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**DECLARATION
OF
COVENANTS, CONDITIONS, RESTRICTIONS, AND EASEMENTS
FOR
[THE HIGHLANDS]**

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**DECLARATION
OF
COVENANTS, CONDITIONS, RESTRICTIONS, AND EASEMENTS
FOR
[THE HIGHLANDS]**

This Declaration of Covenants, Conditions, Restrictions, and Easements for [The Highlands] (“**Declaration**”) is made as of _____, 2019, by [_____] a [_____] (“**Declarant**”).

BACKGROUND

A. Declarant is the owner of certain real property in Wasatch County, Utah, more particularly described on Exhibit A attached hereto (the "**Property**"). Declarant desires to develop the Property as a [townhome and single-family home project known as The Highlands] (the "**Development**").

B. Declarant intends to establish a common scheme and plan for the possession, use, enjoyment, repair, maintenance, restoration, and improvement of the Development.

C. In order to efficiently manage and to preserve the value and appearance of the Development, it is necessary and desirable to create a nonprofit corporation to maintain the exterior landscaping within the Development; to collect assessments and disburse funds as hereinafter set forth; and to perform such other acts as shall generally benefit the Development and the Owners. The Highlands Master Owners’ Association, Inc., a homeowners' association and nonprofit corporation (the "**Association**"), has or will be incorporated for the purpose of exercising the aforementioned powers and functions.

DECLARATION

NOW, THEREFORE, it is hereby declared that the Development shall be held, sold, conveyed, leased, rented, encumbered, and used subject to the following easements, rights, assessments, liens, charges, covenants, servitudes, restrictions, limitations, conditions, and uses, which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and be binding on all parties having any right, title, or interest in the described Property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof. The Background paragraphs set forth above are hereby specifically incorporated into this Declaration.

**Section 1
DEFINITIONS**

Capitalized terms used but not otherwise defined in this Declaration will have the respective meanings set forth in this Section 1.

1.1 Additional Property.

Any land, whether or not owned by Declarant, which is made subject to this Declaration as provided in Section 16 below

1.2 Approval.

Whether capitalized or not, unless otherwise specified in this Declaration: (a) with regard to the Association, the Board, or a Mortgagee: advance written approval; (b) with regard to the Owners: approval by the requisite percentage of votes entitled to be cast by the Owners participating in a duly called meeting in person, by proxy, or by written ballot.

1.3 Articles.

The articles of incorporation of the Association, as they may be amended from time to time.

1.4 Assessments.

All assessments and other charges, fines, and fees imposed by the Association on an Owner in accordance with the Governing Documents.

1.5 Association.

The Highlands Master Owners' Association, Inc., a Utah nonprofit corporation.

1.6 Board.

The board of trustees of the Association.

1.7 Bylaws.

The bylaws of the Association, as may be amended from time to time. A copy of the Association's current Bylaws is attached to this Declaration as Exhibit B.

1.8 Common Areas.

Those areas (and any improvements on such areas) within the Development intended for the common use and enjoyment of the Owners and their Tenants and Guests, as designated on the Plat or established by this Declaration. Common Areas and improvements, include, but are not limited to, the following: [stone walls, fences, gates, hand-rails, street lights, mailboxes, common address signage, flag pole, gate openers and key pads, exterior site lighting, driveways, entrance driveways and aprons, planters, urns, irrigations systems, water fountains (non-attached), utility lines in common areas, and landscaping.]

1.9 Common Expenses.

The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to the Governing Documents, including, without

limitation, the cost of carrying out the powers and obligations of the Association set forth in Section 4.

1.10 County.

Wasatch County, Utah.

1.11 Declaration.

This instrument with all Exhibits hereto, as amended or supplemented from time to time.

1.12 Development.

Defined in Background paragraph A.

1.13 Eligible Mortgagee.

Any First Mortgagee and any other Mortgagee of a Lot (or any insurer or guarantor of a Mortgage on a Lot) who has provided a written request to the Association (such request to state the name and address of such Eligible Mortgagee, a copy of the Mortgage instrument, and the street address of the Lot to which such Mortgage pertains), to be notified of any of the events listed in Section 14.2.

1.14 First Mortgage.

A first-priority Mortgage lien on any Lot in the Development. The term “**First Mortgage**” will mean a holder of a First Mortgage.

1.15 Governing Documents.

This Declaration, the Articles, the Bylaws, and the Rules and Regulations.

1.16 Guest.

Any person who is a visitor or invitee and who (a) is accompanied by an Owner or a Tenant, or (b) has been granted permission by an Owner to occupy its Lot for a period of time.

1.17 Lot.

Each of the Lots shown on the Plat.

1.18 Member.

Any Person holding a membership in the Association pursuant to Section 2.2.

1.19 Mortgage.

A mortgage or a trust deed; “**Mortgagee**” means a mortgagee or a beneficiary of a trust deed.

1.20 Neighborhood.

A Unit or Lots or group of Units or Lots designated as a separate Neighborhood for purposes of receiving benefits or services from the Association which are not provided to all Units or Lots in the Development. A Neighborhood may consist of one or more housing types, including, without limitation, detached single family residential units, condominium units, and/or townhouses, all as approved by Declarant, and may include noncontiguous parcels of property. If the Association provides benefits or services to less than all Lots within a particular Neighborhood, then the benefited Lots may constitute a sub-Neighborhood for purposes of determining and levying Neighborhood Assessments for such benefits or services. Where the context permits or requires, the term Neighborhood shall also refer to the Neighborhood Association, if any, having concurrent jurisdiction over the property within the Neighborhood. Neighborhood boundaries may be established and modified as provided herein pursuant to a Supplemental Declaration.

1.21 Neighborhood Assessments.

Assessments levied against the Lots in a particular Neighborhood or Neighborhoods to fund Neighborhood Expenses, as described in Section 7.9.

1.22 Neighborhood Association.

A condominium association or other owners association, if any, having jurisdiction over any Neighborhood or Additional Land concurrent with (but subject to) the jurisdiction of the Association. Each Neighborhood may establish a Neighborhood Association.

1.23 Neighborhood Declaration.

A declaration of easements, covenants, conditions and restrictions establishing a plan of condominium ownership or townhouse ownership, or otherwise imposing a unified development scheme on a particular Neighborhood or Additional Property.

1.24 Neighborhood Expenses.

The actual and estimated expenses which the Association incurs or expects to incur for the benefit of Owners within a particular Neighborhood or Neighborhoods, which may include capital expenditures and insurance premiums paid for such Neighborhoods that are not common to all Lots in the Development, a reasonable reserve for capital repairs and replacements and a reasonable administrative charge, as may be authorized pursuant to this Declaration or in the Supplemental Declaration(s) applicable to such Neighborhood(s).

1.25 Owner.

Any Person having a fee ownership interest in a Lot. "Owner" does not include a Tenant or a Person holding less than a fee interest in a Lot. The rights, obligations, and other status of being an Owner commence upon acquisition of the ownership of a Lot and terminate upon disposition of such ownership, but termination of ownership will not discharge an Owner from obligations incurred before termination.

1.26 Party Wall.

Any wall separating two Units, which wall is located on the dividing line between the two Lots on which the Units are situated. The Party Wall will consist of the studs, blocking, insulation, cement and airspace located between the wallboard of one Unit and the wallboard of the adjoining Unit. It will not consist of the wallboard, paneling, sheetrock, tiles, wallpaper and paint located on the interior sides of the Party Wall, all of which will be considered part of the Unit and the maintenance of which will be the responsibility of the Unit Owner.

1.27 Person.

A natural person, a corporation, a partnership, a limited liability company, a trust, or any other legal entity.

1.28 Plat.

The map entitled “[_____]”, recorded concurrently with this Declaration in the official records of the County, and any duly executed and recorded amendment or supplement thereto.

1.29 Reserve Fund.

A fund established for the repair, replacement and restoration of Common Area improvements, as described in Section 7.109.

1.30 Rules and Regulations.

Those rules and regulations adopted by the Board governing the conduct of persons within, and the operation and use of, the Development.

1.31 Single Family Residence.

Each of detached single-family residences, as shown on the Plat. Each Single Family Residence is as detached single-family residence designed for single-family residential occupancy, and is located on the Lot bearing the number shown on the Plat.

1.32 State.

The State of Utah.

1.33 Supplemental Declaration.

An instrument recorded: (a) pursuant to Section 16 which subjects Additional Property to this Declaration and/or imposes additional restrictions and obligations on the Additional Land described in such instrument; or (b) pursuant to Section 17 which designates one or more Neighborhoods within the Development.

1.34 Tenant.

A Person who is leasing or renting a Lot from an Owner.

1.35 Trustee.

Any duly elected member of the Board.

1.36 Unit.

Each of the townhomes located on the Lots. Each Unit is a townhome designated for single-family residential occupancy, and is located on a Lot bearing the Lot number shown on the Plat.

Section 2

MEMBERSHIP IN THE ASSOCIATION

2.1 Organization.

The Association will be a Utah nonprofit corporation and will have the property, powers, and obligations set forth in this Declaration for the benefit of the Development and all Owners. The Articles will provide for the Association's perpetual existence, but if the Association is at any time dissolved, whether inadvertently or deliberately, it will automatically be succeeded by an unincorporated association of the same name. In that event all of the property, powers, and obligations of the incorporated association existing immediately before its dissolution will automatically vest in the successor unincorporated association, and such vesting will thereafter be confirmed as evidenced by appropriate conveyances and assignments by the incorporated association. To the greatest extent possible, any successor unincorporated association will be governed by the Articles and Bylaws as if they had been made to constitute the governing documents of the unincorporated association.

