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MONARCH MEADOWS
AMENDED AND RESTATED
DECLARATION OF RESTRICTIONS

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This Monarch Meadows Amended and Restated Declaration of Restrictions (as the same may be amended from time to time, hereafter the "Declaration") is made on the date evidenced below by Monarch Meadows Owners' Association, Inc. (hereafter "Association").

RECITALS

A. This Declaration supersedes and replaces all prior declarations and amendments or supplements thereto, recorded against the subdivision or unrecorded, including the Monarch Meadows Declaration of Restrictions recorded September 21, 2005, as Entry No. 00512147, records of the Iron County Recorder, Utah, and all amendments thereto (the "Original Declaration") and the Bylaws of the Association recorded March 23, 2020, supersede and replace all prior bylaws;

B. The property subject to this Declaration is the Monarch Meadows Subdivision development in Iron County, Utah, and is more specifically defined in Exhibit A. All Lots are part of the Association and each Owner of a Lot is a member thereof. The Association is created as a planned development and contains certain common area and easements for the benefit of the Owners of Lots. The Community is not a cooperative or a condominium project.

C. The Association desires to continue to provide for the preservation and enhancement of the property values and improvements of the Property and to ensure a uniform plan of development.

D. Pursuant to Utah Code § 57-8a-104 and Article VIII, Section 3 of the Original Declaration, the undersigned hereby certifies that all of the voting requirements to amend the Declaration have been satisfied, that at least 67% of the voting interests of the Association have affirmatively approved the adoption of this document and that no change from the Original Declaration affecting lot boundaries or Members' voting rights has been made in this Declaration.

NOW, THEREFORE, the Association declares that the Property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth.

1. DEFINITIONS

1.1 The following words when capitalized in this Declaration (except where otherwise stated) have the following meanings:

1.2 “**Act**” means the Utah Community Association Act, Utah Code, Title 57, Chapter 8a, as the same shall be amended from time to time.

1.3 “**Application**” means the Architectural Submission/Application Form and required attachments that are submitted to the Committee as pursuant to section 4.2.

1.4 “**Assessment**” means any charge imposed or levied by the Association on or against an Owner or Lot pursuant to a Governing Document or applicable law.

1.5 “**Association**” means and refers to the Monarch Meadows Owners’ Association, Inc., and any successor incorporated or unincorporated association of the Lot Owners acting under the authority of this Declaration, the Bylaws and the Act. The Board acts in all instances on behalf of the Association, except when specifically stated otherwise in a Governing Document or the law.

1.6 “**Board of Directors**” or “**Board**” means the entity, established in accordance with the Bylaws, with primary authority to manage the affairs of the Association.

1.7 “**Business Judgment**” means discharging of a Board member’s or officer’s duties (1) in good faith, (2) with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and (3) in a manner the Board member or officer reasonably believes to be in the best interests of the Association.

1.8 “**Bylaws**” means the Bylaws of the Association as they may be amended from time to time.

1.9 “**Committee**” means the Architectural Control Committee established under Section 4.1.

1.10 “**Common Area**” means and includes: (a) the real property and interests in the real property, which comprise the Property, excluding all Lots; (b) all common areas and facilities and open space designated as such elsewhere in this Declaration or on the Plat, except as otherwise stated in this Declaration; (c) all installations for and all equipment connected with the furnishing of the Property’s utility services and existing for common use, such as electricity, gas, water and sewer, except as otherwise provided herein; (d) in general, all apparatus, installations and facilities included within the Property and existing for common use; (e) the Property’s roads and any parking areas that may exist, excluding all Lots; (f) all other parts of the Community normally in common use or necessary or convenient to its use, existence, maintenance, safety or management; and (g) all common areas as defined in the Act, whether or not enumerated herein.

1.11 “**Community**” means the Property.

1.12 “**Deliver**” or “**Send**” means mail, sent by electronic transmission, hand delivered or posted on an Association website (including Association social media).

1.13 “Good Standing” means: (1) no Assessment (including any fine) imposed against the Owner or Owner’s Lot is more than 60 days’ past due, and (2) more than 60 days has elapsed since a fine has been assessed against the Owner or the Owner’s Lot.

1.14 “Governing Documents” means a written instrument by which the Association may exercise powers or manage, maintain, or otherwise affect the property under the jurisdiction of the Association, including Articles of Incorporation, Bylaws, Plat, this Declaration, and Rules.

1.15 “Improvement” means every structure or improvement of any kind, including but not limited to landscaping, a Living Unit, a deck, porch, awning, fencing, garage, driveway, storage compartment or other products of construction efforts on or in respect to the Property.

1.16 “Include,” “includes,” or “including” means (regardless of capitalization), without limitation, that the items listed are not an exclusive list and do not limit the application of the preceding word, unless the word “only” or similar language is used to expressly indicate that the list is an exclusive or limiting list.

1.17 “Living Unit” or “Unit” or “Residence” means a single-family residential dwelling unit constructed upon a Lot.

1.18 “Lot” means any residential lot or parcel of land, upon which a Living Unit could be constructed in accordance with applicable ordinances and laws or is already constructed, shown upon the Plat as existing for private use and ownership, including any Improvements thereon.

1.19 “Owner” means the record owner of fee simple title to any Lot, as shown in the records of the county recorder, but does not include a tenant, contract purchaser, or holder of a leasehold interest or person holding only a security interest in a Lot.

1.20 “Plat” means the official plat map or maps for the Monarch Meadows Subdivision recorded in the office of the county recorder, as the same may be amended or substituted from time to time, and including a recorded plat map describing property subsequently added to the Property pursuant to the terms of this Declaration.

1.21 “Property” or “Project” means all of the real property and interests within the boundaries of the project described in the Plat, including all Lots, Common Area, easements, and open space.

1.22 “Rules” or “Rules and Regulations” means the written rules, regulations, resolutions, policies and procedures (including the Design Requirements as established under section 4.13) that state what is or is not allowed or what will happen within the Community and which are adopted by the Board from time to time pursuant to Section 8.1 of this Declaration.

2. PROPERTY DESCRIPTION, RIGHTS AND EASEMENTS

2.1 Property Subject to the Declaration and Bylaws. The Property is governed by, and shall be transferred, held, sold, conveyed, used, occupied and improved subject to, the Act, the Governing Documents and all agreements, decisions and determinations made by the Association. This Declaration and the covenants, conditions and restrictions herein shall run with the land and shall be binding upon every party which shall at any time have any right, title or interest in or to any part of the Property, their heirs, successors and assigns, and to any other person who may in any manner use any part of the Property, and shall inure to the benefit of each Owner and the Association. To the extent that the Governing Documents are or become inconsistent with any future provisions of the Act, the Act, as amended, shall control.

2.2 Description and Legal Status of Lots. Except as otherwise stated herein, the Plat shows the Lots and building designations, the Limited Common Areas, and the Common Areas, and their locations and dimensions from which, together with the Definitions above, those areas may be determined. All Lots are residential Lots. All Lots shall be capable of being independently owned, encumbered, and conveyed.

2.3 Form of Lot Conveyance - Legal Description of Lot. Each conveyance or installment contract for the sale of a Lot and every other instrument affecting title to a Lot may describe that Lot by the number shown on the Plat with appropriate reference to the Plat and to this Declaration, as each shall appear on the records of the county recorder and in substantially the following form: Lot_____as shown on the plat for the subdivision appearing in the records of the Iron County Recorder and as subjected to the declaration of covenants, conditions and restrictions appearing in the official records of the Iron County Recorder, as amended from time to time.

2.4 Use and Occupancy. Except as otherwise expressly provided in the Governing Documents, the Owner of a Lot shall be entitled to the exclusive use and benefits of ownership of such Lot. Each Lot, however, shall be bound by, and the Owner shall comply with, the restrictions contained below and all other provisions of the Governing Documents for the mutual benefit of all Owners.

2.5 Right of Entry. Requests for entry to a lot (not any dwelling) shall be made in advance and at a time that is convenient to the Owner within 30 days of the request, except in the case of an emergency in which case such right shall be immediate. The Association and any person authorized by the Association may request entry upon any Lot for the purpose of: (1) determining whether the use of the Lot or a Lot Improvement is causing damage or harm to the Common Areas and remedying the same, (2) determining whether or not the Lot is in compliance with the Governing Documents, and (3) removing any improvement constructed, reconstructed, refinished, altered or maintained in violation of this Declaration. (See sections 8.2 Remedies and 8.3 Fines.) No such entry or actions by the Association shall be deemed to constitute a trespass or otherwise create any right of action for damage or otherwise in the Owner of such Lot.

