

WHEN RECORDED RETURN TO:
John R. Barlow
Mitchell Barlow & Mansfield P.C.
Nine Exchange Place, Suite 600
Salt Lake City, Utah 84111

ENT 59452:2017 PG 1 of 39
Jeffery Smith
Utah County Recorder
2017 Jun 20 12:36 PM FEE 95.00 BY MG
RECORDED FOR Access Title Company
ELECTRONICALLY RECORDED

AMENDED AND RESTATED
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
THE PRESERVE AT RIVERWOODS COMMUNITY

This Amended and Restated Declaration of Covenants, Conditions and Restrictions for Legacy Ridge Development (the "Declaration") is made this 20th day of June, 2017 by THE PRESERVE AT RIVERWOODS, LLC, a Utah limited liability company ("Declarant").

RECITALS

A. Declarant is the Owner of that certain real property located in Provo, Utah and described on Exhibit A attached hereto (the "Property").

B. Declarant desires to provide for the preservation and enhancement of property value and material features of the Community as planned and described by requiring that all owners of any lot within the Community shall take and hold said property subject to these restrictions and covenants.

C. Declarant has established The Preserve at Riverwoods Homeowners Association, Inc. a Utah nonprofit corporation (the "Association"), to serve as a community association to place common elements located within the Community and the enforce the covenants, conditions and restrictions set forth herein.

D. Therefore, Declarant hereby, for the benefit of the present and future owners of lots within the Community, hereby subjects the Property to this Declaration.

ARTICLE 1
SUBMISSION; DEFINED TERMS

Section 1.1 Submission of Property.

(a) Declarant submits the Property to this Declaration and to the Utah Community Association Act, Utah Code Ann §§ 57-8a-101, et. seq. (the "Community Association Act").

(b) Declarant further declares that this Declaration is made for the purpose of protecting the value and desirability of the Property, that this Declaration shall constitute a covenant running with the Property and shall be binding on all parties having any right, title or interest in the Property or any part of the Property, their heirs, legal representatives, successors, and assigns and shall inure to the benefit of each Owner.

Section 1.2 Defined Terms. Each capitalized term in this Declaration or in the Plat or Map shall have the meaning specified or as used in Community Association Act, unless otherwise defined in this Declaration:

(a) “Administrative Control” means the period of time commencing on the date of recordation of this Declaration and expiring on the earlier of (i) 60 days after conveyance of 75% of the Lots in the Community to Owners other than Declarant; (ii) seven (7) years after Declarant has ceased to offer Lots for sale in the ordinary course of business, or (iii) the date Declarant, after giving written notice to Owners, records an instrument voluntarily surrendering all rights to control activities of the Association.

(b) “ADS System” means the Advanced Drainage Systems Stormtech Chamber installed by Declarant on Lot 1 for the purpose of managing storm and/or waste-water flowing on or over the Property, and which is a technology that is installed underground as an alternative to the need to create a detention basin to manage storm and waste-water.

(c) “Architectural Committee” means the committee designated by the Board from time-to-time to perform the duties and obligations described herein and as further directed by the Board.

(d) “Assessment” includes all Common Expense Assessments, and any other expense levied to a Lot pursuant to this Declaration or the Community Association Act.

(e) “Association” means The Preserve at Riverwoods Homeowners Association, Inc., a Utah nonprofit corporation, and its successors.

(f) “Board” or “Board of Directors” means the body, regardless of name, designated in this Declaration and the Bylaws of the Association to act on behalf of the Association.

(g) “Bylaws” means the bylaws of the Association as adopted by the Board from time-to-time, the current copy of which is attached hereto as **Exhibit B**.

(h) “Common Elements” means collectively:

(i) the approximately 6-foot-high wall (the “Wall”) located on the southern portion of Lots 1, 8, and 9, all as more particularly depicted on **Exhibit C** attached hereto;

(ii) that portion of a landscaped strip of property located between the Wall and the sidewalks on 500 East Street, 3700 North Street, and 400 West Street, portions of which are located on of Lots 1, 8, and 9 and portions of which are located in rights-of-way owned by Provo City (collectively the “Landscaped Areas”), as more particularly depicted on **Exhibit C**;

(iii) the sidewalks (“Sidewalks”) immediately adjacent to the Landscaped Areas located on Lots 1, 8, and 9 and portions of which are located in rights-of-way owned by Provo City, as more particularly depicted on **Exhibit C**;

(iv) the parking strips (“Parking Strips”) between the Sidewalks and the

curb and gutter, most of which is located in rights-of-way owned by Provo City and a small portion of which is located on Lot 9, as more particularly depicted on Exhibit C; and

(v) the “Preserve at Riverwoods” monument sign that will be located, at Declarant’s sole discretion, in a suitable location within the Landscaped Areas (the “Preserve at Riverwoods Sign”).

(i) “Common Expense” means any expenditure made by or on behalf of the Association, including expenditures for the maintenance, repair and replacement of the ADS System, together with any allocations to reserves.

(j) “Common Expense Assessment” means an Assessment levied for Common Expenses.

(k) “Community” means the Lots and Common Elements subject to this Declaration.

(l) “Development Rights” means those rights set forth in this Declaration and those rights set forth in Community Association Act.

(m) “Director” means any natural person serving as a member of the board of directors of the Association.

(n) “First Lien Holder” means a holder of a first-position lien on any Lot, and any party claiming through such holder.

(o) “Governing Documents” means this Declaration, the Plat, the Map, the Articles of Incorporation, the Bylaws, and any Rules and Regulations of the Association, as all of the foregoing may be amended from time to time.

(p) “Map” means the site plan for the Preserve at Riverwoods, which Map is attached hereto as Exhibit C, and incorporated and made a part of this Declaration by reference.

(q) “Member” means and refers to those Persons entitled to membership in the Association, as provided in the Bylaws and as set forth in this Declaration.

(r) “Officer” means any natural person serving as an officer of the Association in accordance with the Bylaws.

(s) “Owner” or “Home Owner” or “Lot Owner” means the Declarant or any other Person that owns a Lot.

(t) “Person” means any individual, corporation, limited liability company, limited or general partnership, joint venture, association, joint-stock company, or trust.

(u) “Plat” means any recorded Plat for all or any part of the Community, as approved by Provo City, and any supplements and amendments, depicting and locating the Lots and easements on the Lots.

(v) “Rules and Regulations” means any instrument, however denominated, which is adopted by the Board for the regulation and management of the Community, including any amendment to such instruments, and including any policies and procedures adopted by the Board, including without limitation the Design Guidelines.

(w) “Lot” or “Home” means a physical portion of the Community, designated for separate ownership, shown as a lot on the recorded Plat for the Community, and, in the proper context, also including the Home or residence constructed on the Lot, which is typically referred to in this Declaration as a “Home,” the boundaries of which are defined in the Plat and in this Declaration.

ARTICLE 2
THE ASSOCIATION

Section 2.1 Membership. Every Person who is a record Owner of a fee interest in any Lot which is subject to this Declaration shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of such Lot shall be the sole qualification for such membership. There shall be one membership for each Lot within the Community. The Members of the Association shall have the voting rights described in the Bylaws as adopted by the Board from time-to-time.

Section 2.2 General Purposes and Powers of the Association. The Association, through its Board, shall perform functions and manage the Community as provided in this Declaration so as to protect the value and desirability of the Community and the Lots and to further the collective interests of the Owners. Each purchaser of a Lot shall be deemed to have assented to, ratified and approved such management. The Association shall have all power necessary or desirable to effectuate such purposes.

Section 2.3 Authority of the Association.

(a) The business affairs of the Community shall be managed by the Association.

(b) The Association shall be governed by the Act, this Declaration, the Plat, the Map, the Association’s Articles of Incorporation and Bylaws, and any Rules and Regulations adopted by the Board.

(c) The Board may, by written resolution, delegate authority to a manager, managing agent or bookkeeper for the Association, provided no such delegation shall relieve the Board of final responsibility.

Section 2.4 Specific Powers.

(a) The Association shall have the powers, authority and duties as necessary and proper to manage the business and affairs of the Community.

(b) The Association shall have all of the powers, authority and duties permitted or set forth in Community Association Act.

(c) The Association shall have the power to assign its right to future

income, including the right to assign its right to receive Common Expense Assessments, but only upon the affirmative vote of a majority of the Owners present at a meeting called for that purpose.

Section 2.5 Allocation of Common Expense Assessments.

