

ENT 67692:2008 PG 1 of 28  
RANDALL A. COVINGTON  
UTAH COUNTY RECORDER  
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RECORDED FOR SMITH, ELIZABETH

**RESTATED AND AMENDED**

**DECLARATION OF**

**COVENANTS, CONDITIONS, AND**

**RESTRICTIONS**

**of**

**Brookwood Estates South Subdivision**

**Springville, Utah**

Originally Developed by

SPRING CREEK DEVELOPMENT, INC.  
P.O. BOX 511, SPRINGVILLE, UTAH 84663  
(801)489-6502

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**RESTATED AND AMENDED  
DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
OF  
BROOKWOOD ESTATES SOUTH SUBDIVISION**

THIS DECLARATION is made and executed this 9<sup>th</sup> day of June, 2008, by the Brookwood Estates Homeowners' Association, Springville, Utah.

**RECITALS**

A. This Restated and Amended Declaration ("Declaration") supercedes and replaces that certain Declaration of Covenants, Conditions, and Restrictions of the Brookwood Estates South Subdivision made by Spring Creek Development, Inc., a Utah corporation ("Prior Declarant") and recorded in the records of Utah County on March 4, 1997, including any amendments thereto ("Prior Declaration"). This Declaration pertains to and governs the property more particularly described in Article II of this Declaration.

B. Brookwood Estates Homeowners' Association ("Declarant") desires to continue to provide for preservation of the values and amenities of the Property and for maintenance of the Landscape and Fence Easement. To this end, and for the benefit of the Property and of the Owners, Declarant desires to subject the Property described in Article II of this Declaration to the covenants, restrictions, easements, charges, and liens herein set forth.

C. Declarant deems it desirable, for the efficient preservation of the values and amenities of the property, to maintain and continue the Brookwood Estates Homeowners' Association, which was created by the Prior Declaration, and which possesses the power to maintain and administer the Landscape and Fence Easement, to collect and disburse the assessments and charges herein provided for, and otherwise to administer and enforce the provisions of this Declaration.

D. NOW, THEREFORE, Declarant hereby covenants, agrees, and declares that all of the Property described in Article II shall be held, transferred, sold, conveyed, occupied, and used subject to the covenants, conditions, restrictions, easements, charges, assessments, obligations, and liens herein.

**I. DEFINITIONS**

1.1 Accessory Structure shall mean any structure that is not a Living Unit, but that is constructed on a Lot, such as a shed, patio cover, gazebo, pool house, trellis, sunshade, etc.

1.2 Architectural Control Committee ("ACC") shall mean that committee more fully described in Article IX, below, appointed by the Board, which is responsible for ensuring that the building and landscaping improvements in the Development conform to certain appearance and design specifications, as explained in this Declaration.

1.3 Association shall mean and refer to the Brookwood Estates Homeowners' Association, a Utah nonprofit organization.

1.4 Board shall mean and refer to the Board of Directors of the Association as duly elected in accordance with the terms of the Articles of Incorporation and Bylaws of the Association.

1.5 Compliance Committee shall mean that committee more fully described in Article IX, below, appointed by the Board, which is responsible for ensuring that the use and maintenance of the Lots and Living Units in the Subdivision conform to the requirements of this Declaration.

1.6 Declaration shall mean this Restated and Amended Declaration of Covenants, Conditions, and Restrictions.

1.7 Development shall refer to and consist of the Property described in Article II, below. Development shall be synonymous with Subdivision in this Declaration.

1.8 Landscape and Fence Easement shall refer to that area fronting along 1700 East and adjacent to the entrances to the Development, in which the Association has retained an easement to install, maintain, and control landscaping, fencing, and entrance monumentation for the benefit of all Owners of Lots within the Subdivision.

1.9 Living Unit shall mean a structure which is designed and intended for use and occupancy as a single-family residence, constructed on a Lot in the Subdivision.

1.10 Lot shall mean and refer to any one of the 64 separately numbered and individually described plots of land described on a plat (a) which is intended to be owned in fee simple by an individual or individuals, rather than by an association of Owners; and (b) which is intended to be used as the site of a single Living Unit.

1.11 Member shall mean a person who holds a membership in the Association. Membership in the Association occurs when any person acquires a fee title ownership interest in a Lot.

1.12 Mortgage shall mean any mortgage, deed of trust, or contract made by an Owner with a lender for the purpose of encumbering any Lot or property in the Development.

1.13 Mortgagee shall mean the person or entity that holds a duly recorded mortgage, deed of trust, or like instrument on any Lot in the Development. A Mortgagee is not an "Owner" unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

1.14 Owner shall mean one who holds a fee title to a Lot in the Subdivision. Only Owners can be Members of the Association. If there are multiple owners of a single Lot, such multiple owners are only entitled to one vote (or membership) per Lot.

1.15 Plat shall refer to any subdivision plat, any plat of a planned unit development, or any plat or map similar to such (a) which covers the Property or a portion thereof, (b) which describes or creates one or more Lots, (c) on which or in an instrument recorded in conjunction therewith there is expressed the intent that the Subdivision created by the Plat shall comprise the Development; and (d) which is filed for record in the office of the Recorder of Utah County, Utah. Recorded under the Prior Declaration was a Subdivision Plat of Brookwood Estates South Subdivision, executed and acknowledged by Prior Declarant, creating separately numbered lots. All of the following are part of the Brookwood Estates South Subdivision: Plat A--comprising Lots 24 – 41 of the Subdivision; Plat B--comprising Lots 42-48 of the Subdivision; Plat C—comprising Lots 49-58 of the Subdivision; Plat D—comprising Lots 59-62 of the Subdivision; Plat E—comprising Lots 63-65 and 68-69 of the Subdivision; Plat F—comprising Lots 1-8 of the Subdivision; and Plat G—comprising Lots 9-19 of the Subdivision.

1.16 Prior Declarant, also referred to as Former Declarant or developer, is Spring Creek Development, Inc., a Utah corporation, whose principal was Matthew A. Mecham. Prior Declaration is the Declaration of Covenants, Conditions and Restrictions of Brookwood Estates South Subdivision recorded by the Prior Declarant on March 4, 1997, and all duly recorded amendments or addenda thereto.

1.17 Property shall mean and refer to all of the real property which is covered by the Brookwood Estates South Subdivision Plat, including all of the lots named in section 1.15 above, and described more particularly in Article II, below.

1.18 Subdivision shall mean and refer to the entire residential development of Brookwood Estates South Subdivision.

## **II. PROPERTY DESCRIPTION AND FORM OF CONVEYANCE**

2.1 Description. The Property which is and shall be held, transferred, sold, and occupied subject to the provisions of this Declaration consists of the Brookwood Estates South Subdivision, Utah County, State of Utah, and more particularly described as the real property in the legal description below:

SEE THE LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT  
“A” AND INCORPORATED HEREIN BY REFERENCE.

2.2 Exclusions. The Property shall exclude all presently existing or to be constructed or installed sewer lines, water mains, gas lines, electrical conduits, telephone lines, and related facilities to the extent that they are located outside the Lots included in the above-described tract; provided, however, that lines and systems specifically conveyed to the Association by Prior Declarant shall not be included within this exclusion.

2.3 Property Subject to Liens and Other Reservations. The Property and excluded facilities are subject to legally enforceable liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all patent reservation and exclusions; all mineral reservations and exclusions; all mineral reservations of record and rights incident thereto; all instruments of record which affect the

above-described tract or any portion thereof, including any mortgage or deed of trust; all visible easements and rights-of-way; and all easements and rights-of-way of record.