2.6 Utility Easements. The Association and any public or private utility provider are

hereby granted an easement through all Lots and the Common Areas for the installation, maintenance and development of utilities and drainage facilities, as may be deemed necessary by the Board. The Board may grant or create from time to time, on behalf of the Association and on such terms as it deems advisable, utility and similar easements and rights-of-way over, under, across, and through the Common Area. Within any easement, no structure, planting or other material shall be placed or permitted to remain which may reasonably interfere with or damage utilities or drainage facilities. The easement area within each Lot and all improvements therein shall be maintained continuously by the person or entity responsible for maintenance of such Lot in accordance with the terms in this Declaration, except for those improvements for which a public authority or utility provider is responsible. Each Lot Owner shall have an easement in common with all Owners to use all pipes, wires, ducts, cables, conduits, public utility lines and other common facilities located in any of the other Lots and serving his or her Lot.

2.7 Common Areas. All Owners are hereby granted a non-exclusive right and easement of enjoyment to the Common Areas, subject to the provisions of the Governing Documents and to the right of the Association to limit the number of residents, guests and invitees using the Common Area at one time, and which right shall include (without limitation) the right of ingress and egress to such Owner's Lot. The Owner of a Lot is granted an exclusive right and easement of enjoyment to the Limited Common Area appurtenant to the Lot, subject to the provisions of the Governing Document and the rights of the Association and others described in this Declaration.

2.8 Transfer, Material Alteration of Common Area. The approval of a majority of all Owners shall be required before the Association may: (1) dedicate or transfer any part of the Common Area; (2) make any material, discretionary addition or alteration to the Common Area, other than as to landscaping; or (3) make any discretionary, material alterations to the appearance of the Community, other than as to landscaping.

If a Lot is contiguous with a portion of the Common Area that is mostly inaccessible or unavailable to the Association or is otherwise of little general use to the Association, all as determined by the Board, the Board may authorize that portion of Common Area to be leased to the Owner of the Lot for an amount and under conditions and terms determined by the Board and, for the duration of the lease, that portion of Common Area shall be deemed to be Limited Common Area reserved for the exclusive use of the Lot Owner. In addition, any such lease of Common Area may be terminated at any time if the Owners holding a majority of all votes in the Association vote to terminate the lease.

2.9 Encroachment. The Property and all portions thereof is subject to an easement from the Lot boundaries and/or Common Area boundaries for the actual extent of encroachments created by settling, shifting and movement of any portion of the Property and/or by construction by or on behalf of the original developer of the Property. Such encroachments include those caused by: (a) the original construction of improvements within the Property by or on behalf of such developer, including, without limitation, entry monuments, walls, paths, roads, trails, parks and utilities; (b) the settling, rising and/or shifting of the earth; and (c) changes in position caused by repair or reconstruction of improvements within the Property. An easement exists upon, across, over, in and under said encroachments for the replacement, maintenance and repair thereof and ingress to and egress from the Property;

provided, however, that no such easement is created for an encroachment that is the result of willful conduct on the part of a tenant, the Association, an Owner, or their respective contractors. Such encroachments shall not be considered to be encumbrances on the Common Area, a Lot or any part of the Property.

3. RESTRICTIONS ON USE

3.1 Residential Use. Lots shall be used for residential purposes in accordance with, and subject to, the Governing Documents. No trade, craft, business, profession, commercial, or similar activities shall be conducted on any Lot or in any other portion of the Community if the same causes pedestrian or vehicular traffic which is in excess of a normal level for residential occupancy; creates a sight or noise nuisance; is not merely incidental to the use thereof as a dwelling; or has external visible, audible or other indications of use of the dwelling as anything but as a dwelling, all as determined by the Board. By engaging in any business activities from a Lot, the Owner agrees to indemnify, defend, and hold harmless the Association and its officers, directors, agents, and other Owners from all claims which may arise from such business activities.

3.2 Lease Restrictions. All leases shall be in writing and are subject to the Governing Documents and any failure by the tenant to comply with the terms of such documents shall be a default under the lease. The tenant and the Lot Owner are jointly and severally liable for a violation of a provision of the Governing Documents. No Lot may be rented or leased for an initial term of less than 90 days, unless otherwise approved by the Board. No Lot may be used, in whole or in part, for transient lodging purposes, including as a boarding house, a bed and breakfast, or other uses for providing accommodations to travelers. Lease means regular, exclusive occupancy of a Lot by a person other than the Owner and for which the Owner receives a consideration or benefit, including a fee, service, gratuity, or emolument. Within 10 days of a Lot being rented, the Owner must notify the Board and provide any information the Board may require.

3.3 Animals. The raising or keeping of swine, hogs, cattle, sheep, roosters or other commercial animals on any Lot is strictly prohibited.

3.3.1. No horses are permitted on any Lot except as set forth hereafter. On any Lot larger than .4 acres, no more than two horses may be kept. All horses allowed on a Lot larger than .4 acres under the terms of these Restrictions must be maintained within a properly fenced enclosure and must have an enclosed stall/barns, and under such conditions as may be designated, monitored and approved by the Board or Committee. No obnoxious odors or smells are permitted. The horses shall not be allowed by the Owner to graze or trample down any Lot to leave the Lot without ground cover except within the fenced enclosure.

3.3.2. Domestic and certain other pets as approved by the Board may be kept on the Property provided that the same are maintained within an approved enclosure or controlled on a leash or similar restraint. It is unlawful for a dog to run at large in Iron County. Any animal which by loud, continued, prolonged, excessive, or frequent barking, howling, yelping, meowing, screeching, or by noxious or offensive odors shall annoy, disturb, or endanger the health and welfare of any person or the neighborhood is a nuisance and is

disrespectful of the peace and audio privacy of neighbors. A few barks in greeting or warning is acceptable. If three or more Owners complain, a warning shall be issued. If the warning goes unheeded and the nuisance continues, a fine shall be levied. Further action will be taken, if necessary, to remedy the complaint. Owners may not permit their animal to defecate upon a public street, sidewalk, park, or other Common Area, or upon the property of another unless the owner or custodian immediately removes and properly disposes of all animal waste. Owners may not permit their animal to access the property of another Owner. Section 3.3.2 is based on current codes in Iron County but is applicable regardless of any change to such codes.

3.4 Offensive or Unlawful Activities; Nuisances; Hunting.

3.4.1. No unsanitary, offensive, unsightly, or noxious conditions or activities, including noise, odor, clutter or other nuisance, shall be permitted on any Lot or Common Area, nor shall anything be placed upon any Lot or Common Area, which interferes with or jeopardizes the enjoyment of other Lots or which is a source of annoyance to residents or tends to depreciate the value of the property of others. Noise of any kind that annoys or disturbs the comfort, slumber, peace, or repose of any reasonable persons of normal sensitivity is prohibited. Annoying noise is specifically prohibited after 10:00 p.m. and before 7:00 a.m. No unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed.

3.4.2. All hunting is prohibited. The only exception shall be in accordance with any game management program established by the Association. Such activity will be regulated and strictly controlled by the Association to administer the game management program.

3.4.3. All Lots shall be maintained so as to assure that no weeds are permitted to go to seed or to grow above eight inches or to otherwise become unsightly or deleterious to other Owners.

3.5 Trash; Trash Containers; Fuel Tanks. No part of the Property may be used or maintained as a dumping ground for rubbish, trash, garbage, or any other waste. No garbage, trash, or other waste may be kept or maintained on any part of the Property except within the county supplied trash bin not placed closer than 25 feet to the road except on trash pickup days. All such waste and garbage must be promptly and periodically removed. All fuel tanks and similar storage receptacles must be installed within accessory buildings or underground.

3.6 Vehicles; Parking.

3.6.1. Vehicle Parking and Storage. All planes, trailers, boats, campers, mobile homes and abandoned or inoperable vehicles shall be parked in an enclosed garage with the garage door closed, or on the side or rear of a Lot behind a fence, wall or gate which is at least five feet in height. Any gate must be kept closed. No unlicensed vehicles may be stored or operated on a Lot. Vehicles visibly parked on a Lot shall not exceed the number of garage bays plus one. Long-term, habitual, and overnight parking on the street is prohibited. The streets are narrow and vehicles parked on the street create a hazard for vehicle traffic, pedestrians, cyclists, and children playing.

3.6.2. Rules, Violation. The driving, parking, and storing of vehicles in, on or about the Property (including the Lots) shall be subject to the Rules. The Association may have a vehicle parked in violation of any rule or of this Declaration removed (towed) and the Owner may be assessed the cost of such removal and any storage necessitated thereby and the owner of the vehicle shall indemnify, defend, and hold harmless the Association and its officers and agents from all claims which may arise from any towing, removal, storage or sale of such a vehicle.

