Committee. In addition, any construction equipment and building materials stored or kept on any Lot during construction or improvements may be kept only in areas approved by the Committee, which may also require screening of such material and equipment storage areas.
- E. Deadline for Completion of Landscaping and Automatic Sprinkling System. The front yard of each Lot (from the street curb to the front building line of the Dwelling on the Lot) shall be landscaped prior to receiving Certificate of Occupancy of any structure built upon such Lot and must be approved by the Architectural Review Committee. Each front yard shall be landscaped as a desert scape design. In order to protect the views of neighboring properties, only low growing trees will be permitted. If homeowner wishes to plant a tree(s) on their property, variety and placement of tree must be submitted for approval. The Architectural Review Committee will consider views from neighboring lots in regard to permitted placement of tree(s). Tree(s) shall not exceed the height of the roofline of the subject property. A list of tree varieties which characteristically stay below a height of 20'

is provided in the Architectural Guidelines. Owner will be responsible for cost of pruning or removing tree should the height of the tree(s) exceed the height of the subject property roofline. Only artificial turf shall be allowed in the front yard. Front yard landscaping must be approved by the Architectural Control Committee. The remainder of the Lot shall be landscaped, including an automatic sprinkling system, within (6) months of the occupancy date of any structure built upon said Lot.

- F. Authority to Change Design Guidelines. During the Declarant Control Period neither the Board nor the Association shall have any authority to modify, repeal or expand the Design Guidelines without the written consent of Declarant.
- G. ARC Approval. After initial construction of a unit no building or other structure or improvement, including, but not limited to, landscaping, shall be erected, placed or altered upon any Lot until the location and the complete plans and specifications thereof (including, without limitation, the exterior color board and finish materials of each building, shed, structure, fence and/or wall to be created) have been approved in writing by the ARC. The ARC shall provide guidelines for the submission of plans and specifications which may be amended by the ARC from time to time. Such guidelines shall set forth both procedural requirements of submittal to the ARC as well as architectural, landscaping and other applicable substantive specifications. Failure to comply with the requirements for ARC approval shall be deemed sufficient basis for the ARC to refuse to review the submission. In the event the ARC fails to approve or disapprove the location, plans and specifications or other request made of it within sixty (60) days of submittal of plans will be deemed to be an approval if the Owner complies with the following procedure: After sixty (60) days have passed from the submittal of plans without a reply from the Architectural Review Committee, the Owner must send a certified letter to the Architectural Review Committee requesting a response. If the Architectural Committee does not respond with an approval or denial of the plans within seven (7) days after the Owner receives receipt of delivery of the certified letter, the plans shall be deemed to be approved. No alteration shall be made in the exterior color design or openings of any building or other construction unless written approval of said alteration shall have been obtained from the ARC. The grade, level or drainage characteristics of any Lot shall not be altered without the prior written consent of the ARC. When the ARC issues an approval as provided for herein, a copy of the plans and specifications shall be returned to the ARC for permanent record. Anything herein to the contrary notwithstanding, approval by the ARC is not exclusive and all plans and specifications required to be approved by the City of Hurricane whether through the building permit process or otherwise, shall be so approved prior to the commencement of any work. Upon the completion of any work for which approved plans are required under this Article, the Owner shall give written notice of completion to the ARC, who will inspect for completion of the work and compliance with plans originally submitted and approved.
- H. Interpretation. All questions of interpretation or construction of any of the terms or conditions in this Article shall be resolved by the Committee with the input of the Architectural Committee. The decision of the Committee shall be final, binding and

conclusive on all of the parties affected.

- I. Violations. In the event violation of these restrictions exists, or in the event of the failure of any individual Owner to comply with a written directive or order from the ARC, then in such event, the ARC shall have the right and authority to perform the subject matter of such directive or order, including, if necessary, the right to enter upon the Unit and the cost of such performance shall be charged to the Owner of the Unit in question, which cost shall be due within five (5) days after receipt of written demand therefore, and may be recovered by the ARC pursuant to a Violation Assessment or in an action at law against such individual Owner.
- J. Intent. The intent of the Zion Vista Community Wide Standards and Design Guidelines (Guidelines) is to protect and enhance the spectacular views of the surrounding mountains; to respect the climatic conditions and environment of the region and to maintain and enhance Community property values. Also, within this intent, it is important to allow individual ideas to flourish and enrich the Community, provided that standards are maintained.
- K. Framework. The Guidelines provide an overall framework and comprehensive set of standards to allow the Community to develop and progress in an orderly and cohesive manner. They establish criteria for architectural style and design, landscape concepts, site improvements, colors and materials. They also establish a process for judicious review of proposed new developments and changes within the Community. The Guidelines additionally set forth the means by which they may be changed and amended to better serve the needs of an evolving Community.
- L. Availability. The Guidelines have been adopted by the Committee pursuant to this Declaration. Copies of the Guidelines will be made available to all Owners.
- M. Authority. To the extent that any local government ordinance, building code or regulation requires a more restrictive standard than that found in the Guidelines, the local government standard shall prevail. To the extent that the local ordinance is less restrictive than the Guidelines or this Declaration, the Guidelines and this Declaration shall prevail.
- N. Views. There are no representation or warranty with respect to the presence or absence of any view from any portion of any Unit. Any existing view may change or be blocked or impaired depending upon construction, landscaping or other activities undertaken on remaining land located within the Community or on land located outside the boundaries of the Community. Each Owner, by accepting title to a Unit in the Community, hereby acknowledges that construction, landscaping or other installation of Improvements outside the Community may impair the view from any Unit in the Community, and the Owners hereby consent to such view impairment.
- O. Declarant. ARC approvals may be streamlined or modified to allow Declarant to construct

homes on lots under Declarant's control.