2.4 Form for Conveyance. Any deed, lease, mortgage, deed of trust, or other instrument conveying or encumbering title to a Lot shall describe the interest involved substantially as follows:

Lot No. \_\_\_\_\_, contained within the BROOKWOOD ESTATES SOUTH SUBDIVISION, Plat [A, B, C, D, E, F, or G], as the same is identified in the Plat recorded as Map Filing No. \_\_\_\_\_, Entry No. \_\_\_\_\_, and in the "Declaration of Covenants, Conditions, and Restrictions of Brookwood Estates South Subdivision," recorded in Book \_\_\_\_\_ at Page \_\_\_\_\_, of the official records of the Utah County Recorder.

### **III. MEMBERSHIP AND VOTING RIGHTS**

3.1 Membership. Every Owner shall be a Member of the Association. Membership in the Association shall be mandatory, shall be appurtenant to the Lot in which the Owner has the necessary interest, and shall not be separated from the Lot to which it pertains.

3.2 Voting Rights. The Association shall have one class of membership, which is described as follows: Members shall be all Owners and each Member shall be entitled to one vote for each Lot in which that Member holds the interest required for membership in the Association. In no event, however, shall more than one vote exist with respect to any Lot.

3.3 Multiple Ownership Interests. In the event there is more than one owner of a particular Lot, the vote relating to such Lot shall be exercised as such owners determine among themselves. A vote cast at any Association meeting by any of such Owners, whether in person or by proxy, or cast by written ballot, shall be conclusively presumed to be the vote attributable to the Lot concerned unless an objection is immediately made by another Owner of the same Lot. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.

### **IV. ASSESSMENTS**

4.1 Personal Obligation and Lien. Each Owner shall, by acquiring or in any way becoming vested with his interest in a Lot, be deemed to covenant and agree to pay to the Association the regular and special assessments described in this Article, together with interest and any costs of collection. All such amounts shall be, constitute, and remain (a) a charge and continuing lien upon the Lot with respect to which such assessment is made; and (b) the personal obligation of the person who is the Owner of such Lot at the time the assessment falls due. No Owner may exempt himself or his Lot from liability for payment of assessments by waiver of his rights as a voting Member or by abandonment of his Lot. In a voluntary conveyance of a Lot, the grantee shall be jointly and severally liable with the grantor for all such unpaid assessments, late payment fees, interest, and costs of collection, including reasonable attorneys fees, which shall be a charge on the Lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore.



4.2 Purpose of Assessments. Assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety, and welfare of residents of the Property, including, but not limited to, the appearance and aesthetics of the Development. The use made by the Association of funds obtained from assessments may include, but is not limited to, maintenance, repair, and improvement of the Landscape and Fence Easement to the extent undertaken by the Association, obtaining and maintaining insurance, and payment of expenses necessary or desirable to enable the Association to perform its obligations under this Declaration, the Articles of Incorporation, and the Bylaws

4.3 Regular Assessment. Each Lot shall be subject to a regular assessment, in an amount and upon such frequency as the Board directs. Such assessments may be levied on a monthly, semi-annual, or annual basis, at the discretion of the Board. The maximum assessment shall not be more than Twenty Dollars (\$20) per month or Two Hundred Forty Dollars (\$240) per year and may only be increased if assented to by a majority of the Members present in person or represented by proxy at a meeting duly called for such purposes. Written notice setting forth the purpose of the meeting shall be sent to all Members at least Ten (10) but not more than Thirty (30) days prior to the meeting date. The Board may from time to time and in its discretion set the amount of the regular assessment at any sum not in excess of the then-applicable maximum amount.

4.4 Special Assessments. The Association may levy special assessments for the purpose of defraying, in whole or part, expenses not reasonably capable of being fully paid with funds generated by regular assessments. Any such special assessment must be assented to by a majority of the Members present in person or represented by proxy at a meeting duly called for such purposes. Written notice setting forth the purpose of the meeting shall be sent to all Members at least Ten (10) but not more than Thirty (30) days prior to the meeting date.

4.5 Reimbursement Assessment. In addition to the regular and special assessments authorized pursuant to sections 4.3 and 4.4, above, the Board may levy at any time additional special assessments (a) on each Lot the Owner, occupant, or guest of which shall cause any damage to the public streets or Landscape and Fence Easement necessitating repairs and for which the Association would be responsible; and (b) on each Lot as to which the Association shall incur expense for maintenance or repair work performed, or enforcement action taken, pursuant to any provision of this Declaration. These assessments shall be known as "Reimbursement Assessments." The aggregate amount of any Reimbursement Assessment shall be determined by the cost of such improvements, repairs, maintenance, or enforcement action, including all overhead and administrative costs and attorneys' fees, and shall be allocated among the affected Lots according to the special benefit or cause of damage, as the case may be, and such assessment may be made in advance of the performance of the work. If a special benefit arises from any improvement which is part of the general maintenance obligations of the Association, it shall not give rise to a Reimbursement Assessment against the Lots benefited.

4.6 Penalty Assessment. In the event a Member repeatedly or continuously violates the provisions of this Declaration, after a minimum of three requests to comply, the Association may levy a Penalty Assessment of an amount to be determined by the Board, which assessment may be increased monthly for repeated or continuous infractions and may become a lien against the Property at the discretion of the Board.

4.7 Uniform Rate of Assessment. Except as provided in sections 4.5 and 4.6, above, regular and special assessments shall be fixed at a uniform rate for all Lots.

4.8 Regular Assessment Due Dates and Late Fees. The obligation to pay regular assessments shall arise as to all Lots on the date a deed is recorded for the benefit of the purchaser of a Lot, or if the sale is by way of a contract of sale, on the date the contract is executed by the parties thereto, or the date of the occupancy agreement, or the date the Owner actually takes possession of a Lot, whichever first occurs. The Board shall establish the due date and frequency of regular assessments. All regular assessments shall be due and payable within ten (10) days of the due date specified by due notice from the Board. Assessments not paid within ten days of the due date shall be deemed late and be subject to a late fee of Twenty-five Dollars (\$25). The Board shall give Members written notice of the due date and amount of Regular Assessment at least fifteen (15) days in advance of the due date.

4.9 Certificate Regarding Payment. Upon the request of any Owner or prospective purchaser or encumbrancer of a Lot, the Association shall issue a certificate stating whether or not all assessments respecting such Lot are current and, if not, the amount of the delinquency. Such certificate shall be conclusive in favor of all persons who, in good faith, rely thereon.

4.10 Effect of Nonpayment; Remedies. Any assessment not paid when due shall, together with interest and costs of collection, constitute and remain a continuing lien on the affected Lot; provided, however, that any such lien will be subordinate to the lien or equivalent security interest of any first mortgage on the Lot recorded prior to the date any such assessment became due. If the assessment is not paid within sixty (60) days after the date on which it becomes delinquent, the amount thereof shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum and the Association may bring an action either against the Owner, who is personally liable, or to foreclose the lien against the Lot. Any judgment obtained by the Association shall include reasonable attorneys' fees, court costs, and each and every expense incurred by the Association in enforcing its rights.

## **V. DUTIES AND POWERS OF THE ASSOCIATION**

5.1 Duties of the Association. Without limiting any other duties imposed on the Association by its Articles of Incorporation, Bylaws, or this Declaration, the Association shall have the obligation to do each of the following for the benefit of the Owners and the maintenance and improvement of the Property:

- (a) Accept Members. Accept all Owners as Members of the Association.
- (b) Maintain Landscape and Fence Easement. Maintain, repair, and replace the landscaping and fence in the Landscape and Fence Easement and monumentation and lighting in the entrance area. Each Owner of a Lot adjacent thereto nevertheless has an obligation to maintain the side of the fence that faces the Owner's property.
- (c) Pay Taxes. Pay all real property taxes and assessments levied upon any portion of the Fence and Landscape Easement, to the extent not assessed to or paid by the Owners directly, provided that the Association shall have the right to contest or compromise any such taxes or assessments.