2.2 Membership.

Each Owner will be a Member of the Association. Such membership will begin automatically when a Person becomes an Owner and will continue until the Person is no longer an Owner, at which point the membership will expire automatically.

2.3 Voting Rights.

Each Member will be entitled to one vote for each Lot owned, except that no more than one vote may be cast with respect to any one Lot. When a Lot is owned by multiple Owners, all such Persons will be Members and the vote for such Lot will be exercised as the Owners among themselves determine. However, if the Owners of a Lot cannot agree on how to exercise their vote with respect to a pending matter, any such Owner may deliver notice of such disagreement to the Association before the vote is finalized, and the vote will then be disregarded with respect to such matter (except for purposes of establishing a quorum).

Section 3
MANAGEMENT OF THE ASSOCIATION

3.1 Board.

The affairs of the Association will be conducted by the Board and by such officers as the Board may elect or appoint in accordance with the Articles and Bylaws. The Board will be composed of three Trustees, who will be elected by the Owners and whose terms and qualifications will be set in accordance with the Bylaws.

3.2 Liability.

A Trustee or officer of the Association will not be liable to the Association or any Owner for any damage, loss, or prejudice suffered or claimed on account of any action or failure to act in the performance of his duties, except for acts of gross negligence or intentional acts. If any Trustee or officer of the Association is made a party to any proceeding because the individual is or was a Trustee or officer of the Association, the Association will indemnify such individual against liability and expenses incurred to the maximum extent permitted by law.

Section 4
POWERS AND OBLIGATIONS OF THE ASSOCIATION

4.1 General Powers and Obligations.

The Association will have, exercise, and perform all of the following powers, duties, and obligations:

- (a) the powers, duties, and obligations granted to the Association by this Declaration.
- (b) the powers and obligations of a nonprofit corporation pursuant to the general nonprofit corporation laws of the State.
- (c) any additional or different powers, duties, and obligations necessary or desirable for the purpose of carrying out the functions of the Association pursuant to this Declaration or otherwise promoting the general benefit of the Owners.

4.2 Specific Powers and Duties.

The powers and duties of the Association will include, without limitation, the following:

- (a) **Assessments.** The Association will adopt budgets and impose and collect Assessments as provided in Section 7.
- (b) **Maintenance.** The Association will maintain the Common Areas in accordance with Section 8.

(c) **Insurance.** The Association will obtain and maintain insurance in accordance with Section 9.

(d) **Enforcement.** The Association will enforce the provisions of the Governing Documents pursuant to Section 13.

(e) **Rulemaking.** The Association may make, establish, amend, and repeal Rules and Regulations governing the conduct of persons on, and the operation and use of, the Common Areas and the Lots as it deems necessary or appropriate to ensure the peaceful and orderly use and enjoyment of the Development in accordance with the Governing Documents. A copy of the Rules and Regulations, as amended from time to time, will be promptly delivered to each Owner by the Board and will be binding upon the Owners as of the date of delivery.

(f) **Services.** The Association may provide or contract for such services as the Board may reasonably deem to be of benefit to the Development, including garbage removal and security services. The Association may also create various classes of service and make appropriate Individual Assessments or charges therefor to the users of such services, including reasonable fees for the use of any recreational facilities located on the Common Areas now or in the future, without being required to render such services to Owners who do not agree to pay such charges.

(g) **Employment of Agents, Advisers, and Contractors.** The Association may contract for the services of any Person as necessary or convenient for the management, maintenance, and operation of the Development, and for the management and operation of the affairs of the Association.

4.3 **Implied Rights and Obligations.**

The Association may exercise any other power reasonably implied by, or necessary to carry out, an express power given to the Association under this Declaration.

Section 5 PROPERTY RIGHTS IN LOTS

5.1 **Use and Occupancy.**

Each Owner will be entitled to the exclusive use and benefit of its Lot, but the Lot will be bound by, and the Owner will comply with, the Governing Documents.

5.2 **Easements Reserved.**

In addition to any easements shown on the Plat, the Association will have an easement and right of way allowing it to enter any Lot at any reasonable time and upon reasonable notice to the Lot Owner for the purpose of: (a) performing cleaning, repair, inspection or maintenance on the Lots or the Common Areas as authorized by the Governing Documents, (b) installing, replacing, repairing, and maintaining all utility and service lines and systems, including, without limitation, water, sewer, gas, telephone, electricity, and cable communication that service the Development or any portion thereof, (c) determining whether the use of the Lots complies with the Governing

Documents, or (d) enforcing the Governing Documents in accordance with Section 13. No such entry will be deemed to constitute a trespass or otherwise create any right of action in the Lot Owner.

5.3 Owner's Right to Ingress, Egress, and Support.

Each Owner will have the right to ingress and egress over, upon, and across the Common Area necessary for access to its Lot and will have the right to lateral support for its Lot, and such rights will be appurtenant to and pass with the title to each Lot.

5.4 Form for Conveyancing.

Any deed, lease, mortgage, deed of trust, or other instrument conveying or encumbering title to a Lot will describe the interest or estate involved substantially as follows:

Lot ____, [The Highlands], identified on the Plat for such subdivision and in the Declaration of Covenants, Conditions, Restrictions, and Easements for [The Highlands], recorded _____, 2019, as Entry No. _____ in Book _____ at Page _____, of the official records of Wasatch County, Utah.

**Section 6
PROPERTY RIGHTS IN COMMON AREAS**

6.1 Title to Common Areas.

Title to the Common Areas is and will continue to be held by the Association.

6.2 Use of Common Areas.

Subject to Section 6.3, each Owner will have a nonexclusive right to use the Common Areas for the purposes for which they are intended. However, no Owner, Tenant or Guest may use the Common Areas in a manner that unreasonably interferes with the rights of other Owners, Tenants and Guests to use the Common Areas. Subject to the Rules and Regulations, an Owner may delegate the foregoing right to its Tenants or Guests.

6.3 Limitations on Use of Common Areas.

The right to use the Common Areas will be subject to the easements shown on the Plat, and to the following rights, easements, and limitations:

(a) the right of the Association to suspend the right of an Owner to use the Common Areas in accordance with Section 13;

(b) an easement in favor of the Association for ingress and egress over the Common Areas for the installation, maintenance, and repair of wires, lines, and conduits connected with the transmission of electricity, gas, water, communications, and other utilities;

(c) an easement in favor of the Association for ingress and egress over the Common Areas and the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incidental to the construction and maintenance of new and existing improvements on the Common Areas;

(d) an easement over the Common Areas in favor of police, fire, and other public officials in the performance of their official duties;

(e) the right of the Association to establish easements, reservations, exceptions, and exclusions consistent with the ownership of the Development and the best interests of the Owners and the Association, including, without limitation, the right to grant easements over the Common Areas to any public agency, authority, or utility;

(f) a prohibition on physical partition of the Common Areas or any part thereof;

(g) a prohibition on use of fireworks of any kind in the Common Areas;

(h) a prohibition against receptions or other social events; and

(i) a prohibition against fires in the Common Areas.

Section 7 **ASSESSMENTS**

7.1 Purpose of Assessments.

The Assessments levied by the Association will be used exclusively to promote the recreation, health, safety, and welfare of the Owners and occupants of the Development, for the management and operation of the affairs of the Association, for the improvement, operation, and maintenance of the Common Areas, and for the enforcement of the Governing Documents.

7.2 Types of Assessments.

The Association may levy General Assessments, Neighborhood Assessments, Special Assessments, Insurance Assessments, and Individual Assessments, all as more particularly described below.

7.3 Apportionment of General and Special Assessments.

Each Lot will be assessed its pro rata share of the General Assessments and Special Assessments, which pro rata share will be calculated by dividing the total dollar amount of each such Assessment by the total number of Lots. Notwithstanding the foregoing, the Association may charge a higher pro rata share to any Lot that for a period of twelve (12) consecutive months or longer is not occupied by the Owner as a single-family, primary residence, and the Owner of such Lot does not have such Lot managed by a property manager identified to the Association and responsible for maintaining the same. Such higher pro rata share will be the same for each such "absentee"-Owner Lot and will be no more than 50% higher than the pro rata share of each non-

“absentee”-Owner Lot. The manner of billing and collecting Assessments will be as set forth in the Bylaws.

7.4 Annual Budget.

The Board will prepare an annual budget for the Association each fiscal year, taking into account the Common Expenses, contributions to be made to the Reserve Fund (which shall be indicated in the annual budget as a separate line item), any surplus from previous fiscal years, and any income expected from sources other than Assessments. The annual budget prepared by the Board will not require approval by the Owners unless the Common Expenses under the proposed budget exceed the Common Expenses under the previous fiscal year’s budget by more than 10%. If the proposed annual budget is rejected by the Owners, the previous fiscal year’s budget will be deemed renewed for the next fiscal year and will remain in effect until (a) the Board adopts a budget that does not require Owner approval or (b) the Owners approve a subsequent annual budget proposed by the Board.

7.5 General Assessments.

Based on the annual budget, the Board will determine the amount of the General Assessment (which shall not include the cost of casualty insurance maintained by the Association), which will be apportioned among the Lots as provided in Section 7.3. General Assessments may be payable in lump sum or in installments, as provided in the Bylaws.

7.6 Special Assessments.

In addition to the General Assessments authorized in Section 7.5, the Board may levy during any fiscal year a Special Assessment applicable to that year only, for the purpose of deferring all or any part of the cost of unbudgeted expenses, expenses in excess of those budgeted, or other unanticipated, extraordinary, or emergency expenses. Special Assessments which in the aggregate in any fiscal year exceed an amount equal to 15% of the budgeted gross expenses of the Association for the fiscal year may be levied only if approved by at least 67% of the Owners present at a duly scheduled meeting of the Association at which a quorum is present. Special Assessments will be apportioned as provided in Section 7.3 and may be payable in lump sum or in installments, as provided in the Bylaws.

