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Amended Restrictive Covenants Page 1 of 19
Gary Christensen Washington County Recorder
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By LEE DAVID

AMENDED PROTECTIVE COVENANTS
FOR
WHISPERING PINES 

DECEMBER 2024

RECITALS

- A. This Declaration and the Bylaws attached hereto supersede and replace all prior declarations, bylaws, and amendments or supplements thereto, recorded against the subdivision or unrecorded, including the Protective Covenants For Whispering Pines Home Owners Association Amended Declaration of Covenants, Conditions and Restrictions (CC&R's) recorded February 16, 2024, as Entry No. 20240004827, records of the Washington County Recorder, Utah, and all amendments thereto (the "Original Declaration");
- B. The property subject to this Declaration is the Whispering Pines Subdivision Phases 1, 2, and 3 in Washington County, Utah, and is more specifically defined in Exhibit A.
- C. Pursuant to Article 7, Section A of this document, the undersigned hereby certifies that all of the voting requirements to amend the Declaration have been satisfied and that not less than 51% of the lot owners have signed an instrument affirmatively approving the adoption of this document.

ARTICLE I
DEFINITIONS

The following words when capitalized in this Declaration (except where otherwise stated) have the following meanings:

- A. "**Act**" means the Utah Community Association Act, Utah Code, Title 57, Chapter 8a, as the same shall be amended from time to time.

- B. **“Architectural Review Committee”** and **“ARC”** mean the committee elected in accordance with Article VIII of the Bylaws and empowered in this Declaration to carry out the duties set forth in this Declaration.
- C. **“Association”** means the Whispering Pines Owners Association, and any successor incorporated or unincorporated association of the Lot Owners acting under the authority of this Declaration, the Bylaws and the Act. The Board acts in all instances on behalf of the Association, except when specifically stated otherwise in a Governing Document or the law.
- D. **“Cabin Home”** and **“Cabin”** mean a single-family residential dwelling unit constructed upon a Lot.
- E. **“Common Area”** means and includes: (a) the real property and interests in the real property which comprise the Property, excluding all Lots; (b) all common areas and facilities designated as such elsewhere in this Declaration or on the Plat, except as otherwise stated in this Declaration; (c) all installations for and all equipment connected with the furnishing of the Property’s utility services and existing for common use, such as electricity, gas, water and sewer, except as otherwise provided herein; (d) in general, all apparatus, installations and facilities included within the Property and existing for common use, including the common roadways within the Subdivision, the entry-way, and signs at the two entrance points; and (e) all common areas as defined in the Act, whether or not enumerated herein.
- F. **“Governing Documents”** means a written instrument by which the Association may exercise powers or manage, maintain, or otherwise affect the property under the jurisdiction of the Association, including Articles of Incorporation, Bylaws, Plat, this Declaration, and Rules.
- G. **“Lot”** means any residential lot or parcel of land, upon which a Cabin Home could be constructed in accordance with applicable ordinances and laws or is already constructed, shown upon the Plat as existing for private use and ownership, including any Improvements thereon.
- H. **“Owner”** means the record owner of fee simple title to any Lot, as shown in the records of the county recorder, but does not include a tenant, contract purchaser, or holder of a leasehold interest or person holding only a security interest in a Lot.
- I. **“Plat”** means the official plat maps for the Whispering Pines Subdivision Phases 1, 2, and 3 recorded in the office of the county recorder, as the same may be amended or substituted from time to time.
- J. **“Property”** or **“Subdivision”** means all of the real property and interests within the boundaries of the project described in the Plat, including all Lots, Common Area, easements, and open space.
- K. **“Rules”** or **“Rules and Regulations”** means the policies, guidelines, restrictions, procedures, or regulations of the Association that are not set forth in a contract, easement, the

Article of Incorporation, Bylaws, or the Declaration, and that govern either the conduct of persons, or the use, quality, type, design, or appearance of real property or personal property. "Rule" does not include the internal business operating procedures of the Board.

