

After Recording Return To:

RICHARDS, KIMBLE & WINN, PC  
c/o Curtis G. Kimble  
2040 Murray Holladay Rd., Suite 106  
Salt Lake City, UT 84117

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6/25/2013 2:36:00 PM \$20.00  
Book - 10153 Pg - 104-109  
Gary W. Ott  
Recorder, Salt Lake County, UT  
RICHARDS KIMBLE & WINN  
BY: eCASH, DEPUTY - EF 6 P.

**AMENDMENT TO THE  
AMENDED AND RESTATED  
PROTECTIVE COVENANTS AND BYLAWS  
OF THE MOUNT HAVEN SUBDIVISION**

RECITALS

- A. Amended and Restated Protective Covenants and Bylaws of the Mount Haven Subdivision were previously recorded for that certain tract of land (the "Property") in the County of Salt Lake, State of Utah, which is more particularly described in Exhibit A attached hereto and by this reference made a part hereof, on October 30, 1996, as Entry No. 6493863 (the "Covenants").
- B. This Amendment is made on the date evidenced below by the Mt. Haven Owners Association (the "Association") and shall be binding against the property described in the Covenants and any annexation or supplement thereto, as described in Exhibit A.
- C. In order to better provide for consistent, uniform and responsible construction of improvements and operation of the Property, the Association deems it in the best interests of the Members and the Association to adopt additional standards for the construction of improvements within the Property and to make other changes to the Covenants and Bylaws.
- D. Pursuant to Section 27 of the Covenants, the undersigned hereby certifies that all of the voting requirements to amend the Covenants have been satisfied and that the affirmative vote or at least a majority of the Lot Owners have been obtained to adopt this Amendment.
- E. The following amendments supersede and replace any prior rules or provisions to the contrary, recorded or unrecorded.

**NOW, THEREFORE**, the Association hereby amends Section 2 "Ownership and Use," Subsection h (2) of the Covenants to read as follows:

(2) (a) A building deposit shall be deposited with the Board of Trustees prior to the commencement of construction of any addition or improvement consisting of 300 square feet or more of livable space or garage space or both (not including decks or patios).

(b) For any new construction of a Dwelling Unit requiring a water connection hook up to the water system, a non-refundable water connection fee of \$3,000 shall be paid to the Association.

(c) The amount of the building deposit shall initially be \$1,000 for additions adding between 300 and 500 square feet of livable space or garage space or both (not including decks or patios), and the building deposit shall otherwise be a minimum of \$5,000.00. The building deposit will be held in a reserve account until such time as the construction of improvement has been completed. Should the Board of Trustees determine no damage has been done to the Common Area or Common Area Property as a result of the construction, or such damage has been satisfactorily repaired, up to \$500 of a \$1,000 building deposit and up to \$4,000 of a \$5,000 building deposit may be refunded to the Lot Owner at the discretion of the Board of Trustees. Should damage occur as a result of the Lot Owner's construction, either by himself or his invitees, all or a portion of the refundable portion of the building deposit will be withheld to go towards the cost of repairs to the Common Area or replacement of Common Area Property and/or towards damage assessments that the Board of Trustees may levy. The Board of Trustees shall have the power to adjust from time to time the amount of the required building deposit, including any amount that is to be non-refundable, as well as the authority to levy damage assessments for damage exceeding the non-refundable portion of the building deposit.

**NOW, THEREFORE**, the Association hereby amends Section 2 "Ownership and Use," Subsection h of the Covenants by adding the following entirely new subsection (7):

(7) (a) Approval Required for Improvements and Construction. No improvement or improvements to a Lot or Dwelling Unit shall be commenced without first submitting plans and specifications to the Board and obtaining approval of the Board. Improvements include, but are not limited to, new construction of a Dwelling Unit and changes to the footprint of a Dwelling Unit or to the geometric structure, shape or support of the Dwelling Unit. The Board may require that construction of any improvement be ceased immediately if actual construction does not comply with the plans and specifications approved by the Board.

(b) Maximum Size. No Dwelling Unit shall exceed 3,000 square feet in total, including livable and non-livable space. Garages, unfinished spaces, and all other spaces are included in the total square footage. Three story flat vertical walls are not permitted. Two story flat vertical walls may only be permitted with prior written approval from the Board on a case by case basis.

