



Recorded at the Request of:
Kings Row Estates Property Owners Association

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After Recording mail to:
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AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS, AND RESERVATION OF EASEMENTS
FOR
KINGS ROW ESTATES PROPERTY OWNERS ASSOCIATION
WASHINGTON CITY, UTAH

(A 55 and Over Age-Restricted Community)

Age Restriction - Housing for Persons 55 Years of Age or Older. THE KINGS ROW ESTATES PROPERTY OWNERS ASSOCIATION IS INTENDED TO, AND SHALL BE MANAGED TO, PROVIDE HOUSING FOR PERSONS 55 YEARS OF AGE OR OLDER, AND SHALL PROHIBIT OCCUPANCY BY PERSONS UNDER AGE 18, AS WELL AS ALL OTHERS FALLING WITHIN THE DEFINED TERM OF FAMILIAL STATUS UNDER FEDERAL LAW; EXCEPT THAT PERSONS UNDER AGE 18 MAY VISIT OCCUPANTS IN ANY DWELLING UNIT ON A LOT, BUT NOT FOR MORE THAN TWO (2) WEEKS CONSECUTIVELY NOR MORE THAN THIRTY (30) DAYS IN ANY CALENDAR YEAR. FURTHER, EXCEPT AS PROVIDED IN THE POLICIES AND PROCEDURES CONCERNING HOUSING FOR PERSONS 55 YEARS OF AGE OR OLDER, ADOPTED BY THE BOARD, EACH AND EVERY DWELLING UNIT WITHIN THE PROPERTY, IF OCCUPIED, SHALL BE OCCUPIED BY AT LEAST ONE PERSON 55 YEARS OF AGE OR OLDER (QUALIFYING OCCUPANT). WITHOUT LIMITING THE FOREGOING, AT NO TIME SHALL LESS THAN EIGHTY PERCENT (80%) OF THE OCCUPIED DWELLING UNITS SUBJECT TO THIS DECLARATION BE OCCUPIED BY AT LEAST ONE PERSON 55 YEARS OF AGE OR OLDER; UNLESS ALL REMAINING LOTS ARE RESERVED FOR OCCUPANCY OF THE DWELLING UNIT THEREON BY AT LEAST ONE PERSON 55 YEARS OF AGE OR OLDER.

THE BOARD SHALL ESTABLISH POLICIES AND PROCEDURES FROM TIME TO TIME AS NECESSARY TO MAINTAIN THE PROPERTY AS AN AGE RESTRICTED COMMUNITY INTENDED FOR HOUSING PERSONS 55 YEARS OF AGE OR OLDER UNDER STATE AND FEDERAL LAW.

Prepared by:

 JENKINSBAGLEY

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AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS, AND RESERVATION OF EASEMENTS
FOR
KINGS ROW ESTATES PROPERTY OWNERS ASSOCIATION
WASHINGTON CITY, UTAH

PREAMBLE

This Amended and Restated Declaration ("Declaration") is made this ____ day of _____, 2019 by KING ROW ESTATES PROPERTY OWNERS ASSOCIATION, a Utah nonprofit corporation, hereinafter called the "Association" and was adopted by sixty-seven percent (67%) or more of the Members entitled to vote and fifty-one percent (51%) or more of the mortgage holders entitled to vote pursuant to Section 12.8 of the 2008 Declaration (defined below). This amended and restated instrument hereby restates in the entirety and substitutes for the following:

- Declaration of Protective Covenants, Conditions and Restrictions of Kings Row Estates, R.V. Subdivision, recorded with the Washington County Recorder on October 31, 1985 as Document No. 283845, in Book 392, at Page 398;
- Addendum to Declaration of Protective Covenants, Conditions and Restrictions of Kings Row Estates, R.V. Subdivision, recorded with the Washington County Recorder on February 25, 1988 as Document No. 328220, in Book 478, at Page 226;
- Declaration of Protective Covenants, Conditions and Restrictions of Kings Row Estates, R.V. Subdivision, recorded with the Washington County Recorder on March 2, 2005 as Document No. 00929883, in Book 1718, at Page 0820;
- Declaration of Protective Covenants, Conditions and Restrictions of Kings Row Estates, R.V. Subdivision, recorded with the Washington County Recorder on April 4, 2005 as Document No. 00936311, in Book 1718, at Page 0820;
- Declaration of Covenants, Conditions and Restrictions of Kings Row Estates, R.V. Subdivision, recorded with the Washington County Recorder on April 14, 2008 as Document No. 20080014974 ("2008 Declaration"); and
- any other amendments, supplements, or annexing documents to the Declaration of Covenants, Conditions and Restrictions Kings Row Estates, R.V. Subdivision, whether or not recorded with the Washington County Recorder.

RECITALS:

WHEREAS, the Declarant has completed all aspects of financing and construction of Kings Row Estates ("KRE") and has transferred all aspects of the operation and improvements of this Subdivision over to the Kings Row Estates Property Owners Association; and

WHEREAS, the Association desires to provide for the preservation of the values and amenities in said subdivision and for the maintenance of said open spaces and other common facilities, and, to this end, desires to subject the real property described in Article II with such additions as may hereinafter be made thereto the covenants, restrictions, easements, charges, and liens hereinafter set forth, each and all of which is and are for the benefit of KRE and each Owner thereof; and

WHEREAS, the Association has deemed it desirable for the efficient preservation of the values and amenities in to maintain an association of homeowners with the power of maintaining and administering the Subdivision properties and facilities and administering and enforcing covenants and restrictions and conditions and disbursing the assessments and charges hereinafter set forth; and

WHEREAS, the Association has been incorporated under the laws of the State of Utah, as a nonprofit corporation, Kings Row Estates Property Owners Association;

NOW THEREFORE, it is declared that the real property described in Article II hereof, is and shall be transferred, sold, conveyed, and occupied subject to the covenants, restrictions, easements, charges, and liens hereafter set forth.

ARTICLE I **DEFINITIONS**

The definitions in this Declaration are supplemented by the definitions in the Acts (defined below). In the event of any conflict, the more specific and restrictive definition shall apply. Unless otherwise expressly provided, the following words and phrases when used herein shall have the meanings hereinafter specified.

1.1 ACC. ACC shall mean the Architectural Control Committee created pursuant to Article VIII hereof.

1.2 ACC Restrictions and Rules. ACC Restrictions and Rules shall mean such restrictions and rules as may be adopted and promulgated by the ACC pursuant to Sections 8.1 and 8.4 hereof as such restrictions and rules may be amended from time to time.

1.3 Acts. Nonprofit Act shall mean the Utah Revised Nonprofit Corporation Act (Utah Code § 16-6a-101, *et seq.*) and the Association Act shall mean the Community Association Act (Utah Code § 57-8a-101, *et seq.*) (the Nonprofit Act and the Association Act shall collectively be referred to as the “Acts”).

1.4 Annual Assessment. Annual Assessment shall mean the annual charge against each Owner and his Lot, representing a portion of the Common Expenses, which are to be paid by each Owner to the Association in the manner and proportions provided herein.

1.5 Articles. Articles shall mean the Articles of Incorporation of the Association filed with the State of Utah, Department of Commerce, Division of Corporations and Commercial Code, as such Articles may be amended from time to time.

1.6 Association. Association shall mean Kings Row Estates Property Owners Association, a corporation formed under the Utah Revised Nonprofit Corporation Act, its successors and assigns.

1.7 Beneficiary. Beneficiary shall mean a mortgagee under a mortgage or a beneficiary under a deed of trust, as the case may be, and the assignees of such mortgagee or beneficiary.

