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**NEIGHBORHOOD DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS, AND RESERVATION OF EASEMENTS
FOR
ORCHARD FARMS TOWN HOMES,
a part of the Orchard Farms Planned Residential Unit Development (PRUD)**

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RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
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LOCATED IN DAVIS COUNTY, UTAH

AFTER RECORDING PLEASE RETURN TO:

**Fairview Estates, LLC
Christopher P. Gamvroulas
978 East Woodoak Lane
Salt Lake City, Utah 84117
(801) 747-7440**

**NEIGHBORHOOD DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS, AND RESERVATION OF EASEMENTS
FOR
ORCHARD FARMS TOWN HOMES,
a part of the Orchard Farms Planned Residential Unit Development (PRUD)**

This Neighborhood Declaration of Covenants, Conditions, Restrictions, and Reservation of Easements for Orchard Farms Town Homes, a part of the Orchard Farms Planned Residential Unit Development (PRUD) (the "Neighborhood Declaration") is executed by Fairview Estates, LLC, a Utah limited liability company, of 978 East Woodoak Lane, Salt Lake City, Utah 84117 (the "Declarant").

RECITALS

A. The Tract is an area featuring unique and distinctive terrain;

B. By subjecting the Tract to this Neighborhood Declaration, it is the desire, intent and purpose of Declarant to create a Town Home development in which beauty shall be substantially preserved, which will enhance the desirability of living on or visiting real estate subject to this Neighborhood Declaration, and which will increase and preserve the utility, attractiveness, quality and value of the lands and improvements therein.

C. This Neighborhood Declaration affects that certain real property located in the City of Fruit Heights in Davis County, Utah described with particularity in Article II below (hereinafter referred to as the "Tract").

D. Declarant is the owner of the Tract.

E. The Tract is subject to and bound by the Master Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Orchard Farms, a part of the Orchard Farms Planned Residential Unit Development (PRUD) recorded in the official records of the County Recorder of Davis County, Utah on 5-16-2011 as Entry No. 2598884 in Book 5224 at Page(s) 402-463 (the "Master Declaration").

F. The Tract is subject to the Reciprocal Use Easement.

G. Declarant has constructed or is in the process of constructing upon the Tract a Neighborhood of Town Homes or Apartments, as part of a larger planned residential unit development, which shall also include condominium units or apartments and detached single family residences. This Tract shall include certain Buildings and Lots, an Entry Monument, and other improvements of a less significant nature. The Tract may include Common Area and Exclusive Common Area. The construction will be completed in accordance with the plans contained in the Final Plat and the Final Plat for the Orchard Farms Single Family Residences Neighborhood to be recorded concurrently herewith.

H. Declarant intends to sell to various purchasers the fee title to the individual Lots contained in the Tract, together with an appurtenant undivided ownership interest in the Subassociation, subject to the Final Plat for the Orchard Farms Town Home Neighborhood, Neighborhood Declaration and Master Declaration.

I Declarant desires, by filing this Neighborhood Declaration and Final Plat for the Orchard Farms Town Home Neighborhood, to submit the property and all improvements now or hereafter constructed thereon to the provisions, covenants, conditions, restrictions and easements set forth herein and in the Master Declaration.

J. The Tract is to be known as "Orchard Farms Town Homes."

K. Since the completion of the Tract may be in phases, the completed Project will consist of the original phase and all subsequent phases.

COVENANTS, CONDITIONS, AND RESTRICTIONS

NOW, THEREFORE, for the reasons recited above and subject to the covenants, conditions, restrictions and easements set forth below and in the Master Declaration, Declarant hereby makes the following declaration for the Tract to be known as the Orchard Farms Town Homes, a part of the Orchard Farms Planned Residential Unit Development (PRUD):

I. DEFINITIONS

When used in this Neighborhood Declaration (including in that portion hereof entitled "Recitals"), each of the following terms shall have the meaning indicated. Terms defined in the Master Declaration shall have the same meaning as set forth therein unless the context clearly requires otherwise. In the event of any conflict between the definitions set forth in the Master Declaration and the definitions set forth herein, the former shall in all respects govern and control.

1. The term Additional Charges shall mean and refer cumulatively to all collection and administrative costs, including but not limited to all attorneys fees, late charges, accruing interest, service fees, filing and recordation fees, and other expenditures incurred or charged by the Subassociation.

2. The term Apartment or Apartment Unit shall mean and refer to a Dwelling Unit or Town Home.

3. The term Architectural Review Committee shall mean the person or persons appointed to review the designs, plans, specifications, homes, architecture, fencing, and landscaping within Orchard Farms Town Homes Neighborhood (the "ARC").

4. The term Area of Neighborhood Responsibility shall mean and refer to that certain area and those certain improvements for which the Subassociation is responsible.

5. The term Area of Personal Responsibility shall mean and refer to that certain area and those certain improvements, such as the privately owned Lot, for which the Owner is responsible.
6. The term Articles of Incorporation shall mean and refer to the Articles of Incorporation of Orchard Farms Town Homes Subassociation on file or to be filed with the State of Utah.
7. The term Assessment shall mean and refer to any amount imposed upon, assessed or charged an Owner, such as a Master Assessment and Neighborhood Assessment.
8. The term Board of Directors shall mean and refer to the governing board or management committee of the Subassociation.
9. The term Building shall mean and refer to any of the structures constructed in the Tract.
10. The term Bylaws shall mean and refer to the Bylaws of the Subassociation, a copy of which is attached hereto, marked Exhibit "B," and incorporated herein by this reference.
11. The term Capital Improvement or Addition shall mean and refer to a permanent addition to or the betterment of real property that enhances its capital value and improves the expenditure of labor or money and is designed to make the property more useful or valuable as distinguished from ordinary repairs.
12. The term City shall mean and refer to the City of Fruit Heights in Davis County, Utah.
13. Common Area and Facilities shall mean and refer to all real property located within the entire Orchard Farms Planned Residential Unit Development, of which the Tract is a part, designated as "Common Area" in the Master Declaration and the Final Plat.
14. The term Community shall mean and refer to Orchard Farms Town Homes Neighborhood or if the context clearly requires the Tract.
15. The term Community Standard shall mean and refer to the standard of conduct, maintenance, or other activity generally prevailing in Orchard Farms Town Homes Neighborhood, as determined by the Board of Directors from time to time.
16. The term Covenant to Share Costs shall mean and refer to any contract, agreement, declaration of easement, licenses and/or covenant to share costs executed by the Declarant or the Subassociation and recorded in the Office of the County Recorder which creates easements for the benefit of the Owners subject to such Covenant to Share Costs, and/or which obligates the Subassociation to share the costs of maintaining certain real, personal or mixed property described therein.
17. The term Declarant shall mean and include Fairview Estates, LLC and any person or persons who might acquire title from it to all or some of the unsold Town Homes through purchase, assignment or other transfer including foreclosure or deed in lieu of foreclosure; or, in the situation where, any person purchases all, or some of the remaining Town Homes in a sale in the nature of a

bulk sale. The person acquiring any of such property from the Declarant shall be considered a Declarant with respect to that portion of the property so acquired and shall have the right to develop the property and/or sell such property in accordance with the terms and provisions of this Neighborhood Declaration and this Neighborhood Declaration; provided, however, a notice of succession shall be recorded in the Office of the County Recorder signed by both the current Declarant and by its successor in interest as the new Declarant.

18. The term Dedicated Streets shall mean and refer to those streets and cul-de-sacs within the Orchard Farms Town Homes Neighborhood formally dedicated to the City or any other municipal or governmental body politic, entity or agency.

19. The term Delegate shall mean and refer to the designated Voting Representative of the Subassociation serving as a Director on the governing board of the Master Association.

20. The term Design Guidelines shall mean and refer to the design guidelines adopted by the Declaration for the improvements constructed within the Tract.

21. The term Developmental Rights shall mean and refer to the right granted hereunder to the Declarant, its agents, representatives, employees, successors and assigns, to develop and improve the Tract.

22. The term Dwelling or Dwelling Unit shall mean and refer to the dwelling, home or living unit constructed upon a Lot within the Tract.

23. The term Eligible Guarantor shall mean and refer to a governmental guarantor of a mortgage or trust deed who has requested notice in writing of certain matters from the Subassociation in accordance with the Neighborhood Declaration.

24. The term Eligible Insurer shall mean and refer to an insurer of a mortgage or trust deed who has requested notice in writing of certain matters from the Subassociation in accordance with this Neighborhood Declaration.

25. The term Eligible Mortgagee shall mean and refer to a mortgagee, beneficiary under a trust deed, or lender who has requested notice in writing of certain matters from the Subassociation in accordance with this Neighborhood Declaration.

26. The term Eligible Votes shall mean and refer to those votes available to be cast on any issue before the Subassociation or the Board of Directors. A vote which is for any reason suspended is not an "eligible vote".

27. The term Exclusive Common Area shall mean and refer to that real property located within the Tract owned by the Subassociation and intended for the exclusive use or primary benefit of this Tract.

28. The term Final Plat shall mean and refer to the recorded Master Final Plat for the entire Orchard Farms Planned Residential Unit Development.

29. The term Final Plat for the Orchard Farms Town Home shall mean and refer to Orchard Farms Town Homes Final Plat for the Orchard Farms Town Home Neighborhood, the official map of Orchard Farms Town Homes Neighborhood as approved by the City and on file in the Office of the County Recorder.

30. The term Guest shall mean and refer to the guest, family member, invitee, licensee, and any person visiting an Owner or a Resident on a temporary basis.

31. The term Improvement shall mean and refer to any physical change or addition to the Land to make it more valuable.

32. The term Individual Charge shall mean and refer to a charge levied against an Owner by the Board of Directors resulting from the act or omission of such Person, including:

(a) Bodily injury to any Person;

(b) Property damage;

(c) Any transient occupancy tax, sales tax, use tax or other tax levied pursuant to the laws of the State of Utah and payable by such person which the Subassociation is or shall be required or entitled to collect on behalf of the levying authority, although this subsection is not considered an acknowledgment that any such tax may be levied.

Individual Charges may be assessed, secured and collected like any other Assessment.

33. The term Land shall mean and refer to all of the real property subject to this Neighborhood Declaration or if the context clearly requires the Master Declaration.

34. The term Landscaping shall mean and refer to the grass, trees, shrubs, bushes, flowers, plants, park strip landscaping, open space, and like improvements located within the Tract or within the Orchard Farm Properties, as well as the appurtenant sprinkler, irrigation and water drainage systems.

35. The term Lender shall mean and refer to a Mortgagee.

36. The term Lot shall mean and refer to a separate physical part of the Tract intended for independent use, identified herein and on the Final Plat for the Orchard Farms Town Home Neighborhood as a "Lot." Each Lot shall be assigned a separate "parcel" or tax identification number by the appropriate governmental agency.

37. The term Lot Number shall mean and refer to the number, letter or combination thereof designating a particular Lot, identified on the Final Plat for the Orchard Farms Town Home Neighborhood as a "Lot Number."

38. The term Majority shall mean and refer to those eligible votes of Owners or other groups as the context may indicate totaling more than 50.01% of the total eligible number.

39. The term Map shall mean and refer to Orchard Farms Town Homes Final Plat for the Orchard Farms Town Home Neighborhood or where the context clearly requires the Final Plat.

40. The term Master Assessment shall mean and refer to the charge for maintenance, repair, replacement, operation and administration assessed each Owner and/or Town Home by the MHOA to pay the Master Common Expenses, and shall include an amount to fund an adequate reserve fund or funds.

41. The term Master Association or MHOA shall mean and refer to the Master Association for the Orchard Farms Planned Residential Unit Development acting as a group in accordance with the Master Declaration.

42. The term Master Declaration shall mean and refer to the Master Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements, and Bylaws for the Orchard Farms Planned Residential Unit Development (PRUD).

43. The term Master Common Expenses shall mean and refer to the Common Expenses incurred by the MHOA.

44. The term Neighborhood shall mean and refer to this Tract in particular and in general any residential or recreational area within the Tract which is designated by the Declarant as a Neighborhood, whether or not governed by a Neighborhood Subassociation. By way of illustration and not limitation, a Neighborhood of town homes or apartments, condominium units or apartments, detached single family residences or recreational amenities might each be designated as a separate Neighborhood or combined as one Neighborhood. A Neighborhood may be comprised of more than one housing type. In addition, a parcel of land intended for development as any of the above may constitute a Neighborhood, subject to division into more than one Neighborhood upon development. The designation of "Neighborhood" by the Declarant is subject to change by the Declarant.

45. The term Neighborhood Common Expense shall mean and refer to:

- (a) All sums lawfully assessed against the Owners;
- (b) Expenses of administration of the MHOA, the Subassociation, and the maintenance, repair or replacement of the Exclusive Common Area and Facilities particular to Orchard Farms Town Homes Neighborhood and not covered by or part of the Master Common Expenses;
- (c) Expenses allocated by the MHOA or Subassociation among the Owners;
- (d) Expenses agreed upon as Neighborhood Common Expenses by the MHOA or the Subassociation;

(e) Expenses declared Neighborhood Common Expenses by the Master Declaration or this Neighborhood Declaration; and/or

(f) The Subassociation's share of the Master Common Expenses.

46. The term Neighborhood Declaration shall mean and refer to this Neighborhood Declaration of Covenants, Conditions and Restrictions for the Orchard Farms Town Homes, a part of the Orchard Farms Planned Residential Unit Development (PRUD).

47. The term Neighborhood Subassociation shall mean and refer to the Subassociation of Owners in the Tract acting as a group in accordance with this Neighborhood Declaration.

48. The term Office of the County Recorder or County Recorder shall mean and refer to the Office of the County Recorder of Davis County, Utah.

49. The term Open Space shall mean and refer to in the event that Davis County or the City of Fruit Heights shall adopt an ordinance which contains a definition of the term "open space" and which makes such definition applicable to the burdened parcel as noted on the Final Plat, that definition, which shall be incorporated into this easement by reference. In the absence of such a definition, the term "open space" shall mean land on which improvements and activities shall be permitted and prohibited as designated in subsections (a) and (b), respectively.

(a). Permitted. The following improvements and activities shall be permitted: pasture, unimproved land, landscaping, trails, green space, and planting beds.

(b) Prohibited. The following improvements and activities shall be prohibited: temporary or permanent buildings or building-type structures or any kind, impervious surfaces other than those used only for activities permitted by Subsection 1.29.1 hereof, operation, parking or storage of motorized vehicles of any kind except those used for landscaping maintenance, machinery which is affixed to the property and which can be seen or heard from adjacent property, noxious or offensive activities of any kind, any activity which is or which may become a nuisance, and dumping or storage of refuse, garbage or other waste.

The Open Space as shown on the Final Plat may not be altered or removed without the express prior written consent of the City.