7.7 Insurance Assessments.

The Board shall levy during each fiscal year an Insurance Assessment applicable to that year only, for the purpose of covering the cost of all casualty insurance maintained by the Association pursuant to the requirements of this Declaration for Units. Each Unit will be assessed its pro rata share of the Insurance Assessments. The pro rata share for purposes of determining the Insurance Assessments will be calculated in one of the following two (2) ways, as reasonably determined by the Board from time to time: (a) by dividing the total finished square footage of each Unit by the total finished square footage of all Units, which “finished square footage” shall be as set forth on the tax records of Wasatch County or by such other reasonable method of determination as selected by the Association; or (b) by dividing the replacement value of the Unit by the total replacement value of all Units, which replacement value shall be determined in accordance with third-party professionally prepared appraisals obtained within the prior five (5)

years. The costs of other insurance maintained by the Association (e.g. casualty insurance on Common Areas, commercial general liability insurance, etc.) shall be passed through to the Owners as part of the General Assessments or Special Assessments. Casualty insurance for Single Family Residences is maintained by the Owner of the Lot upon which the Single Family Residence is located, at such Owner's sole cost and expense; **THE ASSOCIATION DOES NOT MAINTAIN CASUALTY INSURANCE FOR ANY SINGLE FAMILY RESIDENCE WITHIN THE DEVELOPMENT.**

7.8 Individual Assessments.

The cost of any service benefiting less than all of the Lots may, in the discretion of the Board, be assessed exclusively against the Lots benefited as an Individual Assessment. Individual Assessments will also include fines imposed for violation of the Governing Documents and charges against a Lot to reimburse the Association for costs incurred in bringing the Lot or its Owner into compliance with the Governing Documents. Individual Assessments may be payable in lump sum or in installments, as provided in the Bylaws.

7.9 Neighborhood Assessments.

The Association is hereby authorized to levy Neighborhood Assessments equally against all Units or Lots in the Neighborhood which are subject to assessment pursuant to this Declaration to fund Neighborhood Expenses; provided, if the Board determines in the exercise of its reasonable discretion that a particular Assessment should be levied on the basis of the benefits received, any portion of the assessment intended for exterior maintenance of structures, insurance on structures, or replacement reserves which pertain to particular structures shall be levied on each of the benefited Units or Lots in proportion to the benefit received.

7.10 Reserve Fund.

The Association may establish a Reserve Fund for repair, replacement and restoration of Common Area improvements having a useful life of more than three (3) years. The Board shall cause an analysis of the reserve fund to be conducted no less frequently than every five (5) years. When budgeting for the Reserve Fund, the Board will take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repairs or replacement cost. The Board may borrow funds from the Reserve Fund to meet high seasonal demands on the regular operating funds or to meet other temporary or emergency expenses which will later be paid from General Assessments or Special Assessments. Notwithstanding the foregoing sentence, the Reserve Fund shall not be used for daily maintenance expenses unless such expenses are approved by a 51% majority of Owners present at a duly scheduled meeting of the Association at which a quorum is present. At each annual meeting of the Owners, or any special meetings duly convened as set forth in the Bylaws, the Board shall present the reserve study and provide an opportunity for Owners to discuss the Reserve Fund and the ways in which it should be funded. The decision and discussion of the Association shall be kept in the meeting minutes of the Association, as such minutes are duly kept as set forth in the Bylaws.

7.11 Creation of Lien and Personal Obligation of Assessments.

Each Owner is deemed to covenant, for each Lot owned by it within the Development, to pay to the Association all Assessments as may be fixed, established, and collected from time to time pursuant to this Declaration. Assessments will also be the personal obligation of each Person who was an Owner of the Lot at the time the Assessment was assessed. Each Assessment, together with any interest, expenses, or attorneys' fees imposed pursuant to Section 13.5, will be a continuing lien upon the Lot against which it is assessed. An Owner who sells its Lot will not be entitled to a refund from the Association of any Assessments paid in advance. However, the purchasing Owner will be entitled to a credit for any Assessments paid in advance by a previous Owner, and the selling Owner may seek a corresponding credit from the purchasing Owner.

7.12 Appointment of Assessment Trustee.

The Association hereby designates [_____] as the "trustee" for purposes of Section 57-8a-302 of the Utah Community Association Act. The Association further hereby informs each Owner that such Owner's acceptance of an interest in a Lot constitutes a simultaneous conveyance of the Lot in trust, with power of sale, to said trustee or such substitute trustee as the Association may designate from time to time, as provided in Section 57-8a-302 of the Utah Community Association Act, for the purpose of securing payment of all amounts due under the Declaration or pursuant to such act.

Section 8 MAINTENANCE

8.1 Maintenance Responsibilities of the Association.

The Association will landscape and maintain the Common Areas, including any clubhouse, splash pad and other recreational amenities, in a clean and attractive condition and in a good and workmanlike manner so as to carry out the purposes for which the Common Areas are intended. The Association will also be responsible for following items on the Lots upon which Units are located: roof tiles, roof membranes, chimneys, porches, balconies, steps, sidewalks, decks, private drives and garage aprons, exterior siding, exterior paint, exterior railings, exterior light fixtures, rain gutters, downspouts, plaster foundations, wainscot masonry, pipes, meters, and other utility facilities; landscape maintenance, repair and replacement, including weeding, fertilizing, mowing and trimming, as applicable, of shrubs, trees, and lawn and maintenance of the irrigation system; snow removal (including salting as appropriate) of sidewalks, private drives, and garage aprons consistent with local ordinances; and replacement of light bulbs for front yard exterior light fixtures. Notwithstanding the foregoing, the County shall provide snow removal for Foothill Boulevard and Commons Boulevard, as shown on the Plat.

8.2 Maintenance Responsibilities of the Owners.

Except as otherwise set forth below or in Section 8.1, each Owner will be responsible for maintaining its Lot and the exterior of its Unit or Single Family Residence in a clean, sanitary, attractive and marketable condition, free of trash and in good repair at all times and in such fashion as not to create a hazard or nuisance. Such maintenance obligations will include, without

limitation, the obligation to maintain the following items located on Lots upon which a Single Family Residence is located: roof tiles, roof membranes, chimneys, porches, balconies, steps, sidewalks, decks, patios, vegetable gardens, container plants or other specialty landscaping items installed by the Owner and located on such Owner's Lot, private drives and garage aprons, windows, exterior siding, exterior paint, exterior railings, copper turrets, exterior light fixtures, rain gutters, downspouts, plaster foundations, wainscot masonry, pipes, meters, and other utility facilities (except that the Association will be responsible for any portions of trunk lines located on or under the Lots and the Owner will be responsible for portions of lateral lines located on or under the Common Areas serving only that Owner's Lot, even if located in the Common Area), and all specifications outlined in the Rules and Regulations. Such maintenance obligations will include, without limitation, the obligation to maintain the following items located on Lots upon which a Unit is located: vegetable gardens, container plants or other specialty landscaping items installed by the Owner and located on such Owner's Lot, pipes, meters, and other utility facilities (except that the Association will be responsible for any portions of trunk lines located on or under the Lots and the Owner will be responsible for portions of lateral lines located on or under the Common Areas serving only that Owner's Lot, even if located in the Common Area), and all specifications outlined in the Rules and Regulations.

8.3 Interior of Units.

Each Owner will be responsible for maintaining the interior of its Unit or Single Family Residence.

8.4 Party Walls.

(a) **General Rules of Law to Apply.** General rules of law regarding party walls will apply to the Party Walls to the extent that such rules are consistent with the provisions of this Declaration.

(b) **Maintenance and Repair.** Unit Owners sharing a Party Wall shall ensure that such Party Wall is maintained in sound condition and shall not neglect the regular maintenance and upkeep of the same. Each Unit Owner will give reasonable notice to the adjoining Unit Owner sharing a Party Wall of any repair, reconstruction, or other maintenance to the Party Wall ("**Maintenance Work**") that such Owner reasonably believes is required. The Owners sharing a Party Wall must agree on all such Maintenance Work before any Maintenance Work commences. If the Owners sharing a Party Wall are unable to agree with respect to the Maintenance Work, then such matter will be resolved pursuant to Section 8.4(i). Except as otherwise provided herein, the costs of all Maintenance Work will be borne equally by the Owners sharing the affected Party Wall, unless such Maintenance Work exclusively benefits one Owner, in which event such Owner shall pay the costs of such Maintenance Work in its entirety.

(c) **Right to Contribution Runs with Land.** The right of an Owner to receive contribution from an adjoining Owner sharing a Party Wall, together with the obligation of an Owner to contribute to an adjoining Owner sharing a Party Wall as described in this Section 8.4, will be appurtenant to and will run with the land and will pass to each Owner's successors in title.

(d) **Personal Obligation.** Each Owner, by acceptance of a deed to a Lot, whether or not so expressed in the deed, will be deemed to covenant and to agree to pay its share of the costs of the Maintenance Work. No Owner may avoid liability for the costs of Maintenance Work by non-use or abandonment of the Party Wall or of the Owner's Unit.

(e) **Effect of Non-Payment for Maintenance Work; Remedies.** If an Owner fails to pay for Maintenance Work as required hereunder, the nondefaulting Owner sharing the affected Party Wall will be entitled to recover (from the defaulting Owner) the defaulting Owner's share of the costs for the Maintenance Work, together with interest thereon at the rate of 12% per annum from the date of expenditure by the nondefaulting Owner.