ARTICLE II

WHISPERING PINES OWNERS ASSOCIATION GENERAL ORIENTATION

- A. **Membership in Association:** Upon purchasing a Lot in the Subdivision, the Owner automatically becomes a member of the Association. Owners are bound by the provisions of the Governing Documents.
- B. **Transfer & Reinvestment Fees:** Each time legal title to a Lot passes from one person to another, upon the effective date of such title transaction, the new Lot Owner shall pay a \$300 reinvestment fee to the Association.
- C. **Annual Assessment:** The Board shall prepare and adopt a budget for the Association annually that provides for the administration, management and operation of the Association, including fulfilling the Association's duties, and the budget shall include a reserve fund line item in an amount the Board determines to be prudent based on the reserve analysis (as defined in Section 6.6.2). Annual assessments and special assessments (as defined below) shall be assessed equally against each Lot. The Board will determine the due date of assessments. The Board will determine what additional services are to be furnished to lots within the Subdivision and the cost of such services on a per Lot basis. The annual assessment may not be increased by more than a total of 5% in any twelve-month period unless such increase is first voted upon and passed by at least 51% of the Owners. Each Owner hereby, and by acceptance of a deed to a Lot in the Subdivision, covenants and agrees to pay when due all assessments or charges by the Association. These assessments and charges together with interest, costs and reasonable attorney fees which may be incurred in collecting the same, are a charge on the land and are a continuing lien against the Lot, which each such assessment or charge made, and are also the personal obligation of the Owner when the assessment becomes due. In a voluntary conveyance, the grantee of a Lot shall be jointly and severally liable with the grantor for all unpaid assessments and charges against the grantor for the grantor's share of unpaid assessments and charges up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the grantor the amounts paid by the grantee. No Owner may waive or otherwise avoid liability for any assessment by non-use of the Common Areas or by abandonment of the Lot.
- D. **Special Assessment:** In addition to the annual assessment the Association may levy a special assessment from time to time for the purpose of defraying, in whole or in part, the costs incurred or to be incurred by the Association which cannot reasonably be paid for through the annual assessment, as determined by the Board. Special assessments must be voted upon by the owners and have a majority (51%) assent to pass.

- E. **Delinquency:** Any assessment or charge which is not paid when due will be delinquent on said due date (the "delinquency date"). If any such assessment is not paid within thirty (30) days after the delinquency date, a late charge may be assessed in the amount determined by the Board from time to time.
- F. **Collection:** The right to collect and enforce payment of the assessments made by the Association is vested in the Association. If any assessment is not paid when due, the Association may (a) bring an action at law against the Owner personally obligated to pay such delinquent assessment without waiving the lien of assessment or (b) may foreclose the lien against the property subject to the lien in accordance with the laws of the state of Utah applicable to the exercise of powers or sale in deeds of trust or to the foreclosure of mortgages, or in any other manner permitted by law. The Association shall have each and every remedy for collection of assessments provided in the Act, as amended from time to time, and the provisions of the Act shall be deemed to be fully set forth herein when required by the Act in order to exercise any such remedy.
- G. **Foreclosure; Subordination:** The lien may be foreclosed judicially or non-judicially consistent with the laws of the state of Utah for the non-judicial foreclosure of deeds of trusts. The Association and each Owner of a Lot hereby conveys and warrants pursuant to U.C.A. § 57-1-20 and 57-8a-302 to the attorney of the Association, with power of sale, each Lot and all improvements to each Lot for the purpose of securing payment of assessments under the terms of the Declaration. The Association, through duly authorized agents, shall have the power to bid on the Lot at foreclosure sale, and to acquire and hold, lease, rent, mortgage and convey the same, notwithstanding anything else to the contrary in this Declaration. The Association and each Owner hereby appoints the attorney of the Association who has been retained by the Association at the time a foreclosure is initiated as trustee for the purpose of exercising the power of sale in connection with non-judicial foreclosures as provided in Title 57, Chapter 1, Utah Code and made applicable hereto by Title 57, Chapter 8a, Utah Code Ann., as may be amended from time to time. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgagees or deeds of trust now or hereafter placed upon the Lot subject to assessment, except as follows: the sale or transfer of any Lot pursuant to mortgage or deed of trust foreclosure, or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. Such sale or transfer shall not relieve the Lot from liability for any assessments thereafter becoming due, or from the lien of any future assessment, nor shall it relieve any personal obligation arising under this Declaration or elsewhere.
- H. **Reserve Analysis.** The Board shall cause a reserve analysis to be conducted no less frequently than every six years, and shall review and, if necessary, update a previously conducted reserve analysis no less frequently than every three years. The Board may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the Board, to conduct the reserve analysis. The Association shall: (1) annually provide Owners a summary of the most recent reserve analysis or update; and (2) provide a copy of the complete reserve analysis or update to an Owner who requests a copy. "Reserve analysis"

means an analysis to determine the need for a reserve fund to accumulate reserve funds, and the appropriate amount of any reserve fund. A reserve analysis shall include:

1. a list of the components identified in the reserve analysis that will reasonably require reserve funds, including components for which the Association is responsible that have a useful life of three years or more and a remaining useful life of less than 30 years, if the cost cannot reasonably be funded from the general budget or other funds of the Association;
2. a statement of the probable remaining useful life, as of the date of the reserve analysis, of each component identified in the reserve analysis;
3. an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis;
4. an estimate of the total annual contribution to a reserve fund necessary:
 - i. to meet the cost to repair, replace, or restore each component identified in the reserve analysis during the component's useful life and at the end of the component's useful life; and
 - ii. to prepare for a shortfall in the general budget, if: (A) the shortfall occurs while a state of emergency declared by the state of Utah and extending to all of Utah is in effect; and (B) at the time the money is spent, more than 10% of Owners that are not Board members are delinquent in the payment of assessments as a result of events giving rise to the state of emergency; and
5. a reserve funding plan that recommends how the Association may fund the annual contribution described in (4) above.

- I. **Reserve Fund.** The Association shall establish and maintain a reserve fund. The purpose for which the reserve fund is established is: (1) maintenance, repair, replacement or restoration of the Common Areas and any other area or items for which the Association is responsible, (2) any emergency, unforeseen, unusual, unanticipated or irregularly occurring expenditure or shortfall, and (3) for any other purpose determined from time to time by the Board. The Association may not use money in a reserve fund for daily maintenance expenses unless (1) a majority of the total votes held by the Owners approves the use of reserve fund money for that purpose, or (2) there exists in the general budget a shortfall that the Association may use reserve funds to cover. Daily means performed or occurring more often than monthly.
- J. **Entitled Votes:** Owners are entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, the group of such persons will be considered an Owner. The vote for such Lot will be exercised as they among themselves determine, but in no event will more than one vote be cast with respect to any Lot.
- K. **Declarant:** The Declarant, Interstate Rock Products, Inc. (IROCK), relinquished its rights under the original development of the Subdivision as of August 26, 2021. As such, there is no distinction for purposes of the Governing Documents between a Lot owned by the Declarant and any other Lot or between the Declarant as a Lot Owner and any other Lot Owner. The subdivision construction is complete and the responsibilities for repairs,

maintenance, and other expenses are as set forth in this Declaration or are applicable according to the law.

ARTICLE III

CONSTRUCTION AND DWELLING

- A. **Cabin Home:** No Lot may be used for any other purpose than a single-family residence. There may not exist on any Lot more than one residence. The residence may only consist of a Cabin Home. Mobile or manufactured homes are NOT to be used as a residence and are not allowed within the Subdivision.
- B. **Construction Controls:** All structures must be reviewed and approved by the Architectural Review Committee (ARC). The ARC has the right to determine the building, structures, fences, and other improvements that may be placed on a lot. Any decision of the ARC may be overridden by the Board. The ARC may make exceptions to the following restrictions, except number 8, as necessary, as determined by the ARC:
1. No building, wall, or other structure may be constructed or placed upon any Lot until the specifications and plans have been approved in writing by the ARC and, as appropriate, by Washington County. ARC approval does not alleviate the need for independent County approval, appropriate building permit(s), approval(s), and compliance with all applicable state, county and local building codes, ordinances, etc. However, the ARC is not responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of performance for an intended purpose, adequate engineering, structural safety or conformance with building or other codes, standards or practices other than as specifically stated. Neither the ARC nor any member thereof shall be liable to the Association or any person whatsoever for any loss, damage or injury arising out of, or in any way connected with the performance of the ARC's duties.
 2. Each building, wall or structure shall be placed on the premises only in accordance with the specifications and plans that are approved. Any set of construction plans that exhibit quality construction that is not unsightly as to exterior appearance, preserves the beauty of its natural surroundings, and are in accordance with the Governing Documents, will be approved for construction by the ARC. The primary purpose of the ARC is to aid Owners and builders in expedient ARC approval and in the development and construction of their properties in harmony with the quality and aesthetics of the Subdivision.
 3. Exterior construction is to be completed no later than the Washington County building permit expiration date, as that date may be extended upon approval from Washington County, once expired.

