

WHEN RECORDED, MAIL TO:

RIVERSTONE TOWNHOMES, LLC  
246 SOUTH STATE STREET  
MORGAN, UT, 84050

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**FIRST AMENDED & RESTATED  
DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR AND RESPECTING**

**RIVERSTONE TOWNHOMES  
ALL PHASES**

Parcel Numbers:

00-0088-1361	00-0088-1382
00-0088-1362	00-0088-1383
00-0088-1363	00-0088-1384
00-0088-1364	00-0088-1385
00-0088-1365	00-0088-1386
00-0088-1366	00-0088-1387
00-0088-1367	00-0088-1388
00-0088-1368	00-0088-1389
00-0088-1369	00-0088-5328
00-0088-1370	00-0088-5329
00-0088-1371	00-0088-5330
00-0088-1372	00-0088-5331
00-0088-1373	00-0088-5332
00-0088-1374	00-0088-5333
00-0088-1375	00-0088-5334
00-0088-1376	00-0088-5335
00-0088-1377	00-0088-5336
00-0088-1378	00-0088-5337
00-0088-1379	00-0088-5338
00-0088-1380	00-0088-5339
00-0088-1381	00-0088-5340
00-0088-1382	00-0088-5341
00-0088-1383	00-0088-5342
00-0088-1384	00-0088-5343
00-0088-1385	00-0088-5344
00-0088-1386	
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00-0088-1388	

**FIRST AMENDED & RESTATED  
DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR AND RESPECTING**

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THIS FIRST AMENDED & RESTATED DECLARATION is made as of the date hereinafter set forth by Riverstone Townhomes, LLC, a Utah entity, hereinafter referred to as "Declarant".

**RECITALS:**

A. WHEREAS, Declarant is the owner of certain real property in Morgan County, State of Utah (the "Property"), said Property including Phase 1 of the Project as described in the attached Exhibit "A" and Phase 2 of the Project as described in the attached Exhibit "B", and other property that may be used in future phases of Riverstone Townhomes, and

B. WHEREAS, the original Declaration of Protective Covenants, Conditions, and Restrictions for and respecting Riverstone Townhomes (the "Original Declaration") was recorded on December 21, 2020, as Entry No. 154599 in Book No. 371, Page 1510, in the office of the Recorder of Morgan County, State of Utah, and may have been later recorded for some phases of the Project; and

C. WHEREAS, the Association is subject to Utah Community Association Act, Utah Code Ann. § 57-8a-101 et. seq. (the "Act"), is organized as Riverstone Townhomes Homeowners Association Inc., a Utah nonprofit corporation (the "Association" and "Riverstone Townhomes"), and is also subject to the Utah Revised Nonprofit Corporation Act, Utah Code Ann. § 16-6a-101 et. seq. (the "Nonprofit Act"); and

D. WHEREAS, the Original Declaration provided for its amendment by the vote or written consent of the Owners holding not less than sixty-seven percent (67%) of the voting rights in the Association;<sup>1</sup> and

E. WHEREAS, the Original Declaration established two classes of Members: (1) Class A Members that are Owners with the exception of the Developer during the entire period when the Developer is a Class B Member; and (2) a sole Class B Member that is the Developer that shall be automatically converted to a Class A Member upon conveying the last Lot owned by the Developer to a new Class A Member;<sup>2</sup> and

F. WHEREAS, the Original Declaration entitled each Class A Member to a maximum of one (1) vote per Lot owned,<sup>3</sup> and the sole Class B Member to five (5) votes for each Lot owned by the Developer;<sup>4</sup> and

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<sup>1</sup> Original Declaration, 11.1

<sup>2</sup> *Id.* at 6.3

<sup>3</sup> *Id.* at 6.3(a)

<sup>4</sup> *Id.* at 6.3(b); *see also* 3.1 and the first paragraph of the Original Declaration

G. WHEREAS, the Developer currently owns at least ninety percent (90%) of the 95 Lots of Phase 1 of the Project and all of the Phase 2 property of the Project; and

H. WHEREAS, the Developer is also the Declarant;

NOW THEREFORE,

I. The Developer hereby casts all of its votes (whether Class A or Class B votes, whichever are greater in number) in favor of amending the Original Declaration as herein provided; and

J. Pursuant to Article 11.1 of the Original Declaration and section 57-8a-104 of the Act, the Association and the Declarant hereby certify that approval was obtained from not less than sixty-seven percent (67%) of the voting rights in the Association, approving and consenting to this First Amended and Restated Declaration (the "Declaration"), its adoption, and recording; and.

K. The Association and its Members continue to subject the Property to the terms and conditions of this Declaration, the Utah Community Association Act, Utah Code Ann. § 57-8a-101 et. seq., and the Utah Revised Nonprofit Corporation Act, Utah Code Ann. § 16-6a-101 et. seq. The Property does not constitute a cooperative.

L. These RECITALS are made a part of this Declaration.

#### ARTICLE I PROPERTY RIGHTS IN COMMON AREAS

1.1 COMMON AREAS: The "Common Areas" shall include those areas designated as such on a recorded plat(s) of Riverstone Townhomes ("Plat"), including, but not limited to, all landscaped areas, retention basins, private roads and sidewalks, fencing; all pipes, wire, conduits, valves, meters, and other utilities lines and installations that service more than one Lot or Unit; and, in general, all appurtenances and installations existing for common use and all repairs, expansions, and replacements of any of the foregoing ("Common Areas").

1.2 LIMITED COMMON AREAS: "Limited Common Areas" shall mean those Common Areas designated on the Plat or in this Declaration as reserved for the use of a certain Lot/Unit or Lots/Units to the exclusion of the other Lots/Units. Limited Common Area may not be partitioned from the Lot/Unit to which it is appurtenant. The following items, if designated to serve a single Lot or Unit, are Limited Common Areas allocated exclusively to that Lot or Unit: doorstep or stairs, stoop, porch, balcony, patio, exterior doors, driveways, walkways, and front, side, and rear yard areas. Limited Common Areas also include all roofs; rain gutters and downspouts; exterior wall surfaces and exterior trim; light fixtures attached to exterior surfaces; and all pipes, wire, conduits, valves, meters, and other utilities lines and installations that service more than one Lot or Unit.

1.3 TITLE TO COMMON AREAS: The Common Areas are owned in common by all Owners, with legal title in the name of the Association. No Owner may bring an action for partition thereof except upon termination of this Declaration. Provided, however, that no Owner shall attempt

to or shall have the right to mortgage or otherwise encumber the Common Areas, except as to the appurtenant undivided interest therein of the Owner's Lot.

1.4 **OWNER'S EASEMENTS OF ENJOYMENT**: Subject to the provisions of this article, every owner and his/her invitees shall have a right and easement of enjoyment in and to the Common Areas, which easement shall be appurtenant to and pass with the title to every lot.

1.5 **EXTENT OF OWNERS' RIGHTS**: The rights and easements of enjoyment in the Common Areas created hereby shall be subject to the following and all other provisions of this Declaration:

(a) **Easements**: The Association holds the following easements over, under, and upon the Common Areas, Limited Common Areas, and Property:

(i) An easement on all Common Areas for underground installation and maintenance of power, gas, electric, water, and other utility and communication lines and services and any such easement shown on any plat of the Property.

(ii) An easement for construction, maintenance, repair, and use of Common Areas, including common facilities thereon.

(iii) An easement for the purpose of making repairs to any existing structures on Common Areas. The Association may and, to the extent required by law, shall grant or assign such easements to municipalities or other utilities performing utility services and to communication companies, and the Association may grant free access thereon to police, fire, and other public officials and to employees of utility companies and communication companies serving the Property.

(b) **Use of Common Areas**: The Common Areas shall not be partitioned or otherwise divided into parcels for residential use, and no private structure of any type shall be constructed on the Common Areas. Except as otherwise provided in this Declaration, the Common Areas shall be reserved, for the use and enjoyment of all Owners and no private use may be made of the Common Areas. Nothing herein shall prevent the placing of a sign or signs upon the Common Areas identifying the subdivision or identifying items of interest, provided such signs are approved by the Architectural Review Committee (the "ARC") and comply with any applicable Morgan City sign ordinance. The Board of Directors of the Association (the "Board") shall have authority to abate any trespass or encroachment upon the Common Areas at any time, by any reasonable means and with or without having to bring legal proceedings.

(c) **Alienation of Common Areas**: The Association may not by act or omission seek to abandon, partition, subdivide, or encumber the Common Areas owned indirectly by the Association for the benefit of the Lots unless the holders of at least seventy-five percent (75%) of the Association voting members have given their prior written approval.

(d) **Limitations on Use**: Use of the Common Areas by the Owners shall be subject to the provisions of this Declaration and to the following:

(i) The right of the Association to suspend such use rights of an Owner to the extent provided in Article 9 below.

(ii) The right of the Association to adopt, amend, and repeal rules and regulations in accordance with this Declaration.

1.6 DELEGATION OF USE: Any Owner may delegate, in accordance with the Bylaws of the Association, his/her right of enjoyment in the Common Areas to the members of his/her family and to tenants or contract purchasers who reside on the Property.

## ARTICLE II PROPERTY RIGHTS IN UNITS

2.1 LOT: "Lot" shall mean a portion of the Property which is a legally described tract or parcel of land which is designated a "Private Lot" or "Private Unit" or the like on any recorded subdivision plat relating to the Property, and shall exclude any Common Areas or Limited Common Areas.

2.2 UNIT: "Unit" shall mean a private residential structure build upon a Lot and, notwithstanding anything to the contrary, shall include to the extent appurtenant only to the single Unit: the Lot; all weather barriers located behind or under exterior surfaces including without limitation exterior walls, siding, roofs, and the like; exterior glass, skylights, windows, window frames, window screens, screen doors; window wells and their contents and the portion of land within and under the window wells; exterior door handles and locks, railings, electrical outlets and switches and their trim and covers, and water spigots; concrete foundation walls and floors, including garage floors; framing and all other improvements located behind or under exterior surfaces (including without limitation exterior walls, siding, roofs, and the like) and extending into the inside of the single Unit, structural or otherwise; and all pipes, wires, conduits, valves, meters, and other utilities lines, equipment, and installations that service only the single Unit, whether or not such are located on or under the Unit's Lot, but shall not include any items specifically designated as Common Areas or Limited Common Areas on the Plat or in this Declaration. Exterior surfaces and elements included in the meaning of Limited Common Areas are excluded from the meaning of "Unit." Except as otherwise limited in this Declaration, the rights of the Owners to maintain and remodel their Units at their sole discretion and cost shall not be infringed by the Association.

2.3 USE AND OCCUPANCY: The Owner of a Unit shall be entitled to the exclusive use and benefit of such Unit, except as otherwise expressly provided in this Declaration, but the Unit shall be bound by and the Owner shall comply with, the restrictions contained in Article 4 below, and all other provisions of this Declaration and the Association's other governing documents for the mutual benefit of all Owners. Except as otherwise limited in this Declaration, the rights of the Owners to rent or lease their Units at their sole discretion shall not be infringed by the Association.

2.4 UTILITY EASEMENTS: Easements for installation and maintenance of utilities and drainage facilities may be reserved over portions of certain Lots, as shown on the recorded plats. Within the easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which, may obstruct or retard the flow of water through drainage channels in the easement. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner(s) of the Lot, except for those improvements for which a public authority or utility company is responsible.

2.5 OWNER INSURANCE COVERAGE: THE OWNER(S) OF EACH UNIT SHALL AT ALL TIMES MAINTAIN HOMEOWNER PROPERTY AND LIABILITY INSURANCE COVERAGE AT SUCH OWNER'S OWN EXPENSE IN AMOUNTS RECOMMENDED BY SUCH OWNER'S INSURANCE AGENT AND IN AMOUNTS SUFFICIENT TO COVER THE ASSOCIATION'S PROPERTY INSURANCE DEDUCTIBLE AS IT MAY CHANGE FROM TIME TO TIME. WITH RESPECT TO ANY LOSS OR DAMAGE TO AN OWNER'S UNIT, AND REGARDLESS OF ANY INSURANCE COVERAGE OR LACK OF INSURANCE COVERAGE FOR SUCH LOSS OR DAMAGE, THE OWNER(S) SHALL BE RESPONSIBLE FOR THE AMOUNT OF THE ASSOCIATION'S PROPERTY INSURANCE DEDUCTIBLE IN ACCORDANCE WITH THE ACT AS IT MAY BE AMENDED FROM TIME TO TIME, WHICH AMOUNT SHALL BE CONSIDERED AN INDIVIDUAL ASSESSMENT AGAINST THE OWNER(S) AND THE UNIT.

ARTICLE III  
RIGHTS RESERVED BY DEVELOPER

3.1 DEVELOPER: As used in this Declaration and the Bylaws, the "Developer" shall mean and refer to Riverstone Townhomes, LLC, its successors, and assigns.

3.2 EASEMENTS AND RIGHT OF WAYS: Anything contrary notwithstanding, during the Period of Administrative Control the Developer, its employees, agents, representatives, contractors and their subcontractors and employees, has an easement and right of way on, over, under, and across all or any part of the: (1) streets for vehicular and pedestrian ingress to and from any part of the Property, or any adjacent real property owned by Developer; (2) Common Area and utility easements on, over, under, and across all Lots and Common Areas as provided on any recorded subdivision plat of the Property for installation, use, maintenance, and repair of all lines, wires, pipes, pumps, water wells, facilities, utilities, and any other things necessary for all such services, provided that any installation, use, maintenance, or repair of such lines, wires or pipes shall be performed with reasonable care and that the surface of said easement area shall be restored to the level and condition that existed prior to the doing of work; and (3) Common Areas, where applicable, to facilitate and complete the development of the Property, and any annexed Property, including without limitation the use of the Common Area, where applicable for: (i) construction, excavation, grading, landscaping, parking, and/or storage; (ii) maintenance and operation of a sales office and model units for sales purposes; (iii) showing to potential purchasers of any unsold Lot, model home, or improvements within the Property; (iv) display of signs to aid in the sale of any unsold Lots or Units, or all or part of the Project; and (v) construction, expansion, operations, and maintenance of all or any portion of any Common Area by Developer.

3.3 EXPAND, CREATE, AND MODIFY PLAT: The Developer, its employees, agents, and representatives hereby reserve the right and option at any time and from time to time during the Period of Administrative Control to: (i) expand the Project within any limits herein prescribed; (ii) create Lots or parcels subject to the requirements of applicable zoning ordinances; and (iii) add or amend an additional plat(s) and file and record the same in the records of the Morgan County Recorder's Office. Any such expansion of the Project may be made in one or more future phases or the like of the Project, and all such expansion shall be subject to this Declaration and all other Association governing documents as they may be amended or restated from time to time.

3.4 **RULES:** Anything contrary notwithstanding, during the Period of Administrative Control the Developer hereby reserves the right to exempt the Developer, and hereby does exempt the Developer from all Association rules and rulemaking procedures during the Period of Administrative Control. Further, during the Period of Administrative Control the Declarant hereby exempts its contractors and their subcontractors, builders, partners, agents, representatives, and the like from all Association rules.

3.5 **SERVICES:** Anything contrary notwithstanding, during the Period of Administrative Control and to the extent allowed by law, the Developer shall have the right and authority to exempt the Association from providing any of the services that this Declaration may require the Association to provide to or for the Association, Lots, Units, Owners, Property, or any other person. Exempting a service shall not require that any further notice be given to any party or that any assessment be reduced or eliminated. Such services include without limitation architectural review, snow removal, landscaping maintenance, and all other services of any kind whatsoever.

3.6 **ASSESSMENTS:** Anything contrary notwithstanding, during the Period of Administrative Control the Developer and its homebuilders, contractors, partners, agents, representatives, successors, and assigns shall be exempt from all Association assessments of any kind, even in the event that a Lot or Unit is sold by the Developer to any of the foregoing in the ordinary course of developing such Lot for sale upon completion of the construction of a residence thereupon. Further, during the Period of Administrative Control, the Developer shall, at its sole discretion, have the right and authority to establish the amount of any assessment and to levy any assessment authorized under this Declaration.

3.7 **MEETINGS:** Anything contrary notwithstanding, during the Period of Administrative Control meetings of Owners and the Board, including without limitation annual meetings of Owners, board meetings, and special meetings shall not be required, but the Developer may hold such meetings at its sole discretion. During the Control Period, the Developer may, at its sole discretion, take any action on behalf of the Association or the Board without a meeting.

3.8 **DOCUMENTS:** Anything contrary notwithstanding, during the Period of Administrative Control the Developer shall, at its sole discretion, have the power and authority as the Declarant to sign any document and execute any agreement on behalf of the Association.

3.9 **AMENDMENT:** Anything contrary notwithstanding, during the Period of Administrative Control this Declaration, the Articles of Incorporation (attached as Exhibit "C"), and the Bylaws (attached as Exhibit "D") may be amended, restated, replaced, executed, certified, and recorded and/or filed, by the Developer at its sole discretion.

3.10 **TERMINATION OF DEVELOPER RIGHTS:** The rights hereby reserved to the Developer under this Article shall terminate when the Period of Administrative Control ends.

ARTICLE IV  
RESTRICTIONS ON USE OF RESIDENTIAL UNITS AND COMMON AREAS

4.1 DETACHED STRUCTURES PROHIBITED: No detached structures shall be erected or permitted to remain on any Lot.

4.2 USE: Units shall only be used for single-family residential purposes. Except with the written consent of the Board, no trade, craft, business, profession, commercial, or similar activity of any kind shall be conducted on any Lot, nor shall any goods, equipment, vehicles, materials, or supplies used in connection with any trade, service, or business be kept or stored on any Lot. Nothing in this paragraph shall be deemed to prohibit: (a) activities relating to the rental (subject to any restrictions herein) or sale of a Unit; (b) the right of any Owner or contractor to make or construct improvements to a Unit, to store construction materials and equipment on such Lots (subject to Section 4.11) in the normal course of construction; and (c) the right of the Owner of a Unit to maintain his/her professional personal library, keep his/her personal business or professional records or accounts, handle his/her personal business or professional telephone calls or confer with business or professional associates, clients or customers, or to work in his/her home. An Owner may not engage in commercial activities in his/her Unit that are otherwise prohibited by this paragraph unless only normal residential activities are observable outside of the Unit.

4.3 OFFENSIVE OR UNLAWFUL ACTIVITIES: No noxious or offensive activities shall be carried on upon any Lot, Unit, or Common Area, nor shall anything be done or placed upon any Lot, Unit, or Common Area which interferes with or jeopardizes the quiet enjoyment of other Lots, Units, or Common Areas, or which is a source of nuisance or annoyance to other residents. No unlawful use shall be made of a Unit nor any part thereof, and all laws, ordinances, and regulations of all governmental bodies having jurisdiction over the Property shall be observed.

4.4 ANIMALS: No animals, pets, livestock or poultry of any kind shall be raised or kept on the exterior of any Unit, Limited Common Areas, or Common Areas. Common household pets may be kept or housed on the interior of Units provided that they are two (2) or less in total number per Unit, and that they are not kept or maintained for any commercial purpose. No animals, pets, livestock or poultry of any kind shall be bred in, on, or about the Project. Pets must be registered with the Association and properly licensed and registered by the appropriate government agency where required. The Owner shall not allow the pet to leave the Unit unless it is on a leash and accompanied by a responsible party, who shall have on his or her person the necessary tools to immediately pick up any feces (animal dung) the pet may leave outside. Exterior doghouses, doggie doors, or animal runs shall not be allowed. In no event shall any pet be left unattended outside of the Unit. No pets shall be permitted in any portions of the Common Areas or Limited Common Areas unless carried or on a leash and accompanied by a responsible party. Each Owner who keeps a pet in a Unit shall indemnify and hold all other Owners harmless against any loss or liability of any kind or character whatsoever arising from or as a result of having such pet in the Project. Notwithstanding the foregoing, no pets may create a nuisance. At least the following acts may constitute a nuisance: (a) causing damage to the property of anyone; (b) causing unreasonable fouling of the air by odors; (c) causing unsanitary conditions; (d) defecating on any Common Areas or Limited Common Areas when the feces are not immediately cleaned up by the responsible party; (e) barking, howling, whining, or making other disturbing noises in an excessive, continuous, or untimely fashion; (1) molesting or harassing passersby by lunging at them or chasing passing vehicles; (g) attacking or threatening to attack people or other domestic animals;



(h) otherwise acting so as to bother, annoy, or disturb other reasonable residents or interfering with their right to the peaceful and quiet enjoyment of their property; or (i) violating the number of pets allowed. The Board may establish additional rules that are not inconsistent with this Declaration, and may charge a deposit and/or a registration fee with regard to pets. The pet owner shall permanently remove the pet from the Property upon written notice by the Board.

4.5 **PARKING**: No recreational vehicles, campers, motorcycles, ATVs, trailers, boats, or similar vehicles may be parked or stored in the driveways or streets of the Project. Recreational vehicles, campers, motorcycles, ATVs, trailers, boats, and similar vehicles must be parked or stored in a garage. No parking on Lots or Common Areas including streets and sidewalks. The Association reserves the right to adopt additional rules relating to the parking of vehicles within the Project including, the right to immediately remove or cause to be removed any vehicles that are improperly parked, rules with regard to battery/electric vehicles and golf carts, and the assessment of fines to Owners and occupants who violate such rules.

