

**AMENDED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
AND RESERVATION OF EASEMENTS FOR
JEFFERSON AVENUE TOWNHOME HOMEOWNERS ASSOCIATION, INC.,
A PLANNED RESIDENTIAL UNIT DEVELOPMENT**

THIS DECLARATION is made this 27 day of August 2019, by Jefferson Avenue Townhome Homeowner's Association, Inc., ("Declarant")

*01-0A4-0001 To 0020
w/commons*

RECITALS:

A. Declarant is the owner of certain property in the County of Weber, State of Utah, which is more particularly described as follows:

Beginning at a point on the West Right-Of-Way line of Jefferson street, said point being north 00°58'00" East along said West Right-Of-Way line, 165.00 feet from the southeast corner of Lot 1, Block 13, Plat A, Ogden City Survey and running thence North 89°02'00" West 249.25 feet; thence North 00°57'33" East 100.94 feet to the North line of Lot 10, Block 13 Plat A, Ogden City Survey, said North line also being the South line of Lot 9, in said Block 13; thence north 89°02'0249" West along said South line 83.09 feet to the West line of said Lot 9; thence North 00°57'24" East along said West line, 132.99 feet to the Northwest Corner of said Lot 9; thence South 89°02'52" East along the North line of said Lot 9, 332.37 feet to the Northeast Corner of said Lot 9 and the West Right-Of-Way of said Jefferson Street; thence South 00°58'00" West along said West Right-of-Way line, 234.00 feet to the point of beginning.

Contains: 69,370 Sq. Ft.; 1.592 Acres (the "Property")

B. Declarant has deemed it desirable, for the efficient preservation of the values and amenities in the real property described above, to create a non-profit corporation under the Utah revised non-profit cooperation act (the "Act") to which should be delegated and assigned the powers of owning, maintaining and administering the Common Areas identified within the Property and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created, which said corporation is sometimes hereafter referred to as the "Association."



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REC FOR: JEFFERSON AVE TOWNHOME, HOA

C. Declarant has caused such corporation to be created, the members of which shall be the respective Owners of Lots.

D. Declarant will develop and convey all of the lots, as hereinafter defined, pursuant to a general plan for all of the property and subject to certain protective covenants. The property shall be subdivided into nineteen (19) lots (the "Lots") together with Common Areas pursuant to the Planned Residential Unit Ordinance for the City of Ogden, the laws of the state of Utah and this Declaration. Each Owner of a Lot shall be a member of the Association. Each of the Lots shall have one (1) vote in the Association. The common obligations shall be distributed in like percentages.

E. Declarant hereby declares that all of the property shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved, subject to the following easements, restrictions, covenants, conditions and equitable servitudes, all of which are for the purpose of uniformly enhancing and protecting the value, attractiveness and desirability of the Properties, in furtherance of a general plan for the protection, maintenance, subdivision, improvement and sale of the Lots, or any portion thereof. The covenants, conditions, restrictions, reservations, easements and equitable servitudes set forth herein shall run with the Property and all of the Lots within the Property and shall be binding upon all persons having any right, title or interest in the Properties or any part thereof, their heirs, successors and assigns and shall inure to the benefit of every portion of the Properties and any interest therein; and shall inure to the benefit of and be binding upon Declarant, its successors in interest and each Owner and his respective successors in interest; and may be enforced by any Owner and his successors in interest, by the Declarant, and by the Association.

Notwithstanding the foregoing, no provision of this Declaration shall be construed as to prevent or limit Declarant's rights to complete development of the Property, the Lots and construction of improvements thereon, nor Declarant's rights to maintain model homes, construction, sales or leasing offices or similar facilities on any property in the properties owned by Declarant or the Association, nor Declarant's rights to post signs incidental to construction, sales or leasing.

ARTICLE I
Definitions

Unless otherwise expressly provided, the following words and phrases, when used herein, shall have the meaning hereinafter specified:

1.1 "**Architectural Committee**" shall mean the committee created pursuant to Article VIII hereof.

1.2 "**Articles**" shall mean the Articles of Incorporation of the Association which have been filed in the office of the Utah Department of Commerce, Division of Corporations, and as such Articles may be amended, from time to time.

1.3 "**Assessment**" shall mean the charge against a particular Owner and his Lot, representing a portion of the total costs to the Association of maintaining, improving, repairing, replacing, managing and operating the Properties.

1.4 **"Reconstruction Assessment"** shall mean a charge against a particular Owner and his Lot, directly attributable to the Owner for corrective action performed pursuant to the provisions of this Declaration, plus interest thereon as provided for in this Declaration.

1.5 **"Special Assessments"** shall mean a charge against each Owner and his Lot representing a portion or portions of the improvements on the Common Area pursuant to the provisions of this Declaration.

1.6 **"Capital Improvement Assessment"** shall mean a charge against each Owner and his Lot representing a portion of the costs to the Association for installation or construction of any improvements on any portion of the Common Area which the Association may, from time to time, authorize.

1.7 **"Association"** shall mean the JEFFERSON AVENUE TOWNHOME HOMEOWNERS ASSOCIATION, INC., a corporation formed under the Utah Revised Nonprofit Corporation Act, its successors and assigns.

1.8 **"Beneficiary"** shall mean mortgagee under a mortgage or beneficiary or holder under a Deed of Trust, as the case may be and assignees of such mortgage, beneficiary or holder.

1.9 **"Board of Trustees"** shall mean the board of Trustees of the Association elected in accordance with the Bylaws of the Association

1.10 **"Bylaws"** shall mean the bylaws of the Association which have been or shall be adopted by the Board of Trustees, and as such bylaws may be amended, from time to time.

1.11 **"Common Area"** shall mean any open green space and landscaped areas (excluding the Lots), walkways, shared water and sanitary storm sewer facilities, any portion of any chute, flue, duct, wire conduit, bearing wall, bearing column, or any other fixture which lies partially within and partially outside the designated boundaries of a Dwelling Unit which serves more than one Dwelling Unit or any portion of the common areas and facilities, fences, private streets, outside parking spaces, easements and rights-of-way appurtenant to the Property which are owned by the Association for common use and enjoyment of the owners of Lots. With respect to Dwelling Units, certain portions of those Dwelling Units, as described hereinafter, shall be maintained as Common Areas, including the roofs and siding. The Common Areas will be generally landscaped and planted, and without any structures. The Common Area to be so owned by the Association at the time of the recordation of the plat shall also include the property in the County of Weber, State of Utah depicted in the recorded Plat as "common area," which is generally described as follows:

Beginning at a point on the West Right-Of-Way line of Jefferson street, said point being north 00°58'00" East along said West Right-Of-Way line, 165.00 feet from the southeast corner of Lot 1, Block 13, Plat A, Ogden City Survey and running thence North 89°02'00" West 249.25 feet; thence North 00°57'33" East 100.94 feet to the North line of Lot 10, Block 13 Plat A, Ogden City Survey, said North line also being the South line of Lot 9, in said Block 13; thence north 89°02'0249" West along said South line 83.09 feet to the West line of said Lot 9; thence North 00°57'24" East along said West line, 132.99 feet to the Northwest Corner of said Lot 9; thence South 89°02'52" East along the North line of said Lot 9, 332.37 feet to the Northeast Corner of said Lot 9 and the West Right-Of-Way of said

Jefferson Street; thence South 00°58'00" West along said West Right-of-Way line, 234.00 feet to the point of beginning.

Contains: 69,370 Sq. Ft.; 1.592 Acres (the "Property")

Less and Excluding, Lots 1 through 7, Block 1, Lots 1 through 3, Block 2, Lots 1 through 4, Block 3, Lots 1 through 5, Block 4 inclusive, JEFFERSON AVENUE TOWNHOME HOMEOWNERS ASSOCIATION, INC., a Planned Residential Unit Development Subdivision.

Certain exterior aspects of the structures on the Lots will be maintained as common areas as described herein.

1.12 "Common Expenses" shall mean the actual and estimated costs of: maintenance, management, operation, repair, and replacement of the Common Areas (including unpaid Special Assessments, Reconstruction Assessments and Capital Improvement Assessments) including those costs not paid by the owner responsible for payment, costs of management and administration of the association including, but no limited to compensation paid by the association to managers, accountants, attorneys and other employees, the costs of all utilities, gardening and other services benefitting the common Area and all recreational facilities thereon; the cost of fire, casualty and liability insurance, workmen's compensation insurance and other insurance covering the property and the costs of bonding of the members of the management body; taxes paid by the Association; amounts paid by the Association for discharge of any lien or encumbrance levied against the properties or portions thereof; and the costs of any other item or items designated by or in accordance with other expenses incurred by the association for any reason whatsoever in connection with the properties, for the benefit of all of the owners of lots.

The maintenance of the exterior of the residences (but not windows, screens, and doors) shall be treated as Common Expenses. The Association shall pay for roofing and painting of these structures. The windows (glass and frames) and doors shall be maintained by the lot owners at their expenses.

1.13 "Declarant" shall mean and refer to JEFFERSON AVENUE TOWNHOME HOMEOWNERS ASSOCIATION, INC., its successors and assigns, so long as Declarant assigns such rights of Declarant hereunder to any person by an express written assignment.

1.14 "Declaration" shall mean and refer to this instrument as it may be amended from time to time.

1.15 "Deed of Trust" shall mean and refer to a mortgage or a deed of trust, as the case may be.

1.16 "Dwelling Unit" shall mean a building on a Lot intended to be used for the habitation of a single human family. The term Dwelling Unit specifically includes any and all improvements, both interior (including, for example, all fixtures, finishes and systems) and exterior.

1.17 "Eligible holder, Insurer or Guarantor" shall mean a holder, insurer or guarantor of a first mortgage upon the Lot who has given notice of their interest as required by section 3.6.

1.18 "Family" shall mean: (1) a group of natural persons related to each other by blood or legally related to each other by marriage or adoption or (2) a group of not more than two persons not all so related, inclusive of their domestic servants, who maintain a common household in a residence on Lot.

1.19 **“Improvement”** shall mean all structures and appurtenances of every type and kind, including but not limited to buildings, out buildings, walk-ways, sprinkler pipes, garages, private streets, driveways, parking areas, fences, landscaping, playground equipment, hedges, windbreaks, plantings, planted trees and shrubs, poles and signs, utilities of every type.

1.20 **“Incorporation of Statutory provisions”** The definitions contained in UCA §57-8-3 are also incorporated herein. Provided however, that if any definition set forth herein is inconsistent with any definition in the statute, the definition herein shall control.

1.21 **“Lot”** shall mean and refer to any residential lot or parcels of land shown upon any recorded subdivision plat of JEFFERSON AVENUE TOWNHOMES HOMEOWNERS ASSOCIATION, INC., as lots, as well as an undivided interest in the Common Areas.

1.22 **“Maintenance Funds”** shall mean the accounts created for the receipts and disbursements of the association pursuant to Article VI hereof.

1.23 **“Manager”** shall mean the person, firm or corporation appointed by the association hereunder as its agents and delegated certain duties, powers or function of the association.

1.24 **“Member and Members”** shall mean any person or entity holding a membership in the Association as provide herein. The Association shall have one class of membership designated as Class “A” and member or members shall refer to owners of Lots, Declarant, and/or their assigns.

1.25 **“Mortgage” and “Mortgagee”** shall mean any mortgage or Deed of Trust or other conveyance of a lot to secure the performance of an obligation which will be released and reconverted upon the completion of such performance. The term “Deed of Trust” or “Trust Deed” when used herein, shall be synonymous with the term “mortgages.” The term “mortgagee” shall mean a person or entity who mortgages his/her or its property to another (i.e., the maker of mortgage_ and shall include the trustor of a Deed of Trust. The term “Trustor” shall be synonymous with the term “mortgagor” and the term “beneficiary” shall be synonymous with the term “Mortgagee”

1.26 **“Notice and Hearing”** shall mean written notice and a public hearing before a tribunal appointed by the Board of Trustees at which the Owner concerned shall have opportunity to be heard in person or by counsel at Owners’ expense, in the manner further provided in the bylaws.

1.27 **“Owner”** shall mean and refer to a person or persons or other legal entity or entities, including Declarant, holding fee simple interest of record to any Lot which is part of the properties including sellers under executory contract of sale, but excluding those having such interest merely as security for the performance of an obligation. For purposes of Article X only, unless the context otherwise requires, Owner shall also include the family, invitees, licensees and lessees of any Owner.

1.28 **“Person”** shall mean a natural individual or any other entity with the legal right to hold title to real property.

1.29 **“Property and Properties”** shall mean and refer to all of the real property described in paragraph “A” of the Recitals to this Declaration.

1.30 **“Record, Recorded, filed, and Recordation”** shall mean, with respect to any document, the recordation of such document in the office of the County recorder of the county of Weber, State of Utah.