(a) ADS System. Declarant will bear the cost of purchasing and installing the ADS System on Lot 1. The Association shall thereafter be responsible for the cost of maintaining and repairing the ADS System, and shall recover such costs as a Common Expense through assessments on Owners. Declarant estimates that the Association will incur (i) a cost of approximately \$200.00 per year for a professional annual inspection of the ADS System and (ii) a maintenance cost of approximately \$3,000.00 once each 12 years. The Association anticipates that will levy an annual assessment on Lot Owners in the amount of approximately \$25.00 per Lot per year to recover the cost of the annual inspection of the ADS System. In years in which maintenance of the ADS System is required, the Association anticipates that it will levy an assessment on Lot Owners for in such years in the amount of approximately \$350.00 per Lot per year to cover the maintenance cost. The Association shall levy such assessments on Lot Owners commencing on the one-year anniversary the date of this Declaration. The foregoing estimates are subject to change based on inflation and other potential changes affecting the cost of maintaining and repairing the ADS System. No Lot Owner or any other Person may rely on the foregoing good-faith estimates as establishing a ceiling for such assessments.

(b) Other Common Expenses. In the event the Association in the future levies an Assessment or Assessments against Owners for assessments other than for the cost of maintaining and repairing the ADS System, and in recognition of the fact that portions of the Common Elements are located on Lots 1, 8, and 9, and such Common Elements are to be maintained by the Owners of Lots 1, 8, and 9, Assessments to the Owners of Lots 1, 8, and 9 shall be calculated at a lower percentage rate than the allocation of such expenses to the Owners of Lots 2, 3, 4, 5, 6, and 7.

(c) If Lots are added to or withdrawn from the Community pursuant to the provisions of this Declaration and Community Association Act, the formula set forth above, or then in use, shall be adjusted as of the date such Lots are added to or withdrawn from the Community.

Section 2.6 Indemnification. To the fullest extent permitted by law, each Officer and member of the Board of the Association shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees and expenses, reasonably incurred by or imposed upon them in any proceeding to which they may be a party, or in which they may become involved, by reason of being or having been an Officer or member of the Board of the Association, or any settlements of those claims, whether or not they are an Officer or member of the Board of the Association at the time such expenses are incurred; except in such cases where such Officer or member of the Board is adjudged guilty of willful misfeasance in the performance of his or her duties; provided that in the event of a settlement, the indemnification shall apply only when the Board approves such settlement and reimbursement, which approval shall not be unreasonably withheld.

Section 2.7 Administrative Control. During period of Administrative Control, Declarant shall have the sole right to appoint and remove Officers and members of the Board.

ARTICLE 3
LOTS AND MAINTENANCE; EASEMENTS

Section 3.1 Number of Lots. The Community is anticipated to consist of nine Lots.

Section 3.2 Identification of Lots; Lot Descriptions. The identification of each Lot is shown on the Plat and/or Map. Reference to the Declaration, Plat and/or and Plat and/or Map in any instrument shall be deemed to include any supplement(s) or amendment(s) to the Declaration, the Plat and Map, without specific references.

Section 3.3 General Maintenance by Owners. Owners are responsible for all maintenance and upkeep of their Lots and all improvements, including Common Elements, located thereon.

Section 3.4 Maintenance Standards.

(a) Each Lot, and all improvements located thereon, at all times, shall be kept by the Owner or, as the case may be, the Association, in a well maintained, good repair condition, and in a clean, sightly and wholesome condition.

(b) Each Owner shall perform his or her responsibility in such manner so as not to unreasonably disturb other persons in other Homes.

(c) No bicycles, kayaks, sport or recreational equipment, trash, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber, building materials or any item of personal property found by the Board to be objectionable to the Association shall be permitted to remain exposed upon a Lot, outside of a Home, or within or upon the Common Area, balcony, patio or deck of a Home, or otherwise.

(d) Occupants are allowed to maintain outdoor patio furniture, grills and related personal property provided these items are well maintained and kept in a first class manner and appearance, clean, sightly and wholesome.

(e) The Association, and its agents, shall have the authority to enter upon a Lot to replace, maintain, repair and clean up parts of a Lot that do not conform to the provisions of this Section, and to charge and collect from the Owners of such Lot all reasonable costs as an Assessment.

Section 3.5 Placement of Common Elements. Declarant shall be responsible for the initial cost and installation of the Common Elements.

Section 3.6 Association Maintenance Standards. The Board shall determine the specifications, scope, extent, nature and parameters of the Association's maintenance responsibilities. The maintenance standards, the enforcement of maintenance covenants and the interpretation of maintenance obligations under this Declaration may vary from one term of the Board to another term of the Board. These variances shall not constitute a waiver by the Board of the right to adopt and enforce maintenance standards under this Article. No decision or interpretation by the Board shall constitute a binding precedent with respect to subsequent decisions or interpretations of the Board.

Section 3.7 Maintenance of Common Elements. Each of the Owners of Lots 1, 8, and 9 shall be responsible for the maintenance of the Common Elements, including without limitation the Wall, the Landscaped Areas, the Preserve at Riverwoods Sign, the Sidewalks, and the Parking Strip located on or adjacent to each of their respective Lots. For the avoidance of doubt, the maintenance obligation of the Owners of Lots 1, 8, and 9 shall, on or adjacent to their respective Lots, include (i) watering, mowing, and caring for the grass and shrubs planted in the Landscaped Areas and Parking Strips (which responsibility includes the duty of each such Owner to extend the sprinkling system on their Lot to include such areas); and (ii) removing snow and other debris from the Sidewalks.

(a) If the Board determines that the need for maintenance or repair of the Common Elements is caused through the willful or negligent act of any Owner, or occupant or their family, guests, lessees, or invitees, then the Association may assess the cost of any such maintenance, repair or replacement against the Owner's Lot, and such cost shall become the personal obligation of the Owner, a lien against the Home, and shall be collected as provided in this Declaration for the collection of assessments.

(b) The Association shall not be liable for injury or damage to person or property caused by the elements or by the Owner of any Home, or any other person, or resulting from any utility, rain, snow or ice which may leak or flow from any portion of the Common Elements or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain, except for injuries or damages arising after the Owner of a Home has put the Association on notice of a specific leak or flow from any portion of the Common Elements and the Association has failed to exercise due care to correct the leak or flow within a reasonable time.

(c) The Association shall not be liable to any Owner, or any Owners occupant, guest or family for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under the Article where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities.

(d) No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

Section 3.8 Grant of Easements. The Association is hereby granted (i) a Wall and Sidewalk Easement for the benefit of the Association to allow the Association to place the Common Elements on Lots 8 and 9 and (ii) a Wall, Sidewalk & SD Easement as a retention area and to allow the Association to place the Common Elements on Lot 1, as more fully described on Exhibit C and on the Plat approved by the City of Provo and recorded on May 5, 2017 as Entry No. 43581:2017 (the "Easements"). Declarant shall be deemed to covenant and agree, and each Lot Owner of Lot 1, 8, and 9, by acceptance of a deed, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree (i) to the grant herein to the Association of the Easements and (ii) not to make any use of the portion of such Easements located within the boundaries of their Lot or Lots that is inconsistent with or that will interfere with the Easements.

ARTICLE 4
COVENANT FOR ASSESSMENTS

Section 4.1 Creation of Association Lien and Personal Obligation to Pay Common Expense Assessments.

(a). To the extent such Assessments may be levied in the future, Declarant, for each Lot, shall be deemed to covenant and agree, and each Lot Owner, by acceptance of a deed, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association annual Common Expense Assessments and such other Assessments, if any, as are imposed by the Association.

(b) Such Assessments, including fees, charges, late charges, attorney's fees, fines and interest charged to the Association shall be the personal obligation of the Owner of such Lot from and after the time when the Assessment or other items charged by the Association become or fall due.

(c) The Association's annual Common Expense Assessments and such other Assessments as are imposed by the Association, if any, including fees, charges, late charges, attorney fees, fines and interest charged by the Association, shall be a charge on each Lot and shall be a continuing lien upon the Lot against which each such Assessment or charge is made.

(d) If any Assessment is payable in installments, the full amount of the Assessment is a lien from the time the first installment becomes due.

(e) No Owner may become exempt from liability for payment of the Common Expense Assessments or other Association charges by waiver of the use or enjoyment of the Common Elements or by abandonment of the Lot against which the Common Expense Assessments are made.

(f) All Assessments and other Association charges shall be payable in the amounts specified.

(g) Other than as specified in this section, no other offsets or reduction shall be permitted for any reason including, without limitation, any claim that the Association or the Board is not properly exercising its duties and powers under this Declaration.

Section 4.2 Declarant Exemption. The Declarant shall have no obligation to pay any Common Expense Assessment on any Lot owned by Declarant. Notwithstanding the preceding, the Association shall allocate Common Expense Assessments as set forth in Section 2.5 (including Lots owned by Declarant) for purposes of determining amounts due from other Lot Owners.

