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Cherokee Springs RV Park Owners Association, Inc.

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After recording mail to:
Jenkins Bagley, PLLC
Attn: Bruce C. Jenkins
285 W. Tabernacle, Ste. 301
St. George, UT 84770

**THIRD AMENDED AND RESTATED DECLARATION
OF
PROTECTIVE COVENANTS, CONDITIONS, AND RESTRICTIONS
OF
CHEROKEE SPRINGS SENIOR ADULT RV PARK**

Prepared by:



Attn: Bruce C. Jenkins
285 W. Tabernacle, Ste. 301
St. George, UT 84770

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THIS THIRD AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, AND RESTRICTIONS OF CHEROKEE SPRINGS SENIOR ADULT RV PARK is made this 13 day of February, 2020 by the Cherokee Springs RV Park Owners Association, Inc., a Utah Nonprofit Corporation. This Third Amended and Restated Declaration of Cherokee Springs supersedes and replaces entirely the Second Amended and Restated Declaration of Protective Covenants, Conditions and Restrictions of Cherokee Springs Senior Adult RV Park, which document was recorded the 11th day of February, 2010.

In accordance with Article IX, Section 1 this Declaration was approved by an instrument(s) signed by the then Owners of two-thirds (2/3) of the Lots within the Cherokee Springs RV Park Owners Association, Inc. ("Association"). At Exhibit "B" is the form of Ballots signed by the Members of the Association and all of the Ballots comprise the signed instrument amending this Declaration. The originals of the Ballots, or true and correct copies thereof, may be obtained from the Association or its manager. Currently the manager for the Association is FCS Property Management.

The Community Association Act, Utah Code §57-8a-101, et. seq. (the "Act"), as amended from time to time, shall supplement this Declaration. If an amendment to this Declaration adopts a specific section of the Act, such amendment shall grant a right, power, and privilege permitted by such section of the Act, together with all correlative obligations, liabilities and restrictions of that section. The remedies in the Act and this Declaration -- provided by law or in equity -- are cumulative and not mutually exclusive.

ARTICLE I Definitions

The definitions in this Declaration are supplemented by the definitions in the Act. In the event of any conflict, the more specific and restrictive definition shall apply.

Section 1. Definitions. The following words when used in the Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

(a) "Association" shall mean and refer to CHEROKEE SPRINGS ADULT RV PARK OWNERS ASSOCIATION, INC., and/or the CHEROKEE SPRINGS RV PARK OWNERS ASSOCIATION, INC., its successors and assigns. Cherokee Springs Senior Adult RV Park is a RV Park intended and operated for occupancy by persons fifty-five (55) years of age or older per Lot. The Board shall provide for a mandate review and approval process for all Lot occupancy to ensure that no less than eighty (80%) percent of all occupied Lots are so occupied. This provision is in compliance with the Fair Housing Amendments Act, with respect to housing for older persons, Public Law 104-76 effective December 28, 1995.

(b) "Properties" shall mean and refer to the real property, including any Living Unit located upon any Lot, which is, and shall be, held, transferred, sold, conveyed, and occupied subject to this Declaration, located in Washington City, Washington County, State of Utah, and is more particularly described in Exhibit "A" attached hereto.

(c) "Lot" shall mean and refer to any plot of land or unit containing not less than one thousand and six hundred (1,600) square feet with utility hookups for water, sewer, electricity, which is intended for the location of a Recreational Vehicle, Park Model, and/or Living Unit and

recorded on any subdivision map of the Properties with the exception of Common Properties hereafter defined.

(d) "Common Properties" shall mean and refer to those nonexclusive areas of land shown on any recorded subdivision plat of the Properties and intended to be devoted to the common use and enjoyment of the Association, except portions designated as Living Units.

(e) "Living Unit" shall mean and refer to Recreational Vehicles, Park Models, and/or any portion of a building situated upon the Properties designed and intended for the use and occupancy of a manager or residence by a single family of not more than two (2) persons.

(f) "Owner" shall mean and refer to the record owner, whether one (1) or more persons or entities of the fee simple title and the equitable owner, whether one (1) or more persons or entities by virtue of a purchase contract to any Lot or Living Unit situated upon the Properties but, notwithstanding any applicable theory of the mortgage, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure in which event the mortgagee shall be considered an Owner only so long as the mortgagee continues its right to possession.

(g) "Member" shall mean and refer to all those Owners who are Members of the Association as provided in Article III, Section 1, hereof.

(h) "Cherokee Springs R.V. Park" shall be defined as Owner-occupied Lots. Present multiple Lot Owners will be exempt until such time as said Lots shall be sold, at which time Lot sales must comply with the single Lot ownership definition. Rental of single Lots is permissible under the definition of Lot in Article I, Section 1(c).

(i) "Recreational Vehicle" or "RV" shall mean and refer to a vehicular unit, other than a mobile home, primarily designed as a temporary dwelling for travel, recreational and vacation use, which is either self-propelled or is mounted on or pulled by another vehicle, including, but not limited to: a travel trailer, a camping trailer, a truck camper, a motor home, or a fifth wheel trailer.

(j) "Park Model" shall mean and refer to a manufactured home situated upon the Properties designed and intended for the use and occupancy of a manager or residence by a single family.

(k) "Board of Directors" or "Board" shall mean and refer to the governing board of the Cherokee Springs RV Park Owners Association, Inc.

ARTICLE II

Reserved

ARTICLE III

Membership and Voting Rights in the Association

Section 1. **Membership.** Every person or entity who is an Owner as defined in Article I, Section 1(f) of any Lot which is subject by covenants of record to assessment by the Association shall be a Member of the Association provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a Member.

Section 2. **Voting Rights.** Members shall be entitled to one (1) vote for each Lot in which they hold the interests required for membership by Section 1. When more than one (1)

person holds such interest or interests in any Lot all such persons shall be Members, and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect of any such Lot. In the event such persons fail to agree then their vote shall be cast on a pro rata basis among the respective interests.

ARTICLE IV

Property Rights in the Common Properties

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 2, every Member shall have a right and easement of enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall pass with the title to every Lot.

Section 2. Extent of Members' Easements. The rights of easements of enjoyment created hereby shall be subject to the following:

(a) the right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Properties and in aid thereof to mortgage said Common Properties;

(b) the right of the Association to take such steps as are reasonably necessary to protect the above-described Properties against foreclosure;

(c) the right of the Association, as provided in this Declaration, the Articles, and/or the Bylaws to suspend the enjoyment rights of any Member for any period not to exceed thirty (30) days for an infraction of its published rules and regulations;

(d) the right of the Association to charge reasonable admission and other fees for the use of Common Properties; and

(e) the rights of the Association to dedicate or transfer all or any part of the Common Properties to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer determination as to purpose or as to the conditions thereof shall be effective unless an instrument signed by Members entitled to cast two-thirds (2/3) of the votes of membership has been recorded, agreeing to such dedication, transfer, purpose or condition, and unless written notice of the proposed agreement and action thereunder is sent to every Member at least thirty (30) days in advance of any action taken.

Section 3. Delegation of Use. Any Owner may delegate, with the Board's approval, in accordance with the Bylaws, his right of enjoyment to the Common Properties or facilities to those actually residing on the property whether they be members of his family, his tenants, or contract purchasers.

