

WHEN RECORDED, RETURN TO:

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**SECOND AMENDED AND RESTATED
DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
HERITAGE VILLAGE
(INCLUDING BYLAWS)**

**An Age Restricted Community Operated for
Residents 55 Years of Age and Older**

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THIS SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (hereafter "Declaration") is made on the date evidenced below by the Heritage Village Homeowners Association (hereafter "Association").

RECITALS

A. The property subject to this Declaration is the Heritage Village subdivision in Utah County, State of Utah. **Exhibit A** of this Declaration further defines the property subject to this Declaration. All Lots therein are part of the Association and each Owner of a Lot is a member thereof. The Association is created as a planned unit development and contains certain Common Area, Limited Common Area and easements for the benefit of the Owners of Lots therein.

B. The Association desires to continue to provide for the preservation and enhancement of the property values and improvements of the Property and for maintenance of the Common Area.

C. This Second Amended and Restated Declaration of Covenants, Conditions and Restrictions supersedes and replaces all prior declarations, and amendments or supplements thereto, recorded against the subdivision, specifically the Amended and Restated Declaration of Covenants, Conditions and Restriction for Heritage Village, Plats B and D recorded August 14, 2013, as Entry No. 75151:2013, records of the Utah County Recorder, State of Utah (the "Original Declaration"). All Owners, guests, invitees, agents, and residents shall abide by the provisions of this Declaration.

D. AS MORE SPECIFICALLY SET FORTH IN ARTICLE VIII OF THIS DECLARATION, IT IS INTENDED THAT THE PROJECT BE AN AGE RESTRICTED COMMUNITY OF INDIVIDUALS AGE 55 AND OVER. THE PROJECT SHALL BE CONSTRUCTED, MARKETED, MANAGED, AND MAINTAINED IN ACCORDANCE WITH THE PROVISIONS OF THE FEDERAL FAIR HOUSING ACT AND ITS EXEMPTIONS FROM DISCRIMINATION BASED ON FAMILIAL STATUS FOR HOUSING FOR OLDER PERSONS. THE PROJECT SHALL BE ADVERTISED AND PROMOTED AS AN "AGE RESTRICTED" OR "ADULT COMMUNITY"; SHALL HAVE AT MINIMUM 80% OF THE OCCUPIED UNITS OCCUPIED BY AT LEAST ONE PERSON AGE 55 OR OLDER; AND SHALL ESTABLISH REASONABLE MEANS OF VERIFYING AGE AND COMPLIANCE WITH THE FEDERAL FAIR HOUSING ACT;

E. Pursuant to Utah Code § 57-8a-104 and Article XIII, Section 13.1 of the Original Declaration, at least 67% of all Owners of the Association have voted affirmatively to adopt 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:

ARTICLE I - DEFINITIONS

The following words when used in this Declaration (unless the context otherwise requires) shall have the following meanings:

- 1.1** “**Act**” shall mean the Utah Community Association Act, Utah Code, Title 57, Chapter 8a, as the same shall be amended from time to time.
- 1.2** “**Articles**” mean the Articles of Incorporation for Heritage Village Homeowners Association, as amended from time to time.
- 1.3** “**Association**” means and refers to the Heritage Village Homeowners Association. It is intended that the Association be a Utah non-profit corporation. Failure of the Association to maintain its corporate status will not result in dissolution of the Association. The Association may renew its corporate status, reinstate its corporate status, or incorporate without Owner approval. As long as the Association obtains the proper vote, any actions taken during any period of un-incorporation shall be binding.
- 1.4** “**Board**” or “**Board of Directors**” means and refers to the governing body of the Association.
- 1.5** “**Bylaws**” means the Bylaws of the Association (initially attached hereto as **Exhibit B**), as they may be amended from time to time.
- 1.6** “**City**” means Payson City.
- 1.7** “**Common Area**” means the parking areas, open space, all areas around the Living Units; clubhouse, and any other areas shown on the Map as Common Area. The Common Area may consist of landscaping, irrigation equipment, and other improvements. The Association owns all Common Area.
- 1.8** “**Common Expenses**” means all monies spent to administer, maintain, or replace the Common Areas; expenses agreed upon as common expenses by a majority of a quorum of Owners; expenses authorized by the Governing Documents or the Community Association Act as common expenses; any other expenses necessary for the common benefit of the Owners.
- 1.9** “**Community Association Act**” shall mean Utah Code §§57-8a-1 *et seq.*, as amended or replaced from time to time.
- 1.10** “**Declaration**” means this document, as amended, annexed, supplemented, or restated from time to time.
- 1.11** “**Director**” means a member of the Board.
- 1.12** “**Good Standing**” shall mean that the Member is in compliance with all obligations under this Declaration and the Governing Documents. An Owner is deemed in “Good Standing” if they have worked out a resolution with the Board despite not yet being in full compliance with any given issue.

1.13 “Governing Documents” means Declaration, Bylaws, Articles of Incorporation, Map, and rules and regulations.

1.14 “Housing for Older Persons Act” aka “HOPA” means the Housing for Older Persons Act, 42 U.S.C. §§ 3601, *et seq.*, and 24 CFR part 100, subpart E, as such codes and rules shall exist at any given time.

1.15 “Living Unit” means a structure which is designed and intended for use and occupancy as a single-family residence.

1.16 “Limited Common Areas” include, without limitation, driveways, patios and walkways accessing Living Units.

1.17 “Lot” means the separately numbered parcel of property as shown on the Map—a geographical area. Lots that are developed include: The Living Unit thereon, Common Areas, Limited Common Areas, and extends to all utilities exclusively servicing the Lot whether located under or over the Common Areas. The size of a Lot will be shown on the Map.

1.18 “Map” or “Plat” or “Plat Map” (these terms may be used interchangeably herein) Map means the plat map for Heritage Village Subdivision Plats "B" (being a vacation and re-subdivision of Heritage Village Subdivision Plat "A") and "D," on file with the Utah County Recorder and any amendments or supplements thereto or any plat maps recorded for additional phases.

1.19 “Member” means the Owner of record. If an Owner is not a natural person, the Owner may designate in writing to act as its representative. If no representative is designated, then an officer, trustee, director, manager, or member as shown in the entity’s formative documents shall be its representative.

1.20 “Nonprofit Act” means Utah Code §§ 16--6a-101 *et seq.*, as amended or replaced from time to time.

1.21 “Owner” means the owner of the fee in a Lot. If a Lot is subject to an executory purchase contract, the contract purchaser shall be considered the Owner. However, the seller and buyer may otherwise agree but must inform the Board in writing of the alternative arrangement.

1.22 “Person” means an individual, corporation, partnership, association, trustee, or other legal entity.

1.23 “Project” means the Heritage Village Subdivision, as shown on the Map. The project includes the land, buildings, improvements and structures, easements, rights, appurtenances, and articles of personal property intended for use in connection therewith. **Exhibit A** contains the legal description for the Project.

1.24 “Resident” means any Person living at the Project. Residents include without limitation: Owners and family members of Owners as defined in 1.14, 8.1 and 8.2.

1.25 “Rules and Regulations” means and refers to those rules and regulations adopted by the Board from time to time, consistent with the Act, that are deemed necessary by the Board for the enjoyment of, or furthering the purposes of, the Property and Association.

ARTICLE II – SUBMISSION

The Project is submitted to be bound by the Governing Documents, to provisions of the Community Association Act, HOPA, and to the Nonprofit Act. All Owners shall take title subject to the Governing Documents, Community Association Act, and Nonprofit Act. All Residents and other users of the Project shall be subject to the Governing Documents and Community Association Act.

ARTICLE III - PROPERTY RIGHTS IN LOTS

3.1 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 benefit of such Lot and Living Unit. Each Lot shall be bound by, and the Owner shall comply with the Governing Documents for the mutual benefit of the Owners.

3.2 Easements Reserved.

In addition to the easements shown on the Map or provided for under this Declaration, the Bylaws or law, the following easements are hereby reserved for the benefit of the Owners and the Association:

3.2.1 **Right of Entry.** The Association and any person authorized by the Association may at any reasonable time, and from time to time at reasonable intervals, enter upon any Lot (Living Unit not included) for the purpose of performing maintenance and determining whether or not the Lot is in compliance with the Governing Documents. No such entry shall be deemed to constitute a trespass or otherwise create any right of action by the Owner of such Lot. The right of entry granted by this subsection applies to all Lots which the Association has maintenance responsibilities as provided for in the Governing Documents.

3.2.2 **Utility-** If a utility line services or benefits a single Lot and is in needs of repair, the Owner shall be responsible for all costs to fix. Any utility line that services more than one Lot shall be the responsibility of the Association, except for those which a public authority or utility provider is responsible.