4. Before the building phase begins, specifically before construction equipment is brought in, timestamped photos and/or video of the portion of the road that covers the length of the Owner's property, including corners, crossroads and intersections, must be captured by the Owner. Additionally, once construction is complete an updated timestamped photos and/or video must be captured. The Owner must retain photos and/or videos of the road covering the length of their property for a period of 30-days and be submitted if requested by the Board or the ARC within that timeframe. If the ARC or Board deems that damage has occurred to the road due to construction equipment brought in during the building phase (including but not limited to tearing up of asphalt, caving in of asphalt, sinkholes and potholes), the Lot Owner is responsible for all costs of repairs of such road damage. When construction on more than one Lot occurs at the same time on the same portion of road, and upon investigation by the Board or ARC should it be unclear who the responsible party is for damage to the road, then the above clause is subject for exemption.
 5. The construction area is to be kept clean of excess debris and no construction material is to be stored on vacant lots.
 6. All construction material, including but not limited to, lumber, steel, roofing materials, gravel and cement, must be placed upon the Lot and not on the road right of way. No trespassing upon a neighboring Lot is permitted for access to ease the construction process.
 7. No building, garage, patio, outbuilding, fence or other structure may be constructed, erected, altered, remodeled, placed, maintained, or permitted to remain in the Subdivision unless and until a complete set of plans and specifications, including finished grading plans, plot plan showing location of such structure on the building site, and roof plan, exterior elevations, sections, and salient exterior details and colors scheme, including the type and location of hedges, walls, and fences have submitted to and approved in writing by any two (2) members of the ARC. The set of plans must be submitted via email to the ARC, wherein they will be reviewed for approval and then be recorded in the WhisperingPinesKolob.com digital private vault where only Board members have access.
 8. If the ARC fails to either approve or disapprove such plans, specifications and plot-plan within fourteen (14) days after said plans, specifications and plot-plan have been submitted, the plans, specifications and plot-plan are deemed approved as submitted.
- C. **Building Materials:** All material used in the construction of buildings located on any Lot must be new. No old, used, existing building or structure of any kind and no part of an old, used, existing building, or structure may be moved onto any Lot. All buildings must have the appearance of a log cabin, to consist of either all logs, or all rustic wood siding or paneling (such as a Park City, Utah, home with a rustic mountain look), or a mixture of both. Rock or stone may be used on the outside of the Cabin as long as it comprises less the 50% of the outside walls. Structures that use quality wood products that are of equal or better aesthetic value than the traditional log home look are acceptable. The ARC will review the submittals

to determine if the final product will aesthetically be of equal or better value. No stucco or aluminum siding (unless steel with log engraining) may be used on the outside of the Cabin.

- D. **Cabin Home Square Footage:** All residences must have a main floor of not less than 900 square feet of living area and have a total living area of not less than 1,300 square feet, carports, garages, patios, decks and covered porches excluded.
- E. **Boundary Line of Structure(s):** No structure may be located nearer the front boundary line of any Lot than 50 feet; or nearer the side boundary line of any Lot than 50 feet; or nearer the rear boundary line of any Lot than 50 feet. A variance to this requirement may be requested from the ARC and may be granted where special circumstances exist, as determined by the ARC.
- F. **Outbuildings:** Outbuildings, i.e., garages, storage buildings, barns or sheds, erected and maintained upon any Lot or building site must conform generally in architectural design and exterior material to the finish of the Cabin to which they are appurtenant, and must be approved by the ARC. A Lot may have a total of two other detached buildings in addition to the Cabin Home. All approved buildings must be permanent structures (not of temporary construction).
- G. **Solar Energy Device Storage:** These Covenants recognize a Owner's right to have solar power generated on their property, including a right to have a shed to house solar generators to protect from the elements, and also for its solar panels to be mounted on top or to the side of the shed. Therefore, an outbuilding no larger than 150 square feet, i.e., a shed, may be used for this purpose prior to building of a Cabin Home, and must conform somewhat and be near in cohesiveness and to the architectural design of the planned Cabin Home, with the design being submitted to the ARC for approval to be responded within fourteen (14) days.
- H. **Roof Material:** Roof material must be a fireproof product, such as metal, fireproof fiberglass shake, or equivalent.
- I. **Fencing:** No fence, wall or hedge, i.e., a fence or boundary formed by closely growing bushes or shrubs, may be planted, erected, located or maintained upon any Lot in such location or at such height as to unreasonably obstruct the view from any other Lot in the Subdivision, as such unreasonableness is determined by the Board. Fences and walls shall be constructed of material which enhance the appearance of the landscape. Chain link fences or similar looking fences are not permitted. Barbed wire fences or barricades are not permitted. The use of other types of materials for fencing and walls, such as pipe, lodge pole, cement, or cinder block, used for decorative fencing, backyards or corrals is subject to approval by the ARC prior to installation. All walls and fences must be kept in good repair, and no fence, wall or hedge may exceed an overall height of six (6) feet. All fences or walls on lots with drainage or water flow must not hinder or alter the natural flow or drainage.
- J. **RV & Camp Use During or Before Construction:** Notwithstanding natural disasters, civil unrest or war —No house trailer, motorhome, or camper is at any time permitted to be used as a residence, except for the duration of a valid building permit issued for the