ARTICLE V

Covenants for Maintenance Assessments

Section 1. Creation of the Lien and Personal Obligation of Assessment. An Owner of any Lot by acceptance of a Real Estate Purchase Agreement of a deed therefore whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant, and

agree to pay to the Association (1) regular assessments or charges; (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided; (3) reinvestment fee assessments; and (4) any other amount or assessment levied or charged by the Association or Board pursuant to this Declaration. Said assessments, together with such interest thereon, the costs of collection, and reasonable attorney fees, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which such assessment is made. Each such assessment, together with such interest thereon, cost of collection, and reasonable attorney fees, as hereinafter provided, shall also be the personal obligation of the person or persons who were the Owners of such Lot at the time when the assessment fell due. The Association may elect from time to time any remedy with regards to the defaults by Owners without regard to any rule of law concerning the election of remedies.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purposes set forth in this Article, including for the purposes of promoting the recreation, health, safety, aesthetics, and welfare of the residents in the Properties and in particular for the improvement, operation, and maintenance of the Properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Properties, perimeter subdivision fences, garbage collection, the payment of water fees for the Properties as they become due, and at the option of the Association, of the additions thereto, and for the cost of labor, equipment, materials, utilities, property taxes, insurance, management, and supervision thereof.

Section 3. Regular Assessments. The regular monthly assessments shall be one hundred percent (100%) of the actual estimated monthly costs of maintenance and operation of the Common Properties and other facilities and the estimated monthly water fees for the Properties and may include the management fee together with the amount necessary to pay into a reserve account for any increases or unexpected expenditures. The Board may, after consideration of the current maintenance costs and future needs of the Association, provide for accumulation of reserves to meet projected needs.

Section 4. Special Assessments for Capital Improvements. In addition to the regular assessments authorized by Section 3 hereof, the Association may levy special assessments for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of described capital improvements, including the necessary fixtures and personal property related thereto, provided that any shall be by the assent of two-thirds (2/3) of the votes of Members who are voting in person, by proxy, or by ballot at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least ten (10) days in advance and shall set forth the purpose of the meeting.

Section 5. Assessment period. The assessment period for regular assessments shall be fixed at a monthly rate and may be adjusted by the Board in accordance with Section 3 to reflect the current estimated costs of maintenance and operations. All assessments must be fixed at a uniform rate for all Lots.

Section 6. Date of Commencement of Regular Assessment, Due Dates. The regular assessments provided for herein shall commence on the date (which shall be the first day of a month) fixed by the Board to be the date of commencement. The regular assessment shall become due and payable on the first day of each month beginning on the month of the commencement date or such other date as fixed by the Board.

Section 7. Duties of the Board. The Board shall fix the date of commencement and the amount of the assessment against each Lot for each assessment period, and shall, at that time, prepare a roster of the Lots and assessments applicable thereto and keep books of account showing receipts and disbursements which shall be kept in the office of the Association and shall be open to inspection by the Owner at reasonable times. Written notice of assessment shall thereupon be sent to every Owner subject thereto.

Section 8. Effect of Non-payment of Assessment; Personal Obligation of the Owner; Lien; Remedies of Association. If the assessments are not paid on the date when due (being the date specified in Section 6 hereof), then such assessment shall become delinquent and shall, together with such interest, costs of collection, late fees, and attorney's fees as hereinafter provided, become a continuing lien on the property which shall bind such property in the hands of the then existing Owner, his heirs, personal representatives, and assigns. The personal obligation of the then existing Owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not fall to his successors in title unless expressly assumed by them, in which case such obligation shall be joint and several.

If the assessment is not paid within thirty (30) days after the due date, then: (1) the assessment shall bear interest from the due date of such assessment at the rate of eighteen percent (18%) per annum, and (2) a late charge of five percent (5%) of the monthly assessment amount shall be added to the amount due. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. In any action at law or the filing of a lien and/or foreclosure of the lien against the property there shall be added to the amount of such assessment the costs of such action(s) and reasonable attorney's fees.

The Association and each Lot Owner hereby conveys and warrants pursuant to Sections 212 and 302 of the Act, and Utah Code §57-1-20, to attorney Bruce C. Jenkins, or any other attorney that the Association engages to act on its behalf to substitute for Bruce C. Jenkins, with power of sale, the Lot and all improvements to the Lot for the purpose of securing payment of assessments under the terms of the Declaration. The Association shall have the right to collect assessments through a lawsuit, judicial foreclosure, non-judicial foreclosure or other means as provided in Sections 301 through 311 of the Act. Such remedies shall be cumulative and not exclusive.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessment provided for herein shall be subordinate to the lien of any mortgage of mortgages now or hereafter placed upon the Lot subject to assessment.

Section 10. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments, charges and lien created herein: (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and

devoted to public use, (b) all Common Properties as defined in Article I, Section 1(b) hereof. Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges, or liens.

Section 11. Delinquent Owners. As used in this section, "Delinquent Owner" means a Lot Owner who fails to pay an assessment when due. Delinquent Owners shall be denied any voting rights in the Association.

- (a) The Board may terminate a Delinquent Owner's right:
 - (i) to receive a utility service for which the Owner pays as a common expense; or
 - (ii) of access to and use of recreational facilities.
- (b) (i) Before terminating a utility service or right of access to and use of recreational facilities under Subsection (a)(i) the Manager or Board shall give the Delinquent Owner notice. Such notice shall state:
 - (A) that the Association will terminate the Owner's utility service or right of access to and use of recreational facilities, or both, if the Association does not receive payment of the assessment within fourteen (14) calendar days;
 - (B) the amount of the assessment due, including any interest or late payment fee; and
 - (C) the Owner's right to request a hearing under Subsection (c).
- (ii) A notice under Subsection (b)(i) may include the estimated cost to reinstate a utility service if service is terminated.
- (c) (i) The Delinquent Owner may submit a written request to the Board for an informal hearing to dispute the assessment.
- (ii) A request under Subsection (c)(i) shall be submitted within fourteen (14) days after the date the Delinquent Owner receives the notice under Subsection (b)(i).
- (d) The Board shall conduct an informal hearing requested under Subsection (c)(i) in accordance with the hearing procedures of the Association.
- (e) If the Delinquent Owner requests a hearing, the Association may not terminate a utility service or right of access to and use of recreational facilities until after the Board:
 - (i) conducts the hearing; and
 - (ii) enters a final decision.
- (f) If the Association terminates a utility service or a right of access to and use of recreational facilities, the Association shall take immediate action to reinstate the service or right following the Owner's payment of the assessment, including any interest and late payment fee.
- (g) The Association may:
 - (i) levy an assessment against the Delinquent Owner for the cost associated with reinstating a utility service that the Association terminates as provided in this section; and
 - (ii) demand that the estimated cost to reinstate the utility service be paid before the service is reinstated, if the estimated cost is included in a notice under Subsection (b)(i).

Section 12. Tenant Payment of Assessments.

(a) The Board may require a tenant under a lease with a Lot Owner to pay the Association all future lease payments due to the Lot Owner if the Lot Owner fails to pay an assessment for a period of more than sixty (60) days after the assessment is due and payable, beginning with the next monthly or periodic payment due from the tenant and until the Association is paid the amount owing. Before requiring a tenant to pay lease payments to the Association, the Association's manager or Board shall give the Lot Owner notice, which notice shall state: (i) the amount of the assessment due, including any interest, late fee, collection cost, and attorney fees; (ii) that any costs of collection, including attorney fees, and other assessments that become due may be added to the total amount due and be paid through the collection of lease payments; and (iii) that the Association intends to demand payment of future lease payments from the Lot Owner's tenant if the Lot Owner does not pay the amount owing within fifteen (15) days.

