

**AMENDED AND RESTATED  
DECLARATION OF  
COVENANTS, CONDITIONS AND  
RESTRICTIONS  
FOR THE  
BULL RIVER  
PLANNED COMMUNITY**

**A Planned Unit Development in  
Utah County**

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This AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE BULL RIVER PLANNED COMMUNITY (“Declaration”) is effective when recorded with the Utah County Recorder’s Office by the Bull River Property Owners Association, Inc. (“Association”).

## RECITALS

- A. The Declaration pertains to and shall govern certain real property known as the Bull River Planned Community, situated in Utah County, Utah, as more particularly described in Exhibit A, attached to and incorporated in this Declaration by reference (the “Project”).
- B. The Project was made subject to the AMENDED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND RESERVATION OF EASEMENTS FOR THE BULL RIVER PLANNED COMMUNITY, which was recorded with the Utah County Recorder on December 19, 1977 as Entry Number 43182:1977 (“Enabling Declaration”).
- C. The AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BULL RIVER PLANNED COMMUNITY, A PLANNED UNIT DEVELOPMENT was recorded with the Utah County Recorder on May 2, 2008 as Entry Number 52697:2008.
- D. This Amended and Restated Declaration of Covenants, Conditions and Restrictions for the Bull River Planned Community is adopted to: clarify and define the rights of the Association and the Owners, in and to the Project; conform to changes to the Utah Community Association Act and other Utah law; provide for a general plan for managing the Project and Property; and in furtherance of the effort to efficiently and economically provide a quality living environment and protect and enhance the value of the Project and the Property.
- E. This Amended and Restated Declaration, which (along with and subject to any future amendments) shall be the sole declaration for the Project and shall completely replace and supersede in all respects the Enabling Declaration and all prior declarations and amendments thereto, (whether recorded or not, properly adopted or not, or referenced in this Declaration or not), prior to the date of the recording of this Declaration.
- F. Pursuant to the amendment requirements contained in Article XV, Section 3 of the Enabling Declaration and Utah Code § 57-8a-104 the Association has obtained sufficient affirmative votes or written consents to amend the Enabling Declaration.

**NOW, THEREFORE**, pursuant to the Recitals set forth above and subject to the covenants set forth below, the Association hereby adopts this Declaration which shall define and govern the rights of the Owners and the Association related to the Project.

## ARTICLE I. DEFINITIONS

Unless otherwise expressly provided, the following words and phrases when used in this Declaration shall have the meanings hereinafter specified:

1.1. **Act** shall mean and refer to the Utah Community Association Act, codified beginning at Section 57-8a-101, Utah Code Annotated, as the same may be amended from time to time.

1.2. **Architectural Committee** shall mean and refer to the "Architectural Committee" as described in Article VII herein.

1.3. **Articles** shall mean and refer to the Articles of Incorporation for the Association, as may be amended from time to time.

1.4. **Common Assessment** shall mean the charge against each Owner and his Lot, representing a portion of the total costs of the Association of maintaining, improving, repairing, replacing, managing and operating the Common Area, which are to be paid uniformly and equally by each Owner to the Association, as provided herein.

1.5. **Special Assessments** shall mean a charge against a particular Owner and his Lot, directly attributable to the Owner, equal to the costs incurred by the Association for corrective action performed pursuant to the provisions of this Declaration, plus interest thereon as provided for in this Declaration.

1.6. **Reconstruction Assessments** shall mean a charge against each Owner and his Lot, representing a portion of the costs of the Association for reconstruction of any portion or portions of the improvements of the Common Area pursuant to the provisions of the Declaration.

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

1.8. **Association** shall mean and refer to the Bull River Property Owners Association, a Utah nonprofit corporation, and its successors and assigns. Failure of the Association to maintain its corporate status will not result in the dissolution of the Association.

1.9. **Beneficiary** shall mean a mortgagee under a mortgage of beneficiary or holder under a deed of trust, as the case may be, and the assignees of such mortgagee, beneficiary or holder.

1.10. **Plat Map** shall mean and refer collectively to the record of survey maps of the Bull River Planned Community Subdivision recorded in the records of the Utah County Recorder and all amendments and supplements thereto. The initial plat map of the Association was entitled "BULL RIVER PLANNED COMMUNITY, A PLANNED UNIT DEVELOPMENT" and was recorded in the official records of the Utah County Recorder as Entry No. 14457 on May 13, 1977. Subsequent plat maps for the Project have been recorded and are described in Exhibit A hereto.

1.11. **Common Area** shall mean all of the property within the boundaries of the "private road easements" and "open space easements" as the same are delineated upon the said Plat Map, together with any and all improvements heretofore or hereinafter constructed upon such property. In addition, the Common Area shall include any and all common areas added to the Bull River Planned Community by virtue of any subsequent annexations to the Bull River Planned Community Project.

1.12. **Common Expenses** shall mean the actual and estimated costs of maintenance, management, operation, repair and replacement of the Common Area (including unpaid special assessments, reconstruction assessments and capital improvements assessments), including any costs not paid by the Owner responsible for the payments; costs of management and administration of the Association including, but not limited to, compensation paid by the Association to managers, accountants, attorneys, and other employees; the costs of all utilities, gardening and other services benefiting from the Common Area, and any recreational facilities thereon heretofore or hereafter as authorized by the association; the costs of bonding the members of the management body; any taxes paid by the Association; the costs of any 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.

1.13. **Declaration** shall mean this instrument as it may be amended from time to time.

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

1.15. **Lot** shall mean and refer to a lot as the same is designated as such upon said Plat Map.

1.16. **Improvement** shall mean all structures and appurtenances thereto of every type and kind, including but not limited to buildings, outbuildings, walkways, sprinkler pipes, carpets, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreaks, planting strips, planted trees and shrubs, poles, signs, exterior air conditioning and water softener fixtures of equipment.

1.17. **Properties** shall mean and refer to all of the real property described in said Plat Map.

1.18. **Member** shall mean any person or entity holding a membership in the Association as provided herein.

1.19. **Mortgage** or **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 void and reconveyed upon the completion of such performance. The term "deed of trust" or "trust deed" when used herein shall be synonymous with the term "mortgage." The term "mortgagee" shall mean a person or entity to whom a mortgage is made and shall include the beneficiary of a deed of trust; "mortgagor" shall mean a personal entity who mortgages his or its property to another "i.e. the maker of a 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." The term "first

mortgagee" shall include any mortgagee or the beneficiary under any deed of trust; hold a first and prior lien upon any Lot to that of any other mortgagee.

1.20. **Owner** shall mean and refer to the person or persons or other legal entity or entities holding record title to any Lot which is a part of the Properties, including sellers under executory contracts of sale, but excluding those having such interests merely as security for the performance of an obligation.

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

## ARTICLE II. DURATION AND EFFECT OF DECLARATION

2.1. **Duration of Covenants.** The covenants and restrictions of this Declaration shall run with and bind the Properties and shall inure to the benefit of and be enforceable by the Association or any Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, perpetually. The Owners possessing at least sixty-seven percent (67%) of the voting rights in the Association may sign and have recorded an instrument in writing agreeing to change such covenants in whole or in part to eliminate the same. Nothing herein shall limit the amendment provisions as hereinafter provided. Any person or entity entitled to enforce these covenants, conditions, and restrictions shall in fact do so through proceedings at law or in equity against any person or persons violating or attempting to violate any of these covenants, conditions, or restrictions shall be entitled to recover attorney fees, costs of court and other damages incurred as a result of the enforcement.

2.2. **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 to the extent permitted by law.

2.3 **Submission.** The Association confirms that the Project described with particularly on Exhibit A attached hereto and incorporated herein by this reference is hereby submitted to the Act.

2.4 **Nature of the Project.** The Project is a single-family subdivision consisting of residential lots known as the Bull River Planned Community. Each Lot may contain a separate home. The Project is not a cooperative and is not a condominium.

2.5 **Registered Agent.** The registered agent of the Association shall be as provided for in the entity filings of the Association with the State of Utah.

## ARTICLE III. RESERVATION OF EASEMENTS: MEMBERSHIP

3.1. **Ownership.** The Association shall have possession and ownership of all easements shown on the Plat Map as delineated as open space easements and private road easements. Nothing herein shall preclude the Association from holding ownership, in addition to such easements, of the fee simple interest in and to any of the Common Area real property; and the Association shall hold the fee simple ownership in and to the real property of the Common Area as contemplated in the submission of the Bull River Planned Community to the approving governmental authorities.

3.2. **Membership.** Every Owner of a Lot shall be a Member of the Association, and no Owner shall have more than one membership in the Association. Memberships in the Association shall not be assignable, except to the successor in interest of the Owner and to the Owner's Lot, and every membership in the Association shall be pertinent to and may not be separated from the fee Ownership of such Lot. Ownership of a Lot shall be the sole qualification for membership in the Association.

3.3. **Transfer of Membership.** 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 the Lot giving rise to such membership and then only to the purchaser who becomes the record owner 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. In the event an Owner of a Lot shall fail or refuse to transfer the membership registered in his name to the purchaser of his Lot upon transfer of fee title thereto, the Board of Trustees of the Association shall have the right to record the transfer upon the books of the Association. The Board of Trustees of the Association 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.

3.4. **Owners' Property Rights and Owners' Easements of Enjoyment.** Every Owner shall have, by virtue of his membership, a right and easement 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, subject to the following provisions:

(1) The right of the Association to reasonably limit the number of guests of Owners using the Common Area facilities.

(2) The right of the Association to establish uniform rules and regulations pertaining to the use of the Common Area and the recreational facilities thereof, whether heretofore or hereinafter constructed, including, but not limited to, the right and obligation of the Association to enforce all parking restrictions within the Common Area.