Section 4.3 Assessments on the Lots. Assessments, if any, shall not be imposed on any Lot until such Lot is transferred from Declarant to an Owner.

Section 4.4 Annual Common Expense Assessment. A Common Expense Assessment may be made on an annual basis against all Lots and shall be based upon the Association's advance budget of the cash requirements needed by it to provide for the administration and performance of its duties during such Assessment year. The Association shall endeavor to provide Owners with an estimated budget of Common Expenses Assessments on an annual basis. Common Expense Assessments shall be due and payable in monthly, quarterly, or annual installments, or in any other manner, as determined by the Board. Common Expense Assessments may begin on the first day of the month in which conveyance of the first Lot to an Owner other than Declarant occurs. The omission or failure of the Board to levy the Assessment for any period shall not be deemed a waiver, modification or a release of the Owners from their obligation to pay.

Section 4.5 Effect of Non-Payment of Assessments.

(a) Any Assessment or other Association charge provided for in this Declaration, or any monthly or other installment that is not fully paid within 30 days after the due date, as established by the Board, shall bear interest at the rate established by the Board, on a per annum basis from the due date.

(b) The Association may assess a reasonable late charge as determined by the Board. Failure to make payment within 60 days of the due date shall cause the total amount of such Owner's Common Expense Assessment for the remainder of that fiscal year to become immediately due and payable at the option of the Board.

(c) Further, the Association may bring an action at law or in equity, or both, against any Owner personally obligated to pay such overdue Assessments or other Association charges, or monthly or other installments.

(d) The Association may also proceed to foreclose its lien against such Owner's Lot.

(e) An action at law or in equity by the Association against an Owner to recover a money judgment for unpaid Assessments or other Association charges, or monthly or other installments may be commenced and pursued by the Association without foreclosing, or in any way waiving, the Association's lien.

(f) Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to estop or otherwise preclude the Association from subsequently again foreclosing or attempting to foreclose its lien for any subsequent Assessment or other Association charges, or monthly or other installments which are not fully paid when due.

(g) The Association shall have the power and right to bid on or purchase any Lot at foreclosure or other legal sale, and to acquire and hold, lease, mortgage, vote the Association votes appurtenant to ownership of a Lot convey or otherwise deal with the same.

(h) If a foreclosure action is filed to foreclose any Assessment lien, and an Owner abandons or leaves vacant such Owner's Lot, the Board may take possession and rent such Lot or apply for the appointment of a receiver for the Lot without prior notice

to the Owner.

(i) The rights of the Association shall be expressly subordinate to the rights of any holder of a first lien security interest as set forth in its deed of trust or mortgage (including any assignment of rents).

Section 4.6 Lien Priority. The lien of the Association under this Article is prior to all other liens and encumbrances on a Lot except: (i) liens and encumbrances recorded before the recordation of the Declaration; (ii) a first lien security interest on the Lot; and (3) liens for real estate taxes and other governmental assessments or charges against the Lot. This Section does not affect the priority of mechanics' or material men's liens. The lien of the Association under this Article is not subject to the provision of any homestead exemption as allowed under state or federal law. Sale or transfer of any Lot shall not affect the lien for Assessments or other Association charges except that sale or transfer of any Lot pursuant to foreclosure of any first lien security interest, or any proceeding in lieu of foreclosure, including deed in lieu of foreclosure, or cancellation or forfeiture shall only extinguish the lien for Assessments or other Association charges as provided by applicable state law. No such sale, transfer, foreclosure, or any proceeding in lieu of foreclosure, including deed in lieu of foreclosure, nor cancellation or forfeiture shall relieve any Lot from continuing liability for any Assessment or other Association charges becoming due, nor from the Association's lien.

ARTICLE 5

TIME FOR COMPLETION OF CONSTRUCTION; PURCHASE OPTION OF DECLARANT

Section 5.1. Construction Deadlines. Each Owner or its assigns shall commence construction on each Lot purchased from Declarant within twenty-four (24) months of the date such Lot is conveyed from Declarant to the original Owner (the "Construction Commencement Date"), and shall complete the construction and receive a certificate of occupancy within twelve (12) months after the Construction Commencement Date (the "Construction Completion Date").

Section 5.2. Declarant's Repurchase Right. In the event that an Owner, or its successor and assigns, fails to commence construction by the Construction Commencement Date or complete the construction and receive a certificate of occupancy by the Construction Completion Date, Declarant shall have the right, but not the obligation, to repurchase such Lot and all improvements made thereon for the same price paid by the original Owner to Declarant for such Lot (the "Repurchase Right"). To exercise the Repurchase Right, Declarant shall give the Owner of the applicable Lot written notice of its exercising the Repurchase Right within sixty (60) days of the Construction Commencement Date or within one-hundred eighty (180) days of the Construction Completion Date, as applicable. Upon the exercise of the Repurchase Right, an escrow with an escrow company reasonably acceptable to Declarant and Owner (the "Escrow Agent") shall be established within ten (10) days of the Repurchase Right exercise date and the parties agree thereupon to execute escrow instructions providing:

(a) that the full purchase price shall be paid on or before the closing in cash or by wire transfer;

(b) that the repurchase shall be evidenced by a special warranty deed conveying the Lot, subject only to taxes and assessments and encumbrances existing on the Lot at the time such Lot was transferred to the original Owner, but free and clear of any and all other liens, claims and encumbrances as are not acceptable to Declarant;

(c) that, at the closing, Owner will furnish to Declarant, at Owner's expense, a standard owner's title insurance policy in the amount of the purchase price, issued by Escrow Agent, to insure title to the Lot to be vested in Declarant;

(d) that the escrow and recording fees will be paid by Owner, and that all closing costs will also be paid by Owner; and

(e) that the parties agree to execute, acknowledge and deliver such instruments or instructions as may be necessary to consummate the repurchase.

ARTICLE 6
RESTRICTIONS ON USE

All Property within the Community shall be held, used and enjoyed subject to the following limitations and restrictions. The strict application of the following limitations and restrictions in any specific case may be modified or waived, in whole or in part, by the Board or by an appropriate committee (subject to review by the Board) if such strict application would be unreasonable or unduly harsh under the circumstances. Any such modification or waiver must be in writing or must be contained in written guidelines or rules. The following use restrictions are also subject to the Development Rights reserved by Declarant.

Section 6.1 Use, Occupancy and Use Protection. Lots within the Community shall be used only for purposes allowed by the local zoning codes and only for residential purposes.

Section 6.2 Restrictions on Improvements, Including Fences. See the article of this Declaration on Architectural Review for restrictions on improvements to Lots, including restrictions on fencing.

Section 6.3 Restriction on Further Community. No Lot may be further subdivided or separated into smaller Lots or Lots by any Owner, and no portion consisting of less than all of any such Lot, nor any easement or other interest in this Declaration, shall be conveyed or transferred by an Owner. This covenant shall not prohibit deeds of correction, deeds to resolve boundary line disputes, and similar corrective instruments.

Section 6.4 Leasing of Homes. The Board shall have the power to make and enforce reasonable rules and regulations and to fine, in accordance with the Declaration and Bylaws, in order to enforce the provisions of this Section.

(a) General. Homes may be leased only in their entirety; no fraction or portion may be leased without prior written Board approval. All leases must be for an initial term of not less than 6 months, except with written Board approval.

(b) Compliance with Declaration, Bylaws Rules and Regulations, Use of Common Elements and Liability for Assessments. Any lessee of a Home covenants and agrees to abide by the terms and conditions of this Declaration.

(c) Liability for Assessments. When an Owner who is leasing his or her Home fails to pay any annual or special Assessment or any other charge for a period of more than 30 days after it is due and payable, then the delinquent Owner consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board, lessee shall pay to the Association all unpaid annual and special assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by lessee. However, lessee need not make such payments to the Association in excess of or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under this Declaration as if lessee were an Owner. The above provisions shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

Section 6.5 Vehicular Parking, Storage, Recreational Vehicles ("RVs") and Repairs.

(a) No activity such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting, or servicing of any kind of vehicle, trailer or boat, may be performed or conducted within the Community; except within any enclosed garage that allows for vehicle storage, or in the case of a boat or RV, temporary repairs (not to exceed 72 hours).

(b) RVs, boats, trailers and similar vehicles may not be parked in a driveway in front of or on the side of a residence or any private street for periods of time in excess of 72 hours.

(c) Parking in fire lanes (as designated by the Association or as designated by local government or a local fire protection authority) shall not be permitted.

Section 6.6 Prohibitions on Increased Costs, Damage, Nuisance and Noise.

(a) Increased Costs. Without the prior written consent of the Board, nothing shall be done or kept in a Home, or any part of a Lot, that would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirements of any governmental body, or which would increase the Common Expenses.