1.31 **“Subdivision”** shall mean a parcel of real property which has been divided or separated into Lots, shown on a recorded subdivision map, and amended plats.

ARTICLE II

Dedication and Owner's Property Rights

2.1 **Dedication.** Declarant, by the filing and recordation of this Declaration and the accompanying map, submits the property described in Subparagraph "A" of the Recitals hereinabove to the provisions of this Declaration for the development of the project. The property shall henceforth be known as the JEFFERSON AVENUE TOWNHOME HOMEOWNERS ASSOCIATION, INC., a Planned Residential Unit Development. The Declarant does hereby grant and convey, without warranty, all of their right, title and interest in and to the property, less and excepting the lots, to the Jefferson Avenue Townhome Homeowner's Association, Inc.

2.2 **Owner's Easements of Enjoyment.** Every Owner shall have a right and easements of ingress and egress and of enjoyment in, to and over the Common Area which shall be appurtenant to and shall pass with title to every Lot and Dwelling Unit, subject to the following provisions:

- (a) The right of the Association to reasonably limit the number of guests of Owners using the Common Area facilities.
- (b) The right of the Association to establish uniform rules and regulations pertaining to the use of the Common Area and the recreational facilities thereof, including but not limited to, the right and obligation of the Association to enforce all parking restrictions within the Common Area as set forth in Section 3 of Article II herein.
- (c) The right of the Association to charge uniform and reasonable admission and other fees for the use of the recreational facilities, if any, situated upon a portion of the Common Area; provided, however, that none of the Common Area facilities, recreational facilities, parking spaces or other amenities in the Property shall be leased to the Owners.
- (d) The right of the Association, in accordance with its Articles of Incorporation, Bylaws, and this Declaration, with the vote of or written assent of sixty-seven percent of each of Members, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof, and subject to the provisions of Article XIV of this Declaration, to mortgage, pledge, deed in trust or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, provided that the rights of such mortgagee shall be subordinated to the rights of the Owners and existing mortgage holders.
- (e) The right of the Association to suspend the voting rights and rights to use the Common Area facilities (but not driveways or streets for access only) by an Owner for any period during which any assessment against his Lot remains unpaid and delinquent; and for a period not to exceed thirty (30) days for any single infraction of the published rules and regulations of the Association, provided that any suspension of such voting rights or rights to use the Common Area facilities shall be made only by the Board of Trustees of the Association, after notice and an opportunity for a hearing as provided in the Bylaws of the Association.
- (f) With the consent of the City of Ogden and subject to the provisions of Article XIV of this Declaration, the Association shall have the right to dedicate, release, alienate or transfer

all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication, release, alienation or transfer shall be effective unless an instrument signed by a majority of the Members entitled to cast a vote has been recorded, agreeing to such dedication, release, alienation, or transfer.

- (g) The right of the Declarant (and its sales agents, customers, and representatives) to the non-exclusive use of the Common Area and the facilities thereof, without charge, for construction, sales, display, access, ingress, egress and exhibit purposes, which right Declarant hereby reserves; provided, however, that such use shall not be for a period of more than two (2) years after the sale by the Declarant of the last Lot. Upon the request of the Declarant and upon the majority of voting power of the Members, this term may be extended for an additional period of time.
- (h) The right of the Declarant and Association (by action of the Board of trustees) to reconstruct, replace or refinish any improvement or portion thereof upon the Common Area, in accordance with the original design, finish or standard of construction of such improvements, or of the general improvements within the Properties, as the case may be; and not in accordance with such original design, finish or standard of construction only with the vote or written consent of the Owners holding a majority of the voting power of the Association. This right shall include, but not necessarily be limited to, the right of the Declarant, Association, and Lot Owners to repair and maintain common elements of utility services and structures.
- (i) The right of the Association to replace destroyed trees or other vegetation and plant trees, shrubs and ground cover upon any portion of the Common Area.

2.3 Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of his family and his contract purchasers who reside in his Dwelling Unit, subject to reasonable regulation by the Board of Trustees and all other existing rules applicable to such use.

2.4 Easements for Parking. Temporary guest parking shall be permitted within the Common Area only within spaces and areas clearly marked for this purpose. Spaces shall be shown by signs or markings on the paved area. The Association, through its officers, committees and agents is hereby empowered to establish "parking" and "no parking" areas within the Common Area, as well as to enforce these parking limitations by all means lawful for such enforcement, including the removal of any violating vehicle by those so empowered.

2.5 Easements for City and County Use. In addition to the foregoing easements over the Common Area, there shall be, and Declarant hereby reserves and covenants for itself and all future Owners, easements for city, county, state and federal public services, including but not limited to, the right of the people to enter upon any part of the Common Area for the purpose of enforcing the laws, and a permanent easement in favor of Ogden City pursuant to the ordinances of Ogden City guarantee that the open spaces remain perpetually in the uses for which intended, and that public utility service lines may be maintained and operated.

2.6 Easements for Shared Elements. The Declarant reserves for Declarant's use, and use of subsequent Lot Owners, those portions of each building and Lot which contain improvements or utilities

which are used by more than one Lot Owner, or which are reasonably necessary to the use of a Lot, including but not limited to, the place occupied by any portion of any chute, flue, duct, wire, conduit, bearing wall, bearing column, or any other fixture which lies partially within and partially outside the designated boundaries of a Lot which serves more than one Lot or any portion of the Common Areas and facilities. These easements shall also include the space needed and right to maintain, repair and replace these improvements or utilities. As discussed elsewhere herein, the Declarant and all subsequent Lot Owners shall have rights of access over common private streets and Common Areas.

2.7 **Waiver of Use.** No owner may exempt himself from personal liability for Assessments duly levied by the Association nor release the Lot or other Property owned by him from the liens and chargers hereof, by waiver of the use and enjoyment of the Common Area and the facilities thereon, or by abandonment of his Lot or any other property in the Property.

2.8 **Title to the Common Area.** The Declarant hereby covenants, for itself, its successors and assigns, that it will convey fee simple title to the Common Area described in Article I, Section 11, of this Declaration to the Association, free and clear of all encumbrances and liens, except easements, conditions and reservations set forth in this Declaration and those set forth upon the plat. Said conveyance shall be made upon the recording of the plat.

2.9 **Taxes.** Each Owner shall execute such instruments and take such actions as may be reasonably specified by the Association to obtain separate real estate tax assessments on each Lot if any taxes or assessments may, in the option of the Association nevertheless be a lien on more than one Lot not under common ownership or any part thereof, they may be paid by the Association and each Owner shall be obligated to apply or to reimburse the Association for, as the case may be, the taxes and Assessments assessed by the county assessor or other taxing authority against his own Lot and interest, if any, in the Common Areas.

2.10 **Real Property Taxes.** The payment of real property taxes assessed against the Common Area shall be paid in the manner provided for in Utah law, including Utah Code Ann. §57-8-27 which provides for Common Area taxes to be allocated among the Dwelling Units in relation to their percentage of undivided ownership.

2.11 **Limitation on Ownership.** Apart from the Declarant, no person or entity may own more than two Lots in the project. For purposes of this section, an entity shall be considered to be the same as the person who has a controlling interest in the entity.

ARTICLE III

Membership in the Association

3.1 **Membership.** Every Owner of a Lot shall be a Member of the Association. Membership in the Association shall not be assignable, except to the successor in interest of the Member, and every membership in the Association shall be appurtenant to and may not be separated from the fee ownership of such Lot.

3.2 **Transfer.** The Association membership held by any Owner of a Lot shall not be transferred, pledged, or alienated in any way, except upon the sale or encumbrance of such Lot and then only to the purchaser or mortgagee of such Lot. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. A Member who has sold his Lot to a contract purchaser under an agreement to purchase shall be entitled to delegate to such contract purchaser his membership rights in the Association. Such delegation shall be in writing and shall be delivered to the

Board of Trustees before such a contract purchaser may vote. However, the contract seller shall remain liable for all charges and assessments attributable to his Lot until fee simple title to the Lot sold is transferred in the event the Owner of any Lot shall fail or refuse to transfer the membership registered in his name to the purchaser of such Lot upon transfer of fee title thereto, the Board of Trustees shall have the right to record the transfer upon the books of the Association. The Board of Trustees shall have the right to charge a reasonable special Assessment against any Owner and his Lot, equal to the cost to the Association of effectuating any such transfer of his membership upon the books of the Association.

ARTICLE IV
Voting Rights

4.1 Classes of Voting Membership. The Association shall have one (1) class of voting membership respecting the Planned Residential Unit Development and subdivision Lots, as follows: class members shall be entitled to one (1) vote for such Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members, but in combination, shall only be entitled to one vote per Lot. The vote for such Lot shall be exercised in accordance with Article IV, Section 2, of this Declaration.

4.2 Vote Distribution. Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. When more than one person holds such interest or interest in any Lot ("co-owner"), all such co-owners may combine to cast one vote per Lot. No proxy may be given for any vote and be valid for more than one (1) year beyond the date it is given. All proxies must be in writing, notarized, and filed with the Association.

ARTICLE V
Association of Owners; Board of Trustees

5.1 Management of the Association. The management of the Association shall be governed by the Articles of Incorporation and Bylaws of the Association. The Association shall be entitled to choose a Board of Trustees or Board of Directors as such is referred to in the Articles of Incorporation and Bylaws, consisting of not less than five (5) nor more than seven (7) persons who shall be elected as provided in the Bylaws. The initial number of Trustees shall be five (5). All agreements and determinations with respect to the Property lawfully made or entered into by the Association shall be binding upon all the Lot Owners, their successors and assigns. All rights and powers referred to in this Declaration as belonging to the Association, unless specifically provided for otherwise, shall belong to the Association, and shall be carried out by the Association's Board of Trustees. The Board of Trustees is authorized and empowered to take all actions necessary on behalf of the Association unless specifically provide for otherwise in this Declaration.

5.2 Powers, Duties, and Responsibilities. The Association and the Board of Trustees shall have all the powers, duties and responsibilities as are now or may hereafter be provided to the Board of Trustees by this Declaration, the Articles of Incorporation or Bylaws, including but not limited to the following:

- (a) ~~To make and enforce all house rules and administrative rules and regulations covering the operation and maintenance of the Property and the Lots.~~
- (b) To operate, maintain, repair, improve and replace the Common Areas and facilities, including the entering into of agreements for the maintenance of the Common Areas,

limited Common Areas, and adjacent, contiguous property for the benefit of the Association.

- (c) To determine and pay expenses related to the Common Areas and facilities, including, but not limited to, the cost of the common utilities, water and sewer.
- d) To assess and collect the proportionate share of Common Expenses for the Lot Owners.
- (e) To enter in to contracts, deeds, leases and/or other written instruments or document and to authorize the execution and delivery thereof by the appropriate officers.
- (f) To open bank accounts on behalf of the Association and to designate the signatures therefor.
- (g) To purchase, hold, sell, convey, mortgage or lease any one or more Lots held in the name of the Association or its designee.
- (h) To bring, prosecute and settle litigation for itself, the Association, and the Property, provided that it shall make no settlement which results in an uninsured liability against the Association, or the Property in excess of Ten Thousand and No/100 (\$10,000.00) without prior approval of a majority of the Lot Owners.
- (i) To repair or restore the Common Areas and limited Common Areas following damage or destruction, or a permanent taking by the power of eminent domain or by an action or deed in lieu of condemnation, not resulting in the removal of the property from provisions of this Declaration.
- (j) To keep adequate books and records.
- (k) Grant easements, right-of-way or strips of land, where necessary, for the installation, servicing, maintenance and replacement of utilities of every type and sewer facilities over the Common Areas to serve the Common Area and/or the Lots.
- (l) Maintain such policy or policies of liability and fire insurance with respect to the Common Area and personal property, if any, owned by the Association as provided herein in furthering the purposes of and protecting the interests of the Association and Members and as directed by this Declaration and the Bylaws of the Association.
- (m) Employ or contract with a professional manager to perform all or any part of the duties and responsibilities of the Association and shall have the power to delegate its powers to committees, officers and employees. Any such agreement shall be for a term not in excess of three (3) years, subject to cancellation by either party without cause or payment of a termination fee upon not more than sixty (60) days or less written notice.
- (n) After fifteen (15) days written notice, without being liable to any Owner, enter upon any Lot for the purpose of enforcing, by peaceful means, the provisions of this Declaration or ~~for the purpose of maintaining or repairing any such area if for any reason whatsoever the~~ Owner thereof fails to maintain or repair any such area as required by this Declaration, all at the cost and expense of the Lot Owner, which said cost and expense shall be a lien upon said Owner's Lot.

- (o) From time to time promulgate rules and regulations which shall be binding upon the Owners of the Lots.
- (p) Do and perform any and all things as may be convenient or necessary in connection with the Properties.