ARTICLE V THE ASSOCIATION

- A. Association. All Owners shall belong to the Association. The Association shall exist for managing, operating, maintaining, repairing and replacing, as necessary, the Common Areas. The Common Areas shall be maintained in good repair and in accordance with the standards established by Washington County.
- B. Membership. The Members of the Association shall be the Owners of the Units. The Owner(s) of each Unit shall have (1) membership in the Association. The number of memberships in the Association shall be equal to the number of units within the Property.
- C. Members' Rights and Duties. As used in this Declaration, the term "Member" shall refer to the Owner of a Unit if there is one Owner, or collectively to all of the Owners of a Unit if there is more than one Owner. Each Member shall have the rights, duties, and obligations set forth in this Declaration, the Articles, Bylaws, and Rules and Regulations, as the same may from time to time be amended.
- D. Transfer of Membership. The Association membership of the Owner(s) of a Unit shall be appurtenant to such Unit, and shall not be assigned, transferred, pledged, hypothecated, conveyed, or alienated in any way except on a transfer of the title to such Unit, and then only to the transferee. Any attempt to make a prohibited transfer shall be void. Any transfer of the title or interest to a unit shall operate automatically to transfer the appurtenant membership rights in the Association to the new owner(s). Prior to any transfer of title to a Unit (including the sale of a Unit under a recorded contract of sale), either the transferring owner or the acquiring owner shall give notice to the Board of such transfer, including the name and address of the acquiring owner and the anticipated date of transfer.
- E. Voting. The Association shall have one class of membership, comprised of all owners. Each Lot shall have one (1) vote. During the Declarant control period there shall be a temporary second class of membership in which Declarant shall be the sole member,

and which class shall allow the Declarant five (5) votes for each unit in which it holds an interest. The temporary second class shall expire upon the expiration of Declarant control period. The following restrictions apply to voting on Association issues, including, but not limited to, the election of Committee members:

- a. When more than one person owns or holds an ownership interest in a Lot, the vote for such Lot shall be exercised as those persons themselves determine and advise the Secretary of the Association prior to any meeting, and in the absence of such advice the vote of the Lot shall be suspended in the event more than one person seeks to exercise it;
- b. The Committee has the right to suspend an Owner's right to vote if such Owner is not current on the payment of such Owner's Assessments or is in material violation of any of the terms, covenants or provisions set forth in this Declaration.

F. Committee. The Association shall be operated and controlled by the Committee, which shall be the Board of Directors of the Association for purposes of the Utah Community Association Act, subject to the following:

- a. Members of the Committee. The Committee shall be comprised of not less than three (3) qualified persons who shall be duly qualified, elected or appointed in the manner set forth below. The Committee may increase its size to not more than six (6) members.
- b. Composition of Committee. The Declarant shall have the exclusive right to appoint all the members of the Committee until the occurrence of the earlier of the following events (either, a Transfer Event), at which time control of the Committee (subject to the perpetual right of the Declarant to appoint one (1) member of the Committee) shall be transferred by the Declarant to the Owners and the Owners shall elect the Committee:
 - i. At such time when a certificate of permanent occupancy has been issued for 70% of the Lots; or
 - ii. When the Declarant elects in writing to transfer management and control of the Association.
 - iii. The initial members of the Committee shall be Rich Hansen, Doug Brady and Clark Colledge. Anything to the contrary contained in this Declaration

notwithstanding, one (1) person designated by the Declarant shall always remain a member of the Committee if the Declarant so desires.

- c. Terms. Committee members shall be elected and/or appointed to serve two (2) year terms.
- d. Qualifications. To qualify to serve on the Committee, a person must be an individual Owner or the legal representative of an organizational Owner in good standing or may be a person other than an Owner if appointed by the Declarant.
- e. Vacancies. Any vacant seat on the Committee shall be filled by the Declarant prior to a Transfer Event. After a Transfer Event, a vacant seat shall be filled by a person that is an Owner duly qualified, elected or appointed to fill such vacancy.
- f. Dismissal. Any member of the Committee who fails on three (3) successive occasions to attend Committee meetings (whether regular or special) or who has failed to attend at least twenty-five percent (25%) of all Committee meetings (whether regular or special) held during any twelve (12) month period shall automatically forfeit such member's seat. In such cases, the remaining Committee members shall elect a replacement to sit on the Committee until the next meeting of the Association.
- g. Removal of Committee Member. Except for members of the Committee appointed by the Declarant prior to the occurrence of a Transfer Event, members of the Committee may be removed at any time by the affirmative vote of at least a majority of the Owners. (As used in this Declaration, a majority of the Owners refers to a majority of the Lots, irrespective of the number of Owners.)
- h. Replacement. Unless a member of the Committee is removed by the affirmative vote of a majority of the Owners, such member shall be replaced by an appointment of the remaining members of the Committee. A member of the Committee removed by the affirmative majority vote of the Owners shall be replaced by the majority vote of the Owners present in person or by proxy at a special meeting called for that purpose. Anything to the contrary notwithstanding, the Declarant shall be entitled to replace all members of the Committee appointed by the Declarant.
- i. Completion of Term. Unless such member forfeits or otherwise loses such member's seat as provided in this Declaration, a member shall serve on the Committee until such member's successor qualifies and is properly elected by the Owners or appointed by the Declarant.