(b) Nuisance. An Owner or occupant shall not conduct activities within a Home or use a Home in a manner that interferes with or causes disruption to the use and quiet enjoyment of another Home by its respective Owner.

(c) Noxious and Other Activities.

(i) Noxious, destructive, offensive or unsanitary activity shall not be carried out in a Home or within the Community.

(ii) No Owner or occupant may use or allow the use of a Home or any portion of the Community at any time, in any way, which may endanger the health or property of other occupants, unreasonably annoy, disturb or cause embarrassment or discomfort to other Owners or occupants, or, in the Board's discretion, constitute a nuisance.

(iii) The intention of this provision is to grant the Association and aggrieved Owners and occupants a right of redress for actions, activities or conduct which unreasonably disturbs or impairs the peaceful and safe enjoyment of the Homes and of the Community. In this regard, specific unauthorized and unreasonable annoyances or disturbances shall include, but not be limited to, the following:

A. any fighting, screaming, shouting, excessively loud talking, whistling, or playing of music or television, raucous behavior or insobriety either outside of a Home at any time or within a Home if such conduct can be heard in the normal course of activities in any other Home(s);

B. the use of any alarm, equipment, or device, mechanical or otherwise, which creates or produces excessively loud sounds or any vibrations either outside of a Home at any time or within a Home if such sounds can be heard or vibrations felt in the normal course of activities in any other Home(s);

C. any threatening or intimidating conduct towards any resident, guest or pet of or at a Home or in the Community;

D. any conduct which, in the Board's reasonable discretion, creates any danger or risk of injury to others or damage to property of a Home or within the Community or which creates any threat to health or safety of any other resident or pet;

E. any excessively loud play activities either outside of a Home at any time or within a Home if such conduct can be heard in the normal course of activities in any other Home(s);

F. any conduct which creates any noxious or offensive odor either outside of a Home at any time or within a Home if such odors can be detected in the normal course of activities in any other Home(s);

G. any incessant or excessive pet noises, including dog barking, if such conduct can be heard in the normal course of activities in any other Home(s) with the windows and doors of the Home closed;

H. any construction or similar activities in a Home that can be heard in other Homes between the hours of 9:00 p.m. and 7:00 a.m.; or

I. any similar action or activity outside of a Home or within the Community, or which occurs inside a Home but which interferes with the peaceful use and enjoyment of other Homes or the Common Elements by any other Owner, members of his or her family, guests, invitees, or occupants of his or her Home.

(d) Individual Owner Rights of Enforcement. Nothing in this Declaration shall be construed to affect the rights of an aggrieved Owner or occupant to proceed

individually against a violator of this Declaration for relief from interference with his or her property or personal rights, and the Board may, in its discretion, require aggrieved individuals to seek redress personally for interference with their personal property rights before the Association intervenes and commences enforcement action. No claim for any loss, damage or otherwise shall exist by an aggrieved Owner or occupant against the Association for failure to enforce the provisions of this Section of this Declaration if the aggrieved Owner or occupant has not personally pursued all available remedies against the violator for redress provided pursuant to Utah law.

(e) Noise. No Owner or occupant may use or allow the use of the Home or the Common Elements in any manner which creates noise between the hours of 11:00 p.m. and 7:30 a.m. which can be heard by persons in another Home that will, in the Board's sole discretion, unreasonably interfere with the rights, comfort or convenience of any other Owner, members of his or her family, guests, invitees, or occupants of his or her Home.

(f) No Waste. No damage to or waste of the Common Elements, or any part of the Common Elements, shall be permitted by any Owner or any occupant, guest or invitee of any Owner. Each Owner and occupant shall indemnify and hold the Association and the other Owners harmless against all loss to the Association or other Owners resulting from any such damage or waste caused by such Owner or occupant, or the Owner's or occupant's guest or invitee.

Section 6.7 Pets.

(a) Owners or Occupants may keep not more than three (3) household pets weighing more than five pounds on any portion of their Lot or Home.

(b) The Board may adopt rules and regulations defining a reasonable number of pets and generally recognized household pets.

(c) No Owner or Occupant may keep, breed or maintain any pet for any commercial purpose.

(d) Dogs must be kept on a leash and be under the physical control of a responsible person at all times while outside a Home, unless within an appropriately fenced backyard.

(e) Fences (other than the backyard fence type specified and expressly allowed by the City) and dog runs are subject to Architectural Committee review and approval, as set forth in this Declaration.

(f) Feces left by pets upon a Lot or the Common Elements must be removed promptly by the owner of the pet or the person responsible for the pet.

(g) The Board may require that any pet that, in the Board's opinion, endangers the health of any Owner or occupant or creates a nuisance or unreasonable disturbance, be permanently removed from the Home and the Community upon ten days written notice. If the owner or occupant fails to comply with such notice, the Board may remove the pet and/or obtain a court order requiring the Owner or occupant to do so.

(h) Any Owner or occupant who keeps or maintains any pet in a Home or within the Community shall be deemed to have agreed to indemnify and hold the Association, its directors, Officers, and agents free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within a Home or in the Community.

(i) Any increased or extraordinary landscape maintenance expenses incurred by the Association on a Lot at which pets are maintained may, in the discretion of the Association, be assessed to the Owner of that Lot.

Section 6.8 Use of Common Elements. There shall be no obstruction of the Common Elements, nor shall anything be kept or stored on any part of the Common Elements without the prior written approval of the Board. Nothing shall be altered on, constructed in, or removed from the Common Elements without the prior written approval of the Board.

Section 6.9 Failure to Maintain.

(a) If the Board determines that any Owner has failed or refused to discharge properly his or her obligation with regard to the maintenance, repair, or replacement of items for which he or she is responsible under this Declaration, then, the Association shall give the Owner written notice of the Owner's failure or refusal and of the Association's right to provide necessary maintenance, repair, or replacement at the Owner's sole cost and expense.

(b) The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Board.

(c) Unless the Board determines that an emergency exists, the Owner shall have ten days (or such shorter time as the Board may determine), within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within ten days.

(d) If the Board determines that: (i) an emergency exists or (ii) that an Owner has not complied with the demand given by the Association as provided in this Declaration; then the Association may provide any such maintenance, repair, or replacement at the Owner's sole cost and expense, and such costs shall be added to and become a part of the assessment to which such Owner is subject, shall become and be the personal obligation of the Owner and a lien against the Home, and shall be collected as provided in this Declaration for the collection of assessments.

Section 6.10 Rubbish, Trash, and Garbage. All rubbish, trash, and garbage shall be regularly removed from the Home and shall not be allowed to accumulate in the Home. No garbage or trash shall be placed on the Common Elements outside the Home, temporarily or otherwise, except in trashcans located in areas as the Association may designate. Rubbish, trash, and garbage shall be disposed of in appropriate sealed bags and either placed in the trash cans or proper receptacles designated by the Board for collection or removed from the Planned Community.

Section 6.11 No Unsightliness. All unsightly conditions, structures, facilities, equipment, objects and conditions shall be enclosed within an approved structure.

Section 6.12 Restriction on Signs and Advertising Devices. No sign, poster, billboard, advertising device or display of any kind shall be erected or maintained anywhere with in the Community except such sign or signs as may be allowed by state or federal law, or as may be approved in writing by the Association through the Board.

Section 6.13 No Restrictions on Mortgaging of a Lot. There are no restrictions on the right of the Owners to mortgage or otherwise encumber their Lot. There is no requirement for the use of a specific lending institution or particular type of lender.

Section 6.14 Storage Restrictions. Balconies, decks and patio areas of Homes may not be used as storage areas and no clotheslines or drying areas shall be installed, allowed, kept, maintained or permitted on the balcony, patio or deck areas in the Community.

Section 6.15 Antennas and Satellite Dishes.

(a) Except as provided below, no satellite dish, antenna or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained on any Lot, except in the location designated by the Declarant.

(b) The following shall apply to all Lot Owners:

(i) No transmission antenna, of any kind, may be erected anywhere in the Community, including the Lots, other than in the location designated by the Declarant, without written approval of the Board or Architectural Committee.

(ii) No direct broadcast satellite (“DBS”) antenna or multi-channel multi- point distribution service (“MMDS”) antenna larger than three feet in diameter shall be placed, allowed or maintained upon a Lot.

(iii) DBS and MMDS satellite dishes or antennas one meter or less in diameter and television broadcast service antennas may only be installed in accordance with Federal Communication Commission rules and the rules and regulations of the Association, both as may be amended from time to time. Such items shall be installed in the location designated by the Declarant or another location, if less conspicuous, that permit its reception of an acceptable signal.