4.6 **VEHICLES IN DISREPAIR**: No Owner shall permit any vehicle which is in an extreme state of disrepair to be abandoned or to remain parked upon any Lot or on the Common Areas or on any street for more than twenty-four (24) hours. A vehicle shall be deemed in an "extreme state of disrepair" when the Board reasonably determines that its presence offends the occupants of the neighborhood. Should any Owner fail to remove such vehicle, the Association may have the vehicle removed from the Property and charge the expense of such removal to the Owner.

4.7 **SIGNS**: No sign shall be erected or maintained on any Lot or that is visible from outside any Unit.

4.8 **RUBBISH AND TRASH**: No Lot or part of the Common Areas shall be used as a dumping ground for trash or rubbish of any kind. All garbage and other waste shall be kept in appropriate sanitary containers for proper disposal. Yard rakings, dirt, and other material resulting from landscaping work shall not be dumped onto streets, Common Areas, or on any Lots. Should any Owner fail to remove any trash, rubbish, garbage, yard rakings, or any such materials from any Lot, any streets or Common Areas where deposited by him or her within two (2) days following the date on which notice is mailed to him by the Board, the Association may have such materials removed and charge the expense of such removal to the Owner.

4.9 **OFF-HIGHWAY VEHICLES**: Except for purposes of the maintenance and repair as authorized by the Board, no off-highway motorized vehicles of any kind, electric-powered or otherwise, including but not limited to unlicensed motor vehicles, ATVs, go carts, and golf carts, shall be used on the Common Areas and Limited Common Areas.

4.10 **PROHIBITION AGAINST FURTHER SUBDIVISION OR COMBINATIONS OF LOTS**: No Lot may be subdivided, partitioned, or in any manner cause the ownership of a Lot to be separated into physical tracts or parcels smaller than the whole Lot as shown on the Plat. Further, no Lot may be combined with another Lot without the written consent of the ARC.

4.11 **LANDSCAPING**: All landscaping shall be the responsibility of the Association. Except as otherwise provided herein, no fence, wall, hedge, shrub, bush, tree, or monument, real or artificial, shall be planted or placed by any Owner or occupant in, on, or about the Common

Areas. The Board may alter or remove at the Owner's expense any objects planted or placed in violation of this provision.

4.12 TEMPORARY STRUCTURES: No structure of a temporary character, including without limitation trailers, recreational vehicles, tents, shacks, garages, barns, or other outbuildings, shall be placed or used on any Lot or Common Areas at any time either temporarily or permanently. Notwithstanding the foregoing, upon written request the ARC may establish rules for the keeping of a small shed or similar storage unit on a back patio.

4.13 FENCES: All fences shall strictly comply with applicable ordinances of Morgan City and shall be approved by the ARC. Fences shall not exceed height or location allowed by Morgan City Code. No fences shall have a gate opening onto or granting any access, ingress or egress to property outside the Project, unless prior written approval is granted by the ARC. Fences installed by the Declarant, Morgan City or another public agency, or the Association on or along property owned by the City or the Association shall not be altered or modified by any Owner or occupant in any manner. Any fencing or gate installed within the Association shall be of the same type, style, material, color, and finish as existing fencing and gates, and gates shall be at least four (4) feet wide. No patio area shall be enclosed without written approval from the ARC. Notwithstanding the foregoing, the patio areas of Units 20-52, 56-59, 68-71, and 82-92 shall not be enclosed, nor shall any patio area that is not covered entirely in concrete be enclosed, nor shall any existing patio fencing be extended.

4.14 PEST CONTROL: No Owner shall permit anything or condition to exist upon any portion of the Property which shall induce, breed, or harbor infectious plant diseases or noxious insects or vermin.

4.15 STRUCTURAL INTEGRITY: Nothing shall be done in any Lot or Unit or in, on, or to the Common Areas, Limited Common Areas, or other facilities of the Association which will impair the structural integrity of any Lot or Unit or building or any part thereof or which would structurally change the buildings or any part thereof except as is otherwise provided herein.

4.16 FIREARMS, INCENDIARY DEVICES AND GRAFFITI: The use of firearms and incendiary devices, and the painting of graffiti or the like, within the Project is prohibited. The term firearms includes without limitation all guns, pistols, handguns, rifles, automatic weapons, semi-automatic weapons, BB guns, pellet guns, air soft, archery, knife/hatchet/ax throwing, sling shots, wrist-rockets, blowdart guns, and other firearms of all types, regardless of size. Except as otherwise limited in this Declaration, the rights of the Owners and residents to lawfully possess and bear arms shall not be infringed by the Association.

4.17 ASSOCIATION RULES AND REGULATIONS: In addition, the Board may from time to time adopt, modify, or revoke such rules and regulations governing the conduct of persons and the operation and use of Lots and the Common Areas as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Property. A copy of the rules and regulations, upon adoption, and a copy of each amendment, modification, or revocation thereof, shall be delivered by the Board promptly to each Owner and shall be binding upon all Owners, resident, and occupants of all Lots/Units upon the date of delivery. Association rules and regulations may be modified, amended, or revoked through the Board without the vote of the membership, but must not

be inconsistent with this Declaration or the Bylaws. However, no rule or regulation may be adopted that conflicts with any provision of this Declaration, the Articles of Incorporation, or the Bylaws; any such conflicting rule or regulation shall be void and unenforceable.

4.18 MODIFICATION OF COMMON AREAS OR LIMITED COMMON AREAS. No modification shall be made to any Common Area or Limited Common Area without written approval from the ARC.

4.19 SATELLITE DISHES AND ANTENNAS: The Association reserves the right to enter into exclusive contracts and agreements with commercial satellite providers thereby negotiating and/or granting rights to such companies to provide service within the Association. As such, the Association reserves all rights to regulate satellite dishes and the like. No satellite dish, exterior radio antenna, or other antennas shall be placed, allowed, or maintained upon any Unit or upon any structure or portion of the Property without prior written approval of the Board.

#### ARTICLE V ARCHITECTURAL REVIEW COMMITTEE

5.1 ARCHITECTURAL REVIEW COMMITTEE: The Board may appoint such committees as deemed appropriate in carrying out its purposes, including appointment of an Architectural Review Committee ("ARC"). A committee shall not have any powers, duties, or responsibilities beyond those specifically assigned by the Board. The Board may terminate any committee at any time. If an ARC is not appointed by the Board, the Board itself shall be considered the ARC for all purposes described in this Declaration.

#### ARTICLE VI ASSOCIATION

An association of all of the Owners within Riverstone Townhomes was lawfully organized as a Utah non-profit corporation under the name "Riverstone Townhomes Homeowners Association, Inc." The Association has such property, powers, and obligations as are set forth in this Declaration for the benefit of the Property and all Owners of property located therein. As more fully described in this Declaration and the Bylaws, the Association shall be governed by the Board, each member of which shall be a Lot owner and member of the Association.

6.1 ORGANIZATION: The Association was organized and created as a nonprofit corporation under the general nonprofit corporation laws of the State of Utah. The Articles of Incorporation of the Association provide for its perpetual existence, but in the event the Association is at any time dissolved, whether inadvertently or deliberately, it shall automatically be succeeded by an unincorporated association of the same name. In that event all of the property, powers, and obligations of the incorporated Association existing immediately prior to its dissolution shall thereupon automatically vest in the successor unincorporated association, and such vesting shall thereafter be confirmed as evidenced by appropriate conveyances and assignments by the incorporated Association. To the greatest extent possible, any successor unincorporated association shall be governed by the Articles of Incorporation and Bylaws of the Association as if they had been made to constitute the governing documents of the unincorporated association. The management and

maintenance of Riverstone Townhomes and the administration of the affairs of the Association shall be conducted by the Board.

6.2 **MEMBERSHIP**: Every Owner of one or more Lots within the Property shall, immediately upon creation of the Association and thereafter during the entire period of such Owner's ownership of one (1) or more Lots within the Property, be a member of the Association. Such membership shall commence, exist, and continue simply by virtue of such ownership, shall expire automatically upon termination of such ownership, and need not be confirmed or evidenced by any certificate or acceptance of membership.

6.3 **VOTING RIGHTS**: The Association shall have two classes of voting membership; however, all votes shall be equal and counted as such, except where voting by separate class may otherwise be provided in the Articles of Incorporation, Bylaws, or in this Declaration.

(a) **Class A Members**: Class A Members shall be Owners with the exception of the Developer during the entire period when the Developer is a Class B Member. Each Class A Member shall be entitled to one (1) vote for each Lot that Member owns. When more than one (1) person or entity owns a Lot, the vote for such Lot may be cast as they shall determine, but in no event will fractional voting be allowed. Fractionalized or split votes shall be disregarded, except for purposes of determining a quorum.

(b) **Class B Members**: The sole Class B Member shall be the Developer, who shall be entitled to five (5) votes for each Lot owned by the Developer. Class B membership shall cease and be converted automatically to Class A membership on the first to occur of the following events:

(i) One (1) year after the conveyance to a new Class A Member of the last Lot owned by the Developer; or

(ii) the day the Developer, after giving written notice to the Owners, records an instrument voluntarily surrendering all rights to control activities of the Association in accordance with § 57-8a-502 of the Act as it may be amended from time to time.

(c) **One Vote Per Lot**: Notwithstanding anything contrary, in the event there is more than one record owner of a particular Lot, the vote relating to such Lot shall be exercised as such owners may determine among themselves; but in no event shall more than one (1) Class A vote be cast with respect to any Lot. A vote cast at any meeting or by written ballot by any one (1) of a Lot's owners, whether cast in person or by proxy, shall be conclusively presumed to be the entire vote attributable to the Lot; if more than one (1) vote is cast for the Lot then all such votes shall be disregarded completely.

(d) **Period of Administrative Control**: Until the Class B Membership ceases, the Developer shall be within the "Period of Administrative Control" as this term is ascribed meaning in the Act, and shall enjoy all the rights and powers described therein.

6.4 **GENERAL POWERS AND OBLIGATIONS**: The Association shall have, exercise, and perform all of the following powers, duties, and obligations:

(a) The powers, duties, and obligations granted to the Association by this Declaration.

(b) The powers and obligations of a nonprofit corporation pursuant to the general nonprofit corporation laws of the State of Utah, or any successor thereto,

(c) The powers, duties, and obligations of a homeowner's association pursuant to the Utah Community Association Act, or any successor thereto.

(d) Any additional or different powers, duties, and obligations necessary or desirable for the purpose of carrying out the functions of the Association pursuant to this Declaration or otherwise promoting the general benefit of the Owners within the property.

The powers and obligations of the Association may from time to time be amended, repealed, enlarged, or restricted by changes in this Declaration made in accordance with the provisions herein, accompanied by changes in the Articles of Incorporation or Bylaws of the Association made in accordance with such instruments and with the nonprofit corporation laws of the State of Utah.

6.5 SPECIFIC POWERS AND DUTIES: The powers and duties of the Association shall include, without limitation, the, following:

(a) Maintenance and Services: The Association shall provide maintenance and services for the Property as provided in Article 7 and other provisions of this Declaration.

(b) Insurance: The Association shall maintain in force policies of insurance as provided in the Act and this Declaration and the Bylaws of the Association. The Association shall have no obligation to maintain any insurance covering the personal property of any Owner(s), and each Owner shall be responsible for maintaining such personal property insurance. Policies of the Association shall not be voidable by any Owner's act or omission, nor shall such act or omission be a condition to recovery under any such policy. To the extent reasonably available, the Association shall maintain at least the following insurance:

(i) Blanket Property Insurance: The Association shall maintain blanket property insurance or guaranteed replacement cost insurance on the physical structure of all attached dwellings, limited common areas appurtenant to a dwelling on a lot, and common areas in the project, insuring against all risks of direct physical loss commonly insured against, including fire and extended coverage. All such property insurance policies must contain a waiver of subrogation by the insurer as to any claims against the Association and the Owners and their respective agents and employees.

Insurance proceeds for a loss under an Association property insurance policy shall be payable to the Association and shall not be payable to a holder of a security interest. Such proceeds shall be disbursed first for repair or restoration of the damaged property, if the property is to be repaired or restored as provided for in the Association's governing documents. After any repair or restoration is complete and if the damaged property has been completely repaired or restored, any remaining proceeds shall be paid to the Association. If the property is not to be repaired or restored, then any proceeds remaining after such action as is necessary related to the property as been paid for, shall be distributed to the Owners and lien holders, as their interests remain with regard to the Units. Each Owner hereby appoints the Association as attorney-in-fact for the purpose of negotiating all losses related thereto, including the collection, receipt of, and the execution of

releases of liability, and the execution of all documents and the performance of all other acts necessary to administer such insurance and any claim. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representative, successors or assigns of an Owner.

(ii) Liability Insurance: The Association shall maintain liability insurance covering 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. All such liability insurance policies must contain a waiver of subrogation by the insurer as to any claims against the Association and the Owners and their respective agents and employees.

(iii) Directors and Officers Insurance: The Association shall maintain directors and officers liability insurance protecting the Board, the officers, and the Association against claims of wrongful acts, mismanagement, failure to maintain adequate reserves, failure to maintain books and records, failure to enforce the governing documents, and breach of contract. Such insurance shall also include at least: coverage for volunteers, employees, and managers and their employees and representatives; coverage for monetary and non-monetary claims; coverage against claims made under any fair housing act or similar statute, claims of any form of discrimination or civil rights violation; and claims of any form of defamation.

(iv) Theft and Embezzlement: The Association shall maintain insurance covering theft and embezzlement of Association funds by officers, directors, volunteers, and employees of the Association, and managers of the Association and their employees and representatives. Such insurance shall include at least coverage in an amount not less than the sum of three months' the Annual Assessment and the combined amount of the prior calendar year's highest monthly balance on all operating and reserve funds of the Association.

(v) Other Insurance: The Association may, at the discretion of its board of directors, maintain other insurance to the extent that such insurance protects or benefits the Association or its membership as a whole.

(c) Rulemaking: The Association shall make, establish, promulgate, amend, and repeal Rules and Regulations as provided in Section 4.21 of this Declaration.

(d) Assessments: The Association shall adopt budgets and impose and collect Assessments as provided in Article 8 of this Declaration. Payment of Assessments shall be the responsibility of Lot Owners and may not be delegated to their tenants.

(e) Enforcement: The Association shall perform such acts, whether or not expressly authorized by, but not in conflict with, this Declaration, as may be reasonably necessary to enforce the provisions of this Declaration, and the other Association governing documents, and the Rules and Regulations adopted by the Association, including, without limitation, enforcement of the decisions of the ARC.

(f) Employment of Agents, Advisers, and Contractors: The Association, through its Board, may employ the services of any person, business, or corporation as managers, hire employees to manage, conduct, and perform the business, obligations, and duties of the Association, employ professional counsel and obtain advice from such persons or businesses or corporations such as, but not limited to, landscape architects, accountants, recreational experts,

architects, planners, lawyers, or what is convenient for the management, maintenance, and operation of the Property.

(g) Borrow Money, Hold Title and Make Conveyances: The Association may borrow and repay moneys for the purpose of maintaining and improving the Common Areas, and encumber the Common Areas as security for the repayment of such borrowed money. The Association may acquire, hold title to, and convey, with or without consideration, real and personal property and interests therein, including but not limited to easements across all or any portion of the Common Areas and shall accept any real or personal property, leasehold; or other property interests within Riverstone Townhomes that was conveyed to the Association by its developer. Notwithstanding the foregoing, the actions described in this paragraph are permissible only if approved by a majority of the votes of the Lot Owners.

(h) Transfer, Dedication And Encumbrance Of Common Areas: The Association may sell, transfer, or encumber all of any portion of the Common Areas to a person, firm, or entity, whether public or private, and dedicate or transfer all or any portion of the Common Areas to any public agency, authority, or utility for public purposes. Notwithstanding the foregoing, the actions described in this paragraph are permissible only if approved by a majority of the votes of the Lot Owners.

(i) Create Classes Of Service And Make Appropriate Charges: The Association may, in its sole discretion, create various classes of service and make appropriate Individual Assessments or charges therefore to the users thereof, and avail itself of any rights granted by law, without being required to render such services to those of its members who do not assent to such charges and to such other Rules and Regulations as the Board deems proper. In addition, the Board shall have the right to discontinue any service upon nonpayment or to eliminate such service for which there is no demand or adequate funds to maintain the same.

6.6 LIABILITY: A member of the Board or an officer of the Association, or any volunteer acting under the direction of the Board, shall not be liable to the Association or any member thereof for any damage, loss, or prejudice suffered or claimed on account of any action or failure to act in the performance of his/her duties, except for acts of gross negligence or intentional acts. In the event any member of the Board or any officer of the Association or any volunteer acting under the direction of the Board is made a party to any proceeding because the individual is or was a director, officer, or volunteer of the Association, the Association shall indemnify such individual against liability and expenses incurred to the maximum extent permitted by law.

## ARTICLE VII MAINTENANCE

7.1 MAINTENANCE OF COMMON AREAS AND LIMITED COMMON AREAS: The Association shall be solely responsible for and perform all maintenance, repairs, and replacement of and upon the Common Areas and Limited Common Areas. Such areas shall be maintained in a safe condition to at least applicable Morgan City standards and in a good and workmanlike manner such areas are intended.

7.2 MAINTENANCE OF UTILITIES: The Association shall solely perform or contract to perform maintenance of all private utilities within Common Areas, or private streets,

such as sanitary sewer service lines, domestic water service lines and storm drainage lines, except to the extent such maintenance is performed by the utilities furnishing such services. Each Owner shall be responsible for maintaining utility services within its Lot/Unit.

7.3 **MAINTENANCE OF UNITS:** Each Owner shall, at the Owner's own expense, maintain the Owner's Unit in a clean and attractive condition, in good repair, and in such fashion as not to create a fire hazard or nuisance. Each Owner is responsible for all weather barriers appurtenant to its Unit, and is thus also responsible for any damage to the Unit, including the basement, caused by water from any source and in any form that may enter the Unit from outside. Units do not include portions of buildings designated as Common Areas or Limited Common Areas. However, each Owner is responsible for all consumables attached to or that service only their Unit; such consumables include light bulbs, filters, and any other consumable item that requires period replacement. Any damage caused to Common Areas or Limited Common Areas in relation to repairs or maintenance of a Unit shall be timely restored to their prior condition by the Owner(s). Such Owner(s) shall be responsible for all costs for such restoration, and such costs shall be considered Individual Assessments until such restorations are completed to the reasonable satisfaction of the Board. Five (5) after days written notice to the Owner(s), any restoration not timely completed may be made by the Association with all related costs assessed to the Owner(s) and/or the Unit.

7.4 **PARTY WALLS:**

(a) **General Rules of Law to Apply:** Each wall which is built as a part of the original construction of a Unit and placed on the dividing line between two Units shall constitute a "Party Wall", and, to the extent not inconsistent with the provisions of the Act, the general rules of law regarding Party Walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) **Repair and Maintenance:** Each Unit that shares a Party Wall(s) also shares elements of a common roof, a common exterior wall, or other common exterior elements with an adjacent Unit(s). The Owners acknowledge that certain repairs or maintenance to Units with a Party Wall(s) may become necessary, which repairs or maintenance cannot be performed on one Unit only but may necessarily involve the other attached Units. Therefore, all repairs to the roof and exterior walls of all Units will be made by the Association.

7.5 **SERVICES:** The Association shall provide or contract for such services as the Board may reasonably deem to be of benefit to the Property, including, without limitation, snow removal, landscape maintenance, garbage and trash removal for Common Areas. Owners shall be solely responsible for snow removal, ice removal, and the removal of other hazards from Limited Common Areas appurtenant their Lots/Units, including without limitation walkways, driveways, porches, stairs, and patios.

**ARTICLE VIII**  
**ASSESSMENTS**

8.1 **PURPOSE OF ASSESSMENTS:** Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners and occupants of Riverstone Townhomes and for the improvement, operation, and maintenance of the Common Areas.



8.2 TYPES OF ASSESSMENTS: The Association may levy Annual Assessments, Special Assessments, Emergency Assessments, Individual Assessments, and an Initial Setup Assessment all as more particularly described below.

8.3 APPORTIONMENT OF ASSESSMENTS: Lots owned by the Developer, Riverstone Townhomes LLC, shall not be subject to Assessments. All other Lots shall pay a pro rata share of the Annual Assessments, Special Assessments, and Emergency Assessments commencing upon the date such Lots are made subject to this Declaration. The pro rata share shall be based upon the total amount of each such Assessment divided by the total number of Lots subject to Assessment. Apportionment shall be based upon the Lots within the jurisdiction of the Association. Where an Owner owns more than one (1) Lot, the apportioned assessments shall be paid on each Lot owned.

8.4 ANNUAL BUDGET: The Board shall from time to time and at least annually prepare an operating budget for the Association (the "Annual Budget"), taking into account the current costs of maintenance and services and future needs of the Association. The Annual Budget shall also include a reserve component that provides for reserve funds as the Board deems necessary and as may be required by law, but not less than the reserves required by Section 8.10 below.

8.5 ANNUAL ASSESSMENTS: Annual Assessments for operating expenses and reserves ("Annual Assessments") shall be apportioned among the Lots as provided in Section 8.3 above. The Annual Assessment shall be payable by all Owners in monthly installments ("Monthly Dues"). The Board shall establish the amount of the Annual Assessment no later than the beginning of each fiscal year, which amount shall be based on the Annual Budget for that fiscal year.