50. The term Owner shall mean and refer to a Person who is the owner of a fee or an undivided fee interest in a Lot, excluding a mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

51. The term Period of Declarant's Control shall mean and refer to the period of time during which there is Class B voting and the Declarant controls the Board of Directors.

52. The term Permittee shall mean a Person permitted on the Property by an Owner, Resident or Guest.

53. The term Person shall mean and refer to a natural person, corporation, partnership, trust, limited liability company, or other legal entity.

54. The term Plans and Specifications shall mean and refer to any and all documents designed to guide or control the construction of an Improvement, or alterations, modifications, changes, additions and the like thereto, including without limitation all documents indicating the size, shape, configuration and/or materials, to be incorporated; all site plans, excavation and grading plans, elevation drawings, floor plans, techniques, samples of exterior colors, plans for utility services, and all other documentation or information relevant to the improvement or proposal in question.

55. The term Private Street, Road, Cul-de-sac, Way or Drive shall mean and refer to those streets, roads, cul-de-sacs, ways, drives or turnabouts within Orchard Farms Town Homes Neighborhood not dedicated to the City or any county, state, or other governmental body politic, entity or agency.

56. The term Project shall mean and refer to all of the real property and improvements submitted to the Master Declaration as described in the Final Plat, unless the context clearly requires otherwise.

57. The term Project Documents shall mean and refer collectively to the Master Declaration, Final Plat, Master Bylaws, Master Rules and Regulations, and the Articles of Incorporation for the Master Association as well as this Neighborhood Declaration and Bylaws, the Neighborhood Rules and Regulations and the Articles of Incorporation for the Subassociation.

58. The term Property shall mean and refer to the Tract unless the context clearly requires otherwise.

59. The term Property Manager or Manager shall mean and refer to the professional manager or management company appointed or hired by the Subassociation to manage or assist in the management of the Tract and/or assist in the administration of the Subassociation.

60. The term Property Subject To The Reciprocal Use Easement shall mean and refer to the real estate subject to the Reciprocal Use Easement located in Davis County, Utah and described with particularity on Exhibit "B" attached hereto and incorporated herein by this reference.

61. The term PRUD Standard shall mean and refer to the standard of conduct, maintenance, or other activity generally prevailing in the Orchard Farms Planned Residential Development as a whole, as determined by the Board of Directors for the Master Association from time to time.

62. The term Reciprocal Use Easement shall mean and refer to the non-exclusive and irrevocable right of way and easement of enjoyment reserved by the Declarant and granted to the Owner to access, use and enjoy the Common Areas and Facilities at the Orchard Farms Properties, including by way of illustration but not limitation the Roads and Landscaping. The terms and operating agreement of the Reciprocal Use Agreement are set forth in Exhibit "B" attached hereto and incorporated herein by this reference.

63. The term Recreational, Oversized, or Commercial Vehicle shall mean and refer to any recreational, commercial or oversized vehicle, motor home, commercial vehicle, tractor, golf cart, mobile home or trailer (either with or without wheels), camper, camper trailer, boat or other watercraft, boat trailer, or any other recreational or commercial transportation device of any kind.

64. The term Repair shall mean and refer to merely correcting the damage done sometimes by accident or fire or other cause, but more often due to the ravages of time and the deterioration resulting from ordinary wear and tear, by substituting for the damage, decayed or worn-out parts, new material, usually similar to that replaced, and so restoring the structure to its original sound condition.

65. The term Resident shall mean and refer to any person living or staying at the Tract, including but not limited to natural person or persons residing in a Town Home.

66. The term Road shall mean and refer collectively to the Dedicated Streets, Roads and Cul-de-Sacs and Private Streets, Roads, Cul-de-Sacs, Ways, Drives and Parking Spaces located within the Tract or within the Orchard Farms Properties.

67. The term Single Family shall mean and refer to one of the following: (a) a single person, (b) a group of natural persons related to each other by blood or legally related to each other by marriage or adoption, and an additional person or persons as a caretaker or as domestic help, or (c) a group of not more than three (3) unrelated persons who maintain a common household; provided, however, a group occupying a Lot as boarding house, club, fraternity or hotel shall not be considered a "single family."

68. The term Single Family Residence shall mean and refer to both the architectural style of a Dwelling Unit and the nature of the residential use permitted.

69. The term Subassociation shall mean and refer to the subassociation of Town Home Owners within the Orchard Farms Town Homes Neighborhood taken or acting as a group in accordance with this Neighborhood Declaration.

70. The term Total Votes of the Subassociation shall mean and refer to the total number of votes appertaining to all Lots at the Tract.

71. The term Town Home shall mean and refer to a Lot, including the residential Dwelling Unit constructed thereon, as shown on the Final Plat for the Orchard Farms Town Home Neighborhood, which shall include fee title to the real property lying directly below said Lot, the airspace above, and a corresponding right to the use and enjoyment of the Common Area and Facilities, and the Exclusive Common Area. Mechanical equipment and appurtenances located within any one Town Home or located without said Town Home but designated and designed to serve only that Town Home, such as appliances, electrical receptacles and outlets, air conditioning compressors, furnaces, water heaters, apparatus, systems or equipment, fixtures and the like, shall be considered part of the Town Home; so shall all decorated surfaces of interior walls, floors and ceilings, including but not limited to all paint, wallpaper, wall coverings, windows and window frames, doors and door frames, trim, carpeting, tile and linoleum. All pipes, wires, conduits, or other utility lines or

installations constituting a part of the Town Home or serving only the Town Home, and any structural members, parts, components or any other property of any kind, including fixtures or appliances within any Town Home, which are removable without jeopardizing the integrity, soundness, safety or usefulness of the remainder of the Building within which the Town Home is located shall be deemed to be part of the Town Home.

72. The term Tract shall mean and refer to all of the real estate submitted to this Neighborhood Declaration.

73. The term Use Restrictions shall mean and refer to the use restrictions governing the Tract.

74. The term Voting Group shall mean and refer to a voting group so designated by the Declarant such as a Neighborhood so designated by the Declarant.

75. The term Voting Representative shall mean and refer to the Director serving on the governing board of the MHOA responsible for casting the votes allocated to his or her Neighborhood Voting Group.

2. Submission to Ownership in Planned Residential Unit Development (PRUD).

The Declarant hereby submits the Tract, together with all appurtenances thereto, to be known as Orchard Farms Town Homes, to this Neighborhood Declaration and the Utah Community Associations Act, Utah Code Ann., Sections 57-8a-1 et seq, as amended and supplemented (the "Act"). Declarant hereby declares that the Tract and every part thereof is and shall be held, conveyed, devised, leased, granted, encumbered, used, occupied, and otherwise transferred in any manner, subject to the provisions of this Neighborhood Declaration and the Act. Each and all of the provisions hereof are hereby declared to be in furtherance of the general plan and scheme of ownership, and are further declared to be for the benefit of the Property and every part thereof, and for the benefit of each Owner. All provisions hereof shall be deemed to run with the land as covenants running with the land, or as an equitable servitude, as the case may be, and shall bind all persons hereafter acquiring or owning any interest in the Property, however such interest may be obtained.

All present and future Owners, Residents, Permittees and Mortgagees of Town Homes shall be subject to, and shall comply with the provisions of this Neighborhood Declaration and the Act.

Acceptance of a deed of conveyance, or the entering into a lease, or the entering into occupancy of any Town Home or accepting a mortgage on one of the Town Homes, shall constitute an agreement that the provisions of the Neighborhood Declaration, and amendments thereto, are accepted and ratified by such Owner, Resident, Permittee and Mortgagee, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Town Home, as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage, or lease thereof.

The Tract is subject to the non-exclusive Reciprocal Use Easement described in the Master Declaration, which cannot be revoked without the prior written consent of Fairview Estates, LLC, its successors or assigns.

3. The Buildings and Facilities.

(a) The initial Phase of the Tract consists or will consist of up to 5 Buildings as shown on the Final Plat for the Orchard Farms Town Home Neighborhood.

(b) The initial Phase of the Tract consists or will consist of up to 28 Lots or Town Homes as shown on the Final Plat for the Orchard Farms Town Home Neighborhood.

(c) All details involving the description and location of the Town Homes or Lots and other like details are shown on the Final Plat for the Orchard Farms Town Home Neighborhood.

(d) Exclusive Common Area consists or will consist of areas denoted as such on the Final Plat for the Orchard Farms Town Home Neighborhood.

(e) Common Area consists or will consist of areas denoted as such on the Final Plat.

4. Nature and Incidents of Ownership.

(a) In addition to a fee simple interest in a Town Home, each Owner owns an equal undivided ownership interest in the Subassociation and a non-exclusive right to use and enjoy the Common Area and Facilities. Such undivided interest in the Subassociation and the non-exclusive right to use and enjoy the Common Area and Facilities are hereby declared to be appurtenant to the respective Town Home. The percentage of ownership in the Subassociation shall be used for all purposes, including, but not limited to, voting and assessment for Neighborhood Common Expenses.

(b) Title to a Town Home may be held or owned by any entity and in any manner in which title to any other real property may be held or owned in the State of Utah.

(c) No part of the Exclusive Common Area or Common Area and Facilities associated with an Unit or of the legal rights comprising ownership in the Subassociation or the non-exclusive right to use and enjoy the Common Area and Facilities may be separated from any other part thereof. Each Unit, the undivided interest in the Subassociation and/or the non-exclusive right to use and enjoy the Common Area and Facilities, shall always be conveyed, devised, encumbered, and otherwise affected only together and may never be separated from one another.

(d) Exclusive Common Area shall be owned by the Subassociation for the benefit of the Owners, and no Owner may bring any action for partition thereof.

(e) Subject to the limitations contained in this Neighborhood Declaration, any Owner shall have the non-exclusive right to use and enjoy the Common Area and Facilities, although no Owner may bring any action for partition thereof.

(f) If any part of the Exclusive Common Area or the Common Area and Facilities encroaches or shall hereafter encroach upon an Town Home, an easement for such encroachment and for the maintenance of the same shall and does exist. If any part of an Town Home encroaches or shall hereafter encroach upon the Exclusive Common Area or Common Area and Facilities, or upon on adjoining Town Home, an easement for such encroachment and for the maintenance of the same shall and does exist. Such encroachments shall not be considered to be encumbrances on the Exclusive Common Area, Common Area and Facilities or a Town Home. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of the building on the Property, by error in the Final Plat or the Final Plat for the Orchard Farms Town Homes Neighborhood, by settling, rising, or shifting of the earth, or by changes in position caused by repair or reconstruction of the Property or any part thereof.

(g) Each Owner hereby appoints the Board of Directors as his or her agent, to have access to all Exclusive Common Area and/or Common Area and Facilities from time to time during such reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Exclusive Common Area and/or Common Area and Facilities making emergency repairs therein necessary to prevent damage to the Exclusive Common Area and/or Common Area and Facilities or to another Town Home. The Board of Directors shall also have such right independent of any agency relationship. Damage to an Town Home resulting from the maintenance, repair, emergency repair, or replacement of any of the Exclusive Common Area and/or Common Area and Facilities or as a result of emergency repairs at the insistence of the Board of Directors or an Owner shall be either a Master Common Expense or a Neighborhood Common Expense; provided however, that if such damage is the result of negligence of the Owner of an Town Home, then such Owner shall be financially responsible for all of such damage. Such damage shall be repaired and the Property shall be restored substantially to the same condition as existed prior to damage. Amounts owing by Owners pursuant hereto shall be collected by the Board of Directors by assessment as provided herein.

(h) Each Owner shall have a right of ingress and egress over, upon and across the Exclusive Common Area and/or Common Area and Facilities necessary for access to his/her Town Home. Each Owner shall have a right to the horizontal and lateral support of an Town Home, and such rights shall be pertinent to and pass with the title to each Town Home.

(i) The Board of Directors shall have a non-exclusive easement to make such use of the Exclusive Common Area and/or Common Area and Facilities as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Neighborhood Declaration, including the right to construct and maintain storage and maintenance facilities in Exclusive Common Area and/or Common Area and Facilities for use by the Board of Directors.

(j) Easements are reserved throughout the Property as may be required for utility services.

(k) All conveyances of an Town Home hereafter made, whether by Declarant or otherwise, shall be construed to grant and reserve such reciprocal easements as shall give effect to this Neighborhood Declaration, even though no specific reference to such easements appears in any such conveyance.

(l) Membership in the Subassociation is mandatory and may not be partitioned from the ownership of a Town Home. Each Owner by virtue of his accepting a deed or other document of conveyance to a Town Home is deemed automatically to be a member of the Subassociation.

1) The Subassociation shall have two classes of membership -- Class A and Class B, described more particularly as follows:

a) Class A. Class A Members shall be all Owners with the exception of the Class B Members, if any.

b) Class A Members shall be entitled to vote on all issues before the Subassociation to, subject to the following:

1) Each Lot shall have one (1) vote;

2) No vote shall be cast or counted for any Lot not subject to assessment;

3) When more than one (1) person or entity holds such interest in a Lot, the vote for such Lot shall be exercised as those persons or entities themselves determine and advise the Secretary of the Subassociation prior to any meeting. In the absence of such advice, the vote of the Lot shall be suspended in the event more than one (1) person or entity seeks to exercise it.

4) Any Owner of a Lot which has been leased may, in the lease or other written instrument, assign the voting right appurtenant to that Lot to the lessee, provided that a copy of such instrument is furnished to the Secretary of the Subassociation at least three (3) days prior to any meeting.

c) The Class B Member shall be the Declarant and any successor of Declarant who takes title for the purpose of development and sale of Lots in the Orchard Homes Single Family Residences Project and who is designated as such in a recorded instrument executed by Declarant.

e) The Class B Member shall originally be entitled to three (3) votes per Lot owned; provided, however, under no circumstances shall Declarant or its successors or assigns have fewer than one (1) more vote than all class A votes combined.

f) The Class B membership shall convert to Class A membership one hundred and twenty (120) days after the expiration of the Period of Declarant's Control. Thereafter the Class B Member shall be deemed to be a Class A Member entitled to one (1) vote for each Lot owned. At such time, the Declarant shall call a meeting, in the manner described in the By-Laws of the Subassociation for special meetings, to advise the Owners of the termination of Class B status and, if it has not already occurred, to schedule transition of the operation and management of the Orchard Homes Single Family Residences Project to a Board of Directors elected by the Owners, subject to the master Declaration.

5. Description and Conveyance of an Town Home.

(a) Every conveyance or contract for the sale of an Town Home and every other instrument affecting title to an Town Home may describe that Town Home by the number shown on the Final Plat for the Orchard Farms Town Homes Neighborhood, in substantially the following fashion:

LOT NO. _____, as shown in the Neighborhood Declaration and on the Final Plat for the Orchard Farms Town Home Neighborhood for "Orchard Farms Town Homes," Phase _____, appearing in the records of the County Recorder of Davis County, Utah, together with an undivided interest in and to the Common Area and Facilities, as the same are established and identified in the Neighborhood Declaration and Final Plat for the Orchard Farms Town Homes Neighborhood referred to above.

