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ERNEST D ROWLEY, WEBER COUNTY RECORDER  
18-APR-11 2:12 PM FEE \$118.00 DEP NNP  
REC FOR: WILBERT W. VAN DER STAPPEN

**APPROVED AND ADOPTED  
AMENDMENTS AND PROMULGATION OF NEW  
ADMINISTRATIVE RULES AS SET FORTH IN  
EXHIBIT "B" WITH A REVISED FINE SCHEDULE  
FOR  
FARR ORCHARD  
(a Residential Planned Unit Development Subdivision)**

The foregoing Amendments to and Promulgation of New Administrative Rules including a revised Fine Schedule were approved and adopted by a majority vote of the Board of Directors on this 22nd day of March, 2011, of the Farr Orchard Owners Association, Inc., by the authority granted to said Board in Provision 1.8 and 1.17 including 1.17(a-d) of the Amended Declaration of Covenants, Conditions and Restriction for Farr Orchard signed on the 21<sup>st</sup> day of March 2006 and recorded on the 29<sup>th</sup> day of March 2006 in Weber County Recording Number #2169250.

**RECITALS:**

WHEREAS, in the interest of the health, safety and welfare of the residents and the property of the Farr Orchard HOA, it is the intent of the Board of Directors to adopt and approve the following amendments, clarifications and to promulgate new rules with a revised fine schedule for the purpose of protecting and maintaining the comfortable enjoyment of all the residents at Farr Orchard.

Furthermore to live in a community that is orderly, peaceful, desirable, and free from the effects of permitting one or two residents to destroy the order and environment desired by the majority of the residents; and

1. Have the ability to enforce reasonable rules after due notice and due process standards are met; and
2. Protect the name and reputation of the Farr Orchard development and maintain property values that accompany a good reputation; and
3. Maintain a quality neighborhood with minimum acceptable standards of conduct agreed to by the residents.

NOW THEREFORE, the Board of Directors of Farr Orchard hereby amend the Rules set forth in Exhibit "B", which were originally recorded on the 29<sup>th</sup> day of March 2006 in Weber County [recording number #2169250 PG 1 of 10]. The new amended and revised rules are set forth in Exhibit "B" attached hereto and incorporated herein by this reference are recorded against the real property located in Weber County, Utah; known as the Farr Orchard Residential Planned Unit Development Subdivision as more fully described on Exhibit "A".

# AMENDMENT

## FINES

### 1 FINES

- 1.1 **Fines; Authorization.** The Board is authorized to assess a fine against lot owners who violate provisions in the association declaration, the bylaws, or the association rules and regulations. The assessment of a fine shall be in accordance with the provisions of this Amended Declaration, and the rules and regulations adopted by the Board.
- 1.2 **Written Notice of Violation.** Before assessing a fine, the Board must give a written notice of the violation to the lot owner of the violation and inform the lot owner that a fine will be imposed if the violation is not cured within the time provided in the written notice. The written notice shall contain a description or brief summary of the provision, bylaw, rule or regulation that has been violated and a description of the manner in which the bylaw, rule or regulation has been violated. If a violation is temporarily cured or stopped, but is repeated by the same lot owner within 180 days of the date a written notice of violation is first served on the lot owner, the violation shall be deemed to be a continuing violation and the Board shall not be required to serve another notice of violation upon the lot owner but may rely upon the notice provided in the first written notice.
- 1.3 **Time to Cure.** In all instances, the violation must be cured within 48 hours of the written notice being delivered to the lot owner or the lot owner's agent, unless such time period is extended by the Board for good cause. The member of the Board or their agent that serves the written notice of violation on the lot owner shall write on the notice of violation the date and time the notice of violation was served on the lot owner and the date and time by which the violation must be cured. If a lot owner repeats the violation more than 48 hours after receiving the written notice of violation but less than 180 days after receiving the notice, the lot owner shall be deemed to have not timely cured the violation.
- 1.4 **Fine.** If the violation is fully and completely cured within the time provided in the written notice of violation, and is not repeated within 180 days of the time the written notice is first served on the lot owner, no fine may be assessed by the Board. If the violation is not fully cured within the time provided, the Board shall, after confirming that the violation complained of has not been fully cured, impose a fine as provided in the CC&Rs, bylaws, or the rules and regulations. If the same violation is repeated more than 48 hours but less than 180 days after the written notice of violation is first given, the Board shall impose a fine as provided in the CC&Rs, or the rules and regulations. The lot owner shall receive a written notice of fine from the Board informing the lot owner of the amount of the fine imposed.