3.6.3. All-Terrain Vehicles. All-terrain vehicles, motorcycles, and other motorized vehicles are prohibited from operating in Common Areas 1, 2, or 3 (center of the three blocks, north to south). The northeast Common Area may be used by recreational vehicles as approved by the Association. To limit the annoyance of noise and dust, no recreational vehicles may be operated within 100 feet of a Lot, except at idle speeds to gain access to or depart the Common Area. Individuals under the age of 12 must be accompanied by an adult when operating recreational vehicles in the Common Area. Recreational vehicles must give right-of-way to pedestrians, bicyclists, and children playing, as well as be respectful to their rights to enjoy the Common Areas safely and without annoyance. Due to the high noise levels, no 2-stroke engines or unmuffled 4-stroke engines are permitted in the Common Area. No recreational vehicles may be operated in the Common Areas between the hours of 8 p.m. and 9 a.m.

3.7 Appearance. The Rules may regulate and control the appearance and use of driveways, entries, decks, patios, and balconies within the Property, including limiting or prohibiting the display and storage of property and effects in public view.

3.8 Signs. Unless approval is obtained from the Board in writing or granted by the Rules, no sign, advertisement, poster, flag or banner of any kind may be displayed for a commercial purpose to the public view on or from any Unit or Lot or the Common Area, except as allowed by law and except: (1) Not more than one “for sale” sign, not exceeding 24 inches in height and 24 inches long, may be temporarily placed on a Lot; (2) a property identification sign not exceeding three square feet in surface area; and (3) security system signs not exceeding one square foot may be placed on a Lot or Unit.

3.9 Antenna/Dish Policy. All outside television or radio aerials or antennas, satellite dishes or other similar devices are prohibited, except satellite dishes, such as Direct Broadcast Satellite (DBS) dishes one meter in diameter or less, designed to receive direct broadcast satellite service or receive or transmit fixed wireless signals via satellite and such other antennas covered by the federal Over the Air Reception Devices Rule (an “Allowed Dish”). No dish may encroach upon the Common Area or the property of another Owner. The Owner shall keep the dish in good repair so that it does not violate any portion of this Declaration. If any provision of this Section is ruled invalid, the remainder of these rules shall remain in full force and effect. If the Federal Communications Commission modifies its rules, the modified rules shall be incorporated into this section as if fully set forth herein. The term “dish” includes antenna in the interpretation of the above policy.

3.10 Farming. Cultivation of the land for commercial farming purposes is prohibited except as operated by the Association.

3.11 Increase in Insurance Cost. Nothing shall be done or kept within or upon the

Property which will increase the cost of insurance to the Association, except as authorized by the Board, or to other Owners. No Owner shall permit anything to be done or kept within the Owner's Lot or the Common Areas which will result in cancellation of insurance on any Lot.

4. LOT IMPROVEMENTS AND CHANGES; APPROVAL

4.1 Architectural Control Committee. The Board shall appoint a three-member Architectural Control Committee (the "Committee") or the Board may act as the Committee. The Committee is authorized to ensure that all Living Units and other improvements within the Lots harmonize with existing surroundings and structures and comply with the requirements set forth in this Article.

4.2 Approval of Plans, Specifications and Construction. Prior to commencement of any construction on a Lot, an Architectural Submission/Application Form (the "Application") will be submitted. All proposed building plans, specifications, exterior color or finish, plot plans (showing the proposed location of such building or structure, drives and parking areas), and construction schedule shall be approved in writing by the Committee. All building plans and specifications covering such construction shall be prepared or reviewed by a qualified registered architect or structural engineer for the specific use of the Owner submitting the same. Upon written request through submission of the Application by an Owner for approval of plans, the Committee shall review the plans in accordance with the provisions in this Article and with any guidelines established by the Committee. Garages and other accessory buildings on any Lot must be constructed of the same or compatible materials as specified for the dwelling constructed thereon. Disapproval of plans, location or specifications may be based by the Committee upon any ground, including purely aesthetic considerations, which in its discretion it deems sufficient. No alterations may be made in such plans after approval by the Committee is given without the written consent of the Committee. One copy of all plans and related data shall be retained by the Committee for its records. The exterior of all structures must be completed within one year after construction is commenced, except where such completion is delayed by strikes, fires, national emergencies or natural calamities.

4.3 Changes and Maintenance Require Approval. No exterior maintenance, repair, replacement, addition, change or alteration to any Lot (including any Improvement) visible from a height of 68 inches above ground level from any part of a street or another Lot, whether structural, cosmetic or otherwise, may be made without prior written Committee approval. Such approval shall be solely at the discretion of the Committee as it deems appropriate. Once begun, construction must be completed within a reasonable amount of time, but not to exceed one year unless approved by the Committee.

4.4 Approval or Denial of Complete Application. Within 30 days of receipt by the Committee of an Application, the Committee shall approve or deny the Application and send written notice to the Owner of the Committee's determination. If the Application is denied because it is deficient with respect to a specific design review application

requirement, the notice shall set forth such deficiencies. If the Committee fails to approve or deny an Application, or request additional information or materials, within 30 days of receiving it, the Application shall be deemed approved, except as to any act or thing prohibited by the Governing Documents.

4.5 Appeal of Denial. An Owner may appeal the denial of an Application to the Board within 30 days of the denial by submitting a request for appeal to the Board. The Board shall review the Application and, if deemed necessary by the Board, may hear comments from the Owner at a Board meeting or hearing, as determined by the Board. The Board shall render a final decision within 45 days of receipt of the request for appeal, which decision shall be final and binding on all parties for all purposes. In all cases, an Application denied by the Committee and appealed to the Board shall be deemed denied unless approval is expressly granted by the Board in writing and no failure of the Board to act in any instance shall constitute approval of an Application. A decision of the Committee or the Board that is reasonable, made in good faith, and is not arbitrary or capricious, and which is made in the course of the approval or denial of an Application is not subject to judicial review or scrutiny.

4.6 Correction of Deficiencies. Inspection of work and correction of deficiencies therein shall proceed as follows:

(1) The Committee may at any time inspect any improvement for which approval of plans is required. However, the Committee's right of inspection of improvements for which plans have been submitted and approved shall terminate 60 days after the work of improvement has been completed and the respective Owner has given notice to the Committee of such completion. The Committee's rights of inspection shall not terminate pursuant to this paragraph if plans for the work of improvement have not previously been submitted to and approved (or determined exempt) by the Committee. If as a result of such inspection the Committee finds that such improvement was done without obtaining approval of its plans or was not done in substantial compliance with the plans approved by the Committee, it shall notify the Owner in writing of failure to comply with this Section within 60 days from the inspection, specifying the particulars of noncompliance. The Committee may require the Owner to take such action as may be necessary to remedy the noncompliance.

(2) If upon the expiration of 60 days from the date of such notification the Owner has failed to remedy such noncompliance, the Committee shall notify the Board in writing of such failure. After providing notice and an opportunity to request a hearing to the Owner, the Board shall determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of its removal or correction. If a noncompliance exists, the Owner shall remedy or remove a noncomplying condition within 45 days from the date that notice of the Association ruling is given to the Owner. If the Owner does not comply with the Association ruling within that period, the Association may record a notice of noncompliance against the Lot and may peacefully remedy the noncompliance, and the expenses incurred in connection therewith shall be an assessment against the Lot. The right of the Association to remove a non-complying improvement or

otherwise remedy the noncompliance shall be in addition to all of the rights and remedies which the Association may have at law, in equity, or in this Declaration.

(3) If for any reason the Committee fails to notify the Owner of any noncompliance with previously submitted and approved plans within 60 days after receipt of such written notice of completion from the Owner, the improvement shall be deemed to be in accordance with such approved plans, except as to any act or thing prohibited by the Governing Documents.

4.7 Variances. The Committee may authorize variances from compliance with any of the provisions of this Article or the Design Requirements (as defined below in section 4.13), when circumstances such as drainage, natural obstructions hardship, aesthetic or environmental considerations may require. An Owner requesting a variance to their Lot must provide the Committee with a signed statement from neighbors with adjoining Lots indicating their approval of the variance request. Such variances must be evidenced in writing and must be signed by the Committee. If such variances are granted, no violation of this Declaration or the Design Requirements shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration or the Design Requirements for any purpose except as to the particular Lot and particular provision thereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the Owners use of the Lot.

4.8 Certain Exceptions. In the Design Requirements, the Committee may exempt certain types or classes of improvements from the provisions of this Article 4 if, in the exercise of the Committee's sole judgment, approval of such types or classes of improvements is not required to carry out the purposes of this Declaration.

4.9 No Liability. The Committee and Board shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of any plan or design, from the standpoint of performance for an intended purpose, adequate engineering, structural safety or conformance with building or other codes, standards or practices other than as specifically stated herein. The Board, the Committee and any member thereof shall not be liable to the Association or any person whatsoever for any loss, damage or injury arising out of, or in any way connected with the performance of the Board or Committee's duties.

4.10 Non-Waiver. The approval of the Committee of any plans, drawings, or specifications for any work done or proposed or in connection with any other matter requiring the approval of the Committee under these restrictions shall not be deemed to constitute a waiver of any right to withhold approval as to any similar plan, drawing, specification, or matter whenever subsequently or additionally submitted for approval.