(d) Obtain Insurance. Obtain and maintain in force the policies of insurance required by this Declaration or otherwise deemed required by the Association.

(e) Enforce Declaration; May Hire Managing Agent. Enforce and carry out the provisions of this Declaration, through the Board, through duly appointed committees, or through a responsible firm, person, or other entity which would act as a managing agent for the Association. Such managing agent would have those administrative functions and powers delegated to it by the Board. The compensation of the managing agent shall be specified by the Board. Any agreement appointing a managing agent shall be terminable by either party, with or without cause and without payment of any termination fee, upon thirty (30) days written notice thereof; and the terms of any such agreement may not exceed one year, renewable by agreement of the parties for successive periods. Any managing agent shall be an independent contractor and not an agent or employee of the Association.

5.2 Powers and Authority of the Association. The Association shall have all the powers set forth in its Articles of Incorporation, its Bylaws, the Utah Code provisions for nonprofit corporations, and this Declaration. Without in any way limiting the generality of the foregoing, the Association shall have the following enumerated powers:

(a) To levy and collect assessments, as provided herein.

(b) To enter upon a Lot, without liability to any Owner for trespass, damage, or otherwise, for the purpose of maintaining and repairing such Lot or any improvement thereon if for any reason the Owner fails to maintain and repair such Lot or improvement, or for the purpose of removing any improvement constructed, altered, or maintained upon such Lot in violation of this Declaration. The Association shall also have the power and authority from time to time in its own name, on its own behalf, or in the name and behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration or any rules and regulations promulgated by the Board, or to enforce by mandatory injunction or otherwise all of the provisions of this Declaration and such rules and regulations;

(c) To pay any and all liens placed upon any Living Unit in fulfilling any of its duties under this Declaration, including the maintenance and repair of the exterior of Living Units, to the extent necessitated by the failure of Owners of such Lots, and to the extent deemed necessary by the Association, through the Board, and provided that any contract for goods or services having a term of more than one (1) year shall state that it may be terminated by either party at the end of the first year or at any time thereafter upon no less than thirty (30) days written notice;

(d) To provide for the maintenance of the Landscape and Fence Easement, by contract or otherwise, including construction and repair of said property;

(e) To delegate to a managing agent, by resolution or contract, any of its powers under this Declaration, provided, however, that the Board cannot delegate the power to execute any contract binding on the Association for a sum in excess of One Thousand Dollars (\$1,000); and

(f) To fulfill the duties and responsibilities of the Association described herein or otherwise necessary to accomplish the goals and desires of the Association.

5.3 Association Rules. The Board, from time to time and subject to the provisions of this Declaration, may adopt, amend, repeal, and enforce rules and regulations

governing, among other things: (a) the Landscape Easement; (b) the collection and disposal of refuse; (c) the maintenance of animals on the Property; (e) the use of Living Units for business or rental purposes; and (d) the construction and design of buildings or landscaping in the Development; and (f) any other matters concerning the use and enjoyment of the Property and the conduct of residents related thereto.

5.4 Limitation of Board's Liability. No member of the Board acting in good faith shall be personally liable to any Owner, guest, lessee, or any other person for any error or omission of the Association, its representatives and employees, the Board, any committee, or the managing agent.

5.5 Insurance. The Association, through the Board, shall secure and at all times maintain the following insurance coverage:

(a) A policy or policies insuring the Owners, the Board, the Association and its directors, officers, agents, and employees against any liability which may arise among themselves, to the public, to any invitees or tenant of the Property, or to an Owner or Owners, from the good-faith exercise of the duties and powers described herein or in the Articles of Incorporation, the Bylaws, or any rules and regulations promulgated by the Association, the Board, or a managing agent. Limits of liability under such insurance shall be not less than \$250,000 for any one person injured, \$1,000,000 for all persons injured in any one accident, and \$100,000 for property damage resulting from one occurrence. Such policies shall be issued on a comprehensive liability basis and shall provide a cross-liability endorsement pursuant to which the rights of the named insured as between themselves are not prejudiced.

(b) The named insured under such policy or policies shall be in form and substance similar to: "The Brookwood Estates Homeowners' Association for the use and benefit of the individual Lot Owners and Mortgagees, as their interests may appear."

(c) In addition, the Association shall secure and at all times maintain insurance against such risks as are or hereafter may be customarily insured against in connection with developments similar to the Property.

(d) All policies shall be written by a company holding a rating of "AA" or better from Best's Insurance Reports.

(e) The Association shall have the authority to adjust losses.

(f) Insurance secured and maintained by the Association shall not be brought into contribution with insurance held by the individual Owners or their Mortgagees.

(g) Each policy of insurance obtained by the Association shall, if reasonably possible, provide a waiver of the insurer's subrogation rights with respect to the Association, the directors, officers, agents, and employees, the Owners, their invitees, and tenants; provide that the policy cannot be canceled, suspended, or invalidated due to the conduct of any particular Owner or Owners; that it cannot be canceled, suspended, or invalidated due to the conduct of the Association or of any director, officer, agent, or employee of the Association without a prior written demand that the defect be cured, and opportunity to do so; that any "no other insurance" clause therein shall not apply with respect to insurance held individually by Owners.

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**VI. BUILDING AND SITE REQUIREMENTS**

6.1 Use of Lots and Living Units. All Lots are intended to be improved with Living Units and are restricted to such use. No gainful occupation, profession, trade, or other non-residential use shall be conducted on any Lot or Living Unit. Home-based businesses shall be allowed only with the approval of the Board and shall be subject to periodic review. If any such business creates a nuisance or otherwise violates any provision herein such approval may be immediately withdrawn. No Lot or Living Unit shall be used, occupied, or altered in violation of law or this Declaration, or to jeopardize the rights or peaceful habitation of any other Owner, or in a way which would result in an increase in the cost of any insurance covering the activities of the Association.

6.2 Architectural Design Concept and Approval. The intent of this Declaration is to create and maintain a development of traditional style homes which are of comparable design, size, and value. All homes must exhibit superior architectural design, detail, and use of above-average new materials (except used brick) with conventional construction methods. Only single-story (rambler), one- and one-half story, and two-story homes will be allowed. Split-level, bi-level, multi-level, or other style homes are not allowed. Log homes and prefabricated or re-constructed homes will not be allowed. All construction designs for building or remodeling any Living Unit in the Development must be submitted to and approved by the ACC pursuant to Article IX of the Declaration.

6.3 Living Unit Location. The Living Unit shall be located solely inside the front, rear, and side-yard setbacks described below and shall be oriented as directed and approved by the Architectural Control Committee, in accordance with Article VII, below.

(a) Living Unit Set-backs. No Living Unit shall be located nearer than thirty (30) feet to any front, rear, or side-street lot line. No Living Unit shall be located nearer than eight (8) feet to any side-yard lot line.

(b) Eaves and porches. For purposes of this covenant, eaves, steps, and open porches shall be considered as part of the Living Unit.

6.4 Exterior Building Wall Materials. The Architectural Control Committee shall consider each home separately. Requirements establishing acceptable materials, manufacturers, and colors shall be based upon the design submitted. The use of any other materials than those listed below shall require the prior specific approval of the Architectural Control Committee. The exterior wall material of each structure shall consist of brick, rock, stucco, or siding, or a combination thereof, and the following general guidelines shall apply:

(a) Brick. Brick shall be of the type supplied by Beehive Brick, Salt Lake City, Utah, with emphasis on wood-mold, modular, and imported styles typical of standard brick commonly used in the area. Keystones, corner quoins, or stones and other cast trims will be encouraged based upon design. Rock may be true stone veneer or cultured stone.

(b) Stucco. Stucco shall be of a high-quality, synthetic stucco finish such as Dryvit or Sto brands. Use of manufacturer warranted methods of installation (i.e. EIFS) is encouraged. Stucco homes shall use pop-out detailing around openings and for trims as designated on approved design.