1.5 **Manner of Providing Notice of Violation and Fine.** The notice of a violation of a bylaw or the rules and regulations of the association and the notice of a fine imposed by the Board may be provided to the lot owner in any one or more of the following ways:

- 1.5(a) Delivering a copy to the lot owner personally; or
- 1.5(b) Sending a copy through certified or registered mail, addressed to the lot owner at his or her place of residence, in which case an additional 48 hours shall be allowed to cure the violation; or
- 1.5(c) Doing both of the following: (1) Leaving a copy with a person of suitable age and discretion at the lot owners lot; and (2) Mailing a copy to the lot owner at the lot owner's regular mailing address; or
- 1.5(d) Affixing a copy in a conspicuous place on the lot since a person of suitable age or discretion could not be found; or
- 1.5(e) If the person committing the violation is a tenant of the lot owner, by (1) personally delivering a copy to the tenant living at the lot or affixing a copy in a conspicuous place on the lot if a person of suitable age or discretion could not be found, and by (2) mailing a copy to the lot owner at the address provided by the lot owner to the association.

1.6 **Non Lot Owner Occupied Lots: Renters & Guests.** If cases where the lot is not occupied by the lot owner and the violation of the bylaw or rules and regulations is committed by a guest or resident of the lot, the lot owner shall be responsible for the failure of the resident to cure violations of the bylaws or rules and regulations. For purposes of the lease between the lot owner and the resident of the lot, the provisions of this Amended Declaration shall be incorporated by reference into the terms of the lease and the lot owner may collect from the resident of the lot any fines the lot owner becomes obligated to pay by virtue of the resident's actions. The lot owner shall be responsible for bringing a separate action to collect any such fines from the lot owner's tenant. Residents (defined herein as renters, tenants, guests of lot owners or renters, and any person who temporarily or permanently lives in a lot, but excluding lot owners), are subject to the bylaws and rules and regulations adopted by the association. Lot owners are ultimately responsible for the activities of residents who reside in, visit, or in any manner use their lot and the common area. Any fine assessed against a resident will be the responsibility of the lot owner of the lot in which the resident resides or is a guest. Because residents are subject to the provisions of the bylaws and rules and regulations, residents are also subject to fines in the same manner as a lot owner. Any fine assessed against a resident may be collected by the lot owner from the resident. If a resident violates a bylaw or rule or regulation, both the resident and the lot owner shall be served a notice of violation as provided above. It shall be the responsibility of the lot owner to see that the resident cures the violation within the time allotted. Failure of the lot owner to have the resident timely cure the violation shall subject the lot owner to the fine as provided herein as if the lot owner committed the violation.