5.3 Members of the Board of Trustees. The officers and any assistant officer, agents and employees of the Association (i) shall not be liable to the Lot Owners as a result of their activities for any mistake of judgment, negligence or otherwise, except for their own willful misconduct or bad faith; (ii) shall have no personal liability in contract to a Lot Owner or any other person or entity under any agreement, instrument or transaction entered into by them on behalf of the Association in their capacity as such; (iii) shall have no personal, direct or imputed liability in tort to any Lot Owner or any person or entity, by virtue of acts performed by them, except for their own willful misconduct or bad faith, or acts performed for them in their capacity as such; and (iv) shall have no personal liability arising out of the use, misuse or condition of the Property, which might in any way be assessed against or imputed to them as a result or by virtue of their capacity as such.

5.4 Indemnification. The Association shall indemnify and hold harmless, any person, his heirs, and personal representatives, from and against all personal liability and all expenses including counsel fees, incurred or imposed, or arising out of or in settlement of any threatened, pending or completed action, suit or proceeding, whether civil, criminal, or administrative investigation, or other investigation instituted by any one or more Lot Owner, or any other persons or entities, to which he shall be made a party or threatened to be made a party by reason of the fact that he is or was a member of the Board of Trustees or an officer or assistant officer, agent or employee of the Association, other than to the extent, if any, that such liability or expense shall be attributable to his willful misconduct or bad faith, provided, in the case of any settlement, that the Board of Trustees shall have approved the settlement, which approval shall not be unreasonably withheld. Such a right of indemnification shall not be deemed exclusive of any other rights to which such person may be entitled as a matter of law or agreement or vote of Lot Owners or of the Board of Trustees or otherwise. The indemnification by the Lot Owners as contained herein shall be paid by the Association on behalf of the Lot Owners and shall constitute a common expense and shall be assessed and collectible as such.

ARTICLE VI

Covenants for Maintenance Assessments

6.1 Creation of the Lien and Personal Obligations of Assessments. Declarant, for each Lot owned by it within the Properties, hereby covenants and each owner of any Lot, by acceptance of a deed thereof or, whether or not it shall be so expressed in such deed is deemed to covenant and agree to pay to the Association (1) annual Assessments for Common Expenses; (2) Capital Improvement Assessments; (3) Special Assessments; and (4) Reconstruction Assessments; such assessments to be established and collected as herein provided. Such assessments, together with interest, costs and reasonable attorney's fees for the collection thereof, shall be a charge on the land and shall be a continuing lien upon the property against which such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due subject to provisions of this Declaration protecting first mortgagees, and without relieving the owner of any existing obligation, the personal obligation for delinquent assessments shall also pass to the successors in interest of such Owner. The Board of Trustees shall establish no fewer than two (2) such separate accounts (Jefferson Avenue Townhomes Maintenance

Funds") into which shall be deposited all monies paid to the Association and from which disbursements shall be made, as provided herein, in the performance of functions by the Association under the provisions of this Declaration. Each of the Maintenance Funds shall include: (1) an Operating Fund for current expenses of the Association ; and (2) a Common Area Reserve Fund for replacements, painting and repairs (which would not reasonably be expected to recur on an annual or less frequent basis) of the Common Area facilities to the extent necessary under the provisions of this Declaration. The Board of trustees shall not co-mingle any amounts deposited into any of the Lincoln Court Townhomes Maintenance Funds with another. At least ten percent (10%) of the annual assessments shall be allocated to the Reserve Fund.

6.2 Purpose of Assessments. The assessments levied by the Association shall be used to promote the common health, safety, benefit, recreation and welfare of the Owners and for the improvements and maintenance of the Common Area, exterior maintenance, drainage system, storm drain system, and for the Dwelling Units situated upon the Lots in the Properties as provided herein. The Association shall be responsible for the exclusive management, control and maintenance of all sub-surface drainage systems serving the Properties. The annual assessment shall include the amount sufficient to cover on-site and off-site maintenance of the sub-drain system and relocated parts thereof serving the Properties. The assessments shall also be for an adequate reserve to be used as appropriate for maintenance, repairs and replacement of those elements of the Common Area and exterior maintenance that must be replaced or repaired on a periodic basis. However, disbursements from the Common Area Reserve Fund shall be made by the Board of Trustees only for the specific purpose specified in this Article VI. Disbursements from the Operating Fund shall be made by the Board of Trustees for such purposes as are necessary for the discharge of its responsibilities herein for the common benefit of all of the Owners, other than those purposes for which disbursements from the Common Area Reserve Fund are to be used. Nothing contained herein shall limit, preclude, or impair the establishment of additional maintenance funds by the Association, so long as the amounts deposited into any such fund are earmarked for specified purpose authorized by this Declaration.

6.3 Damage to Common Area by Owners. The foregoing maintenance, repairs or replacements within the Common Area arising out of or caused by the willful or negligent act of any Owner, his family, guests or invitees, shall be done at said Owner's expense or a Special or Reconstruction Assessment therefor shall be made against his Lot; provided however, that the liability of an individual Owner for such damage to the Common Area shall not be absolute, but shall only be that for which the Owner is legally responsible under state law.

6.4 Maximum Annual Assessment. Until January 1st of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be One Hundred Twenty-Five Dollars and No/100 (\$125.00) per Lot.

- (a) From and after January 1st of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than five percent (5%) (or a percentage equal to the Consumer Price Index, if that percentage increase is greater than five percent (5%) above the maximum assessment for the previous year without a vote of the membership.
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- (b) From and after January 1st of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual Assessment may be increased above five percent (5%) by a vote of a majority of Members who are voting in person or by proxy at a meeting duly called for this purpose.

- (c) The Board of Trustees may fix the annual Assessments at an amount not in excess of the maximum without the requirement of a vote from the Members.

6.5 Capital Improvement and Special Assessments. In addition to the Assessments authorized above, the Board of Trustees may levy, in any assessment year, a Capital Improvement Assessment or Special Assessment applicable to the year only for the purpose of defraying, in whole or in part the cost of any construction, reconstruction, repair or replacement of capital improvement or other such addition upon the Common Area, including fixtures and personal property related thereto; provided, however that any such total assessment in excess of One Thousand Dollars and No/100 (\$1,000.00) shall have the vote or written assent of a majority of the Members subject to such assessment, excluding the votes of Declarant.

6.6 Notice of Quorum for any Authorizing Under Sections 4 and 5. Except in emergency situations requiring immediate action, written notice of any meeting called for the purpose of taking any action by the Members authorized under Section 4 and 5 shall be sent to all Members not less than thirty (30) days, nor more than sixty (60), in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast fifty-one percent (51%) of all votes shall constitute a quorum. If the required quorum is not present, another meeting may be called upon three (3) days written notice. The required quorum at the subsequent meeting shall be twenty-five percent (25%) of the voting power of the Association. No such subsequent meeting shall be held more than thirty (30) days following the proceeding meeting.

6.7 Uniform Rate of Assessment. Assessments, Capital Improvement Assessments and Special Assessment provided for in this Article VI must be fixed at a uniform rate for all Lots within the Properties; provide, however, that the association may, subject to the provisions of Section 3 of this Article VI, levy Reconstruction Assessments against selected Owners who have caused the Association to incur special expenses due to willful or negligent acts of said Owners, their guests or agents. All Assessments shall be collected on a regular basis by the Board of Trustees, at such frequency as the Board of Trustees shall determine.

6.8 Date of Commencement of Assessments; Due Date. The initial Assessment for all Lots in a Block including those owned by the Declarant, shall commence on the first day of the calendar month following the date on which the first sale of a Lot in a Block is made to a purchaser and is closed and recorded. The first annual Assessment shall be adjusted according to the numbers of months remaining in the fiscal year as set forth in the Bylaws. The Board of Trustees shall fix the amount of the annual Assessment against each Lot at least thirty (30) days in advance of each assessment period. After the first year, the new assessment period shall commence on January 1, of each calendar year. Written notice of any change in the amount of the annual Assessment shall be sent to every Owner subject thereto, at least thirty (30) days prior to the effective date of such change. The due dates shall be established by the Board of Trustees. The Association shall, upon demand, and for a reasonable charge not to exceed Ten Dollars and No/100 (\$10.00), furnish a certificate signed by an officer or agent of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments against a Lot is binding upon the Association as of the date of its issuance.

- (a) The Board of Trustees shall cause to be prepared an annual balance sheet and operating statement reflecting income and expenditures of the Association for each fiscal year, including deposits in and withdrawals from the common area Reserve Fund and the Operating Fund and shall cause to be distributed a copy of each such statement to each member, and to each first mortgagee who has filed a written request for copies of the same with the Board of Trustees in the manner provided in the Bylaws of the Association. At least sixty (60) days prior to the beginning of each fiscal year, the Board of Trustees shall prepare and distribute to the membership of the Association, a written,

itemized estimate (budget) of the expenses to be incurred by the Association during such year in performing its functions under this Declaration (including a reasonable provision for contingencies and deposits into the Common Area Reserve Fund, less any expected income and accountings for any surplus from the prior year's respective Lincoln Court Townhomes Manteca Fund)

- (b) Each annual Assessment shall constitute an aggregate of separate assessments for each of the maintenance funds reflecting an itemization of the amounts assessed and attributable to prospective deposits into the common area reserve fund, the operating funds and any other maintenance fund established by the Association. If the estimated sums prove inadequate for any reason, including non-payment of any Owner's annual Assessment, the Board of Trustees may at any time, levy supplemental assessments subject to the provisions of Section 4 of this Article VI, for any of the maintenance funds which shall be assessed equally against the Owner of each Lot in the properties.
- (c) Each annual Assessment may be paid by the Owner to the Association in one check or payment or in separate checks or payments, as payment attributable to deposits into specified maintenance funds. The Board of Trustees shall have the power to determine that Assessments may be divided into twelve (12) or fewer equal parts payable periodically as they shall determine. In the event that any installment of an Assessment payment is less than the amount assessed and the payment does not specify the maintenance fund or funds into which it should be deposited, the receipt by the Association from that Owner shall be credited in order of priority, first to the Operating Fund, until the portion of the Assessment has been satisfied and second, to the Common Area Reserve Fund.
- (d) At the end of any fiscal year of the Association, the Owners may determine that all excess funds remaining in the Operating Fund, over and above the amounts used for the operation of the Properties, may be returned to the Members proportionately, or may be retained by the Association and used to reduce the following year's Assessments. Notwithstanding anything contained in the Articles of Incorporation or Bylaws to the contrary, if prior to dissolution of the Association, the Association has not obtained tax exempt status from both the federal and state governments, then upon such dissolution of the Association, any amounts remaining in the Common Area Reserve Fund shall be distributed to or for the benefit of the Members in a proportion equal to their individual, respective contributions.

6.9 **Exempt Property.** The following property, subject to this Declaration, shall be exempt from the assessment herein:

- (a) All properties dedicated to and accepted by a local public authority; and
- (b) The Common Areas.

ARTICLE VII
Effect of Non-Payment of Assessments;
Remedies of the Association

7.1 **Effect of Non-Payment of Assessments; Remedies of the Association.** Any installment of an Assessment, Capital Improvement Assessment, Special Assessment or Reconstruction Assessment not paid within thirty (30) days after the due date shall bear interest from the due date of such installment at the rate of eighteen percent (18%) per annum. If any installment of an Assessment is not

paid within thirty (30) days after it is due, the Owner responsible therefor may be required further by the Board of Trustees to pay a late charge of Thirty Dollars and No/100 (\$30.00) or ten percent (10%) of the amount of the delinquent installment, whichever is greater. The Association may, in its discretion, apply payment it receives to the most recent Assessment which is unpaid. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Area or abandonment of his Lot. If any installment of any Assessment is not paid within thirty (30) days after its due date, the Board of Trustees shall mail an acceleration notice to the Owner and to each first mortgagee of a Lot which has requested a copy of the notice. The notice shall specify: (1) the fact that the installment is delinquent; (2) the action required to cure the default; (3) a date less than thirty (30) days from the date the notice is mailed to the Owner by which such default must be cured; and (4) that failure to cure the default on or before the date specified in the notice may result in acceleration of the balance of the installments of the Assessment for the then current fiscal year and sale of his Lot. The notice shall further inform the Owner of his rights to cure after acceleration and to bring a court action to assert the nonexistence of a default or any other defense of the owner to acceleration and sale. If the delinquent installments of Assessments and any charges thereon are not paid in full on or before the date specified in the notice, the Board of Trustees, at its option, may declare all of the unpaid balance payable without further demand and may enforce the collection of the full Assessment and all charges thereon in any manner authorized by law and this Declaration.