(c) Siding. Siding must be wood or composite hardboard (e.g., Masonite, Abitibi, etc.) and must be pre-finished, painted, or stained and kept well maintained. No aluminum, steel, or vinyl siding will be allowed. No stained "wood" color or natural wood veneers will be allowed. The ACC shall reserve the right to require the use of certain materials or combinations based upon the design or plan submitted and will limit all-siding designs to facades which traditionally use such material, i.e., Colonial, Victorian, etc. All homes which use siding as a majority of the exterior wall material must exceed the square footage requirement in section 6.23, below, by at least 25%.

6.5 Garages. Each Living Unit shall include an attached garage which must be fully enclosed, side-load entry, accommodate a minimum of two but not more than three cars (minimum 400 square feet), and be equipped with automatic garage door openers. Such garages shall be for the enclosure of the regularly operated vehicles of the residents of the Living Unit, not for storage or other uses which would prevent such enclosure. Carports and other open storage areas for vehicles or other items are not acceptable. Accessory buildings or detached garages may only be allowed with the approval of the ACC, and in strict conformance with the provisions of this Declaration.

6.6 Roof, Soffit, and Fascia. Roof material shall be restricted to wood shingles or shakes, slate, or tile. "Mission" or "Spanish" style tile roofs are not allowed. A limited number of homes which feature material and color schemes deemed more compatible with Architectural Grade 30-year or 40-year asphalt/fiberglass shingles and which otherwise greatly exceed the minimum building standards may be allowed with specific approval of the Architectural Control Committee. The minimum roof pitch guidelines on all major sections shall be as follows: for single-story homes 8/12 pitch, and for 1 ½ and 2-story homes, 6/12 pitch, with all designs and colors of roof (including pitch), soffit, and fascia material subject to the approval of the Architectural Control Committee.

6.7 Chimneys. Chimneys of approved exterior materials may not exceed the height required by appropriate governmental agencies. Exposed metal flues are not acceptable, with the exception of copper.

6.8 Accessory Structures. Accessory Structures, as defined in Article I of this Declaration, shall be constructed of materials consistent with the colors, textures, and materials approved for the Living Unit and shall be integral to the architecture of the house. Accessory Structures may be prefabricated or site built, so long as they conform to the other requirements of this section. They are not to be constructed on a permanent foundation. Only one single exterior shed may be added per Lot, not to exceed twelve feet by twelve feet (12' x 12') in size, for a total 144 square feet, and not to exceed ten (10) feet in height. Should any of the requirements in this section conflict with the Springville City Municipal Code, the stricter standard shall apply. All Accessory Structures must be approved by the Architectural Control Committee in advance, after the applicant has informed and requested input from his neighbors.

(a) Screening of Accessory Structures. All Accessory Structures shall be screened from the view of any adjacent public street or other Lot by a solid, opaque wall or fence, a minimum of six feet in height (as described in Section 6.9, below).

(b) Accessory Structures Set-backs. All Accessory Structures must be located behind the front Living Unit set-backs. Other set-back requirements for Accessory Structures are as follows:

**For Accessory Structures less than 120 square feet in size and under eight (8) feet in height:** side and rear setbacks are one foot (1').

**For Accessory Structures over 120 square feet in size but less than 144 square feet in size and up to eight (8) feet in height:** side and rear setbacks are three feet (3').

**For Accessory Structures up to 144 square feet in size and eight to ten feet (8'-10') in height:** side and rear setbacks are six feet (6').

#### 6.9 Fences and Walls.

(a) Setbacks and Maintenance. Fences or walls shall not extend into any street setback area or past the front of any Living Unit. Privacy enclosures shall be constructed and maintained in the same manner as other fencing. All fences on a Lot shall be maintained by Owners in the condition originally installed by the Owner or the Association.

(b) When Wood Fence Required. Fences or walls are not required, unless mandated under this Declaration to screen an Accessory Structure or for another requirement. Where a Lot backs up to or abuts another Lot which already has a wooden fence installed, that Lot, if a fence or wall is desired, must also install a wood fence. Any Lot which abuts a Lot which must install a wooden fence, even if no fence is currently installed, must also install only a wooden fence, if any fence or wall is desired. This requirement is to insure uniformity of design and continuity of appearance in Lot borders.

(c) Fence or Wall Specifications. All wooden fences must be cedar and be of the "Estate" design, also sometimes referred to as "monster" fence, consisting of 6x6 posts on typical centers and including 1x6 top and bottom rails and a top cap. All fences shall be sealed or stained in a natural wood color, not painted. Fences and walls should be six (6) feet in height and should be identical from both sides.

(d) Non-wood Fences or Walls. Walls or fences not of wood are permitted for those Lots which do not abut a Lot which has a wood fence or do not abut a Lot which could potentially abut a Lot which has a wood fence or for which a wood fence would otherwise be required. Other materials allowable in such cases are wrought iron, brick, or split-face block.

(e) Variances. Deviations from the requirements of this section must be approved by the ACC. All fences and walls are subject to the ordinances of Springville City, including those requiring permits and specifying location. Should any City ordinance conflict with this covenant, the stricter standard shall apply.

6.10 Mailboxes. Mailboxes shall be provided by each Owner and shall be placed adjacent to the street in a location congruent with the requirements of the City of Springville and the U.S. Postmaster. Such mailboxes shall be free standing and shall be constructed of cast materials in a style and design and from a manufacturer as directed by the

Board or the ACC. Where possible, double-box posts should be installed to keep the sidewalks uncluttered and to expedite mail delivery.

6.11 Paving. Driveways, walkways, and other flat paved areas must be stamped-finish concrete, quarry tile, brick, or paving blocks. Asphalt or plain concrete (broom-finish) drives and walks may only be allowed provided they are bordered by one of the above-described materials. Gravel or other types of paving areas are not permitted.

6.12 Solar Equipment. Solar panels are to be integrated into roof design. Panels and frames must be copper or compatible with roof colors and all equipment must be screened from view.

6.13 Antennas. All antennas are restricted to the attic or interior of the residence. It is mandatory that all homes be pre-wired for cable reception. Satellite dish antennas shall be allowed provided they are screened from view.

6.14 Skylights. Skylights are to be designed as an integral part of the roof. Skylight glazing may not be reflective. Skylight framing shall be colored to match adjacent roof materials.

6.15 Pools, Spas, Fountains, Game Courts. Pools, spas, fountains, and game courts shall be approved by the ACC and shall be located to avoid impacting adjacent properties with light or sound. No game court (including basketball standards) shall be located in front- or side-yard setback areas or in the street. Pool heaters and pumps must be screened from view and sound insulated from neighboring houses. Nothing herein shall be construed as permitting the construction of skateboard areas and/or ramps, which structures shall be prohibited.

6.16 Sheet Metal, Flashing, Vents and Pipes. All sheet metal, flashing, vents, and pipes must be colored to match the material to which they are attached or from which they project, with the exception of copper.

6.17 Mechanical Equipment. All air conditioning, heating, soft water, and water filtration equipment must be screened from view and insulated for sound. Air conditioning units are not permitted on roofs or through windows or walls. Evaporative (swamp) coolers are not allowed. All such equipment is subject to the approval of the ACC.

6.18 Gas and Electric Meters. Meter locations are to be designed into the architecture of the dwelling and screened from view.

6.19 Exterior Lighting. All exterior lighting is to be indirect. However, Owners shall be permitted to use accent and spot lights on their Living Units.

6.20 Windows. Every window installed in any Living Unit in the Brookwood Estates South Subdivision, including French doors and transom units, but excluding below-grade basement windows in the foundation walls, shall be a high-quality clad-wood window, featuring white exterior (unless otherwise approved) and full grids in the typical pattern. The ACC shall have the right to require the use of certain manufacturers of such windows, at its discretion.