(3) The right of the Association to charge uniform and reasonable admission and other fees for any recreational facilities situated upon a portion of the Common Area; provided, however, that none of the common Area facilities, recreational facilities, parking spaces or other amenities of the Properties shall be leased to the Owners.

(4) The right of the Association in accordance with the Articles of Incorporation, Bylaws (of the Association) and this declaration, with the vote or the written assent of its members possessing sixty-seven percent (67%) of the voting rights in the Association to borrow money for the purpose of improving the Common Area and facilities and subject to the provisions of this Declaration, to mortgage, pledge, deed and trust, of hypothecate any or all of its rights in the common area as security for money borrowed or debts incurred.

(5) The right of the Association to suspend the voting rights and right to use any Common area facilities by any 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 right to use the Common Area facilities, shall be made only by the Board of Trustees of the Association, after notice and opportunity for hearing as may be provided in the rules of the Association as adopted from time to time.

(6) The right of the Association, by action of its Board of Trustees, to reconstruct, replace or refurnish any improvement or portion thereof upon the Common Area, in accordance with the original design, finish or standard of construction of such improvement, 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 sixty-seven percent (67%) of the voting power of the Association.

(7) 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.

3.5. **Delegation and Use of Common Areas**. Any Owner may delegate, in accordance with the rules and regulation as established by the Association his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside in the residential structure upon his Lot.

3.6 **Easements for Vehicular Traffic**. In addition to the general easement for use of the Common Area reserved herein, there is hereby reserved on behalf of all Owners within the Project, that each and every Owner shall have a non-exclusive easement appurtenant for vehicular traffic over all private streets within the Project. Similar easements may be granted to Owners of Property in any part of subdivisions annexed hereto. There shall be no parking on any private streets without the Association's approval through published rules.

3.7 **Easements for City and County Public Service Use**. In addition to the foregoing easements over the Common Area, there shall be reserved in favor of Owners within the Bull River Planned Community, easements for City, County and federal public services including, but not limited to, the right for police to enter upon any part of the Common Area for the purpose of enforcing the law. Any County or governmental easements over the Bull River Project as shown on said Plat Map are hereby recognized.

3.8 **No Exemption from Liability**. No Owner may exempt himself from personal liability for assessments to be levied by the Association, nor release the Lot or other property owned by him from the liens and charges 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 Project.

3.9 **Taxes**. Each Owner shall execute such instruments and take such action as may be reasonably specified by the Association to obtain separated real estate tax assessments on each Lot. If any taxes or assessments may, in the opinion 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 pay or reimburse the Association for, as the case may be, the taxes and assessments



assessed by the County Assessor or other taxing authority against his Lot and interest, if any, in the Common Area. Each Lot Owner who has a portion of his Lot encumbered by a Common Area easement hereto shall pay the full tax on his Lot and shall not be reimbursed from the Association for any tax on his Lot that may be attributable to the portion of his Lot encumbered by the Common Area easement unless the taxing authority establishes a separated tax identification number for the specific portions of the Properties covered by the easements, in which event the Association shall pay such taxes and levy an equal and pro rata assessment against each Owner to pay such Common Area taxes.

**3.10 Exercise of Voting Rights, Etc. by Purchasers of Lots on Executory Contracts.** It is understood that from time to time a Lot may be sold on contract with the purchaser under such contract having the right to the possession of such Lot but not the right to transfer of title to the Lot and membership in the Association until all of the sums under the contract are fully paid by the purchaser. In such event, transfer of membership in the Association to the prospective Owner of the Lot shall not be transferred upon the books of the Association until such time as legal title to a Lot is transferred to the purchaser upon completion of the contract. However, a notation shall be made on the books of the Association that the Lot is being purchased under contract and that the prospective purchaser shall have the right to exercise the voting and other rights of such membership to the exclusion of the contract seller so long as the purchaser is not in default under the contract.

**3.11 Voting Rights.** With respect to exercising any and all voting rights in the affairs of the Association or as provided in this Declaration, an Owner of each Lot shall have one (1) vote for each full Lot he owns as reflected upon the records of the Utah County Recorder. In the event a Lot is owned jointly by more than one person, all joint owners shall be considered as a single Owner for voting purposes, with no Lot experiencing increased voting rights as a result of multiple ownership. There shall be no split voting as to the voting rights attending any Lot-all votes attributable to a Lot must be cast unanimously or not at all. Any co-owners present at a meeting of the Association shall be entitled to cast the votes attendant to their Lot, regardless of the absence of other co-owners; provided, however, that if unanimity cannot be reached by all of the co-owners of a Lot in attendance at such a meeting as to how the Lot vote should be cast, no vote or votes shall be cast with respect to such Lot.

## **ARTICLE IV. DUTIES AND POWER OF THE ASSOCIATION**

The Association, acting through the Board of Trustees, shall have the power and duty to:

(a) Maintain, repair and otherwise manage the Common Area and any facilities thereon, improvements and landscaping thereof, in accordance with the provisions of this Declaration, including, but not limited to, tree and shrub planting along roadways in the Common Area.

(b) Maintain all private streets and culverts of the Common Area, including, but not limited to, cleaning and periodic resurfacing, the placement of such entry gates and signs as the Association shall deem appropriated and maintenance of the same, and the

placement of such fences separating the Bull River Project from publicly dedicated roads and highways as the Association deems appropriate, and the proper maintenance of such fences.

(c) Maintain any and all private sewer systems within any Common Area, water lines, or other improvements.

(d) Grant any easements or rights of way for utilities and sewer facilities over any Common Area to serve the Common Area and the Lots.

(e) 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/or the Articles of Incorporation or Bylaws of the Association.

(f) The Association may, but shall not be obliged to, 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 ninety (90) days or less written notice.

(g) 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. Institute any and all proceedings necessary to enforce this Declaration.

(h) Provide necessary spraying and cutting of weeds in the Common Area to reduce fire hazards and take other necessary measures, such as removal of brush and fire hazards in the Common Area.

(i) Remove any fire hazard in any Owner's Lot which the Lot Owner refuses to remove immediately upon oral or written notification from the Association. Costs for the Association removing such a hazard shall be immediately reimbursed by the Lot Owner and shall constitute a lien upon the Lot until reimbursed; such costs advanced shall be reflected by a Special Assessment and enforced as such as provided below.

(j) Provide fire and erosion control with respect to the Bull River Project.

(k) Maintain and repair any drainage ditch situated on any Lot not properly maintained by the Owner after ten (10) days' written notice to the Owner when the Owner, in said 10-day period, fails to correct any failure to maintain and repair said drainage ditch. Costs expended by the Association in this regard shall be reimbursed by the Lot Owner immediately and shall constitute a lien and Special Assessment on said Lot until reimbursed.

(l) Levy and collect all assessments as provided herein in sufficient quantity to enable the Association to adequately perform its duties hereunder.

(m) The powers, duties, and obligations of a homeowners association pursuant to the Utah Community Association Act, or any successor thereto.

(n) The powers and obligations of a nonprofit corporation pursuant to the general nonprofit corporation laws of the State of Utah.

(o) The Board may instigate litigation to enforce the provisions of this Declaration or any other common law or statutory right which the Association is granted.

(p) Such additional powers as shall be reasonable and necessary for the Association to accomplish the purposes of its creation as set forth in its Articles of Incorporation and this Declaration.

## **ARTICLE V. COVENANT FOR ASSESSMENTS**

5.1. **Assessments.** Each Owner of a Lot within the Project, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (1) Annual Common Assessments for Common Expenses, (2) Capital Improvement Assessments, (3) Special Assessments, and (4) Reconstruction Assessments; such assessments to be established and collected as hereinafter provided. Such assessments, together with interests, costs, and reasonable attorney fees for the collection thereof, shall be a charge on the land and shall be a continuing lien upon the Lot against which said assessment is made. Each such assessment, together with interest, costs, reasonable attorney 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 the provisions of this Declaration protecting First Mortgagees, the personal obligation for delinquent assessments shall pass to the successors in interest of such Owner. The Association shall be obligated to assess sufficient assessments to adequately fulfill its repair, maintenance, and replacement obligations as provided in this Declaration.

5.2. **Purpose of Common Assessments.** The Common Assessments levied by the Association shall be used to promote the common health, safety, benefit, recreation and welfare of the Owners and for the improvement and maintenance of the Common Area situated upon the Lots and the Properties as provided herein. The Common 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 that must be replaced on a periodic basis, such as resurfacing of private roads, and replacement of diseased shrubs. Nothing in this Declaration shall be construed in such a way as to permit the Association to use any assessments to abate any nuisance or annoyance emanating from outside the boundaries of the Properties. Nothing contained herein shall limit, preclude or impair the establishment of additional Bull River Planned Community maintenance funds by the Association, so long as the amounts deposited into any such fund are earmarked for specific purposes authorized by this Declaration.

5.3. **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 an Owner, his family, guests or invitees, shall be done at said Owner's expense and a Special Assessment therefore shall be made against his Lot.

5.4. **Basis of Common Assessment.** Common assessments shall be levied annually on the first day of January of each year and due in monthly installments. Owners

shall also have the option to pay the full Common Assessment at the beginning of the year, or make quarterly payments in January, April, July, and October. Written notice of the Common Assessment shall be given to each Owner monthly unless the entire annual balance is paid in advance. Such billing notice shall be deemed effective when deposited in the United States mail, postage prepaid, addressed to the last known address of each Owner. Notice is also effective if sent via email or text if the Member has provided such address or number to the Association for notice and billing purposes.

Common Assessments may be increased at any time during a given year should the Association deem it necessary to adequately accumulate funds to fulfill the purposes of the Common Assessment.