(f) **Maintenance Easement.** Each Unit Owner will have an easement across any adjoining Party Wall for the purpose of performing the Maintenance Work required under this Section.

(g) **Damage Caused by or Attributed to an Owner.** Notwithstanding any other provision in this Section, if a Party Wall is damaged by an Owner or by the Owner's Tenants or Guests and such insurance is not covered by applicable insurance, the Owner will repair such damage at the Owner's sole expense.

(h) **Restoration.**

(i) **Insurance Proceeds Sufficient to Cover Loss.** If a Party Wall is damaged by a casualty that is not covered by insurance maintained by the Association, and if the proceeds of the affected Owners' insurance policies are sufficient to pay all costs of necessary repair or reconstruction, such proceeds will be applied to such repair or reconstruction. The affected Owners' respective insurance policies will be jointly and severally liable for the cost of repair or reconstruction of the Party Wall.

(ii) **Insurance Proceeds Insufficient to Cover Loss.** If proceeds of the affected Owners' insurance policies are insufficient to pay all costs of necessary repair or reconstruction and such repair and reconstruction is not covered by insurance maintained by the Association, the affected Party Wall nonetheless will be promptly repaired or reconstructed by the affected Owners. Any proceeds of the affected Owners' insurance policies will be applied toward the costs of necessary repair or reconstruction of the Party Wall. Each affected Owner will be jointly and severally liable for the cost of repair or reconstruction of the Party Wall.

(iii) **Cooperation; Application of Proceeds.** If an insurable loss to a Party Wall occurs, the affected Owners will cooperate with each other, the Association and their respective insurers to coordinate adjustment of the losses and application of insurance proceeds to reconstruction and repair of the Party Wall.

(i) **Dispute Resolution.** If a dispute arises under the provisions of this Section 8.4, the Board will review the dispute and issue a decision. The decision of the Board will be binding and final.

Section 9

INSURANCE

9.1 Association's Insurance.

(a) Property Insurance.

(i) The Association will maintain a "master" or "blanket" policy of special form property insurance covering 100% of the current replacement cost of the Common Areas and the Units (which may or may not include coverage for casualty loss caused by an earthquake in such coverage amounts and with respect to such insured property as the Board may determine in its sole and absolute discretion, subject to the requirements of applicable law, if any); building service equipment, personal property and supplies comprising a part of the Common Areas or owned by the Association; and any fixture, improvement, or betterment installed by an Owner to a Unit, including interior walls, floor coverings (including carpet, wood, stone, tile, etc.), counter tops (including granite and other hard surface tops), patios, decks, cabinets, light fixtures, electrical fixtures, heating or plumbing fixtures (including fireplaces), paint, wall covering, window, and any other item permanently part of or affixed to a Unit (real or decorative); but excluding land, foundations, excavations, and other items normally not covered by such policies.

(ii) The property insurance policy will be issued in the name of the Association for the use and benefit of the Association and the individual Owners, as their respective interests may appear. Loss payable will be in favor of the Association as a trustee for the Association, the Owners and the Mortgagees, as their respective interests may appear. Certificates of insurance will be issued to any Owner or Mortgagee on request.

(iii) The property insurance policy will contain the standard mortgage clause, or equivalent endorsement (without contribution), commonly accepted by private institutional Mortgage investors in the area in which the Development is located. In addition, such mortgage clause or similar appropriate provision will provide that the policy may not be cancelled or substantially modified without at least ten days' prior written notice to the Association, the Owners, and each First Mortgagee that is listed as a scheduled holder of a First Mortgage in the policy.

(iv) The property insurance policy will provide for the following: (A) a waiver of the right of subrogation against Owners individually and each member of the Owner's household; and (B) the policy is primary if the Owner has other insurance covering the same loss; provided, however, in such event and notwithstanding the primacy of the insurance maintained by the Association, the Owner is responsible for the Association's policy deductible. In addition, if, in the exercise of its business judgment, the Board determines that a claim is likely not to exceed the Association's property insurance policy deductible: (C) the Owner's policy is considered the policy for primary coverage to the amount of the Association's policy deductible; and (D) an Owner who does not have a policy to cover the Association's property insurance policy deductible is responsible for the loss to the amount of the Association's policy deductible, as provided in Subsection (v) below.

(vi) The property insurance policy will also contain or provide an “Agreed Amount Endorsement” and an “Inflation Guard Endorsement” (if available). Each Unit Owner shall provide written notice to the Association of any material improvements to such Owner’s Unit within thirty (30) days following the completion of such material improvements.

(vii) The Association is not responsible for and the insurance maintained by the Association does not cover the personal property of the Owners.

(viii) In the event of “lot damage,” as that term is defined in Utah Code Ann. § 57-8a-405(7)(a)(ii), the Owner of the damaged Lot or Unit is responsible for that portion of the loss attributable to the Association’s policy deductible, as described in Utah Code Ann. § 57-8a-405(6)(b). If the Owner does not pay the foregoing amount within thirty (30) days after substantial completion of the repairs to the Unit, the Association may levy an Individual Assessment against the Owner.

(ix) The Association shall set aside an amount equal to the amount of the property insurance policy deductible or \$10,000, whichever is less, in a reserve fund maintained at the Board’s discretion. The Association shall maintain a certificate or memorandum of the insurance maintained by the Association in the office of the Association, which memorandum or certificate shall be available for inspection by any Owner and shall identify the amount of the applicable deductible.

(b) **General Liability Insurance.** The Association will maintain in force, and pay the premium for a policy providing commercial general liability insurance coverage covering all of the Common Areas and all other areas of the Development that are under the Association’s supervision, whether or not such spaces are leased to some third party. The coverage limits under the policy will be in amounts generally required by private institutional Mortgage investors for projects similar to the Development in construction, location, and use. Nevertheless, such coverage will be for at least \$2,000,000 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under such policy will include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance, or use of the Common Areas. Additional coverage under such policy will include protection against such other risks as are customarily covered with respect to projects similar to the Development in construction, location, and use. If such policy does not include “severability of interest” in its terms, the policy will include a special endorsement to preclude an insurer’s denial of any Lot Owner’s claim because of negligent acts of the Association or any other Lot Owner. Such policy will provide that it may not be cancelled or substantially modified, by any party, without at least ten days’ prior written notice to the Association, the Owners, and each First Mortgagee that is listed as a scheduled holder of a First Mortgage in such policy.

(c) **Directors & Officers Insurance.** The Association will maintain directors and officer’s liability insurance providing coverage for the Association and its Trustees and officers for any liability resulting from the negligent acts or omissions of the Trustees or officers in their official capacities.

9.2 Individual Owner's Insurance.

Each Lot Owner shall obtain and maintain a separate homeowner's insurance policy insuring the Owner against (a) claims made for damages due to bodily injury or property damage to third parties for which the Owner is legally responsible and (b) casualty damage to personal property kept within the Unit or Single Family Residence (covering the full replacement cost thereof). Each Owner of a Lot upon which a Single Family Residence is located shall obtain and maintain a separate homeowners property insurance policy insuring the Owner against casualty covering 100% of the current replacement cost of the Owner's Single Family Residence (which may or may not include coverage for casualty loss caused by an earthquake in such coverage amounts as the Owner may determine in its sole and absolute discretion). The liability portion of each Owner's policy will name the Association as an additional insured, and the property portion of the policy will include a waiver of subrogation rights by the insurer as to other Owners, the Association, and Mortgagees. The policy will include such other endorsements as are typically included in a homeowner's policy issued in the State of Utah.

9.3 Insurance Carrier Requirements.

Each insurance policy required under this Section 9 will be purchased from an insurance carrier licensed in the State of Utah and having a financial rating from A.M. Best Company of at least A-.

9.4 Power-of-Attorney.

Each Owner of a Unit hereby appoints the Board (or an insurance trustee or substitute insurance trustee designated by the Board) as its attorney-in-fact for the purpose of purchasing and maintaining such insurance as the Association is required to maintain hereunder, including: (i) the collection and appropriate disposition of the proceeds thereof; (ii) the negotiation of losses and execution of releases of liability; (iii) the execution of all documents; and (iv) the performance of all other acts necessary to accomplish such purpose. The Board (or designated insurance trustee) will receive, hold, or otherwise properly dispose of any proceeds of insurance in trust for the use and benefit of the Owners and their Mortgagees, as their interests may appear.

Section 10 CASUALTY

10.1 Damage or Destruction.

In the event of any casualty damage to a Unit that is covered by the insurance policy kept or required to be kept by the Association under Section 9.1(a), the insurance proceeds, if sufficient to reconstruct the Unit, will be deposited into a bank account that requires, for withdrawals, the signatures of the Unit Owner and an officer of the Association. The Unit Owner and the Association will then promptly authorize the necessary repair and reconstruction work, and the insurance proceeds and the deductible will be applied by the Association and the Owner to defray the cost thereof. "Repair and reconstruction" of the Unit, as used herein, means restoring the Unit to substantially the same condition in which it existed before the damage, with each Unit having the same boundaries as before.

10.2 Insufficient Insurance Proceeds.

If the insurance proceeds are insufficient to repair and reconstruct any damaged Unit, such damage or destruction will be promptly repaired and reconstructed by the Association, using the insurance proceeds and the proceeds of an Individual Assessment against the Owner of the damaged Unit. Any such Individual Assessment will be equal to the amount by which the cost of reconstruction or repair of the Unit exceeds the sum of the insurance proceeds allocable to such Unit. [Notwithstanding the foregoing, the destroyed or damaged Units may be demolished and all debris and rubble caused by such demolition may be removed and the Lot(s) regraded and landscaped if (i) at least sixty-seven percent (67%) of all Owners, (ii) all Eligible First Mortgagees that hold a security interest in any or all of the destroyed or damaged Units, and (iii) each Lot Owner of a Unit that is not to be rebuilt, vote not to rebuild. The cost of such reconstruction or demolition work will be paid for by any and all insurance proceeds available. Any excess insurance proceeds will then be disbursed to such Owners and their Mortgagees jointly in accordance with their respective interests. If a Unit is not rebuilt, such Unit's allocated voting interests shall be reallocated among the remaining Lot Owners and amendment to this Declaration showing such reallocation shall be recorded in the Official Records of the County.]