(b) If a Lot Owner fails to pay the amount owing within fifteen (15) days after the Association's manager or Board gives the Lot Owner notice, the Association's manager or Board may exercise the Association's rights by delivering a written notice to the tenant. The notice to the tenant shall state that: (i) due to the Lot Owner's failure to pay an assessment within the required time, the Board has notified the Lot Owner of the Board's intent to collect all lease payments until the amount owing is paid; (ii) the law requires the tenant to make all future lease payments, beginning with the next monthly or other periodic payment, to the Association, until the amount owing is paid; and (iii) the tenant's payment of lease payments to the Association does not constitute a default under the terms of the lease with the Lot Owner. The manager or Board shall mail a copy of this notice to the Lot Owner.

(c) A tenant to whom notice is given shall pay to the Association all future lease payments as they become due and owing to the Lot Owner: (i) beginning with the next monthly or other periodic payment after the notice is delivered to the tenant; and (ii) until the Association notifies the tenant under Subsection (a) that the amount owing is paid. A Lot Owner shall credit each payment that the tenant makes to the Association under this Section against any obligation that the tenant owes to the Owner as though the tenant made the payment to the Owner, and may not initiate a suit or other action against a tenant for failure to make a lease payment that the tenant pays to an Association as required under this Section.

(d) Within five (5) business days after the amount owing is paid, the Association's manager or Board shall notify the tenant in writing that the tenant is no longer required to pay future lease payments to the Association. The manager or Board shall mail a copy of this notification to the Lot Owner. The Association shall deposit money paid to the Association under this section in a separate account and disburse that money to the Association until the amount owing is paid; and any cost of administration, not to exceed Twenty-Five Dollars (\$25.00), is paid. The Association shall, within five (5) business days after the amount owing is paid, pay to the Lot Owner any remaining balance.

Section 13. Reinvestment Fee Assessment. In addition to all other assessments and upon the conveyance of a Lot there shall be one (1) Reinvestment Fee charged to the buyer or seller, as the buyer and seller may determine, comprised of one (1) or more of the following charges:

- (a) An assessment determined pursuant to resolution of the Board and charged for:
- (i) common planning, facilities, and infrastructure;
 - (ii) obligations arising from an environmental covenant;
 - (iii) community programming;
 - (iv) recreational facilities and amenities;
 - (v) the following Association expenses:
 - (A) the administration of the Association;
 - (B) the purchase, ownership, leasing, construction, operation, use, administration, maintenance, improvement, repair, or replacement of Association facilities, including expenses for taxes, insurance, operating reserves, capital reserves, and emergency funds;
 - (C) providing, establishing, creating, or managing a facility, activity, service, or program for the benefit of Lot Owners, tenants, Common Properties, the burdened property, or property governed by the Association; or
 - (D) other facilities, activities, services, or programs that are required or permitted under the Association's organizational documents; and
- (b) Expenses reasonably charged to the Association by the Association's manager for the administration of the conveyance.
- (c) No reinvestment assessment shall exceed one-half percent (0.5%) of the fair market value of the Lot, plus all improvements. When the seller is a financial institution, the reinvestment assessment shall be limited to the costs directly related to the transfer, not to exceed Two Hundred and Fifty Dollars (\$250.00). The Association may assign the charges in Section 13(b) directly to the Association's manager.
- (d) A reinvestment fee covenant recorded on or after March 16, 2010, may not be enforced upon: (i) an involuntary transfer; (ii) a transfer that results from a court order; (iii) a bona fide transfer to a family member of the seller within three degrees of consanguinity who, before the transfer, provides adequate proof of consanguinity; or (iv) a transfer or change of interest due to death, whether provided in a will, trust, or decree of distribution;

ARTICLE VI Easements

Section 1. **Easement for Repair and Maintenance.** All Lots within the Properties shall be subject to an easement in favor of the Association or the City of Washington to permit reasonable egress and ingress over areas not occupied by residential pads for all reasonable maintenance purposes as provided herein.

ARTICLE VII Prohibition and Controls

Section 1. **Architectural Controls.** No building, storage shed, fence, wall, accessory, canopies, or other structure shall be erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration or improvements herein be made. Provided, however, that the Association may design and publish to the Members such plans and specifications of

storage sheds, walls, fences, and other structures, or improvements which would benefit the Members and the Properties as a whole, which the Members at their expense may purchase or construct on their property in the manner to be prescribed by the Association. No Owner, guest, or any other person shall be permitted to occupy, reside in, or dwell in any shed(s), casita(s), structure(s), or improvement(s), except those specifically outlined and contemplated in this Declaration.

The Association may charge a plan fee that is equivalent to the cost of reviewing and approving the plans. As used in this section, "plans" mean any plans for the construction or improvement of a Lot which are required to be approved by the Association before the construction or improvement may occur.

Section 2. Landscaping Control. No leveling, planting, landscaping, or gardening shall be commenced until a plan thereof has been approved by the Association or the Architectural Committee.

Section 3. Reserved.

Section 4. Use of Lots. Only one Park Model or Recreational Vehicle is allowed on each Lot. Utility trailers, boats, boats on trailers, non-street legal motorcycles, commercial vehicles, water-craft, and ATV's are not to be stored or parked on individual Lots or guest parking area.

(a) "Recreational Vehicle" or "RV" means a vehicular unit primarily designed as a temporary dwelling for travel, recreational and vacation use, which is either self-propelled or is mounted on or pulled by another vehicle, including, but not limited to: a travel trailer, a camping trailer, a truck camper, a motor home, or a fifth wheel trailer.

(b) "Camper" or "Truck Camper" means any structure designed, used, and maintained primarily to be mounted on or affixed to a motor vehicle that contains a floor and is designed to provide a mobile dwelling, sleeping place, or facilities for human habitation or for camping. A camper or truck camper is a recreational vehicle.

No Lot or Lots shall be re-subdivided except for the purpose of combining two (2) or more Lots into one (1). Maintenance fees will still be required on each Lot that was incorporated.

No animals, fowl, or reptiles shall be kept on the premises except household dogs, cats, or pets owned by the Owner of the Lot on which they are kept. No animal shall be allowed OFF THE LOT OF THE OWNER EXCEPT ON A LEASH: and no dog, cat, bird, or pet shall be kept on any Lot by anyone if, in the discretion of the Board, that pet is or becomes a nuisance, threat, or otherwise is objectionable to surrounding Lot Owners. All owners of pets shall be responsible for the clean up of said pet's waste.

Elevated stands of any kind can be erected, or placed on any Lot with approval of the Architectural Committee.

No noxious, offensive, or illegal activity shall be carried on upon any Lot. No Lot shall be used in whole or in part for the storage of rubbish, trash, used or new building materials, used or new metal, trucks, automobiles, or machines in whole or in parts. No personal property, substance, thing, or material shall be kept on any Lot or any part thereof that will omit foul or noxious odors,

or that will cause any noise that might disturb the peace and quiet of the surrounding Lot Owners, or will cause the Lot or any part thereof to appear in an unclean or untidy condition.