The Common Assessment shall be equally apportioned among the Lot Owners by dividing the total budgeted amount by the number of Lots in the Bull River Planned Community, including any Lots hereafter annexed into the project. Should a new Lot be added to the project during a given year, the assessments of the previously existing Lots shall not be reduced, although the new Lot shall be required to pay an assessment identical to the previously existing Lots, but prorated to pay only so much of the Assessment as is attributable to the remainder of the year in which the Assessment is made.

5.5. **Capital Improvement Assessment.** In addition to the Common Assessments authorized above, the Board of Trustees of the Association may levy, in any assessment year, a Capital Improvement Assessment applicable to that year only for the purpose of defraying in whole or in part the cost of any construction of a capital improvement or other such addition upon the common area, including fixtures, and personal property related thereto; provided that any such total assessment (including the aggregate of assessments against all Lot Owners) shall not be made in excess of \$2,000.00 without the prior vote or written consent of sixty-seven percent (67%) of the eligible votes of Members who are subject to such assessment. For purposes of this paragraph, a Capital Improvement shall mean a fence, building, recreational facility, or similar improvement or structure constructed upon the Common Area not provided in the initial plans of the Bull River Planned Community.

5.6. **Reconstruction Assessment.** In addition to the Common Assessments and Capital Improvement Assessments authorized above, the Board of Trustees of the Association may levy, in any assessment year, a Reconstruction Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any reconstruction or replacement of a Capital Improvement as defined in Section 5.5 above, including fixtures, and personal property, related thereto, subject however, to the same dollar restrictions as set forth with respect to Capital Improvements as described in Section 5.5 above.

5.7. **Special Assessments.** The Association may levy Special 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.

5.8 **Notice of Change in the Amount of Common Assessments, Capital Improvements Assessments, or Reconstruction Assessments.** Notice of any change in the amount of any Common Assessment, Capital Improvement Assessment, or Reconstruction Assessment shall be sent to every Owner subject thereto at least thirty (30)

days prior to the effective date of such change. The Board of Trustees shall establish the due date.

5.9 **Certificate of Assessment.** The Association shall, upon demand and for reasonable charge, 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.

5.10 **Allocation of Payments Assessments.** The respective assessments may be paid by an Owner to the Association in one check or payment or in separated checks or payments attributable to the various assessment funds, in the event a check or payment is not designated to be paid to a particular fund, or in the event a check or payment is designated to be paid to several funds but the amount is insufficient to pay all of the assessments with respect to such funds, the check or payment shall be allocated first to Common Assessments, second to any Reconstruction Assessment, and third to any Capital Improvement Assessment.

5.11 **Exempt Property.** All properties dedicated to and accepted by a local public authority and the Common Area shall be exempt from assessments herein.

5.12 **Budget.** The Board of Trustees shall prepare and adopt an annual budget for the Association. The annual budget shall provide, without limitation, for the maintenance of the Common Areas and for the administration, management, and operation of the Association. The Board may revise the budget from time to time as the Board deems appropriate. If the Board fails to adopt an annual budget, the last adopted budget shall continue in effect until a new annual budget is adopted. The budget shall be made available to the Owners within thirty (30) days after adoption. Owners may disapprove a budget according to the provisions of the Act.

5.13. **No Offsets.** All Assessments shall be payable in the amount specified by the Assessment and no offsets against such amount or withholding of any amount shall be permitted for any reason, including, without limitation, a claim that the Association owes the Owner money, or that the Association is not properly exercising its duties and powers as provided in this Declaration.

5.14. **Personal Obligation and Lien.** All Assessments, together with any interest, late fees, collection costs, and attorney fees if collection efforts become necessary shall be, constitute, and remain: (a) a charge and continuing lien upon the Lot with respect to which such Assessment is made; and (b) the personal obligation of the person who is the Owner of such Lot at the time the Assessment falls due. No Owner may exempt himself or his Lot from liability for payment of Assessments by waiver of his rights concerning the Common Areas or by abandonment of his Lot. In a voluntary conveyance of a Lot, the grantee shall be jointly and severally liable with the grantor for all such unpaid Assessments, late payment fees, interest, and costs of collection, including reasonable attorney fees, which shall be a charge on the Lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore.

5.18. **Reserve Account.** The Board of Trustees shall establish a reserve account to fund long-term maintenance of Common Areas. The Board shall follow any statutory

requirement to conduct a reserve analysis and utilize such reserve analysis in making decisions regarding the funding of a Reserve Account. The Board shall not be personally liable for failure to fund the reserve unless willful or intentional misconduct is proven in a court of law.

## **ARTICLE VI. EFFECT OF NON-PAYMENT OF ASSESSMENTS AND REMEDIES OF THE ASSOCIATION**

### **6.1. Effect of Non-Payment of Assessments: Remedies of the Association.**

Unless otherwise set forth in the Association's rules, the following shall apply. Any installment of a Common 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 twelve percent (12%) 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 Five Dollars (\$5.00) or five percent (5%) of the amount of the delinquent installment, whichever is greater. 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 a Common Assessment is not paid within thirty (30) days after its due date, the Board 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, not 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 Common Assessment for the then current fiscal year and sale of the Lot. The notice shall further inform the Owner of his right to cure after acceleration and to bring a court action to assert the non-existence of a default or any other defense of the Owner to acceleration and sale. If the delinquent installments of Common Assessments and any charges thereon are not paid in full on or before the date specified in the notice, the Board at its option may declare all of the unpaid balance of the annual Common Assessment to be immediately due and payable without further demand and may enforce the collection of the full Common Assessment and all charges thereon in any manner authorized by law and this Declaration.

**6.2. Notice of Assessment.** No action shall be brought to enforce any assessment lien herein, unless at least thirty (30) days has expired following the date a Notice of Assessment is deposited in the United States mail, postage, prepaid, to the Owner of the Lot, and a copy thereof has been recorded by the Association in the office of the County Recorder in which the Properties are located; said Notice of 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 twelve percent (12%) per annum, plus reasonable attorney's fees 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 Declaration is recorded. The lien shall continue until fully paid or otherwise satisfied.

6.3. **Foreclosure Sale.** The Association shall have all rights of foreclosure granted by the Act, both judicially and non-judicially. Pursuant to Utah Code Sections 57-1-20 and 57-8a-302, an Owner's acceptance of an interest in a Lot constitutes a simultaneous conveyance of the Lot in trust, with power of sale, to the Association's attorney of record, as trustee, for the benefit of the Association, for the purpose of securing payment of Assessments under the terms of this Declaration. The Association may appoint a qualified successor trustee by executing and recording a substitution of trustee form.

6.4. **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 to cover the cost of preparing and recording such release. A certificate executed and acknowledged by any member of the Board 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 on good faith. Such certificate shall be furnished to any Owner upon request at a reasonable fee, not to exceed the amount permitted by law.

6.5. **Cumulative Remedies.** The assessment liens and the rights to foreclosure and sale 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.

6.6. **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 other 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 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 installments of assessments thereafter becoming due or from the lien thereof.

6.7. **Recovery of Rents.** If the delinquent Owner is leasing his Lot or any portion thereof, the Board may, at its option, so long as such default shall continue, demand and receive from any tenant of the Owner the rent due or becoming due and the payment of such rent to the Board shall discharge such tenant for rent due, and shall discharge the Owner for such Assessments to the extent of the amount so paid.

6.8. **Homestead Waiver.** Pursuant to Utah Code section 57-8a-301, and to the extent any liens are created pursuant to this Declaration, whether such liens are now in existence or are created at any time in the future, each Owner waives the benefit of any homestead or exemption laws of the State of Utah now in effect, or in effect from time to time hereafter.

## **ARTICLE VII. ARCHITECTURAL CONTROL**

7.1. **Members of Committee.** The Architectural Committee, sometimes referred to in this Declaration as the "Committee," shall consist of five (5) members. New members of the Committee shall be appointed by the Board of Trustees and shall hold office until such time as he has resigned or has been removed or his 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.

7.2. **Types, Design and Placement of Structures.** No "improvement" (this term shall include home, barn, shed, corral, fence, driveway, culvert, bridge, or the like) shall be erected, placed or altered on any Lot in Bull River Planned Community until the plans thereof, specifications and the plot plan showing the locations of such structures have been approved in writing by the Architectural Committee. Such approval will concern itself with the acceptability and harmony of the external design, building material, color, etc., with existing structures in Bull River Planned Community to the location of the structures with respect to Lot lines, topography and finished ground elevation. In the event said Committee, or its designated representatives, fails to approve or disapprove such design and location within forty-five (45) days after said plans and specifications have been submitted to it, such approval will not be required and this Declaration will be deemed to have been fully complied with. At the time such plans, etc., are received by the Architectural Committee, the Committee will issue to the applicant a dated receipt briefly listing the items submitted.

The Committee may condition its approval of proposals or plans and specifications on such changes therein as it deems appropriate and may require submission of additional plans and specifications or other information prior to approving or disapproving materials submitted. The Committee may also issue rules or guidelines 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 the amount of such fee, which shall be uniform or may be determined in any other reasonable manner, such as considering the reasonable cost of construction, alterations or additions contemplated, provided, however, that in no event shall such fee exceed the amount permitted by law. Such fee shall be held by the Committee for the benefit of the Association to pay for reimbursement to the Committee for out-of-pocket expenses or reimbursement to the Association for out-of-pocket expenses incurred by the Committee or the Association due to the performance of the Committee of its duties hereunder. Any fees remaining at the end of a calendar year not used or necessary for such reimbursement shall be paid to the Association and placed in the Common Assessment fund for the general benefit of all Members. The Committee may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans, drainage plans, elevation drawings and description or samples of exterior material and colors. Until receipt by the Committee of all required plans and specifications, the Committee may postpone review of any plans submitted for approval.