1.8 Benefitted Assessment. Benefitted Assessment shall mean assessments levied in accordance with Article X against particular Units to cover costs pursuant to a menu of services which the Board of Directors may from time to time authorize.

1.9 Board. Board shall mean the Board of Directors of the Association elected pursuant to the Bylaws of the Association.

1.10 Budget. Budget shall mean a written, itemized estimate of the expenses and income to be incurred by the Association in performing its functions under this Declaration.

1.11 Bylaws. Bylaws shall mean the Bylaws of the Association, as adopted by the Board, as such Bylaws may be amended by the Board from time to time.

1.12 Corrective Assessments. Corrective Assessments shall mean a charge against a particular Owner and his Lot representing the costs to the Association incurred in taking corrective action against an Owner, including without limitation actions taken pursuant to Sections 2.12, 8.7, 9.1, and 14.9, and Article XI.

1.13 Common Area. Common Area means that portion of property owned by the Association, shown on the Plat as dedicated to the common use and enjoyment of the Owners and all improvements constructed thereon.

1.14 Common Expenses. Common Expenses shall mean those expenses for which the Association is responsible under this Declaration, including the actual and estimated costs of maintenance, management, operation, repair, replacement, and improvement of the Common Area; costs of management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys, and other employees; the costs of all utilities; gardening; certain landscaping and Improvements on the Common Area, or portions thereof; and the costs of any other items incurred by the Association for any reason whatsoever, in connection with KRE, for the benefit of all of the Owners.

1.15 Community-Wide Standard. Community-Wide Standard shall mean the standard of conduct, construction, architecture, maintenance, or other activity generally prevailing at KRE, or the minimum standards established pursuant to the ACC Restrictions and Rules, Rules and Regulations, and Board resolutions, whichever is a highest standard. Founder shall establish initially such standard and it may contain both objective and subjective elements. The Community-Wide Standard may evolve as development progresses and as the needs and desires within KRE change.

1.16 Declarant. Declarant shall mean and refer to Revecore, Inc., dba King's Row Estates, which was the named Declarant under the Original Declaration. Reference to Declarant in this Declaration is for historical purposes only as the Declarant has no further rights under this Declaration.

1.17 Deed of Trust. Deed of Trust shall mean a mortgage or a deed of trust as the case may be.

1.18 Development. Development shall mean Kings Row Estates Subdivision according to the Plat.

1.19 Dwelling Unit. Dwelling Unit shall mean a single-family dwelling, with or without walls or roofs in common with other single-family Dwelling Units. The Dwelling Unit includes fee title to the real property lying directly beneath the single-family dwelling, and, subject to Sections 1.22, 1.23, and 2.14 below, such other land as shown as private property within Lot boundary lines on the Plat. Dwelling Units shall include a Recreational Home and a Recreational Vehicle defined as follows: (i) Recreational Home shall mean a structure built in accordance with and authorized by the Washington City Zoning Ordinance for erection and maintenance within a recreational vehicle subdivision, which may be built on-site or placed on a Lot and (ii) Recreational Vehicle shall mean a vehicular unit primarily designed as a temporary dwelling for travel, recreation and vacation use, which is either self-propelled or pulled by another vehicle, including but not limited to a motor home, fifth wheel trailer, travel trailer or park model home. Recreational vehicles do not include vans, trucks campers or truck shells, tents or tent trailers.

1.20 Fiscal Year. Fiscal Year shall mean the fiscal accounting and reporting period of the Association selected by the Board from time to time.

1.21 Government Assessments. Government Assessments shall mean assessments required by governmental authorities having jurisdiction over KRE.

1.22 Holidays. Holidays shall mean Christmas, Thanksgiving and New Year's Day, and such other holidays as the Board may designate from time to time.

1.23 Improvement. Improvement shall mean any structure or appurtenance thereto of every type and kind, including but not limited to Dwelling Units and other buildings, walkways, sprinkler pipes, or areas, garages, roads, driveways, parking areas, fences, screening walls, block walls, retaining walls, stairs, decks, landscaping, ponds, antennae, hedges, wind-breaks, patio covers, railings, plantings, planted trees and shrubs, poles, signs, storage areas, exterior air conditioning and water-softening fixtures or equipment.