8.6 SPECIAL ASSESSMENTS: In addition to the Annual Assessment authorized above, the Board may levy during any fiscal year one or more special assessments ("Special Assessment"), applicable to that year only, for the purpose of deferring all or any part of the cost of any: Common Area construction or reconstruction; unbudgeted Common Area maintenance, repair, or replacement; acquisition of a Common Area capital improvement; or for any other one-time expenditure not in the Annual Budget. Special Assessments which in aggregate in any fiscal year exceed an amount equal to twenty percent (20%) of the Annual Budget may be levied only if approved by a majority of the votes of the Lot Owners. Special Assessments shall be apportioned as provided in Section 8.3 above and may be payable in lump sum or in monthly installments, with or without interest, as determined by the Board.

8.7 EMERGENCY ASSESSMENTS: If the Annual Assessments levied at any time are, or will become, inadequate to meet all expenses incurred under this Declaration for any reason, including nonpayment of any Owner's Assessments on a current basis, the Board shall immediately determine the approximate amount of such inadequacy and issue a supplemental budget, notes as to the reason therefore, and levy an Emergency Assessment for the amount required to meet all such expenses on a current basis ("Emergency Assessment"). Any Emergency Assessment which in the aggregate in any fiscal year would exceed an amount equal to twenty percent (20%) of the Annual Budget may be levied only if approved by a majority of

the votes of the Lot Owners. Emergency Assessments shall be apportioned as set forth in Section 8.3 above and shall be payable as determined by the Board.

8.8 INDIVIDUAL ASSESSMENTS: Any common expense or any part of a common expense benefiting fewer than all of the Lots may be assessed exclusively against the Lots benefited ("Individual Assessment"). Individual Assessments include, without limitation, charges for services provided under Section 6.5. Individual Assessments shall also include default assessments levied against any Lot to reimburse the Association for costs incurred in bringing such Lots or its Owner(s) into compliance with the provisions of this Declaration or the Rules and Regulations of the Association and for fines or other charges imposed pursuant to this Declaration for violation thereof. Unless otherwise provided herein or by the Board, Individual Assessments shall be due thirty (30) days after the Board has given written notice thereof to the Owners subject to the Individual Assessments.

8.9 REINVESTMENT FEE COVENANT: With respect to each and every conveyance of title to a new Owner, including the first conveyance to the first owner of a Unit, a fee in the maximum amount allowed by law, currently one-half percent (0.5%) of the value of the Unit, (the "Reinvestment Fee") shall be paid to the Association. This amount shall be paid by the buyer of the burdened property unless otherwise agreed in writing by the buyer and the seller of the Unit. This amount shall be in addition to any pro rata share of assessments due and adjusted at settlement. The existence of this covenant precludes the imposition of an additional reinvestment fee covenant on the burdened property. The purpose of the amount required to be paid under this covenant is to facilitate the maintenance of common areas, facilities, and/or Association expenses and improvements, and is required to benefit the burdened property. To the fullest extent practicable, the Reinvestment Fee shall be collected at the closing of the purchase/sale transaction by the title company, escrow company, or other persons involved with the transaction, and paid directly to the Association. Funds obtained from payment of all Reinvestment Fees shall be allocated solely to the Reserve Fund. The obligation to pay the Reinvestment Fee shall be a joint and several personal and continuing obligation of the seller and buyer regardless of whether the buyer acquired title by regular conveyance, pursuant to a foreclosure sale (judicial or non-judicial), by inheritance or probate, or otherwise. But conveyance Unit from an Owner to a trust or similar structure of which the Owner is a beneficiary, including a living trust, shall not be subject to the Reinvestment Fee.

8.10 OPERATIONS FUND: The Association shall keep all funds received by it as Assessments, other than reserves described in Section 8.10, separate and apart from its other funds, in an account to be known as the ("Operations Fund"). The Association shall use such fund exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents within the Property and in particular for the improvement and maintenance of properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas and of the Lots situated upon the Property, including but not limited to:

- (a) Payment of the cost of maintenance, utilities, and services as described in Article 7.
- (b) Payment of the cost of insurance as described in the Bylaws of the Association.
- (c) Payment of taxes assessed against the Common Areas and any improvements

(d) Payment of the cost of other services which the Association deems to be of general benefit to the Owners, including but not limited to accounting, legal, and secretarial services.

8.11 RESERVE FUND: The Association shall establish a "Reserve Fund" for the replacement and major repair of Common Areas that will normally require replacement or major repair in more than three (3) and less than thirty (30) years ("Qualifying Common Areas"). Such Reserve Fund shall be funded by Assessments against the individual Lots, including without limitation by a reserve component of the Annual Assessment. The Assessments under this section begin accruing against each Lot from the date the first Lot in the Property is conveyed. The reserve component of the Association's annual budget shall be based on a professionally-performed reserve study (to the extent available) and shall take into account the estimated remaining life of the Qualifying Common Areas and the current replacement cost of such items. The Reserve Fund shall be established in the name of the Association and the reserve component of the budget shall be adjusted annually to recognize changes in current replacement costs over time. The Reserve Fund shall be used only for replacement and major repair of Qualifying Common Areas as determined by the Board and shall be kept separate from the Operations Fund. The Board may borrow funds from the Reserve Fund to meet high seasonal demands on the Operations Fund or to meet other temporary expenses which must be repaid to the Reserve Fund from Annual Assessments, Special Assessments or Emergency Assessments within the same fiscal year borrowed. Nothing in this section shall prohibit prudent investment of the Reserve Fund. Assessments for the Reserve Fund may be reduced, eliminated, or decreased in a particular fiscal year by an affirmative vote of not less than sixty-seven percent (67%) of the voting power of the Association. Assessments paid into the Reserve Fund are the property of the Association and are not refundable to sellers or Owners of Lots. Sellers of the Lots, however; may treat their outstanding share of any Assessments for the Reserve Fund as a separate item in any sales agreement.

8.12 CREATION OF LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS: Each Owner of any Lot by acceptance of a conveyance thereof, whether or not so expressed in any such conveyance, shall be deemed to covenant to pay to the Association all assessments or other charges as may be fixed, established, and collected from time to time in the manner provided in this Declaration or the Association Bylaws. Such assessments and charges, together with any interest, expenses, or attorneys' fees imposed pursuant to Article 9, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment or charge is made. Such assessments, charges, and other costs shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment or charge fell due. Such liens and personal obligations shall be enforced in the manner set forth in Article 9 below.

#### ARTICLE IX ENFORCEMENT

9.1 USE OF COMMON AREAS: In the event any Owner shall violate any provision of this Declaration, the Bylaws of the Association, or other rules adopted by the Association governing the use of the Common Areas, then the Association, acting through its Board, shall notify the Owner in writing that the violations exist and that he/ she is responsible for them, and may, after reasonable notice and opportunity to be heard, do any or all of the following: (a) suspend his/her voting rights and rights to use the Common Areas for the period that the violations remain unabated, or for any period not to exceed sixty (60) days for any infraction of its rules and regulations, (b) impose reasonable fines upon the Owner, in the manner and amount the Board deems appropriate in relation

to the violation, which fines shall be paid into the Maintenance Fund, or (c) bring suit or action against such Owner to enforce this Declaration. Nothing in this section, however, shall give the Association the right to deprive any Owner access to and from his/her Lot.

9.2 NONQUALIFYING IMPROVEMENTS AND VIOLATION OF GENERAL PROTECTIVE COVENANTS: In the event any Owner constructs or permits to be constructed on his/her Lot an Improvement contrary to the provisions of this Declaration, or causes or permits any Improvement, activity, condition, or nuisance contrary to the provisions of this Declaration to remain uncorrected or unabated on his/her Lot, then the Association acting through its Board shall notify the Owner(s) in writing of any such specific violations of this Declaration and shall require the Owner to remedy or abate the same in order to bring his/her Lot, the Improvements thereon and his/her use thereof, into conformance with this Declaration at the Owner's sole expense. If the Owner is unable, unwilling, or refuses to comply with the Association's specific directives for remedy or abatement, or the Owner and the Association cannot agree to a mutually acceptable solution within the framework and intent of this Declaration, after notice and opportunity to be heard and within thirty (30) days of written notice to the Owner, then the Association acting through its Board, shall have the right to do any or all of the following:

9.3 DEFAULT IN PAYMENT OF ASSESSMENTS; ENFORCEMENT OF LIEN: If an assessment or other charge levied under this Declaration is not paid within thirty (30) days of its due date, such assessment or charge shall become delinquent and shall bear interest, from the due date at the rate set forth below. In such event the Association may exercise any or all of the following remedies:

(a) The Association may suspend such Owners voting rights and right to use the Common Areas until such amounts, plus other charges under this Declaration, are paid in full and may declare all remaining periodic installments of any annual assessment immediately due and payable. In no event, however, shall the Association deprive any Owner of access to and from his/her Lot.

(b) The Association shall have a lien against each Lot for any assessment levied against the Lot and any fines or other charges imposed under this Declaration or the Bylaws against the Owner of the Lot from the date on which the assessment, fine, or charge is due. At any time any assessment (of any type provided for by this Declaration or the Bylaws) or installment thereof is delinquent, the Association, by and through its Board or any management agent, may file a notice of lien in the Morgan County Recorder's Office against the Lot with respect to which the delinquency pertains. Once filed, such lien shall accumulate all future assessments or installments, interest, late fees, penalties, fines, attorney's fees, and other appropriate costs properly chargeable to an Owner by the Association, until such amounts are fully paid. Said lien may be foreclosed at any time and in the manner allowed by law. The lien of the Association shall be superior to all other liens and encumbrances except property taxes and assessments, any first mortgage, deed of trust or land sale contract recorded previously to the Association's notice of lien and any mortgage or deed of trust granted to an institutional lender which is recorded previously to the Association's notice of lien. The Association through its duly authorized agents, may bid on the Lot at any foreclosure sale, and may acquire and hold, lease, mortgage, and convey the Lot.

(c) The Association may bring an action to recover a money judgment for unpaid assessments, fines, and charges under this Declaration without foreclosing or waiving the lien described in paragraph (b) above. Recovery on any such action, however, shall operate to satisfy the lien, or the portion thereof, for which recovery is made.

(d) If the delinquent Owner is leasing its Unit or any portion thereof, the Board may, at its option, so long as such default shall continue, demand and receive from any tenant of the Owner the rent due or becoming due, and the payment of such rent to the Board shall discharge such tenant for rent due, and shall discharge the Owner for such Assessments to the extent of the amount so paid.

(e) The Association shall have any other remedy available to it by law or in equity.

9.4 SUBORDINATION OF LIEN TO MORTGAGES: The Lien arising from the assessments or charges provided for in this Declaration shall be subordinate to the lien of any mortgage or deed of such Lot which was made in good faith and for value and which was recorded prior to the recordation of the notice of lien. Sale or transfer of any Lot shall not affect the assessment lien, but the sale or transfer of any Lot which is subject to any mortgage or deed of trust pursuant to a decree of foreclosure thereunder or any deed or proceeding, deed, or assignment in lieu of foreclosure shall extinguish any lien of an assessment notice of which was recorded after the recording of the mortgage or trust deed. Such sale or transfer, however, shall not release the Lot from liability for any assessments or charges thereafter becoming due or from the lien of such assessments or charges.

9.5 INTEREST, EXPENSES, AND ATTORNEY'S FEES: Any amount not paid to the Association when due in accordance with this Declaration shall bear interest from the due date until paid at the rate of twelve percent (12%) per annum or the maximum amount allowed by law, whichever is greater. In addition, a late fee may be charged for each delinquent assessment in an amount established from time to time by resolution of the Board. In the event the Association shall file a notice of lien, the lien amount shall also include the recording fees associated with filing the notice, and a fee for preparing the notice of lien established from time to time by resolution of the Board. In the event the Association shall bring any suit or action to enforce this Declaration, or to collect any money due hereunder or to foreclose a lien, the Owner defendant shall pay to the Association all costs and expenses incurred by it in connection with such suit or action, including a foreclosure title report and any and all attorney's fees.

9.6 DEBT COLLECTION: Each debtor shall be deemed to covenant and agree to pay, and shall be deemed jointly and severally liable for, all assessments described in this Declaration and the other governing documents of the Association, as they may be amended from time to time, that may be assessed against the debtor's Lot, Unit, or other account, together with all related costs, fees, and interest. The Association shall have the right to assign any past-due amount for collection. Should one or more such amounts be assigned to a third party for collection, each debtor shall be deemed to covenant and agree to pay, and shall be deemed jointly and severally liable for, all related collection costs and fees including a fee in the amount of the maximum percentage allowed by law of the total unpaid debt in addition to all legal fees related to such collection, with or without suit, including attorney fees, court costs, filing fees, and all other costs and fees related to the debt and its collection. The term "debtor" as used in this paragraph means the Owner(s) of a Lot or Unit in the Association, the residents, tenants, and other occupants of such Lot or Unit, and any other party or parties obligated or allegedly obligated to pay a particular debt to the Association whether or not the

debt is related to a Lot or Unit in the Association. As an exception to the foregoing, no tenant or the like shall be liable for a debt owed only by one or more Owners, or for any collection or other costs or fees related to such Owners' debt. Any amount that becomes past due per this Declaration or the Association's other governing documents shall be considered a debt under this provision.

9.7 NONEXCLUSIVENESS AND ACCUMULATION OF REMEDIES: An election by the Association to pursue any remedy provided for in violation of this Declaration shall not prevent concurrent or subsequent exercise of another remedy permitted hereunder. The remedies provided in this Declaration are not exclusive but shall be in addition to all other remedies, including actions for damages and suits for injunctions and specific performance, available under applicable law to the Association. In addition, any aggrieved Owner may bring an action against another Owner or the Association to recover damages or to enjoin, abate, or remedy any violation of this Declaration by appropriate legal proceedings.

ARTICLE X  
MORTGAGEES

10.1 REIMBURSEMENT OF FIRST MORTGAGEES: First mortgagees of Lots may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy, for such Common Area. First mortgagees making such payments shall be owed immediate reimbursement therefore from the Association.

10.2 RIGHT OF FIRST MORTGAGEES RELATING TO MAINTENANCE: At any time that the Common Areas are not maintained or repaired by the Association to the extent reasonably necessary to protect and preserve the value of the Property for security purposes, then the record mortgagee, upon giving written notice as hereinafter provided, shall be entitled to exercise the rights of the Owner of the Lot as a member of the Association to vote at all regular and special meetings of the members of the Association for a period of one (1) year following the date of such notice. During this one-year period, the Association shall give notice of all regular and special meetings to both the Owner and the mortgagee, and the Owner may attend such meetings as an observer. Notice from the mortgagee under this section shall quote this Section 10.2 and shall be sent postage prepaid by certified United States mail, return receipt requested, to the Owner with a copy by regular mail to the Association at the last known address of each.

ARTICLE XI  
MISCELLANEOUS PROVISIONS

11.1 AMENDMENT AND REPEAL: This Declaration or any provision there to as from time to time in effect with respect to all or any part of the Property, may be amended, restated, replaced, or repealed by the vote or written consent of the Owners holding not less than sixty-seven percent (67%) of the voting right in the Association. Any such changes shall become effective only upon the recordation in the Morgan County Recorder's Office, of an executed certificate of the president or secretary of the Association setting forth in full such changes so approved and certifying that such changes have been approved in the manner required by this

Declaration. In no event shall changes under this section change the boundaries of any Lot or any uses to which any Lot is restricted unless the Owner of the affected Lot consents to the amendment. To the extent any changes relate to the preservation or maintenance of the Common Areas or private utility lines, or the existence of an entity responsible for accomplishing the same, such changes shall be approved by Morgan City.

11.2 **DURATION:** This Declaration shall run with the land and shall be and remain in full force and effect at all times with respect to all property included within the Property and the owners thereof for an initial period of twenty (20) years commencing with the date on which this document is recorded. Thereafter, this Declaration shall continue to run with the land and be and remain in full force and effect at all times with respect to all property within the Property and the owner, thereof for successive additional periods of ten (10) years each. The continuation from the initial or any additional period into the next subsequent period shall be automatic and without the necessity of any notice, consent, or other action whatsoever, provided, however, that this Declaration may be terminated at the end of the initial or any additional period by resolution approved not less than six (6) months prior to the intended termination date by the vote or written consent of Owners owning not less than seventy-five percent (75%) of the voting right, in the Association. Any such termination shall become effective only if (a) a certificate of the president or secretary of the Association, certifying that termination as of a specified terminate date has been approved in the manner required herein, is duly acknowledged and recorded in the Morgan County Recorder's Office not less than six (6) months prior to the intended termination date, and (b) prior to the intended termination date, such termination has been approved by an order or resolution of Morgan City and a copy of which shall have been recorded in the Morgan County Recorder's Office. Such termination shall not have the effect of denying any Owner access to his/her Lot unless such Owner and any mortgagee of such Lot have consented in writing to the termination.

11.3 **JOINT OWNERS:** In any case in which two (2) or more persons share ownership of any Lot, regardless of the form or ownership, the responsibility of such persons to comply with this Declaration shall be joint and several and the act or consent of any one (1) 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 Association, and the vote or right of consent involved shall then be disregarded completely in determining the proportion of votes or consent given with respect to such matter.

11.4 **LESSEES AND OTHER INVITEES:** Lessees, invitees, contractors, family members, and other persons entering the Property under right derived from an Owner shall comply with all of the provisions of this Declaration restricting or regulating the Owner's use, improvements, or enjoyment of his/her 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 himself/herself. Further, to the maximum extent not prohibited by law: (1) all Owners, tenants, and other occupants, residents of a Lot/Unit, employees of any of the foregoing, any other person who may in any manner enter upon or use the Property or any part thereof, and all interests in any Lot/Unit shall be subject to this

Declaration and all other governing documents of the Association; and (2) all agreements, decisions, and determinations lawfully made by the Association or the Board shall be deemed to be binding on all Owners, tenants, occupants, and residents of a Lot/Unit, employees of any of the foregoing, and any other person who may in any manner make use of the Property or any part thereof.

11.5 NONWAIVER: Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

11.6 GOVERNING DOCUMENT CONFLICTS: In the event of any conflict, (1) the provisions of applicable law, (2) the Declaration, (3) the Articles of Incorporation, (4) these Bylaws, (5) any resolutions of the Board, and (6) any rules and regulations shall prevail in that order.

11.7 NO ESTOPPLE OR RELIANCE: No one, including any Owner, may rely upon any authorization from the Board or anyone else that is contrary to the terms and conditions of the governing documents of the Association, regardless of the circumstances. No claim of estoppel, waiver, or similar equitable claim or defense may be raised by anyone related to any alleged reliance.

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

11.9 CONTACT INFORMATION: Within ten (10) days of becoming an Owner a Lot or Unit, or of a request by the Association or its manager, such Owner shall provide the Association with at least the following contact information (and in the event that the Owner is a legal entity, then also the following information for the Owner's authorized representative): (1) their full legal name; (2) the address of their primary residence; (3) the address of the Lot/Unit by which they are an Owner; (4) their email address; (5) and their telephone number. Regardless of any waiver of notice provided to the Association, it shall be the duty of such Owners to keep their contact information current with the Association. Further, Owners shall obtain and provide to the Association or its manager as described above the foregoing contact information for their tenants. Owners that fail to keep such contact information current with the Association, or fail to provide such contact information upon request, whether or not such Owners reside within the physical boundaries of the Association, shall be deemed not in good standing with the Association and such failure shall be considered a violation of the Association's governing documents.

11.10 WAIVER OF PROCEDURAL IRREGULARITIES:

(a) Waiver: All procedural inaccuracies and irregularities, and any claims, causes of action, or damages of any kind related thereto, in (1) calls to, notices of, and the manner of conducting a meeting; (2) the manner of voting; (3) the form and handling of proxies; (4) the manner of asserting persons present at the meeting; (5) the manner of taking action or making decisions; (6) the manner of accepting or counting votes; (7) the manner of taking minutes or the content thereof; and (8) the manner of enforcing the governing documents of the Association shall be deemed waived under the following circumstances: (a) if the objecting person did not object within thirty (30) days of an enforcement action was taken; (b) if the objecting person was in attendance at the meeting, but the issue upon which the objection is based was perceptible and no objection to that issue was made at the meeting; (c) if the objecting person was not in attendance at the meeting but proper notice of



the meeting was given; (d) if the objecting person was not in attendance at the meeting and proper notice of the meeting was not given, but the person had actual notice of the meeting before it occurred; (e) if the objecting person was not in attendance at the meeting, proper notice of the meeting was not given, the person did not have actual notice of the meeting before it occurred, but the person did not object within thirty (30) days of receiving actual notice of the occurrence of the meeting or of an action, vote, or other decision made thereat; and (f) if a decision, vote, or action was taken without a meeting, but the person did not object within thirty (30) days of receiving actual notice of the decision, vote, or action taken.

(b) Objections: All objections to any procedural inaccuracies and irregularities, except those made at a meeting, shall be made in a writing that is signed by the objecting Owner and provided to the Board of the Association. The date on which the writing is received by the Board shall control for purposes of waiver. Whether at the meeting or in writing, objections must be specific, shall include identification of the particular provision of the Association's governing documents or other law that is alleged to have been violated, and shall include a brief statement of the facts supporting the alleged violation.