3.3 Easements Shown on the Map.

Lots shall be subject to the easements shown on the Map as recorded with Utah County.

ARTICLE IV – PROPERTY AND USE RIGHTS IN COMMON AREA

4.1 Member's Right of Enjoyment

4.1.1 The Project will have Common Areas as designated on the Map for the benefit of all owners. Every member of the Association shall have a non-exclusive right and easement for the use, benefit and enjoyment in and to the Common Area and such nonexclusive right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the restrictions herein set forth.

4.1.2 Subject to the Governing Documents, each Resident, guest, or invitee has the right to ingress and egress across the Common Areas necessary for access to his Lot and Living Unit. The rights described in this Section are appurtenant to and pass with title to the Lot.

4.1.3 No portion of the Common Area may be used exclusively by any Owner for personal gardens, storage facilities, or for any other purpose without written approval from the Board.

4.2 Delegation of Right of Use.

Any member of the Association may delegate its rights to the use and enjoyment of the Common Area to Residents, all subject to such reasonable rules and regulations which the Association may adopt.

4.3 Subdivision of Common Area

The Common Area shall not be subdivided or removed from the Project.

4.4 Compliance with Covenants and Restrictions and Rules and Regulations.

Each Owner and Resident shall comply with the covenants and restrictions imposed by this Declaration on the use and enjoyment of the Common Area. Further, each Owner and Resident shall fully and faithfully comply with the rules, regulations and restrictions applicable to use of the Common Area, as such rules, regulations and restrictions are from time to time adopted by the Association for the safety, care, maintenance, good order and cleanliness of the Common Area.

ARTICLE V - MAINTENANCE OBLIGATIONS

5.1 Association Responsibility.

The Association shall supervise, manage, operate, examine, insure, inspect, care for, repair, replace, restore and maintain the Common Areas. The Association shall also maintain any internal pathways, the landscaped median, the entry feature, project signage, decorative columns, and fencing within the Project (except as provided in Section 5.2), whether or not part of the Common Areas and regardless of whether maintenance is required because of an act of God.

The Board, after notice and opportunity for hearing, or in the case of an emergency, may assume the maintenance responsibility over a Lot if, in the opinion of the Board, the Owner is unwilling or unable to adequately provide such maintenance. Should the Board exercise its right under this provision, it shall not be liable for trespass or nuisance and shall have the right to levy an Individual Assessment to recover its maintenance costs.

5.2 Owner Responsibility.

All maintenance, repair, and replacement of the Living Units and Limited Common Areas shall be the sole responsibility of the Owner thereof, who shall maintain such Living Unit in good repair and in accordance with the Governing Documents of the Association. Maintenance, repair, and replacement responsibility includes, but is not limited to, the driveway and walkways accessing the Living Unit, with the exception that the Association shall provide snow removal. If an owner fences the rear yard area of his Lot, as approved in writing by the Board, the Owner shall be responsible to maintain, repair, and replace all landscaping and improvements within the fenced area, and the fence. Any trees within the Owner's rear yard are the sole responsibility of the Owner to maintain. Furthermore, any porches or patios are the sole responsibility of the Owner for maintenance and repair. The sidewalk approaching the Living Unit is deemed the Owners' responsibility to maintain. The landscaping improvements made by the Owner within the curbed area are the Owner's responsibility. All open areas outside of the Living Unit shall maintain their Common Area and Limited Common Area designations as set forth on the Plat.

ARTICLE VI – ARCHITECTURAL CONTROL

6.1 Architectural Standards and Guidelines.

6.1.1 Except for initial construction and initial landscaping, or an Owner's day-to-day landscape maintenance or minor plantings within curbed areas, (e.g. shrubs, flowers and the like, however, a tree is not a minor planting) any changes to the exterior appearance of Living Unit, any addition or modification to a Lot shall require the prior written approval of the Board and shall comply with the Restated and Amended Development Agreement for Heritage Village, unless a variance is granted by the City.

6.1.2 When repairing, restoring, replacing, remodeling or redecorating the exterior of a Living Unit, the Owner shall use materials and colors that are approved in writing by the Board.

6.2 Waiver, Precedent, Estoppel.

Approval or disapproval by the Board of any requested architectural change shall not be deemed to constitute precedent, waiver, or estoppel impairing its right to withhold approval or grant approval as to any similar matter thereafter proposed or submitted to it.

6.3 Noncompliance.

Any construction, alteration, or other work done in violation of this Declaration shall be deemed to be in noncompliance. The Board, at its discretion may record a Notice of Noncompliance on the offending property. Upon receipt of a Notice of Noncompliance, Owners shall, at their own

cost and expense, remove such non-conforming construction, alteration, or other work and shall restore the land to substantially the same condition as existed prior to the non-conforming construction, alteration, or other work. Should an Owner fail to act as required hereunder, the Board or their designee, without liability for trespass or nuisance, shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as existed prior to the change. All costs incurred by the Association shall be an Individual Assessment.

6.4 Liability.

The Board shall not be liable to any Owner, occupant, builder or other person for any damage, loss or prejudice suffered or claimed on account of any action or failure to act, provided only that the Board has acted in good faith based on the actual knowledge possessed by it. The Board is not responsible for determining compliance with structural and building codes, solar ordinances, zoning codes or other governmental regulations, all of which are the responsibility of the Owner.

6.5 Additional Guidelines.

The Board may, from time to time, adopt additional architectural guidelines consistent with the then existing guidelines and general exterior aesthetic of the Project.

ARTICLE VII - ASSESSMENTS

7.1 Covenant for Assessment.

By accepting a deed or other conveyance, each Owner covenants and agrees to pay the Association all regular assessments, special assessments, supplemental assessments, individual assessments, late penalties, and collection costs (including attorney's fees) whether or not a lawsuit is commenced. No Owner may exempt themselves from liability for assessments by abandonment of their Lot, failure of the Association to maintain the Common Areas, or non-use of the Common Areas. Except for foreclosures, the personal obligation for unpaid assessments, late fees, interest, and collection costs, including attorney's fees, shall pass to the successor in title. A successor in title is entitled to a statement from the Association setting forth the amounts due by the prior owner. The amounts set forth in the statement shall be binding upon the Association. If an Owner loses their Lot to foreclosure or voluntarily conveys it, they shall remain personally liable for unpaid assessments, late fees, interest, and collection costs (including attorney's fees).

7.2 Annual Budget.

The Board shall prepare an annual budget for the Association. The annual budget shall provide for: the maintenance, repair, and replacement of the Common Areas; maintenance of other areas required to be maintained by the Association; insurance; all other Common Expenses; and the administration, management, operation, and reserves of the Association. If the Board fails to adopt an annual budget, the last adopted budget shall continue in effect.

7.3 Reserve Account.

The Association shall establish a reserve account to fund long-term maintenance and replacement items. In formulating a budget each year, the Board should include a reserve fund line item in an amount the Board determines, based on the reserve analysis, to be prudent. 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 or other purposes. The Board shall use reasonable efforts, subject to the Owners rights under the Community Associations Act, to fund the reserve account. The Board shall not be personally liable for failure to fund the reserve unless gross negligence or intentional misconduct is proven in a court of law.

7.4 Regular Assessment.

The Association may collect the regular assessment on an annual basis, semi-annual basis, quarterly basis, or monthly basis. Apart from the initial notice of regular assessment, the Association is not obligated to send periodic invoices for regular assessments. If the Board fails to adjust a regular assessment, the amount of the last regular assessment and payment schedule will continue in effect, whether or not notice is sent.

7.5 Special Assessment.

The Association may levy a special assessment for the purpose of defraying in whole or in part the cost of any construction, reconstruction, maintenance, repair, or replacement of the Common Areas. The Association may levy a special assessment up to 50% of the annual budget without approval from the Owners. If a special assessment exceeds 50% of the annual budget, it must be approved by a majority of a quorum of Owners.

7.6 Supplemental Assessment.

If the regular assessments are inadequate to pay the Common Expenses, the Board shall determine the amount of the shortfall. Once the amount of the shortfall is determined, the Board shall adopt a supplemental budget. The Association may levy a supplemental assessment to fund the supplemental budget. The Association may levy a supplemental assessment up to 50% of the original annual budget without approval from the Owners. If a supplemental assessment exceeds 50% of the original annual budget, it must be approved by a majority of a quorum of Owners.