- 1.7 **Board Action.** Any action by the Board involving a notice of violation or a notice of fine may be taken by any officer of the Board if so authorized or ratified by a quorum of the Board, consisting of 50% or more of the Board present at a meeting either in person or by telephone conference, or if not present at a meeting, members consenting to the action after conferring with other members of the Board.
- 1.8 **Violations for Which a Fine May be Assessed.** A fine may be assessed for the violation of a provision in the CC&Rs, the Declaration or bylaws, the association rules or regulations, or for a rule listed on Exhibit "B", which is attached and incorporated by this reference. The list of violations of a rule or regulations listed on Exhibit "B" may be modified by the Board pursuant to their power to enact rules governing conduct within a project as contained in the CC&Rs. Only those violations listed on Exhibit "B" and those violations of rules adopted by the Board are the offenses which are subject to a fine. Exhibit "B" may be used to incorporate provisions in the Declaration, bylaws, or the rules and regulations for which a violation may be assessed.
- 1.9 **Continuous Violations.** Each day (24 hour period) during which a violation of the declaration, the bylaws or the rules and regulations of the association, or the rules listed on Exhibit "B", continues after the time period expires during which the lot owner is required to cure the violation, constitutes a separate violation and is subject to a fine in the amount listed in Exhibit "B". The violation of a provision in the declaration, the bylaws, a rule or regulation, or a provision listed on Exhibit "B", which is temporarily cured within the time period required in the notice of violation, but which is violated again within 180 days of the date the original notice of violation was served, is deemed to be a continuous violation for which another notice of violation is not required to be served.
- 1.10 **Amount of Fines.** The amount of a fine for a violation of a provision in the CC&Rs, the Declaration, the rules and regulations, or the provisions listed on Exhibit "B", shall be in the amount listed on Exhibit "B", but in no case shall a single fine exceed \$500.00. A cumulative fine, which is a fine for a violation that is not timely cured or a fine that is repeatedly assessed due to repeated violations for which a notice of violation has previously been served, may not exceed \$500.00 per month.
- 1.11 **Late Fees.** Fines not paid within 10 days shall accrue interest at the rate of 1% per month and a late fee of \$25.00. An additional late fee shall be assessed for each and every 30 day period the fine remains unpaid after it is due. No interest or late fees may accrue until 10 days after a hearing (if requested by the lot owner) has been conducted and a final decision has been rendered by the Board.
- 1.12 **Protesting the Fine.** A lot owner who is assessed a fine may request an informal hearing to protest or dispute the fine within 30 days from the date the fine is assessed (which is the date written on the notice of fine). The lot owner protesting the fine shall request the informal hearing by delivering a written request to any member of the Board stating the grounds for the protest or dispute and setting forth in detail the following:

- 1.12(a) the grounds for the protest, including any unusual circumstances justifying a reduction in the standard fine;
  - 1.12(b) the facts relied upon by the protesting lot owner with respect to the violation or non-violation of the bylaw, rules or regulations;
  - 1.12(c) the amount of the fine the lot owner claims should be paid and the reasons supporting that claim; and
  - 1.12(d) any errors made by the Board in calculating, assessing, or collecting the fine.
- 1.13 **Informal Hearing.** Within 21 days of receiving the written request for hearing, the Board shall schedule an informal hearing at which time the requesting lot owner will be given an opportunity to present evidence and witnesses supporting the lot owners position. No formal rules of evidence will be required, and the Board can receive the evidence submitted by the requesting lot owner and determine the probative value of such evidence. If it chooses and if it would be of benefit to the requesting lot owner, the Board may also produce evidence supporting its decision to fine the lot owner. However, the intent of the hearing is listen to the violating lot owners explanations and not to have a trial. The Board may terminate the hearing at any time if any individual present becomes unruly, inconsiderate or rude.
- 1.14 **Decision of the Board.** The Board may, after the requesting lot owner has had the opportunity at the hearing to present the evidence desired, may either:
- 1.14(a) leave the amount of the fine as originally stated;
  - 1.14(b) reduce the fine to an amount agreed upon by a majority of the Board present at the hearing;
  - 1.14(c) reduce the fine to an amount agreed to by the offending lot owner with the agreement that the offending lot owner will pay the fine within 10 days and not appeal the fine in district court;
  - 1.14(d) suspend all or a portion of the fine conditioned on the lot owner not repeating the violation for 180 days; or
  - 1.14(e) forgive the fine.
- The Board shall render its written decision no later than ten (10) days after the date of the hearing.
- 1.15 **Appeals.** A lot owner may appeal a fine by initiating a civil action within 180 days after:
- 1.15(a) a hearing has been held and a final decision has been rendered by the Board,