7.3. **Meetings of the Committee.** The Committee shall meet from time to time as necessary to perform its duties hereunder. 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. In the absence of such designation, the vote of any three (3) members of the Committee taken without a meeting, shall constitute an act of the Committee.

7.4. **No Waiver of Future Approvals.** The approval of the Committee of 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 matter whatever subsequently or additionally submitted for approval or consent.

7.5. **Compensation of Members.** The members of the Committee shall receive no compensation for services rendered, other than reimbursement for expenses incurred by them in the performance or their duties hereunder.

7.6. **Inspection of Work.** The Committee shall make periodic inspections of the progress of work whose plans and specifications have been approved, and the Committee may, at any time, cause such work to cease and remedial action taken by the Lot Owner should the Committee determine that construction is not in compliance with the plans and specifications approved by the Committee. If the Owner fails to take such remedial measures as required by the Committee, the Association may undertake such remedial work, including removal of all previous work done by the Owner, and levy a Special Assessment against such Owner's Lot for the cost of the Association in remedying the non-complying work.

7.7. **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.

7.8. **Variance.** The Committee may, in writing, authorize variances from compliance with any of the architectural provisions of the Declaration or any Supplemental declaration, including restrictions upon height, size, floor areas or placement of structures, or similar restrictions, when circumstances such as typography, natural obstructions, hardship, aesthetic or environmental consideration may require. Such variances must be approved by Utah County and other governing authorities.

7.9. **Notification of Architectural Review.** The chairman of the Architectural Committee shall notify owners of adjoining property and property immediately opposite on the same street when building or remodeling plans are submitted to the Committee for approval. Such notification shall be made at least ten days prior to the Committee action on said plans, and the comments and suggestion of neighbors shall be considered by the Committee.

7.10 **Architectural Design Guidelines.** Architectural Design Guidelines for the Association are attached hereto as Exhibit B for the purpose of maintaining a consistent character and quality of appearance of the landscaping and improvements within the

Project and preservation of property values. The Board of Trustees or the Committee may adopt additional Architectural Design Guidelines but any such guidelines may not conflict with those set forth in Exhibit B unless an amendment is made to this Declaration. The Design Guidelines may designate the design, style, model, and manufacturer of any materials to be used for an exterior improvement or alteration that is acceptable to the Board and Committee. The Design Guidelines may also designate landscaping requirements. Amendments to the Design Guidelines shall apply prospectively only. They shall not require modifications to or removal of any structures previously approved once the approved construction or modification has begun. However, any new work on such structures must comply with the Design Guidelines as amended.

## **ARTICLE VIII. MAINTENANCE AND REPAIR OBLIGATIONS**

8.1. **Maintenance Obligations of Owners.** Subject to the duty of the Association to provide for maintenance as provided in this Declaration, it shall be the duty of each Owner, at his sole cost and expense, subject to the provisions of this Declaration regarding Architectural Committee approval, to maintain, repair, replace and restore areas subject to his exclusive control, safe in a neat, sanitary and attractive condition. If all or any portion of any Lot or residence is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner of said Lot or residence to rebuild, repair or reconstruct said residence in a manner which will restore it substantially to its appearance and condition immediately prior to the casualty.

8.2. **Time Limitation.** The Owner or Owners of any damaged residence, 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 and complete reconstruction within one (1) year after commencement of construction, unless prevented by causes beyond his reasonable control.

8.3. **Owner Maintenance Neglect.** The Association shall have the power and authority without liability to any Owner for trespass, damage, or otherwise, to enter upon any Lot for the purpose of maintaining and repairing such Lot or any improvement thereon; but only if the Owner fails to maintain and repair such Lot or improvement, or for the purpose of removing any improvement constructed, reconstructed, refinished, altered or maintained upon such Lot in violation of this Declaration or any Rules of the Association. Except as necessary to prevent personal injury or property damage in an emergency, the Association shall first provide reasonable notice and an opportunity to cure of at least ninety (90) days before exercising the power granted herein.

## **ARTICLE IX. USE RESTRICTIONS**

All real property within the Properties shall be held, used and enjoyed subject to the following limitations and restrictions:

9.1. **Single Family Residence.** Each Lot shall be used as a residence for a single family and for no other purpose, with no commercial, business, manufacturing, mercantile, storing, vending, or other such non-residential purposes being conducted thereon unless

approved by a sixty-seven percent (67%) vote of the eligible votes of the Association. Nothing in this Section shall be construed to preclude the use and maintenance of a reasonably discreet and circumspect fine arts studio by any Lot Owner upon his Lot, provided that the same is not in violation of any governmental zoning ordinance or other rule, law, or regulation, or of any of the remaining covenants and restriction hereunder.

9.2. **Insurance Rates.** Nothing shall be done or kept in the Project which will increase the rate of insurance on any property insured by the Association without the approval of the Board, nor shall anything be done or kept in the Project which would result in the cancellation of insurance on any property insured by the Association or which would be in violation of any law.

9.3. **Buildings.** No structure shall be erected, altered, placed, or permitted to remain on any lot other than one detached, family dwelling, a private garage for no more than three (3) cars, and other structures incidental to the use of the Lot.

It is understood that barns, storage sheds, tack rooms, and other types of rural buildings, except outhouses for the disposal of human wastes, may be constructed on the property so long as they are in conformity with a harmonic development of the properties and receive approval of the Architectural Committee.

No shack, garage, barn, or other outbuilding shall at any time be used for human habitation, temporarily or permanently, nor shall any structure of a temporary character be used for human habitation.

No main residential structure shall be permitted on any lot covered by these Covenants, the habitable enclosed floor area (excluding basement floor area) of which is less than one thousand (1,000) square feet and no greater than 10,000 sq. ft.

The Architectural Committee discourages and has the right to prohibit, in its sole discretion, the construction of any residence or other structure that would appear excessive in height when viewed from anywhere in Bull River. The overall appearance of the Community is the overriding concern. No structure shall be built upon any lot with a height exceeding two stories above the existing ground elevations and not to exceed thirty-five feet (35') to the peak of the highest roof unless approved by the Architectural Committee.

No building shall be located on any lot less than thirty (30) feet from the road right-of-way for all lots covered by these Covenants, nor less than twenty (20) feet from any side lot line, unless approved by the Architectural Committee. No residence shall be located so as to reduce the depth of the rear yard of the lot on which it is located to less than forty (40) feet, unless approved by the Architectural Committee.

No barn, corral or coop shall be constructed closer than one hundred (100) feet to any existing dwelling nor shall any corral, pen or coop be constructed or maintained closer than twenty (20) feet to any open waterway that drains into a natural stream. Surface drainage from corrals, pens, or coops shall not be permitted to drain into a waterway that drains into natural streams.

It is understood that the requirements set forth in this section may be more restrictive than those imposed by the City or under current zoning requirements.

9.4. **Roads and Parking Restrictions: Liability for Damage.** The main roads in Bull River Planned Community are twenty feet wide, hard-surfaced roads constructed to equal Utah County specifications. Snow removal on Association roads shall be the responsibility of the Association.

Parking is not permitted on any of the roads within the Project. Parking must be in driveways, in garages, or in a parking area approved by the Architectural Committee. Any damage done to the common facilities, security gates, bridges, etc., by persons or their vehicles while in Bull River Planned Community shall be paid for by the person or persons causing the damage.

9.5. **Building Time.** It is understood that a Lot Owner is not required to build any structure. The building time for the exterior portion of any structure shall not exceed 24 months from start to finish. All debris, excavation dirt, etc., associated with the building process shall be removed within these specified building times. Excavation dirt shall either be removed entirely or shall be spread out and reseeded within this specified time so as to return the lot to a pleasing appearance.

9.6 **Lot Maintenance and Appearance.** Each owner shall be required to reasonable, necessarily, and adequately maintain his property to keep it in a reasonable state of appearance and preservation.

No open storage of building materials, except during the course of actual construction, shall be permitted on any lot, nor shall junk, unlicensed cars or other unsightly items ever be maintained or stored on any lots.

Any detached camper units, boats, trailers, farm machinery, etc., shall be maintained or stored only in areas enclosed to view from the roads.

No trucks, graders, or other construction equipment may be parked on any Lot except during the periods of construction, which actually require such equipment.

9.7 **Culinary Water.** An underground culinary water system will service lots in Bull River Planned Community and will be brought to a reasonable distance from each Lot. Each Lot Owner must install, at his own expense, a water line extension to his lot from the water system, a water meter and shut-off valve and a lateral to his home at the time of construction upon his Lot.

9.8 **Fire Protection.** A six (6) inch water main services lots in Bull River Planned Community. Fire hydrants are place at regular intervals, in accordance with Utah County codes.

9.9 **Trash Collection and Burning Policies.** Open fires are permitted only on county-approved burn days or on days when a permit can be obtained; all fires must be closely monitored by a responsible adult with adequate resources immediately available to put the fire out quickly; no fires are permitted which pose a threat to the property of others or which produce offensive odors or dark clouds of smoke; the burning of wet trash of garbage is prohibited; open fire barbecue pits must be approved by the Architectural Committee; and except in burn areas approved by the committee, fire debris must be buried or removed within seven (7) days.

Trash cans must be covered and kept out of sight in suitable enclosed areas, except during collection. Normal trash and garbage removal will be taken care of by the Association.

9.10 **Drainage System.** A series of naturally existing drainage ditches and washes have been formed through the past in the area in which Bull River Planned Community is located. This drainage system must be properly maintained in the event of a cloudburst or of a fast thaw in the springtime in which large amounts of water must be properly conducted. In some places it may be deemed necessary or advisable by the Association to deepen or alter the course of these ditches and washes to better protect the Lots and improve the drainage. Each lot Owner shall be responsible to maintain the drainage ditch or washes on his own Lot in a proper and operable manner, keeping it free of debris.