7.7 Individual Assessment.

Any expenses attributable to less than all the Lots may be assessed exclusively against the affected Lots. Individual assessments include, without limitation:

7.7.1 Assessments levied against a Lot to reimburse the Association for costs incurred in correcting a violation of the Governing Documents;

7.7.2 Fines, late fees, interest, collection costs (including attorney's fees);

7.7.3 Services provided to a Lot due to an Owner's failure to maintain, for emergency repairs, or to protect the health, safety, and welfare of adjoining Lots and Common Areas;

7.7.4 A Reinvestment fee is due at the transfer of title to a Lot. The amount of the reinvestment fee shall be determined by the Board but shall not be more than that permitted by

Utah State statute. A separate Notice of Reinvestment Fee will be recorded providing additional notice, as required by Utah law; and

7.7.5 Any charge described as an individual assessment by the Governing Documents.

7.8 Apportionment of Assessments.

Regular, special, and supplemental assessments will be apportioned equally among the Lots. Individual assessments shall be apportioned exclusively to the Lots benefitted or affected.

7.9 Nonpayment of Assessment.

Assessments not paid within 10 days after the due date established by the Board will be late and subject to interest at 18% per annum on any delinquent balance and a \$25.00 late fee. Late fees may only be charged once per missed payment.

7.10 Application of Payments.

Payments shall be credited first to collection costs (including attorney's fees), then to interest and late fees, then to the oldest assessments, then the most recent assessments.

7.11 Acceleration.

If an Owner fails to pay their assessments for 61 days or more, the Board may elect to accelerate the remainder of the Assessments due that year.

7.12 Termination of Access to Recreational Facilities.

If an Owner fails to pay their assessments, the Association may terminate access to recreational facilities. The Board shall establish procedures for terminating access to recreational facilities, which shall comply with the Community Association Act.

7.13 Collection of Rent from Tenant

If an Owner, pursuant to Section 8.14 herein, rents their Lot and fails to pay their assessments, the Association may demand the tenants to pay the Association any rent owed to the Owner. Payment of rent to the Association shall not be a violation of the lease by the tenant. The Board shall establish procedures for collecting rents from tenants, which shall comply with the Community Association Act.

7.14 Suspension of Voting Rights.

If an Owner has a delinquent assessment balance, the Association may suspend their right to vote.

7.15 Lien for Assessment.

All assessments, late fees, interest, and collection costs (including attorney's fees) not timely paid shall be a charge and continuing lien upon each Lot against which the assessment is made. The Association shall file a notice of lien with the county recorder as evidence of nonpayment.

7.16 Enforcement of Lien.

Without waiving its right to personally pursue an Owner for unpaid assessments, the Association may foreclose its lien in the same manner as deeds of trust, mortgages, or any other manner permitted by Utah law.

7.17 Appointment of Trustee.

The Owners hereby convey and warrant pursuant to Utah Code Annotated §§ 57-1-20 and 57-8a-402 to a member of the Utah State Bar, with power of sale over the Lot and all improvements to the Lot for the purpose of securing payment of assessments under the terms of the Declaration.

7.18 Subordination of Lien.

A lien for assessments shall be subordinate to a first Mortgage now or hereafter placed upon a Lot. The sale of a Lot pursuant to foreclosure of a first Mortgage shall extinguish the lien for assessments which became due prior to the foreclosure sale. A foreclosure will not relieve the purchaser's obligation to pay six months of assessments, late fees, and penalties.

ARTICLE VIII – RESTRICTIONS ON USE

8.1 AGE RESTRICTIONS - HOUSING FOR OLDER PERSONS, aka “HOPA”.

The Project is an age restricted community as allowed by HOPA. The project shall be managed and operated in compliance with this Section and HOPA.

8.1.1 Advertising, Marketing, and Sales. All advertising, marketing, and sales materials or displays of any kind shall reflect that the Project is intended for housing for older persons. All print ads shall substantially contain the following language: "Heritage Village is intended and operated for residents 55 years of age or older as defined in the Housing for Older Persons Act ("HOPA"). As such it is the policy of the Heritage Village Homeowners Association to prohibit permanent residence of persons under 18 years of age as is permitted under HOPA."

Any sale shall be in writing and shall (1) provide that occupancy of the property shall be subject to the provisions of the Declaration, the Articles of Incorporation, Bylaws and Rules and Regulations of the Association and (2) state the following: "Heritage Village is intended and operated for residents 55 years of age or older as defined in the Housing for Older Persons Act ("HOPA"). As such it is the policy of the Heritage Village Homeowners Association to prohibit permanent residence of persons under 18 years of age as is permitted under HOPA."

8.1.2 Approved Occupancy. The Project is intended to be occupied by persons 55 years of age or older, as set forth in HOPA. To ensure future compliance with HOPA, the following restrictions apply:

NOTE: In order to avoid any confusion in the interpretation or implementation of any provision of this Declaration or the Bylaws as it relates to the Age Restrictions imposed herein, it is intended that all Living Units will have at least one (1) occupant 55 years of age or older residing therein. In order to preserve the Association's ability to claim status as a community for

older persons, and as stated below, no less than 80% of the Living Units may be occupied by those under the age of 55. However, this does not mean, nor is it intended to mean, that 20% of the Living Units are to be occupied by people of any age. The “20%” is an emergency buffer percentage to be utilized in the event, as an example, a couple is residing in the community with one spouse of or over the age of 55 and one spouse under the age of 55 and the “over 55 year old” spouse passes away. In such an instance, the surviving spouse (under the age of 55) may remain in the Living Unit as long as no more than 20% of the Living Units have residents under the age of 55. Federal law has created this 20% emergency buffer percentage to allow an “under the age of 55” resident to continue to reside in the Dwelling Unit after death, divorce or other similar, but unforeseen circumstance. In other words, in order to retain the Association’s HOPA status, the Association may not have more than 20% of the residents under the age of 55. HOPA status may be lost if this 20% is exceeded as explained herein.

8.1.2.1 As such, a minimum of 80% of the Living Units shall be occupied by at least one person 55 years of age or older and no person 18 years of age or younger shall reside in a Living Unit. However, it is intended for every Living Unit to be occupied by at least one individual person 55 years of age or older. If a person (or persons) that does not meet the above age requirement is staying at a Living Unit for more than two weeks, the Board must be informed.

8.1.2.2 To ensure that the project meets the age requirements for occupants set forth in the Act, the Board shall verify the ages of occupants. A review shall be done in January on each even year. New residents of Heritage Village shall have their ages verified and the information placed into the verification database.

8.2 Use of Lots - Residential Use.

Each of the Lots in the Project is limited to **single-family, residential use only**. The use is further defined by municipal zoning code. Each Lot and Owner is subject to the uses and restrictions imposed by such restrictions (including any parking restrictions).

8.3 No Obstruction of Common Areas.

There shall be no obstructions of, or anything kept in the Common Areas by the Owners, Residents, guests or invitees without the prior written consent of the Board. The Board may, by Rules and Regulations, prohibit or limit the use of the Common Areas as may be reasonably necessary for protecting the interests of all the Owners or protecting the Lots or the Common Areas.

Nothing shall be kept or stored on any part of the Common Areas without the prior written consent of the Board, except as specifically provided herein. Nothing shall be altered on, constructed in or removed from the Common Areas except upon the prior written consent of the Board.

8.4 Cancellation of Insurance, Illegal Activity.

Nothing shall be done or kept in any Lot, Living Unit or in the Common Areas or any part thereof which would result in the cancellation of the insurance on the Project or any part thereof or increase of the rate of the insurance on the Project or any part thereof or increase of the rate of

the insurance on the Project or any part thereof over what the Board, but for such activity, would pay, without the prior written consent of the Board.

Nothing shall be done or kept in any Lot, Living Unit or in the Common Areas or any part thereof which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the Common Areas or any part thereof shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Board and the Owners harmless against all loss resulting from any such damage or waste caused by him or his invitees.

8.5 Nuisances.

No Resident shall create, maintain or permit a nuisance in, on or about the Project. For purposes of this section a "nuisance" includes behavior which annoys, disturbs or interferes with other Residents and interferes with their right to the quiet and peaceful enjoyment of their property. A nuisance includes but is not limited to the following:

8.5.1 The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about a Lot or the Common Areas;

8.5.2 The storage of any item, property or thing that will cause any Lot or the Common Area to appear to be in an unclean or untidy condition or that will be noxious to the senses.