4.11 Interpretation. All questions of interpretation or construction of any of the covenants, restrictions and terms in this Article and in the Design Requirements shall be resolved by the Board, and its decision shall be final, binding and conclusive on all parties affected for all purposes.

4.12 Review Fee. The Association may charge a fee for the actual cost of reviewing and

approving plans for any construction on or improvement of a Lot. Any costs incurred by the Association for review and approval (i.e., surveying, soil compaction, etc.) shall be passed on to the Owner or contractor.

4.13 Design Requirements. All exterior maintenance, repair, replacement, addition, construction or change to any Lot (including any Improvement), whether structural, landscaping, cosmetic or otherwise, shall be consistent with and shall comply with the procedures and criteria set forth in this Declaration and such other building and design criteria which the Board is hereby empowered to adopt (referred to as “**Design Requirements**”) to expand, clarify, and otherwise provide for the harmony and compatibility of the Improvements constructed within the Project. Design Requirements shall also be deemed to include the requirement that the quality of all materials to be used in any construction or Improvements within the Project be equal or superior to that utilized for original construction. All builders and Owners shall comply with and are bound by the design restrictions herein and the Design Requirements, if and when such are adopted. The Committee shall have the authority to establish a security deposit or bond requirement as may be required by the Association and any portion of that amount that shall be non-refundable as an impact fee. Earth tones and materials that blend into the surroundings are encouraged. Bright colors that do not blend with the natural surroundings will be discouraged.

No vinyl siding shall be permitted. Rock, stucco, and brick or similar exterior sidings are required and all exterior siding must be approved by the Committee. Realizing that residences with country and local mountain views are a primary attraction of the property, appropriate and balanced height restrictions are in effect, as determined by the Committee.

4.14 Buildings. No building shall be erected on any Lot other than a single-family dwelling, a guest home, barns, a detached garage and such appurtenant structures as may be approved from time to time by the Committee. All buildings and other structures shall be of new construction. In no event shall any prefabricated buildings, log cabin kits, mobile home, modular home or existing residences or garages be moved onto any Lot. There shall be no multiple unit dwellings of any kind, including but not limited to, basement apartments, duplexes, or apartment buildings. Barns or other outbuildings to house animal units shall be approved prior to construction by the Committee. All outbuildings shall be constructed of approved materials and completed in a professional manner.

4.15 Building Size. The size of a Living Unit shall be based upon the size of the Lot and shall contain the following minimum sizes on the ground level of fully enclosed and air conditioned space exclusive of basements, roofed or unroofed porches, decks, patios, terraces, attached garages and carports, and accessory buildings: 1,500 square feet on any Lot under .29 acres; 1,700 square feet on any Lot equal to or greater than .29 acres and equal to or less than .37 acres; and 2,000 square feet on any Lot greater than .37 acres. The height of a building shall not exceed two stories and must be approved by the Committee.

4.16 Building Location. No residential building shall be located or occupy any space nearer than ten feet to any Lot line unless a variance is granted by the Committee.

4.17 Driveway. Before completion of construction of a Living Unit on a Lot, a driveway from the public road to the garage entrance must be constructed by the Owner. The

driveway shall be paved with the same or superior materials as the subdivision public road.

4.18 Landscaping.

4.18.1 The front yard of a Lot shall be landscaped and completed within 12 months of the latter of either (a) the date of first occupancy of the Living Unit or (b) the date this document was recorded with the county recorder by the Association.

4.18.2 The rear yard of a Lot shall be landscaped and completed within 36 months of the latter of either (a) the date of first occupancy of the Living Unit or (b) the date this document was recorded with the county recorder by the Association.

4.18.3 The Lot Owner shall plant and thereafter nourish and maintain not less than (a) six trees on a Lot greater than or equal to 0.4 acres, (b) five trees on a Lot less than 0.4 acres and greater than 0.25 acres, and (c) four trees on a Lot equal to or less than 0.25 acres. It is fine to plant trees that are dwarf, semi dwarf, or small varieties.

4.18.4 All landscaping shall be performed in a professional manner. All front landscaping must extend to the edge of the road pavement such that there are no weeds or debris between the road and the Lot. Berms, dams, culverts and borrow pits and the like may be constructed provided that the same do not impede the flow of water in creeks or streams on the Property and otherwise comply with all applicable governmental laws and regulations.

4.19 Fences. Within 36 months of the latter of (a) first occupancy of a Living Unit or (b) the date this document was recorded with the county recorder by the Association, a concrete block fence and gates must be constructed on the Lot, at the expense of the Owner. The combination of the concrete block fence and gates must enclose the rear yard of the Lot (taking into account easements, as applicable). The concrete block fence between lots and Common Areas must be a minimum height of three feet and a maximum height of 8 feet. The concrete block fence must be in the standard color permitted by the Committee. A temporary fence may be erected for the safety of others and animals, but must be removed when the concrete block fence is erected unless it is within the concrete block fence and is lower than its height. Gates must be constructed out of metal (except as approved by the Committee prior to the recording of this document), permanently affixed to either the concrete block fence, the home, or another permanent structure, and must be approved by the Committee.

4.20 Exterior Lights. Security lights are allowed. Motion sensors and downward-aimed lighting is recommended to reduce light pollution and allow viewing of our beautiful night skies.

4.21 Utilities. All plumbing fixtures, dishwashers, toilets or sewage disposal systems shall be connected to the sewer system. No septic tank sewage disposal system shall be permitted on any Lot. Each Lot shall connect to the Central Iron County Water Conservancy District water distribution system.

4.22 Utility Lines; Fuel Tanks. All telephone, electric and other wires of all kinds running from the transmission cables located within a utility easement to any dwelling, building or other structure must be installed underground. All fuel tanks and similar storage receptacles must be installed within accessory buildings or underground.

4.23 Subdivision. No Lot shall be subdivided, or its boundary lines changed, unless approved by the Committee. Each approved modified Lot shall thereafter constitute one Lot subject to the Governing Documents.

5. MAINTENANCE OBLIGATIONS

5.1 Maintenance by Owner. Maintenance of a Lot is the responsibility of the Owner, who shall maintain such Lot in good condition and repair. Each Lot shall be maintained so as to not detract from the appearance of the Community and so as to not adversely affect the value or use of any other Lot.

5.2 Maintenance by Association. The Association shall maintain the Common Areas of the Property, unless otherwise stated in this Declaration and except for the roads dedicated to the public. If any area or improvement is damaged, or the need for maintenance, repair or replacement is caused, by the willful or negligent acts of an Owner, their guests, tenants, invitees or other Unit occupants, the Owner shall be responsible for the cost of required maintenance, repair or replacement and such costs shall automatically be an Assessment against such Owner and the Lot.

5.3 Clarification. To the extent not clarified herein and not inconsistent with the provisions of this Declaration, the Association may, by duly adopted Board resolution, identify and assign those areas of maintenance and responsibility that are either (1) Owner responsibilities; or (2) Association responsibilities. Such determinations shall be set forth in a Board resolution distributed to all Owners and shall be binding against all Owners.

5.4 Failure of Owner to Maintain. The Association may undertake maintenance of any part of a Lot or correction of any violation of the Governing Documents if, in the opinion of the Board, the Owner is unwilling or unable to adequately provide such maintenance or correction. The Board shall first provide notice to the Owner of its intention to do so, and if such Owner has not commenced and diligently pursued remedial action within 15 days after the notice is sent, the Association may proceed with the maintenance or correction. The expenses incurred shall be reimbursed to the Association by the Owner and are an Assessment against the Owner and the Lot.

6. ASSESSMENTS

6.1 Covenant for Assessments. Each Owner, by acceptance of a deed conveying any Lot to it, whether or not so expressed in the deed or other conveyance, is deemed to have covenanted and agreed to pay Assessments, as provided for in this Declaration. Annual Assessments and Special Assessments (as defined below) shall be assessed at a uniform rate against each Lot with a Living Unit and at a uniform rate against each Lot without a Living Unit, but the two rates need not be equal.

6.2 Annual Budget and Annual Assessment.

6.2.1. Adoption of Budget. The Board shall prepare, or cause the preparation of, and adopt a budget for the Association annually, which shall provide, without limitation, for the administration, management and operation of the Association, including fulfilling its duties under this Declaration, and shall include a reserve fund line item in an amount

the Board determines to be prudent based on the reserve analysis (as defined in Section 6.6.2). If the Board fails to adopt an annual budget, the last adopted budget shall continue in effect. The Board shall present the adopted budget to Owners at a meeting of the Owners.

6.2.2. Determination of Annual Assessment.

(a) Amount, Notice. The Board shall establish, and send notice to all Owners if there is a change in the amount of the annual assessment (“Annual Assessment”) at least 20 days before the start of the fiscal year.