Section 5. Maintenance of Lots. It shall be the responsibility of the Owner to keep the Lot neat and clean, and the Lot landscaped in types of landscaping deemed reasonable and compatible so as not to destroy or impair the aesthetic qualities of the Properties.

The Board, or its authorized representative, after giving not less than twenty-four (24) hours advance notice posted to the Lot, may access a Lot, including the Living Unit, from time to time during reasonable hours, as necessary for maintenance, repair, or replacement of any of the Common Properties. If repair to a Lot, Living Unit or Common Properties -- that if not made in a timely manner -- will likely result in immediate and substantial damage to a Common Properties or another Lot or Living Unit, then the Board may enter the Lot or the Living Unit to make the emergency repair upon such notice as is reasonable under the circumstances.

Section 6. Miscellaneous Prohibitions.

(a) **Repairing Cars.** No major repairing or overhauling of cars, trucks, or other vehicles is permitted on the streets, driveways, or parking lots of the Properties.

(b) **Additional Prohibitions.** Such other actions deemed from time to time by the Board to constitute a nuisance.

Section 7. Professional Management. The Association shall have the right to contract for services or transfer to any corporation, person or partnership, all rights and obligations hereunder, but upon such transfer and the assumption of such obligations by the transferee, the enforcement of covenants and obligations under this Declaration shall remain the sole responsibility of the Association.

Section 8. Rules. The Board may adopt, amend, cancel, limit, create exceptions to, expand or enforce rules and design criteria of the Association that are not inconsistent with the Declaration or the Act. Except in the case of imminent risk of harm to Common Properties, Limited Common Properties, an Owner, a Lot or a Living Unit, the Board shall give at least fifteen (15) days advance notice of the date and time the Board will meet to consider adopting, amending, canceling, limiting, creating exceptions to, expanding or changing the procedures for enforcing rules and design criteria. The Board may provide in the notice a copy of the particulars of the rule or design criteria under consideration. A rule or design criteria adopted by the Board is only disapproved if Member action to disapprove the rule or design criteria is taken in accordance with the limitations under Section 217 of the Act.

Section 9. Display of the Flag. The Association may not prohibit an Owner from displaying the United States flag inside a Living Unit or on the Owner's Lot or Limited Common Property appurtenant to the Owner's Lot if the display complies with United States Code, Title 4, Chapter 1. The Association may, by rule of the Board, restrict the display of a United States flag on the Common Properties.

Section 10. Lease Restrictions. Notwithstanding anything to the contrary contained in this Declaration, the Leasing of any Living Unit and/or Lot (hereinafter "Living Unit" and "Lot" are collectively referred to as a "Lot") within the Properties shall be governed by this Article VII, Section 10.

(a) **PURPOSE AND PROHIBITION.** IN ORDER TO INCREASE THE FUTURE AVAILABILITY OF FINANCING FOR THE PURCHASE/SALE OF LOTS WITHIN THE PROPERTIES, TO PROMOTE THE AVAILABILITY OF INSURANCE FOR THE ASSOCIATION AND ITS MEMBERS AT REASONABLE RATES, TO ATTEMPT TO MAXIMIZE THE PROPERTY VALUES WITHIN THE PROPERTIES, AND/OR TO PROMOTE A SENSE OF COMMUNITY BY AND THROUGH OWNER-OCCUPANTS, FROM AND AFTER THE RECORDED DATE, **NO MORE THAN TWELVE (12) LOTS WITHIN THE PROPERTIES SHALL BE LEASED, EXCEPT AS SPECIFICALLY PROVIDED HEREIN, AND EACH LEASE SHALL BE FOR A PERIOD OF AT LEAST SIX (6) MONTHS.**

(b) **APPLICATION TO CONTINUE LEASING.** Within forty-five (45) calendar days of the Recorded Date, each Owner who is Leasing a Lot on the Recorded Date and who desires to continue to Lease the Lot, must complete and execute the form attached hereto as Exhibit C (the "Notice of Intent to Continue Leasing"). An Owner who fails to timely deliver the Notice of Intent to Continue Leasing to the Board shall lose the right to continue Leasing the Owner's Lot and the Owner's right to Lease the Lot in the future shall revert back to the last position on the list of Applicant Owners desiring to Lease the Owners Lot as part of the twelve (12) Lots available for Lease.

(c) **FUTURE RIGHT TO LEASE.** Any Owner who is currently leasing and who timely returns to the Board a complete and accurate Notice of Intent to Continue Leasing, shall have the right to continue to Lease such Lot, even if more than twelve (12) Lots are being Leased, until the earlier to occur of the following:

- (i) The Lot becomes Owner-Occupied (as defined below);
- (ii) The Lot is transferred; or,
- (iii) The Owner is in violation of this Section 10, including without limitation the failure to advise the Board of the execution of a Lease and to provide a copy thereof to the Board.
- (iv) For purposes hereof, a Lot shall be deemed "Owner-Occupied" if:
 - (A) Except as provided for in (k)(ii)(B) below, the Owner or any member of the Owner's immediate or extended family occupies the Lot for a period of seven (7) days or more in any ten (10) consecutive day period; or,
 - (B) An officer, owner, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the Lot, occupies the Lot;
- (v) For purposes of this Subsection (c), a transfer occurs when one (1) or more of the following occur:
 - (A) the conveyance, sale, or other transfer of a Lot by deed;
 - (B) the granting of a life estate in the Lot; or
 - (C) if the Lot is owned by a limited liability company, corporation, partnership, or other business entity, the sale or transfer of more than seventy-five percent (75%)

of the business entity's share, stock, membership interests, or partnership interests in a twelve (12) -month period.

(d) **EXTENSION OF RIGHT TO LEASE DURING VACANCY.** An Owner in compliance with this Declaration may continue to Lease the Owner's Lot even if the lessees change or the Lot remains unoccupied in between Lease terms, provided the Lot does not become Owner-Occupied at any time after the Recorded Date. An Owner must comply with all the provisions of this Section 10 to be able to Lease the Owner's Lot.

(e) **HEIRS RIGHT TO LEASE.** A Lot which is being Leased by an Owner at the time of the Owner's death and is passed to the heirs of such Owner by intestacy or testamentary instrument, may continue to be Leased until the heirs sell the Lot or it becomes Owner-Occupied. Subject to Subsection (f) below, the purchaser shall not have the right to Lease the Lot.

(f) **SALE OF LEASED LOT.** Notwithstanding anything to the contrary herein, if an Owner sells the Owner's Lot at a time when a Lease is in effect with respect to that Lot, the Lease shall continue to its termination. However, the purchaser of the Lot shall not have the right to Lease the Lot after such purchaser takes title to the Lot, except for the remainder of the term of the Lease in place at the time of transfer and thereafter only as specifically provided for in Subsection (j) below.

(g) **TERMS OF LEASE.** Any agreement for the leasing or rental of a Lot (both above and hereafter referred to as a "Lease") shall be in writing and shall provide that the terms of such Lease shall be subject in all respects to the provisions in this Declaration, the Articles, the Bylaws, the Rules & Regulations, and any other governing documents of the Association (collectively the "Governing Documents"). Any failure by the lessee to comply with the terms of the Governing Documents shall be a default under the Lease. Owners with the right to Lease their Lots shall be responsible for assuring compliance by such Owner's lessee(s) with the Governing Documents and the Lease. Failure of an Owner to cure the lessee's default within fifteen (15) calendar days after receiving written notice from the Board of such default, shall entitle the Association, through the Board, upon order of a court of competent jurisdiction to take any and all such action, including the institution of proceedings in unlawful detainer and/or eviction, on behalf of such Owner against the Owner's lessee.