10.3 Damage to Common Area.

In the event of any casualty damage to the Common Area, the insurance proceeds will be applied by the Association to the reconstruction and repair of the damaged Common Area unless (i) at least sixty-seven percent (67%) of the allocated voting interests of the Lot Owners, (ii) all Eligible First Mortgagees that hold a security interest in any or all of the destroyed Common Areas, and (iii) each Lot Owner to which the destroyed Common Area is appurtenant, vote not to rebuild.

Section 11 EMINENT DOMAIN

In the case of a taking or condemnation by competent authority of any part of the Common Area, the proceeds awarded in such condemnation will be paid first to satisfy any indebtedness secured by a mortgage or other lien encumbering such portion of the Common Area, and the balance to the Association. The proceeds, if any, paid to the Association, together with any reserve being held for such part of the Common Area, will be used first to restore the remaining Common Area in the vicinity of the portion that was taken to conform as closely as possible to the general appearance and design of the remaining Common Area, and the balance, if any, will be distributed to the Owners in equal shares.

Section 12 RESTRICTIONS

12.1 Residential Character of Development.

Each Lot, Unit and Single Family Residence will be used and occupied for single-family primary or secondary residential purposes, and not for purposes of real estate speculation or investment. Except for day cares and preschools as permitted by state and local ordinances, no part of the Development may ever be used for any business, commercial (including auctions or similar

events), manufacturing, mercantile, storage, vending or other nonresidential purposes, including without limitation any activity for which the provider is compensated or receives any consideration, regardless of whether the activity is engaged in full or part-time, generates or does not generate a profit, or requires or does not require a license. This paragraph does not preclude any of the above-described activities without external evidence thereof (except for signs as permitted by applicable ordinances), provided that: (a) such activities are conducted in conformance with all applicable governmental ordinances; (b) the patrons or clientele of such activities do not visit the Lot or park automobiles or other vehicles within the Development; (c) the existence or operation of such activities is not apparent or detectable by sight, sound or smell from outside the boundaries of the Lot; and (d) such activities are consistent with the residential character of the Development and conform with the applicable provisions of this Declaration. Nothing in this section shall preclude Declarant or others specifically authorized in writing by Declarant from maintaining one or more model homes and sales offices in such homes, conducting sales/marketing activities and providing signage on the Development in accordance with applicable sign regulations. Any other Person or entity (other than the Declarant) in the business of building and/or selling homes may only conduct sales activities in the Development related to specific homes and lots in the Development that the Person currently owns. Notwithstanding the foregoing, (a) an Owner may conduct activities relating to sale of its Lot; (b) the Association may construct improvements on the Common Areas and store construction materials and equipment on the Common Areas in the normal course of construction, and (c) an Owner may maintain its professional library, records, or accounts, or communicate with professional associates, clients, or customers in its Unit or Single Family Residence, as long as there is no evidence of such activities observable from outside the Unit or Single Family Residence.

12.2 Single Family Residence.

Each Lot shall be used as a residence for a single family and for no other purpose, except that mother-in-law apartments may be permitted consistent with applicable ordinances. Visitors are permitted to stay at the residence upon permission of the Owner for a duration of no longer than 30 consecutive days. No Owner or other Person other than Declarant shall enter into a lease, rental agreement, license or other agreement (collectively, a “**Lease**”) allowing a person that is not the Owner of the Unit or Single Family Residence to occupy a Unit or Single Family Residence in exchange for rent or other remuneration unless (i) such Lease provides for a period of occupancy of not less than three (3) consecutive days, and (ii) the Lease requires the applicable Tenant to comply with all applicable provisions of this Declaration and the other Governing Documents.

12.3 Unlawful Use Prohibited.

No unlawful use will be made of the Development or any part thereof, and all applicable federal, State, and local laws, ordinances, and regulations will be observed.

12.4 No Nuisances.

No noxious, offensive, or unsightly activities or conditions will be carried on, in, or upon any part of the Development, nor will anything be done or placed in or upon any part of the Development which is or may become a nuisance or which may cause disturbance or annoyance to Owners. No activities will be conducted, improvements constructed, nor conditions created in

or upon any part of the Development which are or may become unsafe or hazardous to any person or property.

12.5 No Smoking Outdoors; Smoking in Units.

Smoking in any outdoor area of the Development (other than private rear yards or on private patios or decks attached to an Owner's Unit) is strictly forbidden. Smoking is allowed in the Units and tobacco smoke may drift from one Unit into another and each Owner is hereby informed and acknowledges by purchasing said Owner's Unit that such drifting may occur. Each Owner shall contain tobacco smoke created within such Owner's Unit within the Owner's Unit and shall install at such Owner's sole cost and expense, such air filtration systems as are necessary to contain such smoke and the odors created thereby to such Owner's Unit. Each Owner shall indemnify and hold the Association harmless from and against any and all liabilities, obligations, claims, debts, demands, suits, costs, attorneys' fees, expenses, actions and causes of action of any kind or nature whatsoever, in law or equity, arising out of or in any way relating to such Owner's failure to contain tobacco smoke within such Owner's Unit.

12.6 Construction; Alterations, Additions, Removals, or Improvements.

The construction time for the exterior portion of any structure or any improvement on any Lot shall not exceed twelve (12) months from start to finish, including landscaping. All building debris, excavation, direct, etc. associated with the building process shall be removed within such twelve (12) month period. Such debris and excavation dirt shall not be permitted on any of the streets or sidewalks. All setbacks, side yards, and rear yards shall be in conformance with applicable laws and ordinances in effect at the time of construction of any building on any Lot. To preserve the first-class appearance of the Development and the property values of the Lots, any alteration, removal, addition, or improvement of or to the exterior or structural portions of a Unit or Single Family Residence or to the landscaping of a Lot will require prior written approval by the Board. Without limiting the generality of the previous sentence, an Owner must obtain prior written approval from the Board before changing the color of exterior items such as stucco, paint, and wrought-iron railings. Improvements to the interior of a Unit also require prior written approval of the Board to the extent such improvements would affect any party wall, the structural components or structural integrity of the Unit. The approval of the Board will be withheld or granted in accordance with such reasonable rules, restrictions, and architectural and landscaping guidelines as may be established from time to time by the Board. Owners will be required to submit an application containing, among other things, detailed plans and drawings of the proposed alteration, removal, addition, or improvement. The Board may waive or simplify the application requirement for proposed alterations or additions that are deemed to be minor in nature or scope. Each Owner must comply with all applicable building codes and any governmental permitting and inspection requirements. Each Owner shall undertake such activities in a way that minimizes the impact on other Owners to the degree reasonably possible under the circumstances.

12.7 No Obstructions.

No Owner will obstruct the Common Areas or store any items on the Common Areas except to the extent expressly permitted under the Governing Documents.

12.8 Parking.

The placement of any inoperative vehicle on any Lot or adjacent street for more than 48 hours is prohibited. No vehicles of any kind shall be parked or stored on the front yard setback of any Lot, or within the side yard on the street side of a corner Lot. Trailers, mobile homes, trucks over one-ton capacity, boats, campers not on a truck bed, motor homes, buses, tractors and maintenance or commercial equipment of any kind shall be parked or stored behind the front yard setback in an enclosed area screened from street view. Sufficient side yard gate access should be planned and provided for in the design of the Single Family Residence to permit ingress, egress and storage of trailers and recreational vehicles on the side and rear yards. The storage or accumulation of junk, trash, manure or other offensive or commercial materials is prohibited. No pads used for the storage of vehicles or other material either temporarily or permanently shall be constructed in the front yard of a given Lot. The front yard shall remain unoccupied and unobstructed by buildings, vehicles and/or hard surfaces such as asphalt, cement and packed surface. In the event of any conflict between the provisions of this section and any County or other applicable governmental requirements, the more restrictive provision shall control. Maximum driveway width is 24 feet. No campers, vans, trucks over one ton, trailers, vehicles with advertising signage, recreational vehicles, motor home, travel trailer and other type of non-passenger vehicles, campers, camper shells/body, wagons, buses aircraft motorcycles, motor scooters inoperative automobiles, and garden maintenance equipment, equipment, implements or accessories may be kept on any Lot unless the same are fully enclosed within the garage located on such lot and/or said vehicles and accessories are parked on pavement and are totally screened from view from other Lots and Common Areas by a screening structure or fencing and said vehicles and accessories are in operable condition. Boats and other watercraft may be stored in the rear or side yard of such Lot provided a concrete pad and adequate screening or fencing is constructed to conceal the vehicle from view from adjacent streets (expressly excluding, however, the alley-ways adjacent to such lot). Any such fencing or screening material must be in accordance with the terms of this Declaration. The foregoing provisions of this Section shall not apply to: (i) non-commercial vans and pickups, (ii) service and delivery vehicles temporarily parked on the Development during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Lot, or (iii) vehicles and equipment temporarily parked on a Lot in connection with the construction or maintenance of a lot. Except for semi-trucks and trailers that are loading or unloading, no vehicles of any kind may be parked on the street outside of portions of the street that have been designated for street parking. No junk or junk yards of any kind or character shall be permitted, nor shall accumulation of scrap, used materials inoperative automobiles, or machinery, or other unsightly storage of personal property be permitted.