1.24 Limited Common Area. Limited Common Area means that portion of the property owned by the Association shown on the Plat as dedicated to the exclusive use and enjoyment of the Owner of the Lot to which such Limited Common Area is adjacent and/or appurtenant.

1.25 Lot. Each Lot is identified on the Plat and is owned in fee simple by the Owner.

1.26 Manager. Manager shall mean the person or entity appointed by the Association, if any, hereunder as its agent and delegated certain duties, powers or functions of the Association as further provided in this Declaration and in the Bylaws.

1.27 Member, Membership. Member shall mean any Person holding a membership in the Association, as provided in this Declaration. Membership shall mean the property, voting and other rights and privileges of Members as provided herein, together with the correlative duties and obligations contained in this Declaration and the Articles, Bylaws, ACC Restrictions and Rules, and Rules and Regulations.

1.28 Mortgage, Mortgagee, Mortgagor. Mortgage shall mean any Recorded first mortgage or first deed of trust. The term "Deed of Trust" or "Trust Deed" when used herein shall be synonymous with the term "Mortgage." The term Mortgagee shall mean a person or entity to whom a Mortgage is made and shall include the beneficiary of a Deed of Trust. Mortgagor shall mean a Person who mortgages his, her, or its Lot to another (i.e., the maker of a Mortgage), and shall include the Trustor of a Deed of Trust. The term "Trustor" shall be synonymous with the term "Mortgagor," and the term "Beneficiary" shall be synonymous with the term "Mortgagee."

1.29 Notice of Members Meeting. Notice of Members Meetings required or provided for in this Declaration shall be in writing and shall satisfy the notice requirements set forth in the Bylaws. Notice of Members Meetings shall be delivered at least ten (10) days but not more than thirty (30) days prior to the date of the meeting of the Members. Notwithstanding the foregoing, notice given by other means shall be deemed fair and reasonable if given in accordance with the Nonprofit Act.

1.30 Owner. Owner shall mean the Person or Persons who is the owner of record (in the office of the County Recorder of Washington County, Utah) of a fee simple or an undivided fee simple interest in a Lot. Notwithstanding any applicable theory relating to a Mortgage, the term Owner shall not mean or include a Mortgagee unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

1.31 Person. Person shall mean a natural individual or any other entity with the legal right to hold title to real property.

1.32 Plans. Plans shall mean such plans and specifications as may be required by this Declaration and by ACC Restrictions and Rules.

1.33 Plat. Plat shall mean "Kings Row Estates – No. 1", "Kings Row Estates – No. 2", and "Kings Row Estates No. 2 (Amended)", planned unit development Plats, executed and acknowledged by the Declarant, prepared and certified by Bush & Gudgell, Inc., recorded in the records of the Washington County Recorder, as the same may be modified, amended, or supplemented in accordance with the provisions of Article XV concerning amendments or supplements to this Declaration.

1.34 KRE or Park. KRE or Park shall mean all existing properties and additions thereto, as are subject to this Declaration.

1.35 Record, Recorded, Filed, or Recordation. Record, Recorded, Filed, or Recordation shall mean, with respect to any document, the recordation of such document in the office of the County Recorder of Washington County, Utah.

1.36 Rules and Regulations. Rules and Regulations shall mean rules and regulations as may be adopted and promulgated by the Board pursuant to the Bylaws and this Declaration, as the Board deems necessary or desirable (i) to aid it in administering the affairs of the Association, (ii) to ensure that KRE is maintained and used in a manner consistent with the interests of the Owners, (iii) to regulate the use of the Common Areas and to regulate the personal conduct of the Members and their guests thereon, and (iv) to establish penalties for the infractions thereof, as such rules and regulations may be amended from time to time.