(h) **NOTIFICATION OF LEASE.** Immediately upon entering into a Lease, an Owner shall furnish the Board with (i) a copy of such Lease (with the lease amount redacted, if desired by the lessee or Owner), (ii) the telephone number of the lessee, (iii) the email address of the lessee (if available), and (iv) any change in the address or telephone number of the Lot Owner. As soon as practicable after receiving such notification that an Owner has entered into a Lease, the Owners shall, and the Board may, cause copies of the Governing Documents to be delivered to such lessee. (The Governing Documents shall be binding on the lessee whether or not the Owner or the Board delivers the Governing Documents to the lessee.) In the event of a default under this Subsection (h), the Board may, after affording the Owner an opportunity to be heard, levy a fine against such Owner in an amount determined by the Board, but in no event less than One Hundred Dollars (\$100.00). The Owner shall have fifteen (15) calendar days after receiving written notice of default from the Board to either pay the fine or request a hearing before the Board. If the fine is not timely paid or a hearing requested or the Board finds the Owner in violation after a hearing, the Board shall be entitled to exercise all of its rights hereunder and under the law, including without limitation to (i) levy continuing fines against the Owner for each day the violation continues, each day being considered a separate violation, (ii) add such fines, costs and attorney's fees incurred in

connection therewith to the monthly assessment against the Owner's Lot, and (iii) deem the Owner in violation and terminate all further rights of the Owner to Lease the Lot.

(i) **NO TRANSIENT LODGING.** No Lot shall be used for fractional use, hotel or transient purposes or as a short-term rental. A Lease for a period of less than six (6) months shall be deemed to be for transient purposes or deemed a short-term rental. No Owner or lessee shall Lease less than the entire Lot. Any Lease of a Lot shall be in writing and shall include an acknowledgment by the lessee of the applicability of all the Governing Documents. Copies of all Leases shall be provided to the Board for its records, as set forth above.

(j) **APPLICATION TO LEASE LOT IN THE FUTURE.** Those Owners not leasing their Lot on the Recorded Date, and who have occupied the Lot and residence for one (1) or more consecutive years, may file an Application to Lease with the Board in the form attached hereto as Exhibit D. **NO OWNER SHALL QUALIFY TO FILE AN APPLICATION TO LEASE UNTIL THREE (3) YEARS AFTER THE DATE THE DEED FOR THAT OWNER'S LOT WAS RECORDED IN THE RECORDS OF THE WASHINGTON COUNTY RECORDER.** Applications shall be prioritized in the following order:

- (i) First to apply, first in right, subject to subsection (ii) and (iii) below;
- (ii) If within forty-five (45) days of the Recorded Date more Applications to Lease are filed with the Board than Lots are available to be Leased, the Board shall sort the applications according to length of ownership of a Lot in the Properties, longest terms of ownership having priority; and
- (iii) An Owner who fails to timely deliver the Notice of Intent to Continue Leasing to the Board under subsection (ii) above, shall revert back to the last position on the list of Applicant Owners desiring to Lease the Owners Lot as part of the twelve (12) Lots available for Lease.

(k) **HARDSHIP.** If, at any time after the Recorded Date, an Owner believes that a hardship is being endured (the "Hardship") pursuant to which such Owner needs to Lease the Owner's Lot and the Owner is not then Leasing the Lot under the terms of this Section 10, the Owner may apply to the Board for a Hardship exemption from the leasing restrictions contained in this Section 10. If an Owner decides to apply for a Hardship exemption, such Owner must take the following steps:

- (i) **Application.** The Owner must submit a request in writing to the Board requesting a Hardship exemption setting forth in detail the reasons why such Owner should be entitled to same.
- (ii) **Approved Exemptions.** The following four (4) Hardship exemptions shall be deemed expressly approved for up to a maximum of one (1) year, with the opportunity to obtain not more than two (2) one (1) -year extensions upon application to and approval from the Board, provided the Owner provides proof of engagement in one (1) or more of the following for each application or extension:
 - (A) a Lot Owner in the military for the period of the Lot Owner's deployment;
 - (B) a Lot occupied by a Lot Owner's parent, child, or sibling;
 - (C) a Lot Owner whose employer has relocated the Lot Owner for no less than two (2) years;
 - (D) a Lot owned by an entity that is occupied by an individual who:
 - (1) has voting rights under the entity's organizing documents; and

- (2) has a twenty-five percent (25%) or greater share of ownership, control, and right to profits and losses of the entity; and
- (E) a Lot owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for:
- (1) the estate of a current resident of the Lot; or
 - (2) the parent, child, or sibling of the current resident of the Lot;
- (iii) **Conditional Exemptions.** In addition to the foregoing exemptions set forth in Subsection (ii) above, if based on the information supplied to the Board by the Owner, the Board finds, in its sole discretion, that a reasonable Hardship exists, the Board may grant a waiver of Lease restrictions up to a maximum of one (1) year.
- (iv) **Conditional Hardship Factors.** The types of Hardships that the Board may consider under Subsection (iii) above, shall include, but not be limited to, Hardships for a death in the family, transfers for jobs, or one (1) or more significant medical treatments for an Owner or an immediate family member of the Owner (such as a spouse or child) or for a person who resided with the Owner in the Owner's Living Unit, that requires the Owner to be away from the Owner's Living Unit during the medical treatment. The Board, in its sole discretion, may determine if a Hardship exemption shall be granted.
- (v) **Application for Extension of Exemptions.** In the event an Owner has been granted a Hardship exemption, such Owner must reapply within thirty (30) days of the expiration of such Hardship exemption, if such Owner wishes to request an extension thereof. The Board, in its sole discretion, may decide if an extension for such Hardship exemption shall be granted. However, in no event shall the Hardship be extended beyond a period of two (2) years.
- (vi) **Limit of Exemptions.** In no event shall more than two (2) Hardship exemptions, not including extensions, be given to an Owner.
- (vii) **Leasing During Exemption.** Any Lease entered into under this Subsection (k) shall be in writing and for a period of not less than one (1) year. The Lease will be subject to and must comply with all other requirements of this Declaration.
- (l) **ASSOCIATION RIGHT TO LEASE.** The Board shall have the right to Lease any Association owned Lots or any Lot which the Association has possession of, pursuant to any court order or foreclosure (judicial or non-judicial) and said Lots shall not be subject to this Section 10.
- (m) **COMPLIANCE WITH GOVERNING DOCUMENTS AND DEFAULT.** Any Owner who shall Lease his Lot shall be responsible for assuring compliance by such Owner's lessee(s) with the Governing Documents. Failure by an Owner to take legal action, including the institution of proceedings in Unlawful Detainer and/or Eviction against the lessee in violation of the Governing Documents within fifteen (15) calendar days after receipt of written demand from the Board to take action against the lessee(s) in violation, shall entitle the Association, through the Board, to take any and all action available in law or equity, including without limitation the institution of proceedings in Unlawful Detainer/Eviction, on behalf of such Owner against his lessee. Additionally, if any Owner Leases his Lot in violation of this Section 10, then after providing the Owner with the appropriate notice and hearing as required by law, the Owner fails to institute proceedings in Unlawful Detainer/Eviction against the lessee to have the lessee(s) removed from the Owner's Lot, then the Association may, but shall not have an obligation to, institute proceedings in Unlawful Detainer/Eviction on behalf of the Owner against the lessee to

have the lessee evicted from the property. Any expenses incurred by the Association in enforcing this Section 10, including attorney's fees and costs of suit, shall be repaid to the Association by such Owner. Failure of such Owner to make such repayment within fifteen (15) days after receipt of written demand thereof, shall entitle the Board (i) to levy and add to the assessment against such Owner and his Lot, all expenses incurred by the Association and to foreclose the assessment lien according to Utah law, including non-judicial foreclosure; or (ii) to file suit to collect the amounts due and owing, or both.