(iv) If a Lot is transferred which includes a satellite dish or antenna, the grantee shall assume all responsibility for the satellite dish or antenna and shall comply with this Declaration, the Bylaws and the rules and regulations regarding satellite dishes and antennas, including, but not limited to, those requirements relating to maintenance and removal of satellite dish or antenna.

Section 6.16 Rules and Regulations. In furtherance of the provisions of this

Declaration, Rules and Regulations concerning and governing the Community or any portion of the Community may be adopted, amended, or repealed, from time to time, by the Board, or its successors and assigns. The Board may establish and enforce penalties or fines for the infraction of any of the governing documents and take any other remedial action the Board may deem necessary and proper for such purpose.

Section 6.17 Declarant's Use. Notwithstanding anything to the contrary contained in this Declaration, it shall be expressly permissible for Declarant, its assigns, employees and agents, to perform such reasonable activities, and to maintain upon portions of the Community such facilities as are reasonably necessary or incidental to the construction and sale of Homes in the development of the Community, specifically including, without limiting the generality of the foregoing, the maintenance of temporary business offices, construction trailers, storage areas, trash bins, construction yards and equipment, signs, model units, temporary sales offices, parking areas and lighting facilities.

ARTICLE 7
DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS

Section 7.1 Development Rights. Declarant reserves the following Development Rights during the period of Declarant's Administrative Control:

(a) Except for Lots not then owned by Declarant (for which the consent of that Owner would be required), to relocate boundaries between adjoining Lots, enlarge Lots, enlarge the Common Elements, reduce or diminish the size of Lots, reduce or diminish the size of areas of the Common Elements as the same may be indicated on the Map or on plats filed of record or filed with the Declaration.

(b) The right to amend the use restrictions included in this Declaration, together with the right to add new use restrictions.

(c) The right to make amendments to this Declaration or the other Governing Documents.

(d) The right to exercise any development rights reserved or allowed in Community Association Act.

(e) The right to use and to permit others to use, easements through the Common Elements, as may be reasonably necessary.

(f) The right to appoint or remove any Director or Officer of the Association.

(g) The right to exercise any additional reserved right created by any other provision of this Declaration.

Section 7.2 Additional Reserved Rights. In addition to the rights set forth above, Declarant also reserves the following additional rights:

(a) Signs. The right to maintain signs and advertising at the Community and to advertise the Community or other communities developed or managed by or affiliated with Declarant.

(b) Dedications. The right to establish, from time to time, by dedication or otherwise, public streets, utility and other easements for purposes including, but not limited to, public access, access paths, walkways, plazas, drainage, recreation areas, parking areas, ducts, shafts, flues, conduit installation areas, and utility service, and to create other reservations, exceptions and exclusions.

(c) Use Agreements. The rights to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair, maintenance and regulation of Common Elements.

(d) Construction Easement. Declarant and its assignees expressly reserve the right to perform construction, and to store materials in the Community, and the right to control such construction, work and repairs and the right of access, until completion. All work may be performed without the consent or approval of any Home Owner or holder of a security interest. Declarant and its assignees have such an easement through the Common Elements as may be reasonably necessary for such construction and for exercising any other reserved rights in this Declaration. Such easement includes, but is not limited to, the right to excavate and to construct underground utility lines, pipes, wires, ducts, conduits, and other facilities across the Property.

(e) Access Easement. Declarant and its successors and assigns shall have an access easement to and from any real property accessible through the Community.

Section 7.3 Rights Transferable/Rights Transferred. Any rights created or reserved hereunder for the benefit of Declarant may be transferred to any Person by an instrument describing the rights transferred recorded in the real property records of Utah County. The rights transferred may then be exercised without the consent of the Association, any Owners or any holders of a security interest in a Home. Any rights created or reserved hereunder or under Community Association Act for the benefit of Declarant may also be transferred to the Association by an instrument describing the rights transferred recorded in the real property records of Utah County.

Section 7.4 No Further Authorizations Needed. The consent of Owners or holders of security interests shall not be required for exercise of any reserved rights, and Declarant or its assignees may proceed without limitation at its or their sole option. Declarant or its assignees may exercise any reserved rights on all or any portion of the property in whatever order determined. Declarant or its assignees shall not be obligated to exercise any reserved rights or to expand the Community beyond the number of Homes initially submitted.

Section 7.5 Interpretation. Recording of amendments to the Declaration and the Map or Plat pursuant to reserved rights in this Declaration shall automatically effectuate the terms and provisions of that amendment. Further, such amendment shall automatically (a) vest in each existing Owner the reallocated interests appurtenant to their Home, and (b) vest in each existing security interest a perfected security interest in the reallocated interests appurtenant to

the encumbered Home. Further, upon the recording of an amendment to the Declaration, the definitions used in this Declaration shall automatically be extended to encompass and to refer to the Community as expanded and to any additional improvements, and the same shall be added to and become a part of the Community for all purposes. All conveyances of Homes after such amendment is recorded shall be effective to transfer rights in all Common Elements, whether or not reference is made to any amendment of the Declaration or the Map. Reference to the Declaration and Map in any instrument shall be deemed to include all amendments to the Declaration and the Map without specific reference.

Section 7.6 Termination of Reserved Rights. The rights reserved to Declarant, for itself; its successors and assigns, shall expire as set forth above or in Community Association Act, unless (i) reinstated or extended by the Association, subject to whatever terms, conditions, and limitations the Board may impose on the subsequent exercise of the expansion rights by Declarant, (ii) extended as allowed by law, or (iii) terminated by written instrument executed by Declarant, recorded in the records of the Clerk and Recorder of Utah County, State of Utah.

ARTICLE 8 INSURANCE/CONDEMNATION

Section 8.1 Insurance Requirements of the Association. Commencing not later than the time of the first conveyance of a Home to a Person other than Declarant, the Association shall maintain insurance deemed appropriate by Association and as may be required by law.

Section 8.2 Distribution of Condemnation and Property Insurance Proceeds. In the event proceeds of condemnation or property insurance are paid to Association, Association shall retain such amounts.

ARTICLE 9 ARCHITECTURAL REVIEW

Section 9.1 Design Guidelines. The Architectural Committee shall adopt and publish design guidelines that shall set forth standards of design and construction applicable to all Lots (the "Design Guidelines"), which shall be consistently applied. The Architectural Committee may amend the Design Guidelines pursuant to the requirements of the Community Association Act.

Section 9.2 Required Approval. No structures, including a Home, accessory buildings, tennis courts, swimming pools, antennas (except as otherwise permitted under this Declaration), flag poles (except as otherwise permitted by the Community Association Act), fences, dog runs, walls, exterior lighting, landscaping, or any other improvements shall be constructed, erected, relocated, removed or installed on a Lot, nor shall any alteration or change to the exterior of the improvements, the exterior of a Home, to a Lot or to any structure or any attachment to the exterior of a residence (including paint, awnings, patios, decks, or shutters) be commenced unless complete plans and specifications shall have been first submitted to and approved in writing by the Architectural Committee. The Architectural Committee may require that applications of Owners and their plans and specifications show exterior design, height, materials, color, location of the structure or addition to the structure or

proposed improvement (horizontally and vertically), as well as such other materials and information as may be required by the Architectural Committee.

Section 9.3 Backyard Fencing Standard and Side Yard Fencing Restriction. Backyards and sideyards must be fenced with concrete or wrought iron fencing in accordance with the architectural guidelines, and such fencing must be completed within one (1) year of the completion of the construction of a Home.

Section 9.4 Acknowledgment of Owners. Owners acknowledge, accept and agree to the following:

(a) Owners will not commence construction or installation of an improvement until they have submitted improvement plans and specifications and received written approval from the Architectural Committee;

(b) Owners shall comply with any request by the Association for additional information relating to an improvement prior to the Committee's approval of a request and/or prior to the completion of an improvement. Failure to comply with such a request by an Owner shall result in the withdrawal of Committee approval, if previously granted;

(c) Architectural Committee approval does not constitute approval of the local building or zoning department, drainage design or structural soundness;

(d) Owners shall notify the Architectural Committee of completion of the improvement's installation or construction within ten days of such completion;

(e) Upon completion of an improvement, Owners authorize the Architectural Committee or its representative(s) to enter onto the Lot for exterior inspection;

(f) Failure of an Owner to notify the Architectural Committee of completion of an approved improvement, or refusal to allow inspection, shall result in the withdrawal of the Architectural Committee's approval;

(g) If the improvement as built does not conform to the improvement as approved by the Architectural Committee, the Architectural Committee's approval will be deemed withdrawn, and upon written request of the Architectural Committee, Owners shall, at their own expense and cost, promptly bring the improvement into compliance with the submitted and approved plans and specifications;

(h) In the event of withdrawal of Architectural Committee approval for any reason(s) cited in this Section, and upon written request from the Architectural Committee, the Owner, at his or her expense and cost, shall promptly restore the Lot to substantially the same condition as it existed prior to commencement of the improvement's installation or construction, and such withdrawal will be deemed to toll the statute of limitations as it pertains to the improvement until such time as the

improvement is brought into compliance.