6.21 Window Wells. All window wells (area wells) installed in the Subdivision shall be precast concrete and shall be plastered around the top and the outside area left exposed.

6.22 Metal Awnings. Metal awnings, metal “lean-tos,” or metal patio covers are not permitted on any Lot.

6.23 Size and Height of Living Unit. The “foot print” requirements set forth below shall be the exterior measured dimensions of the main floor, exclusive of the square footage contained within garages, open porches, or other unfinished non-living areas, and shall be determined by the ACC. The “total minimum” square footage shall be the finished living area above grade, exclusive of garages, open porches, or basements. In addition to the above, and in order to meet Springville City code requirements, Living Units which have less than 1,200 square feet on the main floor must have finished area over the garage or otherwise not directly above the main floor which together with the main floor must total at least 1,200 square feet.

(a) **For Lots 24, 25, 34, 35 of Plat A and Lots 42-48, Plat B:** Each Living Unit shall have a finished area “foot print” of not less than (1) 1,800 square feet for a one-level structure or (2) 900 square feet for a one-and-one-half-level or two-level structure, for a total minimum square footage of 2,100 square feet.

(b) **For Lots 26-33 and 36-41, Plat A:** Each Living Unit shall have a finished area “foot print” of not less than (1) 2,000 square feet for a one-level structure or (2) 1,000 square feet for a one-and-one-half-level or two-level structure, for a total minimum above-grade square footage of 2,400 square feet.

(c) **For Lots 49-58, Plat C:** Each Living Unit shall have a finished area “foot print” of not less than (1) 2,000 square feet for a one-level structure or (2) 1,000 square feet for a one-and-one-half-level or two-level structure, for a total minimum above-grade square footage of 2,400 square feet. **Lots 49, 53, and 58 shall be restricted to a one-and-one-half-level or two-level structure only.** No one-level Living Units shall be allowed on these three lots.

(d) **For Lots 59-62, Plat D:** Each Living Unit shall have a finished area “foot print” of not less than: (1) 2,500 square feet for a one-level structure or (2) 1,200 square feet for a one-and-one-half-level or two-level structure, for a total minimum above-grade square footage of 2,600 square feet.

(e) **For Lots 63, 65, and 69, Plat E:** Each Living Unit shall have a finished area “foot print” of not less than: 1,000 square feet for a one-and-one-half-level or two-level structure, for a total minimum above-grade square footage of 2,400 square feet. No one-level structures shall be allowed on these lots.

(f) **For Lots 64 and 68, Plat E:** Each Living Unit shall have a finished area “foot print” of not less than (1) 2,000 square feet for a one-level structure or (2) 1,000 square feet for a one-and-one-half-level or two-level structure, for a total minimum above-grade square footage of 2,400 square feet.

(g) **For Lots 1-8, Plat F:** Each Living Unit shall have a finished area “foot print” of not less than (1) 2,000 square feet for a one-level structure or (2) 1,200 square feet for a one-and-one-half-level or two-level structure, for a total minimum above-grade square footage of 2,400 square feet.

(h) **For Lots 9-19, Plat G:** Each Living Unit shall have a finished area “foot print” of not less than (1) 2,000 square feet for a one-level structure or (2) 1,200 square

feet for a one-and-one-half-level or two-level structure, for a total minimum above-grade square footage of 2,400 square feet.

6.24 Exposed Foundation. The exposed area (visible from any side) from the top of finish grade to the top of any foundation or retaining wall shall be no greater than 24 inches and shall be plastered. Any exposed foundation or retaining wall greater than 24 inches must be specifically approved by the ACC.

6.25 Construction Timing. Once begun, any improvements, construction, landscaping, or alterations, whether approved by the ACC or not, shall be diligently prosecuted to completion. The exterior construction of all structures on any Lot shall be completed within a period of one (1) year following commencement of construction.

6.26 Site Preparation, Clean-up, and Maintenance During Construction.

(a) Site Preparation. All demolition, clearing, grubbing, stripping of soil, excavation, compaction, and grading must be performed within the confines of the Lot being prepared.

(b) Site Grading and Drainage. Owner and builder shall follow all Springville City code requirements pertaining to site grading and drainage of water runoff, in accordance with the approved site plan submitted in connection with the application for building permits.

(c) Site Clean-up. Owners and builders shall clean up all trash and debris on the construction site at the end of each week. Each builder must provide a dumpster for this purpose or insure that trash and debris shall be removed from each construction site at least once a week to a dumping location off-site of the development. Light-weight material, packaging, and other items shall be covered or weighted down to prevent wind from blowing such materials off the construction site. Owners and builders are prohibited from dumping, burying, or burning trash anywhere on the Lot or in the Development. During the construction period, each construction site shall be kept neat and any trash or construction materials shall be promptly removed from public or private roads, open spaces, and driveways.

(d) Sanitary Facilities. Each Owner and builder shall be responsible for providing adequate sanitary facilities for his construction personnel. Portable toilets or similar temporary toilet facilities shall be located on the site itself or in areas specifically approved by the ACC.

(e) Construction Vehicles. Construction crews shall not park on, or otherwise use or cross, other lots or any open space not a part of the particular lot on which they are working. All construction vehicles and machinery shall access the Development and park only in areas designated by the ACC.

## VII. LANDSCAPING REQUIREMENTS

7.1 Landscaping Plans. All landscaping plans, and significant additions and changes to landscaping, shall be submitted to and approved by the ACC in conformance with the provisions of Article IX of this Declaration.

7.2 Timing for Completion of Landscaping.

(a) Front yards. The front yard (and any street side-yard) of each Lot shall be landscaped within a period of ninety (90) days following completion or occupancy of the Living Unit, provided, however, that such completion or occupancy occurs during the period May 1 to September 1. Each Living Unit completed or occupied at other times during the year must meet this requirement by the following July 30.

(b) Side and rear yards. Side and rear yards shall be landscaped within one year following completion or occupancy of each dwelling.

7.3 Recommended Flora. The ACC can advise on the recommended trees, shrubbery, and other flora for the Development. In addition to those recommendations, the following types of trees are suggested for incorporation into landscape designs for all Lots, to help maintain continuity of design and appearance in the Development: blue spruce, maple, honey locust, sycamore.

7.4 Tree Removal Prohibited. No Owner or his contractor may remove any existing tree in excess of six (6) feet high or make any major changes in the natural grade or elevation of the Lot without permission of the ACC.

7.5 Hobble Creek Protected Corridor. Owners of Lots which abut Hobble Creek are subject to all federal, state, county, and local laws and ordinances protecting the channel known as "Hobble Creek." As a "protected creek corridor," Hobble Creek falls under the jurisdiction of governmental entities and any modifications to the banks or bed thereof may require a stream alteration permit. Activities that could potentially modify the bed or banks of Hobble Creek include but are not limited to construction of decks and patios, vegetation removal, retaining wall construction, and bank re-contouring. The Association assumes no responsibility or liability for any actions of Owners regarding these or other actions affecting Hobble Creek.

## **VIII. USE AND MAINTENANCE REQUIREMENTS**

8.1 Insurance. Each Owner shall be responsible for and expected to secure insurance for his Living Unit and any Accessory Structures, presently known as "homeowners' Special Form Coverage" (Form 3 or better). No use shall be made of any living Unit which shall cause that Living Unit or any other improvement within the Development to be uninsurable against loss by fire or other perils commonly included in homeowners' insurance contracts, or cause such insurance to be canceled or suspended or non-renewed.