SUBJECT TO: The Master Declaration and Master Plat; all liens for current and future assessments and charges imposed or levied pursuant to the Neighborhood Declaration of Covenants, Conditions, Restrictions, and Easements for Orchard Farms Town Homes; mineral reservations of record and rights incident thereto; all instruments of record which affect the above-described tract or any portion thereof, including, without limitation, any mortgage or deed of trust; all visible easements and rights-of-way; and all easements and rights-of-way of record; all easements, rights-of-way, encroachments, or discrepancies shown on or revealed by the Master Final Plat and the Final Plat for the Orchard Farms Town Home Neighborhood or otherwise existing; an easement for every pipe, line, cable, wire, utility line, or similar facility which traverses or partially occupies the above-described tract; and all easements necessary for ingress to, egress from, maintenance of, and replacement of all such pipes, lines, cables, wires, utility lines, and similar facilities.

Such description shall be construed to describe the Town Home, together with the appurtenant undivided interest in the Common Area and Facilities, and to incorporate all the rights and limitations incident to such ownership contained in the Master Declaration, this Neighborhood Declaration, in the By-Laws, and in any Rules and Regulations.

(b) Title to each Town Home is hereby made subject to the terms and conditions hereof which bind the Declarant and all subsequent owners, whether or not it be so expressed in the deed by which any Owner acquired an Town Home.

6. Board of Directors Rights and Obligations.

(a) The business, property and affairs of the Subassociation shall be managed by a Board of Directors composed of three (3) individuals. Until the first regular meeting of the Subassociation is held pursuant after the termination of the Declarant's Period of Control, the Declarant alone shall be entitled to select the three (3) members of the Board of Directors. In the event a Director's seat which was filled by Declarant becomes vacant, Declarant shall have the right to select a replacement member

to sit on the Board of Directors for the balance of the term associated with the vacated seat. In all other cases of vacancy the remaining Directors shall elect a replacement as provided in the By-Laws.

(b) The Board of Directors may exercise any right or privilege given to it expressly by this Neighborhood Declaration, or by law, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

(c) The Board of Directors shall have the rights and obligations set forth in this Declaration and the By-Laws.

(d) The Board of Directors shall be responsible for the exclusive management and control of the Subassociation and the Exclusive Common Area, and all improvements thereon (including furnishings and equipment related thereto), and shall keep the same in good, clean, attractive and sanitary condition, order and repair. The Board of Directors shall be responsible for repair or replacement of the Improvements to the Exclusive Common Area and shall have the exclusive right to contract for all goods, services, and insurance payments which are made for such repairs or replacement. The cost of such management, operation, maintenance, and repair by the Board of Directors shall be a Neighborhood Common Expense.

(e) The Board of Directors may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Board of Directors shall determine to be necessary or desirable for the proper operation of the Property, whether such personnel are furnished or employed directly by the Board of Directors or by any person or entity with whom or which it contracts. The Board of Directors may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Property; the enforcement of this Neighborhood Declaration, the By-Laws, or any Rules and Regulations. The Board of Directors may arrange with others to furnish lighting, water, snow removal, grounds maintenance and other common services. The cost of such services shall be borne as provided in paragraph 7 of this Neighborhood Declaration and in the By-Laws.

(f) The Board of Directors may acquire and hold, for the use and benefit of all Owners, tangible and intangible personal property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be deemed to be owned by the Owners in the same proportion as their respective interests in the Common Area.

(g) The Board of Directors may make Rules and Regulations governing the use of Town Home and of the Exclusive Common Area, which Rules and Regulations shall be consistent with the rights and duties established in this Neighborhood Declaration.

(h) The Board of Directors may suspend an Owner's voting rights for the period during which such Owner fails to comply with the Rules and Regulations, or with the obligations of an Owner under this Neighborhood Declaration. Notice of non-compliance will be sent to an Owner at least ten (10) days prior to any meeting at which action may be taken by the Owners. The Board of Directors may also take judicial action against any Owner to enforce compliance with the Rules and Regulations, with other obligations, or to obtain damages for non-compliance, all to the extent permitted by law.

(i) The Board of Directors may delegate its authority, right and power, in whole or in part, to a managing Director ("Managing Member").

7. Assessments.

(a) Declarant, for each Town Home owned by it within the Property, hereby covenants, and each Owner of any Town Home by the acceptance of a deed therefore, whether or not it be so expressed in the deed, shall hereby covenant and agree with each other and with the Subassociation to pay to the Subassociation, in addition to the Master Assessments, for the purposes provided in this Neighborhood Declaration, all assessments, all special assessments, and other fees as provided in this Neighborhood Declaration, the By-Laws, or Rules and Regulations.

(b) The total annual assessments against all Town Homes shall be based upon advance estimates of cash requirements by the Board of Directors to provide for the payment of each Owner's share of the operating expenses and all estimated expenses growing out of or connected with the maintenance and operation of the Subassociation and the Exclusive Common Area or furnishings, among other things, expenses of management; grounds maintenance; taxes and special assessments levied by governmental authorities until the Town Homes are separately assessed as provided herein; premiums for all insurance which the Board of Directors is required or permitted to maintain; common lighting and heating; water charges; trash collection; sewer service charges; repairs and maintenance; wages for employees; legal and accounting fees; any deficit remaining from a previous period; the creation of a reasonable contingency reserve, surplus and/or sinking fund; and any other expenses and liabilities which may be incurred by the Board of Directors for the benefit of the Owners under or by reason of this Neighborhood Declaration.

(c) Each Town Home shall be separately metered for gas and electricity. Costs of gas and electric service shall be paid by the individual Owners. Water and sewer for individual Town Homes shall be separately metered and costs shall be paid by the individual Owners. Water, garbage, and electricity for Common Area and Facilities may be metered separately or in combination with individual Town Homes.

(d) Expenses attributable to the Exclusive Common Area as a whole shall be apportioned among all Town Homes in proportion to their respective undivided ownership interests in the Subassociation. For this purpose Declarant shall be considered to own only the undivided interest in the Subassociation based upon the percentages of ownership interests of Town Homes not conveyed by Declarant.

(e) Annual assessments shall be made on a calendar year basis. The Board of Directors shall give written notice of each annual assessment with respect to an Town Home not less than thirty (30) days nor more than sixty (60) days prior to the beginning of the next calendar year. The first annual assessment shall be for the balance of the calendar year remaining after the date fixed by the Board of Directors. Each annual assessment shall be due and payable in monthly installments on the first day of each and every month and no separate notices of such monthly installment shall be required.

(f) In addition to annual assessments, the Board of Directors may levy in any assessment year a special assessment, payable over such a period as the Board of Directors may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Property or any part thereof, or for any other expense incurred or to be incurred as provided in this Neighborhood Declaration. This paragraph shall not be construed as an independent source of authority for the Board of Directors to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other paragraphs of this Neighborhood Declaration. Any amounts assessed pursuant hereto shall be assessed to the Owners in proportion to their respective undivided interest in the Subassociation. Notice in writing of the amount of such special assessments and the time for their payment shall be given promptly to the Owners. Payment shall be due on the dates and in the manner provided in the notice.

(g) All sums assessed to any Town Home pursuant to this section, together with interest thereon as provided herein shall be secured by a lien on such Town Home in favor of the Subassociation. Such lien shall have such priorities as established by law.

(h) To establish a lien for any unpaid assessment, the Board of Directors shall prepare a written notice of lien as set forth by statute. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by judicial foreclosure by the Board of Directors as provided by law. The lien shall also secure, and the Owner shall also be required to pay to the Board of Directors any assessments against the Town Home which shall become due during the period of foreclosure sale or other legal sale. The Board of Directors may bid on the Town Home at foreclosure or other sale and may acquire, hold, convey, lease, rent, encumber, use and otherwise deal with the same as the Owner thereof.

(i) A release of lien shall be executed by the Board of Directors and recorded in the office of the County Recorder of Davis County, Utah, upon payment of all sums secured by a lien which has been made the subject of a recorded notice of lien.

(j) An encumbrancer holding a lien on an Town Home may pay, but shall not be required to pay, any amounts secured by the lien created by this Section, and upon such payment such encumbrancer shall be subrogated to all rights of the Board of Directors with respect to such lien, including priority.

(k) The Board of Directors shall report to any encumbrancer of an Town Home any unpaid assessments remaining unpaid for longer than ninety (90) days after the same shall have become due; provided however, that such encumbrancer first shall have furnished to the Board of Directors written notice of such encumbrance.

(l) The amount of any annual or special assessment against any Town Home shall be the personal obligation of the Owner thereof to the Subassociation. Suit to recover a judgment of such personal obligation shall be maintainable by the Board of Directors without foreclosing or waiving the lien securing the same. No Owner may void or diminish any personal obligation by waiver of the use and enjoyment of any of the Exclusive Common Area, Common Area and Facilities or by abandonment of an Town Home.

(m) Upon payment of a reasonable fee not to exceed ten dollars (\$10) and upon written request of any Owner, or any Mortgagee, prospective Mortgagee or prospective purchaser of an Town Home, the Board of Directors shall issue a written statement setting forth the amount of unpaid assessments, if any, with respect to such Town Home; the amount of the current yearly assessment and the portion thereof which has theretofore been paid; and credit for advanced payments or prepaid items. Such statement shall be conclusive upon the Board of Directors in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within ten (10) days, all unpaid assessments which become due prior to the making of such request shall be subordinate to the lien of a Mortgagee which acquired its interest subsequent to requesting such statement. Where a prospective purchaser makes such a request, both the lien and unpaid assessments and the personal obligations of the purchaser shall be released automatically if the statement is not furnished within ten (10) days, and that purchaser subsequently acquires the Town Home.

(n) Subject to the provisions of subparagraph (m), a purchaser of an Town Home shall be jointly and severally liable with the seller for all unpaid assessments against the Town Home up to the time of the conveyance, without prejudice to the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

(o) The Board of Directors may elect to (a) terminate utilities and the right to use amenities for non-payment of Assessments and/or (b) collect rents directly from a renter if the Town Home Owner who is renting the Town Home fails to pay any Assessment for a period of more than sixty (60) days after it is due and payable,

(p) Anything to the contrary notwithstanding, any first mortgagee who obtains title to a Town Home pursuant to the remedies in the mortgage or trust deed or through foreclosure will not be liable for more than six (6) months of the unpaid regularly budgeted assessments, dues or charges accrued before acquisition of the title to the property by the mortgage, although the first mortgagee will also be liable for any reasonable attorneys fees or costs related to the collection of the unpaid dues. All other grantees who obtain title to a Town Home in a voluntary conveyance or pursuant to the remedies in a mortgage or trust deed or through foreclosure shall be jointly and severally liable with the trustor or mortgagor for all unpaid assessments, late fees, default interest and collection costs, including a reasonable attorneys fee, against the Town Home for its share of the Neighborhood Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the trustor or mortgagor the amounts paid by the grantee.

(q) The Board of Directors may charge a late fee on late payments and interest shall accrue on the outstanding balance of any account at a rate to be determined by the Board of Directors.

(r) Anything to the contrary notwithstanding, Anything to the contrary notwithstanding, the Declarant shall not be obligated to pay Assessments on any Lots owned by it until such time as: (1) the physical structures are substantially completed; (2) certificates of permanent occupancy are issued and the Lots are sold or rented; or (3) Declarant elects in writing to pay the Assessments, whichever first occurs.

(s) Anything to the contrary notwithstanding, any first mortgagee who obtains title to a Town Home pursuant to the remedies in the mortgage or trust deed or through foreclosure will not be

liable for more than six (6) months of the unpaid regularly budgeted assessments, dues or charges accrued before acquisition of the title to the property by the mortgage, although the first mortgagee will also be liable for any reasonable attorneys fees and/or costs related to the collection of the unpaid dues. All other grantees who obtain title to a Town Home in a voluntary conveyance or pursuant to the remedies in a mortgage or trust deed or through foreclosure shall be jointly and severally liable with the trustor or mortgagor for all unpaid assessments, late fees, default interest and collection costs, including a reasonable attorneys fee, against the Town Home, and for its share of the Neighborhood Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the trustor or mortgagor the amounts paid by the grantee.

8. Use of Town Homes.

(a) Each Town Home is intended for and restricted to residential use. No Town Home shall be used except for residential purposes for a single family. Each Owner shall have and enjoy the privileges of fee simple ownership of his Town Home. There shall be no requirements concerning who may own a Town Home, it being intended that they may and shall be owned as any other property rights by any Person. The Project shall be used only for residential purposes, except as expressly set forth below, and the Exclusive Common Area and/or the Common Area and Facilities shall only be used in a manner consistent with the residential nature of the Project.

(b) There shall be no obstruction of Exclusive Common Area and/or the Common Area and Facilities by Owners and/or their guests without the prior written consent of the Board of Directors. The Board of Directors may, by Rules and Regulations, prohibit or limit the use of the Exclusive Common Area and/or the Common Area and Facilities as may be reasonably necessary for protecting the interests of all Owners or protecting the Town Homes or the Exclusive Common Area and/or the Common Area and Facilities. Nothing shall be kept or stored on any part of the Exclusive Common Area and/or the Common Area and Facilities without the prior written consent of the Board of Directors, except as specifically provided herein. Nothing shall be altered on, constructed in, or removed from the Exclusive Common Area and/or the Common Area and Facilities except upon the prior written consent of the Board of Directors.

(c) Nothing shall be done or kept in any Town Home or in the Exclusive Common Area and/or the Common Area and Facilities which would result in the cancellation of the insurance on the Property or increase the rate of the insurance on the Property, over what the Board of Directors, but for such activity, would pay, without the prior written consent of the Board of Directors. Nothing shall be done or kept in any Town Home or in the Exclusive Common Area and/or the Common Area and Facilities 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. No damage to, or waste of, the Exclusive Common Area and/or the Common Area and Facilities or shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Board of Directors and the other Owners harmless against all loss resulting from any such damage or waste caused by that Owner or an invitee; provided, however, that any invitee of the Declarant shall not under any circumstances be deemed to be an invitee of any other Owner.

(d) Each Owner shall keep the exterior of his Town Home in a clean, sanitary and attractive condition, and good state of repair.

(e) No Owner shall violate the Rules and Regulations as adopted from time to time by the Board of Directors.

(f) No alterations, plumbing, electrical or similar work within the Building, Town Home, Exclusive Common Area and/or the Common Area and Facilities shall be done by any Owner or resident without the prior written consent of the Board of Directors, except emergency repair.