7.2 Notice of Assessment. No action shall be brought to enforce any assessment lien herein, unless at least thirty (30) days have expired following the date a notice of assessment is deposited in the United States mail, postage prepared, to the Owner of the Lot and otherwise complying with the laws of the State of Utah; said Notice of the Assessment must recite a good and sufficient legal description of any such Lot, the record Owner or reputed Owner thereof, the amount claimed (which may, at the Association's option, include interest on the unpaid assessment at eighteen percent (18%) per annum plus reasonable attorney's fee and expenses of collection in connection with the debt secured by said lien and the name and address of the claimant. Such Notice of Assessment shall be signed and acknowledged by an officer of the Association and said lien shall be prior to any declaration of homestead recorded after the date on which the original Declaration was recorded. The lien shall continue until fully paid or otherwise satisfied.

7.3 Foreclosure Sale. Any such sale provided for in Section 7.1 above may be conducted by the Board of Trustees, its attorneys or other persons authorized by the Board of Trustees in accordance with the provisions of the Utah Code Annotated, 1953 as amended, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted by law. The Association, through duly authorized agents, shall have the power to bid on the Lot at foreclosure sale and to acquire and hold, lease, mortgage and convey the same.

7.4 Curing of Default. Upon the timely curing of any default for which a Notice of Assessment was filed by the Association, the officers thereof shall record an appropriate Release of Lien, upon payment by the defaulting Owner of a fee, to be determined by the Association, but not to exceed One Hundred Fifty Dollars and No/100 (\$150.00) to cover the cost of preparing and recording such Release of Lien. A certificate executed and acknowledged by any two (2) members of the Board of Trustees stating the indebtedness secured by the liens upon any Lot created hereunder shall be conclusive upon the Association and the Owners as to the amount of such indebtedness as of the date of the certificate, in favor of all persons who rely thereon in good faith. Such certificate shall be furnished to any Owner upon request at a reasonable fee, not to exceed Fifteen Dollars and No/100 (\$15.00).

7.5 Cumulative Remedies. The assessment liens and the rights to foreclosure and sales thereunder shall be in addition to and not in substitution for all other rights and remedies which the

Association and its assigns may have hereunder and by law, including a suit to recover a money judgment for unpaid assessments, as above provided. These include the right granted in Utah Code Ann. §57-8-25 to look both to the Owner and a grantee for recovery of unpaid Common Expenses.

7.6 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage (meaning any recorded mortgage with first priority or seniority over mortgages) made in good faith and for value and recorded prior to the date on which the assessment came due. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or deed in lieu thereof, shall extinguish the lien of such assessments against the property foreclosed as to installments which became due prior to such sale or transfer. However, no sale or transfer shall relieve such Lot from liability for any installment of assessments thereafter becoming due or from the lien thereof, nor shall it relieve the Owner of the Lot from personal liability.

ARTICLE VIII Architectural Control

8.1 Members of Committee. The Architectural Committee, sometimes referred to in this Declaration as the "Committee" shall consist of three (3) members. If no Committee is separately appointed, the Committee shall consist of the trustees. The initial members of the Committee shall consist of representatives of Declarant. Each of said persons shall hold office until the election of the first Board of Trustees by the membership of the Association. Thereafter new members of the committee shall be appointed by the Board of Trustees and shall hold office until such time as said appointee has resigned or has been removed or a successor has been appointed, as provided herein. Members of the committee may be removed at any time without cause. The Board of Trustees shall have the right to appoint and remove all members of the Committee.

8.2 Review of Proposed Construction. Subject to Article X, Section 12 of this Declaration and the Development Guide, no buildings, fence, wall, patio cover or other structures shall be commenced, painted, erected or maintained upon the properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and locations of the same shall have been submitted to and approved in writing as to harmony of external design and color and location in relation to surrounding structures and topography by the Architectural Committee. The Committee shall approve proposals of plans and specifications submitted for its approval only if it deems that the construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding area of the Properties as a whole; that the appearance of any structure affected thereby will be in harmony with the surrounding structures, and that the upkeep and maintenance thereof will not become burdensome on the Association. The Committee may condition its approval of proposals of plans and specifications upon such changes therein as it deems appropriate, upon the agreement by the Owner submitting the same to grant appropriate easements to the Association or the cost of maintenance, or all three, and any required submission of additional plans and specifications or other information prior to approving or disapproving material submitted. The committee may also issue rules or guide lines setting forth procedures for the submission of plans for approval, requiring a fee payable to the Association to accompany each application for approval, or additional factors which it will take into consideration in reviewing submissions. The Committee may provide that the amount of such fee shall be uniform, or that it be determined in any other reasonable manner, such as by the reasonable costs of the construction, alterations or additions contemplated, provided that in no event shall such fee exceed Five Hundred and No/100 Dollars (\$500.00). The Committee may require such detail in plans and specifications submitted for its review as it deems necessary and proper, including, without limitation, floor plans, site plans, drainage plans, elevation drawings and descriptions or samples of exterior

materials and colors. Until receipt by the Committee of any required plans and specifications, the committee may postpone review of any plans submitted for approval.

8.3 Meetings of Committee. The Committee shall meet, from time to time, as necessary to perform its duties here under and shall complete its review and report of proposed construction, within thirty (30) days after submittal of a request. The Committee may, from time to time, by resolution, unanimously adopted in writing, designate a committee representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the Committee, except the granting of variances pursuant to Section 8 hereof. In the absence of such designation, the vote of any two (2) members of the Committee taken without a meeting shall constitute an act of the Committee.

8.4 No Waiver of Future Approvals. The approval of the Committee to any proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring the approval and consent of the Committee shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters whatsoever subsequently or additionally submitted for approval or consent.

8.5 Compensation of Members. Any architects and any landscape architects who may be members of the Committee shall be paid for their services and necessary expenses. The other members of the Committee shall receive no compensation for services rendered, but shall be reimbursed for expenses incurred by them in the performance of their duties hereunder.

8.6 Inspection of Work. Inspection of work and correcting of defects therein shall proceed as follows:

- (a) Upon the completion of any work for which approved plans are required under this Article VIII, the Owner shall give written notice of completion to the Committee.
- (b) Within sixty (60) days thereafter, the Committee, or its duly authorized representative, may inspect such improvement. If the Committee finds that such work was not done in substantial compliance with the approved plans, it shall notify the Owner, in writing, of such non-compliance within such sixty (60) day period, specifying the particulars of non-compliance and shall require the Owner to remedy the same.
- (c) If, upon the expiration of thirty (30) days from the date of such notation the Owner shall have failed to remedy such non-compliance, the committee shall notify the Board of Trustees, in writing, of such failure. Upon notice and hearing, the Board of Trustees shall determine whether there is a noncompliance and if so, the nature thereof and the estimated costs of correcting or removing the same. If a non-compliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days from the date of announcement of the Board of Trustees ruling within such period. The Board of Trustees, at its option, may either remove the non-complying improvement or remedy the non-compliance and the Owner shall reimburse the Association, upon demand, for all expenses incurred in connection therewith. If such expenses are not promptly repaid by the Owner to the Association, the Board of Trustees shall levy a Special Assessment against such Owner for reimbursement.
- (d) If, for any reason the Committee fails to notify the Owner of any non-compliance within sixty (60) days after receipt of the written notice of completion from the Owner, the improvement shall be deemed to be in accordance with said approved plans.

8.7 **Non-Liability of Committee Members.** Neither the Committee nor any member thereof, nor its duly authorized committee representative shall be liable to the Association, or to any Owner for any loss, damage or injury arising out of or in any way connected with the performance of the Committee's duties hereunder, unless due to the willful misconduct or bad faith of the Committee. The Committee shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration or addition, solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity and the Properties generally. The Committee shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and material and similar features, but shall not be responsible for reviewing nor shall its approval of any plans or designs be deemed approval of any plans or designs from the standpoint of structural safety or conformance with buildings or other codes.

8.8 **Variance.** The Committee may authorize variances from compliance with any of the architectural provisions of this Declaration or any supplemental declaration, including restrictions upon height, size, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardships, aesthetics or environmental considerations may require. Such variances must be approved by the Board of Adjustment of the City of Ogden. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration or any supplemental declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration or of any supplemental declaration for any purpose except as to the particular property and particular provisions hereof covered by the variance nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations effecting his use of the premises, including but not limited to, zoning ordinances and lot set back lines or requirements imposed by any governmental or municipal authority.

ARTICLE IX

Maintenance and Repair Obligations

9.1 **Structural Maintenance Areas.** Apart from the completion of planned improvements by the Declarant as part of the build out of the project, no improvement, excavation or work which in any way alters the structure of any improvement from its original, natural or existing state on the date any such area is conveyed by Declarant to a purchaser of a Lot shall be made or done by any person other than the Association or its authorized agents. The Association shall maintain or provide for the maintenance in good order and repair and shall reconstruct, replace or refinish such common structure and improvements.

9.2 **Exterior Maintenance.** In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Lot, which is subject to assessment hereunder, as follows:

- (a) Exterior paint and repair, replacement and care of roofs, gutters and down spouts, exterior building surfaces, trees, shrubs, grass, walks, driveways and other exterior improvements. Such exterior maintenance shall not include glass surfaces, windows and window frames, and exterior doors providing access to a single Dwelling Unit, which items shall not be treated as guidelines then existing.
- (b) In the event that the need for maintenance or repair of a Lot or the improvements thereon is caused through the willful or negligent acts of its Owner, or through the willful negligent acts of the family, guests or invitees of the Owner of the Lot needing such maintenance or repair the cost of such exterior maintenance shall be added to and

become part of the Assessment to which such Lot is subject. In addition, if any Owner willfully or negligently causes damage to the property of some other Owner, the right of assessment shall exist against the Owner causing the damage.

- (c) No owner shall paint the exterior of a structure or install new shingles without the prior written approval of the Architectural Committee.

9.3 Maintenance Obligations of the Association. Subject to the provision of Section 2 of this Article IX, the Association shall (as needed) maintain or provide for the maintenance of all Common Areas and all improvement thereon, including fences, entrance gates, private streets, sidewalks, Common Area landscaping, landscaping equipment, exterior lighting, playground equipment, utility mains, and any and all utility laterals (excepting those maintained by Ogden City, if any) to the Lot lines of the Lots. Lot Owners shall be responsible for utility service for their Dwelling Unit located within the boundaries of their Lots.

9.4 Damage and Destruction Affecting Residences – Duty to Rebuild. If all of or any portion of any Lot or Dwelling Unit is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner of said Lot or Dwelling Unit to rebuild, repair or reconstruct said residence in a manner which will restore it sustainably to its appearance and condition immediately prior to the casualty; subject to the approval of the Architectural Committee.

9.5 Variance in Exterior Appearance and Design. Any Owner who has suffered damage may apply for approval to the Architectural Committee for reconstructing, rebuilding or repairing of his Dwelling Unit in a manner which will provide for an exterior appearance and design different from that which existed prior to the date of the casualty. Application for such approval shall be made in writing, together with full and complete plans and specifications, working drawings and elevations showing the proposed construction and the end result thereof. The Architectural Committee shall grant such approval only if the design proposed by the Owner will result in a finished Dwelling Unit which is, in the discretion of the Architectural Committee, in harmony with exterior design of other Dwelling Units on the Properties. Failure of the Architectural Committee to act within thirty (30) days after actual receipt by the Board of Trustees of such request in writing coupled with the drawings and plot plans showing the full and complete nature of the proposed changes shall constitute approval thereof. If the obligations for repair falls upon the Association, Architectural Committee approval will not be required prior to the commencement of such work.

9.6 Time Limitation. The Association and the Architectural Committee shall be obligated to proceed with all due diligence hereunder and the responsible party shall commence reconstruction within six (6) months after the damage occurs, unless prevented by causes beyond their reasonable control.

9.7 Window Coverings. All Lot Owners shall be responsible to maintain window coverings for structures on their Lots. The coverings must be consistent with house rules and regulations. In no circumstance may bedding materials (sheets, blankets, etc.) or foil be used for window coverings.

ARTICLE X **Use Restrictions**

All real property within the Properties shall be held, used and enjoyed subject to the following limitations and restrictions. Subject to the exemption of Declarant in Section 12 hereof:

10.1 Single Family Residence. Subject to Section 3 of this Article X, each Lot shall be used as a single-family residence and for no other purpose.

10.2 Business or Commercial Activity. Subject to Section 3 of this Article X, no part of the Properties shall ever be used or caused to be used or allowed or authorized, in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, store, vending or other such nonresidential purposes; except Declarant, its successors or assigns, may use any portion of the Property for a model home and for sales activities during the initial sales period, and excepting professional and administrative occupations, which do not involve non-residents coming to the Lot and which are without external evidence thereof, for so long as such occupations are in conformance with Ogden City ordinances are merely incidental to the use of the Dwelling Unit as a residential home.