9.11 **Electrical Power and Telephone Service.** Electrical power (in underground cables) will be available to each Lot. Hook-up arrangements must be made with the electrical power company.

9.12 **Sewage Facilities.** Sewage disposal shall be through septic tanks and drain fields as prescribed by Utah County and State Health Department. Construction and maintenance of said facilities are the responsibility of each Lot Owner.

9.13 **Lot Illumination.** Yard or porch lights for illuminating one's own yard, Lot or porch all night may not be excessively bright; i.e., may not intrude on the privacy of neighbors or unduly intrude on their views. However, this lighting restriction does not apply to lights used for outdoor evening parties and recreational activities on one's own Lot.

9.14 **Domestic Animals and Pets.** Domestic and farm animals may be maintained by the Lot Owners, provided, however, the species and number of each species are approved by the Architectural Committee, and provided further that such farm animals shall not be maintained in areas having access closer than 100 feet to any residence built on adjoining lot. However, commercial raising of farm animals or other types of animals and pets shall not be permitted. Normal pets may be maintained by Owners. Wild, caged pets are not permitted unless permission is granted in writing by the Board of Trustees. If animals (for example, dogs) maintained by a lot owner kill or maim animals owned by others, the owner of the animal or animals killed or maimed shall be reimbursed at fair market value for their loss by the owner of the animal which did the deed.

Each Lot Owner maintaining domestic animals and pets shall provide adequate sanitation so as to minimize noxious or offensive odors. Owners shall not permit pets to roam through the development or defecate on the property of others.

9.15 **Corrals, Fences and Grazing.** One corral may be built on each lot, the size of which may not exceed one-fourth (1/4) acre per each two acres owned. The placement of the corral must be in accordance with Section 9.3. The corral fence shall be approved by the Architectural Committee and shall be maintained in good condition.

No fence (included in this term are wall, hedge, mass planting or the like) shall be permitted to extend beyond the minimum building setback line established herein on any corner lot which will create a traffic hazard by obstructing views. Homes may be fenced in by wooden fences and shall be maintained in good condition. No wire fences of any type

shall be allowed except in areas designated by the Architectural Committee. All fences or hedges must be approved by the Architectural Committee.

9.16 **Ecological Consideration**. There shall be no removal of living trees or shrubs on any building lot except as approved by the Architectural Committee.

Planting of indigenous trees and shrubs is encouraged. Planting a preponderance of non-indigenous trees and shrubs in areas open to view from roads and Common Area must be approved by the Architectural Committee.

The Association may spray herbicides on noxious plants in some areas to enhance the beauty of the area and to deduce fire hazards. The Association may also from time to time cut weeds and grasses and clear brush and dead trees in certain areas to reduce fire hazards. The individuals doing the cutting and spraying shall have reasonable ingress and egress rights on all lots for this purpose.

The Association may plant trees and shrubs along roadways and in the Common Areas to enhance the natural beauty, provide windbreaks and improve erosion control.

All home owners are requested to use biodegradable detergents, soaps, etc., since such materials find their way into the sewer system and must eventually be added back into the environment. The pouring into the sewer system of non-biodegradable substances is specifically prohibited.

9.17 **Motorcycles and Other Vehicles: Speed Limit**. Excessively noisy vehicles are restricted from being used on any Bull River Planned Community property. No off-road activities by motorized vehicles is allowed on the real property because of the noise and erosion-enhancing characteristics of such activities. The Board of Trustees shall be the judge of whether a vehicle is excessively noisy. The maximum speed limit on roads in Bull River is twenty miles per hour.

9.18 **Trailer Home, Mobile Home and Camper Policy**. Trailer homes or Mobile homes shall not be permitted on any of the Lots in Bull River Planned Community unless approved by the Architectural Committee. Campers or camper-trailers or travel trailers are permitted on Lots for periods of no greater than fourteen (14) days at any one time. The period of time between any two such stays of a camper or camper-trailer or travel trailer shall be no less than four (4) days. Deviations from this time period must be approved in writing by the Association.

9.18 **Hunting and Target Practice Policy**. Hunting or target practice, either with guns, B-B Guns, or bows, shall not be permitted on any of the real property described in this document. Such activities should not be carried on at any time since they will create unnecessary risks or hazardous conditions to occupants in the area.

9.19 **Bull River Security System**. The Association shall have no obligation or liability under this Declaration for the provision of security services to Members. However, the Trustees may institute security measures such as an entry gate or the installation of a security system, if determined necessary or desirable in the future.

## ARTICLE X. 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 Two Thousand Dollars (\$2,000.00) 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 the Declaration.

(c) If the insurance proceeds are insufficient by more than Two Thousand Dollars (\$2,000.00) to the 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 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 Two Thousand Dollars (\$2,000.00), and which is assessable by replacing these Improvements in substantially the same manner as they existed prior to being damaged, or (3) subject to the provisions of Article XI, to not rebuild and to distribute the available insurance proceeds equally to the Owners and Mortgagees of the Lots as their 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 Special 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 Special Assessments.

## ARTICLE XI. INSURANCE

11.1 **Insurance Requirement.** The Association shall obtain insurance as required in this Declaration and as required by applicable law. The Association may obtain insurance that provides more or additional coverage than the insurance required in this Declaration. Different policies may be obtained from different insurance carriers and stand-alone policies may be purchased instead of or in addition to embedded, included coverage, or endorsements to other policies.

11.2 **Annual Insurance Report.** The Board of Trustees may obtain a written report by an independent and experienced insurance broker, agent, or consultant (who may be the insurance provider/agent/broker used by the Association), with specific knowledge and experience in the community association insurance industry, setting forth: (1) a summary description of the insurance coverage obtained by the Association, including the dollar amounts of any such coverage, and any material exceptions, exclusions, and limitations on such coverage; (2) whether, in the opinion of such broker or consultant, the insurance coverage in effect for the Association complies with the requirements of this Declaration and the law; and (3) a description of any earthquake insurance and material exclusions and limitations for that coverage. The report may also set forth any recommendations or suggestions from the insurance professional regarding current policy provisions, deductibles, exceptions, exclusions, and for additional insurance suggested or recommended for the protection of the Owners in light of the insurance then available and the best practices with respect to other similar projects. If obtained, the most recent annual insurance report shall be provided to any Owner upon request.

11.3 **Property Insurance.** The Association shall maintain a policy of property insurance covering the Common Area, including all buildings and improvements, building service equipment, and fixtures thereon to the extent that any structure that is normally insured under a property insurance policy is installed or erected on the Common Area and is the Association's obligation to maintain.

(a) The blanket policy shall exclude land and other items not normally and reasonably covered by such policies. The blanket policy shall be an "all in" or "all inclusive" insurance as those terms are used in the insurance industry and shall include insurance for any fixture, improvement, or betterment installed in or to or otherwise permanently part of or affixed to Common Areas, including but not limited to floor coverings, cabinets, light fixtures, electrical fixtures, heating and plumbing fixtures, paint, wall coverings, and windows.

(b) At a minimum, the blanket policy shall afford protection against loss or damage by: (1) fire, windstorm, hail, riot, aircraft, vehicles, vandalism, smoke, and theft and (2) all perils normally covered by "special form" property coverage.

(c) The blanket policy shall be in an amount not less than one hundred percent (100%) of current replacement cost of all property covered by such policy at the time the insurance is purchased and at each renewal date. The actual replacement cost of the property shall be determined by using methods generally accepted in the insurance industry.

(d) The Association shall set aside an amount equal to the amount of the Association's property insurance policy deductible or, if the policy deductible exceeds ten thousand dollars (\$10,000), an amount not less than ten thousand dollars (\$10,000).

11.4 **Earthquake Insurance.** The Association may purchase earthquake insurance as the Board deems appropriate.

11.5 **Flood Insurance.** If any part of the Project is or comes to be situated in a Special Flood Hazard Area as designated on a Flood Insurance Rate Map, the Board shall



purchase flood insurance covering the Project or that portion of the Project located within the Special Flood Hazard Area.

If the Project is not situated in a Special Flood Hazard Area, the Association may nonetheless, in the discretion of the Board, purchase flood insurance to cover water and flooding perils not otherwise covered by blanket property insurance.

**11.6 Comprehensive General Liability (CGL) Insurance.** For so long as the Association has any obligation to maintain Common Area, the Association shall obtain CGL insurance insuring the Association, the agents and employees of the Association, and the Owners, against liability incident to the use, repair, replacement, maintenance, or ownership of the Common Area and the Owners' membership in the Association. The coverage limits under such policy shall not be less than one million dollars (\$1,000,000) covering all claims for death of or injury to any one individual or property damage in any single occurrence. Such insurance shall contain a Severability of Interest Endorsement or equivalent coverage which would preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or another Owner.

**11.7 Directors' and Officers' Insurance.** The Association may obtain Directors' and Officers' liability insurance protecting the Board Members, the officers, and the Association against claims of wrongful acts, mismanagement, failure to maintain adequate reserves, failure to maintain books and records, failure to enforce the Governing Documents, and breach of contract (if available). This policy shall: (1) include coverage for volunteers and employees, (2) include coverage for monetary and non-monetary claims, (3) provide for the coverage of claims made under any fair housing act or similar statute or that are based on any form of discrimination or civil rights claims, and (4) provide coverage for defamation. In the discretion of the Board of Trustees, the policy may also include coverage for any Manager and any employees of the Manager and may provide that such coverage is secondary to any other policy that covers the Manager or any employees of the Manager.