- j. No Compensation. Members of the Committee shall not be compensated for their services but shall be reimbursed for all expenses reasonably incurred relating to Committee business and approved by the Committee.
- G. Officers and Agents of the Association. The Committee is the agent of the Association and shall perform its functions through those Owners or Declarant appointees elected as officers of the Association by the Committee. The Committee may also perform its duties through such agents or employees as the Committee may employ or appoint. Any Association officer, agent or employee may at any time be removed, with or without cause, by the affirmative vote of a majority of the members of the Committee; provided, however, any officer so removed shall continue to be a member-at-large of the Committee. One (1) member may hold more than one (1) office at the same time, except that of President and Secretary. The officers of the Association, and their respective powers and functions, shall be as follows:
- a. President. The President shall be a member of the Committee and the chief executive of the Association and shall exercise general supervision over the property and affairs of the Association. The President shall preside over all meetings of both the Committee and the Association. The President shall execute all instruments on behalf of the Committee, unless the President chooses to delegate that authority to another Committee member.
- b. Vice President. The Vice President shall assist the President and shall have all the powers of the President in the event of the latter's absence or inability to act.
- c. Secretary. The Secretary shall keep minutes of all the meetings of both the Committee and the Association, as well as all other books and records which are required or made necessary.
- d. Treasurer. The Treasurer shall have custody and control of the funds available to the Committee. The Treasurer shall cause to be prepared an annual financial statement for each fiscal year of operation. The financial books and records of the Association shall be kept in accordance with generally accepted accounting practices. The offices of Secretary and Treasurer may be held by the same Committee member.
- H. Committee Meetings. A regular meeting of the Committee shall be held immediately after the adjournment of each annual Owners meeting or at such other time as the members of the Committee may decide. Other regular meetings shall be held at

periodic intervals at such time and place as the Committee may determine, but no less than once each quarter. No notice need be given of regular Committee meetings. Special Committee meetings shall be held whenever called by the President or by any two (2) members of the Committee. Written notice of all special meetings shall be delivered to each member of the Committee at least twenty-four (24) hours before the time fixed for the meeting. The propriety of holding any meeting which is attended by all members of the Committee may not be challenged on grounds of inadequate notice. A quorum for the transaction of business at any Committee meeting shall consist of a majority of all the Committee members then in office.

- I. Status and General Authority of Committee. Any instrument executed by an officer of the Association or by the Committee that recites facts which, if true, would establish the power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies on said instrument. The Association shall constitute a legal entity capable of dealing in its own name. The Committee shall have, and is granted, the following authority and powers:
 - a. To Enter. The power and authority to enter on any Lot to make repairs and to do other work necessary for the proper maintenance and operation of any easement, right-of-way, utility or the Common Areas. Except in the case of an emergency, residents shall be given at least twenty-four (24) hours prior notice before the Committee or its representative shall exercise this power. In the event of an emergency entry without notice, the person entering the property shall leave in a conspicuous place written notice stating such person's name and title as well as the day, date, time and purpose of the entry.
 - b. Grant Easements. The authority, without the vote or consent of any other person, to grant or create, on such terms as the Committee deems advisable, reasonable permits, licenses, and non-exclusive easements over, under, across, and through the Project as reasonably necessary or useful for the proper maintenance, operation or regulation of the easements, rights-of-way, utilities and Common Areas.
 - c. Execute Documents. The authority to execute and record, on behalf of all Owners, any amendment to this Declaration which has been approved by the vote or consent necessary to authorize such amendment.
 - d. Standing. The power to sue and be sued.

- e. Enter into Contracts. The authority to enter into contracts which in any way concern the Association, easements, rights-of-way, utilities or the Common Areas.

 - f. Acceptance and Control of Association Property. May acquire, hold and dispose of tangible and intangible personal and real property, enter into leases, licenses or operating agreements for common areas, permit use of common areas by community organizations and others whether nonprofit or for profit.

 - g. Compliance and Enforcement. Impose sanction for violating the governing documents after notice and hearing. The Committee shall establish a graduated range of penalties for violations. Penalties may include:
 - Reasonable graduated range of monetary fines
 - Suspension of an Owner's right to vote
 - Suspension of any person's right to use any recreational or park facilities within the common elements

 - h. Promulgate Rules. The authority to promulgate such reasonable rules and regulations as may be necessary or desirable to aid the Committee in carrying out any of its functions or to ensure that the easements, rights-of-way, utilities and Common Areas are maintained and used in a manner consistent with their original design and construction.

 - i. Delegation of Authority. The power and authority to delegate its duties, in whole or in part, to a manager or management company.

 - j. All Other Acts. The power and authority to perform all other acts and to enter into any other transactions which may be reasonably necessary for the Committee to perform its functions for and on behalf of the Owners.
- J. Amendments. Anything to the contrary contained in this Declaration notwithstanding, while the Declarant controls the Association and before the occurrence of a Transfer Event, any amendments to this Declaration must be approved in writing and in advance by the Declarant. No amendment may remove, revoke or modify any right or privilege of Declarant without the prior written consent of Declarant.

K. Owner's Meetings. The members of the Association shall meet as follows:

- a. Annual Meeting. The annual meeting of the Owners shall be held at 7:00 p.m. on the third Thursday of October of each year unless otherwise determined by the Committee. Whenever such day is a legal holiday, the meeting shall occur on the first business day thereafter. At least ten (10) but not more than thirty (30) days before the date of the annual meeting, a written notice thereof shall be delivered in person or mailed by regular U.S. Mail, postage prepaid, Text message, Email, Association Web site or other manner reasonably designed to provide delivery to each of the Members of the Association. The notice shall state the day, date, time, place and general purpose of the meeting.
- b. Special Meetings. Special meetings of the Association may be called at any time by the Committee or by Owners who collectively hold at least thirty percent (30%) of the total vote. Such meeting shall be held at such place as the Committee may specify and the notice thereof, which must be sent by the Committee via regular U.S. Mail, postage prepaid, Text message, Email, Association Web site or other manner reasonably designed to provide delivery to each of the Members of the Association, shall state the day, date, time, place and matters to be considered as the meeting. No items other than those expressly set forth in the notice may be addressed at the special meeting.