10.3 Real Estate Business. No Dwelling Unit, Lot, improvement or portion of the Common Area shall be used to conduct any real estate business, gainful occupation, profession, trade office or other non-residential activity; provided, however, that Declarant, or its designees, shall have the non-exclusive right to use, without additional cost, the portions of any recreational building constructed on the Common Area or unsold Lot for purpose of sales of Lots within the Properties, provided that such use does that unreasonably interfere with the use of any recreational facilities by members of the Association. Furthermore, as to any Lots owned by Declarant, Declarant shall have the unrestricted rights to maintain model homes thereon for sales purposes.

10.4 Nuisances. No noxious or offensive activity (including but not limited to the repair of motor vehicles) shall be carried on, in or upon any Lot or the Common Area nor shall anything be done therein which may be or may become an unreasonable annoyance or a nuisance to any other Owner. No loud noises or noxious odors shall be permitted on the Properties and the Board of Trustees shall have the right to determine in accordance with the Bylaws and rules applicable to all Lots, if any noise, odor or activity producing such noise, or interference constitutes a nuisance. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purpose), noisy or smoky vehicles, large power equipment or large power tools, off-road motor vehicles, or other items which may unreasonably interfere with television or radio reception or the peace and quiet of any Owner in the Property, may be used on the Property or exposed to the view of other Owners without the prior written approval of the Architectural Committee. Driveways may not be used for the parking of boats, trailers, motorhomes, or campers, except periods of less than 24 hours, and may not be used for servicing or repairing motor vehicles of any type.

10.5 Signs. No sign, poster, display, billboard or other advertising device of any kind shall be displayed to the public view on any portion of the Property or any Lot, without the prior written consent of the Architectural Committee, except for the one sign for each Dwelling Unit of not more than three (3) feet by two (2) feet, on a white background with red or black block letters, advertising the Property for sale, or except signs, regardless of size, used by Declarant, its successors or assigns, to advertise the Properties during construction and sales periods. All signs or billboards and the condition promulgated for the regulation thereof shall conform to the requirements of the Ogden city ordinances.

10.6 Parking and Vehicular Restrictions. No Owner of any Lot shall park, store or keep any vehicle except wholly within the parking area designated thereof and any inoperable vehicle shall be stored only in closed garages. No Owner shall park, store or keep on any Property, driveway, or street (public or private) within the Properties, any camper type or small truck, large commercial type vehicle (dump, truck, cement mixer truck, tractor, delivery truck, step van and any other vehicular equipment, mobile or otherwise, deemed to be a nuisance by the Board of Trustees), any recreational vehicle (camper unit, motor home, truck, trailer, boat, mobile home or other similar vehicle) upon any uncovered parking space, so as to be visible from anywhere in the Properties, except as otherwise provided by the Board of Trustees. Campers or small trucks not exceeding three quarters (3/4) ton may be parked in their Owner's driveway or garage when used for everyday type transportation. No Owner of a Lot shall conduct repairs or major restoration of any motor vehicle, boat, trailer, aircraft or other

vehicle upon any portion of any Lot, in a driveway, or upon the Common Area. Recreational vehicles may be temporarily parked, time to time, for periods not to exceed twenty-four (24) hours for purposes of loading, unloading and cleaning. No campers or recreational vehicles shall be used at any time on the Property for accommodation of any type. The Board of Trustees may adopt additional rules regarding parking.

10.7 Animal Restrictions. No animals, livestock, reptiles or poultry of any kind shall be raised, bred or kept on any Lot or the Common Area, except dogs suitable for residential dwelling, cats, fish, birds and other household pets may be kept on the Lots, subject to rules and regulations adopted by the Association, provided that they are not kept, bred or maintained for commercial purposes or in unreasonable quantities. As used in this Declaration "unreasonable quantities" shall ordinarily mean more than two (2) pets per household, provided, however, that the Association (or the Architectural Committee or such other person or entity as the Association may, from time to time designate) may determine that reasonable number in any instance may be more or less, and may not exceed certain sizes or include certain breeds. The Association, acting through the Board of Trustees, shall have the right to prohibit maintenance of any animal which constitutes, in the opinion of the Board of Trustees, a nuisance to any other Owner. Animals belonging to Owners, occupants or their licensees, tenants or invitees within the Properties must be kept within a building, an enclosure, an enclosed patio or on leash being held by a person capable of controlling the animal. The enclosure must be so maintained that the animal cannot escape therefrom and shall be subject to the approval of the Architectural Committee. Should any animal belonging to an Owner be found unattended out of the enclosure and not being held on a leash by a person capable of controlling the animal, such animal may be removed by Declarant (for so long as it owns any interest in the Properties) or a person designated by Declarant or by the Board of Trustees to do so, to a shelter under the jurisdiction of the local municipality in which the properties are situated and subject to the laws and rules governing said shelter, or to a comparable animal shelter. Furthermore, any Owner shall be absolutely liable to each and all remaining Owners, their families, guests, tenants, and invitees, for any unreasonable noise or damage to person or property caused by any animal brought or kept upon the Property by an Owner or by members of his family, his tenants or his guests; and it shall be the absolute duty and responsibility of each such Owner to immediately clean up any animal droppings after such animal which has used any portion of the Common Area. An Owner, at the sole discretion of the Board of Trustees, may be assessed a fine not to exceed Five Hundred Dollars and No/100 (\$500.00) for each occurrence where he fails to immediately clean up his animal's droppings or the droppings of any animal in his custody or where any member of his family, his tenants or his guests, fail to immediately clean up after any animal in their custody which has used any portion of the Common Area.

10.8 Trash. No rubbish, trash, garbage or other waste material shall be kept, stored or permitted upon any Lot or Common Area, except in sanitary containers located in appropriate areas screened and concealed from view, and no odor shall be permitted to arise therefrom so as to render the Property, or any portion thereof, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. There shall be no exterior fires whatsoever except barbecue fires contained within gas grills designed in such a manner that they do not create a fire hazard. No clothing or household fabrics shall be hung, dried or aired in such a way in the Property as to be visible to other property. No lumber, grass, shrub or tree clippings or plant waste, metals, bulk material or scrap or refuse or trash shall be kept, stored; or allowed to accumulate on any portion of the Properties except within an appropriate enclosed structure or appropriately screened from view.

10.9 View Obstructions. No fence, hedge, wall or other dividing instrumentality over six (6) feet in height measured from the ground on which it stands shall be constructed or maintained on any Lot, except that Declarant may vary or exceed said height or location of any fence in accordance with its architectural plans. Each Owner, by accepting deed to a Lot hereby acknowledges that any

construction by Declarant may impair the view of such Owners and hereby consents to such impairment.

10.10 Temporary Buildings. No outbuilding, basement, tent, shack, shed or other temporary building or improvement of any kind shall be placed upon any portion of the Properties, either temporarily or permanently. No garage, trailer, camper motor home or recreational vehicle shall be used as a residence in the properties, either temporarily or permanently.

10.11 Common Area Facilities. Nothing shall be altered or constructed in or removed from the Common Areas except upon written consent of the Board of Trustees.

10.12 Declarant Exemption. Declarant or its successors or assigns will undertake the work of constructing Dwelling Units and developing all of the Lots included within the Property. The completion of that work and sale, rental and other disposal of Dwelling Units is essential to the establishment and welfare of said Property as a residential community. As used in this Section 10.12 and its subparagraphs, the words "its successors or assigns" specifically do not include purchasers of Lots improved with completed Dwelling Units. In order that said work may be completed and the Properties established as a fully occupied residential community as rapidly as possible, no Owner nor the Association shall do anything to interfere with and nothing in this as possible, no Owner more the Association shall do anything to interfere with and nothing in this Declaration shall be understood or constructed to:

- (a) Prevent Declarant, its successors or assigns, or its or their contractors or subcontractors, from doing, on any Lot owned by them, whatever they determine to be necessary or advisable in connection with the completion of said work, including, without limitation, the alteration of its construction plans and designs as Declarant deems advisable in the course of development;
- (b) Prevent Declarant, its successors or assigns, or its or their representatives, from erecting, contracting and maintaining, on any Lot or portion thereof, owned or controlled by Declarant or its successors or assigns or its or their representatives or their contractors or subcontractors, such structures as may be reasonably necessary for the conduct of its or their business of completing said work and establishing the Properties as a residential community and disposing of the same in Lots by sale, lease or otherwise;
- (c) Prevent Declarant, its successors or assigns, or its or their contractors or subcontractors, from constructing on any Lot or any portion thereof, owned or controlled by Declarant, or its successors or assigns, its or their business of developing, subdividing, grading and constructing Dwelling Units and other improvements on the Properties as a residential community and of disposing of Dwelling Units thereon by sale, lease or otherwise;
- (d) Prevent Declarant its successors or assigns, or its or their contractors or subcontractors, from maintaining such sign or signs on any Lot owned or controlled by any of them as may be necessary in connection with the sale, lease or other marketing of Lots and Dwelling Units in the Properties; or
- (e) Prevent Declarant, at any time prior to acquisition of title to a Lot in a subdivision by a purchaser from Declarant, to establish on the subdivision additional licenses, reservations and rights-of-way to itself, to utility companies or to others as may, from

time to time, be reasonably necessary to the proper development and disposal of the Properties.

10.13 Outside Installation. No radio station or shortwave operators of any kind shall operate from any Lot or Dwelling Unit unless approved by the Board of Trustees. Exterior radio antenna, television antenna, satellite receivers or another antenna, satellite receivers or other antenna may be erected or maintained in the Property, but subject to the prior approval of the Architectural Committee.

10.14 Insurance Rates. Nothing shall be done or kept in the Properties which will increase the rate of insurance of any property insured by the Association or any other Lot owner without the prior approval of the Board of Trustees nor shall anything be done or kept in the Properties which would result in the cancellation of insurance on any property insured by the Association or any other Lot Owner or which would be in violation of any laws.

10.15 Mining. No mining or mineral activities of any type shall be erected, maintained or permitted upon any Lot or the Common Area.

10.16 Further Subdivision. No Owner shall further partition or subdivide his Lot; provided, however, that this provision shall not be construed to limit the right of an Owner to: (a) rent or lease all or any portion of his Lot by means of a written lease or rental agreement subject to the restrictions of this Declaration; (2) sell his Lot; or (3) transfer or sell any Lot to more than one person to be held by them as tenants in common, joint tenants, tenants by the entirety or as community property. The terms of any such lease or rental agreement shall be subject, in all respects, to the provisions of this Declaration and the Bylaws of the Association and any failure by the lessee of such Lot to comply with the terms of this Declaration or the Bylaws of the Association shall constitute a default under the lease.

10.17 Drainage. There shall be no interference with the established drainage pattern over any subdivision within the Properties, unless an adequate alternative provision is made for proper drainage and is first approved in writing by the Architectural Committee. For purposes thereof, "established" drainage is defined as the drainage which exists at the time the overall grading of any subdivision is completed by Declarant or that which is shown on any plans approved by the Architectural Committee which may include drainage from the Common Area over any Lot or Lots in the Properties.

10.18 Water Supply Systems. No individual water supply or sewage disposal system shall be permitted on any Lot in the Properties unless such system is designed, located, constructed and equipped in accordance with the requirements, standards and recommendations of the Ogden City Department, the Architectural Committee and all other applicable governmental authorities.

10.19 Leasing. Leasing of Lots is prohibited. All residences shall be Owner occupied. However, if any Owner of a Lot after having lived in the Property for at least two (2) years is not able to occupy the Lot for a period of more than six (6) months but less than two (2) years or a period of more than six (6) months but less than four (4) years for Owners who are active members of the military, because they will be residing outside the state of Utah on a temporary basis, they may apply to the Board of Trustees for permission to lease the Lot for a period not to exceed two (2) years or for a period not to exceed four (4) years for active members of the military, subject to the sole discretion of the Board of Trustees and any conditions they may impose on such a lease, which may include the requirements that the lessee shall be obligated to pay the Association directly for obligations owed by the Lot Owner to the Association, and the written agreement of the lessee to be bound by the provisions of this Declaration and all rules applying to the Property and the Lot. The Board of Trustees, in its sole discretion, may grant an Owner's request for a lease period longer than the standard two (2) year period if the Board of Trustees feels that extreme or special circumstances merit the granting of such longer lease period to Owner.

Any and all perspective lessee(s), must be approved by the Board of Trustees subject to said Board's sole discretion before such lessee(s) may begin leasing or occupying a Lot whose Owner has received prior authorization to lease said Lot. In the event that a Lot Owner has received authorization to lease his Lot for the maximum period of two (2) years and has leased their Lot to lessee(s) approved by the Board of Trustees, if said lessee(s) vacates for any reason before the two (2) year period, the Owner of that Lot may not submit another lessee(s) for approval by the Board of Trustees to continue to lease the Lot for the remaining length of the authorized lease period, but must take immediate occupancy of the Lot, unless otherwise authorized by the Board of Trustees.