(n) **POWER OF ATTORNEY.** In the event an Owner fails to enforce the terms of that Owner's Lease and the covenants and conditions of this Section 10, such Owner hereby appoints the Association as its limited attorney in fact for the purposes of filing and prosecuting any proceeding in Unlawful Detainer/Eviction that the Association elects to commence pursuant to the terms of this Section.

(o) **NOTICE.** Notices required hereunder shall be deemed given three (3) days after placing the same in the U.S. First Class Mail, postage pre-paid, to the last address of the Owner known to the Association. An Owner shall be obligated to notify the Association in writing of the Owners correct address and any change in address.

(p) **LIMITS ON RENTAL INFORMATION.** Except as provided in Subsection (p)(iv), the Association may not require a Lot Owner who owns a rental Lot to:

- (i) obtain the Association's approval of a prospective renter;
- (ii) give the Association:
 - (A) a copy of a rental application;
 - (B) a copy of a renter's or prospective renter's credit information or credit report;
 - (C) a copy of a renter's or prospective renter's background check; or
 - (D) documentation to verify the renter's age; or
- (iii) pay an additional assessment, fine, or fee because the Lot is a rental Lot.
- (iv) A Lot Owner who owns a rental Lot shall give an Association the documents described in Subsection (p) if the Lot Owner is required to provide the documents by court order or as part of discovery under the Utah Rules of Civil Procedure.
- (v) To the extent this Declaration lawfully prohibits or restricts occupancy of the Lots by a certain class of individuals, the Association may require a Lot Owner who owns a rental Lot to give the Association the information described in Subsection (p), if:
 - (A) the information helps the Association determine whether the renter's occupancy of the Lot complies with this Declaration; and
 - (B) the Association uses the information to determine whether the renter's occupancy of the Lot complies with this Declaration.

Section 11. Business or Commercial Activity. Subject to the following exceptions, no part of the Properties shall ever be used or caused to be used or allowed or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storage, short-term rentals, vending or other such nonresidential purposes without the prior written approval of the Board. Upon written consent from the Board, which consent may contain reasonable restrictions, occupations without external evidence thereof -- including without

limitation, traffic generation which are merely incidental to the use of the Living Unit as a residential home – are permitted for so long as such occupations are conducted in conformance with all applicable governmental ordinances shall be permitted.

ARTICLE VIII Insurance

Section 1. Insurance Requirements. The Association shall secure and at all times maintain the following insurance coverage:

(a) Fire and Casualty. The Association shall obtain and maintain a policy or policies of fire and casualty insurance with an extended coverage endorsement for the full insurable replacement value of the improvements in the Common Properties. The amount of coverage shall be determined by the Board, but at no time shall the amount be less than the full replacement value of the improvements that are a part of the Common Properties. This insurance shall be maintained for the benefit of the Association, the Owners, and their mortgagees, as their interests may appear as named insured, subject, however, to any loss payment requirements set forth in this Declaration. The name of the insured under each such policy shall be in form and substance similar to: "Cherokee Springs Adult RV Park Owners Association for the use and benefit of the individual Lot Owners and Mortgagees, as their interests may appear." All Owners shall obtain and maintain adequate insurance to cover the cost of their respective Lot and all improvements and contents thereon.

(b) Liability. A comprehensive policy or policies insuring the Owners, the Association, and its directors, officers, agents, and employees against any liability incident to the ownership, use or operation of the Common Properties which may arise among themselves, to the public, and to any invitees or tenants of the Property or of the Owners. Limits of liability under such insurance shall not be less than One Million Dollars (\$1,000,000.00) for all claims for personal injury and/or property damage arising out of a single occurrence, such coverage to include protection against water damage, liability for non-owned or hired automobile, liability for property of others, and such other risks as shall customarily be covered with respect to projects similar in construction, location, and use. Such policies shall be issued on a comprehensive liability basis, shall provide a cross-liability endorsement pursuant to which the rights of the named insureds as between themselves are not prejudiced, and shall contain "a severability of interest" clause or endorsement to preclude the insurer from denying the claim of an Owner in the Properties because of negligent acts of the Association or other Owners.

(c) Fidelity Insurance. A fidelity policy insuring against dishonest acts on the part of manager (and employees or volunteers) responsible for handling funds belonging to or administered by the Association. The fidelity bond or insurance shall name the Association as the obligee or insured and shall be written in an amount sufficient to afford the protection reasonably necessary, but in no event less than one hundred percent (100%) of the Property's estimated annual operating expenses, including reserves. Such fidelity bond or insurance shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

Section 2. Additional Insurance Provisions. The following additional provisions shall apply with respect to insurance:

(a) In addition to the insurance described above, the Association shall secure and at all times maintain insurance against such risks as are or hereafter may be customarily insured against in connection with developments similar to the Property in construction, nature, and use.

(b) All policies shall be written by a company holding a rating of Class IV or better from Best's Insurance Reports or other similar standard yielding this minimum quality of insurer. Each insurer must be specifically licensed in the State of Utah.

(c) The Association shall have the authority to adjust losses.

(d) Insurance secured and maintained by the Association shall not be brought into contribution with insurance held by the individual Owners or their mortgagees.

(e) Each policy of insurance obtained by the Association shall, if reasonably possible, provide: A waiver of the insurer's subrogation rights with respect to the Association, the Owners, and their respective directors, officers, agents, employees, invitees, and tenants; that it cannot be cancelled, suspended, or invalidated due to the conduct of any particular Owner or Owners; that it cannot be cancelled, suspended, or invalidated due to the conduct of the Association or of any director, officer, agent or employee of the Association without a prior written demand that the defect be cured; that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Owners.

Section 3. Review of Insurance Policy. The Board shall periodically, and whenever requested by twenty percent (20%) or more of the Owners, review the adequacy of the Association's insurance program and shall provide in writing the conclusions and action taken on such review to the Owners of each Lot and to the holder of any mortgage on any Lot who shall have requested a copy of such report. Copies of every policy of insurance procured by the Board shall be available for inspection by the Owners.

Section 4. Lots Not Insured by Association. The Association shall have no duty or responsibility to procure or maintain any fire, liability, extended coverage, or other insurance covering any Lot or any Living Unit, Park Model, Recreational Vehicle, and/or acts and events thereon.

Section 5. Situation When Owner's Insurance is Primary. In the event that any loss to the Common Properties, a Lot, or Living Unit is attributable to the negligence or intentional misconduct of an Owner, its guests, tenants or invitees, then the "at fault" Owner's insurance policy shall be considered primary and claimed against prior to claiming and utilizing any of the Association's insurance described herein. If claiming or utilizing any of the Association's insurance occurs for an event of loss described in this Section 5, the Owner responsible for the loss shall be responsible for paying the deductible for such claim.