8.2 Maintenance and Repair. No Living Unit, building, structure (including interiors thereof), or landscaping upon any Lot shall be permitted to fall into disrepair and, subject to the requirements of the ACC, shall at all times be kept in good condition and, as appropriate, adequately painted or otherwise finished by its Owner. Such obligation shall extend, but not be limited, to the painting, repair, replacement, and care of roofs, gutters, downspouts, exterior building surfaces, landscaping, Accessory Structures, driveways and walkways, and appurtenant electrical, plumbing, heating, ventilating, and air conditioning systems.

8.3 Parking, Storage, and Repair of Commercial and Recreational Vehicles.

No boats, trailers, large trucks, or commercial, recreational, or utility vehicles belonging to Owners or other residents of the Subdivision shall be parked or stored within the Subdivision for more than forty-eight (48) hours, unless the parking or storage conforms to the requirements of this section. Any such vehicle stored or continuously parked within the Subdivision must be kept in an enclosed garage or behind street set-backs. Street set-backs, as defined in this Declaration, are thirty feet from "any front, rear, or side-street lot line."

Homeowners are encouraged to keep commercial and recreational vehicles, including trailers, stored off-site in facilities created for such use. Owners are further encouraged to keep any motor, commercial, recreational, or utility vehicle (including trailers) that is nevertheless permanently stored in the Subdivision in an enclosed garage or behind a fence, not just behind street set-backs. No more than one such vehicle may be kept in full view from the street; an additional one such vehicle may be kept on the Lot, if behind the requisite 6-foot fence, for a maximum of two un-garaged and visible or partially visible such vehicles on any Lot.

No motor vehicle of any kind, whether for commercial, personal, or recreational use, shall be repaired, constructed, or reconstructed upon any Lot or public street in the Development, except as needed for emergency repairs.

8.4 Pets. No animals other than a reasonable number of household pets shall be kept or allowed on any Lot or in any Living Unit. Whenever a pet is allowed to leave a Lot, it shall be kept on a leash or in a cage. No animals may be kept in the Development which are bred for commercial purposes. Pet owners are responsible for immediately cleaning up after their pets which defecate on the streets or sidewalks of the Development or in the yards of other Owners. No pets shall be allowed to make an unreasonable amount of noise or otherwise become a nuisance. Any exterior structure for care, housing, or confinement of pets shall be maintained by Owner and approved by the ACC. Any animal cage, house, chain, rope, or run must be in the back yard of the Lot and not visible from the street.

8.5 Machinery and Equipment. Following the initial occupancy of a Living Unit, no machinery or equipment of any kind shall be placed, used, operated, or maintained in or adjacent to any Lot except such machinery or equipment as is usual and customary in connection with the use and maintenance of the Living Unit, Accessory Structure, and landscaping on that Lot.

8.6 Nuisances. No rubbish, debris, or weeds shall be placed or permitted by an Owner upon or adjacent to any Lot, so as to render such Lot or portion thereof unsanitary, unsightly, offensive, dangerous, or detrimental to other Owners. No Living Unit or Lot shall be used in such manner as to obstruct or interfere with the enjoyment of occupants of other Living Units or Lots. No items, other than seasonal or temporary decorations, shall be hung or placed on the exterior of windows or on balconies or other exterior railings or surface if visible from a street. No exterior speakers, horns, whistles, bells, or other sound devices (except security devices used exclusively for security purposes) shall be located or placed on Lots or in Living Units.

8.7 Signs. No signs shall be erected or maintained on any Lot, except as follows:

- (a) Signs required by legal proceedings;
- (b) Temporary construction identification signs of a combined total face area of four hundred thirty-two (432) square inches or less for each Living Unit (18" x 24");
- (c) A "For Sale" or "For Rent" sign, to the size and extent permitted by the Board;
- (d) Temporary political signs, limited to a maximum of two (2) per yard, each no larger than four hundred thirty-two (423) square inches in total face area (18" x 24"), for no more than two months prior to the election.

8.8 Trash Containers and Collection. All garbage and trash shall be placed and kept in covered containers of a type and style which shall be approved by the City of Springville or other collection company and the ACC. Insofar as possible, such containers shall be maintained as not to be visible from neighboring Lots or from the street, except to make them available for collection and then only for the shortest time necessary to effect such collection. Owner shall remove all his trash containers from the street or curb within twenty-four (24) hours after the collection truck has passed, in accordance with the City of Springville municipal code. Each Owner must at all times and at his expense provide garbage cans and plastic liners therefore.

### IX. ARCHITECTURAL CONTROL, COMPLIANCE, AND OTHER COMMITTEES

9.1 Architectural Control Committee. At the Board's discretion, a committee shall be appointed by the Board to ensure that all Building Units, Accessory Structures, other improvements, and landscaping within the Property harmonize with existing surroundings and structures and meet the building, site, and landscaping requirements of this Declaration. This committee shall be known as the Architectural Control Committee ("ACC"). The ACC need not be composed of Owners. If an ACC is not appointed, the Board itself shall perform the duties of the ACC.

9.2 Compliance Committee. At the Board's discretion, a committee shall be appointed by the Board to ensure that the use and maintenance requirements of this Declaration are met. This committee shall be known as the Compliance Committee. The Compliance Committee need not be composed of Owners. If a Compliance Committee is not appointed, the Board itself shall perform the duties of the Compliance Committee. The Architectural Committee and the Compliance Committee can function as a single committee, at the Board's discretion.

9.3 Other Committees. The Board may from time to time appoint other committees as it deems necessary to accomplish the work of the Association and to comply with the provisions of this Declaration.

9.4 Submission of Plans Required. No Living Unit, Accessory Building, or other structure or addition to a Living Unit; no alteration, repainting, or refurbishing of the exterior of any Living Unit or Accessory Structure or any court enclosure; and no initial landscaping or substantial landscape addition or change, except as otherwise allowed herein, shall be instituted until complete plans and specifications therefor have been submitted to and

approved by the ACC. All such plans and specifications shall be consistent with architectural guidelines which shall from time to time be adopted by the Board.

9.5 Standard. In deciding whether to approve or disapprove plans and specifications submitted to it. The ACC shall use its best judgment to ensure that all improvements, construction, landscaping, and alterations on Lots conform to and harmonize with existing surroundings and structures and that such proposed improvements enhance the value and aesthetics of the Subdivision.

9.6 Approval Procedure.

(a) Submission and Review. Plans and specifications submitted to the ACC shall be in duplicate and accompanied by a form provided by the ACC. The ACC may, at its discretion, request both a preliminary review of design drawings and a final review of working drawings. Upon completion of each review, one set of plans will be retained by the Association, and the remaining set of plans will be returned to the Owner.

(b) Review Fee. An architectural review fee of \$150, payable to the Association, shall be submitted with the plans. A lesser fee may be requested by the ACC, as circumstances allow.

(c) Review Schedule. All plans and specifications shall be approved or disapproved by the ACC in writing within fifteen (15) days after submission. In the event the ACC fails to take any action within that period, the material submitted shall be deemed to be approved.

(d) Address for Submissions. Plans and specifications for the construction and installation of any and all improvements within Brookwood Estates South Subdivision shall be submitted to the chairman of the ACC or the president of the Board. Names and addresses of the Board or committee chairmen should be obtained from the prior Owner of the particular Lot.

9.7 Liability for Damages. The ACC, Compliance Committee, or other committees duly appointed by the Board shall not be held responsible for damages by reason of any action, inaction, approval, or disapproval with respect to any request made pursuant to this Article IX or with the enforcement of the provisions of Articles VI, VII, and VIII.

9.8 City and Other Approval. Approval of any improvements by the ACC does not waive the requirement for any other required public agency review or permit approval process. By approving plans, the ACC takes no responsibility for plan conformity to any other criteria other than the requirements of the Declaration and any architectural guidelines.