(g) Notwithstanding anything herein to the contrary, until the Declarant has completed and sold all of the Town Homes, neither the Owners who have purchased Town Homes nor the Board of Directors shall interfere with the completion of the contemplated improvements and sale of the Town Homes. The Declarant may make such use of the unsold Town Homes and the Common Area as may facilitate such completion and sale, including but not limited to the maintenance of a sales office, the showing of the Town Homes, and the display of signs.

(h) Similarly situated Owners and residents shall be treated similarly.

(i) The rights of Owners and residents may display religious and holiday signs, symbols, and decorations on their Town Homes of the kinds normally displayed in residences located in single family residential neighborhoods shall not be abridged, except that the Subassociation may adopt time, place, and manner restrictions regulating displays which are visible from outside the Town Home. Signs, symbols and decorations generally, such as wind chimes, wreaths, dream catchers, pinwheels and so forth, may be controlled by rule and may not be installed or placed so as to be visible to or heard by other residents without the express prior written consent of the Board of Directors.

(j) No rule shall interfere with the freedom of occupants of Town Homes to determine the composition of their households, except that the Neighborhood Declaration limits residency in a Town Home to a single family and the Subassociation shall have the power to limit the total number of occupants permitted in each Town Home on the basis of the size and facilities of the Town Home and its fair share use of the Exclusive Common Area and/or the Common Area and Facilities, which, unless otherwise agreed in writing shall be no more than two individuals per bedroom.

(k) No rule shall interfere with the activities carried on within the confines of Town Homes, except that the Subassociation may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Subassociation or other Owners, that create a danger to the health or safety of occupants of other Town Homes, that generate excessive noise or traffic, that create unsightly conditions visible from outside the Town Home, or that create an unreasonable sounds of annoyance.

(l) No resident may operate a commercial trade or business in or from his Town Home with employees of any kind. No commercial trade or business may store any inventory over 250 cubic feet, and it must be contained within the Town Home. No commercial trade or business may be conducted in or from a Town Home unless (a) the business activity conforms to all home occupation and zoning requirements governing the Project; (b) the operator has a city issued business license; (c) the business activity satisfies the Home Occupation Guidelines adopted by the Board of Directors, as they may be modified from time to time; and (d) the resident has obtained the prior written consent of

the Board of Directors. Notwithstanding the foregoing, the leasing of a Town Home shall not be considered a trade or business within the meaning of this subsection.

(m) All motor vehicles and bikes shall be governed by the rules and regulations adopted by the Board of Directors.

(n) No Town Home shall be used as a dumping ground. All trash, garbage, debris, rubbish or other waste shall be kept in a sealed, sanitary bag or container, and stored out of sight except for a twenty-four (24) hour period on pick-up days.

(o) Satellite dishes, aerials, antenna, or systems may only be installed in accordance with FCC regulations taking into consideration the written guidelines established for or by each Neighborhood. The Board of Directors may bar, in its sole discretion, satellite dishes, aerials, antenna, or systems, including HAM radio antenna, not expressly authorized by FCC regulations

(p) No pets, animals, livestock, or poultry of any kind may be commercially bred at the Property. Up to two domestic pets as that term is defined by City Ordinance per Town Home are allowed; provided, however, pets must be properly licensed and registered. Pets may not create a nuisance. The following acts shall be considered a nuisance: (1) causing damage to the property of anyone other than the pet owner; (2) causing unreasonable fouling of the air by odors; (3) causing unsanitary conditions; (4) running loose throughout the Property and not in a cage or on a leash and under the control of a responsible person; (5) barking, howling, whining, or making other disturbing noises in an excessive, continuous or untimely fashion; (6) molesting or harassing passersby by lunging at them or chasing passing vehicles; (7) attacking or threatening to attack people or other domestic animals; (8) otherwise acting so as to bother, annoy or disturb the sensibilities of a reasonable person or interfering with the right of residents to the peaceful and quiet enjoyment of their property; (9) the mere number of pets maintained creates an offensive or dangerous condition to the health, welfare or safety of other residents; or (10) violation of a City pet ordinance.

(q) No signs, billboards or advertising structures or devices of any kind may be built, installed or displayed on the Property or in any Town Home, except one 2' x 2' "For Sale" sign may be put in one window of a Town Home. No "For Rent" signs or political signs are allowed. Anything herein to the contrary notwithstanding, this signage restriction does not apply to and is not binding upon the Declarant, who is expressly authorized to employ and use whatever signs or signage it deems appropriate to market its Town Homes.

(r) All land use and buildings shall be in compliance with all zoning and land use ordinances as well as all regulations of the municipalities and agencies governing the Property land use and buildings.

(s) Personal property placed on a patio, deck or balcony shall be managed and controlled by rule adopted by the Board of Directors, as it may be modified from time to time and may, although the Board of Directors is not obligated to do so, allow one table, one set of chairs, and one BBQ grill, if covered and not visible to the other residents. Clothlines, the hanging or drying of clothes, swimsuits and towels, dream catchers, wind chimes, pinwheels, the storing of bicycles, tricycles,

equipment, machinery, furniture, appliances, furnishings or other items which may be considered inappropriate or unsightly by the Board of Directors in its sole discretion, shall not be allowed.

(t) No air conditioning systems or units are allowed except those initially installed by the Declarant and replacements authorized in writing by the Board of Directors. Window air conditioning units, swamp coolers or other similar refrigeration devices are not permitted.

(u) Fencing, except that installed initially by the Declarant and its replacement authorized by the Board of Directors, is not allowed.

(v) No garage or parking space may be altered in such a manner that the number of motor vehicles which may reasonably be parked therein after the alteration is less than the number of motor vehicles that could have been reasonable parked in the garage as originally designed and constructed. Without further or additional notice, the Subassociation may immobilize, tow and/or impound motor vehicles and trailers parked, stationed or stored in violation of the Project Documents, and at the owner's sole risk and expense.

(w) No noxious or offensive activity shall be carried on, in or about the Property, nor shall anything be done or permitted thereon which may be or may become an annoyance, disturbance, bother or nuisance to the neighborhood, or which might interfere with the right of other residents to the quiet and peaceful enjoyment of their property.

(x) This Property is located by and is subject to the normal, everyday sounds, odors, and all other aspects associated with the nearby manufacturing area and an outdoor entertainment venue.

(y) No rule shall prohibit the leasing or transferring of any Town Home; provided, however: The Subassociation may require that Owners use lease forms approved by the Subassociation (or include specific terms in their leases), and may impose a review or administration fee on the lease or transfer of any Town Home. No Owner shall be permitted to lease his Town Home for short term, transient, hotel, vacation, seasonal or corporate use, which for purposes of this section shall be considered any rental with an initial term of less than six (6) months. Daily or weekly rentals are prohibited. No Owner may lease individual rooms to separate persons or less than his entire Town Home, including by way of illustration but not limitation to domestic help or a caretaker, without written notice to and the written consent of the Board of Directors. The Board of Directors is hereby granted and reserves the right to screen and approve prospective renters, and review and approve the rental agreement. Any rental agreement entered into in violation of this subsection is voidable at the option of the Board of Directors and the renter may be declared "non-conforming." No renter shall be declared non-conforming without prior written notice to the Owner giving him the opportunity to be heard at an informal hearing before the Board of Directors, and to remedy the default. A non-conforming renter shall be considered a nuisance and the Subassociation may require the Owner to permanently remove the renter (and all persons claiming a right to possession by or through him) from the Property, at the Owner's sole expense. Other than as stated in this Section, there is no restriction on the right of any Owner to lease or otherwise grant occupancy rights to a Town Home.

9. **Capital Improvements.** All expenses for Capital Improvements shall be governed by and subject to the following conditions, limitations and restrictions:

(a) Any Capital Improvement or Addition to the Project which costs ten percent (10%) or less of the Total Annual Budget, and does not alter the nature of the Project, may be authorized by the Board of Directors alone (the "Capital Improvement Ceiling").

(b) Any Capital Improvement, the cost of which will exceed the Capital Improvement Ceiling, must, prior to the commencement of construction, be authorized by at least a majority of the percentage of undivided ownership interest in the Common Area.

(c) Any Capital Improvement which would materially alter the nature of the Project (e.g., changing the roofing materials, the construction of the external Building surfaces, color scheme, etc.) must, regardless of its cost and prior to being constructed or accomplished, be authorized by at least sixty-seven (67%) percent of the undivided ownership interest in the Common Area.

10. **Operation, Maintenance and Alterations.** Each Town Home and the Common Area shall be maintained, repaired, and replaced in accordance with the following covenants, conditions and restrictions:

(a) The Property shall be maintained in a usable, clean, functional, safe, sanitary, attractive and good condition.

(b) The Master Association is responsible for the maintenance, repair and replacement of all of the Exclusive Common Area and/or the Common Area and Facilities within or serving the entire Orchard Farms development and not just the Orchard Farms Town Homes Neighborhood (the "Area of Common Responsibility").

(c) The Neighborhood Association is responsible for the maintenance, repair and replacement of all of the Exclusive Common Area within the Neighborhood (the "Area of Neighborhood Responsibility").

(d) Each Owner is responsible for all building exterior maintenance and upkeep costs; provided, however, the Subassociation will manage the repair or maintenance of the building to ensure the overall consistency and quality of the neighborhood. The Subassociation will assess each individual Owner for his or her proportional share of the cost of any repairs or changes to the building. In addition, each Owner shall maintain and repair, and replace the Improvements, to his or her Town Home and the following improvements (whether or not such improvements are located within his or her Town Home), including without limitation all individual services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, fixtures, windows and window systems, glass, doors and door systems, garage doors and garage door systems, patios, balconies and decks, plumbing fixtures, systems and lateral pipes or valves, and all concrete, including the driveway, sidewalks, walkways, steps, porch and landing serving or servicing only his Town Home, including any damage caused thereby and not covered by insurance. Each Owner shall also maintain any Common Area or Facility appurtenant to his Town Home broom clean and free of debris, including his driveway, walkways, porch, landing, patio, deck or balcony, broom clean and free of grease spills, leaks, personal property, trash, litter and debris. The foregoing are referred to as the "Area of Personal Responsibility". All maintenance, repairs and replacements are subject to the approval of the Board of

Directors as to construction materials, quality of construction and installation, and uniformity of appearance. No Owner shall allow his Town Home or the Exclusive Common Area and/or the Common Area and Facilities adjacent thereto to detract from the health, safety or uniform appearance or design of the Project.

(e) All landscaping in the Project shall be maintained and cared for in a manner consistent with the standards of design and quality originally established by Declarant and in accordance with any City landscaping maintenance plans or ordinances. Specific additional written guidelines, standards, controls, and restrictions on landscaping may be adopted or amended by the Board of Directors from time to time. All landscaping shall be maintained in a safe, sanitary, and aesthetic condition. Any weeds or diseased or dead lawn, trees, ground cover or shrubbery shall be removed and replaced. All lawn areas shall be mowed and edged; all trees, shrubs and bushes shall be pruned, trimmed and topped. No landscaping may affect adversely the value or use of any other Town Home, or to detract from the uniform design and appearance of the Project established by the Declarant.

(f) If (except in the case of an emergency) after written notice and a hearing, it is determined that any responsible party has failed or refused to discharge properly his obligation with regard to the maintenance, repair, or replacement of the real property and improvements described herein, or that the need for maintenance, repair, or replacement thereof is caused through the willful or negligent act of any person, then the Subassociation, or Board of Directors may, but is not obligated to, provide such maintenance, repair, or replacement at the defaulting or responsible party's sole cost and expense (the "Default Maintenance Cost"). The Default Maintenance Cost is the debt of such defaulting or responsible party at the time the expense is paid and shall be collectible as such. In addition, it may be considered a "Fine" against a Owner. A Fine assessed hereunder which remains unpaid after the time for appeal has expired becomes a lien against the Owner's interest in the property in accordance with the same standards as a lien for the nonpayment of Neighborhood Common Expenses hereunder.

(g) The Declarant may make changes to the design and construction of the improvements located in or on the Common Area without additional approval required, including without limitation the consent of the Board of Directors or Members of the Subassociation; provided, however, no Owner, Guest or Permittee may make any structural alterations to the Exclusive Common Area and/or the Common Area and Facilities, without the express prior written consent of the Board of Directors.

(h) No Owner shall do any work or make any alterations or changes which would jeopardize the soundness or safety of the Property, reduce its value or impair any easement or hereditament, without in every such case the unanimous written consent of all the other Owners being first had and obtained.

9. Party Walls.

(a) Each wall which is built as a part of the original construction of the Town Homes upon the properties and placed on the dividing line between the Town Homes shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply.

(b) The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

(c) If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Notwithstanding any other provision of this Article, an Owner who by his negligent or willful acts causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

(e) The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

10. Signs.

(a) The entry monument and sign placed within the Common Area shall be maintained by the Owners in all respects. In the event of a partial or total destruction of the sign from any cause, the Owners shall rebuild the sign to restore it to its original dimensions and conditions consistent with applicable law. The Subassociation shall have the sole and exclusive right to allocate the space on said sign for any and all purposes.

(b) Any signs comprising a part of a central directory to the Town Homes or business development, or individual signs attached to individual Town Homes shall conform in all respects to the Bylaws as administered by the Board of Directors.

(c) The requirements of Article 7, Section (q) apply to any and all signs.

11. Insurance.

11.1 **Rules and Regulations.** The Board of Directors may adopt general insurance house rules, policies and procedures (collectively, "Insurance Rules and Regulations"). The Insurance Rules and Regulations are intended as a guide for owners and residents in order to maintain the insurability of the project, keep the insurance premium reasonable, and enforce the maintenance responsibilities of the individual owners. The Insurance Rules and Regulations are subject to change.

11.2 **Insurance.** In accordance with Part 4 of the Utah Community Association Act, Utah Code Ann., Sections 57-8a-401-407, inclusive, (2011), as amended and supplemented, the Master Association shall obtain the following insurance for the Common Area and Facilities:

- Public liability; and
- Property, fire and extended hazard.¹²

¹ The Property Insurance coverage must include:

In addition, the Master Association may obtain additional or greater coverage, including:

:

- Directors and officers insurance;
- Workers compensation;
- A fidelity bond; and
- Other miscellaneous coverage.

This insurance described above and/or obtained by the Master Association is referred to collectively as "Master Association Insurance Policy". The premium shall be Master Common Expense.

11.3 Full Replacement. The Property Insurance must be for at least 100% of the FULL replacement cost of the item at the time insurance is purchased and at the renewal date.