(c) Non-Waivable Irregularities: Any procedural inaccuracy and irregularity that is the result of fraud or that was done knowingly and intentionally in violation the Association's governing documents or applicable law shall not be waived.

#### 11.11 ASSUMPTION OF RISK, RELEASE OF LIABILITY, AND INDEMNIFICATION:

(a) General Assumption of Risk: In consideration for use of the common areas of the Association, including but not limited to: (1) any water features and related facilities including but not limited to any pools, hot tubs, splash pads, decks, tables, chairs, equipment, sprinklers, irrigations systems, and other water systems; (2) any facilities including but not limited to any buildings, clubhouses, kitchens, fitness rooms and related equipment, game rooms and related equipment, theater rooms and related equipment, restrooms, laundry rooms, parking areas, walkways, streets, and grass areas; (3) any gathering areas including but not limited to pavilions and related tables, chairs, and other equipment; (4) any play areas including but not limited to children's play areas and related sand boxes, playgrounds, play equipment, and other related equipment; and (5) any other common areas, limited common areas, property, equipment, and facilities of every kind owned or maintained by the Association, each person that makes use of the common areas in any way shall be deemed to acknowledge, accept, and ASSUME ALL RISK, including but not limited to temporary or permanent personal injury, illness, disability, paralysis, death, and harm of any kind, and property damage of any kind, in any way arising from or related to such use. Each such person is further deemed to understand and acknowledge such use of the common areas may involve risks that include but are not limited to drowning, burns, sensitivities to and injuries arising from pool chemicals, snow, ice, or water on surfaces, slips and falls, trip hazards, cardiovascular stress, the reckless conduct of others, equipment malfunctions and failures, and other apparent, hidden, and unforeseeable dangers. Each such person is further deemed to understand and acknowledge that such use of the common areas is not supervised by the Association or its agents, that the Association does not employ lifeguards or other staff to protect the person's interests, and that the person is fully and solely responsible for their own proper and careful use of the common areas regardless of their condition. As part of accepting all risk, each such person is further deemed to acknowledge, represent, and covenant that the person has, or will immediately upon entering or using the common areas, inspect and carefully consider the common areas, and that such use of the common areas constitutes an acknowledgment that the common areas have been inspected and carefully considered, and that the

person finds and accepts the common areas as being safe and reasonably suited for the purposes of such use.

(b) Health Assumption of Risk: In further consideration for use of the common areas of the Association, each person that makes use of the common areas in any way shall be deemed to understand and acknowledge the health hazards of viruses, bacteria, fungi, germs, spores, protozoa, pathogens, diseases, bodily fluids, and contaminants, (the "Health Hazards") and to acknowledge, accept, and ASSUME ALL RISK related to the Health Hazards. Each such person shall be deemed to understand and acknowledge that the person may be exposed to the Health Hazards from or while using the common areas, and that the risks include but are not limited to temporary or permanent personal injury, illness, or disability, or even death. Each such person shall be deemed to understand and acknowledge that the risk of becoming exposed to or infected by the Health Hazards from or while using the common areas may result from the actions, omissions, or negligence of the person or others, including but not limited to the Association and any of its agents, managers, contractors, directors, officers, volunteers, employees, Owners, or residents, and their families, children, and guests of any of the foregoing.

(c) Covenants, Conditions, Restrictions, Resolutions, and Rules of the Association: Each person that makes use of the common areas of the Association in any way shall be deemed to understand and acknowledge that the Association hereby makes the common areas available for authorized use only, and that use of the common areas is strictly voluntary and not required in any way. Each such person shall be deemed to understand and acknowledge that the person has an affirmative obligation to seek out, read, understand, and comply with all covenants, conditions, restrictions, and rules related to the common areas, and that the person shall be fully and solely responsible for ensuring that the person's family, children, and guests also abide by all such covenants, conditions, restrictions, and rules, and that the person shall be fully and solely responsible for such family, children, and guests and their actions or omissions, and for any harm or damage they cause directly or indirectly, whether they are the person's own or their guests'. Each such person is further deemed to certify and covenant that, while using the common areas, the person shall obey all instructions given either verbally or in writing by the Association or its representatives, and that the person shall be fully and solely responsible to ensure that the person's family, children, and guests do likewise.

(d) Warnings, Rules, and Regulations Regarding Health Hazards: Each person that makes use of the common areas of the Association in any way shall be deemed to understand and acknowledge that federal, state, or local agencies or health departments may have and may yet promulgate warnings, rules, and regulations related to the Health Hazards, that the person has an affirmative obligation to seek out, read, understand, and comply with all such warnings, rules, and regulations as they may issue or change from time to time, and that the person shall fully comply with all such warnings, rules, and regulations while making use of the common areas, and that the person shall be fully and solely responsible to ensure that the person's family, children, and guests do likewise.

(e) No Responsibility: Each person that makes use of the common areas of the Association in any way shall be deemed to understand and acknowledge that the Association and its representatives are not responsible for any lost, stolen, or damaged personal property belonging to the person or any of the person's family, children, or guests, including while such property is located in, on, or around the common area or other facilities or property of the Association, including any parking lots.

(f) Release, Waiver of Liability, and Indemnification: In further consideration for use of the common areas of the Association, each person shall be deemed to FOREVER WAIVE any and all claims and causes of action against the Association and its agents, managers, contractors, directors, officers, volunteers, employees, Owners, residents, and insurers (the "Released Parties") arising out of or related in any way to the person's use, and the use by any of the person's family, children, or guests, of the common areas. Each such person is further deemed to FOREVER RELEASE and covenant to HOLD HARMLESS the Released Parties from any and all liabilities to the person, and to any of the person's family, children, and guests, for any claims or causes of action arising out of or in any way related to the ACTS, OMISSIONS, or NEGLIGENCE of the Association and its agents, managers, directors, officers, employees, and volunteers. Each such person is further deemed to covenant to INDEMNIFY and DEFEND the Released Parties from and against any and all liabilities, obligations, losses, damages, penalties, actions, claims, suits, judgments, costs, expenses, and disbursements of any kind or nature whatsoever, including but not limited to attorneys' fees and all related costs, (the "Indemnified Liabilities") caused directly or indirectly to the person or any of the person's family, children, or guests by the Association and its agents, manager's directors, officers, employees, and volunteers, or caused directly or indirectly to any of the Released Parties by the person or any of the person's family, children, or guests.

11.12 CONSTRUCTION, SEVERABILITY, NUMBER, CAPTIONS: This Declaration shall be liberally construed to accomplish the purposes thereof as stated in the introductory paragraphs hereof. Nevertheless, each provision of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision shall not affect the validity or enforceability of the remaining part of that or any other provision

As used herein, the singular shall include the plural and the plural the singular, and 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.

[SIGNATURES ON THE FOLLOWING PAGE]

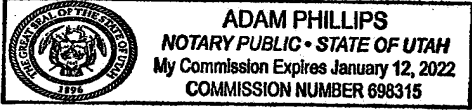
IN WITNESS WHEREOF, the Association adopted this First Amended & Restated Declaration of Covenants, Conditions, and Restrictions for and respecting Riverstone Townhomes the 26<sup>th</sup> day of May, 2021.

**The Association:**

By: Cole Rowser  
Cole Rowser, Director, Riverstone Townhomes Homeowners Association, Inc.

STATE OF UTAH                    }  
  ss  
COUNTY OF MORGAN        }

On this 26<sup>th</sup> day of May, 2021, the above-name individual, proven by satisfactory evidence, personally appeared before me and, while under oath or affirmation, did state that he is a Director of the Riverstone Townhomes Homeowners Association, Inc., did state that he is authorized to sign this document on behalf of the Association, and did acknowledge that the Association thereby executed the same.



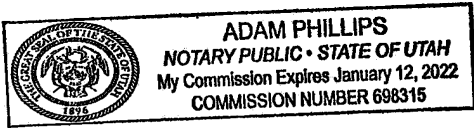
Adam Phillips  
Notary Public

**The Declarant:**

By: Cole Rowser  
Cole Rowser, Manager, Riverstone Townhomes, LLC

STATE OF UTAH                    }  
  ss  
COUNTY OF MORGAN        }

On this 26<sup>th</sup> day of May, 2021, the above-name individual, proven by satisfactory evidence, personally appeared before me and, while under oath or affirmation, did state that he is a Manager of Riverstone Townhomes, LLC, which Utah entity is the Declarant, did state that he is authorized to sign this document on behalf of the Declarant, and did acknowledge that the Declarant thereby executed the same.



Adam Phillips  
Notary Public

**EXHIBIT "A"****RIVERSTONE TOWNHOMES – PHASE I LEGAL DESCRIPTION**

PART OF THE NORTHEAST QUARTER OF SECTION 35, AND THE NORTHWEST QUARTER OF SECTION 36, TOWNSHIP 4 NORTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT, SAID POINT BEING N89°58'33"W 352.73 FEET AND S00°01'27"W 968.75 FEET FROM THE NORTHEAST CORNER OF SECTION 35; THENCE S41°25'00"E 64.16 FEET; THENCE S69°20'21"W 166.92 FEET; THENCE ALONG A TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 15.00 FEET, AN ARC LENGTH OF 23.56 FEET, A DELTA ANGLE OF 90°00'00", A CHORD BEARING OF S24°20'21"W, AND A CHORD LENGTH OF 21.21 FEET; THENCE S20°39'39"E 423.46 FEET; THENCE N69°20'21"E 123.17 FEET; THENCE S20°39'39"E 170.17 FEET; THENCE N69°20'21"E 128.89 FEET TO THE WESTERLY LINE OF HSC MORGAN SUBDIVISION A COMMERCIAL SUBDIVISION; THENCE S18°35'00"E ALONG SAID WESTERLY LINE, 156.72 FEET; THENCE N83°00'00"E 114.09 FEET; THENCE S16°43'07"E 18.59 FEET; THENCE S69°10'00"W 121.49 FEET; THENCE S69°11'17"W 369.23 FEET; THENCE N67°41'38"W 9.65 FEET; THENCE S84°00'00"W 18.67 FEET; THENCE N73°09'03"W 18.36 FEET; THENCE S83°27'25"W 32.03 FEET; THENCE N20°35'54"W 318.75 FEET; THENCE N20°46'51"W 44.62 FEET; THENCE N69°20'21"E 145.26 FEET; THENCE N20°39'39"W 403.42 FEET; THENCE ALONG A TANGENT CURVE TURNING TO THE LEFT WITH A RADIUS OF 15.00 FEET, AN ARC LENGTH OF 23.56 FEET, A DELTA ANGLE OF 90°00'00", A CHORD BEARING OF N65°39'39"W, AND A CHORD LENGTH OF 21.21 FEET; THENCE S69°20'21"W 131.13 FEET; THENCE N20°46'51"W 60.00 FEET; THENCE N69°20'21"E 365.44 FEET TO THE POINT OF BEGINNING.

CONTAINING 202,283 SQUARE FEET OR 4.644 ACRES MORE OR LESS

PART OF 00-0004-0921, 04-174

Including:

Lots 1-27, Parcel A, and the Common Area

Parcel Nos. 00-0088-1361 – 1389

The Phase 1 Plat of Riverstone Townhomes follows this page.



**EXHIBIT "B"**

**RIVERSTONE TOWNHOMES – PHASE 2 LEGAL DESCRIPTION**

PART OF THE NORTHEAST QUARTER OF SECTION 35, TOWNSHIP 4 NORTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY RIGHT OF WAY LINE OF 100 WEST STREET, SAID POINT BEING N89°58'33"W 509.01 FEET AND S00°01'27"W 1175.35 FEET FROM THE NORTHEAST CORNER OF SECTION 35; THENCE S20°39'39"E ALONG THE WESTERLY RIGHT OF WAY LINE OF 100 WEST STREET, 340.33 FEET TO THE NORTHERLY LINE OF RIVERSTONE TOWNHOMES PHASE 1; THENCE S69°20'21"W ALONG SAID NORTHERLY LINE, 145.26 FEET; THENCE N20°46'51"W 340.33 FEET; THENCE N69°20'21"E 145.97 FEET TO THE POINT OF BEGINNING.

CONTAINING 49,557 SQUARE FEET OR 1.138 ACRES MORE OR LESS.

Including:

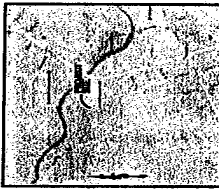
Lots 28-43 and the Common Area

Parcel Nos. 00-0088-5328 – 5344

The Phase 2 Plat of Riverstone Townhomes follows this page.

# RIVERSTONE TOWNHOMES PHASE 2

PART OF THE NORTHEAST QUARTER OF SECTION 35, TOWNSHIP 4 NORTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY  
MORGAN CITY, MORGAN COUNTY, UTAH  
JANUARY, 2023  
SHEET 1 OF 1



VICINITY MAP  
SCALE 1" = 100'

**AGRICULTURAL NOTE**  
AN ESTABLISHED AGRICULTURAL OPERATION IN OR NEAR THE NEARBY QUARTER OF SECTION 35, TOWNSHIP 4 NORTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, IS NOT TO BE DISRUPTED BY THE PROPOSED DEVELOPMENT. THE DEVELOPER SHALL MAINTAIN ACCESS TO THE AGRICULTURAL OPERATION AND SHALL PROVIDE FOR THE PROTECTION OF THE OPERATION'S WATER RIGHTS AND OTHER INTERESTS. THE DEVELOPER SHALL MAINTAIN ACCESS TO THE AGRICULTURAL OPERATION AND SHALL PROVIDE FOR THE PROTECTION OF THE OPERATION'S WATER RIGHTS AND OTHER INTERESTS. THE DEVELOPER SHALL MAINTAIN ACCESS TO THE AGRICULTURAL OPERATION AND SHALL PROVIDE FOR THE PROTECTION OF THE OPERATION'S WATER RIGHTS AND OTHER INTERESTS.

**LEGEND**

- SECTION CORNER
- 1/4 SECTION CORNER
- POINT OF NEUTRALITY
- SECTION LINE
- ADJOINING PROPERTY
- ROAD CENTERLINE
- PRIVATE DRIVE
- LIMITED COMMON AREA

Scale 1" = 30'

**NOTES**

1. TOTAL AREA OF DEVELOPMENT: 1.138 ACRES
2. PROPOSED DEVELOPMENT IS CURRENTLY CATEGORIZED AGRICULTURAL LAND
3. DEVELOPMENT IS TO BE CONDUCTED IN ACCORDANCE WITH THE UTAH ZONING ACT, AS AMENDED
4. DEVELOPMENT IS TO BE CONDUCTED IN ACCORDANCE WITH THE UTAH ZONING ACT, AS AMENDED
5. SITE BOUNDARIES FROM BUREAU OF LAND MANAGEMENT (BLM) RECORDS ARE SHOWN AS DOTTED LINES
6. ALL UTILITIES ARE SHOWN AS DOTTED LINES
7. ALL UTILITIES ARE SHOWN AS DOTTED LINES
8. ALL UTILITIES ARE SHOWN AS DOTTED LINES
9. ALL UTILITIES ARE SHOWN AS DOTTED LINES
10. ALL UTILITIES ARE SHOWN AS DOTTED LINES
11. ALL UTILITIES ARE SHOWN AS DOTTED LINES
12. ALL UTILITIES ARE SHOWN AS DOTTED LINES

**BOUNDARY DESCRIPTION**

PART OF THE NORTHEAST QUARTER OF SECTION 35, TOWNSHIP 4 NORTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, DESCRIBED AS FOLLOWS:  
BEING A POINT ON THE WESTERLY BOUNDARY OF THE NEARBY QUARTER OF SECTION 35, TOWNSHIP 4 NORTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, DESCRIBED AS FOLLOWS:  
BEING A POINT ON THE WESTERLY BOUNDARY OF THE NEARBY QUARTER OF SECTION 35, TOWNSHIP 4 NORTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, DESCRIBED AS FOLLOWS:  
BEING A POINT ON THE WESTERLY BOUNDARY OF THE NEARBY QUARTER OF SECTION 35, TOWNSHIP 4 NORTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, DESCRIBED AS FOLLOWS:

**MARRATIVE**

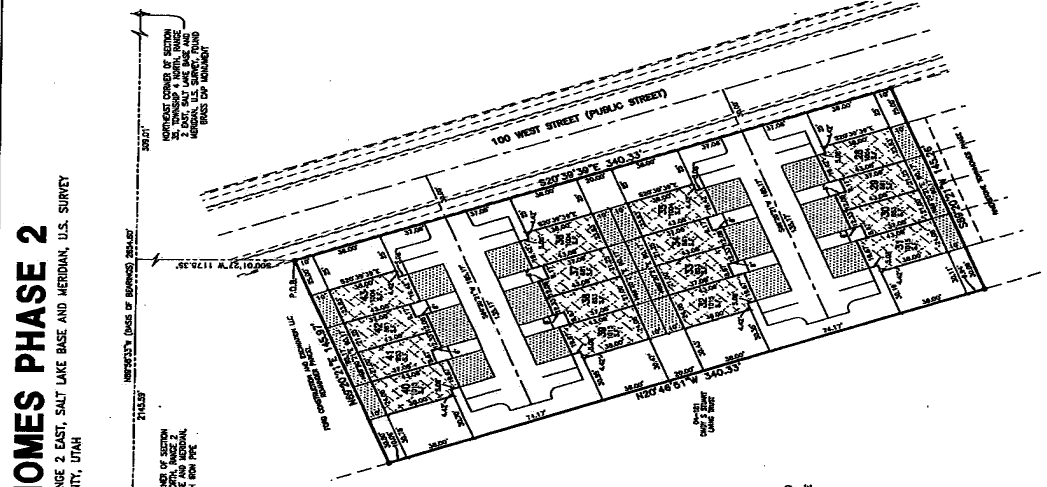
THE PURPOSE OF THIS SURVEY IS TO ESTABLISH THE BOUNDARY OF THE NEARBY QUARTER OF SECTION 35, TOWNSHIP 4 NORTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, DESCRIBED AS FOLLOWS:  
BEING A POINT ON THE WESTERLY BOUNDARY OF THE NEARBY QUARTER OF SECTION 35, TOWNSHIP 4 NORTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, DESCRIBED AS FOLLOWS:  
BEING A POINT ON THE WESTERLY BOUNDARY OF THE NEARBY QUARTER OF SECTION 35, TOWNSHIP 4 NORTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, DESCRIBED AS FOLLOWS:

**PROJECT DATA**

TOWNSHIP	18 UNITS
RANGE	24
SECTION	35
TOTAL AREA	1.138 AC.
ZONE	RM-1

**ADDRESS TABLE**

ADDRESS	AREA
100 WEST STREET	0.100
101 WEST STREET	0.100
102 WEST STREET	0.100
103 WEST STREET	0.100
104 WEST STREET	0.100
105 WEST STREET	0.100
106 WEST STREET	0.100
107 WEST STREET	0.100
108 WEST STREET	0.100
109 WEST STREET	0.100
110 WEST STREET	0.100
111 WEST STREET	0.100
112 WEST STREET	0.100
113 WEST STREET	0.100
114 WEST STREET	0.100
115 WEST STREET	0.100
116 WEST STREET	0.100
117 WEST STREET	0.100
118 WEST STREET	0.100
119 WEST STREET	0.100
120 WEST STREET	0.100
121 WEST STREET	0.100
122 WEST STREET	0.100
123 WEST STREET	0.100
124 WEST STREET	0.100
125 WEST STREET	0.100
126 WEST STREET	0.100
127 WEST STREET	0.100
128 WEST STREET	0.100
129 WEST STREET	0.100
130 WEST STREET	0.100
131 WEST STREET	0.100
132 WEST STREET	0.100
133 WEST STREET	0.100
134 WEST STREET	0.100
135 WEST STREET	0.100
136 WEST STREET	0.100
137 WEST STREET	0.100
138 WEST STREET	0.100
139 WEST STREET	0.100
140 WEST STREET	0.100
141 WEST STREET	0.100
142 WEST STREET	0.100
143 WEST STREET	0.100
144 WEST STREET	0.100
145 WEST STREET	0.100
146 WEST STREET	0.100
147 WEST STREET	0.100
148 WEST STREET	0.100
149 WEST STREET	0.100
150 WEST STREET	0.100



SURVEY FILE NO. S00908

**SURVEYOR'S CERTIFICATE**  
I, THE UNDERSIGNED, BEING A PROFESSIONAL LAND SURVEYOR IN THE STATE OF UTAH, IN ACCORDANCE WITH THE PROVISIONS OF THE PROFESSIONAL LAND SURVEYING ACT, HAVE SURVEYED AND PLATTED THE FOREGOING AND THE PROPERTY DESCRIBED IN THIS PLAT IS ACCORDING TO THE RECORDS OF THE PUBLIC RECORDS OF THE COUNTY OF MORGAN, STATE OF UTAH, AND THE PLAT IS CORRECT AND TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I HAVE BEEN DULY QUALIFIED BY THE BOARD OF PROFESSIONAL LAND SURVEYORS OF THE STATE OF UTAH AND I AM A MEMBER THEREOF. I HAVE BEEN DULY QUALIFIED BY THE BOARD OF PROFESSIONAL LAND SURVEYORS OF THE STATE OF UTAH AND I AM A MEMBER THEREOF. I HAVE BEEN DULY QUALIFIED BY THE BOARD OF PROFESSIONAL LAND SURVEYORS OF THE STATE OF UTAH AND I AM A MEMBER THEREOF.