12.9 Construction Period Exemption.

During the course of actual construction of any permitted structures or improvements within the Development, the provisions, covenants, conditions, and restrictions contained in this Declaration will be deemed temporarily waived to the extent reasonably necessary or convenient to permit such construction. Construction activities will be limited to the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday.

12.10 Hazards.

No activity may be conducted within the Development that is, or would be considered by a reasonable person to be unreasonably dangerous or hazardous, or which could lead to the cancellation of a conventional homeowner's insurance policy. This includes, without limitation, the storage of caustic, toxic, flammable, explosive or hazardous material in excess of those reasonable and customary for household uses, the discharge of firearms or fireworks, and setting open fires (other than properly supervised and contained barbecues). All stacks and chimneys from fire places in which combustibles, other than natural gas, are burned will be fitted with spark arresters.

12.11 Animals.

No wild, exotic, or dangerous animals, horses, cows, pigs, sheep, fowl, livestock or animals, other than ordinary household pets that do not constitute a nuisance, will be allowed within the Development. Dogs and cats or other household pets belonging to Owners or their Tenants or Guests within the Development must be kept within the owner's control. All dogs will be restrained on a leash when outside of a Unit. Animal owners are responsible for immediately picking up all animal droppings that are deposited within the Development. In no case may any household pet or other animal kept within the Development be allowed to create a nuisance for neighboring Owners due to noise, odors, or otherwise. No more than two dogs or two cats, or one of each, may be kept within a Unit at any time.

12.12 Motor Vehicles, ATVs, Etc.

Motor vehicles may be operated within the Development only on streets and driveways. ATVs and other such motorized recreational vehicles (including, but not limited to, motorized skateboards and motorized scooters) may not be used in the Development at any time.

12.13 Signs.

No "for sale" signs or other signs or advertising devices of any kind may be erected or maintained within the Development except in accordance with the Rules and Regulations and, provided further, that one (1) "for sale" sign shall be permitted to be placed in the window of a Unit that is at the time of placement available for sale so long as such sign is promptly removed when the Unit is no longer available for sale. Notwithstanding the foregoing, Declarant is expressly exempted from this restriction and may erect such signs as are deemed necessary by Declarant for its construction and marketing activities so long as it owns any Lots in the Development that may be subject to such activities, pursuant to applicable sign regulations.

12.14 Clotheslines and Lighting Devices.

No exterior clothesline will be erected or maintained within the Development; and there will be no exterior drying or laundering of clothes within the Development. An Owner may attach Christmas lights or other holiday decorations to the exterior of its Unit or Single Family Residence, but only in accordance with Rules and Regulations adopted by the Board.

12.15 Detached Buildings.

Owners shall not erect any garage, shed or other detached accessory building on any Lot unless such building is first approved by the Board. Any detached building shall conform in design and materials with the Single Family Residence on the Lot, and in accordance with the guidelines found in this Declaration, unless a variance is approved in writing by the Board.

12.16 Variances.

A variance from the standards and restrictions set forth in this Article may be granted by the Board, but only for good cause shown.

12.17 Fencing.

Only 3 Rail Split Fencing is permitted in the Development as shown on Exhibit C. All fencing is subject to applicable ordinances for visibility standards. No chain link fences are permitted. No fences within the front yard setback are permitted. No fence or other similar structure shall be erected in any side or rear yard to a height in excess of four feet. The front yard setback includes any lot area in front of the principal structure facing the street. On corner Lots, fencing of side yards that face the street may not obstruct a view of the Unit or Single Family Residence structure. The Owner of a Lot may erect a fence or a similar structure in the side or rear yard of such Lot, at such Owner's sole cost and expense and subject to the provisions of this Section, only with prior written approval from the Board or the Association. The Association shall have no obligation to provide any landscape maintenance or other maintenance service to the portion of the Lot that is enclosed by or otherwise within such fence, provided that this cessation of maintenance services shall not entitle the Owner of the Lot to receive any discount or abatement with respect to any Assessment levied by the Association against the Owner. The Owner of the Lot shall maintain the fence in good order and repair at Owner's sole cost and expense, and the Owner shall also bear the cost of any relocation of irrigation systems necessitated by the construction of a side or rear yard fence.

12.18 Storage of Building Materials.

No building material of any kind or character shall be placed or stored upon any Lot until the Owner thereof is ready to commence improvements and then the material shall be placed within the property boundaries of the Lot upon which the improvements are to be erected, and shall not be placed in the streets or between the curb and the property line. Any builders or developers shall comply with the applicable sections of any Annexation and Development Agreement for the Development, and the currently adopted applicable governmental standards for site construction.

12.19 Nuisances.

No noxious or offensive activities may be engaged in upon the Development or on any public street abutting or visible from the Development. Furthermore, anything engaged in thereon which may become an annoyance or nuisance to the neighborhood is strictly prohibited.

12.20 Antennae, Satellite Dishes and Solar Collectors.

No owner may erect or maintain a television or radio receiving or transmitting antenna, satellite dish or similar implement or apparatus, or solar collector panels or equipment upon any Lot unless such apparatus is erected or maintained in such a way that is screened from public view. In no instance shall any such apparatus be placed in the front yard or areas visible from the roadway. Any roof-mounted antenna or equipment is to be placed behind the roof ridgeline so as not to be visible from the roadway.

12.21 Trash Disposal.

No trash, ashes, rubbish or any other refuse may be dumped or thrown on any Lot or any part or portion thereof. All Lots must subscribe to a municipal garbage disposal service and all trash containers shall be placed as to not be visible from any roadway except during designated pickup times.

12.22 Temporary-type Structures.

Except as set forth herein, no structure of a temporary character, including, but not limited to, trailers, tents, shacks, sheds or other temporary buildings shall be used on any Lot at any time as a residence, whether temporarily or permanently (this includes recreation vehicles).

12.23 Maintenance.

Every Lot, including the improvements thereon, shall be kept in good repair and maintained by the Owner thereof in a clean, safe and attractive condition. Regarding the repair and maintenance of sewer lines, the Lot Owner is responsible for all repairs and maintenance of the sewer lines from the home to the main line in the street.

12.24 Fuel Storage Tanks.

No tank for storage of fuel may be installed or maintained in or on any Lot.

12.25 Ingress/Egress.

No Lot within the Development shall be used for the temporary or permanent purpose of ingress and/or egress to another property inside or outside of this Development.

12.26 Building.

No residence, detached building, structure, or fencing of any kind shall be constructed until a required building permit is issued by the appropriate governmental authority and all necessary approvals have been granted.

12.27 Weeds and Debris.

Prior to construction on a Lot, the Lot Owner shall be responsible for clearing weeds and debris from such Lot. Upon completion of construction, Yards shall be kept in presentable and

orderly state. Flower beds shall be cleaned of all weeds. Grass shall be maintained below 6 inches. Yards are to be made up of typically available and accepted grass types. Edges between grass and other medium shall be trimmed and/or edged. Regular seasonal lawn care shall be maintained (i.e., fertilized, waters, weeded, mowed, and trimmed). Other vegetation shall be properly trimmed and maintained. Upon failure to maintain any lot, the Board may, at its option, have the grass, weeds and vegetation cut as often as necessary in its judgment, and the owner of such property shall be obligated, when presented with an itemized statement to reimburse the Board for the cost of such work.

12.28 Storage Tanks.

No tank for the storage of fluid is permitted.

12.29 Roof-Mounted Mechanical.

Any roof-mounted equipment such as condensing units, swamp coolers, etc. shall be placed behind the roof ridgeline so as not to be visible from the roadway.

12.30 Window Treatments.

No aluminum foil, reflective film or similar treatment shall be placed on window or glass doors.

12.31 Landscaping.

All yard landscaping for each Lot shall be installed by the builder of the Unit or Single Family Residence prior to occupancy of the Unit or Single Family Residence on the Lot. However, if seasonal temperatures do not permit installation of the landscaping at that time, the landscaping shall be installed within six (6) months thereafter. Where landscaping is not installed prior to occupancy, the builder shall post a cash bond of \$2,000.00 with the Board to ensure timely completion. If the landscaping is not installed within six (6) months of occupancy, the Board may use the bond to complete the landscaping. "Front yard landscaping" for purposes of this section is defined as landscaping in the front yards between the front of the house and the curb on the entire width of the Lot excluding the driveway and sidewalk. This also includes the unfenced area between the structure street side curb on corner lots. Consistent with applicable ordinances, Owners shall landscape and maintain park strip areas in front of their Lots. In order to assure uniformity of street appearance, no trees are to be planted upon property on the street side of any sidewalks without specific approval of the Board and any appropriate governmental authority. Any plants or trees installed by any builder or developer of a Lot shall be maintained by the Owner of the Lot and shall be replaced with the same kind and caliber of plant or tree at the sole expense of the Owner of the Lot. Landscaping shall not be installed until the Board has given approval following a plan review.

12.32 Garages.

Each single family dwelling is to be provided with a two (2) car enclosed garage as a minimum.

12.33 Roof Pitch.

Rooflines shall have a minimum roof pitch of 6: 12 for single story homes and 5:12 for two story homes.