8.5.3 The accumulation of rubbish, unsightly debris, garbage, equipment, or other things or materials so as to constitute an eyesore as reasonably determined by the Board;

8.5.4 The storage of any substance, thing or material upon any Lot or in the Common Areas that will emit any foul, unpleasant or noxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the other residents at the Project;

8.5.5 The creation or maintenance of any noxious or offensive condition or activity in or about any Lot or the Common Areas;

8.5.6 Actions or activities tending to cause embarrassment, discomfort, annoyance, distress or a disturbance to any other residents, their guests or invitees, particularly if the police or sheriff must be called to restore order;

8.5.7 Maintaining any plants, animals, devices or items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature that diminishes or destroys the enjoyment of the Community by other residents, their guests or invitees;

8.5.8 Too much noise in, on, or about any Lot or the Common Area, especially after 10:00 p.m. and before 7:00 a.m.;

8.5.9 Too much traffic in, on, or about any Lot or the Common Area, especially after 10:00 p.m. and before 7:00 a.m.;

8.5.10 Allowing a pet to be unleashed while outside of the Living Unit;

8.5.11 Continuous barking, meowing, or other animal noises;

8.5.12 Allowing your pet to defecate in the Common Areas or failing to clean up immediately any feces deposited by a pet in the Common Area.

8.6 Rules and Regulations.

8.6.1 The Board may adopt, amend, modify, cancel, limit, create exceptions to, expand, or enforce the Rules and Regulations, subject to limitation 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.

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

(a) 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;

(b) provide an open forum at the Board meeting giving Owners an opportunity to be heard at the Board meeting before the Board takes action under Section 8.6.1; and,

(c) deliver to the Owners a copy of the change in the Rules and Regulations approved by the Board within fifteen (15) days after the date of the Board meeting.

8.6.3 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 Unit, or a Unit. The Board shall provide notice to the Owners of such a rule within fifteen (15) days of adoption by the Board.

8.7 Structural Alterations.

No improvements, alterations, repairs, excavation or other work which in any way alters the exterior appearance of the Property or the improvements located thereon shall be made without the prior approval of the Board. No building, fence, wall, or other structure shall be erected, maintained, improved, altered, made or done (including choice of exterior color scheme and building materials) without the prior written approval of the Board.

Based on Utah Code §§57-8a-701, 702 and 703, Living Units in the Project can install solar. Solar installations cannot be placed in the Common Areas and must be approved by the Board and other jurisdictions as defined in Utah Code §§57-8a-701, 702 and 703.

8.8 Window Coverings.

The Board, by rule, may require that certain colors and types of window covering be used. Under no circumstances shall any paper, cardboard, or tinfoil be used as window coverings in the Project. Additionally, no stickers or non-holiday decorations will be permitted in windows.

8.9 Window Well Covers.

The Board requires that all window wells be covered for safety considerations. Additionally, this protects the homeowners from potential liability.

8.10 Signs.

No signs shall be erected or maintained in the Common Areas without the prior written consent of the Board. This includes, but is not limited to, commercial and political signs.

8.11 Pets.

No animals, livestock, birds, insects, or poultry of any kind shall be raised, bred, or kept on any Lot, except that not more than two domesticated dogs or cats shall be allowed as long as said animals do not unreasonably bother or constitute a nuisance to others and provided such animals are kept in compliance with the rules and regulations of the Association.

If a pet owner violates any of pet rules and regulations, the Board shall have the express authority to issue citations or levy assessments, and collect these by judgment, lien or foreclosure. In extreme cases, the Board may require that the Owner or Resident remove their pet from the premises.

8.12 Storage and Parking of Vehicles.

The driving, parking, and storing of motor vehicles in, on or about the Project shall be subject to the following:

8.12.1 The parking rules and regulations adopted by the Board from time to time;

8.12.2 No recreational, commercial or oversized vehicles or trailers shall be allowed within the Project except for purposes of loading or unloading passengers or supplies (for a period of time up to 48 hours).

8.12.3 No motor vehicle or trailer, including but not limited to any car, automobile, truck, van, or any other transportation device of any kind may be parked or stationed in such a manner so as to block access to any Lot or parking space or to create an obstacle.

8.12.4 Heritage Village residents shall not park in any visitor parking areas located in the southeast corner of Phase 2 or at the pavilion area in Phase 3. Also, residents shall not park in visitor parking areas next to the Clubhouse, unless actively using the Clubhouse. The Association shall keep visitor parking operational and properly maintained at all times.

8.12.5 No resident shall repair or restore any vehicle of any kind in, on a Lot, (outside the garage) or on the Common Area, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility.

8.12.6 Vehicles parked in violation of this Declaration may be impounded or towed without further notice, and at the Owner's sole expense.

8.13 Aerials, Antennas, and Satellite Dishes.

Aerials, antennas, and satellite dishes larger than one meter in diameter are prohibited. Aerials, antennas, and satellite dishes may not be installed on Common Areas. Two antenna or satellite dishes smaller than one meter in diameter may be installed on the Living Unit. The Association may create policies to create a hierarchy of preferred installation locations to protect the aesthetics of the Project. The hierarchy of preferred installation locations may not interfere with reception.

8.14 Leasing or Rental of Unit.

In order to protect the value of the Living Units, carry out the purposes for which the Project was formed by preserving its character as a residential community of predominantly Owner-occupied Living Units and to prevent the Project from assuming the character of an apartment, renter-occupied complex, the leasing of a Living Unit by any Owner shall be prohibited. This leasing prohibition is subject to the terms of the Act regarding any statutorily required exemptions and procedures which are delineated in Utah Code 57-8a-209.

Despite this leasing prohibition, the Board of Directors shall have the discretion, pursuant to the Act, to provide exceptions to this Section to avoid undue hardship on an Owner. Any Owner who believes that he or she must lease or rent his or her Living Unit to avoid undue hardship shall submit a written application to the Board setting forth the circumstances necessitating the leasing, a copy of the proposed lease or rental agreement, and such other information as the Board may reasonably require.

Leasing or renting in the case of an undue hardship shall be permitted only upon the Board's written approval of the Owner's application. However, under no circumstances shall an Owner lease or rent his or her Living Unit on a daily, weekly, or other short-term basis, including Airbnb or other similar leasing or renting practices. Upon approval of a hardship exemption, the Board shall establish an exemption period of no longer than 18 months and approval shall automatically terminate upon expiration of such period.

Any Owner seeking to extend the exemption period must request approval prior to expiration of the exemption period. The Board of Directors may adopt Rules relating to this Section and/or the application process for a hardship exemption. Notwithstanding the foregoing, an Owner may have a co-occupant caregiver reside in a Living Unit if approved in writing by the Board.

If an Owner fails to comply with this Section or rents or leases a Living Unit in violation of this Section, the Board may: (a) Assess fines against the Owner and Owners Unit pursuant to a schedule of fines adopted by the Board; (b) Regardless of whether any fines have been imposed, proceed with any other available legal remedies including, without limitation, an action to require the Owner to terminate the rental or lease agreement and remove the tenant; (c) Pursuant to Rules that may be adopted under this Section, if the Board determines that a tenant has violated a provision of the Declaration, the Bylaws, or Rules and Regulations, the Board may

require an Owner to terminate a rental or lease agreement with that tenant.; (d) In addition to any other remedy for non-compliance, after reasonable notice, the Association shall have the right to initiate an action and obtain a forcible entry and unlawful detainer order from the court, or similar action, with the purpose of removing the offending tenant. The Association, and the Board shall not have any liability for any action taken pursuant to this subsection and the Owner shall indemnify and pay the defense costs of the Association, and the Board arising from any claim related to any action taken in good faith by any of them pursuant to this Section.

8.15 Timeshares.

Timeshares and any time-sharing or fractional ownership of Living Units within the Project is prohibited, and under no circumstances shall any Lot be owned or used for time sharing, including but not limited to a “Timeshare Interest” as that term is defined in Utah Code § 57-19-2(17), as amended.

8.16 Utility Service.

All lines, wires, or other devices for the communication or transmission of electric current of power, including telephone, television and radio signals, shall be contained in conduits or cables installed and maintained underground or concealed in, under, or on buildings or other structures approved by the Board.

8.17 Temporary Structures, etc.

No structure of a temporary character, or trailer, camper, tent, shack, garage, or other outbuilding shall be used on any Lot at any time as a residence either temporarily or permanently, unless first approved in writing by the Board.

8.18 Repair of Living Units.

No Living Unit upon any Lot shall be permitted to fall into disrepair. Living Units shall at all times be kept in good condition and repaired and adequately painted or otherwise finished.