**OWNERS INDICATION AND CERTIFICATION**  
I, THE UNDERSIGNED, BEING A PROFESSIONAL LAND SURVEYOR IN THE STATE OF UTAH, IN ACCORDANCE WITH THE PROVISIONS OF THE PROFESSIONAL LAND SURVEYING ACT, HAVE SURVEYED AND PLATTED THE FOREGOING AND THE PROPERTY DESCRIBED IN THIS PLAT IS ACCORDING TO THE RECORDS OF THE PUBLIC RECORDS OF THE COUNTY OF MORGAN, STATE OF UTAH, AND THE PLAT IS CORRECT AND TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I HAVE BEEN DULY QUALIFIED BY THE BOARD OF PROFESSIONAL LAND SURVEYORS OF THE STATE OF UTAH AND I AM A MEMBER THEREOF. I HAVE BEEN DULY QUALIFIED BY THE BOARD OF PROFESSIONAL LAND SURVEYORS OF THE STATE OF UTAH AND I AM A MEMBER THEREOF.

**ACKNOWLEDGMENT**  
STATE OF UTAH, COUNTY OF MORGAN, I, THE UNDERSIGNED, BEING A PROFESSIONAL LAND SURVEYOR IN THE STATE OF UTAH, IN ACCORDANCE WITH THE PROVISIONS OF THE PROFESSIONAL LAND SURVEYING ACT, HAVE SURVEYED AND PLATTED THE FOREGOING AND THE PROPERTY DESCRIBED IN THIS PLAT IS ACCORDING TO THE RECORDS OF THE PUBLIC RECORDS OF THE COUNTY OF MORGAN, STATE OF UTAH, AND THE PLAT IS CORRECT AND TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I HAVE BEEN DULY QUALIFIED BY THE BOARD OF PROFESSIONAL LAND SURVEYORS OF THE STATE OF UTAH AND I AM A MEMBER THEREOF. I HAVE BEEN DULY QUALIFIED BY THE BOARD OF PROFESSIONAL LAND SURVEYORS OF THE STATE OF UTAH AND I AM A MEMBER THEREOF.

**Reeve & Associates, Inc.**  
Professional Land Surveyors  
11111 100th Street, Suite 100  
Morgan, Utah 84053  
Phone: 435-636-1111  
Fax: 435-636-1112  
www.reeveandassociates.com

**MORGAN COUNTY RECORDER**  
City of Morgan, Utah  
MORGAN COUNTY ENGINEER  
MORGAN CITY PLANNING COMMISSION APPROVAL  
MORGAN CITY ATTORNEY  
MORGAN CITY COUNCIL ACCEPTANCE

**MORGAN CITY ENGINEER**  
I HEREBY CERTIFY THAT THE FOREGOING PUBLIC SURVEY IS CORRECT AND TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I HAVE BEEN DULY QUALIFIED BY THE BOARD OF PROFESSIONAL LAND SURVEYORS OF THE STATE OF UTAH AND I AM A MEMBER THEREOF.

**MORGAN CITY PLANNING COMMISSION APPROVAL**  
I HEREBY CERTIFY THAT THE FOREGOING PUBLIC SURVEY IS CORRECT AND TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I HAVE BEEN DULY QUALIFIED BY THE BOARD OF PROFESSIONAL LAND SURVEYORS OF THE STATE OF UTAH AND I AM A MEMBER THEREOF.

**MORGAN CITY ATTORNEY**  
I HEREBY CERTIFY THAT THE FOREGOING PUBLIC SURVEY IS CORRECT AND TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I HAVE BEEN DULY QUALIFIED BY THE BOARD OF PROFESSIONAL LAND SURVEYORS OF THE STATE OF UTAH AND I AM A MEMBER THEREOF.

**MORGAN CITY COUNCIL ACCEPTANCE**  
I HEREBY CERTIFY THAT THE FOREGOING PUBLIC SURVEY IS CORRECT AND TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I HAVE BEEN DULY QUALIFIED BY THE BOARD OF PROFESSIONAL LAND SURVEYORS OF THE STATE OF UTAH AND I AM A MEMBER THEREOF.

**MORGAN COUNTY RECORDER**  
City of Morgan, Utah  
MORGAN COUNTY ENGINEER  
MORGAN CITY PLANNING COMMISSION APPROVAL  
MORGAN CITY ATTORNEY  
MORGAN CITY COUNCIL ACCEPTANCE

**MORGAN CITY ENGINEER**  
I HEREBY CERTIFY THAT THE FOREGOING PUBLIC SURVEY IS CORRECT AND TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I HAVE BEEN DULY QUALIFIED BY THE BOARD OF PROFESSIONAL LAND SURVEYORS OF THE STATE OF UTAH AND I AM A MEMBER THEREOF.

**MORGAN CITY PLANNING COMMISSION APPROVAL**  
I HEREBY CERTIFY THAT THE FOREGOING PUBLIC SURVEY IS CORRECT AND TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I HAVE BEEN DULY QUALIFIED BY THE BOARD OF PROFESSIONAL LAND SURVEYORS OF THE STATE OF UTAH AND I AM A MEMBER THEREOF.

**MORGAN CITY ATTORNEY**  
I HEREBY CERTIFY THAT THE FOREGOING PUBLIC SURVEY IS CORRECT AND TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I HAVE BEEN DULY QUALIFIED BY THE BOARD OF PROFESSIONAL LAND SURVEYORS OF THE STATE OF UTAH AND I AM A MEMBER THEREOF.

**MORGAN CITY COUNCIL ACCEPTANCE**  
I HEREBY CERTIFY THAT THE FOREGOING PUBLIC SURVEY IS CORRECT AND TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I HAVE BEEN DULY QUALIFIED BY THE BOARD OF PROFESSIONAL LAND SURVEYORS OF THE STATE OF UTAH AND I AM A MEMBER THEREOF.



**EXHIBIT "C"**

The Articles of Incorporation of Riverstone Townhomes Homeowners Association, Inc., follow this page.

Date: 01/26/2021  
Receipt Number: 8732594  
Amount Paid: \$30.00

RECEIVED  
JAN 26 2021

Utah Div. of Corp. & Comm. Code

**Articles of Incorporation  
Riverstone Townhomes Homeowners Association, Inc.  
A Non-Profit Corporation**

I, the Incorporator, a natural person age 18 years or older, adopt this Articles of Incorporation to form a nonprofit corporation under the Utah Revised Nonprofit Corporation Act, Utah Code § 16-6a-101 et. seq. (as amended from time to time, the "Act").

**Article One  
Name**

The name of the nonprofit corporation is Riverstone Townhomes Homeowners Association, Inc., hereafter referred to as "the Association."

**Article Two  
Registered Agent and Office**

The name of the initial registered agent and registered office in the State of Utah are:

Cole Rowser  
246 S. State St.  
Morgan, UT 84050

**Article Three  
Name and Address of the Incorporator**

The name and residence of the Incorporator is:

Name:

Address:

Cole Rowser

246 S. State St.  
Morgan, UT 84050

26 Jan 21  
HJB 1/27/2021

JAN 26 '21 PM 2:15

Riverstone Townhomes Homeowners Association, Inc., A Utah Non-Profit Corporation  
Articles of Incorporation  
Page 1

12135169-0140

## **Article Four Duration**

The Association's duration is perpetual.

## **Article Five Purposes**

The Association is organized as a nonprofit corporation and shall be operated exclusively for the purpose of maintaining, operating, and governing the Riverstone Townhomes Subdivision located in Morgan, Utah (the "Subdivision") and the related systems installed therein. The Subdivision has been or will be created by the recording of a Subdivision Plat for Riverstone Townhomes (the "Plat") and the recording of an instrument entitled Declaration of Protective Covenants, Conditions, and Restrictions for and respecting Riverstone Townhomes" (the "Declaration"), in the office of the Recorder of Morgan County, State of Utah. The Plat and Declaration are hereby incorporated by reference and made a part of these Articles. The Association shall be operated to perform the function and provide the services contemplated by the Declaration. Except as otherwise provided herein or as may be required by the context hereof, all capitalized terms defined in the Declaration shall have such defined meaning when used herein.

No Dividend shall be paid to, and no part of the net income, if any, of the Association shall be distributed to any of the Association members (the "Members"), the Board of Directors or to the officers of the Association, except as otherwise provided herein, in the Bylaws, in the Declaration, or by Utah law.

## **Article Six Dissolution**

When the Association dissolves, it will, after paying or making provision for the payment of all liabilities of the Association, distribute all corporation assets to its Members.

## **Article Seven Powers and Restrictions**

Subject to the purposes declared in Article V above and any limitations herein expressed, the Association shall have and may exercise the power to do any and all things that the Association is authorized or required to do under the Declaration, as the same may from time to time be

amended, including, without limiting the generality of the foregoing, the power to fix, levy and collect the assessments provided for in the Declaration.

No part of the net earnings or assets of the Association will inure to the benefit of, or be distributable to, members of its Board of Directors (the "Directors"), officers or any other private persons. However, the Association may pay reasonable compensation for services provided and make payments and distributions in furtherance of the purposes set forth in the Articles of Incorporation to individuals and entities other than to Directors, Members, or entities owned in whole or part by Directors or Members.

## **Article Eight Board of Directors**

The number of Directors to constitute the first Board of Directors is three or more natural persons. After this initial Board of Directors is organized, it may add to the number of Directors in the manner provided in the Bylaws and consistent with the laws of the State of Utah. The Directors shall hold office until the election of their successors for the term stated in the Bylaws.

The initial members of the Board of Directors are:

Cole Rowser  
246 S. State St.  
Morgan, UT 84050

Dianne Ford  
1110 East South Weber Dr.  
South Weber, UT 84405

Michael Ford  
1110 East South Weber Dr.  
South Weber, UT 84405

## **Article Nine Membership, Stock and Voting Rights**

The Association will not issue stock. The Association will have voting members. Each Owner of a Lot within the Subdivision (an "Owner") shall be a Member. The rights and duties appertaining to the Association membership shall be governed by the Declaration and the Bylaws. Membership in the Association shall be mandatory, and not optional, and shall be appurtenant to and may not be separated from the ownership of any Lot. No person or entity other than an Owner of a Lot may be a Member. Membership in the Association shall begin immediately and

automatically upon becoming an owner of a lot and shall cease immediately and automatically upon ceasing to be an Owner of such a Lot.

Each Owner of a Lot, including the Declarant, shall be entitled to one (1) vote for each Lot owned.

### **Article Ten Bylaws**

The Board of Directors shall adopt Bylaws which are not inconsistent with Utah law, the Declaration or these Articles for the regulation and management of the affairs of the Association.

### **Article Eleven Amendments**

Except as otherwise provided by Utah law or by the Declaration, these Articles of Incorporation may be amended only upon the affirmative vote of a majority of the member of the Board of Directors. These Articles may not be amended so as to provide for any matter that is inconsistent with the provisions of the Declaration (as the Declaration may from time to time be amended).

### **Article Twelve Conflict with Declaration**

In the event of any conflict or inconsistency between the provision of these Articles and the provisions of the declaration and/or the Bylaws (as the Declaration and the Bylaws may from time to time be amended), the provisions of the Declaration shall control, and the conflicting provision(s) of the Articles and Bylaws, as the case may be, shall be amended to conform to the provision(s) of the Declaration.

JAN 26 '21 PM2:15

**Acknowledgment**

I, Cole Rowser, hereby acknowledge that I am the initial registered agent of the Riverstone Townhomes Homeowners Association, Inc., and that I consent to act as such.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2020.

See next page for signature

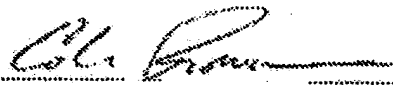
\_\_\_\_\_  
Cole Rowser

JAN 26 '21 PM2:15

**Acknowledgment**

I, Cole Rowser, hereby acknowledge that I am the initial registered agent of the Riverstone Townhomes Homeowners Association, Inc., and that I consent to act as such.

Dated this 17 day of December, 2020

  
.....  
Cole Rowser

JAN 26 '21 PM 2:15

**EXHIBIT "D"**

The Bylaws of Riverstone Townhomes Homeowners Association, Inc., follow this page.



**SECOND  
BYLAWS  
OF  
RIVERSTONE TOWNHOMES HOMEOWNERS ASSOCIATION, INC.  
A Utah Nonprofit Corporation**

Pursuant to the provisions of the Utah Community Association Act and the Utah Revised Nonprofit Corporation Act, these Bylaws are hereby adopted as the Bylaws of Riverstone Townhomes Homeowners Association, Inc., a Utah nonprofit corporation.

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**1 RECITALS**

A. WHEREAS, the original bylaws adopted by the Association (the "Original Bylaws") were recorded on February 03, 2021, as Entry No. 155389 in Book No. 373, Page 1803, in the office of the Recorder of Morgan County, State of Utah, and may have been later recorded for some phases of the Project;

B. WHEREAS, the Original Bylaws provide that they may be amended, altered or repealed and new bylaws may be made and adopted only upon the approval of at least seventy-five percent (75%) of the votes cast at a meeting of the Members called for such purpose at which a quorum is present;<sup>1</sup>

C. WHEREAS, the original Declaration of Protective Covenants, Conditions, and Restrictions for and respecting Riverstone Townhomes (the "Original Declaration") was recorded on December 21, 2020, as Entry No. 154599 in Book No. 371, Page 1510, in the office of the Recorder of Morgan County, State of Utah, and may have been later recorded for some phases of the Project;

D. WHEREAS, the Association is subject to Utah Community Association Act, Utah Code Ann. § 57-8a-101 et. seq. (the "Act"), is organized as Riverstone Townhomes Homeowners Association Inc., a Utah nonprofit corporation (the "Association"), and is also subject to the Utah Revised Nonprofit Corporation Act, Utah Code Ann. § 16-6a-101 et. seq. (the "Nonprofit Act");

E. WHEREAS, the Original Declaration established two classes of Members: (1) Class A Members that are Owners with the exception of the Developer during the entire period when the Developer is a Class B Member; and (2) a sole Class B Member that is the Developer that shall be automatically converted to a Class A Member upon conveying the last Lot owned by the Developer to a new Class A Member;<sup>2</sup>

F. WHEREAS, the Original Declaration entitled each Class A Member to a maximum of one (1) vote per Lot owned,<sup>3</sup> and the sole Class B Member to five (5) votes for each Lot owned by the Developer;<sup>4</sup>

G. WHEREAS, the Developer currently owns at least ninety percent (90%) of the 97 Lots of Phase 1 of the Project and all of the Phase 2 property of the Project;

H. WHEREAS, the Developer is also the Declarant;

NOW THEREFORE,

I. The Developer hereby casts all of its votes (whether Class A or Class B votes, whichever are greater in number) in favor of replacing the Original Bylaws with these second bylaws (the "Bylaws");

J. Pursuant to Article 10.1 of the Original Bylaws and section 57-8a-104 of the Act, the Association and the Declarant hereby certify that approval was obtained from not less than sixty-seven percent (75%) of the voting rights in the Association, approving and consenting to these Bylaws, their adoption, and recording;

K. These RECITALS are made part of these Bylaws.

---

<sup>1</sup> Original Bylaws, 10.1

<sup>2</sup> Original Declaration, 6.3

<sup>3</sup> *Id.* at 6.3(a)

<sup>4</sup> *Id.* at 6.3(b); *see also* 3.1 and the first paragraph of the Original Declaration

## 2 DEFINITIONS

For purposes of these Bylaws, the following terms shall have the following meanings.

- A. **“Act”** means the Utah Community Association Act, Utah Code §§ 57-8a-101 *et. seq.*, as it may be amended from time to time.
- B. **“Action”** or **“action”** means an official action taken, decision made, or thing done by the Association or Board. A **“proposed action”** means a formal proposal to take an action in accordance with these Bylaws and applicable law. An action may only be taken in a meeting of Members, as an action by written ballot, in a Board meeting, or as an action without a Board meeting in accordance with these Bylaws and applicable law.
- C. **“Amenities”** means Common Area not generally considered essential for access to a Unit such as parks, play areas, clubhouses, pools, and other nonessential or recreational facilities. **“Amenities”** does not mean Common Areas such as Association streets, sidewalks, and other Common Area generally considered essential for access to a Unit or Limited Common Area appurtenant to a particular Unit.
- D. **“Articles”** or **“Articles of Incorporation”** means the most recent articles of incorporation or merger of the Association as they may be amended or restated from time to time, and as duly filed with the state in which the Association is incorporated.
- E. **“Association”** means Riverstone Townhomes Homeowners Association, Inc. and, as the context requires, the property, Directors, Officers, Managers, or other agents of the Association. The Association is organized as a Utah nonprofit corporation under the Nonprofit Act and is subject to that act and the Act.
- F. **“Attorney-in-Fact”** or **“attorney-in-fact”** means an individual who is authorized to act as an agent of a Person or an estate as evidenced by a duly-executed Power of Attorney, Designation of Agent, Letter Testamentary, Letter of Administration, or similar authorizing document. An attorney-in-fact may act on behalf of an Owner or, if the attorney-in-fact represents a deceased Owner’s estate may act with respect to the deceased Owner’s Unit as if the Owner, for purposes of all meetings, proxies, and voting described in the Governing Documents but not for purposes of eligibility requirements.
- G. **“Board”** or **“Board of Directors”** means the entity, regardless of name, with primary authority to manage the affairs of the Association.
- H. **“Bylaws”** means the most recent bylaws of the Association as they may be amended or restated from time to time, and as duly recorded in the recorder’s office of the county in which the Association is located.
- I. **“Common Area”** means property owned or managed by the Association that is designated for the use of one or more of the Units or Owners and/or Residents. Non-resident Owners may be limited in their use of various Common Areas as provided by the Governing Documents or applicable law.

- J. **“Control Period”** means the Declarant’s period of administrative control over the Association.
- K. **“Declarant”** shall mean Riverstone Townhomes, LLC, a Utah Limited Liability Corporation, or its successors or assigns. The Declarant may delegate or assign all or any part of its rights hereunder.
- L. **“Declaration”** means the declaration of covenants, conditions & restrictions of the Association as they may be amended or restated from time to time, and as duly recorded in the county in which the Association is located.
- M. **“Director”** means a member of the Board of Directors.
- N. **“Good Standing”** means: (1) free from any past-due assessments, fines, or other amounts owed to the Association; and (2) free from any unresolved Violations for which written notice has been issued by the Association. A Member is in Good Standing only if all of the Owner(s) and Resident(s) of the Member’s Unit are in Good Standing and if the Member’s Unit itself is in Good Standing.
- O. **“Governing Documents”** means the Association’s duly recorded Declaration, Bylaws, and Plat; the Association’s Articles of Incorporation, as applicable; the duly adopted Resolutions of the Board; and the duly adopted Rules of the Association.
- P. **“Limited Common Area”** means Common Area that is designated for the use of fewer than all of the Units or Owners and/or Residents.
- Q. **“Lot”** means any numbered residential building lot shown on the Plat.
- R. **“Manager”** means any Person engaged by the Board to manage all or part of the Association. Acts of a Manager shall be considered acts of the Association and the Board.
- S. **“Member”** means the Owner(s), taken together, of a Unit such that there is a single Member per Unit and such that notice given to any one such Owner shall be considered notice given to the Member and all such Owners. Membership in the Association shall be appurtenant to and may not be separated from ownership of a Unit.
- T. **“Minutes”** means an official record of the actions taken in (as opposed to a transcript of) a meeting of Members, a Board meeting, a meeting of a committee, action taken by written ballot, and action taken without a Board meeting. Minutes should include: (1) the name of the Association; (2) the type of meeting or a description of the proposed action; (3) the date, time, and place of the meeting or events related to the proposed action; (4) the names of the Directors, Officers, and Owners or their proxies or attorneys-in-fact present at the meeting or involved in an action; (5) whether a quorum was present at the meeting or in the action; and (6) whether the Minutes of a previous meeting or action were approved as read, or as corrected if approved.
- U. **“Nonprofit Act”** means the Utah Revised Nonprofit Corporation Act, Utah Code §§ 16-6a-101 *et. seq.*, as it may be amended from time to time.
- V. **“Officer”** means a Person appointed as an officer of the Association by the Board in accordance with these Bylaws.



- W. **“Owner”** means a Person holding a Present Ownership Interest in a Unit. *See also* Attorney-in-Fact and Owner Representative.
- X. **“Owner Representative”** means a director, officer, member, manager, trustee, or other authorized representative of an Owner that is a legal entity. Anything contrary notwithstanding, an Owner Representative shall be considered an Owner for purposes of all meetings, proxies, voting, and eligibility requirements described in the Governing Documents.
- Y. **“Person”** means a natural person and a corporation, trustee, or other legal entity.
- Z. **“Plat”** means the one or more plats describing the real property of and within the Association as such plats may be amended or restated from time to time, and as duly recorded in the county in which the Association is located.
- AA. **“Present Ownership Interest”** means, with respect to a Unit, (1) a fee simple interest; (2) a joint tenancy, a tenancy in common, or tenancy by the entirety; (3) the interest of a tenant shareholder in a cooperative; (4) a life estate; and (5) an interest held in trust for a Person. Notwithstanding the foregoing, a Present Ownership Interest shall not include a security interest in the Unit such as held under a mortgage, deed of trust, or like instrument.
- BB. **“Resident”** means a natural person who resides in a Unit, and who may be an Owner, an Owner Representative, a tenant, or a dependent or family member of, or member of the same household as, any of the foregoing, or any other Person who resides in the Association.
- CC. **“Resolution”** means a formal, written, and legally binding action or decision of the Association made and approved by the Board. Anything contrary herein notwithstanding, a Resolution shall be considered a Rule for purposes of the Act.
- DD. **“Rule”** means any instrument duly adopted by the Board for the regulation and management of the Association, but does not include and may not conflict with, any provision of the Declaration, Articles of Incorporation, these Bylaws, or a Resolution.
- EE. **“Unit”** means a residential dwelling constructed on the Lot and, to the extent so indicated by the Declaration, a Unit shall include the Lot or portion thereof on which the residential dwelling is constructed.
- FF. **“Violation”** means an act or condition that is not in compliance with the provisions of the Governing Documents.