## **X. RIGHTS OF FIRST MORTGAGE**

10.1 Either by amendment or by rule or regulation, the HOA shall not take any action or pass any provision which, in its good-faith judgment, materially affects the rights of first mortgagees or jeopardizes or decreases the value of encumbered property. Since the common areas (including a pool and recreation area) anticipated by the Prior Declaration never materialized, the power of the HOA to alter the scope and ambiance of the Subdivision is limited by this Declaration. Rights of first mortgagees are protected and enhanced by this Declaration.

## XI. GENERAL PROVISIONS

11.1 Existing Deviations from CC&R Requirements. Certain deviations from the requirements of the Prior Declaration or this Declaration, which deviations exist at the time this Declaration is recorded, shall not be subject to removal, cure, or penalty, to the extent that they are of a permanent nature and cannot be brought into compliance without moving or dismantling structures or fences. These exempted or “grandfathered” deviations include violations under the following sections:

- (a) Accessory Structures (section 7.4(e) in the Prior Declaration, section 6.8 in this Declaration);
- (b) Fences and Walls (section 7.4(h) and developer’s attempted amendment to the Prior Declaration, section 6.9 in this Declaration);
- (c) Windows (section 7.4(w) in Prior Declaration, section 6.20 in this Declaration);
- (d) Window Wells (section 7.4(x) in Prior Declaration, section 6.21 in this Declaration);
- (e) ACC approvals (second section 7.4 and sections 7.3, 8.2, 8.4 in Prior Declaration; sections 6.2, 6.3, 6.9, 6.10, 7.11, 9.4, and 9.6 in this Declaration).

11.2 Notices. Any notice required or permitted to be given to any Owner or Member under this Declaration shall be deemed to have been properly furnished if mailed, postage prepaid, to the Owner or Member at the latest address for such person appearing in the records of the Association at the time of mailing.

11.3 Owner’s Responsibility to Keep Association Informed. It is the Owner’s responsibility at all times to keep the Association informed of his correct contact information. One who purchases a Lot or a Living Unit within the Development must inform the Board of his name and address within ten (10) days of the recordation of title.

11.4 Amendment. Any amendment of this Declaration shall require the affirmative vote of at least two-third (2/3) of all Members, either at a meeting duly called for that purpose or by written ballot. Written notice setting forth the purpose of the meeting and the substance of the amendment proposed shall be sent to all Members at least ten (10) but not more than thirty (30) days prior to the meeting date. Any amendment authorized pursuant to this section shall be accomplished through the recordation of the instrument executed by the President or Vice President of the Association and shall also be approved by the Springville City Attorney. In such instrument the President or Vice President of the Association shall certify that the vote required by this section for amendment has occurred.

11.5 Consent in Lieu of Voting. In any case in which this Declaration requires authorization or approval of the Members of a stated percentage of votes at a meeting, such requirement will be satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Members entitled to cast the stated percentage of votes required. The following provisions apply in the event of written balloting:

- (a) All consents must be obtained prior to the expiration of ninety (90) days after the first consent is given by any Member.

(b) The total number of votes required for authorization or approval under this section shall be determined by the number of Members as of the date the ballots are mailed or distributed.

(c) Any change in the ownership of a Lot which occurs after consent has been obtained from the Owner thereof shall not be considered or taken into account for voting purposes.

11.6 Lease Provisions. Any Owner may lease his Lot and such buildings as are situated thereon; provided, however, that any lease agreement between a Lot Owner and a lessee must be in writing, and must provide that: (a) The terms of the lease shall in all respects be subject to the provisions of this Declaration, the Articles of Incorporation, and the Bylaws of the Association; and (b) Any failure by the lessee to comply with the terms of the foregoing documents shall constitute a default under the lease.

11.7 Dissolution. The Association may be dissolved by the affirmative assent in writing of two-thirds (2/3) of the Members.

11.8 Right of Entry. During reasonable hours, and upon reasonable notice, any member of the ACC or any member of the Board, or any officer or authorized representative of any of them, shall have the right to enter upon and inspect any Lot, and the improvements thereof, to ascertain whether or not the provisions of this Declaration and the rules and regulations of the Board or of the Association have been or are being complied with.

11.9 Enforcement of Land Use Restriction. The following shall have the right to exercise or seek any remedy at law or in equity to enforce strict compliance with the provisions of this Declaration:

- (a) Any Owner, so long as the Association or any of its committees has not specifically approved or allowed the subject of the objection;
- (b) The Association; and
- (c) Springville City, but only with regard the actions of any Owner or the Association which also violate Springville City municipal code.

11.10 Record of Ownership or Mortgage. Any cost incurred by the Association in obtaining title, ownership, or mortgage information about an Owner or a Lot as necessary to enforce the provisions of the Declaration shall be at the expense of such Owner and shall be reimbursed to the Association as a "Reimbursement Assessment" in accordance with the provisions of section 5.5.

11.11 Headings, Number, Gender, Severability. The captions and headings in this Declaration are for convenience only and shall in no way affect the interpretation of the provisions. Where the context requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include the other gender. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder.

11.12 Covenants to Run with the Land. This Declaration and all its provisions shall constitute covenants to run with the land or equitable servitude, as the case may be, and shall be binding upon and shall inure to the benefit of the Association. All parties who hereafter



acquire any interest in a Lot shall be subject to the terms of this Declaration and any rules, regulations, agreements, or determinations contemplated by this Declaration. Failure to comply with any of the foregoing shall be grounds for an action by the Association or by an aggrieved Owner for the recovery of damages, for injunctive relief, or both. By acquiring any interest in a Lot, the party acquiring such interest consents to and agrees to be bound by each provision of this Declaration.

11.13 Incorporation of Addenda Expanding Subdivision. To the extent necessary to provide full legal definition, description, and registration of the entire Subdivision, and to the extent that they do not conflict with this Declaration, this Declaration hereby incorporates by reference all addenda recorded with the County of Utah by the Prior Declarant.

11.14 Effective Date. This Declaration and any amendment hereto shall take effect upon its being recorded in the office of the Utah County Recorder, state of Utah.

Declarant:  
BROOKWOOD ESTATES  
HOMEOWNERS' ASSOCIATION,  
A Utah nonprofit corporation

By: Elizabeth Shaw Smith  
Elizabeth Shaw Smith, President

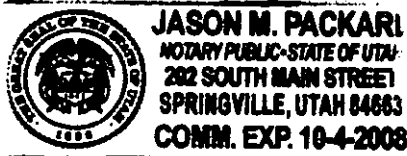
I certify that this Restated and Amended Declaration of Covenants, Conditions, and Restrictions was duly approved by a minimum of two-thirds (2/3) of the Members of the Association.

Elizabeth Shaw Smith  
Elizabeth Shaw Smith, Association President

STATE OF UTAH }  
COUNTY OF UTAH } :ss

On the 9 day of JUNE, 2008, personally appeared before me ELIZABETH SHAW SMITH, who being by me duly sworn, did say that she is the President of the BROOKWOOD ESTATES HOMEOWNERS' ASSOCIATION, a Utah nonprofit corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of its Bylaws or a resolution of its Board of Directors, and said ELIZABETH SHAW SMITH acknowledged to me that the said corporation executed the same.