11.4 Adjust Claims. The Board of Directors is hereby granted the right, power and authority to adjust claims. THE ASSOCIATION IS NOT OBLIGATED TO SUBMIT A CLAIM TO ITS PROPERTY INSURANCE CARRIER IF THE GOVERNING BOARD DETERMINES THAT IN ITS REASONABLE BUSINESS JUDGMENT THE AMOUNT OF THE CLAIM IS UNLIKELY TO EXCEED THE INSURANCE DEDUCTIBLE AND, IF SO, THE UNIT OWNER'S INSURANCE POLICY PROVIDES THE PRIMARY COVERAGE, OR IF THE UNIT OWNER IS UNINSURED, THEN HE OR SHE WILL BE LIABLE FOR THE LOSS UP TO THE AMOUNT OF THE DEDUCTIBLE.

11.5 Notice of Cancellation, Lack or Denial of Coverage. If property or liability insurance is not reasonably available, then fair and reasonable notice must be given to the owners within seven (7) days.

11.6 Primary Coverage. When a claim is covered by the Association's Property Insurance and an Owner's Property Insurance, the Association's Property Insurance is considered PRIMARY, although the Unit Owner's insurance may apply to the deductible.

11.7 Deductible. If an Owner makes a claim on the Association's Property Insurance policy, then the Owner is responsible for the deductible on the Association Policy. If two (2) or more Owners make a claim arising out of a single event, then each Owner is responsible for payment of his or her portion of the deductible based upon his or her percentage of the loss . If an Owner fails to pay his or

a. All Common Area and Facilities; and

b. All Structures, Buildings, Lots, Dwelling Units, fixtures, floor coverings, wall coverings, cabinets, heating and plumbing fixtures, windows, any (other) item permanently attached.

² The Association is not obligated to insure detached Dwelling Units; that is, a Dwelling Unit that is NOT physically attached to another Dwelling Unit or to an above-ground structure that is part of the Common Area.

her share of the loss/deductible, then the Association may assess an Assessment against the Owner or his or her property and file a lien against the property to secure payment.

11.8 Reserve. For each claim made by an Owner on the Association's Property Insurance Policy the Association must set aside in reserve the amount of the deductible or \$10,000, whichever is less.

11.9 Notice of Amount of Deductible/Change. The Association shall provide notice to all Owners of (a) the amount of the deductible and (b) their obligation to pay the Association's deductible if a claim is filed, and (c) provide follow-up notice of any change to the amount of the deductible. The Association is responsible to pay the deductible if it has failed to provide the Owner with this notice.

11.10 Insurance Proceeds. When the Association receives insurance proceeds from its Property Insurance carrier, the Association receives the insurance proceeds in trust for the benefit of the Owner(s) and the Association.

11.11 Severance. All insurance policies must be consistent with the requirements of Utah law. If any term, part or provision of this document is ruled by a court of competent jurisdiction to be illegal or in conflict with any Utah law, that provision shall be considered null, void and of no-effect; provided, however, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the document did not contain such term, part or provision.

12. Casualty Damage or Destruction

(a) All of the Owners irrevocably constitute and appoint the Board of Directors their true and lawful agent in their name, place and stead for the purpose of dealing with the Property upon its damage or destruction. Acceptance of a deed from the Declarant or from any Owner shall constitute appointment of the Board of Directors as attorney in fact for the limited purposes as herein provided.

(b) As attorney in fact, the Board of Directors shall have full and complete authority, right and power to make, execute, and deliver any contract, deed or other instrument with respect to the interest of a Owner which may be necessary or appropriate to exercise the powers herein granted. Repair and reconstruction of the improvements as used in the succeeding subparagraphs means restoring the Property to substantially the same condition in which it existed prior to damage, with each Town Home and the Common Area having substantially the same vertical and horizontal boundaries as before.

(c) In the event any Mortgagee should not agree to rebuild, the Board of Directors shall have the option to purchase such mortgage on behalf of the Subassociation by payment in full of the amount secured thereby. The Board of Directors may obtain the funds for such purpose by special assessments under paragraph 7 of this Neighborhood Declaration.

(d) As soon as practicable after receiving estimates, the Board of Directors shall diligently pursue completion of the repair or reconstruction of the part of the Property damaged or destroyed, but only if the Property is damaged or destroyed to the extent of 75% or less than the value thereof. In the

event the Property is destroyed or damaged to the extent of more than 75% of the value thereof, the Owners shall, at a meeting within one hundred (100) days after such damage or destruction duly called by the Board of Directors for the purpose, determine whether or not said premises should be rebuilt, repaired or disposed of. Unless Owners representing at least 80% of the undivided interest in the Common Area agree to the withdrawal of the Property from the provisions of the Act and this Neighborhood Declaration and to its subsequent disposal, the Property shall be repaired, rebuilt or restored to substantially the same condition it was in immediately prior to destruction or damage. The Board of Directors may take all necessary or appropriate action to effect repair or reconstruction, as attorney in fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith. Such repair or reconstruction shall be substantially in accordance with the original plans and specifications of the Property or may be in accordance with any other plans and specifications the Owners may approve, provided that in such latter event the number of cubic feet and the number of square feet of any Town Home may not vary by more than 5% from the number of cubic feet and the number of square feet for such Town Home as originally constructed pursuant to the original plans and specifications, and the location of any building shall be substantially the same as prior to damage or destruction. The same easements for encroachments as declared in Section 4 shall apply under the provisions of this Section.

(e) The proceeds of any insurance collected shall be available to the Board of Directors for the purpose of repair or reconstruction. If the proceeds of insurance are insufficient to pay the estimated or actual cost of such repair or reconstruction, the Board of Directors may levy in advance a special assessment sufficient to provide funds to pay the estimated or actual costs of repair or reconstruction. Such assessment shall be allocated and collected as provided in this Neighborhood Declaration. Further levies may be made in like manner if the amounts collected prove insufficient to complete the repair or reconstruction.

(f) The insurance proceeds held by the Board of Directors and the amounts received from assessments provided for in Section 7 constitute a fund for the payment of cost of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for cost or repair of reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs of such repair or reconstruction, such balance shall be distributed to the Owners in proportion to the contributions each Owner made pursuant to the assessments the Board of Directors made under Section 7 of this Neighborhood Declaration.

(g) If 75% of the Owners and all holders of first mortgages on Town Homes agree not to rebuild, as provided herein, the Property may be removed from the provisions as prescribed therein. Withdrawal shall be in accordance with the Utah Statutes.

13. Duty of Owner to Pay Taxes on Town Home Owned.

Each Town Home and its appurtenant percentage of interest in the Common Area in the Property is subject to separate assessment and taxation of each taxing authority and the special district(s) for all types of taxes and assessments authorized by law, and that as result thereof no taxes will be assessed or levied against the Property as such. Accordingly, each Owner will pay and discharge any and all taxes and assessments which may be assessed on that Town Home.

14. Computation of Percentage Interest in Common Area.

The percentage of undivided ownership interest in the Subassociation shall be equal and uniform for all Town Homes.

15. Amendment of this Neighborhood Declaration.

(a) General. Except as provided elsewhere in this Neighborhood Declaration, including by way of illustration but not limitation to sections pertaining to the annexation or withdrawal of land, any amendment to this Neighborhood Declaration shall require the affirmative written vote or consent of at least sixty-seven percent (67%) of the Total Votes of the Subassociation cast either in person or by proxy at a meeting duly called for such purpose or otherwise approved in writing by such Owners without a meeting. Any amendment authorized pursuant to this Section shall be accomplished through the recordation in the Office of the County Recorder of an instrument executed by the Subassociation. In such instrument an officer or delegate of the Subassociation shall certify that the vote required by this Section for amendment has occurred.

(b) Initial Declarant Right to Amend. The Declarant alone may amend or terminate this Neighborhood Declaration prior to the closing of a sale of the first Town Home.

(c) Unilateral Right to Amend Under Certain Conditions. Notwithstanding anything contained in this Neighborhood Declaration to the contrary, this Neighborhood Declaration may be amended unilaterally at any time and from time to time by Declarant if such Amendment is (1) necessary to correct typographical errors or inadvertent omissions; (2) necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; or (3) reasonably necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Town Homes subject to this Neighborhood Declaration; provided, however, any such Amendment shall not materially adversely affect the title to any Town Home unless any such Owner shall consent thereto in writing.

(d) Declarant's Right to Amend Unilaterally Prior to Termination of Declarant's Right to Control. Prior to the expiration of the Period of Declarant's Control, Declarant may unilaterally amend this Neighborhood Declaration for any other purpose; provided, however, any such Amendment shall not materially adversely affect the substantive rights of any Owner hereunder, nor shall it adversely affect title to any property without the consent of the affected Owner.

(e) To Satisfy Requirements of Lenders. Anything to the contrary notwithstanding, Declarant reserves the unilateral right to amend all or any part of this Neighborhood Declaration to such extent and with such language as may be requested by a State Department of Real Estate (or similar agency), FHA, VA, the FHLMC or FNMA and to further amend to the extent requested by any other federal, state or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of this Neighborhood Declaration or approval of the sale of Town Homes, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Town Home, or any portions thereof. Any such amendment shall be effected by the recordation by Declarant of a written Amendment duly signed by the Declarant, specifying the federal,

state or local governmental agency or the federally chartered lending institution requesting the amendment and setting forth the change, modification or amendment requested by such agency or institution. Recordation of such an Amendment shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such Amendment, when recorded, shall be binding upon all Town Homes and all persons having an interest therein. It is the desire of Declarant to retain control of the Subassociation and its activities during the anticipated period of planning and development. If any amendment requested pursuant to the provisions of hereof deletes, diminishes or alters such control in any manner whatsoever in the opinion of Declarant, Declarant shall have the unilateral right to amend this Neighborhood Declaration to restore such control.

(f) Declarant's Rights. No provision of this Neighborhood Declaration reserving or granting to Declarant the Developmental Rights shall be amended without the prior express written consent of Declarant, which consent may be withheld, conditioned or delayed for any reason or for no reason at Declarant's sole and exclusive discretion.

(g) Consent of Eligible Mortgagee. The consent of Eligible Mortgagees holding at least sixty seven percent (67%) of the undivided ownership interest of the Owners in the Tract in the Common Area and Facilities and shall be required to any amendment which would terminate the legal status of the Tract; and the consent of Eligible Mortgagees holding at least fifty-one (51%) percent of the undivided ownership interest of the Owners in the Tract in the Common Area and Facilities shall be required to add to or amend any material provision of this Neighborhood Declaration or the Plat Final Plat for the Orchard Farms Town Home Neighborhood which establishes, provides for, governs, or regulates any of the following, which are considered as "material":

- 1) voting rights;
- 2) increases in assessments that raise the previously assessed amount by more than twenty-five (25%) percent, assessment liens, or the priority of assessments liens;
- 3) reduction in reserves for maintenance, repair, and replacement of the Common Area and Facilities;
- 4) responsibility for maintenance and repairs;
- 5) reallocation of interests in the Common Area and Facilities, or rights to their use;
- 6) redefinition of any Town Home boundaries;
- 7) convertibility of Town Homes into Common Area and Facilities or vice versa;
- 8) expansion or contraction of the Tract, or the addition, annexation, or withdrawal of property to or from the Tract;
- 9) hazard or fidelity insurance requirements;

- 10) imposition of any restrictions on the leasing of Town Homes;
- 11) imposition of any restrictions on an Owner's right to sell or transfer his Town Home;
- 12) a decision by the Subassociation to establish self-management if professional management had been required previously by the Project Documents or by an Eligible Mortgage holder;
- 13) restoration or repair of the Tract (after damage or partial condemnation) in a manner other than that specified in the documents;
- 14) any provisions that expressly benefit mortgage holders, insurers or guarantors; and
- 15) any provisions required by Utah State Department of Real Estate (or similar agency), FHA, VA, the FHLMC or FNMA, any other federal, state or local governmental agency or a federally chartered lending institution, which in all respects shall govern and control.

(h) Material Amendment. Any addition or amendment shall not be considered material for purposes of this Section if it is for the clarification only or to correct a clerical error.

(i) Notice to Eligible Mortgagee. Notice of any proposed amendment to any Eligible Mortgagee to whom a written request to approve an addition or amendment to this Neighborhood Declaration or the Plat Final Plat for the Orchard Farms Town Home Neighborhood is required shall be mailed postage prepaid to the address for such Mortgagee shown on the list maintained by the Subassociation. Any Eligible Mortgagee who does not deliver to the Board of Directors or the Subassociation a negative response to the notice of the proposed amendment within thirty (30) days from the date of such mailing shall be deemed to have approved the proposal. The foregoing consent requirements shall not be applicable to amendments to this Neighborhood Declaration and the Plat Final Plat for the Orchard Farms Town Home Neighborhood or the termination of the legal status of the Project as a Planned Residential Unit Development (PRUD) if such amendments or such termination are made or accomplished in accordance with the provisions of this Neighborhood Declaration regarding Condemnation or Substantial Obsolescence.

16. Expansion of the Tract.

(a) Reservation of Option to Expand. Declarant hereby reserves the option to expand the Tract to annex additional real estate and include additional Town Homes in the Tract. This option to expand may be exercised from time to time, at different times and in any order, without limitation, provided however, the option shall expire five (5) years from the date following the first conveyance of a Town Home in Phase I to a Town Home purchaser unless sooner terminated by Declarant's recorded Waiver of such option, there being no other circumstances which will cause the option to expire prior to said five (5) years. Such right may be exercised without first obtaining the consent or vote of Town

Home Owners and shall be limited only as herein specifically provided. Such Town Homes shall be constructed on any or all portions of the Additional Land described on Exhibit "C" or other real estate.

(b) Supplemental Neighborhood Declarations and Supplemental Final Plat for the Orchard Farms Town Home Neighborhoods. Such expansion may be accomplished by the filing for record by Declarant in the office of the County Recorder of Davis County, Utah, no later than five (5) years from the date this Neighborhood Declaration is recorded, a Supplement or Supplements to this Neighborhood Declaration containing a legal description of the site or sites for new Town Homes, together with supplemental Final Plat for the Orchard Farms Town Home Neighborhood or Final Plat for the Orchard Farms Town Home Neighborhoods containing the same information with respect to the new Town Homes as was required on the Final Plat for the Orchard Farms Town Home Neighborhood with respect to the Phase I Town Homes. The expansion may be accomplished in phases by successive supplements or in one supplemental expansion.

(c) Expansion of Definitions. In the event of such expansion the definitions used in this Neighborhood Declaration automatically shall be expanded to encompass and refer to the Tract as so expanded. The term "Property" shall mean the real property initially submitted under the Neighborhood Declaration, plus any Additional Land added to the Tract by a Supplemental Neighborhood Declaration or by Supplemental Neighborhood Declarations, and reference to this Neighborhood Declaration shall mean this Neighborhood Declaration as so supplemented. All conveyances of Town Homes after such expansion shall be effective to transfer rights in the Tract, with additional references to the Supplemental Neighborhood Declaration and the Supplemental Final Plat for the Orchard Farms Town Home Neighborhood. The recordation in the office of the Davis County Recorder of a Supplemental Final Plat for the Orchard Farms Town Home Neighborhood incident to any expansion shall operate automatically to grant, transfer, and convey to then Owners of Town Homes in the Tract as it existed before such expansion the respective undivided interests in the new Common Area added to the Tract as a result of such expansion. Such recordation shall also operate to vest in any then mortgagee of any Town Home in the Tract as it existed, interest so acquired by the Owner of the Town Home encumbering the new Common Area added to the Tract as a result of such expansion.