Section 9.5 Architectural Criteria. The Architectural Committee shall exercise its reasonable judgment to the end that all attachments, improvements, construction, landscaping and alterations to improvements on a Lot or landscaping of a Lot shall comply with the requirements set forth in this Declaration. The approval or consent of the Architectural Committee on matters properly coming before it shall not be unreasonably withheld, and actions taken shall not be arbitrary or capricious. Approval shall be based upon, but not limited to, harmony with the other Homes, aesthetics consistent with and complimentary to the Community and such other criteria as may be set forth in adopted guidelines, and conformity with the specifications and purposes generally set forth in this Declaration. Upon its review of such plans, specifications and submittals, the Architectural Committee may require that the applicant(s) reimburse the Architectural Committee for actual expense incurred by it in its review and approval process.

Section 9.6 Establishment of the Architectural Committee. The Architectural Committee shall consist of the number of members appointed by the Board. If no Architectural Committee is appointed, the Board of Directors shall act as the Architectural Committee. The Board shall have the authority to remove any members of the Architectural Committee at their sole discretion.

Section 9.7 Reply and Communication. The Architectural Committee shall reply to all submittal of plans made in accordance with this Declaration and guidelines (if any) of the Architectural Committee, in writing within 20 days after receipt. In the event the Architectural Committee fails to take any action on submitted plans and specifications within 20 days after the Architectural Committee has received the plans and specifications, approval shall be deemed to be granted. All communications and submittals shall be addressed to the Architectural Committee in care of the Association.

Section 9.8 Condition of Approval. In the discretion of the Board or the Architectural Committee, an Owner may be required to enter into a written agreement establishing the approval of an application in recordable form acknowledged by such Owner on behalf of himself or herself and all successors-in-interest. As a condition of approval for a requested architectural change, modification, addition or alteration, an Owner, on behalf of himself or herself and his or her successors-in-interest affirms and shall assume, unless otherwise agreed in writing, all responsibilities for maintenance, repair, replacement and insurance to and on such change, modification, addition or alteration.

Section 9.9 Commencement and Completion of Construction. All improvements approved by the Architectural Committee must be commenced within 6 months from the date of approval. If not commenced within such time, then such approval shall be deemed revoked by the Architectural Committee, unless the Architectural Committee gives a written extension for commencing the work. Additionally, except with written Architectural Committee approval otherwise, and except for delays caused by strikes, fires, national emergencies, critical materials shortages or other intervening forces

beyond the control of the Owner, all work approved by the Architectural Committee shall be completed within one year of commencement.

Section 9.10 Variances. The Architectural Committee may grant reasonable variances or adjustments from any conditions and restrictions imposed by this Declaration in order to overcome practical difficulties and unnecessary hardships arising by reason of the application of the conditions and restrictions contained in this Declaration or in architectural guidelines.

Section 9.11 Right to Appeal. If the Board of Directors is not acting as the Architectural Committee, an Owner whose plans have been disapproved or conditionally approved may appeal any decision of the Architectural Committee to the Board of Directors. The Board of Directors shall review the decision of the Architectural Committee pursuant to the criteria set forth in this Article and the architectural guidelines. Any decision of the Architectural Committee may be overruled and reversed by a majority of the Directors by a written decision setting forth the reasons for the reversal when the directors conclude that the Architectural Committee's decision was inconsistent with the criteria set forth in this Article and/or the Design Guidelines.

Section 9.12 Waivers. The approval or consent of the Architectural Committee, or appointed representative of the Architectural Committee, to any application for architectural approval shall not be deemed to constitute a waiver of any right to hold or deny approval or consent by the Architectural Committee as to any application or other matters subsequently or additionally submitted for approval or consent.

Section 9.13 Liability. The Architectural Committee and the members of the Architectural Committee, as well as any representative of the Board designated to act on its behalf, shall not be liable in damages to any person submitting requests for approval or to any approval, or failure to approve or disapprove in regard to any matter within its jurisdiction under these covenants. The Architectural Committee shall not bear any responsibility for ensuring structural integrity or soundness of approved construction or modifications, or for ensuring compliance with building codes and other governmental requirements.

Section 9.14 Records. The Association shall maintain written records of all applications submitted to it and of all actions taken by it with respect to this article of the Declaration. Such records shall be open and available for inspection by any interested party during reasonable hours of the business day according to any policy adopted by the Board.

Section 9.15 Enforcement. Enforcement of these covenants, restrictions, charges and other provisions, as amended, may be by any proceeding at law or in equity against any person or persons violating or attempting to violate any such provision. The Association shall have the right but not the obligation to institute, maintain and prosecute any such proceedings. In any action instituted or maintained under this Section, the Association may be entitled to recover its costs and reasonable attorney fees incurred, as well as any and all other sums awarded by the court. Additionally or in the alternative, the Association may levy fines after notice and an opportunity for a hearing. Failure of the Association to enforce any covenant or restriction in this Section shall in no event be deemed a waiver of the right to do so subsequently.

ARTICLE 10
SPECIAL RIGHTS OF FIRST LIEN HOLDERS

Section 10.1 Rights of First Lien Holders to Notice of Certain Actions. First Lien Holder shall be entitled to timely written notice of:

(a) Any condemnation loss which affects a material portion of the Community or any Home subject to a first mortgage held, insured or guaranteed by such First Lien Holder;

(b) Any delinquency in the payment of Assessments or other Association charges by the Owner of the Home subject to a first mortgage held, insured or guaranteed by such First Lien Holder or any other default by such Owner in any obligation under the Governing Documents of which the Association has actual knowledge, when such delinquency or default remains uncured for a period of sixty (60) days;

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; or

(d) Any proposed action which would require the consent of a specified percentage of First Lien Holders as provided in this Article.

Section 10.2 Right to Pay Taxes and Insurance Premiums. Any First Lien Holder shall be entitled to pay any taxes or other charges which are in default and which may or have become a lien against a Home or any of the Common Elements and may pay any overdue premiums on hazard insurance policies or secure new hazard insurance coverage for the Common Elements or Homes if hazard insurance has not otherwise been obtained by the Association, and the First Lien Holder making such payments shall be entitled to immediate reimbursement from the Association.

Section 10.3 Financial Statements and Other Documents. The Association shall maintain copies of the Governing Documents and all amendments, as well as the Association's books, records and financial statements available for inspection by the Owners and by First Lien Holders. These materials will be made available by advance arrangement during ordinary business hours. The Association shall not be required to prepare audited financial statements, provided, however, that any First Lien Holder may have audited financial statements prepared at its expense.

ARTICLE 11
ADS SYSTEM

Section 11.1 Duty to Maintain, Repair and Replace. The Association shall maintain, repair and, if necessary, replace the ADS System.

Section 11.2 Adoption of Annual Inspection and Periodic Maintenance Plan. The Declarant hereby adopts the following Annual Inspection and Periodic Maintenance Plan for the ADS System: the Association shall (i) annually inspect the ADS System and (ii) maintain the ADS System every 12 years, all as recommended by the manufacturer of the ADS System. The Association shall amend the Annual Inspection and Periodic Maintenance Plan from time to time,

as necessary to inspect, maintain, and repair the ADS System in a manner consistent with the recommendations of the Manufacturer.

Section 11.3 Restrictions on Lot 1. The Owner of Lot 1 shall not construct any permanent structures or plant any columnar trees on that portion of Lot 1 that is directly above the location of the ADS System.

Section 11.4 Grant of ADS System Easement. Lot 1 is and shall hereafter be subject to an ADS System Easement in favor of the Association on, over, and beneath Lot 1 for the purpose of inspecting, repairing, maintaining, and/or replacing the ADS System.

Section 11.5 Indemnification. To the fullest extent permitted by law, the Association shall indemnify the City of Provo (“City”) against all expenses and liabilities, including attorneys’ fees and expenses, reasonably incurred by or imposed upon the City in any proceeding brought against the City by a Lot Owner as the result of a claim related to the ADS System.

Section 11.6 Dissolution of the Association. In the event the Association is dissolved for any reason, the duty to maintain, repair and replace the ADS System shall be borne by the then-current Lot Owners on an equal basis.

ARTICLE 12
GENERAL PROVISIONS

Section 12.1 Compliance with and Enforcement of Governing Documents.