If the Board of Trustees, in its sole discretion, has determined that Lot Owner should not be granted further ability to lease his Lot after lessee(s) has vacated or the maximum authorized lease period has expired, whichever occurs first, the Lot must immediately occupy the Lot or cause the Lot to be sold. In the event the Owner fails or refuses to occupy the Lot at the end of the authorized lease period, or after lessee(s) has vacated, whichever occurs first, the Association will require the Lot be sold.

ARTICLE XI

Fences

11.1 **Fences.** There shall be no fences or walls within or on the properties except the fence and/or wall around the perimeter of the Properties and party walls, except as approved by the Architectural Committee.

ARTICLE XII

Damage or Destruction to Common Area

12.1 **Damage or Destruction to Common Area.** Damage to or destruction of all or any portion of the Common Area shall be handled in the following manner, notwithstanding any provision in this Declaration to the contrary:

- (a) In the event of damage or destruction to the Common Area, and the insurance proceeds are sufficient to effect total restoration, then the Association shall cause such Common Area to be repaired and reconstructed substantially as it previously existed.
- (b) If the insurance proceeds are within Ten Thousand Dollars and No/100 (\$10,000.00) or less of being sufficient to effect total restoration, then the Association shall cause such Common Area to be repaired and reconstructed substantially as it previously existed and the difference between the insurance proceeds and the actual cost shall be levied as a Reconstruction Assessment equally against each of the Lot Owners, in accordance with the provisions of Article VI, Section 5, of this Declaration.
- (c) If the insurance proceeds are insufficient by more than Ten Thousand Dollars and No/100 (\$10,000.00) to effect total restoration to the Common Area, then by written consent or vote of a majority of the Owners, they shall determine whether (1) to rebuild and restore in substantially the same manner as the improvements existed prior to the damage and to raise the necessary funds over the insurance proceeds by levying equal Reconstruction Assessments against all Lots; (2) to rebuild and restore in a way which utilizes all available insurance proceeds and an additional amount not in excess of Ten Thousand Dollars and (\$10,000.00) and which is assessable equally to all Owners but which is less expensive than replacing the improvements in substantially the same

manner as they existed prior to being damaged; or (3) subject to the provisions of Article XIV, to not rebuild and to distribute available insurance proceeds equally to be Owners and mortgagees of the Lots as their respective interests may appear.

- (d) Each Owner shall be liable to the Association for any damage to the Common Area not fully covered by insurance which may be sustained by reason of the negligence or willful misconduct of said Owner or of his family and guests, both minor and adult. Notwithstanding the foregoing, the Association reserves the right to charge a Reconstruction Assessment equal to the increase, if any, in the insurance premium directly attributable to the damage caused by such Owner. In the case of joint ownership of a Lot, the liability of such Owners shall be joint and several, except to the extent that the Association has previously contracted in writing with such joint Owners to the contrary. The cost of correcting such damage shall be a Special Assessment against the Lot and may be collected as provided herein for the collection of Assessments.

ARTICLE XIII

Insurance

13.1 Common Area. The Association shall keep all structures, exterior and common improvements and all improvements of the Common Area insured against loss or fire damage by fire and such other common causes of loss for which insurance is available for the full insurance replacement cost thereof and may obtain insurance against such other hazards and casualties as the Association may deem desirable. The Association may also insure any other property, whether real or personal, owned by the Association, against loss or damage by fire and such other hazards as the Association may deem desirable, with the Association and the Owner as beneficiary of such insurance. The insurance coverage with respect to the Common Area shall be written in the name of and proceeds shall be payable to the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried. Premiums for all insurance carried by the Association are Common Expenses included in the Assessments made by the Association. Exclusive authority to adjust losses shall be and is hereby vested in the Association and/or the Board of Trustees.

13.2 Insurance Obligations of the Association. The Association shall insure each entire Dwelling Unit, including the structural portions (but not the contents or any of the interior improvements) of the Dwelling Unit, against loss or damage by fire or by any other casualty, under the standard form of extended endorsement and board form now in use in the state of Utah or under such other insurance as may be required by any mortgagee of the residence. All such insurance shall be for the full replacement value of the Dwelling Unit and for the Benefit of the Association and the Owner.

- (a) All policies of insurance shall provide that coverage cannot be canceled, invalidated or suspended because of the conduct of any one or individual Lot Owner or their respective lessees, employees, agents, contractors, guests, or the conduct of any officer or employee of the Board of Trustees or Association or their employees, agent, or contractors, without prior demand in writing that the Association cure the defect and then only if the defect is not cured within 30 days. All such policies shall provide that coverage shall not be prejudiced by any act or neglect of any individual Lot Owner or their respective lessees, employees, agents, contractors or guests, or by the failure of the Association to comply with any warranty or condition with regard to any portion of the premises over which the Association has no control. The insurance coverage shall provide that coverage may not be canceled or substantially modified (including

cancellation for non-payment of premium) without at least ten (10) days prior written notice to any and all insured named therein, including all mortgagees of the Lots and Dwelling Units.

- (b) Each policy of insurance coverage must have the insurance industry standard mortgagee clause. Such clause shall provide that the insurer will notify the named mortgagee at least ten (10) days before reduction in coverage or cancellation of the policy.
- (c) The Association must maintain blanket "all risk" coverage for the following: the common elements of the project, and all machinery, equipment, and supplies maintained for the service of the project.
- (d) Deductibles may not exceed the lower of Ten Thousand Dollars and No/100 (\$10,000.00), or one percent (1%) of the applicable coverage. Funds for such deductibles must be maintained in the Association's reserve and be so designated. The Association must also obtain any additional coverage commonly required by private mortgage investors or developments similar in construction, location and use, including the following where available: agreed amount, demolition costs, increased cost of construction and compliance with current building rules and ordinances.
- (e) If not already included in the terms of comprehensive general liability coverage, there must be a "severability of interest" endorsement precluding the insurer's denial of Lot Owner's claim because of negligent acts by the Association or other lot owners.
- (f) Lot owners shall, however, be responsible to maintain their own insurance of the improvements on their Lots that are not treated as Common Areas, including all interior walls and improvements, and fixtures of every type, as well as all personal property.

13.3 Replacement or Repair of Property. In the event of damage to or destruction of any part of the Common Area facilities or other improvements in the Properties insured by the Association, the Association shall repair or replace the same from the insurance proceeds available, subject to the provisions of Article XII of this Declaration. If such insurance proceeds are insufficient to cover the costs of such repair or replacement of the property damaged or destroyed, the Association may make either a Special or Re-construction Assessment against all Lot Owners to cover the additional cost of repair or replacement not covered by the insurance proceeds, in addition to any other Assessments made against such Lot Owner in accordance with the provisions of Article VI, Section 5, of this Declaration. In the event of total destruction of all of the improvements in the Properties, the proceeds of the insurance carried by the Association shall be divided proportionately among the Lot Owners, such proportion based upon the original base sales price of each improved Lot at the time it was initially sold by the Declarant, provided that the balance then due on any valid encumbrance of record shall be first paid in order of priority, before the distribution of any proceeds to an Owner whose Lot is so encumbered.

13.4 Waiver of Subrogation. As to each policy of insurance maintained by the Association which will not be voided or impaired thereby, the Association hereby waives and releases all claims against the Board of trustees, the owner, the manager, Declarant and the agents and employees of each of the foregoing with respect to any loss covered by such insurance, whether or not caused by negligence or of breach of any agreement by said persons, but only to the extent that insurance proceeds are received in compensation for such loss.

13.5 Liability Insurance. The Association shall obtain comprehensive public liability insurance, including medical payments, and malicious mischief, in the amount of One Million Dollars and No/100 (\$1,000,000.00) per occurrence for personal injury and/or property damage arising from the

activities of the Association or with respect to property under its jurisdiction, including, if obtainable, a cross-liability endorsement insuring each insured against liability to each other. Such insurance shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of a Lot Owner because of negligent acts of the association or other Lot Owners. The Association shall obtain liability coverage on members of the Board of Trustees for negligent conduct.

13.6 Fidelity Coverage. The Association shall obtain fidelity coverage against dishonest acts on the part of Trustees, managers, trustees, employees or volunteers responsible for handling funds collected and held for the benefit of the Lot Owners. If the business of the Association is managed by an outside property manager, the Association shall require that manager to provide a similar bond. The fidelity bond or insurance must name the Association as the named insured and shall be written in an amount sufficient to provide protection which is in no event less than one and one-half (1 and ½) times the insured's estimated annual operating expenses and reserves in connection with such coverage. In connection with such coverage, an appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy should not otherwise cover volunteers.

13.7 Other Insurance in General. The Association may also obtain, through the Board of Trustees, Workman's Compensation Insurance and other liability insurance as it deems desirable, ensuring each Lot Owner and the Association, Board of Trustees and manager from liability in connection with the Common Area and the premiums for which are Common Expenses included in the Assessments made against the Owners. Such insurance policies shall have severability of interest clauses or endorsements which shall preclude the insurer from denying the claim of a lot Owner because of the negligent acts of the Association or other Lot Owners. All Policies shall be reviewed at least annually by the Board of Trustees and the limits increased at its discretion. Notwithstanding any other provisions herein, the Association shall continuously maintain in effect such casualty, flood liability and bonds and other insurance meeting the requirements for Planned Unit Developments established by the Federal Home Loan Mortgage Corporation (FHLMC), the Government National Mortgage Association (GNMA.), the Federal National Mortgage Association (FNMA), Housing and Urban Development (HUD), Federal Housing Administration (FHA), Veterans Administration (VA), State of Utah Finance Agency and conventional lending institutions, so long as there are any mortgages on any of the Properties.

13.8 Hazard Insurance. Each Owner shall be responsible for hazard insurance on the contents of his Property and the improvements within his Property, in addition to liability insurance related to his own activities and those of his invitees, agents, and family members using the Property.

13.9 Allocation and Procedures. In connection with any losses, awards, or proceeds from the condemnation, destruction or liquidation of all or part of the Properties, or the termination of the Association as a result of condemnation, destruction, or liquidation of all or part of the Properties:

- (a) the Association is designated to represent the Lot Owners in any related proceedings, settlement or agreements;
- (b) each Lot Owner irrevocably appoints the Association as its attorney in fact for these purposes; and
- (c) any proceeds from a settlement or collection resulting from a loss, award, or proceeding shall be payable to the Association for the benefit of the affected Lot Owners and their mortgage holders and where appropriate, in accordance with the percentage of a Lot Owner's interest in the Common Areas as defined in Exhibit A.

ARTICLE XIV
Mortgagee Protection Clause

14.1 Mortgage Protection. Notwithstanding any and all provisions hereof to the contrary, in order to induce the Federal Home Loan Mortgage Corporation (FHLMC), the Government National Mortgage Association (GNMA), Federal National Mortgage Association (FNMA), Housing and Urban Development (HUD), Federal Housing Administration (FHA), Veterans Administration (VA), State of Utah Finance Agency and conventional lending institutions, and to participate in the financing of the sale of Lots within the Properties, the following provisions are added hereto (and to extent these added provisions conflict with any other provisions of the Declaration, these added provisions shall control):

- (a) Each first mortgagee of a mortgage encumbering any Lot, upon written request made to the Association, is entitled to written notification from the Association of any default by the mortgagor of such lot in the performance of each mortgagor's obligations under this Declaration, the Articles of Incorporation of the Association or the Bylaws of the Association, which default has not been cured within thirty (30) days after the Association learns of such default.
- (b) Each Owner, including every first mortgagee of a mortgage encumbering any Lot which obtains title to such Lot pursuant to the remedies provided in such mortgage, or by foreclosure of such mortgage or by deed (or assignment) in lieu of foreclosure, shall be exempt from any "right of first refusal"
- (c) Each first mortgagee of a mortgage encumbering any Lot which obtains title to such Lot pursuant to the remedies provided in such mortgage or by foreclosure of such mortgage, shall take title to such Lot free and clear of any claims of unpaid assessments or charges against such Lot which accrued prior to the acquisition of title to such Lot by the Mortgagee.
- (d) Unless at least sixty-seven percent (67%) of first mortgages (based upon one vote for each mortgage owned), and Owners (other than the Declarant) have given their prior written approval, neither the association or the Owners shall:
 - (1) By act or omission seek to abandon, partition, alienate, subdivide, realize, hypothecate, encumber, sell or transfer the Common Area and the improvements thereon, directly or indirectly which are owned by the Association. The granting of easements for public utilities or for other public purposes consistent with the intended use of such property by the Association or the transfer of the Common Areas or improvements to an unincorporated association of the Owners in accordance with the Articles of Incorporation of the Association shall not be deemed a transfer within the meaning of this clause;
 - (2) Change the method of determining the obligations, assessments due or other charges which may be levied against a Lot Owner;
 - (3) By act or omission change, waive or abandon any scheme of regulations or enforcement thereof, pertaining to the architectural design of the exterior appearance of the Dwelling Units, the maintenance of common property party walks, party walls or common fences and driveways or the up-keep of lawns and planting in the Properties.