8.19 Subdivision of Lots.

No Lot shall be further subdivided or separated into smaller Lots or parcels by any Owner, and no portion less than all of any such Lot, shall be conveyed or transferred by any Owner without the prior written approval of the Board. No Lot may be converted into a condominium or cooperative or other similar type of entity without the prior written approval of the Board. No further covenants, conditions restrictions or easements shall be recorded against any Lot without the written consent of the Board being evidenced on the recorded instrument containing such restrictions and without such approval such restrictions shall be null and void. No applications for rezoning, variances, or use permits shall be filed without the written approval of the Board and then only if such proposed use is in compliance with this Declaration.

8.20 Clothes Drying Facilities.

Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any Property.

8.21 Front Porches and Patios.

Front porches and patios are required to be maintained in a clean and tidy fashion. Any outdoor furniture kept on the front porch and patio shall be well maintained and in good condition. The Association may require worn furniture or furniture that detracts from the theme of the community to be removed from the front porch and/or patio.

Front porches shall not be used for storage. Examples of items prohibited from being kept on front porches include, without limitation, bicycles, toys, barbecues, trash receptacles, boxes, ash trays, and anything else which appears unkempt, dirty, or detracts from the appearance of the Project.

8.22 Off-Road Vehicles.

No off-road motor vehicles, including but not limited to snow mobiles, three wheelers or four wheelers may be driven on the footpaths, walkways, or Common Areas within the Project.

8.23 Firearms and Projectile Weapons.

The use of firearms, airsoft guns, BB guns, pellet guns, archery equipment, or any other projectile weapon, however powered, is prohibited.

ARTICLE IX – MEMBERSHIP AND ASSOCIATION

9.1 Membership.

Every Owner is a Member of the Association. Membership in the Association is mandatory, is appurtenant to the Lot, and shall not be separated from the Lot.

9.2 Voting Rights.

Voting is governed by the Bylaws.

9.3 Status and Authority of Board.

The Board is the governing body of the Association. It is obligated to manage, operate, and maintain the Project and to enforce the Governing Documents. The Board has exclusive authority to act in the Association's name. Any action taken by the Board on behalf of the Association will be deemed to be done in the Association's name. The rights and powers of the Board are governed by the Bylaws.

9.4 Composition and Selection of Board.

The Bylaws govern how the Board is established and selected.

9.5 Adoption of Bylaws.

The Association has adopted Bylaws which are being recorded simultaneously with this Declaration.

ARTICLE X – COMPLIANCE AND ENFORCEMENT

10.1 Compliance.

Each Owner or Resident of a Lot shall comply with the provisions of the Governing Documents and the rules and regulations adopted pursuant thereto and any applicable statute. Failure to comply therewith shall be grounds for an action or suit maintainable by the Association or an aggrieved Owner.

10.2 Remedies.

Violation of any provisions of the Governing Documents, or of any decision of the Association made pursuant to such documents, shall give the Board acting on behalf of the Association, the right, 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 and an opportunity to be heard:

10.2.1 To enter the Lot which or as to which such violation exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing, or condition that may exist contrary to the intent and meaning of such provisions, and the Board shall not thereby be deemed guilty of any manner of trespass, provided that judicial proceedings shall be instituted before any items of construction may be altered or demolished. Costs and attorney's fees shall be an Individual Assessment;

10.2.2 To enjoin, abate, or remedy such thing or condition by appropriate legal proceeding;

10.2.3 To levy reasonable fines pursuant to a schedule of fines adopted by resolution of the Board; which will be imposed consistent with §57-8a-208.

10.2.4 To terminate the right of access to and use of the clubhouse facilities of the Association, until the correction of the violation has occurred; or

10.2.5 The right of the Association to suspend the voting rights and the rights to use of the Common Area after notice and a hearing for any period not to exceed sixty (60) days for any infraction of any of the Governing Documents; or

10.2.6 Bring suit or action against the Owner on behalf of the Association and other Owners to enforce this Declaration, the Bylaws and any rules or regulations adopted pursuant thereto. Costs and attorney's fees shall be an Individual Assessment.

10.3 Fines.

The Association may assess a fine against an Owner for a violation of the Governing Documents in accordance with the Act (specifically, Utah Code Ann. § 57-8a-208). These shall include the following provisions:

10.3.1 Warning. A written warning (“Warning”) shall be sent to the Owner of the lot. The Warning shall:

- (a) describe the violation,
- (b) state the rule or provision of the Governing Documents that the Owner has violated,
- (c) state that the Board may, in accordance with the provisions of the law, assess fines 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,
- (d) if the violation is a 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
- (e) state the amount of the fine that will be assessed if a 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.

10.3.2 Initial Fine. The Board may assess a fine against an Owner if: (i) 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 (ii) for a continuing violation, the Owner does not cure the violation within 48 hours after the day the Owner is given the Warning. Notice and Warnings may be given by electronic means, including but not limited to electronic mail. Delivery shall be deemed complete when sent without receipt of a “send failure” notice.

10.3.3 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: (i) 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 (ii) allows a violation to continue for 10 days or longer after the day on which the Board assesses the fine.

10.3.4 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.

10.3.4 Membership Rights. An Owner shall not be deemed an Owner in Good Standing for 60 days after a fine is assessed against the Owner.

10.4 Action by Owners.

Subject to any limitation imposed under the Governing Documents or Utah law, an aggrieved Owner may bring an action against such other Owner or the Association to recover damages or to enjoin, abate, or remedy such thing or condition by appropriate legal proceedings

10.5 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.

10.6 Appeal by Owner. Any Owner who is assessed a fine or other penalty may request an informal hearing before the Board to dispute the fine or penalty. The hearing shall be conducted in accordance with the Board's resolution on hearings, or if none, in accordance with the standards determined by the Board at the hearing.

ARTICLE XI - INSURANCE

11.1 Types of Insurance Maintained by the Association. On behalf of the Association, the Board shall purchase, maintain in force, and pay the premiums for, if reasonably available, the following insurance, as well as such other insurance as it deems reasonable:

(a) Casualty Insurance on Insurable Common Areas. The Board shall keep all insurable improvements and fixtures of the Common Areas **insured** against loss or damage by fire for the full insurance replacement cost thereof and may obtain insurance against such other hazards and casualties as the Association may deem desirable. The Association may also insure any other property whether real or personal, owned by the Association, against loss or damage by fire and such other hazards as the Association may deem desirable, with the Association as the owner and beneficiary of such insurance. The insurance coverage with respect to the Common Area shall be written in the name of, and the proceeds thereof shall be payable to, the Association. Insurance proceeds shall be used by the Association for the repair or replacement of such portions of the Property for which the insurance was carried. Premiums for all insurance carried by the Association are common expenses which shall be included in the regular annual assessments made by the Association.

(b) Replacement or Repair of Property. In the event of damage to or destruction of any part of the Common Area improvements, the Association shall repair or replace the same from the insurance proceeds available. If such insurance proceeds are insufficient to cover the costs of repair or replacement of the Property damaged or destroyed, the Association may make a reconstruction assessment against all Unit Owners to cover the additional cost of repair against such Unit Owner.

In the event of damage or destruction by fire or other casualty to any portion of the Project covered by insurance written in the name of the Association, the Board is empowered to and shall represent the members in any proceedings, negotiations, settlements or agreements. The Association is appointed attorney-in-fact of each Owner for this purpose.

(c) Liability Insurance. The Board shall obtain a comprehensive policy of public liability insurance covering all of the Common and Limited Common Areas for at least \$2,000,000.00 per occurrence for personal or bodily injury and property damage that results from the operation, maintenance or use of the Common Areas. Liability insurance policies obtained by the Association shall contain a "severability of interest" clause or endorsement which shall

preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or other Owners. The Association shall obtain the appropriate liability insurance for the pool area.

(d) Fidelity Insurance. The Board may elect to obtain fidelity coverage against dishonest acts on the part of managers, Board members, officers, employees, volunteers, management agents or others responsible for handling funds held and collected for the benefit of the Owners or members. In procuring fidelity insurance, the Board shall seek a policy which shall (1) name the Association as obligee or beneficiary, plus (2) be written in an amount not less than the sum of (i) three months' operating expenses and (ii) the maximum reserves of the Association which may be on deposit at any time, and (3) contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee."

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

4) 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, including directors and officers liability insurance.

11.2 Annual Review of Policies. All insurance policies shall be reviewed at least annually by the Board in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacements of the Property which may be damaged or destroyed.