(a) Every Owner of a Lot and occupant of a Home shall comply with the applicable provisions of the Governing Documents.

(b) The Association, acting through the Board, may enforce all applicable provisions of the Governing Documents and may impose sanctions for violation of any of the governing documents. Such sanctions may include, without limitation:

(i) imposition of reasonable monetary fines, after notice and opportunity for a hearing, which fine shall constitute a lien upon the violator’s Home (in the event that any occupant, guest, or invitee of a Home violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator; provided, however, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board);

(ii) suspension of the right to vote;

(iii) suspension of any services provided by the Association to an Owner or the Owner’s Home if the Owner is more than thirty (30) days delinquent in paying any Assessment or other charge owed to the Association;

(iv) exercise of self-help or action to abate any violation of the Governing Documents in a non-emergency situation;

(v) requiring an Owner, at the Owner's expense, to remove any structure or improvement on such Owner's Home in violation of the Governing Documents and to restore the Home to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass;

(vi) institution of suit at law or in equity to enjoin any violation or to recover monetary damages or both; and

(vii) levy of specific Assessments to cover costs incurred by the Association to bring a Home into compliance with the Governing Documents.

(c) All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, the prevailing party shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs reasonably incurred in such action.

(d) The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action.

Section 12.2 Severability. Each of the provisions of this Declaration shall be deemed independent and severable. If any provision of this Declaration or the application of this Declaration to any Person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this Declaration which can be given effect without the invalid provisions or applications.

Section 12.3 Term of Declaration. The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity.

Section 12.4 Amendment of Declaration, Map or Plat by Declarant. Declarant may amend this Declaration at any time during the period of Administrative Control without obtaining the approval of any Owners or First Lien Holders.

Section 12.5 Amendment of Declaration by Owners. Following the period of Administrative Control, any provision, covenant, condition, restriction or equitable servitude contained in this Declaration may be amended or repealed at any time and from time to time upon approval of at least 51% of the total number of votes of the Members of the Association entitled to be cast.

Section 12.6 Termination. This Declaration may be terminated in the manner as provided for and allowed for in Community Association Act.

Section 12.7 Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any paragraph, section or article of this Declaration.

Section 12.8 Interpretation. The provisions of this Declaration shall be liberally construed


to effectuate their purposes of creating a uniform plan for the development of the Homes and of promoting and effectuating the fundamental concepts as set forth in the recitals of this Declaration. This Declaration shall be construed and governed under the laws of the State of Utah.

Section 12.9 Singular Includes the Plural. Unless the context otherwise requires, the singular shall include the plural, and the plural shall include the singular, and each gender referral shall be deemed to include the masculine, feminine and neuter.

[remainder of page intentionally left blank; signature page follows]

IN WITNESS WHEREOF, the undersigned has executed and delivered this Amended and Restated Declaration effective as of the date first written above.


THE PRESERVE AT RIVERWOODS, LLC
a Utah limited liability company

By: 
Name: DAVID BROTHERSON
Title: Manager

STATE OF UTAH)
COUNTY OF UTAH)

The foregoing Amended and Restated Declaration was acknowledged before me on this 20 day of JUNE, 2017, by DAVID BROTHERSON as authorized agent for The Preserve at Riverwoods, LLC, a Utah limited liability company.

Witness my hand and official seal.


Notary Public
My Commission Expires: 06-23-2019

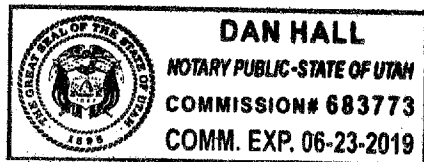


EXHIBIT A

Description of Property

The following property located in Provo, Utah County, State of Utah:

Commencing at a point located North 00°44'43" West along the Section line 24.79 feet and West 2285.70 feet from the East quarter corner of Section 24, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence North 89°54'24" West along 3700 North Street 280.85 feet; thence along said 3700 North Street along the arc of a 859.00 foot radius curve to the left 72.60 feet (chord bears South 87°40'19" West 72.58 feet); thence North 00°26'02" West 358.42 feet; thence South 89°55'52" East along Hidden Haven Estates and Riverwood Estates Subdivisions 343.14 feet; thence along said Riverwood Estates the following 3 courses: South 17°13'12" East 18.63 feet, North 82°41'59" East 6.93 feet, South 00°04'21" West 139.09 feet; thence South 89°28'03" West along Cheesman Subdivision 0.81 feet; thence South 00°26'32" East along said subdivision 199.49 feet to the point of beginning.

AREA=2.89 acres

EXHIBIT B

Association Bylaws

(attached)

**BYLAWS
OF
THE PRESERVE AT RIVERWOODS HOMEOWNERS ASSOCIATION, INC.**

The following are the Bylaws for The Preserve at Riverwoods Homeowners Association, Inc., a Utah non-profit corporation (the “*Association*”), pursuant to the Utah Revised Nonprofit Corporation Act, Utah Code Ann. § 16-6a-101 et seq., as amended (the “*Nonprofit Act*”).

**ARTICLE I
LOCATION**

The initial principal office of the Association shall be located at Nine Exchange Place, Suite 600, Salt Lake City, Utah 84111, but meetings of the Members and the members of the Board may be held at such places within the State of Utah as may be designated by the Board.

**ARTICLE II
DEFINITIONS**

All terms used but not defined herein shall have the meanings given them under that certain Declaration of Covenants, Conditions and Restrictions recorded on May 5, 2017, as Entry No. 43774:2017 in the Official Records of the Utah County Recorder, wherein The Preserve at Riverwoods, LLC is designated as “Declarant” (the “*Declaration*”), applicable to the Property, and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth herein at length, the Nonprofit Act and the Utah Community Association Act, Utah Code Ann. § 16-6a-101 et seq., as amended (the “*Association Act*”).

**ARTICLE III
MEETINGS OF MEMBERS**

Section 3.1 Annual Meetings. Unless otherwise determined by the Association and subject to notice thereof as provided in Section 3.3 below, annual meetings of the Members shall be held on the second Wednesday of April of each year commencing in the year 2018, and each subsequent regular annual meeting of the Members shall be held on the same day of the same month of each year thereafter, at the hour of 7:00 p.m. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 3.2 Special Meetings. Special meetings of the Members may be called by or at the request of the President of the Association or by the Board (as defined below), or upon written request of at least fifty percent (50%) of the Members.

Section 3.3 Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the person authorized to call the meeting, by emailing or, if requested by any Members, mailing, a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to each Member (but no more than sixty (60) days before the

meeting date) entitled to vote thereafter addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 3.4 Quorum. Except as otherwise required in the Declaration, a quorum required for any action by the Members shall exist if a least fifty percent (50%) of the Members are present at a meeting.

Section 3.5 Proxies. Any Member entitled to vote may vote by proxy at any meeting of the Members (and at any adjournment thereof) which is specified in such proxy, provided that his or her proxy is executed in writing by such Member or his or her duly authorized attorney in fact.

Section 3.6 Membership. Membership in the Association shall at all times consist exclusively of the owners of the Lots governed by the Declaration, and each Member shall be a member of the Association so long as he shall be an owner of a Lot and such membership shall automatically terminate when he ceases to be an owner of a Lot. Upon the transfer of ownership of a Lot, the new Member succeeding to such ownership interest shall likewise succeed to Membership in the Association. If more than one person or entity hold and ownership interest in a Lot, each owner shall be a Member of the Association.

Section 3.7 Voting. Voting rights for Members, including Declarant, shall be as set forth in the Declaration. As set forth in the Declaration:

- (a) Declarant shall have one vote for each Lot owned by Declarant;
- (b) Each Member of each Lot shall be entitled to one vote on all matters presented to the Members for their approval. If more than one person or entity owns an interest in the same Lot, such owners shall collectively be entitled to cast one vote on all matters presented to such Members.
- (c) Except as otherwise provided in the Declaration or Nonprofit Act, the affirmative vote of a majority of the votes of the Members entitled to vote on any matter shall constitute approval of such matter.

Section 3.8 Waiver; Action Without a Meeting. No call or notice of any meeting of the Members shall be necessary if waiver of call and notice is signed by all the members of the Association pursuant to Section 16-6a-705 of the Nonprofit Act, or any amendment thereto. Subject to the provisions of Section 16-6a-705 of the Nonprofit Act, attendance by any member of the Association at a meeting shall constitute a waiver of notice to said meeting. Pursuant to Section 16-6a-707 of the Nonprofit Act, any action that may be taken at any annual or special meeting of the Members may be taken without a meeting and without prior notice, if one or more consents in writing, setting forth the action taken, are signed by the members having not less than the minimum voting power that would be necessary to authorize or take the action at a meeting at which all Members entitled to vote on the action were present and voted. Unless the written consent of all Members entitled to vote have been obtained, notice of any Member approval without a meeting shall be given at least ten

(10) days before the consummation of the transaction, action or event authorized by the Member action to those Members entitled to vote who have not consent in writing and any other persons required by Section 16-6a-707(2) of the Nonprofit Act.