**11.8 Insurance Coverage for Theft and Embezzlement of Association Funds.** The Association shall obtain insurance covering the theft or embezzlement of funds that shall provide coverage for: (1) an amount of not less than the sum of three months regular Assessments in addition to the prior calendar year's highest monthly balance on all operating and reserve funds, and (2) theft or embezzlement of funds by: (a) Officers and Board members, (b) employees and volunteers of the Association, (c) any Manager of the Association, and (d) officers, directors, and employees of any Manager of the Association.

**11.9 Workers' Compensation Insurance.** If the Association has any employees, the Board shall purchase and maintain in effect workers' compensation insurance for all employees, if any, of the Association to the extent that such insurance is required by law and may purchase workers compensation insurance even if the Association has no employees, as the Board deems appropriate.

**11.10 Association's Right to Negotiate All Claims & Losses & Receive Proceeds.** Insurance proceeds for a loss under the Association's property insurance policy: (a) are payable to an Insurance Trustee (defined in Section 11.11 below) if one is designated, or to the Association; and shall not be payable to a holder of a security interest. An Insurance Trustee, if one is appointed, or the Association shall hold any insurance

proceeds in trust for the Association, Owners, and lien holders. Insurance proceeds shall be disbursed first for the repair or restoration of the damaged property, if the property is to be repaired and restored as provided for in this Declaration. After any repair or restoration is complete and if the damaged property has been completely repaired or restored, any remaining proceeds shall be paid to the Association. If the property is not to be repaired or restored, then any remaining proceeds after such action as is necessary and is related to the property has been paid for, shall be distributed to the Owners and lien holders, as their interests remain with regard to the Lots. Each Owner hereby appoints the Association, or any Insurance Trustee, as attorney-in-fact for the purpose of negotiating all losses related thereto, including: (1) the collection, receipt of, and appropriate disposition of all insurance proceeds; (2) the execution of releases of liability; (3) the execution of all documents; and (4) the performance of all other acts necessary to administer such insurance and any claim. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors, or assigns of an Owner.

11.11 **Insurance Trustee.** In the discretion of the Board or upon written request executed by Owners holding fifty percent (50%) or more of the Allocated Interests, the Board shall hire and appoint an insurance trustee ("Insurance Trustee"), with whom the Association shall enter into an insurance trust agreement, for the purpose of exercising such rights under this paragraph as the Owners or Board (as the case may be) shall require related to a loss and receipt or potential receipt of insurance proceeds.

11.12 **Certificates.** Any insurer that has issued an insurance policy to the Association shall issue a certificate of insurance to the Association and, upon written request, to any Owner or Lender.

11.13 **Named Insured.** The named insured under any policy of insurance shall be the Association. Each Owner shall also be an insured under all property and CGL insurance policies.

11.14 **Owner Act Cannot Void Coverage Under Any Policy.** Unless an Owner is acting within the scope of the Owner's authority on behalf of the Association and under direct authorization of the Association to terminate an insurance policy, an Owner's act or omission may not void an insurance policy or be a condition to recovery under a policy.

11.15 **Waiver of Subrogation Against Owners and the Association.** All property and CGL policies must contain a waiver of subrogation by the insurer as to any claims against the Association, the Owners, any person residing with a Lot Owner if an Owner resides in the Lot, and the Association's agents and employees.

11.16 **Right of Action.** Nothing in this Declaration shall prevent an Owner suffering a loss as a result of damage to property from asserting a claim, either directly or through subrogation, for the loss against any Person or entity at fault for the loss.

11.17 **Applicable Law.** This Declaration is specifically subjecting the Association to the insurance requirements and provisions in Part 4 of the Act, and any amendments thereto and thereafter enacted by law. It is the intent of this provision that any future changes to the insurance law applicable to community associations shall apply to this Association.

## ARTICLE XII. MORTGAGE PROTECTION CLAUSE

Notwithstanding any and all provisions of this Declaration to the contrary, the following provisions are added hereto (and to the 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, at his written request, is entitled to written notification from the Association of any default by the Mortgagor of such Lot in the performance of such Mortgagor's obligation under this Declaration, the Articles of Incorporation of the Association or the Bylaws of the Association, which default is not cured within thirty (30) days after the Association learns of such default.

(b) Each first Mortgagee of a Mortgage encumbering any Lot which obtains title to such Lot pursuant to the remedies provided in such Mortgage of by foreclosure or 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.

(c) First Mortgagees shall have the right to examine the books and records of the Association during normal business hours.

(d) 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, or secure new hazard insurance coverage on the lapse of a policy, for such property, and first Mortgagees making such payment shall be reimbursed by the Association.

(e) Distribution of proceeds or condemnation awards for losses to or taking of Common Area property to the respective Lot Owners shall be distributed to the respective Owners and/or the First Mortgagees of their Lot in the same manner as provided by the First Mortgagees' respective mortgages; with respect to the distribution of insurance proceeds or condemnation awards regarding the loss of taking of the Lot property itself. For example; were there an award of insurance of condemnation funds for the taking or loss of Common Area property, Owner's share of such award would be governed by the First Mortgage on the Owner's Lot, with such share being considered the same as an award with respect to a taking or loss of a portion of the Owner's Lot itself.

## ARTICLE XIII. ANNEXATION OF ADDITIONAL PROPERTY

13.1 **Annexed Property.** Additional real property may be annexed to the Project and brought within the general plan and scheme of this Declaration upon the approval by vote or written consent no less than sixty-seven percent (67%) of the voting power of the Members of the Association.

13.2 **Title to Common Area.** Prior to the conveyance of any Lot improved with a residence within the Annexed Property to an individual purchaser thereof, title to the Common Area, within said Annexed Property shall be conveyed to the Association, free and clear of any and all encumbrances and liens, subject to reservations, easements,

covenants, conditions and restriction then of record, including those set forth in this Declaration.

13.3 **Notice of Addition of Territory.** The addition authorized under Section 1 of this Article shall be made by filing of record a Notice of Addition of Territory, or other similar instrument (which Notice or Instrument may contain the Supplemental Declaration, if any, affecting each Subdivision), with respect to the additional property which shall be executed by the Association and the Owner thereof and shall extend the general plan and scheme of this Declaration to such annexed Property. The filing of record of said Notice of addition shall constitute and effectuate the annexation of the Annexed Property described therein, and thereupon said Annexed Property shall become and constitute a part of the Properties, become subject to this Declaration and encompassed within the general plan and scheme of covenants, conditions, restrictions, reservation of easements and equitable servitude contained herein, and become subject to the functions, powers and jurisdiction of the Association; and the Owners of Lots in said Annexed Property shall automatically become Members of the Association. Such Notice of Addition may contain such additions and modification of the covenants, conditions, restriction, reservation of easements and equitable servitudes contained in this Declaration as may be necessary to reflect the different character, if any, of the Annexed Property, or as the Association may deem appropriate in the development of the Annexed Property, and as are not inconsistent with the general plan and scheme of this Declaration. In no event, however, shall such Notice of Addition revoke, modify or add to the covenants, condition, restrictions, reservation or easements, or equitable servitudes established by this Declaration as the same shall pertain to the real property originally covered by the declaration. No addition of territory shall substantially increase assessments or substantially increase the burden upon the Common Area facilities.

## ARTICLE XIV. GENERAL PROVISIONS

14.1 **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 and the continuation of any such breach may be enjoined, abated or remedied by appropriated legal proceedings by an Owner, by the Association or the successors-in-interest of the Association. Any judgment rendered in any action or proceeding pursuant hereto shall include a sum for attorney fees in an amount as the court may deem reasonable, in favor of the prevailing party, as well as the amount of any delinquent payment, interest thereon, costs of collection and court costs.

(b) The result of every act of omission whereby any of the covenants contained in this Declaration or the Articles 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 Articles shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

(d) The failure of the Association to enforce any of the covenants contained in this Declaration or in the Articles shall not constitute a waiver of the right to enforce the same thereafter.

(e) A breach of the covenants, conditions or restrictions contained in the Declaration or in the Articles 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 residential Lot or the improvements thereon, provided, however, that any subsequent Owner of such property shall be bound by said covenants, whether such Owner's title was acquired by foreclosure in a trustee's sale or otherwise.

(f) **Penalty for Non-Compliance.** After fifteen (15) days' written notice of a violation of the Protective Covenants, a \$50.00 penalty shall be automatically assessed any property owner who has not remedied the violation. (Note: Article IV Section (g) also states that after 15 days' notice the Association may "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" and "institute any and all proceedings necessary to enforce this Declaration.").

(g) The Association may adopt a fine schedule in its Rules for violations of this Declaration, the Association's rules, and any other governing documents of the Association.

**14.2 Interpretation.** The provision 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 Common Area. Article and section headings have been inserted for convenience only, and shall not be considered or referred to in resolving question of interpretation or construction. Unless the context requires a contrary construction, the singular shall include the plural and the singular; and the masculine, feminine and neuter shall each include the masculine, feminine and neuter.

**14.3 Amendments.** This Declaration may be amended on by the affirmative vote or written consent of the Owners holding not less than sixty-seven (67%) percent of the voting power of the Association. No meeting shall be required for an amendment if the required vote for approval is obtained by written consent or ballot. Any amendment(s) shall be effective upon recordation in the office of the Utah County Recorder. In such instrument the Board shall certify that the vote required by this Section for amendment has occurred. If a Lot is owned by more than one Owner, the vote of any one Owner shall be sufficient to constitute approval for that Lot under this Section. If a Lot is owned by an entity or trust, the vote of any one officer, trustee, or agent of the entity shall be sufficient to constitute approval for that Lot under this Section. No acknowledgment of any signature shall be required.

**14.4 No Public Right or Dedication.** Nothing contained in this Declaration shall be deemed to be a gift of dedication of all or any part of the Properties to the public, or for any public use.