(d) Neighborhood Declaration Operative on New Town Homes. The new Town Homes shall be subject to all the terms and conditions of this Neighborhood Declaration and of a Supplemental Neighborhood Declaration, and the Town Homes therein shall be subject to ownership within a Planned Residential Unit Development (PRUD) with all the incidents pertaining thereto as specified herein, upon recording the Supplemental Final Plat for the Orchard Farms Town Home Neighborhood and Supplemental Neighborhood Declaration in the said office of the Davis County Recorder.

(e) Right of Declarant to Adjust Ownership Interest in Common Area. Each deed of a Town Home shall be deemed to irrevocably reserve to the Declarant the power to appoint to Owners, from time to time, the percentages in the Common Area set forth in Supplemental or Neighborhood Declaration. The proportionate interest of each Owner in the Common Area after any expansion of the Tract shall be an undivided interest of the Tract as expanded. A power coupled with an interest is hereby granted to the Declarant, its successors and assigns, as attorney in fact to shift percentages of the Common Area in accordance with Supplemental or Neighborhood Declarations recorded pursuant

hereto and each deed of a Town Home in the Tract shall be deemed a grant of such power to the Declarant. Various provisions of this Neighborhood Declaration and deeds and mortgages of the Town Homes may contain clauses designed to accomplish a shifting of the Common Area. None of said provisions shall invalidate the other, but each shall be deemed supplementary to the other toward the end that a valid shifting of the Common Area can be accomplished. Notwithstanding anything to the contrary herein, no change in the percentage of undivided interest in the Common Area may be effected more than five (5) years after the effective date of the Neighborhood Declaration.

(f) Revised Schedule. Accordingly, upon the recordation of a Supplemental Neighborhood Declaration and Supplemental Final Plat for the Orchard Farms Town Home Neighborhood incident to any expansion, the revised schedule of undivided interests in the Common Area contained therein shall automatically become effective for all purposes and shall fully supersede any similar schedule which was contained in any Neighborhood Declaration associated with any prior phase. In the event the provisions of the separate instruments relating to the Tract conflict irreconcilably, the terms of that instrument which was recorded most recently shall control.

(g) Other Provisions Concerning Expansion. If the Tract is expanded as hereinbefore contained, then it is further provided that:

(1) All or any part of the Additional Land may be added to the Tract without any limitations whatsoever save and except that all additional Town Homes created must be restricted to multi family residential housing limited to one family per Town Home.

(2) Portions of the Additional Land may be added to the Tract at different times without any limitations.

(3) Declarant shall have the right without further conveyance or documentation to build roads and access ways to the Additional Property through the easement areas as shown on the Final Plat for the Orchard Farms Town Home Neighborhood. The Subassociation of Owners shall not allow anything to be built upon or interfere with said easement areas.

(4) No assurances are made concerning:

a. The locations of any improvement that may be made on any portion of the Additional Land that may be added to the Tract.

b. Type, kind or nature of improvement which may be created on any portion of the Additional Land, except that the common facilities, Buildings and Town Homes will be comparable to the Phase I facilities on a per Town Home basis and will be of a similar quality of materials and construction to Phase I and will be substantially completed prior to annexation.

c. Whether any Town Homes created on any portion of the Additional Land will be substantially identical to those within the initial Tract except that Town Homes will be constructed of an equal or better quality of materials and construction than the Town Homes in Phase I.

d. Type, size, or maximum number of Common Area and Facilities which may be created within any portion of the Additional Land added to the Tract.

(5) Notwithstanding anything to the contrary which may be contained herein, the Neighborhood Declaration is not intended, and shall not be construed so as to impose upon Declarant any obligation respecting, or to restrict Declarant in any way with regard to:

(a) the submission of any portion of the Additional Land to the provisions of the Act as Land under this Neighborhood Declaration;

(b) the creation, construction, or addition to the Tract of any additional property;

(c) the carrying out in any particular way or within any particular time of any development which may be undertaken except as herein mentioned; or

(d) the taking of any particular action with respect to the Additional Land, the Tract, or any Land.

(6) Assuming that only Phase 1 of the Town Home Neighborhood is completed, there would be 5 Buildings, and the minimum number of Lots would be 26 and the maximum ownership interest of each Lot in the Subassociation would be 3.85%. Assuming all Phases in the Project are completed and all of the Additional Land is added to the Project (a) the maximum number of Buildings would be 8; (b) the maximum number of Lots would be 412; (c) the minimum ownership interest of each Lot in the Association would be 2.38%; provided, however, the number of Lots actually constructed and the actual ownership interest of each Lot in the Association may actually be somewhere in between the numbers and percentages set forth above.

17. Transfer of Management.

Declarant may at any time relinquish its reserved right to select the Directors and may elect to transfer the management of the Tract to a Board of Directors elected by the Owners. Upon the termination of the Period of Declarant's Control, or sooner if the Declarant so elects, Declarant shall notify Owners in writing of the effective date of such transfer (the "Transfer Date"). Thereupon, the Owners shall call a meeting to elect the Directors to take office as of the Transfer Date. Declarant covenants to cooperate with the Owners in effecting an orderly transition of management. Moreover, Declarant shall cause all obligations for Neighborhood Common Expenses of the Subassociation prior to the Transfer Date to be paid in full on or before such date, and shall transfer any Subassociation funds to the newly elected Board of Directors.

18. Working Capital Fund.

A working capital fund shall be established by the Declarant equal to or greater than two (2) months' Assessments for each Town Home. Each Town Home's share of the working capital fund shall be paid by the buyer of a Town Home, collected by the title company, and transferred to the

Subassociation at the time of closing of the sale of each Town Home. If the working capital contribution is paid for by the Declarant, in cash or kind, then the Declarant shall be reimbursed for such contribution by the buyer of such Town Home at the time of closing. The purpose of the working capital fund is to insure that the Board of Directors will have cash available to satisfy unforeseen expenses or to acquire additional equipment or services necessary for the operation, control and regulation of the Tract. Sums paid into the working capital fund are not to be considered as advance payments or regular monthly payments of Neighborhood Common Expenses. Thereafter, the Board of Directors may continue the working capital fund by charging a reasonable transfer or impact fee when Town Homes are sold or rented.

19. Separate Taxation.

Each Town Home and its percentage of undivided interest in the Common Area and Facilities shall be considered to be a parcel and shall be subject to separate assessment and taxation by each assessing Town Home and special district for all types of taxes authorized by law, including ad valorem levies and special assessments. Neither the Building or Buildings, the property nor any of the Common Area and Facilities may be considered a parcel for tax purposes.

20. Enforcement and Right to Recover Attorneys Fees.

(a) General Remedies. Should the Subassociation, Manager, Board of Directors or an aggrieved Owner be required to take action to enforce the Project Documents, or to pursue any remedy provided hereunder or by applicable law, whether such remedy is pursued by filing suit or otherwise, they may recover all Additional Charges, including a reasonable attorneys fee, which may arise or accrue.

(b) Additional Remedies. In addition, the Board of Directors may impose the following sanctions after proper notice and the opportunity to be heard:

- (1) imposing fines;
- (2) suspending an Owner's right to vote;
- (3) suspending any Person's right to use any of the Swim and Tennis Club and other recreational amenities located in the Common Area; provided, however, nothing herein contained shall authorize the Board of Directors to limit ingress or egress to or from a Town Home;
- (4) exercising self-help or taking action to abate any violation of the Orchard Farms Town Homes Neighborhood Documents in a non-emergency situation;
- (5) exercising self-help in any emergency situation (specifically including but not limited to the towing of vehicles that are in violation of the parking rules);
- (6) requiring an Owner at his sole expense to remove any structure or improvement in the Common Area and Facilities, and upon the failure of the Owner to do so, the Board of Directors

or its designee shall have the right to enter the property and remove the violation and restore the property to its original condition, and such action shall not be deemed a trespass;

(7) without liability to any Person, precluding any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the Project Documents; and

(8) levying Individual Charges to cover costs and expenses incurred by the Subassociation to bring an Owner into compliance.

21. **Management.** The Association must be managed either (a) by the Declarant or one of Declarant's employees, agents, representatives, designees or affiliates or (b) a professional property manager or management company selected by the Board of Directors (the "Manager"), anything to the contrary notwithstanding. This section may not be changed without the prior express written consent of Declarant, its successors or assigns. The same Manager must manage the Master Association and the Orchard Farms SFR.

22. **Service of Process.**

Until changed by amendment to this Neighborhood Declaration, the name of the person to receive service of process and the place of his residence is:

Christopher P. Gamvroulas
978 East Woodoak Lane
Salt Lake City, Utah 84117

22. **Mortgagees.**

Notwithstanding all other provisions hereof:

(a) The liens created hereunder upon any Town Home shall be subject to and subordinate to, and shall not affect the rights of the holder of the indebtedness secured by any recorded first mortgage (meaning a mortgage or a trust deed with first priority over other mortgages) where such interest was made in good faith and for value, provided that after the foreclosure of any such mortgage there may be a lien on the interest of the purchaser at such foreclosure sale to secure all assessments made pursuant to this Neighborhood Declaration after the date of such foreclosure sale, which lien shall have the same effect and be enforced in the manner as provided herein. All other mortgages shall have such rights and priorities as established by law.

(b) No amendment to this paragraph shall affect the rights of the holder of any such mortgage who does not join in the execution thereof.

23. **Indemnification of Board of Directors.**

Each member of the Board of Directors shall be entitled to be indemnified and held harmless by the Owners against all cost, expenses, and liabilities whatsoever, including attorney's fees,

reasonably incurred by him in connection with any proceeding to which he may become involved by reason of being or having been a member of the Committee.

24. Severability.

If any provision, paragraph, sentence, clause, phrase, or word of this Neighborhood Declaration should under any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of the Neighborhood Declaration, and the application of any such provision, paragraph, sentence, clause, phrase, or word in any other circumstances shall not be affected thereby.

25. Topical Headings and Conflict.

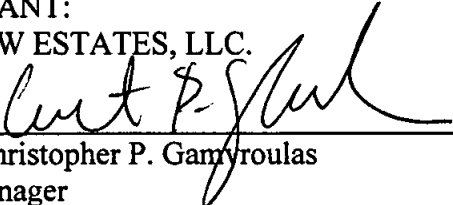
The headings appearing at the beginning of the paragraphs of this Neighborhood Declaration are only for convenience of reference and are not intended to describe, interpret, define or otherwise affect the content, meaning or intent of this Neighborhood Declaration of any paragraph or provision hereof. In case any provisions hereof shall conflict with Utah law, Utah law shall be deemed to control.

26. Effective Date.

This Neighborhood Declaration shall take effect upon recording in the office of the County Recorder of Davis County, Utah.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand this 11 day of May, 2011.

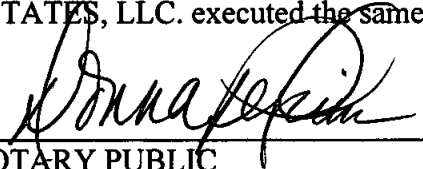
DECLARANT:
FAIRVIEW ESTATES, LLC.

By: 
Name: Christopher P. Gamvroulas
Title: Manager

ACKNOWLEDGMENT

STATE OF UTAH)
 ss:
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 12 day May, 2011 by Christopher P. Gamvroulas, the Manager of FAIRVIEW ESTATES, LLC., a Utah limited liability company, and said Christopher P. Gamvroulas duly acknowledged to me that said FAIRVIEW ESTATES, LLC. executed the same.



NOTARY PUBLIC

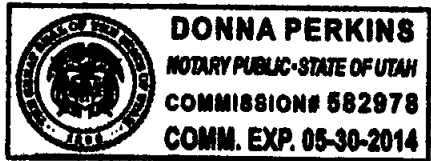


EXHIBIT "A"
LEGAL DESCRIPTION OF ORCHARD FARMS TOWN HOMES

The land referred to in the foregoing document as Orchard Farms Town Homes is located in Davis County, Utah and is described more particularly as follows:

Including Lots 101 thru 126 of
Orchard Farms PRUD Phase 1.

ORCHARD FARMS P.R.U.D. PHASE 1
LOCATED IN A PORTION OF ALL LOTS 1 THROUGH 3, TRACT 2, TOWNSHIP 3 NORTH, RANGE 1 WEST,
COUNTY OF DAVIS, UTAH
FRUIT BENEFITS CITY, DAVIS COUNTY, UTAH

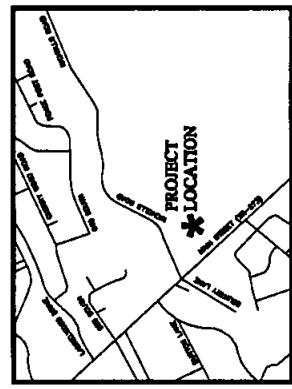


GENERAL NOTES

1. ALL PUBLIC RIGHTS-OF-WAY SHALL BE PUBLIC UTILITY CORRIDORS (P.U.C.)

ELEVATION BENCHMARK

FRUIT BENEFITS CITY, DAVIS COUNTY, UTAH



VICINITY MAP

SURVEYORS CERTIFICATE

WE, THE UNDERSIGNED SURVEYORS OF THE ABOVE DESCRIBED TRACT OF LAND, DO HEREBY CERTIFY THAT WE HAVE PERSONALLY EXAMINED THE RECORDS OF THE COUNTY CLERK OF DAVIS COUNTY, UTAH, AND HAVE FOUND THAT THE RECORDS CONTAIN THE FOLLOWING INFORMATION:

LEGAL DESCRIPTION

ACCORDING TO THE RECORDS OF THE COUNTY CLERK OF DAVIS COUNTY, UTAH, THE ABOVE DESCRIBED TRACT OF LAND IS LOCATED IN THE EAST 1/2 OF SECTION 1, TOWNSHIP 3 NORTH, RANGE 1 WEST, OF THE COUNTY OF DAVIS, UTAH. THE TRACT IS BOUND BY THE EAST 1/2 OF SECTION 1, TOWNSHIP 3 NORTH, RANGE 1 WEST, OF THE COUNTY OF DAVIS, UTAH, TO THE NORTH; BY THE WEST 1/2 OF SECTION 1, TOWNSHIP 3 NORTH, RANGE 1 WEST, OF THE COUNTY OF DAVIS, UTAH, TO THE WEST; BY THE SOUTH 1/2 OF SECTION 1, TOWNSHIP 3 NORTH, RANGE 1 WEST, OF THE COUNTY OF DAVIS, UTAH, TO THE SOUTH; AND BY THE EAST 1/2 OF SECTION 1, TOWNSHIP 3 NORTH, RANGE 1 WEST, OF THE COUNTY OF DAVIS, UTAH, TO THE EAST.