ARTICLE IX General Provisions

Section 1. Duration. The covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs,

successors, and assigns. This Declaration may be amended in whole or in part by an instrument signed by the then Owners of two-thirds (2/3) of the Lots.

Section 2. Notices. Notwithstanding any other provision in this Declaration, Articles, Bylaws or rules and regulations, the Association may provide notice to Owners by electronic means, including text message, email, or the Association's Website, except that an Owner may, by written demand, require the Association provide notice to that Owner by mail. Any notice required to be given will be deemed received and effective upon the earlier to occur of the following:

(a) when sent by facsimile, the notice is deemed effective when the sender receives a facsimile acknowledgment confirming delivery of the facsimile;

(b) when placed into the care and custody of the United States Postal Service, first-class mail, and addressed to the most recent address of the recipient according to the records of the Association, the notice is deemed effective at the earliest of the following: (i) when received; (ii) six (6) days after it is mailed; or (iii) on the date shown on the return receipt if sent by registered or certified mail, sent return receipt requested, and the receipt is signed by or on behalf of the addressee;

(c) when sent via electronic means such as an e-mail, text message or similar electronic communication, the notice is deemed effective within twenty-four (24) hours of being sent and a rejection or undeliverable notice is not received by the sender;

(d) when posted on the Association's website, the notice is deemed effective seventy-two (72) hours after it was posted;

(e) when hand delivered, the notice is deemed effective immediately upon delivery; or

(f) when delivered by other means, the notice is deemed effective upon such circumstances and conditions as are reasonably calculated to give notice to the Owner.

Section 3. Enforcement. Enforcement of these covenants and restrictions shall be by proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants. In the event the Association or Owner recovers judgment against any person for a violation or threatened violation of any of the covenants herein, the Association or Owner shall also be entitled to recover from such person reasonable attorney's fees. The failure of the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 4. Severability. Invalidation of any one (1) of these covenants or restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

Section 5. Action of the Association. Except as limited in this Declaration or the Bylaws, the Board acts in all instances on behalf of the Association.

Section 6. Rules Against Perpetuities. The rule against perpetuities and the rule against unreasonable restraints on alienation of real estate may not defeat or otherwise void a provision of this Declaration, the Articles, Bylaws, Plat, Rules or other governing document of the Association.

If for any reason this Declaration does not comply with the Act, such noncompliance does not render a Lot or Common Properties unmarketable or otherwise affect the title if the failure is insubstantial.

Section 7. Fines. The Association, through its Board, shall have the power to levy fines for violations of the Association's governing documents and fines may only be levied for violations of the governing documents. In addition to the levy of fines, the Board may also elect to pursue other enforcement remedies and/or damages permitted under the governing documents. Furthermore, pursuant to Utah Code § 57-8a-218(2)(b), a tenant shall be jointly and severally liable to the Association with the Owner leasing to such tenant for any violation of the governing documents by the tenant. The Board shall adopt a rule for the procedure to enforce the governing documents and levy fines, including a schedule of fines.

Section 8. Reserve Fund. The Board shall cause a reserve analysis to be conducted no less frequently than every six (6) years and shall review and, if necessary, update a previously prepared reserve analysis every three (3) years. The Board may conduct the reserve analysis by itself or may engage a reliable person or organization to conduct the reserve analysis. The Board shall annually provide Owners a summary of the most recent reserve analysis or update and provide a complete copy of the reserve analysis or update to an Owner upon request. In formulating the budget each year, the Board shall include a reserve line item in an amount required by the governing documents, or, if the governing documents do not provide for an amount, the Board shall include an amount it determines, based on the reserve analysis, to be prudent. Unless a majority of the Association Members vote to approve the use of reserve fund money for that purpose, the Board may not use money in a reserve fund: (i) for daily maintenance expenses; or (ii) for any purpose other than the purpose for which the reserve fund was established. A Board shall maintain a reserve fund separate from other Association funds.

Section 9. Budget. At least annually the Board shall prepare and adopt a budget for the Association and the Board shall present the budget at a meeting of the Members. A budget presented by the Board is only disapproved if Member action to disapprove the budget is taken in accordance with the limitations under Section 215 of the Act.

Section 10. Eminent Domain. If part of the Common Property is taken by eminent domain: (a) the entity taking part of the Common Property shall pay to the Association the portion of the compensation awarded for the taking that is attributable to the Common Property; and (b) the Association shall equally divide any portion of the award attributable to the taking of a Limited Common Property among the Owners of the Lots to which the Limited Common Property was allocated at the time of the taking.

Section 11. Non-Liability for Tort. The Association shall not be liable, in any civil action brought by or on behalf of a Member, for bodily injury occurring to a Member, or a Member's guests, invitees, licensees or trespassers, on the Association's Common Properties or Limited Common Properties. This immunity from liability shall not be effective if the Association causes bodily injury to the Member on the Common Properties or Limited Common Properties by its willful, wanton, or grossly negligent act of commission or omission.

Section 12. Age Restriction. The Association is intended to, and shall be managed to, provide housing for persons fifty-five (55) years of age or older, and shall only be occupied by persons fifty-five (55) years of age or older. "Occupied" or "occupancy" shall mean residing at or staying overnight at the Properties or upon any Lot or in any Living Unit as determined in the sole discretion of the Board. The Association shall prohibit occupancy by persons under age eighteen (18) and by persons ages eighteen (18) through fifty-four (54) years, as well as all others falling within the defined term of Familial Status under Federal law, except that persons under age eighteen (18), and persons ages eighteen (18) through fifty-four (54) years, may reside in any Lot, but not for more than two (2) weeks consecutively nor more than thirty (30) days in any calendar year. Further, except as provided in the Policies, Procedures and Rules concerning housing for persons fifty-five (55) years of age or older, adopted by the Board, every Lot within the Properties, if occupied, shall be occupied by persons fifty-five (55) years of age or older (qualifying occupant).

Section 13. Policies, Procedures, and Rules. The Association shall have the right and authority under the Housing for Older Persons Act of 1995 to publish Policies, Procedures and Rules governing the Properties as Housing for Older Persons, fifty-five (55) years of age or older. The Board of Trustees can modify, amend, add to or supersede the Policies, Procedures, and Rules in any manner to conform with such policies and procedures for Housing for Older Persons promulgated from time to time by the Secretary of the Department of Housing and Urban Development.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the President and Secretary of the Association have executed this instrument on the 13 day of February, 2020.

CHEROKEE SPRINGS RV PARK OWNERS ASSOCIATION, Inc., a Utah corporation

CHEROKEE SPRINGS RV PARK OWNERS ASSOCIATION, Inc., a Utah corporation

By: Liz Bostick
Its: President

By: Barbara Bergman
Its: Secretary

State of Utah)

:ss.

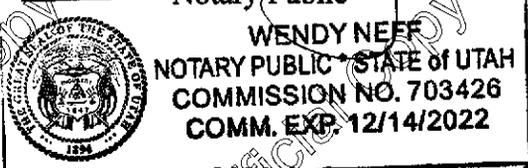
County of Washington)

On this 13 day of February, 2020, before me personally appeared Liz Bostick, whose identity is personally known to or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that he/she is the President of the Cherokee Springs RV Park Owners Association, Inc., a Utah corporation, and that the foregoing document was signed by him/her on behalf of the Association by authority of its Bylaws, Declaration, or resolution of the Board, and he/she acknowledged before me that he/she executed the document on behalf of the Association and for its stated purpose.