1.37 Special Assessments. Special Assessments shall mean a charge against each Owner and his Lot, representing a portion of the costs to the Association of defraying any extraordinary expenses incurred or special projects approved as set forth in Article VI.

1.38 Streets. Streets shall mean private or public streets and thoroughfares in KRE.

1.39 Trust Deed for Assessments. Trust Deed for Assessments shall mean the deed of trust created by this Declaration in Article VII to further secure the Owner's obligation to pay Assessments and to provide the Association with the power of non-judicial trust deed foreclosure provided for in Utah Code § 57-1-19, et seq., as amended from time to time.

1.40 Vehicle. Vehicle shall mean any and all equipment or device (mobile or immobile, operable or inoperable) of any type, designed to transport persons, objects -- or are designed to be transported on wheels, skids, skis or tracks--, including, without limitation, dump trucks, cement mixer trucks, gas trucks, delivery trucks, buses, aircraft, trailers, golf carts, all-terrain vehicles, minivans, cars, pickup trucks, motorcycles, other devices or equipment similar to any of the foregoing, whether or not used for daily transportation.

ARTICLE IA DESCRIPTION OF PROPERTY

The real property which is associated with the Development and which has been and shall hereafter continue to be held, transferred, sold, conveyed, and occupied subject to the provisions of this Declaration consists of all the property described in Exhibit A hereto; TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the described parcels of real property.

ALL OF THE FOREGOING IS SUBJECT TO: All liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all patent reservations and exclusions; any mineral reservations of record and rights incident thereto; all instruments of record which effect the above-described land or any portion thereof, including without limitation, any Mortgage; all visible easements and rights-of-way; all easements and rights-of-way of record; any easements, rights-of-way, encroachments, or discrepancies otherwise existing; an easement for each and every pipe, line, cable, wire, utility line, or similar facility which traverses or partially occupies the above-described land at such time as construction of all Development improvements is complete; and all easements necessary for ingress to, egress from, maintenance of, and replacement of all such pipes, line, cables, wires, utility lines, and similar facilities.

If, pursuant to the foregoing reservations, KRE, or any Improvement thereon, is traversed or partially occupied by a permanent Improvement or utility line, a perpetual easement for such Improvement or utility line shall exist. Such easement shall be in favor of such utility as is providing the service. All cable, telephone, and electric lines shall be owned by the respective utilities serving KRE.

ARTICLE II **OWNERS' PROPERTY RIGHTS**

2.1 Owners' Easements of Enjoyment. Each Owner shall have a right and easement of use and enjoyment including, but not limited to, the right of ingress and egress to and from his Lot and in and to the Common Area. Such right and easement shall be appurtenant to and shall pass with title to each such Lot and in no event shall be separated therefrom. Any Owner may grant the use and enjoyment described herein to any tenant, lessee, guest, or family member, and to a contract purchaser who resides on such Lot. All such rights are subject to this Declaration.

2.2 Form for Conveyancing. Any deed, lease, mortgage, deed of trust, or other instrument conveying or encumbering title to a Lot shall describe the interest or estate involved substantially as follows:

All of Lot ____ of Kings Row Estates, Phase ___, a planned unit development, according to the official Plat thereof, subject to the Amended and Restated Declaration of Covenants, Conditions, Restrictions, and Reservation of Easements, on file in the office of the Washington County Recorder.

Whether or not the description employed in any such instrument is in the above-specified form, however, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Lot.