L. Quorum. The presence of a majority of the Owners entitled to cast a vote shall constitute a quorum for the transaction of business at any Owner's meeting. If a quorum is not present at any Owner's meeting, whether regular or special, the meeting may be adjourned and rescheduled for a time no earlier than forty-eight (48) hours and no later than thirty (30) days after the time set for the original meeting. Those Owners present at the rescheduled meeting shall constitute a quorum. Anything to the contrary notwithstanding, in any instance in which this Declaration requires the affirmative vote of a certain number of Owners for authorization or approval of a matter, the written consent of such number of Owners, is sufficient authorization or approval of the item, regardless of the quorum requirements.

ARTICLE VI ASSESSMENTS

- A. Reinvestment Fee. The Association shall levy a reinvestment fee against a new homeowner and his unit. At the close of escrow for each initial sale of a unit by Declarant to a homeowner, the purchaser shall be required to pay an initial reinvestment fee to the Association which shall be the sum of \$750 per unit or otherwise as established from time to time by the Committee. At the close of escrow for each subsequent sale of a unit by a homeowner or subsequent homeowner other than Declarant, each resale purchaser of a unit shall be required to pay a reinvestment fee to the Association which shall be the sum of \$350 per unit or otherwise as established from time to time by the Committee.
- B. Common Income, Expenses and Voting Rights. The common income of the Association shall be allocated, the Common Expenses shall be charged, and the voting rights shall be allocated to the Owners equally, except as otherwise expressly provided in this Declaration regarding Water Costs. Each Owner, on receipt of a deed or other document of conveyance or transfer to a Lot, agrees to and shall pay such Owner's portion of the Common Expenses or any other Assessment levied against such Owner or such Owner's Lot, including any fines resulting from a violation of this Declaration or any rule or regulation adopted by the Committee.
- C. Declarant. Anything to the contrary notwithstanding, the Declarant shall not be obligated to pay Assessments on any Lots owned by the Declarant.
- D. Purpose of Common Expenses. The Assessments provided for in this Declaration shall be used for the general purpose of operating the Association as well as maintaining, repairing and replacing the easements, rights-of-way and Common Areas.
- E. Budget. At least thirty (30) days prior to the annual meeting of the Owners, the Committee shall prepare and deliver to the Owners a proposed budget which:
- a. shall set forth an itemization of the anticipated Common Expenses for the twelve (12) month calendar year, commencing with the following January 1; and
 - b. shall be based on advance estimates of cash requirements by the Committee to provide for the payment of all estimated expenses growing out of or connected with the operation, maintenance, repair and replacement of the easements, rights-of-way and Common Areas, as well as the management of the Association.

- F. Procedure for Establishing Annual Assessments. Not less than ninety (90) days before the beginning of each fiscal year of the Association, the Committee shall meet for the purpose of preparing the Proposed budget of the Common Expenses for the next succeeding fiscal year and establishing the Annual Assessment for such fiscal year. Within thirty (30) days after adoption of the proposed Budget by the Committee for such fiscal year, the Committee shall provide a summary of the Budget to all Owners. The Committee shall be authorized to adopt the annual budget, thus establishing the regular assessment payable by the Owners, unless the percentage increase in the regular assessment over the previous year's regular assessment exceeds an increase of fifteen percent (15%) over the previous year's assessment. If the proposed budget would require an increase in the regular assessment greater than fifteen percent (15%) over the prior year's assessment, at that meeting the budget must be affirmatively approved by at least a simple majority (50%+) of the owners voting. They may be present to vote, vote by mail, or vote via verifiable electronic means. If the proposed Budget is so rejected or not approved, as applicable, the Budget last ratified by the Owners shall be continued until such time as the Owners ratify a subsequent Budget proposed by the Committee.
- G. Method of Payment of Assessments. The Committee has the sole authority and discretion to determine how and when any Assessment is to be paid.
- H. Personal Obligation of Owner. Each Owner is personally liable to pay any Assessment levied by the Committee against such Owner or such Owner's Lot; provided, however, no mortgagee or beneficiary under a first position mortgage or deed of trust that obtains title to a Lot pursuant to the remedies provided in the mortgage or trust deed shall be liable for unpaid Assessments which accrued prior to the acquisition of title.
- I. Equitable Changes. If the aggregate of all monthly payments on all the Lots is too large or too small because of unanticipated income or expenses, the Committee may from time to time effect an equitable change in the amount of said payments. Owners shall be given at least thirty (30) days' prior written notice of any increase in the amount of the Assessment.
- J. Reserve Account. The Committee shall establish and maintain a reserve account to pay for unexpected operating expenses and capital improvements.
- K. Statement of Common Area Assessments Due. On written request, the Committee shall furnish to any Owner a statement of Assessments due, if any, on such Owners Lot.
- L. Superiority of Common Area Assessments. All Assessments and liens created to secure the obligation to pay an Owner's share of the Common Expenses are

superior to any homestead exemptions to which an Owner may be entitled, which exemptions an Owner, by accepting a deed or other document of conveyance or transfer to a Lot, expressly subordinates or waives.