(b) Approval for Increases of More Than 25%. The Annual Assessment may not be increased by more than a total of 25% in any 12-month period unless such increase is first voted upon by the Owners and: (1) a quorum of Owners holding at least 51% of the voting rights in the Association cast a vote, and (2) the majority of the votes cast favor the increase.

(c) Equitable Changes. If the Annual Assessment is, or will become, inadequate to meet the expenses incurred by the Association during a fiscal year for any reason, the Board may determine the approximate amount of the inadequacy and adopt a supplemental budget which establishes an equitable change in the amount of the Annual Assessment (subject to subsection (b) above). At least twenty days before the first due date under such budget, the Board shall give the Owners written notice of any such change.

(d) Omission to Fix Not a Waiver. The omission by the Board, before the expiration of any assessment period, to fix the amount of the Annual Assessment for that or the next period, shall not be deemed a waiver or modification in any respect of the provisions of this article or a release of any Owner from the obligation to pay the Annual Assessment, or any installment thereof, for that or any subsequent assessment period. In the event of such omission, the Annual Assessment fixed for the preceding period shall continue until a new assessment is fixed.

(e) Installments of Annual Assessments. The Board shall determine whether installments of Annual Assessments are levied and collected on a monthly, quarterly, semi-annual, annual or other basis. Any Owner may prepay one or more installments of any Assessment without premium or penalty. No Owner may exempt itself from liability for Assessments by abandonment of a Lot.

6.3 Purpose of Annual Assessments. The Assessments levied by the Association shall be used to fulfill the purposes of the Association and carry out the provisions of this Declaration, including, but not limited to: (1) The improvement, maintenance, operation, care, and services related to the Common Areas and other areas for which the Association is responsible; (2) The costs of utilities and other services which may be provided by the Association for the Community; (3) The cost of labor, equipment, insurance, materials, management, legal and other professional and administrative fees incurred or expended in performing the duties under this Declaration or the Bylaws; (4) The cost of funding reserves for the Association; and (5) Any item properly chargeable as a common expense of the Association.

6.4 Special Assessments. In addition to Annual Assessments, the Association may levy a special assessment from time to time (“Special Assessment”) for the purpose of defraying,

in whole or in part, the costs incurred or to be incurred by the Association which cannot reasonably be paid for through other types of Assessments, as determined by the Board. The Board may authorize a Special Assessment, except, however, that any Special Assessment levied within 12 months of a prior Special Assessment, and any Special Assessment greater than \$100 per Lot, may only be levied if it is first voted upon by the Owners and: (1) a quorum of Owners holding at least 51% of the voting rights in the Association cast a vote, and (2) the majority or the votes cast favor the increase.

6.5 Individual Assessments. Any expenses which are not properly expenses common to all Owners, and which benefit or are attributable to fewer than all of the Lots may be assessed exclusively against the Lot or Lots affected or benefitted (“Individual Assessments”). Individual Assessments shall include, but are not limited to: (1) Assessments levied against any Lot to reimburse the Association for costs or fees incurred in bringing the Lot or its Owner into compliance with, or to otherwise defend or uphold, or carry out, the provisions of the Governing Documents, and for fines or other charges, including attorney fees, imposed pursuant to this Declaration for violation of the Governing Documents, and (2) expenses relating to the cost of maintenance, repair and replacement of a Lot to the extent incurred by the Association, other than expenses incurred by the Association in carrying out the responsibilities and duties mandated by the Governing Documents.

6.6 Reserve Analysis.

6.6.1. Reserve Analysis Required. The Board shall cause a reserve analysis to be conducted no less frequently than every 6 years, and shall review and, if necessary, update a previously conducted reserve analysis no less frequently than every three years. However, the Board may increase or decrease the frequency of conducting and updating a reserve analysis in a formal resolution of the Board delivered to all Owners. The Board may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the Board, to conduct the reserve analysis.

6.6.2. Reserve Analysis Defined. “Reserve analysis” means an analysis to determine the need for a fund to accumulate reserve funds, and the appropriate amount of any reserve fund. A Reserve analysis shall include:

- (1) a list of the components identified in the Reserve analysis that will reasonably require reserve funds;
- (2) a statement of the probable remaining useful life, as of the date of the Reserve analysis, of each component identified in the Reserve analysis;
- (3) an estimate of the cost to repair, replace, or restore each component identified in the Reserve analysis;
- (4) an estimate of the total annual contribution to a reserve fund necessary to meet the cost to repair, replace, or restore each component identified in the Reserve analysis during the component’s useful life and at the end of the component’s useful life; and
- (5) a reserve funding plan that recommends how the Association may fund the annual contribution described in (4) above.

6.6.3. Reserve Analysis Summary Provided to Owners. The Association shall: (1) annually provide Owners a summary of the most recent Reserve analysis or update; and (2) provide a copy of the complete Reserve analysis or update to an Owner who requests a copy.

6.7 Reserve Fund. The Association shall establish and maintain a reserve fund for the purpose of (1) maintenance, repair, replacement or restoration of the Common Areas and any other area or items for which it is responsible, (2) any emergency, unforeseen, unusual, unanticipated or irregularly occurring expenditure, and (3) for any other purpose determined from time to time by the Board. The Board may not use money in a reserve fund for daily maintenance expenses, unless a majority of the Owners vote to approve the use of reserve fund money for that purpose. Daily means performed or occurring more often than monthly.

6.8 Fee Due on Transfer of Unit – Reinvestment Fee. If a separate notice of reinvestment fee covenant is recorded with the county recorder by the Association, then each time legal title to a Lot passes from one person to another, upon the effective date of such title transaction, the new Owner shall pay to the Association, in addition to any other required amounts, a fee determined by the Board from time to time but not to exceed \$250. The following are not subject to the fee: (1) an involuntary transfer; (2) a transfer that results from a court order; (3) a bona fide transfer to a family member of the seller within three degrees of consanguinity who, before the transfer, provides adequate proof of consanguinity, or to a legal entity, such as a trust, in which the owner or the owner's spouse, son, daughter, father or mother hold a beneficial interest of at least fifty percent for estate planning purposes; (4) a transfer or change of interest due to death, whether provided in a will, trust, or decree of distribution; or (5) the transfer of a Lot owned by a financial institution, except to the extent required for the payment of the Association's costs directly related to the transfer of the property, not to exceed two hundred fifty dollars.

6.9 Nonpayment of Assessments. The Annual Assessments shall be due and payable on such basis established by the Association and shall be delinquent if not paid within the period established by the Association from time to time. The due date of any Special Assessment or other Assessment shall be fixed by resolution or in the notice of the Assessment.

6.9.1. Late Charge, Collection. Each delinquent Assessment payment, including each Annual Assessment installment is subject to a late charge at the rate of \$10 per month compounded for each such payment or installment and each additional late payment or installment, or the amount determined by the Board from time to time. All costs (and not merely costs limited under the Utah Rules of Civil Procedure and not as may be otherwise limited) and attorney fees incurred by the Association in collecting an Assessment are part of the Assessment against the Owner and the Lot.

6.9.2. Rent Payments by Tenant to Association. If the Owner of a Lot who is leasing the Lot fails to pay any amount for more than 60 days after the amount is due, the Association may demand that the tenant pay to the Association all future lease payments due to the Owner, beginning with the next monthly periodic payment, until all amounts due to the Association are paid. The Association shall give the Owner written notice of its intent to demand full payment from the tenant, and such notice, as well as the demand to the

tenant, shall be made in accordance with the law and the written procedures of the Association.

6.9.3. Termination of Common Services and Facility Use. If an Owner fails or refuses to pay an assessment when due, the Association may, after giving notice and an opportunity to be heard in accordance with the law and the written procedures of the Association, terminate an Owner's right: (1) to receive any service paid as a common expense, including but not limited to utility services; and (2) of access and use of common amenities (but not the right of reasonable access to and from the Owner's Lot). If a hearing is requested, utility services or right of access and use of the recreational facilities may not be terminated until after the hearing has been conducted and a final decision has been rendered by the Board. The Owner shall be responsible for all costs the Association incurs terminating a service. Upon payment of the amounts due, including any interest, late charge, and costs of collection, the Board shall immediately take action to reinstate the terminated services to the Lot.

6.9.4. Acceleration. If the delinquent installments of any Assessment and any charges thereon are not paid in full, the Board may declare all of the unpaid balance of the Assessment to be immediately due and payable upon not less than ten days' written notice to the Owner, and may enforce the collection of the full Assessment and all charges thereon in any manner authorized by law and this Declaration. If, however, the Assessment is accelerated and an Owner subsequently files bankruptcy or the Board otherwise decides acceleration is not in the Association's best interest, the Board, at its option and discretion, may elect to decelerate the obligation.