11.3 Owner's Insurance. To the extent the Board does not elect to obtain and continue in effect, on behalf of all Owners, adequate blanket casualty and fire insurance pursuant to Section 11.1(a) above, each Owner and resident shall purchase and maintain adequate liability and property insurance on the Unit subject to the following:

(a) Primary Coverage. The insurance coverage of an Owner shall be primary. Unless elected by the Board pursuant to Section 11.1(a) above, the Association shall not maintain insurance on the Unit, personal property, or contents. The Owner shall provide a current copy of their insurance policy to the Board, upon request, to ensure that policies are in force and effect;

(b) Prompt Repair. Each Owner further covenants and agrees that in the event of any partial loss, damage or destruction of its Unit, the Owner shall promptly proceed to repair or to reconstruct the damaged structure in a manner consistent with the original construction;

(c) Failure to Repair. If the Board determines that any Owner has failed to properly discharge its obligation with regard to the repair or reconstruction of the damaged structure, then the Association may, but is not obligated to, provide such repair or reconstruction at the Owner's sole cost and expense.

ARTICLE XII - AMENDMENT AND DURATION

12.1 Amendments.

This Declaration, as well as the Plat, may be amended if any provision, covenant, condition or restriction whatsoever, may thereby be added, modified or deleted, if such amendment is approved by Owners holding sixty-seven percent (67%) of the voting rights of the Association. An amendment shall not be effective until the amendment is certified by the Board of the Association as being adopted in accordance with this Declaration is acknowledged and is recorded in the Utah County Recorder's Office.

ARTICLE XIII - MISCELLANEOUS PROVISIONS

13.1 Professional Management.

The Association may be managed by a professional management company. The Board may select the professional management company using criteria set by the Board and complying with Utah law.

13.2 Invalidity; Number; Captions.

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.

13.3 Joint Owners.

In any case in which two or more persons share the ownership of any Lot, regardless of the form of ownership, the responsibility of such persons to comply with this Declaration shall be a joint and shared 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; provided, however, that in the event such persons disagree among themselves as to the manner in which any vote or right of consent held by them shall be exercised with respect to a pending matter, any such person may deliver written notice of such disagreement to the Board, and the vote or right of consent involved shall then be disregarded completely in determining the proportion of votes or consents given with respect to such matter in accordance with the Bylaws.

13.4 Invitees.

Guests, tenants, invitees, contractors, family members and other persons entering the Property under rights derived from an Owner shall comply with all of the provisions of this Declaration, the Bylaws and rules and regulations adopted by the Association restricting or regulating the Owner's use, improvement or enjoyment of such Owner's Lot and other areas within 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.

13.5 Covenants Run with the Land.

The Declaration contains covenants which run with the land and create equitable servitudes. The Declaration shall be binding upon and inure to the benefit of the Association, all parties who hereafter acquire any interest in or occupy a Lot or any part of the Project, their heirs, successors, assigns, grantees, devisees, personal representatives, guests, and invitees. Each Owner or Resident shall comply with the Governing Documents. All interests in the Lots shall be subject to the Governing Documents. Failure to comply shall be grounds for an action for damages or injunctive relief by the Association or an Owner. By acquiring any interest in a Lot, each Owner or Resident agrees to be bound by the Governing Documents.

13.6 Waiver, Precedent and Estoppel.

No restriction, condition, obligation or provision contained in this Declaration or rules and regulations adopted pursuant hereto shall be deemed to have been abrogated or waived by the Association or any Owner by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur and any failure to enforce the same shall not be deemed to constitute precedent or estoppel impairing the right of the Association or Owner as to any similar matter.

13.7 Notice of Sale, Mortgage.

Immediately upon the sale, conveyance or mortgage of any Lot, the Owner shall promptly inform the Board of the name and address of said grantee or buyer. The seller shall inform the Board of any forwarding address.

13.8 Taxes on Lots.

Each Owner will pay all taxes which may be assessed against their Lot.

13.9 Service of Process.

The registered agent of the Association will be the Person named in the corporate records on file with the Utah State Department of Commerce.

If the corporate status of the Association expires, the President shall be the successor agent. The name and address of the President shall be kept with the Association's records at its principal place of business.

13.10 Conflicts.

If the Declaration conflicts with the Community Association Act, the Community Association Act shall control. If the Declaration conflicts with the Map, the Map shall control. If the Declaration conflicts with the Bylaws, Articles, or rules, the Declaration shall control.

IN WITNESS WHEREOF, Heritage Village Homeowners Association has executed this Declaration this 10th day of May, 2021.

HERITAGE VILLAGE HOMEOWNERS ASSOCIATION

By: Betty Joyce Morton
Its: President

STATE OF UTAH)
)ss:
County of Utah)

The foregoing instrument was acknowledged before me on this 10th day of May, 2021 by Betty Joyce Morton

Notary Public for Utah

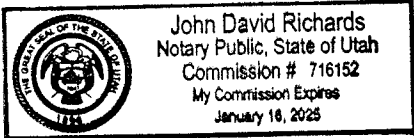


EXHIBIT A

(LEGAL DESCRIPTION)

All Lots and Common Area, HERITAGE VILLAGE PLAT B, according to the official plat(s) thereof on file in the office of the Utah County Recorder, state of Utah.

Parcel Numbers: 41:776:0001 through 41:776:0054

All Lots and Common Area, HERITAGE VILLAGE PLAT D, according to the official plat(s) thereof on file in the office of the Utah County Recorder, state of Utah.

Parcel Numbers: 41:824:0052 through 41:824:0096

All Lots and Common Area, HERITAGE VILLAGE SUBDIVISION PLAT C LOT 99 AMD, according to the official plat(s) thereof on file in the office of the Utah County Recorder, state of Utah.

Parcel Numbers: 41:849:0099 through 41:849:0100

All Lots and Common Area, HERITAGE VILLAGE PLAT E, according to the official plat(s) thereof on file in the office of the Utah County Recorder, state of Utah.

Parcel Numbers: 41:906:0094 through 41:906:0122

EXHIBIT B
BYLAWS
OF
HERITAGE VILLAGE HOMEOWNERS ASSOCIATION

ARTICLE 1 - DEFINITIONS

- 1.1 The definitions contained in or adopted by the Declaration shall be applicable to these Bylaws.
- 1.2 The provisions of these Bylaws are binding upon the Association and the Owners. All present and future Owners shall be subject to these Bylaws, as amended from time to time. Acquisition of any Lot constitutes an acknowledgement that the Owner has agreed to and ratified these Bylaws and will comply with them.

ARTICLE 2 – THE ASSOCIATION

- 2.1 Composition. All of the Owners acting as a group in accordance with the Governing Documents shall constitute the Association. Except for matters specifically reserved for a vote of the Owners, the Board of Directors, on behalf of the Owners, shall administer the affairs of the Association.
- 2.2 Time and Place of Meeting.
The Association shall hold meetings at such suitable place and time as may be designated by the Board from time to time. Meeting shall be held in Utah County, state of Utah.
- 2.3 Annual Meetings.
A meeting of the members shall be held at least once each year on the day and at a time and place within the state of Utah selected by the Board.
- 2.4 Special Meetings.
The Association, by and through the Board, shall notice, hold and conduct a special meeting of its members (1) on call of the President or a majority of the Board, or (2) if the Association receives one or more written demands for the meeting that state the purpose or purposes for which the meeting is to be held, and are signed and dated by members in good standing holding at least 20% of the Owners in good standing. The Board shall schedule and send notice of a special meeting within thirty (30) days of request. The notice of a special meeting shall be sent at least ten (10) days in advance of the meeting. Business transacted at a special meeting shall be confined to the purposes stated in the notice of the meeting.

2.5 Notice of Meetings.

Written notice of each meeting of the members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, in a fair and reasonable manner, including by delivering a copy of such notice to each member entitled to vote thereat, in accordance with the notice requirements specified in these Bylaws, and sufficiently in advance of the meeting to provide fair and reasonable notice of the meeting, as determined by the Board. Notice shall always be deemed fair and reasonable if given at least 10 days, but not more than 60 days, before the meeting. Shorter notice may also be fair and reasonable when all the circumstances are considered. The notice shall specify the place, day and hour of the meeting, and must include a description of any matter that must be approved by the members and, in the case of a special meeting, the purpose of the meeting.

2.6 Quorum of Owners.

(a) “Quorum” means the minimum number of Owners (when duly represented in person, proxy or written ballot, at a meeting or action without meeting) necessary to make the proceedings valid.

(b) At any meeting, or action of the Association, the members that are represented for any purpose, in present, proxy or by written ballot, shall constitute a quorum, except for matters requiring a higher quorum as provided in the Declaration or these Bylaws.

(c) The subsequent ratification of an Owner of the action taken at a meeting shall constitute the presence of the person for the purpose of determining a quorum. When a quorum is once present to organize a meeting, it cannot be broken by the subsequent withdrawal of an Owner or Owners.