- M. Suspension of right to Vote for Non-Payment. At the discretion of the Committee, the right of an Owner to vote on issues concerning the Association may be suspended if the Owner is delinquent in the payment of such Owner's Assessments and has failed within ten (10) days after delivery of written notice of the default to cure or make satisfactory arrangements to cure the default. Owner's right to use any recreational or park facilities may also be suspended if owner's account is delinquent.
- N. Special Assessments. The Committee, with the affirmative consent or approval of at least a majority of the Owners, may levy a special Assessment to pay for unanticipated expenses, a budget shortfall or any capital improvement.
- O. Fines and Individual Assessments. The Committee may fine Owners and residents for the failure to comply with this Declaration or any rules and regulations adopted from time to time. In addition, individual assessments may be levied by the Committee against a Lot or its Owner to compensate or reimburse the Association for:
- a. costs incurred in enforcing or construing this Declaration;
 - b. costs associated with the maintenance, repair or replacement of any portion of the easements, rights-of-way and Common Areas damaged by an Owner or resident;
 - c. any other charge, fee or expense designed by the Committee as an individual assessment; and
 - d. attorney's fees, late fees, default interest and collection costs;
 - e. provided, however, that no fine or individual assessment shall be final until after the Owner or resident shall have received written notice thereof and a reasonable opportunity to be heard. After notice and hearing, the decision of the Committee shall be binding, final and conclusive.

P. Collections. Assessments, fines and other monetary charges shall be collected as follows:

a. The amount of Common Expenses assessed against each Lot is a debt of the Owner at the time the Assessment is made and is collectible as such. A lawsuit or cause of action brought to recover a money judgment for unpaid Common Expenses is maintainable without foreclosing or waiving the lien securing it. If any Owner fails or refuses to make any payment of the Common Expenses when due, that amount constitutes a lien on the interest of the Owner in the Lot, and on the recording of notice of lien, constitutes a lien on the Owner's interest in the Lot first in priority to all other liens and encumbrances, recorded or unrecorded, except:

- i. tax and special assessment liens on the Lot in favor of any assessing unit or special improvement district; and
- ii. encumbrances on the interest of the Owner recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

Q. Late Fees and Accruing Interest. A late fee in the amount of Twenty-Five Dollars (\$25) or five percent (5%) of the delinquent amount, whichever is greater, shall be assessed on payments received more than ten (10) days after their due date. Simple interest at the rate of one and one-half percent (1.5%) per month shall accrue on all delinquent accounts. The Committee may, in its sole discretion and under circumstances that the Committee deems fair and just, elect to waive late fees and accruing interest but the Committee is not required to do so.

R. Foreclosure of Lien and/or Personal Judgment. The Committee may elect to institute a lawsuit, foreclose a lien or both to collect past due obligations.

S. No Waiver. No Owner may waive or otherwise exempt such Owner from liability for such Owner's portion of the Common Expenses or the payment of any Assessment, fine or other monetary charge provided for in this Declaration by the abandonment of such Owner's Lot.

T. Duty to Pay Independent. No reduction or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Committee to take

some action or perform some function required to be taken or performed by the Association or Committee under this Declaration, or for inconvenience or discomfort arising from the operation, maintenance, repair or replacement of the easements, rights-of-way or the Common Areas, or from any action taken to comply with any law, ordinance or order or directive of any municipal or other governmental authority, since the obligation to pay Common Expenses and Assessments is a separate and independent covenant on the part of each Owner.

- U. Foreclosure of Lien as Mortgage. The lien for nonpayment of Assessments may be enforced by sale or foreclosure of the Owner's Lot. The sale or foreclosure shall be conducted in the same manner as foreclosures of mortgages or in any other manner permitted by law. In any foreclosure or sale, the Owner shall pay the costs and expenses of such proceedings, including, but not limited to, the cost of recording the notice of lien, certified mailing or personal service, foreclosure report and reasonable attorney's fees. In the foreclosure action, the Association may require the appointment of a receiver to collect the rental without regard to the value of the mortgage security. The Association may bid for the Lot at foreclosure or other sale and hold, lease, mortgage or convey the same.
- V. Attorney-in-Fact. Each Owner by accepting a deed or other document of conveyance or transfer to a Lot irrevocably appoints the Association as such Owner's attorney-in-fact to collect rent from any person renting such Owner's Dwelling, if the Dwelling is rented and such Owner is delinquent in the payment of such Owner's portion of the Common Expenses or any Assessment or fine. Rent due shall be paid directly to the Association, on written demand, until the Owner is current on such Owner's obligations to the Association. Such Owner shall credit such Owner's renter, against rent due, an amount equal to the amount of money paid by the renter to the Association.

ARTICLE VII

INSURANCE

The Committee shall purchase and maintain appropriate property, liability and directors' and officers' insurance coverage as well as a fidelity bond covering those persons handling and responsible for monies of the Association.

- A. Casualty Insurance. The Association shall obtain a policy of insurance equal to full replacement value (i.e., 100% of current "replacement cost" exclusive of land, foundation, excavation, and other items normally excluded form

coverage) on all insurable Improvements upon the Common Areas and any other Improvements under the control of the Association (including all building service equipment and the like and any fixtures or equipment within such Improvements) and all other personal property commonly owned by the Association. Such insurance shall include fire and extended coverage, vandalism and malicious mischief, and such other risks and hazards against which the Association shall deem it appropriate to provide insurance protection. The Association shall comply with the above requirements by the purchase of a policy containing such coverage with "deductible" provisions as in the Association's opinion are consistent with good business practice, provided that in no event shall such deductible be in an amount greater than the lesser of \$10,000.00 or one percent (1%) of the face amount of such policy.