or

- 1.15(b) the time to request an informal hearing has expired without the lot owner making such a request.
- 1.16 **Lien.** A fine assessed against an Owner that remains unpaid after the time for appeal has expired becomes a lien against the lot owner's interest in the property in accordance with the same standards as a lien for the nonpayment of common expenses under U.C.A. § 57-8-20.
- 1.17 **Promulgation of Additional Rules and Fines.** The Board is authorized to adopt and to amend the administrative rules and regulations as may be necessary or desirable to insure the property is maintained and used in a manner consistent with the interests of the lot owners, to protect and enhance the quality of life in the association, to protect the property values of the lots, to ensure a quality and enjoyable lifestyle, and to respect the rights and privileges of all residents to be free from the annoyance, disturbance and nuisance of others. The method by which the Board may adopt new rules shall be as follows:
- 1.17(a) New rules shall be adopted at a regular or special meeting of the Board. The rule shall be in writing and voted on and approved by a majority of the members of the Board. If the violation of the new rule shall have a fine associated with it, the amount of the fine shall be stated in the rule and included in Exhibit "B".
- 1.17(b) Prior to the new rule becoming enforceable, the Board shall cause to be delivered, personally or by regular U.S. mail, a copy of the new rule to each lot owner. If a lot owner is not living in his lot, the Board shall cause to be posted on the door of the lot owner a copy of the new rule. The new rule shall become enforceable five (5) days from the day it is mailed to each lot owner or posted on the door of an absentee lot owner.
- 1.17(c) Rules adopted in this manner shall deal only with the health, safety or welfare of residents or property. Rules adopted by the Board may also be used to clarify provisions in the declaration, bylaws, or rules and regulations, or to change the amount of a fine associated with the violation of the rule.
- 1.17(d) Rules adopted by the Board shall have the same force and effect as rules contained in the declaration, the bylaws, or other administrative rules and regulations adopted by the association, including the power to collect fines from those who violate these rules.
- 1.18 **SEVERABILITY** If any phrase contained in this Amended Declaration or provision of any paragraph, sentence, clause, phrase, or word, or the application thereof, in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of the Amended Declaration or the phrase or paragraph in which it is contained, and the

application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

**EFFECTIVE DATE**

These Approved and Adopted Amendments and Promulgation of New Administrative Rules as set forth in Exhibit "B" with a Revised Fine Schedule shall become enforceable five (5) days from March 26, 2011 (date of mailing) to each lot owner and/or posted on the doors of an absentee lot owner.

IN WITNESS WHEREOF, this 18<sup>th</sup> day of April, 2011.

FARR ORCHARD OWNERS ASSOCIATION, Inc.

By *Wil van der Stappen*  
 President - Wil van der Stappen

STATE OF UTAH                    )  
   :ss.  
 COUNTY OF WEBER            )

On this 18<sup>th</sup> day of April, 2011, personally appeared before me Wil van der Stappen who, being by me duly sworn, did say that he is President of the Farr Orchard Owners Association, Inc. and that the within and foregoing instrument was signed in behalf of said Owners Association and he duly acknowledged to me he executed the same.

*Heather Simmons*  
 Notary Public



**EXHIBIT "A"**

The following units in the buildings indicated, in Farr Orchard, Amended PRUD, Ogden City, Weber County, Utah

Lots 1 through 35, Farr Orchard Phase 1, Amended PRUD, Ogden City, Weber County, Utah. (Tax I.D. # 13-219-0001 through 0035) *rd*

Lots 36 through 63, Farr Orchard Phase 2, Amended PRUD, Ogden City, Weber County, Utah. (Tax I.D. # 13-223-0001 through 0028) *rd*

Lots 64 through 89, Farr Orchard Phase 3, Amended PRUD, Ogden City, Weber County, Utah. (Tax I.D. # 13-226-0001 through 0026) *rd*