OWNERS DEDICATION

WE, THE UNDERSIGNED SURVEYORS OF THE ABOVE DESCRIBED TRACT OF LAND, DO HEREBY CERTIFY THAT WE HAVE PERSONALLY EXAMINED THE RECORDS OF THE COUNTY CLERK OF DAVIS COUNTY, UTAH, AND HAVE FOUND THAT THE RECORDS CONTAIN THE FOLLOWING INFORMATION:

LIMITED LIABILITY ACKNOWLEDGMENT

WE, THE UNDERSIGNED SURVEYORS OF THE ABOVE DESCRIBED TRACT OF LAND, DO HEREBY CERTIFY THAT WE HAVE PERSONALLY EXAMINED THE RECORDS OF THE COUNTY CLERK OF DAVIS COUNTY, UTAH, AND HAVE FOUND THAT THE RECORDS CONTAIN THE FOLLOWING INFORMATION:

PLANNING COMMISSION
APPROVED AS TO FORM AND CONTENT BY THE PLANNING COMMISSION ON _____ DATE _____ A.D. _____

CITY ENGINEER
APPROVED AS TO FORM AND CONTENT BY THE CITY ENGINEER ON _____ DATE _____ A.D. _____

CITY ATTORNEY
APPROVED AS TO FORM AND CONTENT BY THE CITY ATTORNEY ON _____ DATE _____ A.D. _____

CITY COUNCIL
APPROVED AS TO FORM AND CONTENT BY THE CITY COUNCIL ON _____ DATE _____ A.D. _____

RECORDED #
STATE OF UTAH, COUNTY OF DAVIS, DEED NO. _____ DATE _____ A.D. _____

PROPERTY OWNER
NAME _____ DATE _____ A.D. _____

PROPERTY ADDRESS
ADDRESS _____ CITY _____ STATE _____ ZIP _____

PROPERTY TYPE
PROPERTY TYPE _____

PROPERTY VALUE
PROPERTY VALUE _____

PROPERTY TAXES
PROPERTY TAXES _____

PROPERTY DESCRIPTION
PROPERTY DESCRIPTION _____

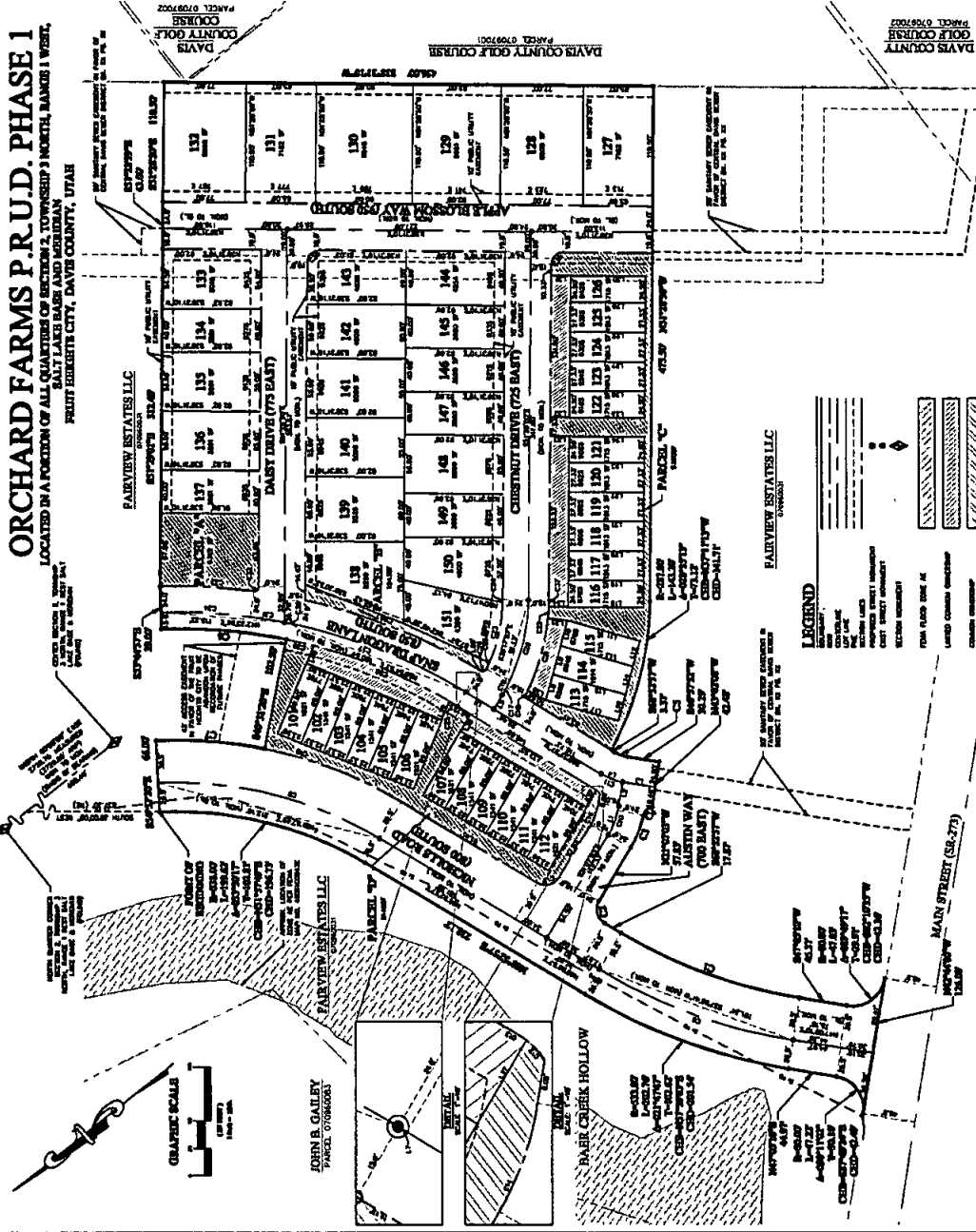
SHEET 01 OF 02



DAVIS COUNTY PUBLIC RECORDS

ORCHARD FARMS P.R.U.D. PHASE 1

LOCATED IN A PORTION OF ALL QUARTERS OF SECTION 3, TOWNSHIP 7 NORTH, RANGE 1 WEST, FRUIT HIGHLIGHT CITY, DAVIS COUNTY, UTAH



CLIENT TABLE

LOT	OWNER	AREA	ACRES	SECTION	TOWNSHIP	RANGE
113	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
114	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
115	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
116	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
117	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
118	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
119	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
120	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
121	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
122	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
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124	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
125	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
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129	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
130	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
131	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
132	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
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136	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
137	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
138	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
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153	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
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156	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
157	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
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170	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
171	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
172	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
173	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
174	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
175	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
176	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
177	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
178	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W

LOT TABLE

LOT	OWNER	AREA	ACRES	SECTION	TOWNSHIP	RANGE
113	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W
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178	FAIRVIEW ESTATES LLC	0.25	7N	10W	7N	10W

SECRET 02 OF 02

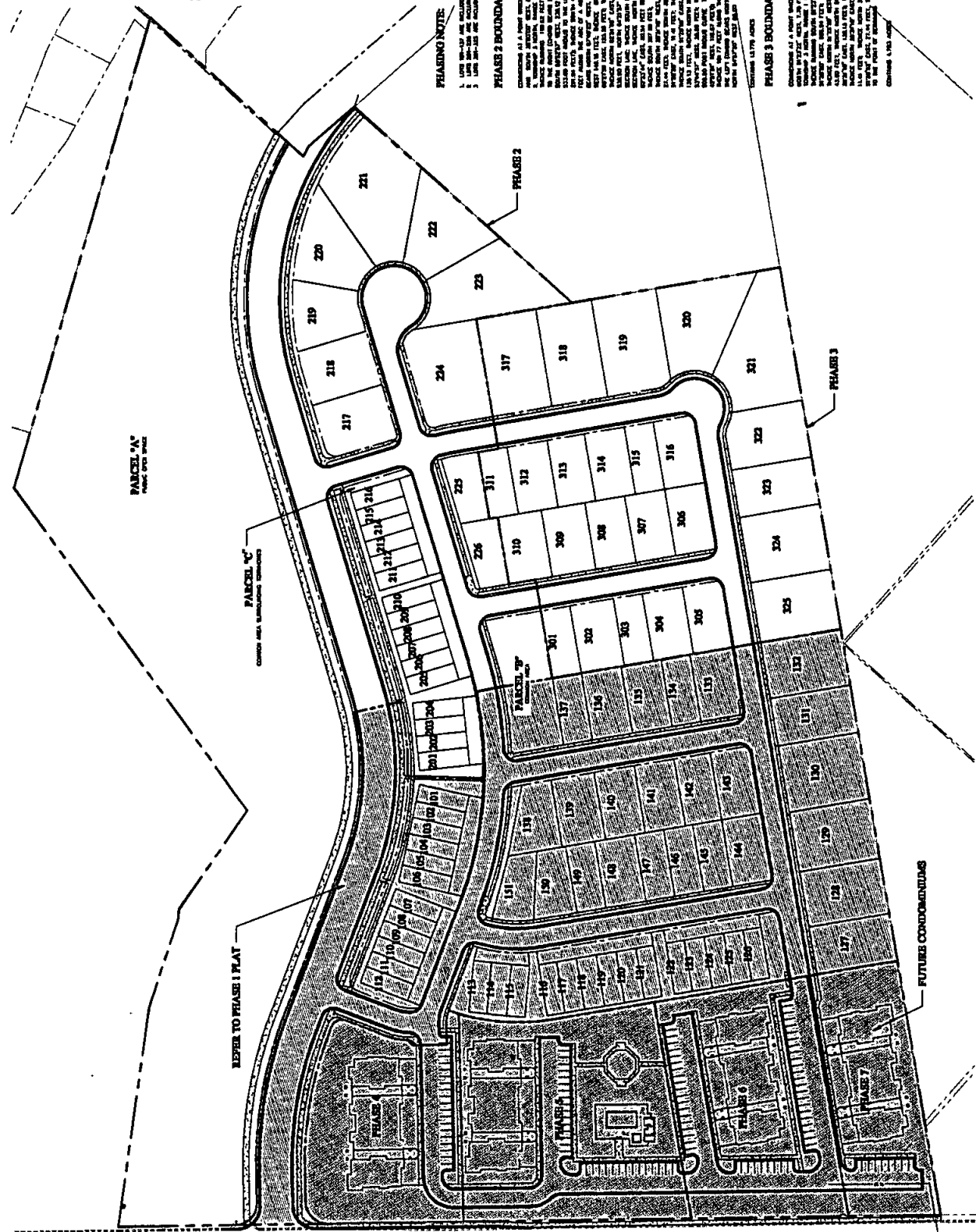




ORCHARD FARMS P.R.U.D. PHASE I OVERALL MASTER DEVELOPMENT PLAN FRUIT HEIGHTS CITY, DAVIS COUNTY, UTAH



DATE	REVISION



PHASING NOTE:
 1. THIS PLAN IS A DEVELOPMENT PLAN AND DOES NOT CONSTITUTE A GUARANTEE OF PERFORMANCE OR A WARRANTY OF ANY KIND.
 2. THIS PLAN IS SUBJECT TO THE APPROVAL OF THE CITY ENGINEER AND THE PLANNING BOARD.
 3. THIS PLAN IS SUBJECT TO THE APPROVAL OF THE UTAH DEPARTMENT OF HERITAGE AND ARTS.

PHASE 2 BOUNDARY DESCRIPTION
 COMMENCING AT A POINT MARKED AS N02, BEARING S15°00'00"W 200.00 FT TO CORNER A, BEARING N15°00'00"W 200.00 FT TO CORNER B, BEARING S15°00'00"W 200.00 FT TO CORNER C, BEARING N15°00'00"W 200.00 FT TO CORNER D, BEARING S15°00'00"W 200.00 FT TO CORNER E, BEARING N15°00'00"W 200.00 FT TO CORNER F, BEARING S15°00'00"W 200.00 FT TO CORNER G, BEARING N15°00'00"W 200.00 FT TO CORNER H, BEARING S15°00'00"W 200.00 FT TO CORNER I, BEARING N15°00'00"W 200.00 FT TO CORNER J, BEARING S15°00'00"W 200.00 FT TO CORNER K, BEARING N15°00'00"W 200.00 FT TO CORNER L, BEARING S15°00'00"W 200.00 FT TO CORNER M, BEARING N15°00'00"W 200.00 FT TO CORNER N, BEARING S15°00'00"W 200.00 FT TO CORNER O, BEARING N15°00'00"W 200.00 FT TO CORNER P, BEARING S15°00'00"W 200.00 FT TO CORNER Q, BEARING N15°00'00"W 200.00 FT TO CORNER R, BEARING S15°00'00"W 200.00 FT TO CORNER S, BEARING N15°00'00"W 200.00 FT TO CORNER T, BEARING S15°00'00"W 200.00 FT TO CORNER U, BEARING N15°00'00"W 200.00 FT TO CORNER V, BEARING S15°00'00"W 200.00 FT TO CORNER W, BEARING N15°00'00"W 200.00 FT TO CORNER X, BEARING S15°00'00"W 200.00 FT TO CORNER Y, BEARING N15°00'00"W 200.00 FT TO CORNER Z.

PHASE 3 BOUNDARY DESCRIPTION
 COMMENCING AT A POINT MARKED AS N03, BEARING S15°00'00"W 200.00 FT TO CORNER A, BEARING N15°00'00"W 200.00 FT TO CORNER B, BEARING S15°00'00"W 200.00 FT TO CORNER C, BEARING N15°00'00"W 200.00 FT TO CORNER D, BEARING S15°00'00"W 200.00 FT TO CORNER E, BEARING N15°00'00"W 200.00 FT TO CORNER F, BEARING S15°00'00"W 200.00 FT TO CORNER G, BEARING N15°00'00"W 200.00 FT TO CORNER H, BEARING S15°00'00"W 200.00 FT TO CORNER I, BEARING N15°00'00"W 200.00 FT TO CORNER J, BEARING S15°00'00"W 200.00 FT TO CORNER K, BEARING N15°00'00"W 200.00 FT TO CORNER L, BEARING S15°00'00"W 200.00 FT TO CORNER M, BEARING N15°00'00"W 200.00 FT TO CORNER N, BEARING S15°00'00"W 200.00 FT TO CORNER O, BEARING N15°00'00"W 200.00 FT TO CORNER P, BEARING S15°00'00"W 200.00 FT TO CORNER Q, BEARING N15°00'00"W 200.00 FT TO CORNER R, BEARING S15°00'00"W 200.00 FT TO CORNER S, BEARING N15°00'00"W 200.00 FT TO CORNER T, BEARING S15°00'00"W 200.00 FT TO CORNER U, BEARING N15°00'00"W 200.00 FT TO CORNER V, BEARING S15°00'00"W 200.00 FT TO CORNER W, BEARING N15°00'00"W 200.00 FT TO CORNER X, BEARING S15°00'00"W 200.00 FT TO CORNER Y, BEARING N15°00'00"W 200.00 FT TO CORNER Z.