- B. Liability Insurance. The Association shall purchase broad form comprehensive liability coverage in such amounts and in such forms as it deems advisable to provide adequate protection. Such coverage shall be in an amount generally required by private institutional mortgage investors for Communities similar in construction, location, and use, and in no event shall be less than \$1,000,000.00 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles of behalf of the Association and activities in connection with the ownership, operation, maintenance, and other use of the Community. The liability insurance shall name as separately protected the Association, the Board, and their representatives, members, and employees, with respect to any liability arising out of the maintenance or use of any Association property. Every policy of insurance obtained by the Association shall contain an express waiver, if available, of any and all rights of subrogation against, the Board, and their representatives, members, and employees.
- C. Directors and Officers Insurance. The Association shall additionally purchase Directors and Officers liability insurance to protect the Trustees from liable in the execution of their duties. Said policy shall be at least \$ 1,000,000.00 per occurrence.
- D. Workers Compensation and Employer's Liability Insurance. The Association shall purchase workers compensation and employer's liability insurance and all other similar insurance in respect of employees of the Association in the amounts and in the forms now or hereafter required by law.
- E. Fidelity Insurance. The Association shall purchase insurance covering officers and employees of the Association and employees of any manager or managing agent, whether or not any such persons are compensated for their services, against dishonest acts on their part, or in lieu thereof, a fidelity bond, naming the Association obligee, written in an amount equal to at least the estimated

maximum of funds, including reserves in the custody of the Association or the management agent at any given time during the term of the fidelity bond. However, the bond shall not be less than a sum equal to three (3) months aggregate assessments of all Units, plus reserve funds.

- F. Other Insurance. The Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to the Community, including any personal property of the Association located thereon. Notwithstanding any other provisions herein, the Association shall continuously maintain in effect such casualty, flood, and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for PUD projects established by FNMC and/or FHLMC, as applicable, so long as either or both of them are a mortgagee or Owner of a Unit except to the extent such coverage is not available or has been waived in writing by FNMA or FHLMC, as the case may be.
- G. Premiums and Reviews. Except as provided above, premiums for all of the foregoing insurance carried by the Association shall be a common expense and shall be included in the assessments or charges made by the Association.
- H. Forms. Casualty insurance shall be carried in a form or forms naming the Association the insured, as trustee for the Owners, which policy or policies shall specify the interest of each Owner (Owner's Name and Unit number), and which policy or policies shall provide a standard loss payable clause providing for payment of insurance proceeds to the Association as trustee for the Owners and for the respective first mortgagees which from time to time shall give notice to the Association of such first mortgages; and such proceeds shall be used in accordance with the provisions of this Declaration.
- I. Cancellation. Each policy shall also provide that it cannot be canceled by either the insured or the insurance company until after thirty (30) days written notice is first given to the Association and to each first mortgagee. All policies of insurance shall provide for a waiver or subrogation by the insurer as to claims against the Association, the Board, employees, and agents, and against each Owner and each Owner's employees, agents, and guests, and shall provide that the insurance cannot be canceled, invalidated, or suspended on account of the conduct of the Association, the Board, employees, and agents or of any Owner or such Owner's employees, agents, or guests, and shall provide that any "no other insurance" clause in the insurance policy shall exclude any policies of insurance maintained by any Owner or mortgagee and that the insurance policy shall not be brought into contribution with insurance maintained by any Owner or mortgagee. Upon request, the Association shall furnish to each Owner who requests it a true copy of such policy together with a certificate identifying the interest of the Owner.

- J. Owner's Insurance Responsibilities. Insurance in the form of at least a standard homeowner's policy including hazard, casualty and public liability coverage shall be the responsibility and expense of each Owner of a Residence.
- K. Association Right to Perform Work. In the event of damage done to any Unit as a direct result of another Owner, and said damage is not repaired by that Owner, the Association shall have the right to perform the work and assess the Owner causing the damage.

ARTICLE VIII MORTGAGEE PROVISIONS

- A. Notices of Action. An institutional holder, insurer or guarantor of a first Mortgage which provides a written request to the Association will be entitled to timely written notice of:
 - a. any condemnation loss or casualty loss which affects a material portion of the Properties or which affects any Unit on which there is a first Mortgage held, insured or guaranteed by such eligible holder.
 - b. Eligible holder shall also be entitled to notice of any delinquency in the payment of assessments or charges owed by a unit subject to the mortgage holder where such delinquency has continued for a period of ninety (90) days.
 - c. Any lapse, cancellation or material modification of any insurance policy maintained by the Association
 - d. Any proposed action which would require the consent of a specified percentage of Eligible holders.
- B. Failure of Mortgagee to Respond. Any mortgagee who receives a written request from the Association to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the mortgagee within 30 days of the date of the request.
- C. HUD/VA Approval. During the Declarant control period, the following actions shall require the prior approval of the US Department of Housing and Urban Development or the US Department of Veterans Affairs if either such agency is insuring or guaranteeing the mortgage on any unit: merger, consolidation or dissolution of the Association, annexation of additional property, dedication, conveyance or mortgaging by the Association of common elements; or material amendment of this Declaration; provided however, that such prior approval shall not be a condition precedent if at such time HUD

or VA has ceased to regularly require or issue such prior approval. The granting of easements for utilities or other similar purposes consistent with the intended use of the common areas shall not be deemed a conveyance within the meaning of this section.