constructing of a Cabin, and as long as reasonable progress is being made, and except as otherwise permitted in this Declaration. The construction of a Cabin Home may begin at the time a building permit is received.

Exception: Owners ARE permitted to use an RV for the opportunity to ascertain their land's surroundings for consideration of building their Cabin, for its layout purposes, and/or for temporary recreation use of having an RV on their land. Owners may use an RV on their property ONLY after filing with the Board for a permit, giving permission. Permits must be requested 14-days before the desired dates of use. The permit will include the precise dates they intend to have an RV (ONE RV ONLY) on the property, not to exceed 3 separate excursions and not to exceed a total of 14 days per calendar year. Permits will only be issued for the Owner and/or immediate family's use, and not for any guests or proxies. RV's will not be older than 15-years of age. The Owner understands and agrees that Whispering Pines is NOT an RV Resort Park and may not be used for such, as well as there being no permanent hookups.

When making improvements to property, tents are allowed without a permit as long as they are concealed and not readily visible from the road, nor placed along the road. Fires are permitted during the use of RV and/or tents, as long as they are in accordance with Whispering Pines Covenants, ARTICLE IV, C. Fires Outdoors.

- K. **Signage:** No person may erect or maintain upon any part of the Subdivision including any Lot, any sign, advertisement or billboard without prior approval of the ARC, with the exception of standard real estate signs, beware of dog, watch for children, private property, no trespassing and camera surveillance signs.
- L. **Terrain During Construction:** The natural vegetation and contour of the terrain within the Subdivision must be preserved as much as possible in the construction of any Cabin. Natural growth must be preserved and remain as nearly as possible in the natural state. The removal of natural trees on any Lot may not be undertaken without permission in writing from the ARC.
- M. **Washington County Water System:** Upon purchasing a Lot, the Owner reserves the right to install a hydrant waterline to the main, once a *User Agreement* has been completed and setup with the Washington County Water Conservancy District.

ARTICLE IV

FIREARMS — FIREWORKS — FIRES

The use of the lots in the Subdivision is subject to the following guidelines, limitations and restrictions, which are binding upon all Owners and users of the Property.

- A. **Firearm Use:** Safe shooting practices are to be used with any firearms, including target practice, which will be governed by the following *standards, guidelines, and restrictions*:
1. Use in the protection or safety of self and/or others.
 2. These acceptable weapons must only be used on the property (Lot) of which the shooter is an Owner or guest of the Owner.
 3. Projectiles (Bullets, BBs, Pellets, Arrows, etc.) must reasonably be expected to, and must actually fall or land on the property (Lot) of which the shooter is an Owner or guest of the Owner and must not land on or travel across other property.
 4. Safely positioned target practice into areas with an earthen backdrop, ensuring projectiles land into the ground.
 5. Do not shoot in the direction of any person, vehicle or structure.
 6. Adult supervision required with minors.
- B. **Fireworks:** The use of fireworks or incendiary devices within the Subdivision is prohibited.
- C. **Fires Outdoors:** Permitted outdoor fires within the subdivision include, permanent barbecues, portable barbecues, grills, outdoor *fireplace*, which definition consists of structures made of hearth, brick, stone, rock, or metal designed to contain a fire and must be maintained in good repair and in a safe condition at all times. All fires must be in compliance to Washington County ordinances.