PHASE 1 BOUNDARY DESCRIPTION
 COMMENCING AT A POINT MARKED AS N01, BEARING S15°00'00"W 200.00 FT TO CORNER A, BEARING N15°00'00"W 200.00 FT TO CORNER B, BEARING S15°00'00"W 200.00 FT TO CORNER C, BEARING N15°00'00"W 200.00 FT TO CORNER D, BEARING S15°00'00"W 200.00 FT TO CORNER E, BEARING N15°00'00"W 200.00 FT TO CORNER F, BEARING S15°00'00"W 200.00 FT TO CORNER G, BEARING N15°00'00"W 200.00 FT TO CORNER H, BEARING S15°00'00"W 200.00 FT TO CORNER I, BEARING N15°00'00"W 200.00 FT TO CORNER J, BEARING S15°00'00"W 200.00 FT TO CORNER K, BEARING N15°00'00"W 200.00 FT TO CORNER L, BEARING S15°00'00"W 200.00 FT TO CORNER M, BEARING N15°00'00"W 200.00 FT TO CORNER N, BEARING S15°00'00"W 200.00 FT TO CORNER O, BEARING N15°00'00"W 200.00 FT TO CORNER P, BEARING S15°00'00"W 200.00 FT TO CORNER Q, BEARING N15°00'00"W 200.00 FT TO CORNER R, BEARING S15°00'00"W 200.00 FT TO CORNER S, BEARING N15°00'00"W 200.00 FT TO CORNER T, BEARING S15°00'00"W 200.00 FT TO CORNER U, BEARING N15°00'00"W 200.00 FT TO CORNER V, BEARING S15°00'00"W 200.00 FT TO CORNER W, BEARING N15°00'00"W 200.00 FT TO CORNER X, BEARING S15°00'00"W 200.00 FT TO CORNER Y, BEARING N15°00'00"W 200.00 FT TO CORNER Z.

REFER TO PHASE I PLAN

PARCEL 5A
 PARCEL 5B

PARCEL 5C
 PARCEL 5D
 PARCEL 5E
 PARCEL 5F
 PARCEL 5G
 PARCEL 5H
 PARCEL 5I
 PARCEL 5J
 PARCEL 5K
 PARCEL 5L
 PARCEL 5M
 PARCEL 5N
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 PARCEL 5V
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 PARCEL 5X
 PARCEL 5Y
 PARCEL 5Z

PHASE 3

FUTURE CONDITIONS

EXHIBIT "B"

OPERATING AGREEMENT AND TERMS OF RECIPROCAL USE EASEMENT

1. This agreement is non-exclusive.
2. This agreement is not revocable and may not be modified without the prior written consent of Fairview Estates, LLC or its successors and assigns.
3. The Easement, which shall run with the land, is intended to provide pedestrian and vehicular access and circulation to, through, over, across and from the land subject to the Master Declaration of Covenants, Conditions and Restrictions, and Reservation or Grant of Easements for Orchard Farms Planned Residential Unit Development and the Orchard Farms Apartments via the Roads shown on the Final Plat to satisfy the site plan approval requirements of the City of Fruit Heights, Utah for the development of said properties. The property shall hereafter be subject to and burdened by an easement for the benefit of said parcels for such purpose.
4. The Easement is also intended to provide Landscaping and Open Space. The property shall hereafter be subject to and burdened by an easement for the benefit of said parcels for such purpose.
5. The improvements within the Reciprocal Use Easement shall be constructed and maintained in a good and useful condition by the respective property owners, with damages caused by another lot owner or his guests or invitees to be reasonably repaired by that lot owner at his sole expense. For purposes of such repairs the lots shall be subject to and burdened by temporary construction easements over such portions of the lots as are reasonably necessary for the performance of the required maintenance or repair.
6. This easement and the rights and obligations set forth herein are permanent and perpetual and intended to bind the parties hereto, their heirs, successors and assigns, and their respective properties, as equitable servitudes, and to run with the land.
7. This agreement and the cross easements granted may not be changed or expanded except by a writing signed by the parties hereto or their heirs, successors or assigns.
9. Nothing contained herein shall be deemed to be a gift or dedication of any portion of any of the properties described herein or the Reciprocal Use Easement to or for the general public or for any public purposes whatsoever, it being the intention of the parties that this cross easement be strictly limited for the purposes expressed herein.
10. The parties do not by this Reciprocal Use Easement in any way or for any purpose become partners or joint ventures with each other.
11. If any provisions herein contained is held to be invalid or void by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this

Reciprocal Use Easement and shall in no way affect any other provisions herein contained. If such provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

12. The cost to maintain the Reciprocal Use Easement shall be allocated in the manner set forth in the Master Declaration.

13. The property described in Exhibit "B" is known or to be known as the "Reciprocal Use Easement Area".

14. The Master Association shall maintain the Reciprocal Use Easement Area in good condition at its sole cost.

15. The Orchard Farms Apartments shall pay the Orchard Farms Apartments Assessment to the Master Association annually, although it may elect to make payments in installments.

16. Any waiver by either party of any breach of any kind or character whatsoever by the other, whether such be direct or implied, shall not be construed as a continuing waiver of, or consent to, any subsequent breach of this Reciprocal Use Easement. To be effective, any waiver must be signed by the party waiving the right.

17. In the event of the failure of any party hereto to comply with any provisions of this Reciprocal Use Easement, the defaulting party shall pay any and all costs and expenses, including reasonably attorneys fee, arising out of or resulting from such default, incurred by the injured party in enforcing its rights and remedies, whether such right or remedy is pursued by filing a lawsuit or otherwise.

18. There are no representations, warranties, covenants, or agreements between the parties as to the subject- matter of this Reciprocal Use Easement except as are specifically set forth herein. This writing contains the entire agreement between the parties hereto pertaining to the matters that are set forth herein and supersedes all prior verbal or written agreements of the parties relation thereto.

EXHIBIT "C"
BYLAWS OF THE
ORCHARD FARMS TOWN HOMES SUBASSOCIATION

ARTICLE I
NAME AND LOCATION

Section 1 .01 Name and Location. The name of the Subassociation is Orchard Farms Town Homes Subassociation (the "Subassociation"). The principal office of the corporation shall be located at 978 East Woodoak Lane, Salt Lake City, UT 84117, but meetings of Members and Board of Directors may be held at such places within the State of Utah, as may be designated by Board of Directors.

ARTICLE II
DEFINITIONS

Section 2.01 Definitions. Except as otherwise provided herein or as may be required by context, all terms defined in Paragraph 1 of the Neighborhood Declaration shall have such defined meanings when used in these Bylaws.

ARTICLE III
MEETINGS OF MEMBERS OF THE SUBASSOCIATION

Section 3.01 Annual Meeting. The Subassociation shall meet as often as it deems reasonably necessary but not less than annually at a convenient time and place.

Section 3.02 Special Meetings. Special meetings of Subassociation may be called at any time by the President or by a majority of the Directors or by the written request of at least twenty-five percent (25%) of the Owners.

Section 3.03 Notice of Meetings. Written notice of each meeting of the Subassociation shall be given to each Owner by or at the direction of the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to said Owner addressed to the Owner's address last appearing on the books of the Subassociation, or supplied by such Owner to the Subassociation for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 3.04 Quorum. A majority of the Owners present shall constitute a quorum for any action except as otherwise provided in the Articles, the Neighborhood Declaration, or these Bylaws.

Section 3.05 Proxies. At all Subassociation meetings, each Owner may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall

be revocable and shall expire, if not previously revoked, eleven (11) months after the date it is given by the Owner.

Section 3.06 Action Taken Without a Meeting. The Association shall have the right to take any action in the absence of a meeting which it could take at a meeting. Any action so approved shall have the same effect as though taken at a meeting of the Association.

ARTICLE IV BOARD OF DIRECTORS AND TERM OF OFFICE

Section 4.01 Number. The affairs of the Subassociation shall be managed by a Board of Directors comprised of three (3) natural persons. Each Member must be duly qualified and appointed or elected.

Section 4.02 Replacement. If a Member resigns or is otherwise unable or unwilling to serve, then the remaining Members shall appoint a replacement to complete his term of office.

Section 4.03 Term of Office. Each Directors shall serve a term of at least two (2) years.

Section 4.04 Compensation. No Member shall receive compensation for any service he may render to the Subassociation as a member of the Board of Directors, although he may be reimbursed for his actual expenses incurred in the performance of his duties and may enter into an independent contract to provide other services. A Member may enter into a separate and independent contract with the Subassociation to provide additional services for a fee.

Section 4.05 Regular Meetings. The Board of Directors shall meet as often as it deems reasonably necessary at a convenient time and place.

Section 4.06 Special Meetings. Special meetings of Board of Directors may be called at any time by the President or by a majority of the Directors.

Section 4.07 Notice of Meetings. Written notice of each meeting of the Board of Directors shall be given to each Director by or at the direction of the Secretary or person authorized to call the meeting by hand-delivery, mail, e-mail, fax or by posting on the Community bulletin board. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4.08 Quorum. A majority of the Directors present, in person or by proxy, shall constitute a quorum for any action except as otherwise provided in the Articles, the Neighborhood Declaration, or these Bylaws.

Section 4.09 Action Taken Without a Meeting. The Board of Directors shall have the right to take any action in the absence of a meeting which it could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Board of Directors.

Section 4.06 Voting. Each Member shall have one vote.

ARTICLE V POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 5.03 Powers. The Subassociation shall have all of the powers of a Utah non-profit corporation, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, the Bylaws and this Neighborhood Declaration. The Subassociation shall have the power to perform any and all lawful acts which may be necessary or proper for, or incidental to, the exercise of any of the express powers of the Subassociation. Without in any way limiting the generality of the foregoing, the Subassociation may act through its Board of Directors and shall specifically have the powers and duties set out in this Article V, including

Section 5.03.1 Assessments. The power and duty to levy Assessments on the Owners, and to enforce payment of such assessments in accordance with the Neighborhood Declaration.

Section 5.03.2 Subassociation Property. The right to own and/or lease the Subassociation Property and the duty to maintain and manage the Common Area and Facilities and improvements thereon. In particular the Subassociation shall:

- a. Maintain and repair in an attractive, safe and functional condition the Common Area and Facilities;
- b. Pay all taxes and assessments levied upon the Common Area and Facilities and all taxes and assessments payable by the Subassociation;
- c. Obtain any water, sewer, gas and electric services needed for the Common Area and Facilities; and
- d. Do each and every other thing reasonable and necessary to operate the Common Area and Facilities and the Subassociation.

ARTICLE VI OFFICERS AND THEIR DUTIES

Section 6.01 Enumeration of Officers. The officers of the Subassociation shall be a president and secretary, plus such other officers as the Board of Directors may from time to time by resolution create. The same individual may not hold the office of president

and secretary at the same time. The officers need not be Members of the Board of Directors.

Section 6.02 Election of Officers. The Board of Directors shall elect or appoint officers at the first meeting of the Board of Directors during each calendar year.

Section 6.03 Term. Each officer of the Subassociation shall hold office for one (1) year unless he shall sooner resign, or shall be removed or otherwise disqualified to serve.

Section 6.04 Special Appointments. The Board of Directors may elect such other officers as the affairs of the Subassociation may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board of Directors may from time to time determine.

Section 6.05 Resignation and Removal. Any officer may be removed from office with or without cause by a majority vote of the Board of Directors. Any officer may resign at any time by giving written notice to the Board of Directors, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6.06 Vacancies. A vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 6.07 President. The president shall (a) preside at all meetings of the Board of Directors, (b) see that orders and resolutions of the Board of Directors are carried out and (c) sign all contracts.

Section 6.08 Secretary. The secretary shall (a) record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the Subassociation, (b) keep the corporate seal of the Subassociation and affix it on all papers requiring said seal, (c) serve notice of meetings of the Board of Directors and of the Subassociation, (d) keep appropriate current record showing the Members of the Subassociation together with their addresses and (e) perform such other duties as may be required by the Board of Directors.

ARTICLE VII SUBCOMMITTEES

Section 7.01 Subcommittees. The Board of Directors may appoint such subcommittees as deemed appropriate in carrying out its purpose.

**ARTICLE VIII
BOOKS AND RECORDS**

Section 8.01 Books and Records. The books and records shall be kept with detailed accounts of the receipts and expenditures affecting the Tract, and the administration of the Tract, specifying the maintenance, repair and any other expenses incurred. The books and records, including any invoices, receipts, bills, proposals, documents, financial statements, and vouchers accrediting the entries thereupon shall be available for examination by the Owners, their duly authorized agents or attorneys, during general business hours on working days at the times and in the manner that shall be set and announced by the Board of Directors for the general knowledge of the Owners. All books and records shall be kept in accordance with generally accepted accounting practices.

Section 8.02 Signatures. All checks, drafts, contracts, and legally binding agreements shall be signed by persons authorized by the Board of Directors.

Section 8.03 Bookkeeping. The accounting and financial statements for Subassociation must be kept and prepared by either the property manager or an independent bookkeeper or accountant, who may not be a member of the Board of Directors or an officer of the Subassociation. A monthly profit and loss statement, balance sheet, and check register shall be sent or delivered designee by the bookkeeper or accountant to each Member and Subassociation or their designee. The accountant or bookkeeper shall prepare and file all tax returns for the Subassociation.

Section 8.04 Audit. Either a (a) majority vote of the Directors or (b) majority vote of all of the Owners is necessary and sufficient to require either a Compilation Report, Reviewed Statement or Audited Statement of the MHOA, the cost of which shall be considered a Neighborhood Common Expense.

**ARTICLE IX
AMENDMENTS**

Section 9.01 Amendment to Bylaws. These Bylaws may only be amended (a) unilaterally by the Declarant until the expiration of the Period of Declarant's Control or (b) the affirmative vote of a majority of the Owners or (c) the affirmative vote of a majority of the Directors.

Section 9.02 Conflict Between Articles, Bylaws and Neighborhood Declaration. In the case of any conflict between the Neighborhood Declaration and these Bylaws, the Neighborhood Declaration shall in all respects govern and control.