ARTICLE IX

MISC. PROVISIONS, DISCLOSURES, DISCLAIMERS AND RELEASES

- A. Covenants to Run with the Land. This Declaration shall apply to all the Project. The Developer shall have the right to expand the application of this Declaration to other property by written amendment to this Declaration duly recorded. This Declaration and all the provisions hereof shall constitute covenants running with the land and equitable servitudes, and shall be binding on and shall inure to the benefit of the Association, all other signatories hereto, all parties who hereafter acquire any interest in a Lot or the Project and their respective grantees, transferees, heirs, devisees, personal representatives, successors and assigns. Each 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, regulations, agreements, instruments, supplements, amendments and determinations contemplated by this Declaration. By acquiring any interest in a Lot, the party acquiring such interest consents to, and agrees to be bound by, each provision of this Declaration.

- B. Enforcement and Right to Recover Attorney's Fees. If the Association, the Committee or an aggrieved Owner takes any action to enforce or construe this Declaration or any rules and regulations adopted from time to time, or to pursue any remedy provided in this Declaration or by applicable law, including a claim for injunctive relief or damages, whether such remedy is pursued by filing suit or otherwise, the non-defaulting party shall be entitled to recover such party's reasonable attorney's fees, costs and expenses which may arise or accrue.

- C. Limitation of Liability. The protective covenants, conditions and restrictions set forth in this Declaration, together with any rules and regulations adopted by the Committee, are established for the benefit of the Project and the Owners. Any damage, loss, claim or liability which might arise due to any decision, act or failure to act of the Declarant or the

Committee or any of its members shall be exempt from any civil claim or action, including negligence, brought by any person owning or having an interest in any Lot. The Committee and its members shall be indemnified, saved and held harmless from any such action or failure to act, and exempt from any civil claim or action which may result from any act or failure to act (whether intended or implied) while functioning as a member of the Committee, or for decisions that they may render during their service, unless said party is guilty of gross negligence.

- D. Amendments. This Declaration may be amended on the affirmative written approval of at least a majority of the Owners of the Lots and shall be valid immediately on recording of the document amending this Declaration in the Official Records; provided, however, that so long as the Declarant owns at least fifteen (15) lots in the Project, no amendment shall be valid or enforceable without the Declarant's prior written consent; and provided, however, that so long as the Declarant owns at least fifteen (15) Lots in the Project, this Declaration may be amended unilaterally by the Declarant.
- E. Duration. This Declaration shall survive for a term of fifty (50) years from the date this Declaration is recorded, after which time this Declaration shall automatically be extended for successive periods of ten (10) years.
- F. Interpretation. The captions which precede the paragraphs of this Declaration are for convenience purposes only and shall in no way affect the manner in which any provision is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part and any gender shall include both other genders or the neuter. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder of this Declaration.
- G. Construction Disclosures and Releases. By acquiring title to a Unit, or by possession of a unit, each owner shall conclusively be deemed to understand and to have acknowledged and agreed to all of the following and to release and hold harmless Declarant, Committee, Agents of the Declarant or Committee, any Builder from any and all claims, causes of action, loss, damage, bodily injury related to or arising in connection with any disturbance, inconvenience, injury or damage resulting from or pertaining to all and/or any one or more the conditions, activities, occurrences or other matters described in the following:
- a. That construction or installation of improvements by Declarant, builders, other owners or third parties or installation or growth of trees and other plants may impair or eliminate the view, if any, of or from any unit and/or common areas and that each Owner hereby releases Declarant from any and all claims arising from said impairment or elimination of view; and

- b. That residential home construction is an industry inherently subject to variations and imperfections and items which do not materially affect safety or structural integrity shall be deemed "expected minor flaws" (including but not limited to: reasonable wear, tear or deterioration; shrinkage, swelling, expansion or settlement; squeaking, peeling, chipping, cracking, or fading; touch up painting, minor flaws or corrective work and like items) and not constructional defects; and
- c. That the finished construction of the unit and common elements, while within the standards of the industry in Washington County will be subject to minor flaws. Issuance of a Certificate of Occupancy by the City of Hurricane shall be deemed conclusive evidence that the relevant improvements have been built within industry standards; and
- d. That indoor air quality of the unit and/or common elements may be affected in a manner and to a degree found in new construction within industry standards by particulates or volatiles emanating or evaporating from new carpeting or other building materials, fresh paint or other sealants or finishes; and
- e. That the unit or common areas may experience the presence of scorpions, bees, ants, spiders, termites, roaches, rodents, snakes or other insect or pest problems and that Declarant hereby specifically disclaims any and all representation or warranties with regard to any such pest and each Owner must make its own independent determination regarding the existence of any pest; and
- f. The properties are located adjacent or nearby to certain undeveloped areas which may contain various species of wild creatures including but not limited to coyotes and foxes which may from time to time stray onto the properties and which may otherwise pose a nuisance or hazard; and
- g. The properties may be located adjacent to or within the vicinity of certain other property zoned to permit the owners of such other property to keep and maintain horses or other "farm" animals which may give rise to matters such as resultant noise, odors, insects and other "nuisances"; and
- h. That residential subdivisions and new home construction are subject to and accompanied by substantial levels of noise, dust, construction related traffic and other construction-related "nuisances". Owner acknowledges it is purchasing a unit which is within a residential subdivision currently being developed and that the owner will experience and accepts substantial levels of construction related "nuisances" until the subdivision has been completed and sold out:

i. Each owner understands, acknowledges and agrees that Declarant has reserved certain rights in the Declaration which may limit certain rights of owners other than Declarant.

H. Business of Declarant. Except to the extent provided herein or as required by applicable law, during the Declarant control period, no provision of this Declaration shall be applicable to limit or prohibit any act of Declarant or its agents or representatives in connection with or incidental to Declarant's improvement and/or development of the Property.