ARTICLE V

LAND AESTHETICS — LANDSCAPING — APPEARANCE — ANNOYANCES — SUBDIVIDING

- A. **Natural Estate:** Owners shall preserve the natural pristine atmosphere of the Subdivision by having no refuse piles, no trash of any kind, appliances, unlicensed automobiles, or parts, placed or allowed to remain outdoors on any Lot.
- B. **Landscaping:** It is the responsibility of each Owner and resident to control noxious weeds, including thistle, on their property. It is *recommended* by Washington County that property Owners follow their weed control program. Should the property Owner not wish to maintain the property themselves, *“There are several private weed control contractors in our area who may be enlisted by the property owners at their expense, in efforts to control both invasive and the listed noxious weeds.”* — Washington County Noxious Weed Control

C. **Appearance of Lot:** The assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly, or unkempt conditions, may not be pursued or undertaken on any part of the Subdivision.

D. **Annoyances or Inconveniences:** Owners may not perform acts upon their property which are or may become a nuisance and/or inconvenience to neighboring lots, or that disrupt the tranquility of other users of the Property or create a hindrance to the use and enjoyment of any part of the Property. It is the responsibility of each Owner and resident to prevent the creation or maintenance of a nuisance in, on or about the Subdivision. For purposes of this section a "nuisance" includes but is not limited to the following:

1. The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about a Lot;
2. The storage of any item, property or thing that will cause any Lot to appear to be in an unclean or untidy condition or that will be noxious to the senses;
3. The storage of any substance, thing or material upon any Lot that will emit any foul, unpleasant or noxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the other residents at the Subdivision;
4. The creation or maintenance of any noxious or offensive condition or activity in or about any Lot; and
5. Maintaining any plants, animals, devices, items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, or appears unkempt.

E. **Subdividing:** No Lot may be subdivided or partitioned.

ARTICLE VI

RV, TENT AND RECREATION USE WHEN CABIN IS BUILT

A. **RVs, Tents and Recreation on a Lot with a Cabin:** Notwithstanding natural, civil unrest or war, the use of tents, camping and recreational vehicles upon a Lot and their conditions of use is limited to the following:

1. Tents and teepees that are in good condition.
2. Tents, camping and recreational vehicles are permitted only on lots with a permanent resident present.

3. Recreational vehicles, camping trailers, popup/tent trailers, 5th wheel camping trailers, campers, motorhomes must be in good repair and condition, and surroundings kept neat and tidy.
4. All acceptable recreational vehicles will be temporary on location and must be mobile in being able to be moved off a Lot.
5. All camping must be at least 30 feet from the road or adjacent property boundaries.
6. A tent or recreational vehicle of a guest is permitted for fourteen (14) consecutive days or less.
7. Once a tent or recreational vehicle has stayed in the subdivision or on a Lot for the maximum number of consecutive days allowed it must be removed from the subdivision and Lot for at least five (5) consecutive days before again entering the subdivision and occupying a Lot.
8. No structures such as canopies, porches, decks or skirts may be associated with an RV.
9. No mobile/manufactured homes are allowed in the Subdivision.
10. No dumping of black water (containing human waste) is allowed within the Subdivision.
11. Dumping of gray water (dish water, shower water, etc.) on one's own property is permitted in a limited manner.

ARTICLE VII

ANIMALS — FLAGS — VANDALISM

- A. **Animals:** No animals or birds may be kept or maintained on any part of a Lot except dogs, cats, pet birds and other domestic animals, which may be kept in *reasonable* numbers as pets, but not for any commercial purpose. All domestic animals or birds kept on the premises must be confined within a structure on the Lot or be tied or fenced within the boundaries of the Lot and are not allowed to roam from the Owner's Lot. Notwithstanding the foregoing, horses for non-commercial purposes are allowed to be housed on a Lot.
- B. **Flags:** No flags are permitted to be displayed or flown other than the flag of the United States of America, as federally mandated for HOA allowance. Notwithstanding the aforementioned, allowance includes flying military service recognition flags, such as MIAs. Flagpole height shall not exceed 25 feet.

C. **Vandalism:** Painting of graffiti within the Subdivision is prohibited.

ARTICLE VIII

COMMERCIAL — RENTING — SUBDIVISION STREETS — COMMON AREA

A. **Commercial Trade:** No commercial trade or business may be conducted on, in, or from any Lot unless:

1. The existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Cabin;
2. The business activity conforms to all zoning requirements for the Subdivision;
3. The business activity does not involve persons coming onto the Subdivision who do not reside in the Subdivision or door-to-door solicitation of residents of the Subdivisions;
4. The business activity is consistent with the residential character of the Subdivision and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Subdivision, as may be determined in the sole discretion of the Association.

B. **Renting of Property:** Renting of a Cabin Home for use by others is permitted under the following conditions:

1. A written rental agreement is used requiring the renter and all guests to comply with all conditions of the Governing Documents and;
2. Signed rental contracts showing the contact information for all renters are maintained for three years from date of rental.