12.34 Further Subdividing.

Except by the Declarant during the period when Declarant is a Class B Member, no Lot shall be further subdivided or separated into smaller Lots by any Owner, and portion less than all of any such Lot, or any easement or other interest therein, shall not be conveyed or transferred by any Owner, without the prior written approval of the Board, which approval must be evidenced on the plat or other instrument creating the subdivision, easement, or other interest. Except by the Declarant during the period when Declarant is a Class B Member, no further covenants, conditions, restrictions or easements shall be recorded by any Owner or other person against any Lot without the provisions thereof having been first approved in writing by the Board and any covenants, conditions, restrictions or easements recorded without such approval being evidenced thereon shall be null and void. Except by the Declarant during the period when Declarant is a Class B Member, no application for rezoning of any Lot, and no applications for variances or use permits, shall be filed with any governmental authority unless the proposed use of the Lot has been approved by the Board and the proposed use otherwise complies with this Declaration.

12.35 Surface Water Management.

Each Owner shall be solely responsible for controlling the storm water drainage from such Owner's Lot in accordance with applicable law. No Owner, by erection of any structure or otherwise, shall in any way change, alter, impede, revise or otherwise interfere with the flow and the volume of water in any portion of the ditches, canals, channels, ponds, lakes, retention areas, or other bodies of water or waterways reserved for, or intended by Declarant to be reserved for, drainage ways or for the accumulation of runoff waters, as reflected in any permits therefore, or plat or instrument of records, without the specific written permission of the Declarant, during the period when Declarant is a Class B Member, or the Board thereafter. No Lot shall be increased in size by filling in any water retention or drainage areas on which it abuts. Owners shall not fill, dike, rip-rap, block, divert or change the established drainage ways without the prior written consent of the Declarant, during the period when Declarant is a Class B Member, or the Board thereafter. Water management for any Lot shall be provided in accordance with the overall drainage system for the Development and no Owner shall make improvements to such Owner's Lot without providing for the management of surface water drainage from such Owner's Lot both during and after any construction activity on such Lot.

12.36 Declarant's Exemption.

Lots owned by Declarant (and by merchant-builders granted exemptions in writing by Declarant, (each being an "Exempt Builder")) are exempt from the provisions of this Section 12, until such time as Declarant or Exempt Builder convey title to the Lot to a third-party. All activities of Declarant or such Exempt Builder reasonably related to their respective development, construction, sales, and marketing efforts, shall be exempt from the provisions of this Section 12. This Section 12 and its subsections may not be amended without Declarant's prior written consent.

Section 13
ENFORCEMENT

13.1 General.

The Board will notify any Owner in writing of any violation of the Governing Documents for which the Owner is responsible, including violations caused by a Tenant or Guest of the Owner, and will specify any necessary remedial action. If (1) the Owner has not begun and diligently pursued the remedial action within at least 48 hours of notification (or such longer period as specified below or as the Board may deem appropriate); (2) the Owner and the Association cannot agree to a mutually acceptable solution consistent with the Governing Documents; and (3) the Association has given the Owner reasonable opportunity to be heard; then the Association may do any or all of the following:

- (a) subject to the additional requirements of Section 13.2, impose reasonable fines as an Individual Assessment upon the Owner;
- (b) subject to the additional requirements of Section 13.2, suspend the Owner's voting rights and right to use the Common Areas (excluding the driveway associated with an Owner's Unit) for the period that the violation remains uncured;
- (c) where applicable, enter the offending Owner's Lot and remove the cause of the violation, or alter, repair, or change the item which is in violation of the Governing Documents in such a manner as to make it conform thereto, in which case the Association may assess the cost of the remedy as an Individual Assessment against the Owner and the Owner's Lot;
- (d) foreclose the Assessment lien as described in Section 13.4;
- (e) bring suit or action against the Owner to enforce the provisions of this Declaration; or
- (f) pursue any other remedy available at law or in equity.

13.2 Fines.

Only the Board may assess a fine against an Owner. A fine may be assessed only for a violation of a rule, covenant, condition, or restriction that is specifically listed in the Governing Documents. A fine must be in the amount specifically provided for in the Governing Documents for the specific type of violation, or in an amount commensurate with the nature of the violation. Before assessing a fine, the Board will notify the delinquent Owner of the violation and inform the Owner that a fine will be imposed if the violation is not remedied within 48 hours (or such longer cure period as may be deemed appropriate by the Board). Any Owner assessed a fine may request an informal hearing to protest or dispute the fine within 30 days from the date the fine is assessed. The hearing will be conducted in accordance with the standards provided in the Governing Documents. If a hearing is requested within the 30-day period, no interest or late fees may accrue on a fine until after the hearing has been conducted and a final decision has been rendered.

13.3 Suspension of Voting Rights and Right to Use Common Areas.

If an Owner fails to pay an Assessment levied under the Governing Documents within 30 days of its due date, the Association may suspend the Owner's voting rights and access to the Common Areas (exclusive of Common Areas providing access to a Unit and the apron in front of a Unit's garage). Before suspending voting and access rights, the Board will send a written notice to the delinquent Owner of (a) the amount of the past-due Assessment, including any interest or late fees; (b) the Board's intent to suspend the Owner's voting rights and access to Common Areas if payment of the past-due Assessment is not received within 14 days (or such longer cure period as may be deemed appropriate by the Board); and (c) the Owner's right to request an informal hearing with the Board within 14 days after receipt of the notice. If a hearing is requested by the delinquent Owner, a hearing will be conducted in accordance with the standards provided in the Governing Documents, and no interest or late fees may accrue on a fine until after the hearing has been conducted and a final decision has been rendered.

13.4 Enforcement of Assessment Lien.

The Association will have a lien against each Lot for any Assessment levied against the Lot and the Owner thereof under the Governing Documents from the date on which the Assessment is due. If an Owner fails to pay an Assessment levied under the Governing Documents within 30 days of its due date, the Association may foreclose on the lien and may, through its duly authorized agents, bid on the Lot at such foreclosure sale and may acquire, hold, lease, mortgage, or convey the Lot. Foreclosure may be carried out (a) judicially or (b) nonjudicially in accordance with the Utah Trust Deed Act, as if the lien were secured by a trust deed. By accepting a deed to a Lot, each Person will be deemed to appoint the Association's attorney (or other lawful designee of the Association) as trustee for purposes of exercising the power of sale. The Association may bring an action to recover a money judgment for unpaid Assessments without foreclosing or waiving the lien described in this Section. Recovery on any such action, however, will operate to satisfy the lien, or the portion thereof, for which recovery is made.

13.5 Interest, Expenses, and Attorneys' Fees.

Any Assessment or other amount not paid to the Association when due in accordance with this Declaration will bear interest from the due date (unless the Assessment is a fine and a hearing is timely requested) until paid at a rate six (6) percentage points per annum above the prime rate published in the *Wall Street Journal* at the time, or such other rate as may be established by the Board, but not to exceed the lawful rate of interest under the laws of the State. A late charge of Twenty-Five and no/100 Dollars (\$25.00) or a reasonable amount established from time to time by the Board may be levied for each delinquent Assessment. In addition to such late charge, any unpaid amounts of a delinquent shall bear interest from the due date thereof until the date of payment at an annual rate of eighteen percent (18%), compounded monthly, or the highest rate permitted by law, whichever is less. If the Association files a notice of lien, the lien amount will also include the recording fees associated with filing the notice and a fee for preparing the notice of lien, which fee will be established from time to time by the Board. If the Association prevails in any procedure to enforce the provisions of this Declaration, the Association is entitled to an award of its costs and reasonable attorneys' fees associated with the action.

13.6 Nonexclusiveness and Accumulation of Remedies.

An election by the Association to pursue any remedy provided for in this Declaration will not prevent concurrent or subsequent exercise of another remedy permitted hereunder. The remedies provided in this Declaration are not exclusive but will be in addition to all other remedies, including actions for damages and suits for injunctions and specific performance, available under applicable law. Failure by the Association to enforce any provision of the Governing Documents will not be deemed a waiver of the right to do so thereafter. Any aggrieved Owner may bring an action against another Owner or the Association to recover damages or to enjoin, abate, or remedy any violation of the Governing Documents by appropriate legal proceedings.

Section 14 MORTGAGEE PROTECTIONS

14.1 Benefit of Mortgagees.

This Article establishes certain standards and covenants that are for the benefit of Mortgagees. This Article is supplemental to, and not in substitution of, the other provisions of this Declaration, but in case of a conflict, this Article will control.

14.2 Notices of Action.

Each Eligible Mortgagee is entitled to timely written notice of the following:

- (a) any proposed amendment to the Governing Documents effecting a change in the use to which any Lot or the Common Areas are restricted;
- (b) any condemnation or casualty loss that affects either a material portion of the Development or the Lot encumbered by the Eligible Mortgagee's Mortgage;
- (c) delinquency in the payment of Assessments that remains uncured for 60 days by the Owner whose Lot is encumbered by the Eligible Mortgagee's Mortgage;
- (d) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association under Section 9; and
- (e) any proposed action that requires the consent of a specified percentage of Mortgagees.

14.3 No Priority.

No provision of this Declaration or the Bylaws gives or will be construed as giving any Owner or other party priority over any rights of the First Mortgagee of such Owner's Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Areas.

14.4 Notice to Association.

Upon request, each Owner will be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering the Owner's Lot.

Section 15 AMENDMENT AND REPEAL

15.1 Amendment by the Owners.

This Declaration or the Plat may be amended or repealed with the approval of at least 67% of the Owners. Any amendment will be executed and acknowledged by the Association and will be effective upon recording in the official records of the County.

15.2 Amendment by the Board.

The Board may amend this Declaration without the approval of the Owners for the limited purpose of (a) correcting a clerical error, (b) clarifying an ambiguity, (c) resolving a contradiction in the terms of the Declaration, (d) bringing this Declaration into compliance with any applicable law, statute, ordinance, or regulation, (e) enabling a reputable title insurance company to issue title insurance coverage on a Lot, or (f) enabling an institutional or governmental Mortgage lender, purchaser, insurer, or guarantor to make, purchase, insure, or guarantee a Mortgage on a Lot.