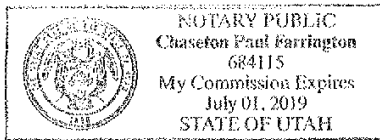
THE DECLARANT has executed this Declaration on the 26th day of NOVEMBER 2018.

WCES, LLC
a Utah limited liability company

By: [Signature]
Douglas Brady
Manager

State of Utah)
: ss.
County of Salt Lake)

The foregoing instrument was acknowledged before me this 26 day of Nov, 2018
by Douglas Brady, the Manager of WCES, LLC
_____.



(Seal)

[Signature]
Notary Public

My Commission Expires: July 01, 2019 Residing at SLC

EXHIBIT A
ZION VISTA LEGAL DESCRIPTION

COMMENCING AT THE NORTHWEST CORNER OF SECTION 4, TOWNSHIP 42 SOUTH, RANGE 13 WEST, SALT LAKE BASE AND MERIDIAN; THENCE S.89°43'42"E. ALONG THE SECTION LINE, A DISTANCE OF 97.38 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING S.89°43'42"E. ALONG THE SECTION LINE, A DISTANCE OF 1,591.20 FEET; THENCE S.00°01'00"W., A DISTANCE OF 208.71 FEET; THENCE S.89°43'42"E., A DISTANCE OF 208.71 FEET; THENCE N.00°01'00"E., A DISTANCE OF 208.71 FEET; THENCE S.89°43'42"E., A DISTANCE OF 65.98 FEET; THENCE S.00°00'05"E., A DISTANCE OF 405.02 FEET; THENCE N.89°59'55"E., A DISTANCE OF 7.24 FEET TO THE POINT OF CURVATURE OF A NON TANGENT CURVE TO THE RIGHT, OF WHICH THE RADIUS POINT LIES N.80°55'41"W., A RADIAL DISTANCE OF 540.00 FEET; THENCE SOUTHWESTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 39°49'00", A DISTANCE OF 375.26 FEET (CHORD BEARS S.28°58'49"W. 367.76 FEET); THENCE S.48°53'19"W., A DISTANCE OF 203.43 FEET TO THE POINT OF CURVATURE OF A NON-TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES S.40°59'43"E., A RADIAL DISTANCE OF 372.58 FEET; THENCE SOUTHWESTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 42°12'38", A DISTANCE OF 274.49 FEET (CHORD BEARS S.27°53'58"W. 268.32 FEET); THENCE N.75°40'55"W., A DISTANCE OF 181.51 FEET TO THE POINT OF CURVATURE OF A NON-TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES S.29°00'46"W., A RADIAL DISTANCE OF 150.00 FEET; THENCE NORTHWESTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 07°25'04", A DISTANCE OF 19.42 FEET (CHORD BEARS N.64°41'46"W. 19.41 FEET) TO A POINT OF CURVATURE OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 459.00 FEET AND A CENTRAL ANGLE OF 19°11'50"; THENCE NORTHWESTERLY ALONG THE ARC, A DISTANCE OF 153.79 FEET (CHORD BEARS N.58°48'23"W. 153.07 FEET); THENCE N.49°12'28"W., A DISTANCE OF 194.74 FEET TO A POINT OF CURVATURE OF A CURVE TO THE RIGHT HAVING A RADIUS OF 790.00 FEET AND A CENTRAL ANGLE OF 05°06'07"; THENCE NORTHWESTERLY ALONG THE ARC A DISTANCE OF 70.35 FEET (CHORD BEARS N.46°39'24"W. 70.32 FEET); THENCE N.44°06'21"W., A DISTANCE OF 827.29 FEET TO A POINT OF CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS OF 379.00 FEET AND A CENTRAL ANGLE OF 42°58'40"; THENCE NORTHWESTERLY ALONG THE ARC A DISTANCE OF 284.29 FEET (CHORD BEARS N.65°35'41"W. 277.67 FEET) TO A POINT OF CURVATURE OF A REVERSE CURVE TO THE RIGHT HAVING A RADIUS OF 459.00 FEET AND A CENTRAL ANGLE OF 32°00'35"; THENCE WESTERLY ALONG THE ARC, A DISTANCE OF 256.43 FEET (CHORD BEARS N71°04'43"W 253.11 FEET) TO A POINT OF CURVATURE OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 379.00 FEET AND A CENTRAL ANGLE OF 22°49'20"; THENCE NORTHWESTERLY ALONG THE ARC, A DISTANCE OF 150.96 FEET (CHORD BEARS N.66°29'06"W. 149.97 FEET); THENCE N77°53'46"W, A DISTANCE OF 33.38 FEET; THENCE N.00°01'07"E., A DISTANCE OF 81.81 FEET; THENCE S77°53'46"E, A DISTANCE OF 50.51 FEET TO A POINT OF CURVATURE OF A CURVE TO THE RIGHT HAVING A RADIUS OF 459.00 FEET AND A CENTRAL ANGLE OF 22°49'20"; THENCE SOUTHEASTERLY ALONG THE ARC A DISTANCE OF 182.83 FEET (CHORD BEARS S66°29'06"E 181.62 FEET) TO A POINT OF CURVATURE OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 379.00 FEET AND A CENTRAL ANGLE OF 21°30'59"; THENCE SOUTHEASTERLY ALONG THE ARC, A DISTANCE OF 142.33 FEET (CHORD BEARS S.65°49'56"E. 141.49 FEET) TO THE POINT OF BEGINNING.

CONTAINING 26.94 AC. OR 1,173,672 SQ. FT.