C. **Subdivision Streets:** The driving, parking, standing and storing of motor vehicles in, on or about the Subdivision is subject to the following:

1. The parking Rules adopted by the Association from time to time;
2. No parking on the street is allowed in the Subdivision unless approved in writing from the Board, such approval will be given only in special circumstances;
3. Residents may only park their motor vehicles within their garages and on their respective driveways or areas set forth on their lots for such purpose;

4. Vehicles parked in violation of the Governing Documents may be impounded or towed without further notice, and at the vehicle owner's sole expense.
5. Nothing will be done or kept in, on or about any Lot, or common area, or any part thereof, which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.

D. **Common Area:** No damage to, or waste of, the Common Area or any part of the Property may be committed by an Owner or any guest or invitee of an Owner, and such Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damages or waste.

ARTICLE IX

EASEMENTS

The Subdivision and the lots and building sites included therein are subject to such easements and rights-of-way as may be necessary or convenient for erecting, constructing, maintaining and operating public service wires and conduits for lighting, heating, power, telephone, water and other methods of conducting and performing public quasi-public utility service or function as easements and rights-of-way are shown and designated on the Plat of said real property recorded in the Utah County Recorder's Office, and all said easements and rights-of-way are reserved for the purposes herein and in said Plat set forth.

ARTICLE X

HEALTH SANITARY AND UTILITIES

- A. **Waste Disposal:** All waste and disposal systems must conform to the standard of the Utah State Department of Health and must conform to Washington County and state codes. Septic systems are to be paid for and maintained by the Owner of the Lot.
- B. **Storage Tanks and Generators:** Any tanks used in connection with the residence such as oil, propane, or other type of fuel must be underground or adequately concealed in a manner to blend harmoniously with the natural foliage of a Lot within the subdivision. Standing above ground water storage tanks are not permitted. Generators are to be enclosed and walls are to be constructed so as to reduce sound as to not disturb other Lot Owners, as determined by the Board.
- C. **Power:** In the event power becomes available on Kolob, power utility services lines may only be installed underground on properties within the subdivision. Solar power is permitted as provided in the Governing Documents and the law.

ARTICLE XI

RULES, ENFORCEMENT, APPEAL

A. Rules. The Board may adopt, amend, modify, cancel, limit, create exceptions to, expand, or enforce Rules (including Design Requirements), subject to limitations and requirements of the law, including the right of the Owners to disapprove a rule pursuant to law, and subject to the Board's duty to exercise Business Judgment on behalf of the Association and the Owners. Before adopting, amending, modifying, canceling, limiting, creating exceptions to, or expanding the Rules, the Board shall:

1. at least 15 days before the Board will meet to consider a change to the Rules, deliver notice to the Owners that the Board is considering a change to the Rules;
2. provide an open forum at the Board meeting giving Owners an opportunity to be heard at the Board meeting; and
3. deliver to the Owners a copy of the change in the Rules approved by the Board within 15 days after the date of the Board meeting.

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

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

1. subject to the provisions of this Declaration, to enter the Lot as to which such violation exists and to summarily abate and remove or otherwise bring into compliance, at the expense of the defaulting Owner, any structure, thing, or condition that may exist contrary to such provisions, and the Board shall not thereby be deemed guilty of any manner of trespass;
2. enjoin, abate, or remedy such thing or condition by appropriate legal proceeding;
3. levy fines according to Section C below;
4. suspend the right to receive, access or use any services or facilities provided by or through the Association until the violation is corrected, and to suspend the voting rights of an Owner, but not for longer than 60 days unless the violation is ongoing;
5. bring suit or action against the Owner on behalf of the Association and other Owners to enforce the Governing Documents. The Association shall be entitled to an award of its attorney fees and costs in any action taken for the purpose of enforcing or otherwise carrying out the terms of the Governing Documents, or for any action taken pursuant to the Governing Documents, if it prevails in such action, regardless of who instituted the action; and

6. record in the records of the county recorder against a Lot as to which a violation exists, a notice of noncompliance setting forth the thing, condition or violation that exists and thereby providing notice to prospective purchasers and all others of the violation and of the requirement that the violation be remedied.

C. Fines. The Board may assess a fine against an Owner for a violation of the Governing Documents in accordance with the provisions in this Section.