2.7 Voting.

Members shall be entitled to one vote for each Lot owned. In no event shall more than one vote exist with respect to any Lot.

Except where a greater number is required by the Governing Documents or the Nonprofit Act and elections of Directors, any decision requiring Owner consent shall be passed by a majority vote of a quorum.

2.8 Good Standing.

An Owner shall be in good standing if he has paid assessments levied against his Lot, including late fees, interest, fines, collection costs, and attorney fees. An Owner must have paid in full at least three days prior to the meeting or action. To qualify for Good Standing an Owner further must not have any current violations.

2.9 Proxies and Absentee Ballots.

An Owner in good standing may vote or otherwise act by proxy. An Owner may appoint a proxy by signing a proxy appointment form. The proxy appointment form may be submitted to the Association in person, by mail, or electronically. The proxy appointment form must name a

proxy, be dated, and signed by the Owner. Any proxy appointment form that does not contain a proxy's name, date, or signature shall be void. A proxy appointment form is valid until revoked by the Owner's attendance at a meeting, a signed and dated revocation delivered to the Association, a subsequent proxy appointment, notice of death or incapacity of the Owner, or the passage of 11 months.

2.10 Mail-in Ballots.

Any action requiring a vote of the Owners, except election of Directors, may be taken by mail-in ballots. Action by mail-in ballot shall comply with the procedures set forth in Nonprofit Act Section 16-6a-709, as amended from time to time. A combination of mail-in ballots, ballots collected electronically, and ballots cast in person may be used.

2.11 Written Consent in Lieu of Vote.

Any action requiring a vote of the Owners, except election of Directors, may be taken by written consent. Action by written consent shall comply with the procedures set forth in Nonprofit Act Section 16-6a-707, as amended from time to time. Written consents may be collected electronically.

2.12 Record Date.

The record date for determining which people are entitled to vote shall be the date notice of the meeting or action is sent. The Board may change the record date prior to sending notice of the action. The Owners shown on the records of the Association on the record date shall be the people entitled to vote on an action.

2.13 Fiduciaries and Joint Owners.

(a) Fiduciaries. An executor, administrator, guardian, or trustee may vote in person or by proxy, at any meeting of the Association with respect to any Unit owned or held in such capacity, whether or not the same shall have been transferred to his or her name; provided, that the person shall satisfy the secretary that he or she is the executor, administrator, guardian, or trustee holding the Unit in such capacity.

(b) Joint Owners. Whenever any Unit is owned by two or more persons jointly, according to the records of the Association, the vote of the Unit may be exercised by any one of the Owners then present, in the absence of protest by a co-owner. In the event of a protest, no one co-owner shall be entitled to vote without the approval of all co-owners. In the event of disagreement among the co-owners, the vote of the Unit shall be disregarded completely in determining the proportion of votes given with respect to the matter.

ARTICLE 3 – BOARD OF DIRECTORS

3.1 Number and Qualifications.

The affairs of the Association shall be governed by a Board of Directors composed of at least three (3) and no more than five (5) Board members. All Directors must be Members in good standing.

3.2 Selection and Term of Directors.

Directors shall serve for a term of two years. Directors shall serve until their successors have been elected. Directors' terms shall be staggered, such that three Directors are elected one year and two Directors are elected the next year. There is no limit on the number of terms an Owner may serve as a Director.

3.3 Vacancies.

Vacancies on the Board, caused by any reason other than the removal of a Board member by a vote of the Association, shall be filled for the balance of the term by vote of a majority of the remaining Directors. The Board shall conduct a special meeting of Directors for the purpose of filling the vacancy, even though they may constitute less than a quorum. Each replacement Director shall serve until the next annual Owners' meeting, then the vacancy shall be filled by vote of the Owners. The replacement Director elected by the Owners shall serve the remaining term of the replaced Director.

3.4 Removal of Board Members.

A Director may be removed with or without cause by vote of a majority of a quorum of Owners. If the Owners propose to remove a Director, the Association shall give the Director and Owners at least 15 day written notice of the meeting and the purpose of the meeting. The Director shall be given an opportunity to be heard at the meeting prior to the vote to remove him. At any meeting where a Director is removed by the Owners, the Owners must vote to replace the Director. The replacement will serve the remaining term of the removed Director. Any Director who allows his assessments to become more than 90 days past due may be removed and replaced by vote of a majority of the Board. The Board shall give the Director a 10-day written notice to cure the default prior to voting to remove the Director.

3.5 Organizational Meeting.

The Directors shall hold a meeting during, following the annual owners meeting, or 30 days following the annual meeting for the purpose of electing officers. Notice of the organization meeting shall be given verbally at the annual meeting. The organization meeting shall be conducted at the next regular meeting of the Board, at the regular annual meeting, or may be conducted at a special meeting.

3.6 Regular Meetings.

The Board shall hold regular meetings. The Board shall determine frequency, times, and locations of regular meetings. However, the Board shall conduct at least two regular meetings per year. Notice of regular meetings shall be given to each Director at least three days prior to the meeting.

3.7 Special Meetings.

A Director may call a special meeting of the Board. Notice shall be given at least three days prior to the meeting. Notice shall state the time, place, and purpose of the meeting.

3.8 Open Meetings; Executive Sessions.

3.8.1 Open Meetings. Except as stated in section 3.8.2, all meetings of the Board shall

be open to Unit Owners. However, no Owner shall have a right to participate in the Board meeting unless the Owner is also a member of the Board. The president or Board shall have the authority to exclude an Owner who disrupts the proceedings at a Board meeting.

3.8.2 Executive Sessions. At the discretion of the Board, the following matters may be considered in executive session:

- (a) Consultation with legal counsel concerning the rights and duties of the Association regarding existing or potential litigation or criminal matters;
- (b) Personnel matters;
- (c) The negotiation of contracts with third parties;
- (d) Collection of unpaid assessments; and
- (e) Other matters of a sensitive, private, or privileged nature at the discretion of the Board.

3.8.3 Executive Session Procedure. Except in the case of an emergency, the Board shall vote in an open meeting whether to meet in executive session. If the Board votes to meet in executive session, the president or other presiding officer shall state the general nature of the action to be considered and, as precisely as possible, when and under what circumstances the deliberations can be disclosed to owners. The statement, motion or decision to meet in executive session must be included in the minutes of the meeting.

3.9 Conduct of Meetings.

The President shall preside over all meetings of the Board. The Secretary shall take minutes of the Board meetings and shall make record of all resolutions.

3.10 Quorum.

A majority of the Board present at a meeting or action shall constitute a quorum. A quorum shall be required to conduct business at a Board meeting. If less than a quorum is present at a meeting of the Board, the majority of those present may adjourn the meeting until such time as a quorum is present. Directors may attend a meeting electronically.

3.11 Notice and Waiver of Meeting Notice.

Notice to Directors may be personally delivered, mailed, or delivered by any available electronic means, including, without limitation: text, email or fax. Directors may waive notice of meetings in writing. A waiver shall be deemed equivalent to notice. Attendance of a Director at a meeting will be considered a waiver of notice unless the Director attends to dispute notice. If all Directors are present at a meeting, notice of the meeting is waived and any business may be conducted.

3.12 Action without Meeting.

The Board shall have the right to take any action in the absence of a meeting which they could take at a regular or special meeting if all the Board members agree in writing to take a vote or an

action without a meeting. The action being taken shall not require unanimous consent of the Board. Any action so taken shall have the same effect as though taken at a meeting of the Board members.

3.13 Powers and Duties.

The Board shall manage the affairs and business of the Association. The Board is vested with all power and authority necessary to administer the affairs of the Association in accordance with the Governing Documents. The Board may do any act required or allowed by the Governing Documents, the Community Association Act, the Nonprofit Act, or any other rule of law.