### **3 MEETINGS OF MEMBERS**

#### **3.1 Annual Meetings of Members**

As scheduled by the Board, one annual meeting of Members shall be held during the first quarter of each calendar year at a place and time designated by the Board. The primary purpose of the annual meeting shall be for electing members of the Board.

#### **3.2 Special Meetings of Members**

Special meetings of Members may be called at any time by the Board or upon written request signed by a majority of the Members and provided to the Board. Such a written request shall state the specific purpose for the meeting requested. The Board shall designate the place, time, and purpose of a special meeting. Notwithstanding, the Board remains the only body authorized to act for and on behalf of the Association and its Members.

#### **3.3 Electronic Meetings of Members**

To the extent arranged by the Board, any or all Members may participate in an annual, special, or other meeting of Members by, or the meeting may be conducted through the use of, any means of communication by which all individuals participating in the meeting may hear each other during the meeting. A Member participating in such a meeting is considered to be present in person at the meeting.

#### **3.4 Notice of Meetings of Members**

The Association shall give to each Member entitled to vote at a meeting of Members written notice of the place, date, time, and purpose of the meeting no less than ten (10) days and no more than thirty (30) days before the meeting. Notice shall be mailed to Members via first-class or registered mail, or provided by electronic means such as email or the Association's website, or given as otherwise provided by law.

Written notice of a meeting of Members shall include a description of any matter(s) that must be approved by the Members or for which the Members' approval is sought.

When giving written notice of a special meeting of Members that was requested by a majority of the Members, the Association shall give notice of the specific purpose for the meeting and any matter that a Member intends to raise for Member approval at the meeting if requested to do so in a signed writing by a person entitled to call the meeting and the request is received by a member of the Board at least ten (10) days before the Association gives notice of the meeting.

#### **3.5 Action by Written Ballot**

At the discretion of the Board, or upon written request signed by Owners representing a majority of the Units and provided to the Board, any action that may be taken at a meeting of Members may alternatively be taken without a meeting and without prior notice if the Association delivers a written ballot in accordance with the following requirements to every Member eligible to vote.

The Secretary shall keep and maintain Minutes of actions by written ballot.

### 3.5.1 Effect

Any action taken by written ballot has the same effect as action taken at a meeting of Members, and may be described as such in any document.

### 3.6 Quorum at Meetings of Members

Except as otherwise provided in the Declaration or these Bylaws, the quorum required at a meeting of Members shall be those Owners present in person or by proxy at the meeting.

### 3.7 Eligibility of Members to Vote

A Member must be eligible to vote for its vote to be counted. A Member is eligible to vote in a meeting of Members or in an action by written ballot only if that Member is in Good Standing for at least thirty (30) days prior to the date of the meeting of Members or the date the written ballot is postmarked, sent, or otherwise delivered. A Member is in Good Standing only if all of the Owner(s) and Resident(s) of the Member's Unit are in Good Standing and if the Member's Unit itself is in Good Standing. A Member that is not eligible to vote is, for purposes of the Nonprofit Act, not entitled to vote.

### 3.8 Voting at Meetings of Members

Any action taken at a meeting of the Members shall be taken by written ballot. Written ballots for such action may be delivered to the Members with written notice of the meeting or at the meeting.

Following a vote at any meeting of Members, the Association shall provide notice of the action taken by written ballot to the Members.

### 3.9 Proxy Appointments by Members

Members may vote in person or by proxy in all meetings of Members.

#### 3.9.1 Content

Each proxy appointment form shall (1) clearly appoint a named individual as the appointing individual's attorney-in-fact and agent to vote as proxy for the appointing individual at a meeting(s) of Members; (2) include a statement that the appointing individual signing the proxy appointment form is certifying under penalty of perjury that the provided information is complete, true, and correct and that, if the Owner is a legal entity, the appointing individual is a duly-authorized representative of the Owner for purposes of the proxy appointment (collectively the "Required Proxy Content").

In addition to the Required Proxy Content, each proxy appointment form shall include clearly-identified locations or fields for the appointing individual to provide the following information: (1) the physical address of the Unit for which the proxy is being appointed; (2) the printed name of the individual being appointed; (3) the date of the meeting at which the proxy is to be exercised or other period of time during which the proxy appointment is valid, as allowed by law; (4) the day, month, and year the proxy appointment form is signed; (5) the appointing individual's signature; and (5) the appointing individual's full legal name (collectively the "Proxy Information").

Exhibit A is an example proxy appointment form that meets the requirements of these Bylaws.

### **3.9.2 Receipt**

An original proxy appointment or a complete copy thereof, electronic or otherwise, must be received by the Association no later than the scheduled date and time of the meeting but no more than one week before such time.

### **3.9.3 Validity**

Each proxy appointment, or complete copy thereof, provided to the Association must be timely received by the Association. Any ballot not timely received by the Association shall not be considered valid and shall not be counted.

Each proxy appointment, or complete copy thereof, returned to the Association shall include all the Required Proxy Content and all of the required Proxy Information. A proxy appointment received by the Association shall not be considered valid and shall not be effective if it does not include all the Required Proxy Content and all of the required Proxy Information or if any of the Proxy Information is not provided in a reasonably legible form or in the identified locations or fields provided on the proxy appointment form for such information.

If multiple proxies are appointed for a particular Unit, the only valid one is that which was issued latest in time; if it is not clear which was issued latest in time then all shall be considered invalid. Acts by invalid proxy shall be considered invalid.

If an Owner dies or is found incompetent after making proxy appointment, the Owner's proxy is valid unless the Association has been notified in writing prior to use of the proxy.

The duly-executed documentation of an attorney-in-fact, if timely received by the Association, shall be accepted in lieu of a proxy appointment.

### **3.9.4 Revocation**

A proxy appointment may be revoked by the issuing Owner or its attorney-in-fact by attending a meeting and voting in person, or by delivering a subsequent proxy appointment that is received by the Association no later than the scheduled date and time of the meeting but no more than one week before the meeting.

### **3.10 Conduct at Meetings of Members**

The Board, or its authorized representatives, shall preside at all meetings of Members. The Secretary, or other authorized person, shall keep and maintain Minutes of meetings of Members.

All voting, including for Directors, at a meeting of Members shall take place using written ballots as described below.

During a meeting of Members, the board shall provide a reasonable opportunity for Owners to offer comments; the Board may limit such comments to one specific time period during the meeting.

Attendance at meetings of Members is limited to Owners or their attorneys-in-fact or proxies, and any Manager. Residents and others that are not Owners may not attend meetings of Members.

The Board may adopt further policies and procedures with regard to conduct at meetings of Members.

### 3.11 Written Ballots

#### 3.11.1 Content

Each written ballot shall: (1) briefly describe one and only one proposed action; (2) provide an opportunity to vote for or against the proposed action; (3) specify the period of time during which the completed ballot must be received by the Association in order to be valid and counted; (4) indicate the number of valid returned ballots needed to meet quorum requirements; (5) state the percentage or other amount of approvals necessary to approve the proposed action; (6) include a statement that only one vote is allowed per Unit and that if more than one ballot is received by the Association from the Owner(s) or its proxy(s) or agent(s) for the same Unit than all of the ballots received for that Unit shall be considered invalid and shall not be counted; (7) include a statement that the voter signing the ballot is certifying under penalty of perjury that the provided information is complete, true, and correct and that, if the Owner is a legal entity, the voter is a duly-authorized representative of the Owner for purposes of the action by written ballot; and (8) be accompanied by written information sufficient for Members to reach an informed decision on the proposed action (collectively the "Required Ballot Content").

In addition to the Required Ballot Content, and with respect to an Owner and its Unit for which a ballot may be cast, each written ballot shall also include clearly-identified locations or fields for the voter to provide the following information: (1) the physical address of the Unit; (2) the printed full legal name of the Owner; (3) an indication as to whether the Owner is a legal entity; (4) the current physical address of the Owner; (5) the voter's printed full legal name, if different than that of the Owner; (6) the voter's current physical address, if different than that of the Owner; (7) the voter's current email address; (8) the voter's current telephone number; (9) the voter's signature; (10) an indication as to whether the voter signing the ballot is: (a) the Owner, (b) the Owner's proxy or agent, or (c) the Owner's authorized representative if the Owner is a legal entity (collectively the "Voting Information").

Except as otherwise provided by the Declaration, the period of time during which completed ballots must be received by the Association shall be at least thirty (30) days and no more than 90 days, or such other period of time allowed by law.

Except as otherwise provided by the Declaration, the number of valid ballots required to meet quorum requirements shall be the number of valid ballots timely received by the Association.

Except as otherwise provided by the Declaration, the percentage or other amount of approvals necessary to approve a proposed action shall be a majority of the valid ballots cast in approval of the proposed action. Alternatively, if the ballot is for the election of one or more candidates, the candidate(s) receiving the largest number(s) of votes shall be the percentage or other amount of approvals necessary to elect the candidate(s).

A completed written ballot that, after reasonable investigation by and in the judgement of the Board, is deemed to not be what it purports to be: (1) shall not be considered valid and shall not be counted; or (2) may, within a reasonable period of time after the action but not to exceed ten (10) days, be declared invalid and, at the discretion of the Board, the election results may be adjusted accordingly. Such a declaration shall be in writing signed by a majority of the Directors, such writing shall include the records of the investigation and shall be kept with the Minutes of the action by written ballot.

A written ballot may be in electronic form; signatures on written ballots may be scanned or may be digital or electronic signatures in any form consistent with Utah law.

**Exhibit B** is an example written ballot for voting on a single proposed action that meets the requirements of these Bylaws.

**Exhibit C** is an example written ballot for the election of a Director(s) that meets the requirements of these Bylaws. Each such ballot may need to be accompanied by additional written information as needed for Members to reach an informed decision with respect to the candidates.

### **3.11.2 Delivery**

Written ballots and any related information shall be delivered to Owners in person, by mail, or by electronic means including email or a website, or delivered as otherwise provided by law.

### **3.11.3 Receipt**

Members shall be given at least thirty (30) days from the day on which the written ballots and any related information are delivered before their completed written ballots must be received by the Association, except as otherwise provided by law. Members may return their completed written ballots, or complete copies thereof, to the Association in person, by mail, by email, or by any other means allowed by law. Notwithstanding the foregoing, completed written ballots used at a meeting of the Members shall be returned in person or electronically when called for during the meeting.

Once a completed written ballot has been received by the Association, it cannot be revoked.

### **3.11.4 Validity**

Each completed written ballot, or complete copy thereof, returned to the Association must be timely received by the Association. Any ballot not timely received by the Association shall not be considered valid and shall not be counted.

Each completed written ballot, or complete copy thereof, returned to the Association shall include all the Required Ballot Content and all of the required Voting Information. A ballot received by the Association shall not be considered valid and shall not be counted if it does not include all the Required Ballot Content and all of the required Voting Information or if any of the Voting Information is not provided in a reasonably legible form or in the identified locations or fields provided on the written ballot for such information.

If more than one valid written ballot is received by the Association from the Owner(s), their proxies, and/or agents for the same Unit, then all of the ballots received for that Unit shall be considered invalid and shall not be counted.

Except as otherwise provided by the Governing Documents, a Member's written ballot may not be revoked once it is received by the Association.

## **4 BOARD OF DIRECTORS**

### **4.1 Number of Directors**

The Board shall be composed of three (3) individuals.

#### **4.2 Term of Directors**

Directors shall serve for a term of two (2) years; provided, however, that the first Board shall identify one of the three Directors to serve for a one-year term with the other two Directors serving a two year term. Thereafter, all Directors elected shall serve for a two year term. Board members shall continue to serve until their respective successors are elected, or until their death, resignation, or removal.

#### **4.3 Eligibility Requirements for Directors**

Each member of the Board shall at all times be an Owner. Notwithstanding, should multiple Owners hold a Present Ownership Interest in the same Unit, only one of those Owners can be a member of the Board at any one time. An Owner need not be a Resident to be a member of the Board.

Notwithstanding the foregoing, if, after written notice of a meeting of Members for the purpose of electing a Director(s), no Owner volunteers to fill a vacancy on the Board within a reasonable time, such as at an annual meeting of Members, then the remaining Director(s) or, if none, the Manager, shall select a non-Member Director to fill the vacancy. The selected non-Member may be any Person including any representative of the Manager.

#### **4.4 Powers and Duties of the Board**

The Board shall have all the powers and duties provided for by law, including but not limited to administering the Association's affairs, performing the Association's responsibilities, and exercising the Association's rights as set forth in applicable law and the Governing Documents.

The authority of each Director is equal to that of all other Directors, regardless of any office each Director may hold.

#### **4.5 Delegation of Powers and Duties of the Board**

To the extent allowed by law, the Board shall have power and authority to delegate from time to time its powers, authorities, duties, and discretions to one or more managers, officers, committees, volunteers, or other agents, subject to any limitations in the Declaration, Articles of Incorporation, or these Bylaws.

#### **4.6 Resignation of Directors**

A Director may resign at any time by delivering a written resignation to the Board. Unless otherwise specified in the written resignation, it shall take effect upon delivery.

The failure of a Director to attend at least two (2) consecutive Board meetings over a period of at least two (2) consecutive months shall be effective as a resignation by the Director if confirmed by an affirmative vote of the Board, unless the Director notified the Board of his or her inability to attend in writing, electronic or otherwise, in advance of each unattended meeting. The failure of a Director to attend at least four (4) consecutive Board meetings over a period of at least four (4) consecutive months shall be effective as a resignation by the Director if confirmed by an affirmative vote of the Board, regardless of the Director's notice to the Board.

#### **4.7 Removal of Directors**

A Director may be removed from the Board at any time with or without cause. Removal of a Director from the Board shall require a vote by written ballot in which at least fifty-one percent (51%) of the Members vote to remove the Director. The vote to remove the Director shall take place only at a special meeting of Members with the written notice stating that the purpose of the meeting is to vote to remove the Director.

### **5 NOMINATION AND ELECTION OF DIRECTORS**

#### **5.1 Nomination of Directors**

Nominations for election to the Board may be made in advance of an annual meeting of Members by written solicitation for nominations. Such solicitation shall be delivered to all eligible Members no less than fifteen (15) days and no more than thirty (30) days before written notice of an annual meeting of Members. Such solicitation shall indicate: (1) the number of Director to be elected; (2) the term and eligibility requirements for Directors; (3) the date by which written nominations must be received by the Association; and (4) a statement that each nominee must provide a signed writing accepting such nomination and certifying that he or she meets the eligibility requirements for Directors.

All nominations and signed acceptances must be received by the Association no later than three (3) days before the written notice of the annual meeting of Members is sent. Written ballots that include the names of the self-certified nominees as candidates shall be sent with the written notice of the annual meeting of Members.

Nominations for election to the Board may alternatively be made from the floor at an annual meeting of Members.

#### **5.2 Election of Directors**

The election of Directors shall be by written ballot. The candidates receiving the largest number of votes shall be elected. Cumulative voting is not authorized.

A Director may elected to serve consecutive terms.

#### **5.3 Vacancies on the Board**

In the event of the death, resignation, or removal of a Director, his or her successor shall be selected by the remaining Directors, regardless of the number of remaining Directors, and shall serve for the unexpired term of his or her predecessor.

### **6 MEETINGS OF THE BOARD**

#### **6.1 Quarterly Board Meetings**

Meetings of the Board shall be held quarterly, or more frequently and at any other time as determined by the Board, and shall be held at a place and time designated by the Board.



A gathering of some or all of the members of the Board at which they do not conduct or vote on Association business is not considered a Board meeting.

#### **6.2 Electronic Board Meetings**

To the extent arranged by the Board, any or all Directors may participate in a Board meeting by, or the meeting may be conducted through the use of, any means of communication by which all individuals participating in the meeting may hear each other during the meeting. A Director participating in such a meeting is considered to be present in person at the meeting.

#### **6.3 Notice of Board Meetings to Directors**

Notice of Board meetings shall be provided to Directors by email or other electronic means at least 48 hours before a Board meeting. This notice requirement shall be deemed waived for a Board meeting held to address an emergency for which 48 hours' notice is not reasonable.

Directors shall provide an email address to the Board for purposes of notice of Board meetings.

#### **6.4 Notice of Board Meetings to Owners**

The Association shall provide notice of a Board meeting by email to Owners that have requested in writing to be notified of Board meetings and have provided a valid email address, unless notice of the Board meeting is included in a Board meeting schedule that was previously provided to Owners, or the Board meeting is to address an emergency and each Director receives notice of the emergency Board meeting less than 48 hours before the meeting.

Notice of Board meetings to Owners shall state the place, date, and time of the Board meeting. If any Director may participate in a Board meeting via electronic means, the notice to Owners shall provide the information necessary to allow attending Owners to also participate via the electronic means.

#### **6.5 Action without a Board Meeting**

As further described in the following subsections, the Board may take any action without a Board meeting that may be taken at a Board meeting by obtaining written approval of a proposed action by a majority of the Directors, electronic or otherwise. Any action so approved shall have the same effect as though taken at a Board meeting.

The Secretary shall keep and maintain Minutes of actions taken without a meeting.

##### **6.5.1 Consent**

Prior to taking an action without a Board meeting, all Directors must consent in writing to taking the action.

A Director may revoke his or her written consent by submitting a signed revocation that is received by the Secretary prior to the Secretary receiving the last signed vote for the action being taken.

Such written consents and revocations, and all other written communications, electronic or otherwise, regarding an action to be taken without a Board meeting, shall be kept and maintained with the Minutes of such action.

### **6.5.2 Written Notice**

After obtaining signed consents from all Directors, written notice of the action to be taken without a Board meeting shall be sent to all members of the Board. Such notice shall state: (1) the action to be taken; (2) the time by which each Director must respond to the notice; (3) that failure to respond by the time stated in the notice will have the same effect as: (a) abstaining in writing by the time stated in the notice; and (b) failing to demand in writing by the time stated in the notice that the action not be taken without a meeting. Such notice may be sent to Directors electronically or otherwise.

### **6.5.3 Voting**

In response to the written notice of the action to be taken without a Board meeting, each Director may, by the time stated in the notice, return his or her signed writing to the Secretary: (1) for the action; (2) against the action; (3) abstaining from voting; or (4) demanding that action not be taken without a meeting. Such a signed writing may be returned electronically or otherwise.

A Director's failure to respond to the written notice by the time stated in the notice will have the same effect as the Director abstaining in writing by the time stated in the notice.

A Director's timely demand that action not be taken without a meeting shall operate as the Director's revocation of consent. In such a case, the action cannot be taken without a Board meeting. Otherwise, the action is approved only if a majority of the Directors vote in approval of the action.

Signatures on writings may be scanned or may be written, digital, or electronic signatures in any form consistent with Utah law. An email or other electronic transmission by a Director that communicates his or her vote, abstention, demand, or revocation regarding an action shall be considered a signed writing.

### **6.5.4 Effect**

Any action taken without a Board meeting has the same effect as action taken at a Board meeting, and may be described as such in any document.

### **6.6 Quorum at Board Meetings**

A majority of the number of Directors shall constitute a quorum sufficient for the Board to conduct Association business.

### **6.7 Proxy Appointments by Directors**

Directors shall attend Board meetings themselves as opposed to by proxy; no proxy appointment by a Director for purposes of a Board meeting shall be effective.

### **6.8 Conduct at Board Meetings**

The President or an authorized individual shall preside at Board meetings. The Secretary or other authorized individual shall keep and maintain Minutes of Board meetings.

Attendance at Board meetings is limited to Directors and those Owners that have requested in writing to be notified of Board meetings, or their attorneys-in-fact, and any Manager invited by the Board; Non-Owners may not attend Board meetings.

The Board may elect to enter an executive session to: (1) consult with an attorney for the purpose of obtaining legal advice; (2) discuss ongoing or potential litigation, mediation, arbitration, or administrative proceedings; (3) discuss a personnel matter; (4) discuss a matter relating to contract negotiations, including review of a bid or proposal; (5) discuss a matter that involves an individual if the discussion is likely to cause the individual undue embarrassment or violate the individual's reasonable expectation of privacy; or (6) discuss a delinquent assessment or fine.

Owners who attend Board meetings may be present for all discussion, deliberation, and decisions except when the Board is in executive session.

Owners shall comply with all reasonable policies and procedures established by the Board for their attendance, and shall remain silent except when comments are solicited by the Board. The Board may limit attendees' comments to a specific time period during the meeting.

The Board may adopt further policies and procedures with regard to conduct at Board meetings.

#### **6.9 Action by the Board**

Any act of the Board shall be valid, if the required quorum is present at the time of the act, unless otherwise required by law, the Declaration, or these Bylaws. Each Director present shall have one vote.