- (4) Fail to maintain fire and extended coverage insurance on Common Area property on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement costs);
- (5) Use hazard insurance proceeds for lessees to any Common Area property for other than the repair, replacement or reconstruction of such improvement.
- (e) First mortgagees shall have the right to examine the books and records of the Association during normal business hours.
- (f) All first mortgagees shall be given: one (1) thirty (30) day written notice prior to the effective date of any proposed material amendment to this Declaration or the Articles of Incorporation or Bylaws of the Association and prior to the effective date of any termination of an agreement for professional management of the Properties following a decision of the owners to assume self-management of the Properties; and (2) immediate notice following any damage to the Common Area whenever the cost of reconstruction exceeds Ten Thousand Dollars and No/100 (\$10,000.00) and as soon as the Board of Trustees learns of any threatened condemnation proceeding or proposed acquisition of any portion of the Properties;

14.2 Notice of Action. A holder, insurer and guarantor of a mortgage, upon written request to the Association, (such request to state the name and address of such holder, insurer or guarantor and the Dwelling Unit number), will be entitled to timely written notice of:

- (a) Any proposed amendment to the Declaration effecting a change in the boundaries of any Lot or the exclusive easement rights appertaining thereto, the interest in the Common Areas and facilities appertaining to any Lot or the liability for Common Expenses appertaining thereto: the number or votes in the Association appertaining to any Lot; the purposes to which any Lot or the common element are restricted;
- (b) Any proposed termination of the Properties or the Association;
- (c) Any condemnation or casualty loss which effects a material portion of the project, the Common Areas of the Properties, or the Lot securing its mortgage;
- (d) Any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the mortgage of such eligible holder, insurer or guarantor, where such delinquency has continued for a period of sixty (60) days;
- (e) Any lapse, cancellation or material modification of any insurance policy maintained by the Association;
- (f) Any restoration or repair of the Common Areas after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with the Declaration and the original plans and specification unless the approval of the eligible holder of first mortgages on Lots to which at least fifty one percent (51%) of the votes of Lots subject to mortgages held by such eligible holders are allocated, is obtained. A higher percentage may be required for other changes as described elsewhere herein;

- (g) Any election to terminate the Association after substantial destruction or taking by condemnation of the Common Areas shall require the approval of at least fifty one percent (51%) of the holders of eligible holders of mortgages on Lots.
- (h) Any proposed action that requires the consent of more than fifty percent (50%) of the eligible mortgage holders.
- (i) Unless the formula for reallocation of interest in the Common Areas after a partial condemnation or partial destruction of the Common Areas is fixed in advance by the Declaration nor by applicable law, no reallocation of interests in the Common Areas resulting from a partial condemnation or partial destruction of the Common Areas may be effected without the approval of at least fifty one (51%) of the eligible holders of first mortgages of Lots.
- (j) First mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Area property and may pay any overdue premiums on hazard insurance policies to secure new hazard insurance coverage on the lapse of a policy for such property, and the first mortgagee making such payments shall be owed immediate reimbursement thereof or from the Association;
- (k) First mortgagees, pursuant to their mortgage, shall have priority over Lot Owners in the case of a distribution of insurance proceeds or condemnation awards for losses to or taking of the Common Area property.

In addition to the foregoing, the Board of Trustees may enter into such contracts or agreements on behalf of the Association as are required in order to satisfy the guidelines of the VA, the FHA, the FHLMC, FNNA or the GNNA or any similar entity so as to allow for the purchase, insurance or guaranty, as the case may be, by such entities of first mortgages encumbering Lots with Dwelling Units thereon. Each Owner hereby agrees that it will benefit the Association and the membership of the Association, as a class of potential mortgage borrowers and potential sellers of their Lots, if such agencies approve the Properties as a qualifying subdivision under their respective polices, rules and regulations, as adopted from time to time.

Neither this Declaration nor the Articles of Incorporation nor the Bylaws of the Association will be amended in such a manner that the rights of any first mortgagee will be adversely affected.

ARTICLE XV
General Provisions

15.1 Enforcement. This Declaration, the Articles of Incorporation and the Bylaws may be enforced by the Association as follows:

- (a) Breach of any of the covenants contained in the Declaration or the Bylaws or of any rule adopted by the Board of Trustees and the continuation of any such breach may be enjoined, abated or remedied by appropriate legal proceedings by an Owner, by the Association or the successor in interest of the Association. Any judgment rendered in any action or proceeding pursuant hereto shall include a sum for attorney's fees in an amount as the Court of the finder of fact may deem reasonable, in favor of the prevailing party, as well as the amount of any delinquent payment, interest thereon, cost of collection and

Court costs. Attorney's fee reasonable incurred as a result of any reach may be recovered by the non-breaching party whether or not litigation ensues.

- (b) The result of every act or omission whereby any of the covenants contained in this Declaration or the Bylaws are violated in whole or in part is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such result and may be exercised by any Owner, by the Association or its successors in interest.
- (c) The remedies herein provided for breach of the covenants contained in this Declaration or in the Bylaws shall be deemed cumulative and none of such remedies shall be deemed exclusive. All remedies that exist at law or created by statute shall remain available
- (d) The failure of the Association to enforce any of the covenants contained in this Declaration or in the Bylaws shall not constitute a waiver of the right to enforce the same thereafter.
- (e) A breach of the covenants, conditions or restrictions contained in this Declaration or in the Bylaws shall not affect or impair the lien or charge of any bona fide first mortgage or deed of trust made in good faith and for value on any Lot to the improvements thereon, provided, however, that any subsequent Owner of such Property shall be bound by said covenants, conditions and restrictions whether such Owner's title was acquired by foreclosure in a trustee's sale or otherwise.

15.2 Severability. Invalidation of any one of these covenants, conditions or restrictions by judgment or Court order shall in no way affect any other provisions which shall remain in full force and effect.

15.3 Term. The covenants and restriction of this Declaration shall run with and bind the Property and the Lots, and shall inure to the benefit of and be enforceable by the Association or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, perpetually, unless otherwise provided by an appropriate amendment.

15.4 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community and for the maintenance of community recreational facilities and the Common Area. The article and section headings have been inserted for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine and neuter shall each include the masculine, feminine and neuter.

15.5 Amendments. Except as provided in Article XV and subject to any rights of the holders of first mortgages as described elsewhere herein, this Declaration may be amended only by the affirmative vote or written consent of not less than sixty seven percent (67%) of the Members; provided, however, that the prior written approval of at least sixty seven percent (67%) of all first mortgages must be obtained also, before article XIV may be amended. Notwithstanding the foregoing, prior to the sale of the first Lot in the Properties, Declarant shall have the right to terminate or modify this Declaration by recordation of a supplement hereto setting forth such termination or modification in accordance with the laws of the State of Utah. For purposes of this Declaration, the sale shall be deemed to be the date upon which a Deed conveying a Lot is recorded in the office of the Weber County Recorder. Notwithstanding anything to the

contrary contained herein, Declarant reserves the right, by itself, to amend the Subdivision Plat or Plats and the Declaration as amended, from time to time, to provide adjustment to the Lot lines and boundaries and the Common Area lines and boundaries to accommodate the buildings on said Lots as actually constructed. In addition, the Declarant shall have the right, with or without the consent of the Association or individual Lot Owners, to amend this Declaration and the Map, as necessary, to maintain technical compliance with applicable laws and regulations imposed by governmental or other institutions financing or guaranteeing the financing of the project of the Lots therein. It is hereby acknowledged and understood that this Planned Residential Unit Development has been granted a conditional use permit by Ogden city as a group dwelling based upon its compliance with Ogden City zoning ordinances. Amendments to this Declaration; changes to the Plat, the Common Area, the approved site plan, the architectural plans or the landscaping plans; or the conditions of approval may require an amendment to the conditional use permit, and failure to seek such amendment may result in an ordinance violation or a revocation of the conditional use permit.

Provided, further however, this Declaration shall not be amended in such a manner that the rights of any first mortgagee will be adversely affected except as set forth herein.

For purposes of this Declaration, eligible mortgage holders are those holders of a first mortgage on a Lot estate who have submitted a written request that the Association notify them on any proposed action requiring the consent of a specified percentage of eligible mortgage holders. For purposes of this Section 15.5, a change is considered material if it affects any of the following:

- (a) Voting rights (for which one hundred percent (100%) of the Owners must give approval);
 - (b) Increases in assessment that raise the previously assessed amount by more than twenty five percent (25%), assessment liens, or the priority of assessment liens;
 - (c) Reductions in reserves for maintenance, repair and replacement of common elements;
 - (d) Responsibility for maintenance and repairs;
 - (e) Reallocation of interest in the general or limited common elements, or rights to their use (for which one hundred percent (100%) approval is required);
 - (f) Redefinition of any Lot boundaries;
 - (g) Convertibility of Lots in common elements or vice versa;
 - (h) Expansion or contraction of the project, or the addition, annexation, or withdrawal of Property to or from the project;
 - (i) Hazard or fidelity insurance requirements;
-
- (j) Imposition of any restrictions on a Lot Owner's right to sell or transfer his or her Lot;
 - (k) A decision by the Association of a project that consists of fifty (50) or more Lots to establish self-management if professional management had been required previously by the project documents or by an eligible mortgage holder;

- (l) Restoration or repair of the Properties (after damage or partial condemnations) in a manner other than that specified in the documents; or
- (m) Any provisions that expressly benefit mortgage holders, insurers, or guarantors.

15.6 No Public Right or Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Properties to the public or for any public use (except as shown on the recorded Plat.)

15.7 Constructive Notice and Acceptances. Every person who owns, occupies or acquires any right, title, estate or interest in or to any Lot or other portion of the Properties does and shall be conclusory deemed to have consented and agreed to every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in the Properties or any portion thereof.

15.8 Reservations of Easements. Reciprocal easements are hereby reserved for the benefit of adjoining Lot Owners for the control, maintenance and repair of the utilities of adjoining Lot Owners. Declarant expressly reserves, for the benefit of all of the real property in the Properties, the Owners, and the Lots, reciprocal easements of access, ingress and egress over all Lots and over the Common Area, for the use and enjoyment of the Lots in accordance with this Declaration, including without limitation, for installation and repair of utility services, for drainage over, across and upon adjacent Lots for water resulting from the normal use of adjoining Lots, for maintenance and repair of any Dwelling Unit, and for any encroachments which may result from the actual construction of improvements on Lots. Such easements may be used by Declarant, its successors, purchasers and all Owners, their guests, tenants and invitees, residing on or temporarily visiting the Properties, for pedestrian walkways, vehicular access and such other purposes reasonably necessary for the use and enjoyment of a Lot, the improvements on the Lots, and the Common Area. No Owner of a Lot shall interfere with the established drainage pattern over his Lot from adjoining or other Lots. Each Owner of a Lot shall make adequate provisions for drainage in the event he changes the established drainage over his Lot. For purposes of this Declaration, "established drainage" on any Lot is defined as the drainage pattern and facilities in existence at the time that such Lot is conveyed to a purchaser from Declarant. In the event that any Dwelling Unit encroaches upon the Common Area and facilities or on another Lot as a result of construction, reconstruction, repair, shifting, settlement or movement of any portion of the Properties, a valid easement for encroachment and for the maintenance of the same shall exist so long as the encroachment exists. Declarant and the Lot Owner of each Lot on which there is constructed a Dwelling Unit along or adjacent to said Lot shall have an easement appurtenant to said Lot over the Lot line to and over the adjacent Lot, for the purpose of accommodating any natural movement or settling of any Dwelling Unit located on said Lot, any encroachment of a Dwelling Unit due to minor engineering or construction variances and any encroachment of eaves, roof overhangs and architectural features as part of the original construction of any Dwelling Unit located on said Lot, Declarant reserves the right to grant exclusive easements over certain limited portions of the Common Area, if necessary, to certain Lot Owners for yard purposes, as required by the Federal Housing Administration. Declarant further expressly reserves, for the benefit of the Association, its agents and employees, easements of access, ingress and egress over the Lots and Common Area, for the purpose of maintaining, repairing and installing utility pipelines, laterals and all other utilities of every type in accordance with the provisions of this Declaration and as otherwise provided by law. Each of the Lots and structures thereon shall be and are subject to easements for utilities of every type through, over, under and across said Lots and the structures thereon, including easements

for the installation and maintenance of meters for such utilities. In particular, but without limitation, these easements shall include the right to install, maintain, repair and replace, all common walls, and all utilities. The Declarant reserves for this use, and use of subsequent Lot Owners, those portions of each building which are shared, including but not limited to, the space occupied by any portion of any chute, flue, duct, wire conduit, bearing wall, bearing column, or any other fixture which lies partially within and partially outside the designated boundaries of a Dwelling Unit which serves more than one Dwelling Unit or any portion of the Common Areas and facilities.