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

14.6 **Reservation 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. This Declaration expressly reserves for the benefit of all of the real property in the Project, and the Owners, reciprocal easements of the Properties, and the Owners, 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. Such easements may used by all Owners, their guests, tenants and invitees, residing on or temporarily visiting the Project, for pedestrian walkways, vehicular access and such other purposes reasonably necessary for the use and enjoyment of a Lot and the Common Area. This Declaration further expressly reserves for the benefit of the Association, its agents and employees, easements of access, ingress and egress, over the Lots and the Common Area, for the purpose of maintaining, repairing and installing pipelines and laterals, in accordance with the provisions of this Declaration, and as otherwise provided by law.

14.7 **Notices.** Any notice permitted or required to be delivered as provided herein shall be in writing and may be personally delivered, emailed, or mailed via regular first class mail. Notice sent via email shall be deemed delivered and effective when sent. If delivery is made by mail, it shall be deemed to have been delivered at the time a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice. Such address may be changed from time to time by notice in writing to the Association. If no email or mailing address has been provided, the Lot owned by said Owner shall be used for notice purposes.

14.8 **Ownership of Common Area Facilities.** All improvements placed upon the Common Areas, including, but not limited to, recreational facilities shall be and remain the property of the Association.

14.9 **Separation of Easement Property from Lots.** No Lot Owner shall convey or separate any of the property of his Lot subject to the Common Area easements as presently depicted in the Plat Map from his Lot unless such area is conveyed to the Association, provided, however, nothing in this Section shall preclude a Lot Owner from subdividing his Lot with the plan and scheme of this Declaration and applicable governmental rules, regulations, and laws.

14.10 **No Subdivision of Lots.** Notwithstanding anything elsewhere in the Declaration to the contrary, any owner may, at any time and provided he complies with the laws, rules, and regulations of governmental authorities, subdivide his Lot as he shall deem fit, provided, however, that no such subdivision shall be permitted if it would result in the

creation of a Lot of less than two (2) acres. In accomplishing such subdivision, it shall not be necessary to consult or receive the approval of the Association or any of its Members. It is expressly understood that this Section cannot be amended so long as this Declaration is in effect either in whole or in part without the written consent of sixty-seven percent (67%) of all Lot Owners.

14.11 **Legal Rate of Interest and Other Charges.** Should, for any reason any interest assessment or other charge contemplated to be imposed under authority of this Declaration exceed the maximum amount of such interest or other charge allowed by law, only the maximum amount of such interest or other charge allowed by law shall be imposed.

14.12 **Foreclosure to Include Trustee's Sale.** When the term "foreclosure" is used in this Declaration, it shall include, but not be limited to, the institution of formal court foreclosure proceedings with respect to a mortgage or deed of trust or the sale of property under a Trustee's sale under any deed of trust.

14.13 **Capital Improvement Assessments and Reconstruction Assessments.** The Capital Improvement Assessments and Reconstruction Assessments shall be levied at such time and manner as the Association shall determine.

14.14 **County Approval and Compliance with State and Local Laws.** It is understood that nothing in this Declaration shall be construed to exempt any person or entity from fully complying with all State and local laws and ordinances with respect to subdividing any property, annexing any property to the Properties, or engaging in any activity whatsoever; in addition, all Owners shall fully comply with all the State and local laws and ordinances in the use and management of their Lots, including construction.

14.15 **Articles of Incorporation to Include Amendments.** When the Articles of Incorporation of the Bull River Property Owners Association are referred to in this Declaration, the term shall include such Articles as amended from time to time; any reference to "Bylaws" of the Association shall not necessarily require that such formal Bylaws be adopted, and this Declaration shall be valid and binding notwithstanding the absence of such Bylaws.

14.16 **Qualifying Lots for "Green Belt" Taxation.** Notwithstanding anything elsewhere in this Declaration to the contrary, any owner may, at any time, qualify his Lot under "Green Belt" by meeting the acreage and yearly income requirements as defined by the Utah County Assessor. All types of farming, animals, etc., used for income must be reviewed by the Architectural Committee for nuisances prior to qualifying.

14.17 **Dissolution.** The Association may be dissolved by the affirmative assent in writing from 90% of the Lot Owners. Upon dissolution of the Association, all of its agency or authority to be used for purposes similar to those provided for in the Articles of Incorporation or this Declaration. In the event such dedication or transfer is not made or is not accepted, the Association's assets shall be transferred to a nonprofit corporation, trust, or other entity to be used for such similar purposes, and each Owner shall continue to be obligated to make assessment payments for the maintenance and upkeep of the Common Areas, common access roadways, curbs, gutters, and sidewalks on a pro rata basis which conforms substantially with the assessments procedure, terms and conditions set forth in this Declaration.

14.18 **Security.** The Association shall in no way be considered an insurer or guarantor of security within or relating to the Project, including any Common Area in which the Association may have an obligation to maintain, and the Association shall not be held liable for any loss or damage by reason of any failure to provide adequate security or any ineffectiveness of security measures undertaken. Owners agree by purchasing a Lot in this Association that the Association and the Board are not insurers of the safety or well-being of Owners or occupants or of their personal property, and that each Owner or occupant assumes all risks for loss or damage to persons, the Lots, the Common Areas, and to the contents of improvements located thereon to the extent not insured by the Association. EACH OWNER AND OCCUPANT UNDERSTANDS AND ACKNOWLEDGES THAT THE ASSOCIATION AND THE BOARD HAVE NOT MADE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND AND THAT EACH OWNER OR OCCUPANT HAS NOT RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO THE SECURITY OF THE PROJECT.

#### **ARTICLE XV. FAILURE OF ARCHITECTURAL COMMITTEE TO INSIST ON STRICT PERFORMANCE – NO WAIVER**

15.1. The failure of the Architectural Committee or Board of Trustees to insist in any one or more instances, upon the strict performance of any of the terms, conditions, or restrictions of this Declaration, or to exercise any right or option herein contained, or to serve any notice of or to institute any action, shall not be construed as a waiver or a relinquishment for the future, of such term, covenant, condition, or restriction but such term, covenant, condition, or restriction shall remain in full force and effect. The receipt by the Architectural Committee or Board of Trustees of any assessment from a Lot Owner, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by the Architectural Committee or Board of Trustees of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Architectural Committee or Board of Trustees.

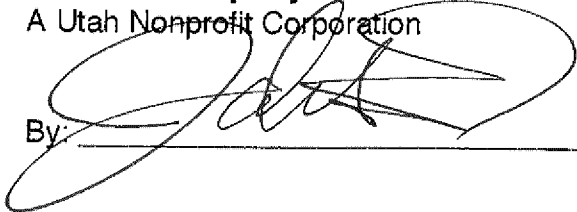


**CERTIFICATION**

IN WITNESS WHEREOF, the Board of Trustees has executed this Amended and Restated Declaration of Covenants, Conditions and Restrictions for the Bull River Planned Community as of the day and year written below.

DATED as of the 28 day of DECEMBER, 2017.

**Bull River Property Owners Association, Inc.**  
A Utah Nonprofit Corporation

By: 

Its: BOARD MEMBER

State of Utah )  
                          ) ss.  
County of Utah )

On the 28<sup>th</sup> day of December, 2017, personally appeared before me Jeremy Abbott who by me being duly sworn, did say that she/he is an authorized representative of Bull River Property Owners Association, Inc., and that the foregoing instrument is signed and executed by authority of the consent of its members.

Notary Public 



**EXHIBIT A**

## LEGAL DESCRIPTION

All of Lots 1, 3, 4, 5, 7, 8, 9, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 32, 33, 40, 41, 45, 57, 58 Bull River Planned Community PUD as shown on the Plat in the Utah County Recorders Office.

Parcel Nos: 35:052:0001, 35:052:0003, 35:052:0004, 35:052:0005, 35:052:0007, 35:052:0008, 35:052:0009, 35:052:0013, 35:052:0014, 35:052:0015, 35:052:0016, 35:052:0017, 35:052:0018, 35:052:0019, 35:052:0020, 35:052:0021, 35:052:0022, 35:052:0023, 35:052:0024, 35:052:0025, 35:052:0026, 35:052:0027, 35:052:0028, 35:052:0031, 35:052:0032, 35:052:0033, 35:052:0040, 35:052:0041, 35:052:0045, 35:052:0057, 35:052:0058, 35:052:0060

All of Lots 34 A through F Bull River Planned Community PUD, Plat B, as shown on the Plat in the Utah County Recorders Office.

All of Lots 35 A through D Bull River Planned Community PUD, Plat C, as shown on the Plat in the Utah County Recorders Office

All of Lots 12 A through C Bull River Planned Community PUD, Plat D, as shown on the Plat in the Utah County Recorders Office.

All of Lots 1 and 2 Bull River Planned Community PUD, Plat E, as shown on the Plat in the Utah County Recorders Office.

All of Lot 11 Bull River Planned Community PUD, Plat F, as shown on the Plat in the Utah County Recorders Office.

## EXHIBIT B

### ARCHITECTURAL AND LANDSCAPE GUIDELINES FOR THE BULL RIVER PLANNED COMMUNITY

On behalf of the Homeowners' Association of the Bull River Planned Community, the Architectural Committee would like to welcome you to Bull River. We are anxious to work with you in considering your present and future plans to build. This brief explanation will answer some of the general questions you might have regarding the restrictions and controls for building in this development.

***In order to maintain the unique atmosphere that exists in this planned community, important to design your home with in the guidelines and restrictions set forth in the Bull River Covenants.*** A copy of the covenants is available for you upon request.

#### **BULL RIVER**

Bull River was conceived as a unique aesthetic environment where well designed homes would be integrated with the natural landscape. One purpose of the restrictive covenants is to protect you and your neighbors from the installation of structures and alterations that would be harmful to the natural beauty of this development.