**EXHIBIT B****AMOUNT OF FINE\***

1ST Offense	2ND Offense within 180 days	3RD or more Offense within 180 days	<b>RULE</b> (the following activities are prohibited)
\$50	\$100	\$150	<ul style="list-style-type: none"> <li>• parking in restricted areas such as streets within Farr Orchard</li> <li>• parking in areas marked with "no parking" signs</li> <li>• parking in areas not permitted on the Farr Orchard parking map</li> <li>• violation of any parking rule contained in the declaration, bylaws, or Farr Orchard Rules</li> <li>• parking recreational vehicles or boats within Farr Orchard</li> <li>• parking more than three cars per residence at Farr Orchard. (One car may be parked in the garage, one in the driveway of the residence, and one in the visitors parking area with the written permission of the board only.)</li> <li>• owners parking in the visitors parking without the written permission of the board, which permission shall only be given if the garage and driveway are occupied by a resident's vehicles.</li> <li>• parking unregistered or inoperable vehicles in the common area for more than 15 days</li> </ul>
\$35	\$70	\$100	<ul style="list-style-type: none"> <li>• driving faster than the posted speed</li> <li>• driving faster than conditions safely permit</li> </ul>
\$25	\$50	\$100	<ul style="list-style-type: none"> <li>• performing maintenance or mechanical work on vehicles (including motorcycles &amp; ATV's) in the common area</li> </ul>
\$35	\$70	\$100	<ul style="list-style-type: none"> <li>• leaving trash, garbage, or clutter on the unit's patio, porch or doorstep, or otherwise maintaining the patio, porch or doorstep in an unsightly, unclean, or unsanitary condition</li> </ul>
\$50	\$100	\$150	<ul style="list-style-type: none"> <li>• misuse or damage to the common area by attaching satellite dishes, awnings, signs, lights, or any other item to the common area, without the written permission of the Board</li> <li>• causing damage to the common area (lawn, roof, gutters, plumbing, parking area, sidewalk, sprinkler system, flowers or shrubs)</li> </ul>
\$10	\$20	\$30	<ul style="list-style-type: none"> <li>• leaving personal belonging in the common area (bicycles, scooters, toys, equipment)</li> <li>• failing to retrieve trash cans from the street within 24 hours after trash pickup</li> </ul>

\$25	\$50	\$125	<ul style="list-style-type: none"> <li>• creating noise within a unit that can be heard in another unit or in the common area such that the noise is (1) offensive to the senses, (2) disruptive to the comfortable enjoyment and lifestyle of other residents, or (3) an obstruction to the free use of property so as to interfere with the comfortable enjoyment of lifecreating noise in the common area that can be heard in a unit such that the noise is (1) offensive to the senses, (2) disruptive to the comfortable enjoyment and lifestyle of other residents, or (3) an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life</li> </ul>
\$50	\$100	\$150	<ul style="list-style-type: none"> <li>• maintaining pets in a unit in violation of the bylaws, declaration or rules and regulations</li> <li>• failing to clean up after pets that have made a mess in the common area</li> <li>• allowing pets in the common area that are unattended or not on a leash</li> <li>• maintaining or bringing a pet into unit that can be heard in another unit such that the sound created by the pet is (1) offensive to the senses, (2) disruptive to the comfortable enjoyment and lifestyle of other residents, or (3) an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life</li> <li>• chaining, staking, or tying up an animal in the common area</li> <li>• All renters/tenants in any leasehold interest (except those renters who currently have a dog) are prohibited from bringing into the Farr Orchard HOA community any dog(s) except a dog that is certified to be necessary as a service and/or companion animal pursuant to the laws and guidelines set forth in the Fair Housing and ADA statutes for those individuals with disabilities. All prospective renters/tenants seeking a "Reasonable Accommodation" from this regulation and/or rule must apply to the Farr Orchard Management Committee and obtain written approval prior to taking possession of their leased premises with a service and/or companion animal. After a current renter/tenant, with a dog, vacates their leased premises all new renters/tenants for that property shall be subject to this revised regulation and/or rule.</li> </ul>

\$25	\$50	\$90	• failing to maintain window coverings in a state of good repair (failure to replace broken blinds, torn drapes or other such window coverings). There shall be no blankets, newspapers or bed sheets used for window coverings. Window coverings shall maintain a uniform look throughout Farr Orchard
\$25	\$50	\$100	• operating a business in a unit without a business license or in violation of the municipal ordinances, the bylaws, declaration, or rules and regulations
\$100	\$150	\$250	• leasing a unit in violation of the provisions of the CC&Rs

\*The cumulative fine for a continuing violation may not exceed \$500.00 per month.