### **7 OFFICERS**

#### **7.1 Elected and Appointed Officers**

The elected officers of the Association shall be: (1) a president, (2) a vice-president, (3) a secretary, and (4) a treasurer.

The Board may appoint additional officers from time to time, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may determine.

#### **7.2 Term of Officers**

Elected officers shall serve for a term of one (1) year and shall continue to serve until their respective successors are elected, or until their death, resignation, or removal. Elected officers shall assume their duties at the close of the Board meeting at which they are elected.

Appointed officers shall serve until their death, resignation, or removal, with or without cause, by the Board.

#### **7.3 Eligibility Requirements for Officers**

The president, vice-president, and secretary shall at all times be Directors. The office of treasurer may be held by any Officer, elected or appointed.

An appointed Officer may be any Person deemed qualified by the Board.

No Person, Director or otherwise, shall be eligible to hold more than two (2) offices at the same time.

#### **7.4 Election of Officers**

At the first Board meeting following the election or selection of a new Director(s), the Board shall elect: (1) a president, (2) a vice-president, (3) a secretary, and (4) a treasurer.

An elected Officer may be elected to serve consecutive terms.

#### **7.5 State Registration Requirement**

Within ninety (90) days of the election of a new president of the Association, and in accordance with the section 57-8a-105 of the Act, the Association shall update its registration with the Utah Department of Commerce to reflect the name, address, telephone number, and email address of the new president, who shall be considered the chair of the Board for purposes of such registration.

#### **7.6 Duties of Officers**

Officers shall perform the duties provided in this section and such other duties as may be prescribed for their offices in the Governing Documents.

##### **7.6.1 President**

The president shall: (1) preside at all meetings of Members and of the Board; (2) conduct or appoint another to conduct such meetings; (3) manage the administration of the Association's affairs; (4) manage the performance of the Association's responsibilities; (5) manage the exercising of the Association's rights; (6) manage the enforcement of the provisions of the Governing Documents; and (7) carry out all other duties prescribed by the Governing Documents and applicable law.

##### **7.6.2 Vice-President**

The vice-president shall: (1) during the absence or disability of the president, perform all the duties of the president; and (2) perform such other duties as may be prescribed by the president or the Governing Documents.

##### **7.6.3 Secretary**

The secretary, or other person appointed by the Board, shall: (1) attend meetings of the Association; (2) record all votes and minutes of meetings in records to be kept for that purpose; (3) give notice of meetings of Members and of the Board; (4) maintain a list of Members entitled to vote at each meeting of Members, the list indicating the Owners' names and corresponding Unit addresses; (5) create and maintain a record of Owners who attend a meeting of Members, including a signature of each attending Owner; (6) maintain Association documents and records as required by law; and (7) perform such other duties as may be prescribed by the Board or the Governing Documents.

##### **7.6.4 Treasurer**

The Treasurer, or other person appointed by the Board, shall: (1) have the custody of the Association funds and securities; (2) maintain complete and accurate accounts of receipts and disbursements in the Association's books; (3) deposit all money and other valuables in the name and to the credit of the Association in such depositories as may be designated by the Board; (4) disburse the funds of the Association as may be ordered

or authorized by the Board, and preserve proper vouchers for such disbursements; (5) prepare the Association's annual financial report; (6) render to the president at the regular Board meetings, or whenever required, an account of the financial condition of the Association; (6) render a full financial report at the annual meeting of Members; (7) upon request, be furnished by all Officers and Association agents with such reports and statements as may be required regarding all financial transactions of the Association; and (8) perform such other duties as may be prescribed by the Board or the Governing Documents.

#### **7.7 Delegation of Duties of Officers**

Unless otherwise provided by the Governing Documents, an elected Officer may delegate duties to any other Officer, elected or appointed, and may engage one or more volunteer assistants from time to time.

An appointed Officer may not delegate duties without written approval of the Board, but may engage one or more volunteer assistants from time to time. The Board may withdraw written approval to delegate duties at any time with or without cause.

A Manager may perform one or more of the duties of any Officer at any time at the discretion of the Board.

#### **7.8 Resignation of Officers**

An Officer may resign at any time by delivering a written resignation to the Board. Unless otherwise specified in the written resignation, it shall take effect upon delivery.

#### **7.9 Removal of Officers**

An Officer may be removed from office at any time with or without cause. Removal of an Officer, elected or appointed, from office shall require a majority vote of the Board. Notwithstanding, an Officer removed from office who is also a Director shall remain a Director unless also removed as a Director.

### **8 NOMINATION AND ELECTION OF OFFICERS**

#### **8.1 Nomination of Officers**

Nominations for election to an office may be made by members of the Board from the floor of a Board meeting, or by a candidate seeking the office by providing a signed writing to the Board no less than one (1) day and no more than thirty (30) days before the Board meeting.

#### **8.2 Election of Officers**

The election of elected Officers shall be by majority vote of the Board and shall take place at the first Board meeting following an annual meeting of Members. The candidates receiving the largest number of votes shall be elected. Cumulative voting is not authorized.

An elected Officer may be re-elected to the same office any number of times.

### **8.3 Vacancies of Offices**

In the event of the death, resignation, or removal of an elected Officer, his or her successor shall be elected by the Board and shall serve for the unexpired term of his or her predecessor.

## **9 COMMITTEES**

The Board may appoint such committees as deemed appropriate in carrying out its purposes, including appointment of an Architectural Committee. A committee shall not have any powers, duties, or responsibilities beyond those specifically assigned by the Board. The Board may terminate any committee, or revoke any assigned powers, duties, or responsibilities, at any time with or without cause.

The Board may adopt further policies and procedures with regard to committees and their composition, powers, duties, responsibilities, proceedings, conduct, or any other matter.

## **10 RULEMAKING PROCEDURES**

### **10.1 Authority for Rulemaking**

In accordance with applicable law, the Board shall have the authority to adopt, amend, modify, cancel, limit, create exceptions to, expand, or enforce Rules.

### **10.2 Procedures for Rulemaking**

Before adopting, amending, modifying, canceling, limiting, creating exceptions to, or expanding a Rule, the Board shall: (1) at least fifteen (15) days before the Board will meet to consider a change to the Rules, deliver notice to the Members that the Board is considering a change to the Rules; (2) provide an open forum at the Board meeting giving Owners an opportunity to be heard at the Board meeting before the Board takes action to change the Rules; and (3) deliver a copy of the change in the Rules approved by the Board to the Members within 15 days after the date of the Board meeting.

A Rule may not be inconsistent with any provision of the Declaration, the Articles of Incorporation, or these Bylaws.

### **10.3 Notice for Rulemaking**

Notice relating to a change to the Rules shall be mailed to Members via first-class or registered mail, or provided by electronic means including email or the Association's website, or given as otherwise provided by law.

### **10.4 Effective Date of Rules**

A Rule, or any change thereto, shall become effective ten (10) days after the date that it is provided to the Members by first-class or registered mail, electronic means including email or the Association's website, or as otherwise provided by law.

## **10.5 Applicability of Rules**

Owners, Residents, and, to the extent allowed by law, all Persons who enter upon or in any way make use of the Common Area, shall be subject to enforcement of the Governing Documents.

Owners and Residents shall be jointly and severally liable for violations of the Governing Documents by the non-owner Residents of the Owners' Units, including the tenants of their Units. Tenants are not responsible for the violations of Owners with respect their rental Units, provided the tenants do not contribute to such violations.

## **10.6 Limitations in Rulemaking**

### **10.6.1 Equal Treatment**

A Rule shall treat similarly situated Owners and Residents similarly.

### **10.6.2 Retroactive Rules**

A Rule shall not retroactively require a Resident to dispose of personal property within the Association before the adoption of the Rule if the personal property was in compliance with the Governing Documents before the Rule was in force. This limitation does not apply to subsequent Unit owners that take title to the Unit after adoption of the Rule.

### **10.6.3 United States Flag**

The Association shall not prohibit, by Rule or otherwise, a Resident from displaying the United States flag inside a Unit or Limited Common Area, or on a Lot, if the display complies with United States Code, Title 4, Chapter 1, The Flag, and with Utah Code Title 57, Chapter 24, Display of Flag, but, notwithstanding this prohibition, no Owner, Resident, or any other Person has a right to utilize or modify the Limited Common Area of the Association, or any other Common Area including any portion of a Lot that is designated as any type of Common Area, in a manner that is inconsistent with or not authorized by the Governing Documents.

## **11 ENFORCEMENT PROCEDURES**

### **11.1 Authority for Enforcement**

In accordance with applicable law, the Board shall have the authority to enforce the Governing Documents. The Board may not be arbitrary, capricious, or against public policy in taking or not taking enforcement action. The Board shall ensure consistent administration and enforcement of the Governing Documents.

Failure to enforce a provision of the Governing Documents shall not constitute a waiver or modification of that provision.

### **11.2 Effect of Violations**

An Owner, Resident, or Unit shall be deemed not in Good Standing during the period of time beginning on the effective date of any notice of violation or notice of fine issued to such Owner, Resident, or Unit and extending through the date that the violation has been resolved and any fines issued have been paid in full.

Owners that are not in Good Standing, and Owners of Units that are not in Good Standing, may become ineligible to vote in Association elections and/or make use of Amenities. Residents that are not in Good Standing may become ineligible to make use of Amenities. Such ineligibility shall be communicated by written notice to the ineligible party(s).

### **11.3 Notice of Violation**

In the event of a violation of the Governing Documents, the Association should issue a notice of violation against the offending party or the offending Unit, as the case may be.

A notice of violation shall only be issued for a violation of a Rule, covenant, condition, or restriction that is found in the Governing Documents.

#### **11.3.1 Content**

A notice of violation shall be in writing and shall include: (1) identification of the Unit and, as applicable and available, the party in violation; (2) a brief description of the violation; (3) the date on or about which the violation occurred or was discovered; (4) identification of the provision(s) of the Governing Documents that was violated; (5) a statement that a fine may be assessed if: (a) the violation remains unresolved beyond a stated period of time (which period of time shall be not less than one (1) day and not more than ten (10) days from the date of the notice of violation, or as otherwise provided by law); or (b) a similar violation occurs within one year from the date of the written notice of violation; and (6) a statement explaining how the violation can be resolved.

Exhibit D is an example notice of violation that meets the requirements of these Bylaws.

#### **11.3.2 Delivery**

A notice of violation should be delivered via registered or certified mail, return receipt requested, but may be sent as authorized by law.

If the offending party is a tenant of a Unit that is being rented, the notice of violation should be delivered to both the tenants and Owner of the rental Unit.

Copies of all issued notices of violation shall be maintained in the records of the Association.

#### **11.3.3 Effective Date**

A notice of violation is effective at the earliest of the following: (1) the date received; (2) five (5) days after the date of mailing; or (3) the date the receipt is signed by or on behalf of the addressee when the notice is sent via registered or certified mail, return receipt requested. Any period of time for resolution stated in a notice of violation shall begin on the effective date of the notice.

### **11.4 Notice of Fine**

Before a notice of fine for a violation can be issued, a notice of violation for a similar violation must first be issued.

In the event of a violation of the Governing Documents, and after the issuance of a notice of violation or a notice of fine for a similar violation, the Association should issue a notice of fine against the offending party



and/or the offending Unit, as the case may be, provided that: (1) the violation occurred within a year of the effective date of the notice of the similar violation; or (2) the violation remained unresolved after the period of time for resolution stated in the notice of the similar violation.

A notice of fine shall only be issued for a violation of a Rule, covenant, condition, or restriction that is found in the Governing Documents.

#### **11.4.1 Content**

A notice of fine shall be in writing and shall include: (1) identification of the Unit and, as applicable and available, the party in violation; (2) a brief description of the violation; (3) the date on or about which the violation occurred or was discovered; (4) identification of the provision of the Governing Documents that was violated; (5) the date on which the preceding notice(s) of violation or notice of fine was sent; (6) the amount of the fine being assessed and where it is specified in the Governing Documents; (7) a statement that the amount of the fine shall be assessed as of the date of the notice of fine; (8) a statement that: (a) the fine is due and payable immediately or as otherwise provided by the Governing Documents, whichever is later, (b) that late fees may apply if the fine is not timely paid, (c) that interest may apply if the fine is not timely paid, (d) that Units and/or Owners with past-due amounts may be deemed not in Good Standing and thus become ineligible to vote in Association elections or make use of Amenities, and (e) that the fine may constitute a lien that may be enforced by sale of the Unit; (9) a statement that an additional fine may be assessed if: (a) the violation remains unresolved beyond a stated period of time (which period of time shall be not less than one (1) day and not more than ten (10) days from the date of the notice of fine, or as otherwise provided by law); or (b) a similar violation occurs within one year from the date of the written notice of violation; and (10) a statement explaining how the violation can be resolved.

Exhibit E is an example notice of fine that meets the requirements of these Bylaws.

#### **11.4.2 Delivery**

A notice of fine should be delivered via registered or certified mail, return receipt requested, but may be sent as authorized by law.

If the offending party is a tenant of a Unit that is being rented, the notice of fine should be delivered to both the tenants and to the Owner of the rental Unit.

Copies of all issued notices of fines shall be maintained in the records of the Association.

#### **11.4.3 Effective Date**

A notice of fine is effective at the earliest of the following: (1) the date received; (2) five (5) days after the date of mailing; or (3) the date the receipt is signed by or on behalf of the addressee when the notice is sent via registered or certified mail, return receipt requested. Any period of time for resolution stated in a notice of fine shall begin on the effective date of the notice.

### **11.5 Schedule of Fines**

#### **11.5.1 First Violation**

A written notice of violation shall be issued for a first violation.

**11.5.2 Second Violation**

A fine in the amount of \$50 (fifty US dollars) shall be assessed for a second violation that is similar to and occurs within a year of the first violation.

**11.5.3 Third Violation**

A fine in the amount of \$100 (one hundred US dollars) shall be assessed for a third violation that is similar to and occurs within a year of the second violation.

**11.5.4 Fourth Violation**

A fine in the amount of \$150 (one hundred and fifty US dollars) shall be assessed for a fourth or subsequent violation that is similar to and occurs within a year of the third violation.

**11.6 Amount of Fines**

The Board may by Resolution increase the amount of the fine stated herein for a second violation; in so doing, the fines for the third and fourth violations shall be increased by the same amount.

**11.7 Assessment of Fines**

The amount of a fine shall be assessed against a Unit's and its Member's account and, as applicable, against the account of a tenant Resident(s) of the Unit as of the effective date a notice of fine.

If a particular violation continues unresolved through a fourth violation (i.e., a violation occurs that results in an initial Notice of Violation and that violation continues unresolved for three subsequent Notices of Fine) the Association may submit the violation to an attorney for resolution. In such event, the Owner(s) of the Unit and, as applicable, the Resident(s) of the Unit shall be jointly and severally liable for all costs related to submission to an attorney for resolution including collection costs.

**12 RECORDS****12.1 Record Keeping**

In addition to any other requirements under applicable law, the Association shall keep a copy of the following records (the "Records") at its principle office: (1) the Declaration; (2) the Articles of Incorporation; (3) these Bylaws; (4) any Resolutions; (5) the Minutes of all meetings of the Owners for a period of three (3) years; (6) the Minutes of all Board meetings for a period of three (3) years; (7) records of all actions taken without a meeting for a period of three (3) years; (8) all written communications to Owners for a period of three (3) years; (9) a list of the names, addresses, and email addresses of the current Directors and Officers; (10) the Association's most recent annual and other published financial statements, if any, for periods ending during the last three (3) years; and (11) the most recent budget of the Association.

**12.2 Record Availability**

The Association shall make the Records available to Owners, free of charge, through the Association's website. If the Association does not have an active website, physical copies of the Records shall be made

available to the Owners by appointment during regular business hours at its principle office or that of its Manager.

An Owner may request in writing to inspect or copy a Record; such writing shall include: (1) the Association's name; (2) the Owner's name; (3) if the Owner is a legal entity, copies of records showing that the requesting party is an authorized representative of the Owner; (4) the address of the Owner's Unit; (5) the Owner's or authorized representative's email address; and (6) a description of the specific Record requested.

If an Owner requests the Association to provide it with a copy or scan of a Record, the Owner shall pay to the Association an amount that includes ten (10) cents per page and \$15 per hour for the Association's agent's time, or the actual amount if the copy or scan is provided by a third-party provider; such amount shall be considered an assessment against the Owner.

### **13 AMENDMENTS**

#### **13.1 Amendment of Bylaws**

These Bylaws may be amended by the approval of at least sixty-seven percent (67%) of the Members in Good Standing. Such approval to amend these Bylaws shall be obtained by action by written ballot.

A Director may execute, certify, and record any duly-approved amendment or restatement of these Bylaws. Any such amendment or restatement shall be prepared at the request of the Board by an attorney licensed in the State of Utah.

#### **13.2 Amendment Effective Date**

Amendments to these Bylaws shall not be effective until duly recorded in the recorder's office of the county in which the Association is located.

### **14 WAIVER OF PROCEDURAL IRREGULARITIES**

#### **14.1 Waiver of Irregularities**

All procedural inaccuracies and irregularities, and any claims, causes of action, or damages of any kind related thereto, in: (1) calls to, notices of, and the manner of conducting a meeting; (2) the manner of voting; (3) the form and handling of proxies; (4) the manner of asserting Persons present at the meeting; (5) the manner of taking action or making decisions; (6) the manner of accepting or counting votes; (7) the manner of taking minutes or the content thereof; and (8) the manner of enforcing the Governing Documents **shall be deemed waived under the following circumstances**: (a) if the objecting person did not object within thirty (30) days of an enforcement action was taken; (b) if the objecting person was in attendance at the meeting, but the issue upon which the objection is based was perceptible and no objection to that issue was made at the meeting; (c) if the objecting person was not in attendance at the meeting but proper notice of the meeting was given; (d) if the objecting person was not in attendance at the meeting and proper notice of the meeting was not given, but the person had actual notice of the meeting before it occurred; (e) if the objecting person was not in attendance at the meeting, proper notice of the meeting was not given, the person did not have

actual notice of the meeting before it occurred, but the person did not object within thirty (30) days of receiving actual notice of the occurrence of the meeting or of an action, vote, or decision thereat; and (f) if a decision, vote, or action was taken without a meeting, but the person did not object within thirty (30) days of receiving actual notice of the decision, vote, or action taken.

#### 14.2 Objections to Irregularities

All objections to any procedural inaccuracies and irregularities, except those made at a meeting, shall be made in a writing that is signed by the objecting Owner and provided to the Board. The date on which the writing is received by the Board shall control for purposes of waiver.

Whether at the meeting or in writing, objections must be specific, shall include identification of the particular provision of the Governing Documents or other law that is alleged to have been violated, and shall include a brief statement of the facts supporting the alleged violation.

#### 14.3 Non-Waivable Irregularities

Any procedural inaccuracy and irregularity that is the result of fraud or that was done knowingly and intentionally in violation the Governing Documents or applicable law shall not be waived.

### 15 ASSUMPTION OF RISK, RELEASE OF LIABILITY, AND INDEMNIFICATION

#### 15.1 General Assumption of Risk

In consideration of use of the Common Area, including but not limited to: (1) any water features and related facilities including but not limited to any pools, hot tubs, splash pads, decks, tables, chairs, equipment, sprinklers, irrigations systems, and other water systems; (2) any facilities including but not limited to any buildings, clubhouses, kitchens, fitness rooms and related equipment, game rooms and related equipment, theater rooms and related equipment, restrooms, laundry rooms, parking areas, walkways, streets, and grass areas; (3) any gathering areas including but not limited to pavilions and related tables, chairs, and other equipment; (4) any play areas including but not limited to children's play areas and related sand boxes, playgrounds, play equipment, and other related equipment; and (5) all other common areas, limited common areas, property, equipment, and facilities of every kind owned or maintained by the Association, **each Person that makes use of the Common Area in any way shall be deemed to acknowledge, accept, and ASSUME ALL RISK**, including but not limited to temporary or permanent personal injury, illness, disability, paralysis, death, and harm of any kind, and property damage of any kind, in any way arising from or related to such use. Each such Person is further deemed to understand and acknowledge such use of the Common Area may involve risks that include but are not limited to drowning, burns, sensitivities to and injuries arising from pool chemicals, slips and falls, trip hazards, cardiovascular stress, the reckless conduct of others, equipment malfunctions and failures, and other apparent, hidden, and unforeseeable dangers. Each such Person is further deemed to understand and acknowledge that such use of the Common Area is not supervised by the Association or its agents, that the Association does not employ lifeguards or other staff to protect the Person's interests, and that the Person is fully and solely responsible for their own proper and careful use of the Common Area regardless of their condition. As part of accepting all risk, each such Person is further deemed to acknowledge, represent, and covenant that the Person has, or will immediately upon entering or using the Common Area, inspect and carefully consider the Common Area, and that such use of the

Common Area constitutes an acknowledgment that the Common Area has been inspected and carefully considered, and that the Person finds and accepts the Common Area as being safe and reasonably suited for the purposes of such use.