Subject to the limitations contained in the Declaration, Bylaws, or Community Association Act, the Board shall have the following authority:

- 3.13.1 Prepare an annual budget and establish what constitutes a Common Expense;
- 3.13.2 Adopt and amend rules, regulations, policies, and procedures governing the Common Areas, administration of the Association, and to enforce and interpret the Governing Documents;
- 3.13.3 Delegate authority to a managing agent to act on behalf of the Association;
- 3.13.4 Provide for the maintenance, repair, and replacement of the Common Areas;
- 3.13.5 Hire, contract for, and terminate personnel or contractors necessary for the maintenance repair and replacement of the Common Areas, and administration of Association business. Provide for the compensation of personnel and contractors. Purchase supplies, equipment, and materials for use in the Association;
- 3.13.6 Open and maintain bank accounts on behalf of the Association. Designate authorized signers for the bank accounts;
- 3.13.7 File lawsuits or initiate other legal proceedings on behalf of the Association;
- 3.13.8 Defend lawsuits, administrative actions, and other legal proceedings against the Association;
- 3.13.9 Pay costs of any services rendered to the Project or multiple Owners, but not billed to the Owners individually;
- 3.13.10 Keep books with detailed accounts of the receipts and expenditures of the Association. Make the books available to the Owners as required by the Community Association Act and Nonprofit Act. The books shall be kept in accordance with generally accepted accounting practices. Upon resolution by the Board, retain an independent auditor to audit the books;

3.13.11 Grant easements, licenses, or permission over, under, and through the Common Areas;

3.13.12 Create committees;

3.13.13 Any other act allowed or required by the Governing Documents, the Community Association Act, or the Nonprofit Act;

3.13.14 Any act allowed or required to be done in the name of the Association.

3.14 Manager.

The Board may employ a manager to perform such duties and services as the Board shall authorize. The Board may delegate to the manager all powers granted to the Board and officers by the Governing Documents. However, the manager must obtain the Board's written consent to exercise the powers listed in Bylaw Sections 3.13.2, 3.13.6, 3.13.7, 3.13.8, 3.13.11, 3.13.12.

3.15 Compensation.

No Board member shall receive compensation for any service he or she may render to the Association as a Board member. However, any Board member may be reimbursed for actual expenses incurred in the performance of his or her duties.

3.16 Limitation of Liability.

The Directors shall not be liable to the Owners for any mistake of judgment, negligence, or other errors, unless it was by willful misconduct or criminal conduct. The Association shall indemnify and hold the Directors harmless against liability to third parties for actions taken on behalf of the Association, while acting in their capacity as Directors, unless the action constitutes willful misconduct or criminal conduct.

ARTICLE 4 - OFFICERS

4.1 Election and Term of Officers.

The Board of Directors shall appoint the officers of the Association. Officers shall be appointed from within the Directors. Officers shall serve two year terms and shall serve until the successor is appointed or elected.

4.2 Removal of Officers.

The Board may remove any officer with or without cause by affirmative vote of a majority of a quorum of the Board. If an officer is removed, the Board shall replace them.

4.3 Offices.

The Association officers shall be president, 1st vice-president, 2nd vice-president, secretary, and treasurer. The Board may appoint committee chairs, who need not be Directors, as it may deem necessary. Except for the president, the same person may hold two offices.

4.3.1 **President.** The president shall be the chief executive officer. He shall preside at meetings of the Association and the Board. He shall be an unofficial member of all committees.

He shall have general and active management of Association business. He shall see that all resolutions and policies of the Association are executed.

4.3.2 1st Vice-President. In the absence of the president or in the event of the president's death, inability, or refusal to act, the 1st vice-president shall perform the duties of the president and when so acting shall have all the powers of and be subject to all restrictions upon the president. The 1st vice-president shall be directly responsible to the president and shall have such authority and perform such duties as shall be assigned to him by the president or by the Board.

4.3.3 2nd Vice-President. In the absence of the president and the 1st vice-president, inability, or refusal to act, the 2nd vice-president shall perform the duties of the president and when so acting shall have all the powers of and be subject to all restrictions upon the president. The 2nd vice-president shall be directly responsible to the president and shall have such authority and perform such duties as shall be assigned to him by the president or by the Board.

4.3.4 Secretary. The secretary shall attend all meetings and take minutes thereof. He shall also make record of all resolutions, rules, policies, and procedures, and he shall give or cause to be given notice of all meetings.

4.3.5 Treasurer. The treasurer shall oversee the finances of the Association. He shall be responsible to ensure that the Association has full and accurate records of income and expenses. He shall give financial reports at regular Board meetings and at the annual Owners' meeting.

4.4 Delegation of Duties.

The Association officers may delegate any of their duties to a manager or to a committee. However, the officers shall be responsible to oversee and ensure that the duties so delegated are being properly discharged.

4.5 Compensation.

Officers shall not be compensated for their work for acting as an officer. Officers may seek reimbursement for actual costs incurred during their service.

ARTICLE 5 - NOTICE

5.1 Notices.

5.1.1 Association. All notices to the Association or the Board shall be sent care of the managing agent or, if there is no managing agent, to the principal office of the Association or to such other address as the Board may hereafter designate from time to time.

5.1.2 Owners.

5.1.2.1 All notices and other communications required under the governing documents shall be in writing using one of the following methods:

(a) Professional courier service of first-class U.S. mail, postage prepaid, to the address of the Lot or to any other address designated by the Owner in writing to the Association;

(b) Hand delivered to the address of the Lot or to any other address designated by the Owner in writing to the Association;

(c) By posting on the Association's website;

(d) By electronic means. In any circumstance where notice is required to be given to the members, the Association may provide notice by electronic means, including text message, email, or an Association website, if the Board deems the notice to be fair and reasonable. A member may require the Association, by written demand, to provide notice to the member by mail. The Board is authorized to promulgate rules and procedures facilitating the implementation of this section as it deems fit from time to time, including requiring members to furnish the Association with a current email address.

5.1.2.2 Except as otherwise provided in the Declaration, these Bylaws or law, all notices to any Owner shall be sent to such address as may have been designated by him or her, from time to time, in writing to the Board, or if no address has been designated, then to the Owner's Unit.

5.1.2.3 If a Unit is jointly owned, notice shall be sent to a single address, of which the secretary has been notified in writing by such parties. If no address has been given to the secretary in writing, then mailing to the Unit shall be sufficient.

5.2 Affairs, Electronic Means.

Any transaction or action involving the business or affairs of the Association, including but not limited to voting and providing notice or records, may be conducted by electronic means. The Association may accept a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation as the act of the member if the Board does so in good faith and has no reason to believe it is not the act of the member. A writing may be delivered in an electronic medium or by electronic transmission, and may be signed by photographic, electronic, or other means. An electronic record or electronic signature is attributable to a person if it was the act of the person. An electronic signature may consist of a mark, symbol, character, letter, or number or any combination thereof attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record and the same shall be considered the signature of such person. A writing includes any document, record, vote, ballot, proxy, or instrument required or permitted to be transmitted by a member or by the Association.

5.3 Waiver of Notice.

Whenever any notice is required under the Governing Documents, the Community Association Act, or the Nonprofit Act, an owner may waive notice in writing. The waiver may be signed before or after the time for notice. A waiver of notice shall be equivalent to notice.

ARTICLE 6 – FINANCES AND RECORDS

6.1 Fiscal Year.

The fiscal year of the Association shall be the calendar year.

6.2 Checks, Agreements, Contracts.

All checks, contracts, deeds, leases, and other instruments used for expenditures or obligations may be executed by any person authorized by the Board.

6.3 Availability of Records.

Association financial records shall be available as provided by the Utah Community Association Act and Nonprofit Act.

ARTICLE 7 - AMENDMENTS

These Bylaws may be amended by the Board, unless it would result in changing the rights, privileges, preferences, restrictions, or conditions of a membership class as to voting, dissolution, redemption, or transfer by changing the rights, privileges, preferences, restrictions, or conditions of another class. These Bylaws may also be amended by a 51% majority vote of a quorum of all Owners.

An amendment shall not be effective until certified by the president of the Association as being adopted in accordance with these Bylaws, acknowledged, and recorded with the County Recorder's Office.

ARTICLE 8 – MISCELLANEOUS

8.1 Office.

The principal office of the Association shall be located at any place within the State of Utah, which may be designated from time to time by the Board.

8.2 Conflicts.

The Bylaws are subordinate to any conflicting provisions in the Community Association Act, the Nonprofit Act, the Articles, the Map, or the Declaration. The Bylaws are superior to the rules, regulations, and policies of the Association.

8.3 Severability.

If any provision of these Bylaws is held by a court of law to be invalid, the validity of the remainder of these Bylaws shall not be affected.

8.4 Waiver.

No provision of these Bylaws shall be deemed to be waived because of a failure to enforce the provision.

8.5 Captions.

The captions contained in these Bylaws are for convenience only. The captions shall not be used

to interpret, limit, or enlarge the provisions of these Bylaws.

8.6 Gender, etc.

Whenever the context so requires, the singular shall include the plural and vice versa. The use of any gender shall include all genders.

IN WITNESS WHEREOF, the Heritage Village Homeowners Association has caused these Bylaws to be executed by its duly authorized officers on this 10th day of May, 2021.

(Sign): Betty Joyce Morton
(Print Name): Betty Joyce Morton, President

(Sign): Stephanie J. Ransom
(Print Name): Stephanie T. Ransom, Secretary