6.9.5. Other Remedies, Including Suspension of Membership Rights. All Association membership rights, including the right of an Owner to vote shall be automatically suspended during any period of delinquency, unless otherwise determined by the Board. A Board member or officer shall become immediately ineligible to serve on the Board or as an officer and shall be automatically dismissed from such position if delinquent more than 60 days in the payment of any Assessment. The Association shall have each and every remedy for collection of assessments provided in the Act and in Utah Code Title 12, as amended from time to time, and the provisions of the Act shall be deemed to be fully set forth herein when required by the Act in order to exercise any such remedy. A collection fee may be imposed upon any delinquent account turned over to an attorney or collection agency for collection, in accordance with Utah Code § 12-1-11, as amended or substituted from time to time.

6.10 Lien. An Assessment is a charge and continuing lien upon a Lot against which the Assessment is made and shall be construed as a real covenant running with the land and includes damages, interest, all costs of collection, late fees, and attorney fees provided for in the Governing Documents or by law or awarded by a court. The recording of this Declaration constitutes record notice and perfection of such lien. If an assessment is payable in installments, the lien is for the amount of each installment as such becomes due and this provision shall be deemed a notice of assessment.

6.11 Enforcement of Lien. The lien may be foreclosed judicially or non-judicially consistent with the laws of the state of Utah for the non-judicial foreclosure of deeds of

trusts. The Association and each Owner hereby conveys and warrants pursuant to U.C.A. § 57-1-20 and 57-8a-302 to the attorney of the Association, with power of sale, each Lot and all improvements to each Lot for the purpose of securing payment of assessments under the terms of the Declaration. The Association, through duly authorized agents, shall have the power to bid on the Lot at foreclosure sale, and to acquire and hold, lease, rent, mortgage and convey the same, notwithstanding anything else to the contrary in this Declaration. Upon completion of the foreclosure sale, an action may be brought by the Association or the purchaser at the sale in order to secure occupancy of the defaulting Owner's Lot, and the defaulting Owner shall be required to pay the reasonable rental value of such Lot during any period of continued occupancy by the defaulting Owner or any persons claiming under the defaulting Owner. The Association shall be entitled to the appointment of a receiver to collect the rental income or the reasonable rental value without regard to the value of the security.

6.12 Appointment of Trustee. The Association and each Owner hereby appoints the attorney of the Association who has been retained by the Association at the time a foreclosure is initiated as trustee for the purpose of exercising the power of sale in connection with non-judicial foreclosures as provided in Title 57, Chapter 1, Utah Code and made applicable hereto by Title 57, Chapter 8a, Utah Code Ann., as may be amended from time to time.

6.13 Subordination of Lien to Mortgages. The lien of the Assessments provided for in this article shall be subordinate to the lien of any first mortgagees or deeds of trust now or hereafter placed upon the Lot subject to assessment, except as follows: the sale or transfer of any Lot pursuant to mortgage or deed of trust foreclosure, or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. Such sale or transfer shall not relieve the Lot from liability for any Assessments thereafter becoming due, or from the lien of any future assessment, nor shall it relieve any personal obligation arising under this Declaration or elsewhere.

6.14 Personal Obligation and Costs of Collection. Assessments, together with interest, late fees, and all costs and attorney fees incurred in the collection thereof (whether or not a lawsuit is initiated), are the personal obligation of an Owner holding title to a Lot at the time when the Assessment became due, and, regardless of the terms of any agreement to the contrary, the liability of the Owners of a Lot for the payment of such amounts shall be joint and several, and any remedy for the collection of such amounts may be enforced against any or all Owners of the Lot concerned. In a voluntary conveyance, the grantee of a Lot shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor for the grantor's share of unpaid assessments up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the grantor the amounts paid by the grantee.

6.15 Duty to Pay Independent. No reduction or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, order or directive of any

municipal or other governmental authority, the obligation to pay Assessments being a separate and independent covenant on the part of each Owner.

6.16 Statement of Unpaid Assessment & Payoff Information. The Association shall, upon request and payment of the amount allowed by law, provide an Owner a writing signed by an officer of the Association setting forth whether Assessments have been paid, and which shall be conclusive evidence of payment of such amounts. The Association may charge a fee for providing Association payoff information needed in connection with the financing, refinancing, or closing of an Owner's sale of the Owner's Lot up the maximum amount allowed by law.

6.17 Application of Payments. Payments shall be applied first to costs and attorney fees, then to late charges, then interest, then to all other Assessments in the order of their coming due.

7. THE ASSOCIATION

7.1 Organization. The Association has been organized as a nonprofit corporation under the nonprofit corporation laws of the state of Utah (Utah Code Annotated Titled 16 Chapter 6a, as may be amended from time to time). In the event the Association is at any time administratively dissolved by the state of Utah, the Board may re-incorporate the Association. The affairs of the Association shall be governed by a Board as provided herein and in the Bylaws. The Board acts in all instances on behalf of the Association except as to matters specifically requiring approval by the Owners in the Governing Documents or the law.

7.2 Membership. Each Owner during the entire period of the Owner's ownership of one or more Lots within the Community shall be a member of the Association. The membership shall commence, exist and continue by simply virtue of the ownership, shall expire automatically upon termination of ownership and need not be confirmed or evidenced by any certificate or acceptance of membership.

7.3 Voting Rights. The method of voting shall be as provided in the Bylaws. For each Lot owned, an Owner in Good Standing shall have one vote in matters submitted to the Association membership, subject to the Bylaws.

7.4 Powers, Duties, and Obligations. The Association shall have all the powers set forth in its Articles of Incorporation and Bylaws, together with its general powers as a corporation and under any applicable statute, as such statute may be amended to expand the scope of association powers, and the power to do any and all things which may be authorized, required or permitted to be done by the Association under and by virtue of this Declaration, including the power to levy and collect assessments and fines as provided in this Declaration. Without in any way limiting the generality of the foregoing, the Association shall have the following powers: In fulfilling any of its duties under this Declaration, including its duties for the management, maintenance, repair, operation or administration of the Community or in exercising any of its rights to maintain and repair the Common Areas, the Association shall have the power and authority to do the following: (1) to pay and discharge any and all liens placed upon any Lot on account of any work done or performed by the Association in the fulfillment of any of its obligations and duties

of maintenance, repair, operation or administration, (2) to defend, bring, prosecute, and settle litigation for itself and the Community, (3) to obtain, contract and pay for, or to otherwise provide for such utility services as the Board may from time to time deem desirable, and the services of architects, engineers, attorneys and certified public accountants and such other professional or nonprofessional services as the Board may deem desirable, (4) to delegate by resolution or contract to a Managing Agent any of its powers under this Declaration, (5) to repair or restore the Community following damage or destruction or a permanent taking by the power of or power in the nature of eminent domain or by an action or deed in lieu of condemnation and the Association, as the attorney-in-fact for each Owner, shall represent all of the Owners and the Association in any condemnation proceeding or in negotiations, settlements, and agreements with the condemning authority for the acquisition of any part of the Common Area (the award in any condemnation proceeding, the proceeds of any settlement related thereto, and the proceeds of any insurance on the Common Areas shall be payable to the Association for the use and benefit of the Owners and their mortgagees as their interests may appear), (6) to grant easements and rights-of-way over the Common Area and to approve signage for the Project, and (7) to borrow money and to pledge or assign current or future Assessments as security for any loan obtained by the Association, provided the assent of a majority of the voting interests is obtained prior to mortgaging, pledging or hypothecating any or all of the Association's real property as security.

8. RULES, ENFORCEMENT, APPEAL

8.1 Rules and Regulations. The Board may adopt, amend, modify, cancel, limit, create exceptions to, expand, or enforce Rules and Regulations (including Design Requirements), subject to limitations and requirements of the law, including the right of the Owners to disapprove a rule pursuant to law, and subject to the Board's duty to exercise Business Judgment on behalf of the Association and the Owners.

8.1.1. Requirements. Before adopting, amending, modifying, canceling, limiting, creating exceptions to, or expanding the Rules and Regulations, the Board shall:

- (1) at least 15 days before the Board will meet to consider a change to the Rules and Regulations, deliver notice to the Owners that the Board is considering a change to the Rules and Regulations;
- (2) provide an open forum at the Board meeting giving Owners an opportunity to be heard at the Board meeting; and
- (3) deliver to the Owners a copy of the change in the Rules and Regulations approved by the Board within 15 days after the date of the Board meeting.

8.1.2. Imminent Risk of Harm. The Board may adopt a rule without first giving notice to the Owners if there is an imminent risk of harm to the Common Area, an Owner, an occupant of a Lot, a Lot, or a Unit. The Board shall provide notice to the Owners of such a rule within 15 days of adoption by the Board.