#### **15.2 Health Assumption of Risk**

In further consideration of use of the Common Area, each Person that makes use of the Common Area in any way shall be deemed to understand and acknowledge all health hazards including without limitation viruses, bacteria, fungi, germs, spores, protozoa, pathogens, diseases, bodily fluids, and contaminants, (the "Health Hazards") and to acknowledge, accept, and ASSUME ALL RISK related to such Health Hazards. Each such Person shall be deemed to understand and acknowledge that the Person may be exposed to such Health Hazards from or while using the Common Area, and that such risks include without limitation temporary or permanent personal injury, illness, or disability, or even death. Each such Person shall be deemed to understand and acknowledge that the risk of becoming exposed to or infected by such Health Hazards from or while using the Common Area may result from the actions, omissions, or negligence of the Person or others, including but not limited to the Association and any of its agents, contractors, directors, officers, volunteers, Owners, or Residents, and their families, children, and guests.

#### **15.3 Covenants, Conditions, Restrictions, and Rules of the Association**

Each Person that makes use of the Common Area in any way shall be deemed to understand and acknowledge that the Association makes the Common Area available for authorized use only, and that use of the Common Area is strictly voluntary and not required in any way. Each such Person shall be deemed to understand and acknowledge that the Person has an affirmative obligation to seek out, read, understand, and comply with all covenants, conditions, restrictions, and Rules of the Governing Documents, including as they relate to the Common Area, and that the Person shall be fully and solely responsible for ensuring that the Person's family, children, and guests also abide by all such covenants, conditions, restrictions, and rules, and that the Person shall be fully and solely responsible for the actions and inactions of such family, children, and guests, and for any harm or damage they cause directly or indirectly, whether such family, children, and guests are the Person's own or their guests'. Each such Person is further deemed to certify and covenant that, while using the Common Area, the Person shall obey all instructions given either verbally or in writing by the Association or its agents, and that the Person shall be fully and solely responsible to ensure that the Person's family, children, and guests do likewise.

#### **15.4 Warnings, Rules, and Regulations Regarding Health Hazards**

Each Person that makes use of the Common Area in any way shall be deemed to understand and acknowledge that federal, state, or local agencies or health departments may have and may yet promulgate warnings, rules, and regulations related to the Health Hazards, that the Person has an affirmative obligation to seek out, read, understand, and comply with all such warnings, rules, and regulations as they may issue or change from time to time, and that the Person shall fully comply with all such warnings, rules, and regulations while making use of the Common Area, and that the Person shall be fully and solely responsible to ensure that the Person's family, children, and guests do likewise.

#### **15.5 No Responsibility**

Each Person that makes use of the Common Area in any way shall be deemed to understand and acknowledge that the Association and its agents are not responsible for any lost, stolen, or damaged personal

property belonging to the Person or that of any of the Person's family, children, or guests, including while such property is located in, on, or around the Common Area, Limited Common Area, other facilities or property of the Association, including any parking lots.

#### **15.6 Release, Waiver of Liability, and Indemnification**

In further consideration of use of the Common Area, each Person shall be deemed to FOREVER WAIVE any and all claims and causes of action against the Association and its agents, contractors, Directors, Officers, volunteers, Managers, Owners, Residents, and insurers (the "Released Parties") arising out of or related in any way to the Person's use, and such use by any of the Person's family, children, or guests, of the Common Area. Each such Person is further deemed to FOREVER RELEASE and covenant to HOLD HARMLESS the Released Parties from any and all liability, alleged or otherwise, owed to the Person or to any of the Person's family, children, and guests, in relation to any claims or causes of action or the like arising out of or in any way related to the ACTS, OMISSIONS, or NEGLIGENCE of the Association and its agents, Directors, Officers, volunteers, and Managers. Each such Person is further deemed to covenant to INDEMNIFY and DEFEND the Released Parties from and against any and all liabilities, obligations, losses, damages, penalties, actions, claims, suits, judgments, costs, expenses, and disbursements of any kind or nature whatsoever, including but not limited to attorneys' fees and all related costs, (the "Indemnified Liabilities") caused directly or indirectly to the Person or to any of the Person's family, children, or guests by the Association and its agents, Directors, Officers, volunteers, or Managers, or caused directly or indirectly to any of the Released Parties by the Person or by any of the Person's family, children, or guests.

### **16 INDEMNIFICATION**

#### **16.1 Indemnification**

The Association shall indemnify the Directors, Officers, committee members, volunteers, Managers, employees, and other agents of the Association against any and all claims, actions, suits, proceedings, costs, expenses, and liabilities whatsoever, including without limitation attorneys' fees, court costs, and all related expenses, arising against them personally in relation to the good faith exercise of their powers, duties, and responsibilities in any way related to these Bylaws. The indemnification provided herein shall continue as to any Person who has for any reason ceased to be a Director, Officer, committee member, volunteer, Manager, employee, or other agent of the Association and shall inure to the benefit of the heirs, executors, and administrators of all such Persons.

#### **16.2 Insurance**

The Association shall purchase and maintain, at its own expense, Directors and Officers insurance on behalf of any Person who is or was a Director, Officer, committee member, volunteer, Manager, employee, or other agent of the Association against any liability or alleged liability in any way related to these Bylaws, including for monetary and non-monetary claims of any kind, asserted against or incurred by such Person in any such capacity or arising out of such Person's status as such.

## **17 ADMINISTRATION DURING THE CONTROL PERIOD**

### **17.1 Declarant Control Period**

Except as otherwise provided in the Declaration, the Control Period of the Declarant shall continue until the first of the following events occurs: (1) one (1) year after the date of conveyance of the last Lot to a new Owner; or (2) the day the Declarant, after giving written notice to the Members, records an instrument voluntarily surrendering all rights to control the activities of the Association in accordance with § 57-8a-502 of the Act as it may be amended from time to time.

Anything contrary herein notwithstanding, during the Control Period the following provisions shall control.

#### **17.1.1 No Meetings of Members**

During the Control Period, no annual, special, or other meetings of Members shall be held; notwithstanding the Declarant may hold such meetings at its sole discretion. During the Control Period, the Declarant may take any action without a meeting of Members at its sole discretion.

#### **17.1.2 No Action by Written Ballot**

During the Control Period, no action by written ballot may be taken by the Members; notwithstanding the Declarant may facilitate such action at its sole discretion.

#### **17.1.3 Declarant Control of the Board**

During the Control Period, the various requirements in these Bylaws for the Board shall not apply, Board members, if any, and their number, terms, eligibility, powers, and duties may be appointed, determined, modified, and removed by the Declarant at its sole discretion, and the Declarant may exclusively exercise all powers and duties of the Board.

#### **17.1.4 No Board Meetings**

During the Control Period, Board meetings, if any, may only be called by the Declarant at its sole discretion. During the Control Period, the Declarant may take any action without a Board meeting at its sole discretion.

#### **17.1.5 No Notice**

During the Control Period, the Declarant waives all notice requirements related to these Bylaws to the extent allowed by law.

#### **17.1.6 No Officers**

During the Control Period, the various requirements in these Bylaws for Officers shall not apply, Officers, if any, and their offices, terms, powers, and duties may be appointed, determined, modified, and removed by the Declarant at its sole discretion, and the Declarant may exclusively exercise all powers and duties of the Officers.

#### **17.1.7 Rules Determined by Declarant**

During the Control Period, the Declarant reserves the right to, and hereby does, exempt the Declarant from Rules and the rulemaking procedures in the Governing Documents and applicable law, and only the Declarant may adopt, amend, modify, cancel, limit, create exceptions to, expand, or enforce Rules at its sole discretion.

#### **17.1.8 Amendment by Declarant**

During the Control Period, only the Declarant may amend, restate, replace, execute, certify, and record these Bylaws at its sole discretion.

### **18 GENERAL**

#### **18.1 Principle Place of Business**

The initial principal place of business of the Association shall be located at 246 S. State Street, Morgan, UT 84050.

#### **18.2 Applicability**

These Bylaws shall apply to and be binding upon all present and future Owners and Residents, as well as all Persons who enter upon or in any way make use of the Common Area.

#### **18.3 Conflicts**

In the event of any conflict, (1) the provisions of applicable state law, (2) the Declaration, (3) the Articles of Incorporation, (4) these Bylaws, (5) the Resolutions of the Board, and (6) the Rules shall prevail in that order.

#### **18.4 Contact Information**

Upon becoming an Owner or Resident, and upon request of the Association, each Owner and Resident shall provide the Association with at least the following contact information: (1) their full legal name; (2) the address of their primary residence; (3) the address of the Unit by which they are an Owner or Resident; (4) their email address; (5) and their telephone number. Regardless of any waiver of notice provided to the Association, it shall be the duty of each Owner and Resident to keep their contact information current with the Association. Owners and Residents that fail to keep their contact information current with the Association, whether or not they reside within the physical boundaries of the Association, shall be deemed not in Good Standing.

#### **18.5 Compensation**

No Director, elected Officer, committee member, or other volunteer shall receive compensation for their services. However, Directors, Officers, and other volunteers may be reimbursed for actual expenses incurred in the performance of their duties.

A compensated manager, contractor, employee, and other compensated Person may, incidental to their compensated services, serve as an appointed Officer but shall not receive additional compensation therefor.



**18.6 Third-Party Collections**

Except as otherwise provided in the Declaration, the Association may contract with third party debt collection agencies to collect assessments, fines, and any other amounts due and payable to the Association by any Person that are not timely paid in accordance with the Governing Documents.

Each debtor shall be deemed to covenant and agree to pay all assessments described in the Governing Documents, as they may be amended from time to time, that may be assessed against the debtor's account together with any related costs, fees, and interest provided for by the Governing Documents. Should one or more accounts be assigned to a third party for collection, each debtor shall be deemed to covenant and agree to pay all related collection costs and fees, including a fee in the amount of the maximum percentage allowed by law of the total unpaid assessments, in addition to all legal fees related to collection, with or without suit, including attorney fees, court costs, filing fees, and all other costs and fees related to the unpaid assessments and their collection. The term "debtor" as used in this paragraph means the Owner(s) and any tenant(s) of a Unit, jointly and severally, and any other party or parties obligated or allegedly obligated to pay an assessment or other amount to the Association whether or not the assessment or other amount is related to the Unit. As an exception to the foregoing, no tenant shall be liable for an assessment or other amount imposed only against one or more Owners, or for any collection or other costs or fees related to the assessment or other amount.

**18.7 No Estoppel or Reliance**

With respect to these Bylaws, no one may rely upon any statement or authorization from the Board or anyone else that is contrary to these Bylaws, regardless of the circumstances. No claim of estoppel, waiver, or similar equitable claim or defense may be raised by anyone related to any alleged reliance.

**18.8 Fiscal Year**

Unless otherwise provided by the Declaration, the fiscal year of the Association shall begin on the first day of January and end on the 31<sup>st</sup> day of December of every year, except that the first fiscal year shall begin on the date of the Association's incorporation.

**18.9 Waiver**

Failure of the Association at any time to enforce any aspect of these Bylaws shall not be construed as a waiver of the Association's right to enforce such aspects, or as an waiver, abandonment, or modification of such aspects.

**18.10 Time Limit for Claims**

Any claim, action, litigation, or the like arising out of these Bylaws brought by any party subject thereto against the Association or its Board or a Director, Officer, or an agent, volunteer, or employee of the Association must be commenced within twelve (12) months of the cause of such claim, action, litigation, or the like. Any such claim, action, litigation, or the like not brought against the Association within twelve (12) months shall be considered forever waived.

**18.11 Governing Law**

These Bylaws shall be governed by and construed in accordance with the laws of the State of Utah without regard to principles of conflicts of laws.

**18.12 Jurisdiction**

Any action, suit, or other proceeding arising out of these Bylaws shall be brought in the courts of the State of Utah or a federal court located therein. To the extent allowed by law, all present and former Owners and Residents, and all Persons who at any time have entered upon or in any way made use of any Common Area, irrevocably consent and submit to the exclusive jurisdiction of such courts for the purpose of any such action, suit, or proceeding.

**18.13 Severability**

Should any term, condition, provision, or portion of the foregoing, or any other aspect of these Bylaws be held invalid or unenforceable for any reason (an "Invalid Term"), such Invalid Term shall be removed or restructured and then interpreted as determined by a court of competent jurisdiction so as to accomplish the intent of such Invalid Term and these Bylaws, and the balance of these Bylaws shall remain in full force and effect.

**18.14 Gender and Number**

All references herein to any party shall be read with such changes in gender and number as the context or reference requires.

**18.15 Headings**

The headings herein are for convenience of reference only and shall not limit or otherwise affect the meaning hereof.

**18.16 Dissolution**

The Association shall be dissolved upon termination of the Declaration as provided therein.

Notwithstanding dissolution of the Association, these Bylaws shall continue in force until all winding up activities of the Association are completed.

IN WITNESS WHEREOF, the undersigned have executed these Bylaws as of the date first written below.

**[SIGNATURES ON THE FOLLOWING PAGE]**

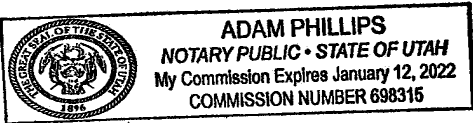
**The Association:**

By: Cole Rowser

Cole Rowser, Director, Riverstone Townhomes Homeowners Association, Inc.

State of Utah )  
County of Morgan ) ss.

On the 26<sup>th</sup> day of May, in the year 2021, the above-name individual, proven by satisfactory evidence, personally appeared before me and, while under oath or affirmation, stated that he is a duly-authorized Director of the Association, did voluntarily sign this document on behalf of the Association, and did acknowledge that the Association thereby executed the same.

(Seal) 

[Signature]  
NOTARY PUBLIC SIGNATURE

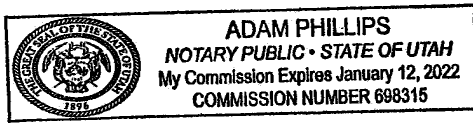
**The Declarant:**

By: Cole Rowser

Cole Rowser, Manager, Riverstone Townhomes, LLC.

State of Utah )  
County of Morgan ) ss.

On the 26<sup>th</sup> day of May, in the year 2021, the above-name individual, proven by satisfactory evidence, personally appeared before me and, while under oath or affirmation, stated that he is a Manager of Riverstone Townhomes, LLC, which Utah entity is the Declarant, did voluntarily sign this document on behalf of the Declarant, and did acknowledge that the Declarant thereby executed the same.

(Seal) 

[Signature]  
NOTARY PUBLIC SIGNATURE

EXHIBIT A – Example Proxy Appointment Form

**PROXY APPOINTMENT FORM**

Unit Address: \_\_\_\_\_

BE IT KNOWN, that I, \_\_\_\_\_, the undersigned, hereby appoint \_\_\_\_\_ as my true and lawful attorney-in-fact and agent for me, and in my name, place and stead, to vote as my proxy at the association meeting to be held on \_\_\_\_\_ or any adjournment thereof (the "Meeting"), for the transaction of any business which may legally come before the meeting, and for me and in my name, to act as fully as I could do if personally present, and I herewith revoke any other proxy heretofore given.

WITNESS my hand and seal this \_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_,

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

**BY SIGNING THIS PROXY APPOINTMENT I CERTIFY UNDER PENALTY OF PERJURY THAT THE PROVIDED INFORMATION IS COMPLETE, TRUE, AND CORRECT AND THAT, IF THE OWNER IS A LEGAL ENTITY, I AM A DULY-AUTHORIZED REPRESENTATIVE OF THE OWNER FOR PURPOSES OF THIS PROXY APPOINTMENT.**

EXHIBIT B – Example Written Ballot for a Proposed Action

**Title of Proposed Action**

(Include a *description* of the proposed action here)

Yes                       No

Unit Address: \_\_\_\_\_

Owner Name: \_\_\_\_\_

Is the Owner a Legal Entity?  Yes  No; **NOTE:** Owner's full legal name required.

Owner Address: \_\_\_\_\_

Voter Name: \_\_\_\_\_ Title: \_\_\_\_\_

Required only if different than Owner Name; **NOTE:** Voter's full legal name required.

Voter Address: \_\_\_\_\_

Required only if different than Owner Address.

Email: \_\_\_\_\_ Phone: \_\_\_\_\_

Signature: \_\_\_\_\_

I am signing as:  an Owner,  an Owner's Proxy or agent, or  an Authorized Representative of an Owner that is a legal entity.

**BY SIGNING THIS BALLOT I CERTIFY UNDER PENALTY OF PERJURY THAT THE PROVIDED INFORMATION IS COMPLETE, TRUE, AND CORRECT AND THAT, IF THE OWNER IS A LEGAL ENTITY, I AM A DULY-AUTHORIZED REPRESENTATIVE OF THE OWNER FOR PURPOSES OF THIS ACTION BY WRITTEN BALLOT.**

**IMPORTANT:** All information requested above is required unless indicated otherwise. Your fully-completed ballot must be received by the Association no later than *<date>* or it will be invalid and not counted. The number of valid written ballots required to meet quorum requirements for each proposed action is the number of ballots timely received by the Association. 'Yes' votes on a majority of valid ballots are required to approve the proposed action.

**WARNING: ONLY ONE VOTE IS ALLOWED PER UNIT. If more than one written ballot is received by the Association from the Owner(s) or its agent for the same Unit, then all of the written ballots received for that Unit shall be considered invalid and shall not be counted.**

EXHIBIT C – Example Written Ballot for an Election of Candidate(s)

**Election Ballot**

Election of Directors

Vote for no more than two (2) of the following candidates:

- Candidate 1
- Candidate 2
- Candidate 3

Unit Address: \_\_\_\_\_

Owner Name: \_\_\_\_\_

Is the Owner a Legal Entity?  Yes  No; **NOTE:** Owner's full legal name required.

Owner Address: \_\_\_\_\_

Voter Name: \_\_\_\_\_ Title: \_\_\_\_\_

Required only if different than Owner Name; **NOTE:** Voter's full legal name required.

Voter Address: \_\_\_\_\_

Required only if different than Owner Address.

Email: \_\_\_\_\_ Phone: \_\_\_\_\_

Signature: \_\_\_\_\_

I am signing as:  an Owner,  an Owner's Proxy or agent, or  an Authorized Representative of an Owner that is a legal entity.

**BY SIGNING THIS BALLOT I CERTIFY UNDER PENALTY OF PERJURY THAT THE PROVIDED INFORMATION IS COMPLETE, TRUE, AND CORRECT AND THAT, IF THE OWNER IS A LEGAL ENTITY, I AM A DULY-AUTHORIZED REPRESENTATIVE OF THE OWNER FOR PURPOSES OF THIS ACTION BY WRITTEN BALLOT.**

**IMPORTANT:** All information requested above is required unless indicated otherwise. Your fully-completed ballot must be received by the Association no later than <date> or it will be invalid and not counted. The number of valid written ballots required to meet quorum requirements for each proposed action is the number of ballots timely received by the Association. The two (2) candidates receiving the most votes will be elected. **If more than two (2) candidates are selected on this ballot then it shall be considered invalid and shall not be counted.**

**WARNING: ONLY ONE VOTE IS ALLOWED PER UNIT.** If more than one written ballot is received by the Association from the Owner(s) or its agent for the same Unit, then all of the written ballots received for that Unit shall be considered invalid and shall not be counted.

EXHIBIT D – Example Notice of Violation

**NOTICE OF VIOLATION**

*<date of notice>*

Unit Address: \_\_\_\_\_

This is a formal notice that you are in violation of the following sections of the Association's governing documents: *<list applicable sections here>*.

*<copy relevant text of applicable sections here>*

The specific violation occurred or was discovered on or about *<date>* and was: *<brief description of the violation and, as applicable and available, the party involved>*.

This violation can be resolved by: *<description of how to resolve the violation>*.

Failure to resolve this violation by *<date>*, or  any occurrence of a similar violation within one year of the date of this notice, may result in a fine being assessed against the Unit and/or the owner(s) and/or resident(s) of the Unit.

Failure to timely resolve this violation may result in further action including but not limited to a lien against the Unit, legal proceedings, foreclosure, and/or termination of rights to vote and/or make use of Association amenities.

All communication regarding this notice shall be in writing to:

The Homeowners Association  
*<email address>*

EXHIBIT E – Example Notice of Fine

**NOTICE OF FINE**

*<date of notice>*

Unit Address: \_\_\_\_\_

This is a formal notice that you are in violation of the following sections of the Association’s governing documents: *<list applicable sections here>*.

*<copy relevant text of applicable sections here>*

The specific violation occurred or was discovered on or about *<date>* and was: *<brief description of the violation and, as applicable and available, the party involved>*.

On *<date(s)>* a prior notice(s) was issued for a similar violation(s) of the same sections of the Association’s governing documents.

**FINE AMOUNT:** \_\_\_\_\_. This amount must be paid  by *<date>* or  within *<time period>* days of the date of this notice. Late payments may be subject to late fees, interest, collection costs, and/or attorney fees. Units and/or owners with amounts past due may be deemed not in good standing and thus become ineligible to vote in Association elections and/or make use of Association amenities. Past-due amounts may constitute a lien against the Unit which may be foreclosed.

This violation can be resolved by: *<description of how to resolve the violation>*.

Failure to resolve this violation by *<date>*, or  any occurrence of a similar violation within one year of the date of this notice, may result in another fine being assessed against the Unit and/or the owner(s) and/or resident(s) of the Unit.

Failure to timely resolve this violation may result in further action including but not limited to a lien against the Unit, legal proceedings, foreclosure, and/or termination of rights to vote and/or make use of Association amenities.

All communication regarding this notice shall be in writing to:

The Homeowners Association  
*<email address>*