15.9 Notices. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered, as provided, either personally or by mail. If delivery made by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any persons at the address given by such person to the Association for the purpose of service of such notice or to the Lot address of such person if no address has been given to the Association. Such address may be changed, from time to time, by notice in writing to the Association.

15.10 No representation or Warranties. No representations or warranties of any kind, express or implied, have been given or made by Declarant or his agents or employees in connection with the Properties or any portion of the Properties, or any improvements thereon, its physical condition, zoning, compliance with applicable laws, fitness for intended use or in connection with the subdivision, sale, operation maintenance, cost of maintenance, taxes or regulations thereof as a planned development.

15.11 Eminent Domain.

- (a) Whenever any proceeding is instituted that could result in the temporary or permanent taking, injury or destruction of all or part of the Common Areas and facilities, or one or more Lots or portions thereof by the exercise of the power in the nature of eminent domain or by an action or deed in lieu of condemnation (all of which shall be defined as eminent domain"), the Association, each Lot Owner, each holder, insurer and guarantor of a mortgage of any Lot shall be entitled to timely written notice thereof. The Association is designated to represent the Lot Owners in any related proceedings, negotiations, settlements, or agreements. Each Lot Owner hereby appoints the Association as its attorney in fact for these purposes.
- (b) Any awards by reason of eminent domain or in proceedings in lieu thereof, shall be payable to the Association for the benefit of the affected Lot Owners and their mortgage holders as provided in Utah Code Ann. §57-8-32.5, provided that the priority of any mortgagee's lien shall remain undisturbed, to be distributed as set forth in Article XIII, Section 9.

15.12 Allowances for Inflation. Any dollar amount set forth in this Declaration may be adjusted by the approval of a majority of the Board of Trustees to allow for inflation as measured by the consumer price index for urban consumers (along the Wasatch Front or its equivalent, with January 1, 2003, being the base year).

15.13 Agent for Service of Process. The registered agent appointed to receive service of process for the Association shall be the President of the Association. The name and address of said agent can be found by performing an online entity search of Jefferson Avenue Townhome Homeowner's Association,

Inc., on the State of Utah's website "Utah.gov." The Association will update agent's information from time to time as necessary.

ARTICLE XVI
Party Walls

There exist party walls between structures on the Lots. The provisions of Utah Code Ann. §57-8-7.2 (2004) shall apply, and to the extent the statute is not determinative, the general common law rules with respect to party or common walls shall apply. Neither Owner of a party wall may interfere with party walls to the detriment of the other, nor do anything to its structure that will weaken it. The party walls shall not be removed, remodeled, damaged or changed in any manner whatsoever by any Owner. Damages to or destruction of the party walls shall be repaired or replaced at the expense of the Owner that caused the damage or destruction, and otherwise at the common, equal expense of each Owner served by the wall.

Declarant hereto has approved and executed this Declaration as of the date first set forth above.

DECLARANT:

Jefferson Avenue Townhome
Homeowner's Association, Inc.,

Kathryn Evans
Kathryn Evans, President

State of Utah)
Count of Webb) :SS

On this 27th day of August, 2019, Kathryn Evans personally appeared before me who being by me duly sworn did say that she is the President of Jefferson Avenue Townhome Homeowner's Association, Inc., the Declarant, and that the within and foregoing instrument was signed in behalf of the Declarant and with its authority and duly acknowledged to me that Jefferson Avenue Townhome Homeowner's Association, Inc., executed the same.

Sonja Levesque

Notary Public
Residing at: 2290 Adams Ave, Ogden, UT 84401
My Commission expires 5/21/2021



EXHIBIT A

Lots and Description

Each of the Dwelling Units shall be substantially similar construction and design. The Dwelling Units, with two exceptions, will be two story dwellings with no basements. They shall be of frame construction with hearty board exterior siding and asphalt shingles. Two of the Dwelling Units may have a basement in addition to the two-story construction.

Lot	Address	Approx. Sq. Footage	Percentage Interest
Block 1			
Lot 1	577 Laurelhurst Court	1580	5.263
Lot 2	573 Laurelhurst Court	1580	5.263
Lot 3	569 Laurelhurst Court	1580	5.263
Lot 4	565 Laurelhurst Court	1580	5.263
Lot 5	561 Laurelhurst Court	1580	5.263
Lot 6	557 Laurelhurst Court	1580	5.263
Lot 7	553 Laurelhurst Court	1700	5.263
Block 2			
Lot 1	2647 Jefferson Avenue	1580	5.263
Lot 2	2651 Jefferson Avenue	1580	5.263
Lot 3	2653 Jefferson Avenue	1580	5.263
Block 3			
Lot 1	2657 Jefferson Avenue	1580	5.263
Lot 2	2661 Jefferson Avenue	1580	5.263
Lot 3	2665 Jefferson Avenue	1580	5.263
Lot 4	2669 Jefferson Avenue	1580	5.263
Block 4			
Lot 1	580 Sellwood Court	1580	5.263
Lot 2	576 Sellwood Court	1580	5.263
Lot 3	572 Sellwood Court	1580	5.263
Lot 4	568 Sellwood Court	1580	5.263
Lot 5	564 Sellwood Court	1700	5.263

EXHIBIT B**Jefferson Avenue Townhome Homeowner's Association, Inc., Rules**

Jefferson Avenue Townhome Homeowner's Association, Inc., is governed by the principal that the property is part of a historic district of Ogden and therefore standards of appearance and behavior conducted on the Property should be maintained and enforced. In doing so the following rules have been established and revised by the elected HOA Board of Trustees. These rules are to promote enjoyment of a community environment, provide and address the safety of each member as well as foster good neighborly relationships amongst all Owners and residents. These rules are a guide and may be interpreted for individual purposes as deemed by the Board of Trustees, and there shall be no biased enforcement of the rules.

1. The walkways and entryways in "front" of each Dwelling Unit shall not be obstructed or used for any purposes other than a normal entry for comings and goings and typical enjoyment of a front porch. Porches should be kept neat and organized. The Architectural Committee and HOA Board of Trustees reserve the right to address items or situations that may be deemed as eye sores or other potential concerns.
2. Due to the Property being part of the Jefferson Avenue Historic district, Ogden City ordinance requires that no exterior of any Dwelling Unit shall be altered by any Owner in any manner, without first submitting proposed changes to the Architectural Committee, the Board of Trustees and then to Ogden City, depending on the nature of the changes. Requests will be reviewed, and some may be immediately approved, while others may take time, or not be approved. Pictures of proposed changes or additions are helpful for approval. The goal is to maintain an inviting community that is aesthetically pleasing and strives to maintain property values.
3. Personal items such as toys, debris or other items that should be kept in storage (such as a garage) should not be left in Common Areas.
4. No Owner shall make or permit any noises to be made which would reasonably be expected to disturb or annoy the occupants of any other Dwelling Unit, nor do or permit anything to be done which interferes with the rights, comforts, or conveniences of other Owners. Quiet hours shall be in effect between 10:00 p.m. and 8:00 a.m.
5. The Owner of each Lot shall keep his Unit in a good state of repair and cleanliness.
6. Window coverings are to be maintained by each Owner. Items to be used should be blinds, sashes, curtains or other materials that are specifically designed for use as a window covering. Bedding, foil, paper or other materials or items not specifically designed for use as a window covering is not permitted. The Owners are encouraged to maintain an individual style that is aesthetically pleasing for other Owners as well.

7. No sign, notice or advertisement (excluding signs displayed for the sole purpose of selling a Lot and its accompanying Dwelling unit), shall be inscribed in writing or exposed on or at any window or other part of the Dwelling Units or Lots.
8. All garbage and recyclables from each Dwelling Unit and Lot shall be deposited in garbage and recycle containers provided by the City. Such containers shall be stored in the designated areas, except on pick-up days, at which time they will be placed out for pickup where required by the garbage and recycle service and returned to designated areas same day. Designated areas may vary depending on each building. However, if waste or recycle containers interfere with an Owner's parking or other issues arise, the Board of Trustees may request containers be relocated.
9. Owner and guest parking should be limited to the driveway immediately behind each Dwelling Unit. Vehicles parked in the driveway should be in working order, able to be registered and intended as private passenger vehicles. Vehicles should not overhang past driveway. Vehicles that are not parked in its Owner's driveway may be towed to allow proper access for the impeded Owner's driveway or approach. Guest parking or any vehicles unable to park in their respective driveways should be parked on Jefferson Avenue.
10. Association Owners with pets:
 - (a) Pets must be well-behaved, obedient and leash trained, or if a young animal, the Owner must commit to properly train the animal.
 - (b) The animal will not be allowed to run loose outside of the Dwelling Unit or in any Common Areas and shall be kept on a leash to prevent unwanted animal interaction from other animals, Lot Owners and their guests, and any other person who may be incidentally present on the Property such as person providing service to the Property. When an animal is aggressive or unresponsive to Owner, it will be the sole liability of Owner for any harm that may befall injury to others.
 - (c) The pet, if a dog, must be licensed and wear a tag.
 - (d) All pets must have all current vaccinations and be in good health.
 - (e) Not more than two animals (i.e. 2 dogs, 2 cats, or 1 dog and 1 cat) shall be permitted in any Dwelling Unit.
 - (f) ~~No animal shall be allowed to make noise such that it disturbs neighbors.~~
 - (g) Dogs in excess of 60lbs may be permitted only if they are the sole pet in the Dwelling Unit, or otherwise approved by the HOA Board.

- (h) The pet owner is responsible to clean up their pet's droppings per Ogden City Pet Ordinance. Pet owners shall be prepared and equipped to clean up their animal's droppings immediately after the animal defecates.
11. Owners may plant flowers, have ornamentals, and small fruit bearing plants or trees in designated green areas that are directly in front and behind their Dwelling Unit. Once planted, the special care, maintenance, including weeding, watering and cleanup of such plantings is to be provided by the Owners. Personal items placed on the greenways must be kept neat and organized. Flower beds not personalized by an Owner shall be maintained as outlined in the contract with the yard care professional.
 12. It will be the responsibility of the Association to remove snow from public sidewalks along Jefferson Avenue and the common private streets, and public walkways located on the Property's premises. It is the responsibility of each Owner to remove snow and debris from their private walkways and patios in front of his Dwelling Unit and driveway area behind said Dwelling Unit.
 13. No Owner shall use or permit to be brought inside any Dwelling Unit's living area, any flammable fluids such as, but not limited to, gasoline, kerosene, naphtha, or benzene, or other explosives or articles deemed as extra hazardous to life or limb. Items that are flammable such as gasoline or propane for grills should be kept in the garage and stored in a safe manner
 14. No drugs, or gang related activities will be tolerated anywhere on the Property.
 15. Complaints of any type shall be made in writing to the Board of Trustees via written letter to the designated Association mailing address or via email to: jeffersonavehoaboard@gmail.com. Verbal concerns are welcome and will be addressed, however, written documentation of a verbal concern will allow the entire Board of Trustees to be made aware. Any issues addressed in a non-satisfactory manner can be brought be for any quarterly "Open" Board meeting for review and resolution.
 16. Owners are reminded of the restriction that exists in the Declaration on the leasing and renting of Lots and their associated Dwelling Units.
 17. Only resident Owners may serve on the Board.
 18. Any consent or approval given under these Association rules by Management shall be revocable at any time as well as interpreted for the benefit of all Association members. Any actions taken to enforce the Association rules can be appealed at an open Board meeting held quarterly, or by special meeting of the majority of the Owners.
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19. These rules may be amended, added to, or repealed upon the giving of thirty (30) days written notice to the Owners by the Board of Trustees. Please refer to the CC&Rs for additional general information.

EXHIBIT C

Jefferson Avenue Homeowner's Association, Inc., Rule Violation Handling Process

To promote a fair and unbiased enforcement for the established HOA rules, the board will seek to use the following outline to enforce rule violations and rectification of behaviors requiring attention.

As we are a small community, if there is an issue with a neighbor, if you are comfortable, try to discuss with them personally. It is understood this is not always easy, so please follow the complaint guidelines as listed above, notifying the board via email. By in large, there are few issues that require more than just a warning or simple discussion to resolve, but as a board we feel it is important to have a written policy to be followed.

- First violation:
 - Discussion – Understand root cause of issue and advise of resolution.

- Second Violation (warning):
 - Twenty-Five Dollars and No/100 (\$25.00) fine, billed and due the following 1st of the month.

- Third Violation (warning):
 - One Hundred Dollars and No/100 (\$100.00) fine, billed and due the following 1st of the month.

- Fourth Violation:
 - Legal action, as outlined in the CC&Rs with the expense to be paid by the violating Owner.