8.2 Remedies. Violation of any provisions of the Governing Documents, or of any decision of the Association made pursuant to such documents or the law, shall give the

Board the right, but not the obligation, in addition to any other rights set forth in the Governing Documents or under law, to do any or all of the following after giving notice:

- (1) subject to the provisions of this Declaration (see section 2.5), to enter the Lot as to which such violation exists and to summarily abate and remove or otherwise bring into compliance, at the expense of the defaulting Owner, any structure, thing, or condition that may exist contrary to such provisions, and the Board shall not thereby be deemed guilty of any manner of trespass;
- (2) enjoin, abate, or remedy such thing or condition by appropriate legal proceeding;
- (3) levy fines according to Section 8.3 below;
- (4) suspend the right to receive, access or use any services or facilities provided by or through the Association until the violation is corrected, and to suspend the voting rights of an Owner, but not for longer than 60 days unless the violation is ongoing;
- (5) bring suit or action against the Owner on behalf of the Association and other Owners to enforce the Governing Documents. The Association shall be entitled to an award of its attorney fees and costs in any action taken for the purpose of enforcing or otherwise carrying out the terms of the Governing Documents, or for any action taken pursuant to the Governing Documents, if it prevails in such action, regardless of who instituted the action; and
- (6) record in the records of the county recorder against a Lot as to which a violation exists, a notice of noncompliance setting forth the thing, condition or violation that exists and thereby providing notice to prospective purchasers and all others of the violation and of the requirement that the violation be remedied.

8.3 Fines. The Board may assess a fine against an Owner for a violation of the Governing Documents in accordance with the provisions in this Section 8.3.

8.3.1. Proof. The Board may take the actions it deems necessary to investigate and verify any alleged violation. When the Board determines after fair review and acting in good faith and without conflict of interest that it is more likely than not that a violation occurred, the violation shall be deemed to have occurred. In other words, when the greater weight of evidence (i.e., the evidence that is more convincing or likely to be true or accurate) indicates a violation occurred rather than didn't occur, the violation shall be deemed to have occurred. Any question of veracity of a witness or evidence shall be determined by the Board and shall be final and conclusively binding upon all parties. If the Board determines a violation has occurred, the Board may proceed with enforcement in the manner it deems fit in its reasonable judgment.

8.3.2. Warning. If a violation occurs, a written warning ("Warning") shall be sent to the Owner of the Lot before a fine may be levied. The Warning shall:

- (1) describe the violation;
- (2) state the rule or provision of the Governing Documents that the Owner has violated;
- (3) state that the Board may, in accordance with the provisions of the law, assess

finer against the Owner and suspend membership rights if a continuing violation is not cured or if the Owner commits similar violations within one year after the day on which the Board gives the Owner the Warning or assesses a fine against the Owner;

- (4) if the violation is an ongoing, continuous violation, state a time by which the Owner must cure the violation (which time must be at least 48 hours after the day the Owner is given the Warning); and
- (5) state the amount of the fine that will be assessed if an ongoing, continuous violation is not cured within 48 hours or if the Owner commits similar violations within one year after the day on which the Board gives the Owner the Warning.

8.3.3. Initial Fine. The Board may assess a fine against an Owner if: (1) within one year after the day on which the Board gives the Owner a Warning, the Owner commits another violation of the same rule or provision identified in the Warning; or (2) for an ongoing, continuous violation, the Owner does not cure the violation within 48 hours after the day the Owner is given the Warning.

8.3.4. Subsequent Fines for Same Violation. After a fine is assessed against an Owner, the Board may, without further warning, assess an additional fine against the Owner each time the Owner: (1) commits a violation of the same rule or provision within one year after the day on which the Board assesses a fine for a violation of the same rule or provision; or (2) allows a violation to continue for 10 days or longer after the day on which the Board assesses the fine.

8.3.5. Notice of Fine. Each time a fine is assessed, notice of the fine shall be sent to the Owner describing the violation, stating the rule or provision of the Governing Documents that the Owner has violated, and stating that the Owner may request an informal hearing before the Board to dispute the fine within 33 days after the date of the notice.

8.3.6. Fine Amounts. A violation of any express rule, regulation, covenant, restriction or provision of any of the Governing Documents shall be subject to a fine in the amount set forth in a schedule of fines adopted by Rule from time to time, or in the absence of such a schedule, \$50 for a first offense and \$100 for subsequent offenses of the same violation or \$75 per ten days for a continuous violation.

8.4 Appeal by Owner. Any Owner who is assessed a fine or other penalty or who has rights suspended may request an informal hearing before the Board to dispute the fine, penalty or suspension within 33 days after the date of the notice stating that the fine or penalty is assessed or that rights have been suspended. The hearing requested shall be conducted in accordance with procedures promulgated by resolution of the Board from time to time, or if none, in accordance with the standards determined by the Board at the hearing.

8.5 Action by an Owner. Each Owner and every user of the Property shall comply with the provisions of the Governing Documents and any applicable statute. Failure to comply therewith shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by an aggrieved Owner. The prevailing party in an action for the interpretation of, the enforcement of, or to obtain redress for violation of any provisions of the Governing Documents shall be entitled to an award of its attorney fees and costs.

8.6 Injunctive Relief. Nothing in this section shall prevent an Owner, the Association, or other interested party from resorting to a court of competent jurisdiction in those instances where injunctive relief may be appropriate. In such an action, the violation of any covenants or restrictions in the Governing Documents shall be presumed to cause irreparable harm to the Association and its members.

8.7 Purchase Subject to Violations. Buyers shall take ownership of Lots subject to any violations of the Governing Documents which may exist concerning the Lot, whether or not such violations were disclosed by the seller of the Lot and whether or not the Association knew of the violations at the time of sale. Such buyers shall be liable for correcting such violations upon demand by the Association.

9. INSURANCE

9.1 Insurance Maintained by the Association.

9.1.1. Liability. The Association shall maintain a public general liability insurance policy covering the Association, its officers, Board members and managing agents, having at least a One Million Dollar (\$1,000,000.00) limit per total claims that arise from the same occurrence or in an amount not less than the minimum amount required by applicable law, ordinance or regulation. Coverage under this policy shall include, without limitation, all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the common areas;

9.1.2. Property. The Association shall maintain property insurance for the Common Area, if required by law or deemed necessary or desirable by the Board;

9.1.3. Fidelity Insurance or Bond. The Association shall obtain and maintain adequate fidelity coverage to protect against dishonest acts by its officers, members of the Board, employees, and all others who are responsible for handling funds of the Association, including any managing agent. Such fidelity coverage shall: (i) name the Association as an obligee; (ii) not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or managing agent, as the case may be, at any given time, and shall in no event be in an amount less than three months assessments on all Lots plus reserves; (iii) contain an appropriate endorsement(s) to the policy to cover any persons who serve without compensation if the policy would not otherwise cover volunteers, and to cover the Association's management agent, if the Association has delegated some or all of the responsibility for the handling of funds to a management agent; (iv) provide that coverage may not be canceled or substantially modified (including cancellation for nonpayment of premiums) without at least ten days prior written notice to the Association or any insurance trustee.

9.1.4. Directors and Officers (D&O) Insurance. The Association shall purchase and maintain insurance on behalf of any person who was or is a Board member or officer of the Association, and any other person the Association is required by law or contract to indemnify, against any liability asserted against him or her or incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the Association would have the power to indemnify him or her against such liability under the laws of the

state of Utah, as the same may hereafter be amended or modified.

9.1.5. Other Insurance. The Association shall obtain such other insurance if and to the extent required by law or as the Board deems necessary from time to time, such as worker compensation insurance.

9.2 Acceptable Insurance Providers. The Association shall use generally acceptable insurance carriers.

9.3 Miscellaneous Items. The following provisions shall apply to all insurance coverage of the Association:

(1) Certificate of Insurance. Evidence of insurance shall be issued to each Owner and Mortgagee upon request.

(2) Deductible. The Association shall pay for the deductible on any claim made against the Association's property insurance policy, except where the claim is made because of the negligence or willful acts of an Owner or occupant, including a guest, invitee, or visitor, as determined by the Board. In such cases, the corresponding Owner shall pay the deductible amount.

(3) Waiver of Subrogation; Individual Neglect. All policies shall include a waiver of the right of subrogation against Owners individually. All policies shall include a provision that the insurance is not prejudiced by any act or neglect of an individual Owner.

(4) Special Endorsements. Each policy shall contain or provide those endorsements commonly purchased by other community associations in the county.

(5) Intent. The foregoing provisions shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Board or Association may deem necessary or appropriate from time to time.

9.4 Owners' Insurance. Each Owner shall maintain adequate property insurance coverage for the Owner's Lot.

9.5 Prompt Repair. Each Owner further covenants and agrees that in the event of any partial loss, damage or destruction of the Owner's Unit, the Owner shall promptly proceed to repair or to reconstruct the damaged structure in a manner consistent with the construction of the Unit prior to the loss, damage or destruction.