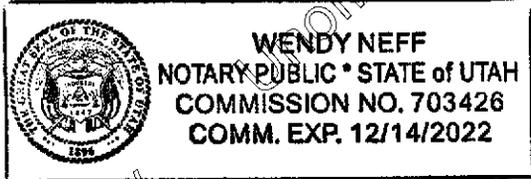
State of Utah)

:ss.

County of Washington)



On this 13 day of February, 2020, before me personally appeared Barbara Bergman, whose identity is personally known to or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that he/she is the Secretary of the Cherokee Springs RV Park Owners Association, Inc., a Utah corporation, and that the foregoing document was signed by him/her on behalf of the Association by authority of its Bylaws, Declaration, or resolution of the Board, and he/she acknowledged before me that he/she executed the document on behalf of the Association and for its stated purpose.



Notary Public

Exhibit A
Legal Description

This Third Amended and Restated Declaration of Protective Covenants, Conditions, and Restrictions of Cherokee Springs Senior Adult RV Park affects the following real property, all located in Washington County, State of Utah:

All of Lots 1 through 55, together with all Common Area, Cherokee Springs RV Park, according to the Official Plat thereof, on file in the Office of the Recorder of Washington County, State of Utah.

PARCEL: W-CSP-1 through W-CSP-55

All of Lots 75 through 94, together with all Common Area, Cherokee Springs RV Park 2, according to the Official Plat thereof, on file in the Office of the Recorder of Washington County, State of Utah.

PARCEL: W-CSP-2-75 through W-CSP-2-94

All of Lots 95 through 130, and Lot 160, together with all Common Area, Cherokee Springs RV Park 3, according to the Official Plat thereof, on file in the Office of the Recorder of Washington County, State of Utah.

PARCEL: W-CSP-3-95 through W-CSP-3-130

PARCEL: W-CSP-3-160

All of Lots 131 through 147, together with all Common Area, Cherokee Springs RV Park 4, according to the Official Plat thereof, on file in the Office of the Recorder of Washington County, State of Utah.

PARCEL: W-CSP-4-131 through W-CSP-4-147

All of Lots 56 through 74, and Lots 148 through 157, together with all Common Area, Cherokee Springs RV Park 5, according to the Official Plat thereof, on file in the Office of the Recorder of Washington County, State of Utah.

PARCEL: W-CSP-5-56 through W-CSP-5-74

PARCEL: W-CSP-5-148 through W-CSP-5-157

Exhibit B
Signed Instrument

Ballot

I/We, the Owner(s) of the Unit identified below in the Cherokee Springs Association Senior Adult RV Park hereby acknowledge receipt of the Notice of Special Meeting regarding a meeting to be held on October 19, 2019 at 10:00 am at the Association Clubhouse. The purpose of the meeting is to inform, dialog and answer questions on the proposed changes to the CC&R's.

As a member of the Association you are entitled, pursuant to Utah Code 16-6a-709, to cast your vote through this Ballot. A completed and returned ballot will be deemed a final vote by you as a member of the Association, to which you affirm and ratify that you are entitled to 1 vote per unit. This Ballot is also used to obtain your written approval for amendments, as required by the Declaration and Utah State Law. The first (1) voting item is all the sections that the attorneys updated to bring the CC&RS into Utah State code as explained in the **Notice of Special Meeting**. The next five (5) voting items are identified and also explained in the **Notice of Special Meeting**. Two thirds of member's approval votes are needed to amend the CC&RS.

Therefore, the undersigned member hereby casts his or her vote as follows:

Section Statutory Updates (1-16)

FOR AGAINST

Changes recommended by Legal Counsel (1-3)

FOR AGAINST

Adding sections found in Rules and Regulations (4-5)

FOR AGAINST

New Change (6)

FOR AGAINST

New Change (7)

FOR AGAINST

Strengthening language in CC&RS (8-10)

FOR AGAINST

DATED, this _____ day of _____, 2019

Unit No. _____

(Print name) _____

(Signature) _____

RETURN THIS BALLOT TO:

Cherokee Springs HOA

ADDRESS: 285 W Tabernacle suite 202, St. George, UT 84770

EMAIL: greg.gardner@hoaliving.com

This Ballot may also be hand-delivered at the Meeting, or any adjournment of the meeting.

The Association or its Manager must receive the Ballot by the close of the day on November 30, 2019

Exhibit C
Notice of Intent to Continue Leasing
(Cherokee Springs RV Park Owners Association, Inc.)

TO ALL OWNERS:

DATE: _____

Article VII, Section 10 of the Third Amended and Restated Declaration of Protective Covenants, Conditions, and Restrictions ("Declaration") outlines the rental restrictions to be placed on each Lot. Among other matters Article VII, Section 10 limits the leasing of Lots, subject to hardship exemptions and grandfathering Lots leased at the time the Declaration was approved and recorded in the records of the Washington County Recorder.

For those Owners seeking grandfathered status for the Lot(s) owned by them which were leased at the time the Declaration was recorded you must return this completed form within forty-five (45) days from the date of this NOTICE in the attached self-addressed envelope to the Association c/o FCS Community Management, 285 W Tabernacle, Ste. 201, St. George, UT 84770. If you fail to do so your right to lease your Dwelling Unit(s) will lapse and terminate.

REGISTRATION INFORMATION

1. Names of Lessees

- a. _____
- b. _____
- c. _____
- d. _____

2. Telephone numbers of Lessee

- a. Home: _____
- b. Work: _____
- c. Mobile: _____

3. Telephone numbers of Owner

- a. Home: _____
- b. Work: _____
- c. Mobile: _____

4. Current address of Owner

5. Copy of Lease: a true and correct copy of the lease must be attached. Each time there is a new lessee, Owner must provide a new copy of the lease.

I/We the Owners Lot(s) _____ hereby verify that the above information is true, accurate and complete.

DATED this _____ day of _____, 20__.

(Sign) _____

(Sign) _____

(Print) _____

(Print) _____

Exhibit D
Application to Lease
(Cherokee Springs RV Park Owners Association, Inc.)

For an Owner not currently Leasing a Lot, such Owner may file an Application to Lease for that specific Lot. The Application to Lease must be filed with the Board of the Association, c/o FCS Community Management, 285 W Tabernacle, Ste. 201, St. George, UT 84770 (or such other place as the Board may designate).

APPLICATION INFORMATION

1. Names of Owners

- a. _____
- b. _____
- c. _____
- d. _____

3. Telephone numbers of Owner

- a. Home: _____
- b. Work: _____
- c. Mobile: _____

5. Copy of Lease intended to be utilized.

2. Information on potential Lessee, if known

- a. Names: _____
- b. Work: _____
- c. Mobile: _____
- d. Home: _____

4. Current address of Owner

- _____
- _____
- _____

6. Date Title to Lot was acquired (provide deed).

I/We the Owners of _____ hereby verify that the above information is true, accurate and complete and request that our Application to Lease be kept on file by the Board.

DATED this _____ day of _____, 20_____.

(Sign) _____

(Sign) _____

(Print) _____

(Print) _____

DATE received by the Board: _____