**NOW, THEREFORE**, the Association hereby amends Section 11. "Operation, Maintenance and Alterations" of the Covenants by adding the following entirely new subsection k and l:

k. Health/Safety Concerns. If the Board of Trustees determines that a Lot contains a condition which presents a health or safety concern to the Community, the Board of Trustees may, at its discretion, hire a third-party to resolve the health or safety concern, and assess to the Owner the costs charged by the third-party to resolve the health or safety concern. Health or safety concerns include, but are not limited to, leaking propane tanks, fallen trees, and leaking water.

l. Heavy Vehicles. No vehicles larger or heavier than a ¾ ton truck shall be permitted upon the Property during the Break up Season, as defined by the Board or the water master from

time to time or seasonally, as appropriate, and generally defined as the months of May and October. The Board may grant exceptions as deemed necessary for safety or emergencies.

**NOW, THEREFORE**, the Association hereby amends Section 11 of the Covenants by deleting Subsection d "Telephone System" in its entirety.

**NOW, THEREFORE**, the Association hereby amends Section 12 "Common Area Expenses," Subsection I of the Covenants to delete the word "two (2)" and replace it with the word "one (1)" and to add the following sentence: Any delinquency by an Owner in the payment of Common Area Fees for longer than two years shall result in the water supply to the Lot being disconnected. Prior to reconnecting the water supply, a reconnection fee of \$2,000 shall be paid by the Lot Owner to the Association.

**NOW, THEREFORE**, the Association hereby amends Article III, Section 9 of the Bylaws to read as follows:

**Section 9. DELINIATION OF OFFICERS.** The Association will have five (5) officers, as follows:

- a. President
- b. Vice-President
- c. Second Vice-President
- d. Secretary/Treasurer
- e. Water Master

Notwithstanding anything in the Bylaws to the contrary, the Water Master shall be appointed by the Board and need not be a member of the Board. As with any officer, the Water Master has no vote on the Board unless the individual serving as Water Master has also been duly elected to the Board.

**NOW, THEREFORE**, the Association hereby amends the Bylaws to add the following entirely new Article X:

## **ARTICLE X**

### **Meetings and Actions, Notice and Electronic Means**

#### **Section 1. Board and Association Meetings and Actions.**

(a) Board Member Participation at Board Meetings. The Board of Trustees may permit any Trustee to participate in a meeting by, or conduct the meeting through the use of, any means of communication by which all Trustees participating may hear each other during the meeting. A Trustee participating in a meeting by such means is considered to be present in person at the meeting.

(b) Action by Board without a Meeting. Any action required or permitted to be taken at a Board meeting may be taken without a meeting (e.g., via email correspondence) if each member of the Board in writing either: (1) votes for the action, or (2) votes against the action, or (3) abstains from voting and waives the right to demand that action not be taken without a meeting.

(c) Action by Association by Written Ballot. At the discretion of the Board and notwithstanding anything in these Bylaws to the contrary, any action that may be taken at any annual, regular or special meeting of the Association may be taken without a meeting if the Association delivers a written ballot to every Owner that is entitled to vote on the matter not less than fifteen (15) days prior to the date on which the ballots must be received by the Association in order to be counted. The written ballot must set forth each proposed action and provide an opportunity to vote for or against each proposed action and must state the number of responses needed to meet any applicable quorum requirements and the total percentage of votes needed for approval, and specify the time by which a ballot must be received by the Association in order to be counted.

**Section 2. Notice, Affairs, Electronic Means.** Any transaction or action involving the business or affairs of the Association, including but not limited to voting and providing notice or records, may be conducted by electronic means. In the discretion of the Board, the Association may accept a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation as the act of the member if the Board does so in good faith and has no reason to believe it is not the act of the member. A writing may be delivered in an electronic medium or by electronic transmission, and may be signed by photographic, electronic, or other means. An electronic record or electronic signature is attributable to a person if it was the act of the person. An electronic signature may consist of a mark, symbol, character, letter, or number or any combination thereof attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record and the same shall be considered the signature of such person. A writing includes any document, record, vote, ballot, proxy, or instrument required or permitted to be transmitted by a Member or by the Association. Notwithstanding the foregoing, the Board may prohibit voting by electronic means in its discretion.

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



**EXHIBIT A**

Legal Description

All Lots, MOUNTHAVEN Subdivision, according to the plat thereof as recorded in the office of the SALT LAKE County Recorder.

All Lots, MOUNTHAVEN NO. 2 Subdivision, according to the plat thereof as recorded in the office of the SALT LAKE County Recorder.

First Parcel Number: 24-18-128-001