NOTARY SEAL:



[Signature]  
Notary Public Signature  
Residing at: SPRINGVILLE, UTAH  
My Commission expires: 10/4/08

## INITIAL DEVELOPMENT

MATT MECHAM  
PROPERTY DESCRIPTION  
SPRINGVILLE, UTAH  
12-9-94

ENT 16095 & 4206 PG 54

## FIRST TEN-ACRE PARCEL

Commencing at a point located North  $01^{\circ}20'15''$  West along the Section line 174.80 feet and West 25.61 feet from the East quarter corner of Section 3, Township 8 South, Range 3 East, Salt Lake Base and Meridian; thence South  $03^{\circ}58'11''$  East 8.80 feet; thence South  $01^{\circ}47'33''$  East along the Westerly boundary of 1700 East Street, 585.68 feet; thence along the arc of a 15.00 foot radius curve to the left 23.50 feet (chord bears North  $46^{\circ}40'39''$  West 21.17 feet); thence South  $88^{\circ}26'15''$  West 145.18 feet; thence along the arc of a 628.00 foot radius curve to the right 138.72 feet (chord bears North  $85^{\circ}14'04''$  West 138.44 feet); thence North  $11^{\circ}05'37''$  East 56.00 feet; thence along the arc of a 572.00 foot radius curve to the right 42.97 feet (chord bears North  $76^{\circ}45'15''$  West 42.96 feet); thence North  $15^{\circ}23'52''$  East 130.76 feet; thence North  $75^{\circ}23'10''$  West 93.19 feet; thence North  $60^{\circ}54'45''$  West 389.04 feet; thence South  $19^{\circ}59'00''$  West 28.06 feet; thence North  $70^{\circ}01'00''$  West 56.00 feet; thence South  $19^{\circ}59'00''$  West 90.61 feet; thence North  $70^{\circ}01'00''$  West 137.60 feet; thence North  $23^{\circ}29'00''$  East along the Easterly boundary of Pheasant Run Subdivision, Plat "B" 140.52 feet; thence South  $76^{\circ}57'00''$  East along Pheasant Run Subdivision, Plat "B", 8.60 feet; thence North  $19^{\circ}59'00''$  East along the Easterly boundary of Pheasant Run Subdivision, Plat "B", 133.00 feet; thence North  $20^{\circ}19'00''$  East along the Easterly boundary of Pheasant Run Subdivision, Plat "B" 251.92 feet; thence South  $70^{\circ}23'00''$  East along the Southerly boundary of 900 South Street 157.58 feet; thence along the arc of a 1110.98 foot radius curve to the right along the Southerly boundary of 900 South Street, 296.24 feet (chord bears South  $62^{\circ}44'40''$  East 295.36 feet); thence along the arc of a 525.00 foot radius curve to the left along the Southerly boundary of 900 South Street 324.48 feet (chord bears South  $72^{\circ}48'42''$  East 319.34 feet); thence North  $89^{\circ}28'56''$  East 11.68 feet to the point of beginning.

AREA = 10.00 ACRES

CONTINUED

## EXPANDABLE AREA

MATT MECHAM  
 PROPERTY DESCRIPTION  
 SPRINGVILLE, UTAH  
 1-2-96

~~BR 16095 BK 4206 PG 55~~

## AMENDED SECOND TEN-ACRE PARCEL

Commencing at a point located South 01°12'45" East along the Section line 419.46 feet and West 19.64 feet from the East quarter corner of Section 3, Township 8 South, Range 3 East, Salt Lake Base and Meridian; thence South 01°47'33" East 261.05 feet; thence South 04°45'01" West 175.52 feet; thence South 09°47'13" West 81.99 feet; thence North 68°47'16" West 185.39 feet; thence North 60°17'01" West 119.72 feet; thence North 0°54'29" West 75.50 feet; thence North 01°47'33" West 211.34 feet; thence North 73°53'24" West 170.22 feet; thence North 29°05'15" East 14.34 feet; thence North 60°54'45" West 120.00 feet; thence South 29°05'15" West 69.28 feet; thence along the arc of an 80.00 foot radius curve to the left 33.43 feet (chord bears South 17°06'56" West 33.19 feet); thence North 84°51'22" West 56.00 feet; thence along the arc of a 136.00 foot radius curve to the left 35.50 feet (chord bears South 02°19'59" East 35.40 feet); thence South 80°11'23" West 177.76 feet; thence North 06°37'03" West 45.20 feet; thence along the arc of a 50.00 foot radius curve to the left 25.84 feet (chord bears North 21°25'21" West 25.55 feet); thence along the arc of a 75.00 foot radius curve to the left 54.65 feet (chord bears North 57°06'11" West 53.45 feet); thence North 77°58'44" West 197.97 feet; thence North 13°36'00" East 78.83 feet; thence North 21°53'00" East 172.75 feet; thence North 23°29'00" East 155.47 feet; thence South 70°01'00" East 137.60 feet; thence North 19°59'00" East 90.61 feet; thence South 70°01'00" East 56.00 feet; thence North 19°59'00" East 28.06 feet; thence South 60°54'45" East 389.04 feet; thence South 75°23'10" East 93.19 feet; thence South 15°23'52" West 130.76 feet; thence along the arc of a 572.00 foot radius curve to the left 42.97 feet (chord bears South 76°45'15" East 42.96 feet); thence South 11°05'37" West 56.00 feet; thence along the arc of a 628.00 foot radius curve to the left 138.72 feet (chord bears South 85°14'04" East 138.44 feet); thence North 88°26'15" East 145.18 feet; thence along the arc of a 15.00 foot radius curve to the right 23.50 feet (chord bears South 46°40'39" East 21.17 feet) to the point of beginning.

AREA = 10.00 ACRES

Continued

MATT MECHAM  
 PROPERTY DESCRIPTION  
 SPRINGVILLE, UTAH  
 1-2-96

## EXPANDABLE AREA

ENT 16095 R 4206 PG 56

## AMENDED REMAINDER PARCEL

Commencing at a point located South 01°12'45" East along the Section line 522.96 feet and West 326.75 feet from the East quarter corner of Section 3, Township 8 South, Range 3 East, Salt Lake Base and Meridian; thence South 01°47'33" East 211.34 feet; thence South 0°54'29" East 75.50 feet; thence South 60°17'01" East 119.72 feet; thence South 68°47'16" East 185.39 feet; thence South 09°47'13" West 96.38 feet; thence along the arc of a 19,003.60 foot radius curve to the right 300.65 feet (chord bears South 0°48'44" East 300.65 feet); thence South 75°20'00" West 112.29 feet; thence North 31°26'13" West 162.31 feet; thence North 34°05'34" West 78.14 feet; thence along the arc of a 50.00 foot radius curve to the left 24.16 feet (chord bears North 47°56'06" West 23.92 feet); thence North 61°46'37" West 123.11 feet; thence North 60°17'01" West 109.27 feet; thence North 48°58'19" West 112.69 feet; thence along the arc of a 100.00 foot radius curve to the right 26.41 feet (chord bears North 41°24'23" West 26.33 feet); thence North 33°50'27" West 60.38 feet; thence along the arc of a 50.00 foot radius curve to the left 26.63 feet (chord bears North 49°06'04" West 26.32 feet); thence North 64°21'40" West 30.81 feet; thence along the arc of a 50.00 foot radius curve to the left 30.42 feet (chord bears North 81°47'28" West 29.95 feet); thence South 80°46'44" West 57.78 feet; thence along the arc of a 59.07 foot radius curve to the right 82.95 feet (chord bears North 58°59'41" West 76.30 feet); thence North 18°46'05" West 123.83 feet; thence along the arc of a 50.00 foot radius curve to the right 44.83 feet (chord bears North 06°55'10" East 43.35 feet); thence North 32°36'24" East 26.01 feet; thence along the arc of a 75.00 foot radius curve to the left 51.34 feet (chord bears North 12°59'41" East 50.35 feet); thence North 06°37'03" West 30.98 feet; thence North 80°11'23" East 177.76 feet; thence along the arc of a 136.00 foot radius curve to the right 35.50 feet (chord bears North 02°19'59" West 35.40 feet); thence South 84°51'22" East 56.00 feet; thence along the arc of an 80.00 foot radius curve to the right 33.43 feet (chord bears North 17°06'56" East 33.19 feet); thence North 29°05'15" East 69.28 feet; thence South 60°54'45" East 120.00 feet; thence South 29°05'15" West 14.34 feet; thence South 73°53'24" East 170.22 feet to the point of beginning.

AREA = 8.30 ACRES