Bull River has been designed with common areas where paths and bridges link the inner core of many lots. (Please become aware of where these common areas are a part of your property.) Even though this path network is not fully developed, it is hoped that it will eventually make it possible for property owners to walk and jog throughout the community.

#### **ARCHITECTURE**

1. **PROFESSIONAL ARCHITECTS.** Professional architects should be used for designing new homes and buildings that address the specific issues of each lot. (Pre-designed home plans generally do not fit the architectural and lot topography requirements and are not recommended.)
2. **REVIEW TIME.** The entire architectural review process may take 2 to 3 months for final approval. This should be planned for in your building schedule.
3. **COMMITTEE MEETINGS.** Any plans to be reviewed must be submitted to the committee chairman. The Chairman will set a meeting for members to review. All review meetings shall be set within 45 days of an Owner's request.
4. **PROCEDURE FOR REVIEWING PLANS.**

a) PRELIMINARY MEETING - To avoid unnecessary expenses and misunderstandings you and your architect should meet with the Architectural Committee before developing building designs. The committee has specific concerns and suggestions for each lot.

b) SKETCH PLAN MEETING - This meeting is to review the architect's initial ideas. Preliminary sketches of all elevations and rough site plans should be presented.

c) REVIEW OF PLANS - At this meeting, bring drawings, which include all exterior elevations, landscape design and site plans. There must be samples of exterior materials and colors, which will be, used on the building. Neighboring property owners need to have time to review and make comments on these plans before final approval.

d) FINAL APPROVAL – Have the final plans approved by the committee in order to obtain a building permit from the city. All items on the checklist (see enclosed sheet) need to be finished. Four copies of the plans should be stamped and signed by the committee. The Committee shall have forty-five (45) days to approve or disapprove a plan review request once a complete set of plans and required application materials have been submitted to it. If approval is not received within forty-five (45) days, then the plans shall be deemed approved.

5. ARCHITECTURAL DESIGN. Acceptable architectural style for the Bull River Development is generally described as "Traditional". Architectural forms and details should be simple and blend with the chosen site and surrounding homes. Recommended roof pitches are between 6/12 and 8/12.

i) Examples of architectural styles that are consistent with the general goals:

- (1) Craftsman and Bungalow styles
- (2) Traditional Informal European Cottages and Country Homes
- (3) Traditional Informal American Cottages and Country Homes
- (4) Contemporary/Modern
- (5) Committee approval

ii) Examples of architectural styles that are inconsistent with the general goals include:

- |                 |                  |
|-----------------|------------------|
| Greek Revival   | Georgian         |
| Gothic Revival  | Cape Cod         |
| Spanish Revival | Victorian Gothic |

Italian/Romanesque/Renaissance	Classic Victorian
French Revival	Santa Fe
Colonial	Mediterranean
Neoclassical	Exaggerated "Chalet" styles
Tudor	
Federal	

6. HEIGHT and PLACEMENT.

A. Building heights will be evaluated based on their relationship to the topography and neighboring homes. The DRC discourages, and has the right to prohibit, the construction of any residence or other structure that would appear excessive in height when viewed from anywhere in Bull River of the Community is the overriding concern. Total height of home should not exceed 35' unless the DRC approves.

B. Positioning of homes should respect topography, existing vegetation, neighbor's views and the relationship to existing structures. In some instances the direction of the building's main ridgeline will be a consideration.

C. All two-story houses must include some main-level roof elements, such as single-level areas or porches.

D. Excessive roof height, especially at entry porches, is discouraged and may be rejected.

7. MATERIALS and FINISHES. Wood, stucco and stone are approved exterior materials. Colors should relate to the natural landscape and be a deep enough value to blend with it. (Vinyl siding, brick, simulated or cultured stone and log construction are not approved materials.)

8. COLORS.

A. It is the intent of Bull River to preserve the appearance of the natural landscape and to preclude the use of colors that appear out of place.

B. All exterior colors, including but not limited to window clad, trim, fascia, siding and decks, must have a Light Reflectance Value (LRV) of 40 or less.

C. The color of exterior materials must generally be subdued to blend with the natural landscape. Earth tones are recommended, although accent colors that are used judiciously and with restraint may be permitted. In no case will colors approaching the primary range (red, blue, white and yellow) be permitted, nor will drastic contrasts in value (light to dark) be allowed. The color white is prohibited for use on any exterior material or finish. Light gray stains/paints that approach white or off white in appearance will not be allowed. Proposed colors must be demonstrated to the DRC in a sample format that adequately depicts the hue, tone and shade of the proposed color in its final application. The DRC may require the color selection to be applied to an area of the house prior to final approval.

D. The DRC may, in its sole discretion, reject any color that may be too intense for the natural surroundings.

E. Extreme contrast between main body color and trim color(s) must be avoided.

The DRC may reject color schemes in which extreme contrasts may result in a “busy” or cluttered look.

F. Colors must be submitted to the DRC for approval prior to repainting the home.

G. Downspouts and gutters shall be colored to match or harmonize with the materials to which they attach.

H. Dark gray or charcoal roofing colors are recommended.

9. ADDITIONAL INFORMATION. See Article VII - Architectural Control and Article IX - Use Restrictions, of the Bull River Covenants for more information.

10. CHANGES. Any changes in the design, materials, siting or landscaping from the original plans need to be approved by the committee in writing. Additional buildings, fencing and landscape work will need to go through this same review process.

## **LANDSCAPING**

As much of the natural landscape as possible should be preserved. New landscape elements should tend toward indigenous plants. (See enclosed Plant List.) Formal landscape features usually work best within close and well defined borders to the buildings. This not only allows the natural foliage to dominate, but it also makes for simple maintenance and minimal watering in relationship to the large lot sizes. Large areas of lawn extending out to the roads are discouraged.

1. LANDSCAPE PLAN – Each owner should submit a landscape plan for approval by the committee. It should be a scale drawing showing such items as off-street parking areas, walkways, walls, fencing, trees, shrubs, lawn areas and native planting.

2. SATELLITE DISHES – Due to the physical nature of our location, quality television reception is difficult at best. This necessitates, in some cases, the use of a parabolic dish for satellite reception. These fixtures must be selected and installed in the most unobtrusive location as possible. Prospective satellite dish owners must obtain committee approval for site location prior to installation.

3. FENCING – Fences for animals (see sheet on Horses) and for privacy should be well designed and need to be approved by the Architectural Committee. Landscaping and fencing should not delineate by property lines.

## **CARS and OTHER VEHICLES**

The roads have been designed for minimal traffic, no through traffic, and for speeds not to exceed 20 mph. No off-road activities by motorized vehicles are allowed in the development. *Parking is not permitted on any of the roads for owners or their guests.* This is an important consideration in designing your landscape layout.

Boats, campers, trailers, etc. should not be parked where they would be visible from the

roads.

### **ANIMALS**

Domestic *and* farm animals may be maintained by lot owners as long as the number and species are approved by the Architectural Committee. Design *and* location for barns and fencing must be approved *before* they are built. (See sheet on Horses.) Pets are not allowed to roam through the development.

### **DUES and ASSESSMENTS**

Association assessments cover such items as road maintenance, snow removal, and special projects. At times, assessments may be necessary to cover other improvements. Please pay assessments as directed by the Board of Trustees and send payments to:

Bull River Homeowner's Association  
PO Box 726  
American Fork, Utah 84003

### **ARCHITECTURAL COMMITTEE**

The Architectural Committee shall have the power to enforce the Architectural Guidelines as set forth in the CC&Rs. No improvements shall be made within the project without Approval from the Architectural Committee.

## HORSES / BULL RIVER

1. All Highland City restrictions for large animals must be met. Some of which are:
  - A. Shelter must be provided (which is no closer than 100 feet from any residential dwelling.)
  - B. All animals must be fenced (which cannot be closer than 20 feet from any residential dwelling.)
  - C. The keeping of animals shall present no unreasonable odor, noise or nuisance problems to neighbors.
2. Approval from the Architectural Committee must be received to have horses and the number must be approved.
3. The design and location of the barn must be reviewed and approved by the Architectural Committee, as with any other structure.
4. The fencing design and placement must be approved by the Architectural Committee. The size of fenced area may not exceed 1/4 acre per each two acres owned. No wire fences of any type shall be allowed except in areas designated by the Architectural Committee. There shall be no removal or destruction of living trees or shrubs.
5. No fenced area shall be constructed or maintained closer than 20 feet to any open waterway and surface drainage shall not be permitted to drain into a waterway.



**SUGGESTED PLANTS FOR LANDSCAPING IN BULL RIVER**

TREES

Acer Glabrum	Rocky Mountain Clump Maple
Acer Negundo	Boxelder
Betula Nigra	River Birch
Betula	Red Birch
Occidentalis	Black Hawthorn
Crataegus	Russian Olive
Douglasii	Honeylocust
Elaeagnus	Crabapple
Angustifolia	Choke Cherry
Gleditsia	Gambol Oak
Triancanthos	Sumac
Malus	Yellow Willow
Prunus	
Virginiana	
Quercus	
Gambelii Rhus	
Glabra	
Salix Rigida	Saskatoon Serviceberry

SHRUBS

Amelanchier Alnifolia	Big Sagebrush
Artemisia Tridentata	Japanese Quince
Chaenameles	Douglas Rabbitbrush
Japonica	Redtwig Dogwood
Chrysothamnus	Peking Cotoneaster
Viscidifloru Cornus	Forsythia
Stolonifora	Skunkbush Sumac
Cotoneaster Acutifolia	Golden Current
Forsythia	Blue Elderberry
Rhus Trilobata	
Ribes Aureum	
Sambucus	
Cerulea	