10. AMENDMENT AND DURATION

10.1 Amendments.

10.1.1. How Proposed. The Board shall present amendments to the Declaration to the Owners for approval after either: (1) a majority of the Board requests, or (2) receiving a written request signed by Owners holding thirty percent (30%) or more of the voting rights of Owners in Good Standing. The proposed amendment must be reduced to writing and shall be included in the notice of any meeting at which action is to be taken thereon or attached to any request for approval of the amendment.

10.1.2. Approval Required. This Declaration may be amended, and any provision,

covenant, condition or restriction whatsoever may thereby be added, modified or deleted, if such amendment is approved by a majority of the owners.

10.1.3. Execution and Recordation. An amendment shall not be effective until the amendment is certified by the president of the Association as being adopted in accordance with this Declaration, is acknowledged, and is recorded in the appropriate county recorder's office.

10.2 Duration. The provisions, covenants, conditions and restrictions contained in this Declaration shall continue in full force and effect until amended, added to or deleted, in whole or in part from time to time as provided above.

11. MISCELLANEOUS PROVISIONS

11.1 Priority of Governing Documents. In the event of any conflict between the Governing Document, the document in the highest priority beginning with the first document listed prevails over any later listed document: this Declaration, the Articles of Incorporation, Bylaws, Rules and Regulations. In the event of any conflict between provisions or documents consisting of the Rules and Regulations: (1) the later adopted provision or document prevails, or (2) if conflicting provisions are adopted on the same date or the adopted dates are not evident, the conflicting provisions have no force or effect until the Board determines which provision or document prevails by duly adopted Board resolution given to all Owners.

11.2 Interpretation. All questions of interpretation or construction of any of the covenants or restrictions in this Declaration shall be resolved by the Board, and its decision shall be final, binding and conclusive on all parties affected for all purposes. Words and phrases used in the Governing Documents are to be construed according to the context and the ordinary usage of the language; but technical words and phrases, and such others as have acquired a peculiar and appropriate meaning in law, or are defined herein, are to be construed according to such peculiar and appropriate meaning or definition. Local zoning or other ordinances or statutes may define certain words or phrases which are used herein and such definitions, unless otherwise required by law, are not authoritative or binding unless the Board specifically determines, as to a particular word or phrase, that such definition applies, and such determination shall be final and conclusive as to all parties affected for all purposes. The covenants, restriction and terms of this Declaration are to be interpreted broadly to give effect to the Association's role as the governing body of the Community and to grant all the powers necessary for management of the common property, administration of the servitude regime, carrying out other functions set forth herein, and furthering the purposes of the Association. The enumeration of specific items, acts, rights, or powers in this instrument does not limit or restrict and is not to be construed or interpreted as limiting or restricting, the general powers granted to the Association or Board except where powers are expressly restricted. The Board may from time-to-time issue written policies, procedures and resolutions interpreting and implementing the provisions of this Declaration, including, by way of example and not limitation, policies, procedures and resolutions that interpret or clarify any provision of the Governing Documents deemed vague or ambiguous by the Board.

11.3 Recovery of Costs and Attorney Fees. Costs and attorney fees incurred for enforcement of the Governing Documents, regardless of whether any lawsuit or other action is commenced, are recoverable by the Association from the person enforced against. If the Association requests compliance with a Governing Document from an Owner and the Owner fails to comply or demonstrates intent not to comply, the attorney fees and costs incurred shall be an Assessment against the Owner and the Owner's Lot. Additionally, a prevailing party shall be entitled to its attorney fees and costs in any dispute concerning a Governing Document, including an action dealing with the declaration of rights and obligations thereunder with or without a defaulting party, whether such costs and expenses are incurred with or without suit, before or after judgment, in any appeal, in any bankruptcy or receivership proceeding, or in connection with any alternative dispute resolution proceeding.

11.4 Joint Owners. In any case in which two or more persons share the ownership, regardless of form, of a Lot, the responsibility of such persons to comply with this Declaration shall be a joint and several responsibility and the act or consent of any one or more of such persons shall constitute the act or consent of the entire ownership interest, subject to the Bylaws.

11.5 Lessees and Other Invitees. No damage to or waste of the Common Areas shall be committed by any Owner or Unit occupant, guest, invitee or lessee of any Owner, and each Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused by any such person. Lessees, invitees, guests, Unit occupants, contractors, family members and other persons entering the Property under rights derived from an Owner shall comply with all of the provisions of the Governing Documents restricting or regulating the Owner's use, improvement or enjoyment of such Owner's Lot and other areas of the Property. The Owner shall be responsible for obtaining such compliance and shall be liable for any failure of compliance by such persons in the same manner and to the same extent as if the failure had been committed by the Owner.

11.6 Waiver, Precedent, Estoppel, Change of Circumstances. No restriction, condition, obligation or provision contained in this Declaration or rules and regulations adopted pursuant hereto shall be deemed to have been abrogated, waived or abandoned by the Association, the Board, the Owners or any one of them, irrespective of the number or scope of violations or breaches thereof which may occur, and any failure to enforce the same shall not be deemed to constitute precedent, abandonment, waiver, or estoppel impairing the right of the Association, Board or Owner as to any similar matter. The existence of any number of violations of a covenant, restriction or Rule shall in no event give rise to a conclusion that the restriction has been abandoned and no covenant, restriction or rule shall be deemed to be abandoned, regardless of the number, frequency or scope of any violations of such covenant, unless and until this Declaration or the Rules are duly amended to remove or alter such covenant, restriction or Rule. Except as otherwise expressly provided in this Declaration, no change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions of this Declaration.

11.7 Association Liability; Duties. The Association is and shall remain wholly free and clear of any and all liability to, or claims by, all Owners, and all persons and entities, of

whatever kind or character, whether sounding in contract or tort, deriving from the occurrence of any injury or damage to any person or property on, or in respect of the use and operation of, the Common Area or any of its improvements, fixtures, and facilities, and an Owner shall defend, indemnify and hold harmless the Association against such claim, loss or liability asserted by such Owner or his or her guest, invitee, licensee, tenant, or visitor. In this respect, it shall be the affirmative duty and responsibility of each Owner and user of the Common Areas to continuously inspect the same for any defects or perils or other unsafe conditions or circumstances, prior to and during such use or enjoyment thereof; and all users of, and visitors to, the Common Area and its improvements and facilities shall use, enjoy, and visit, the same at their own risk and peril. Nothing contained in this Declaration shall be construed so as to impose any liability upon the Association for personal injuries or property damage to guests, invitees, trespassers, or other third parties arising out of the Association's failure to perform any duty or obligation imposed upon the Association by this Declaration. Nothing contained in this Declaration shall be construed so as to impose any contractual liability upon the Association for failing to take any of the following actions, except to the extent funds shall be available and the action shall be deemed necessary and appropriate by the Association: (a) maintain the Common Areas; or (b) take any corrective or enforcement action, including an action against any Owner for non-compliance with any provision in the Governing Documents or any federal, state or local statute or regulation. Nothing contained in this Declaration shall be construed so as to impose any duty upon the Association to inspect the Common Areas or Lots for dangerous, unsafe or unsanitary conditions or compliance with the Governing Documents or any municipal, county, state or federal law, regulation or order.

11.8 Invalidity; Number; Captions; Recitals. The invalidity of any part of this Declaration shall not impair or affect in any manner the validity, enforceability, or effect of the balance of this Declaration. As used herein, the singular shall include the plural and the plural the singular. The masculine and neuter shall each include the masculine, feminine, and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Declaration. The recitals to this Declaration are incorporated herein and made a part of this Declaration.

11.9 Notice of Purchase or Lease. Immediately upon the purchase or lease of any Lot, the Owner shall promptly inform the Association secretary or manager of the name and address of the Owner or lessee. The Board may for all purposes act and rely on the information concerning Owners and Lot ownership which is thus acquired by it and the address of each Owner shall be deemed for all purposes to be the address of the Lot owned by such Owner unless the Board is otherwise advised in writing.

IN WITNESS WHEREOF, the Association has executed this Declaration this _____day of _____, 202____.

**MONARCH MEADOWS OWNERS’
ASSOCIATION, INC.**
a Utah nonprofit corporation

Sign:

Print:

Title:

STATE OF UTAH)

ss:

County of Iron)

Subscribed and sworn to before me on this ____day of _____, 202____by

_____.

Notary Public

EXHIBIT A
(LEGAL DESCRIPTION)

Lots 1 - 60, MONARCH MEADOWS SUBDIVISION PHASE 1 AMENDED, according to the official plat thereof recorded with the office of the Iron County Recorder, state of Utah.

Parcel #'s: D-1210-0001-0000 through D-1210-0060-0000:

Lots 1 - 69, MONARCH MEADOWS SUBDIVISION PHASE 2, according to the official plat thereof recorded with the office of the Iron County Recorder, state of Utah.

Parcel #'s: D-1216-0001-0000 THROUGH D-1216-0069-0000.