1. **Warning.** If a violation occurs, a written warning (“Warning”) shall be sent to the Owner of the Lot before a fine may be levied. The Warning shall:
 - (a) describe the violation;
 - (b) state the rule or provision of the Governing Documents that the Owner has violated;
 - (c) state that the Board may, in accordance with the provisions of the law, assess fines against the Owner and suspend membership rights if a continuing violation is not cured or if the Owner commits similar violations within one year after the day on which the Board gives the Owner the Warning or assesses a fine against the Owner;
 - (d) if the violation is an ongoing, continuous violation, state a time by which the Owner must cure the violation (which time must be at least 48 hours after the day the Owner is given the Warning); and
 - (e) state the amount of the fine that will be assessed if an ongoing, continuous violation is not cured within 48 hours or if the Owner commits similar violations within one year after the day on which the Board gives the Owner the Warning.
2. **Initial Fine.** The Board may assess a fine against an Owner if: (1) within one year after the day on which the Board gives the Owner a Warning, the Owner commits another violation of the same rule or provision identified in the Warning; or (2) for an ongoing, continuous violation, the Owner does not cure the violation within 48 hours after the day the Owner is given the Warning.
3. **Subsequent Fines for Same Violation.** After a fine is assessed against an Owner, the Board may, without further warning, assess an additional fine against the Owner each time the Owner: (1) commits a violation of the same rule or provision within one year after the day on which the Board assesses a fine for a violation of the same rule or provision; or (2) allows a violation to continue for 10 days or longer after the day on which the Board assesses the fine.
4. **Notice of Fine.** Each time a fine is assessed, notice of the fine shall be sent to the Owner describing the violation, stating the rule or provision of the Governing Documents that the Owner has violated, and stating that the Owner may request an informal hearing before the Board to dispute the fine within 33 days after the date of the notice.

5. Fine Amounts. A violation of any express rule, regulation, covenant, restriction or provision of any of the Governing Documents shall be subject to a fine in the amount set forth in a schedule of fines adopted by Rule from time to time, or in the absence of such a schedule, \$50 for a first fine and \$100 for subsequent offenses of the same violation or \$100 per ten days for a continuous violation.
6. Appeal by Owner. Any Owner who is assessed a fine or other penalty or who has rights suspended may request an informal hearing before the Board to dispute the fine, penalty or suspension within 33 days after the date of the notice stating that the fine or penalty is assessed or that rights have been suspended. The hearing requested shall be conducted in accordance with procedures promulgated by resolution of the Board from time to time, or if none, in accordance with the standards determined by the Board at the hearing.

ARTICLE XII

GENERAL PROVISIONS

- A. **Amendments:** This Declaration may be amended if approved by not less than 51% of the Owners. Any amendments must be properly recorded in the records of Washington County, Utah, to become effective.
- B. **Covenant Binding:** All the covenants, conditions and restrictions set forth herein run with the land and each grantee, by accepting a deed to such premises, accepts the same subject to the covenants, conditions, and restrictions and agrees for the grantee, the grantee's heirs, administrators, and assigns to be bound by them jointly, separately, and severally.
- C. **Enforcement:** The Association, Board of Directors, ARC, and any Owner, has the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, or any rule of the Association, including, but not limited to, any 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. Failure of the Association, or any Owner to enforce any covenant or restriction herein contained or any rule of the Association will in no event be deemed a waiver of the right of the Association, or any Owner to do so thereafter.
- D. All of the conditions, covenants and reservations contained in this Declaration shall be construed together, but if any one of said conditions, covenants or reservations, or any part thereof, is at any time held invalid, or for any reason becomes unenforceable, no other condition, covenant, or reservation, or any part thereof, shall be thereby affected or impaired.

EXHIBIT A
Legal Description

Lots 1 – 32, WHISPERING PINES SUBDIVISION PHASE 1, according to the official plat thereof on file in the office of the county recorder of Washington County, state of Utah.
Parcel No's WSP-1-1-HV through WSP-1-32-HV

Lots 33 – 66, WHISPERING PINES SUBDIVISION PHASE 2, according to the official plat thereof on file in the office of the county recorder of Washington County, state of Utah.
Parcel No's WSP-2-33-HV through WSP-2-66-HV

Lots 66 – 87, WHISPERING PINES SUBDIVISION PHASE 3, according to the official plat thereof on file in the office of the county recorder of Washington County, state of Utah.
Parcel No's WSP-3-67-HV through WSP-3-87-HV