ARTICLE IV BOARD, SELECTION AND TERM OF OFFICE

Section 4.1 Number of Board Members. Subject to the provision of the Declaration, the affairs of the Association shall be managed by a Board, which shall initially constitute two (2) Board members during the period of administrative control (as used in these Bylaws, such term shall have the meaning ascribed to such term in the Association Act) of the Association. Following the period of administrative control, the Association shall be governed by a Board of three (3) individuals who shall be appointed, replaced and removed by the vote of more than fifty percent (50%) of the Members. The Board shall constitute the governing body of the Association. Except as otherwise provided in the Declaration, the Board may act in all instances on behalf of the Association. Except for Board members elected or appointed by Declarant, each Board member shall be a Member (or if an Member is a corporation, partnership, limited liability company, or trust, a Board member may be an officer, partner, member, manager, trustee or beneficiary of such Member). If a Board member shall cease to meet such qualifications during his term, he will thereupon cease to be a Board member and his place on the Board shall be deemed vacant. The number of members of the Board may be increased or decreased (but not below three (3) members) by the affirmative vote of either (i) fifty percent (50%) of the Members, or (iii) fifty percent (50%) of the then-serving members of the Board; provided however, that no reduction in the size of the Board can eliminate the office of any member of the Board then-serving.

Section 4.2 Term of Office. Each Board member, unless he resigns, is removed or is otherwise disqualified to serve, shall serve for a period of approximately two (2) years after his initial appointment, commencing on the day after the date of the annual meeting whereupon such person was appointed and ending upon the later of (i) the end of day upon which the second annual meeting after such member was appointed is held, and (ii) the date such member's successor is appointed. Notwithstanding the preceding, the term of one of the initial Board members appointed immediately following the period of administrative control shall be one (1) year to provide for a staggered Board.

Section 4.3 Removal. Any Board member (other than a Board member appointed by the Declarant pursuant to Section 3.7 hereof) may be removed from the Board, with or without cause, by a fifty percent (50%) of the Members of the Association. In the event of death, resignation or removal of a Board member prior to then end of his then-existing term, his successor shall be selected by the remaining Board members and shall serve for the unexpired term of his predecessor.

Section 4.4 Compensation. No Board member shall receive compensation for any service he may render to the Association. However, any member of the Board may be reimbursed for his actual expenses incurred in the performance of his duties upon the approval by the Board.

Section 4.5 Action Taken Without a Meeting. Pursuant to Section 16-6a-813 of the Nonprofit Act, any action required or permitted to be made by the Board at a meeting may be taken without a meeting if each and every member of the Board in writing either (a) votes for the action, or (b)(i)(A) votes against the action, or (B) abstains from voting, and (ii) waives the right to demand that action not be taken without a meeting. Action is taken without a meeting if the affirmative vote for the action equals or exceeds the minimum number of votes that would be necessary to take the action at a meeting at which all of the members of the Board were present and voted.

ARTICLE V NOMINATION AND ELECTION OF BOARD MEMBERS AFTER PERIOD OF ADMINISTRATIVE CONTROL

Section 5.1 Nomination. Nomination for election to the Board shall be made by the Board. Nominations may also be made from the floor at the annual meeting of the Members. The Board shall make as many nominations as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

Section 5.2 Election. Election to the Board shall be by secret written ballot. At such election the Members or their proxies may cast in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting shall not be permitted.

Section 5.3 Applicability. The provisions of Sections 5.1 and 5.2 shall apply to the election of Board members after the period of administrative control. During the period of administrative control, all Board members shall be elected or appointed by Declarant in accordance with Section 3.7 of these Bylaws and the Declaration.

ARTICLE VI MEETINGS OF THE BOARD

Section 6.1 Regular Meetings. Regular meetings of the Board shall be held at least annually at such time and date as shall be determined by the Board. Assessments for the upcoming year shall be fixed at the annual meeting or as otherwise determined by the Board.

Section 6.2 Special Meetings. Special meetings of the Board shall be held when called by the President of the Association, or by any two Board members, after not less than three days notice to each Board member. Such notices shall advise each Board member of the time, place and general purpose of the meeting, and shall be delivered personally, or shall be given by telephone or telegram, or, if sent by mail, such three (3) days' notice shall be deemed to have been given if the notice is postmarked at least five (5) days before the date of the meeting. By unanimous consent of the Board members, special meetings of the Board may be held at any time without call or notice, or waiver of call and notice.

Section 6.3 Quorum. A majority of the number of Board members shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Board members present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

**ARTICLE VII
POWERS AND DUTIES OF THE BOARD; DELEGATION OF POWERS AND
DUTIES**

The Board shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law, the Declaration, the Articles or these Bylaws directed to be exercised and done by the Members. The powers of the Board shall include, but not be limited to, the following:

(a) To provide the necessary management and accounting and other services required in connection with operation and maintenance of the Project;

(b) To enforce liens against Lots in the event of default by an Member in payment of money under the Declaration, and to enforce any other provisions thereof;

(c) To authorize in their discretion refunds of excess Assessments;
and

(d) To enforce such rules and regulations pertaining to use and occupancy of the Lots and Common Areas and Facilities, as may be adopted by the Association and which are consistent with these Bylaws, the Articles and the Declaration (the "**Rules and Regulations**").

In the Board's discretion, the Board shall have the right to assign and delegate its power and authority over day-to-day management decisions to officers or third party management companies as the Board may deem appropriate.

**ARTICLE VIII
OFFICERS AND THEIR DUTIES**

Section 8.1 Enumeration of Offices. The officers of this Association shall at least be a president and secretary, who shall at all times be members of the Board, and such other officers as the Board may from time to time by resolution create. The elected or appointed officers of the Association need not be Members.

Section 8.2 Election of Officers. The election of officers shall take place at an annual meeting of the Board members; provided, however, that elections of additional officers may be held at any other meeting of the Board specifically called for such purpose.

Section 8.3 Term and Vacancies. The officers of this Association shall be elected by the Board until he/she shall sooner resign, or shall be removed, or otherwise disqualified to serve. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 8.4 Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 8.5 Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 8.6 Duties. The duties of the officers are as follows:

President: The president shall preside at all meetings of the Board shall see that orders and resolutions of the Committee are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes. The president shall have the power to prepare, execute, certify and record amendments to the Declaration on behalf of the Association.

Secretary: The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Committee and of the Members; keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Committee.

Section 8.7 Election of Officers During Period of Administrative Control. Notwithstanding anything to the contrary contained in this Article VIII, during the period of Administrative Control, all officers of the Association shall be elected or appointed by Declarant in accordance with Section 3.7 of these Bylaws.

ARTICLE IX COMMITTEES

The Board may, if it elects, appoint such committees as deemed appropriate in carrying out its purposes.

ARTICLE X AMENDMENTS; ORDER OF PRECEDENCE

During the period of administrative control, the Board, at any regular or special meeting, shall have the power to make, amend, and repeal the Bylaws by vote of a majority of the Board, provided that written notice of intention to make, amend or repeal the Bylaws in whole or in part shall have been given in the notice of the meeting. After the period of administrative control, at a regular or special meeting, the Members shall have the power to make, amend, and repeal the Bylaws by vote of at least 67% of the votes in the Association, provided that written notice of intention to make, amend, or repeal the Bylaws in whole or in part shall have been given in the notice of the meeting. These Bylaws may not be amended in a manner that is inconsistent with or conflicts with the terms of the Declaration or Articles of Incorporation of the Association, and in the event of any such amendment which is inconsistent or conflicts, the amendment shall be considered void. Any discrepancies or conflicts between the provisions of the Utah Code Annotated, the Declaration, the Articles and Bylaws, and the Rules and Regulations shall, unless otherwise provided, be resolved by giving priority first to the statutes, second to the Declaration, third to the Articles, fourth to the Bylaws, and fifth to the Rules and Regulations.

**ARTICLE XI
FISCAL YEAR**

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

MANAGER'S CERTIFICATE

I, THE UNDERSIGNED, being the Manager of The Preserve at Riverwoods, LLC, does hereby certify the foregoing to be the BYLAWS of such The Preserve at Riverwoods, LLC, as adopted by the Board on June 20, 2017.

By: 

Name: William David Brotherson

Title: Manager

EXHIBIT C

Site Plan and Depiction of Common Elements

(attached)

Site Plan – Preserve at Riverwoods