Section 16 ANNEXING ADDITIONAL PROPERTY

16.1 Right of Annexation.

Subject to such governmental approvals as may be required by applicable ordinances or any development agreement entered into between the Declarant and a governmental authority applicable to the Development, Declarant may from time to time in its sole discretion at any time within fifteen (15) years following the recording of this Declaration, add to the Development as Additional Property any real property now or hereafter acquired by it to the Development. The addition of such real property shall be accomplished as follows:

(a) The Declarant shall record a Supplemental Declaration which shall, among other things, describe the real property to be annexed, designate the Neighborhood of which such property is a part, establish land classifications for the Additional Property, establish any additional limitations, uses, restrictions, covenants and conditions which are intended to be applicable to such property, and declare that such property is held and shall be held, conveyed, hypothecated, encumbered, used, occupied and improved subject to this Declaration.

(b) The property included in any such annexation shall thereby become a part of the Development and subject to this Declaration, and the Declarant and the Association shall have and shall accept and exercise administration of this Declaration with respect to such Additional Property.

(c) Notwithstanding any provision apparently to the contrary, a declaration with respect to any Additional Property may:

(i) Establish such new land classifications and such limitations, uses, restrictions, covenants and conditions with respect to such property as Declarant may deem to be appropriate for the development of the Additional Property.

(ii) With respect to existing land classifications, establish additional or different limitations, uses, restrictions, covenants and conditions with respect to such property as Declarant may deem to be appropriate for the development of such Additional Property.

(iii) Incorporate provisions contained in this Declaration with or without modification to become applicable to the Additional Property without a requirement that such provisions be repeated in any applicable Neighborhood Declaration.

(d) There is no limitation on the number of Lots or Units which Declarant may create or annex to the Development, except as may be established by applicable ordinances. Similarly, there is no limitation on the right of Declarant to annex Common Area, except as may be established by the appropriate governmental authority.

(e) Declarant does not agree to build any specific future improvement or amenity, but does not choose to limit Declarant's right to add additional improvements or amenities to the Development.

(f) Upon annexation, additional Lots so annexed shall be entitled to voting rights as set forth in Section 2.3.

(g) The formula to be used for allocating Common Expenses if additional Lots are annexed is set forth in Section 7.3. If additional Lots are annexed into the Development mid-year, the Board, at its option may elect to recompute the Annual Budget based upon the additional Lots subject to assessment and additional Common Areas and recompute applicable Assessments for all Lots, including the new Lots, for the balance of the fiscal year. Notwithstanding any provision of this Declaration apparently to the contrary, a Supplemental Declaration annexing Additional Property may provide that such Additional Property does not have the right to use a particular Common Area or facility located thereon, in which case such Additional Property shall not be assessed for the costs of operating, maintaining, repairing, replacing or improving such Common Area or facility.

Section 17

CREATIONS OF NEIGHBORHOODS

17.1 Right of Neighborhood Creation.

Subject to such governmental approvals as may be required by applicable ordinances or any development agreement entered into between the Declarant and a governmental authority applicable to the Development, Declarant or the Association (with the approval of the Declarant if

Declarant still has the right to add Additional Property pursuant to Section 16) may from time to time and in their reasonable discretion designate Neighborhoods within the Development. The creation of such Neighborhoods shall be accomplished as follows:

(a) The Declarant record a Supplemental Declaration which shall be executed by or bear the approval of Declarant and shall, among other things, describe the Lots to be included in the Neighborhoods created thereby, identify those expenses which the Association and/or Declarant reasonably determine the Association is expected to incur in connection with providing benefits or services from the Association that are not provided to all Lots or Units in the Development.

(b) The Lots and Units included in any such designated Neighborhood shall thereby become subject to Neighborhood Assessments applicable thereto.

Section 18 **MISCELLANEOUS PROVISIONS**

18.1 Joint Owners.

Where two or more Owners share the ownership of any Lot, the responsibility of such Owners to comply with this Declaration will be a joint and several responsibility.

18.2 Tenants/Guests.

Tenants and Guests using the Development under rights derived from an Owner will comply with all applicable provisions of the Governing Documents. Each Owner will be responsible for its Tenants' and Guests' compliance and will be liable for any failure of compliance by its Tenants or Guests in the same manner and to the same extent as if the failure had been committed by the Owner himself.

18.3 Construction; Severability; Number; Captions; Exhibits.

This Declaration will be liberally construed as an entire document to accomplish the purposes stated in the Recitals. However, each provision of this Declaration will be deemed independent and severable, and the invalidity of any provision will not affect the validity of any other provision. As used in this Declaration, the singular includes the plural and the plural the singular, and the masculine and neuter include the masculine, feminine, and neuter, as the context requires. All captions used in this Declaration are intended solely for convenience of reference and will in no way limit any of the provisions of this Declaration. All exhibits attached to this Declaration are incorporated into this Declaration by reference.

18.4 Approvals, Notices, and Other Writings.

(a) Within 15 days after taking title to a Lot, the Owner of the Lot will provide the Association with the Owner's postal address (if other than the address at the Lot), phone number, fax number, and email address (if available), and will provide the Association with a copy

of the instrument by which the Owner acquired title to the Lot. An Owner will notify the Association of any change in its contact information within 15 days after the change.

(b) The Association and the Board may deliver any approval, notice, or other writing permitted or required to be delivered to an Owner hereunder: (i) in person, (ii) by certified first-class United States mail, return receipt requested, or by Federal Express, UPS, or other nationally recognized commercial carrier, postage prepaid, or (iii) by fax or email. Delivery of such notice or other writing will be deemed made: (A) two business days after having been deposited with the United States Postal Service or nationally recognized commercial carrier, addressed to the address provided pursuant to Section 18.4(a) (or at the Lot, if applicable); or (B) as soon as the sender receives electronic confirmation that the fax or email has been delivered to the fax number or email address given in accordance with Section 18.4(a), so long as the recipient has previously consented to receive notices by fax or email.

(c) Any approval, notice, or other writing required to be delivered to the Association or the Board hereunder will be delivered in person, by certified first-class United States mail, return receipt requested, or by Federal Express, UPS, or other nationally recognized commercial carrier, postage prepaid, and addressed as follows: if to the Association or the Board, at the address given in the Bylaws. Delivery of such notice or other writing will be deemed made two business days after having been deposited with the United States Postal Service or nationally recognized commercial carrier, addressed to the applicable address.

The Association and Declarant have executed this Declaration as of the date first set forth above.

DECLARANT:

[_____] ,
a Utah limited liability company,

By: _____

Name: _____

Title: _____

State of Utah)
) ss.
County of Utah)

The foregoing instrument was acknowledged before me on _____, 2019,
by _____, the _____ of
[_____].

Notary Public

Exhibit A

Legal Description of the Real Property Comprising the Development

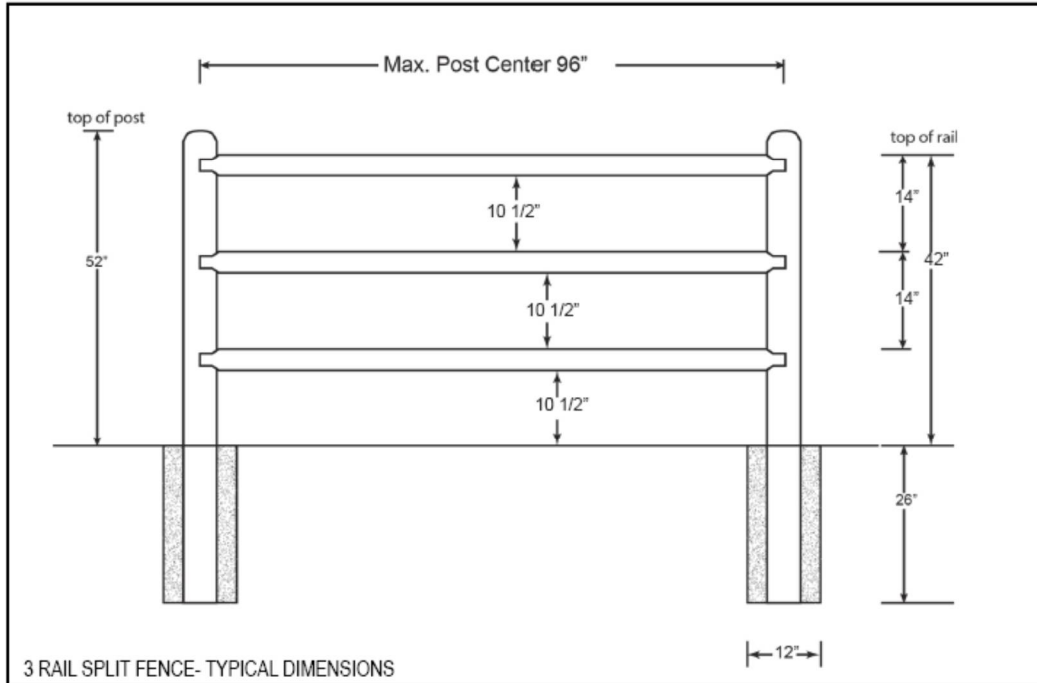
Exhibit B

Bylaws

[See attached]

Exhibit C

3 RAIL SPLIT FENCE



THREE RAIL SPLIT FENCE TYPICAL REQUIREMENTS:

1. FENCE WILL BE 42" TALL
2. FENCE WILL HAVE A MAXIMUM POST OFF CENTER OF 96"
3. FENCES TO CONTAIN DOGS OR OTHER ANIMALS MAY USE WIRE MESH