2.3 Reserved.

2.4 Limitations on Common Area Easement. An Owner's right and easement of use and enjoyment concerning the Common Area shall be subject to the following:

(a) Subject to the provisions of Article XIII of this Declaration, the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association. Any such dedication or transfer must, however, upon Notice of Members Meeting be assented to by (i) two-thirds (2/3) of the Members entitled to vote in person, or by proxy, or represented by ballot are entitled to cast at a meeting duly called for the purpose, and (ii) the local municipal authority;

(b) The right of the Association, to be exercised by the Board, to establish uniform Rules and Regulations as set forth in Section 14.9;

(c) The right of the Association, to be exercised by the Board, to reconstruct, replace or refinish any Improvement or portion thereof upon the Common Area in accordance with the original design, finish or standard of construction of such Improvement;

(d) The right of the Association to replace destroyed trees or other vegetation and plant trees, shrubs and ground cover upon any portion of the Common Area;

(e) The right of the Association, to be exercised by the Board, to reasonably restrict access to portions of the Common Area and to limit the number of guests and invitees of Members using the Common Area;

(f) The easements shown on the Plat and those reserved or implied in this Declaration, including without limitation, the easements set forth in Sections 2.6, 2.7, 2.8, 2.9, 2.10, 2.11;

(g) The right of the Board to suspend a Member's voting rights as provided for in the Bylaws and the right to suspend a Member's right to the Common Areas and Facilities during any period of violation of any provision of this Declaration, or the ACC Restrictions and Rules, or any Rule or Regulation of the Association;

(h) The right of the Association to enter into cross-use agreements, agreements or leases which provide for use of the Common Areas and Facilities by a similar Association in consideration for use of the Common Areas and Facilities of the other Association, or for cash consideration; and

(i) The right of the Association to be exercised by the Board, to take such steps as are reasonably necessary or desirable to protect the Common Area against foreclosure.

2.5 Parking Restrictions. In addition to the parking restrictions provided for in Section 10.10 (a), the Association, through its Board, is hereby empowered to establish "parking," "guest parking," and "no parking" areas within the portions of the Common Area improved as Streets, driveways, turnarounds or community parking areas. The Association, through its Board, is also empowered to include in the Rules and Regulations, the ability to enforce the parking restrictions imposed pursuant to this Section 2.5 and those set forth in Section 10.10(a) by all means lawful for such enforcement, including the removal of any violating Vehicles at the expense of the Owner of the Vehicle and imposing fines.

2.6 Easements for Public Service Use. In addition to the foregoing easements over the Common Area, there shall be easements for public services of the City of Washington in which KRE is located, including but not limited to, the right of the police and fire departments to enter upon any part of the Common Area for the purpose of carrying out their official duties.

2.7 Easements for Water and Utility Purposes. In addition to the foregoing easements over the Common Area, there shall be easements for public and private utility purposes, including but not limited to, the right of any public utility of ingress or egress over the Common Area for purposes of reading and maintaining meters, and using and maintaining fire hydrants located on the Common Area. The Lots shall also be subject to such public utility easements as shown on the Plat and as required by the City of Washington.

2.8 Easement for Encroachments. If any portion of a Dwelling Unit or other Improvement constructed by Declarant, or if any portion of a Dwelling Unit or other Improvement reconstructed so as to substantially duplicate the Dwelling Unit or other Improvement originally constructed by Declarant, encroaches upon the Common Areas, Limited Common Areas, or other Lots, as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of KRE, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists.

2.9 Reserved.

2.10 Cross-Use Easement. The Board reserves the right to grant a cross-use easement for ingress and egress permitting members of adjoining developments the right of ingress and egress over the private Streets in the Development.

2.11 Association Easement. The Association shall have an easement to be exercised during daylight hours, except in the case of an emergency as determined in the sole discretion, of the Board, to enter upon the Limited Common Areas and Lots for the purpose of carrying out and performing the functions of the Association as set forth in this Declaration, the Bylaws, ACC Restrictions and Rules, or any Rule or Regulation of the Association.

2.12 Waiver of Use. No owner may exempt himself from personal liability for assessments duly levied by the Association nor release the Lot or other property owned by him from the liens and charges hereof, by waiver of the use and enjoyment of the Common Area or any Improvements thereon or by abandonment of his Lot or any other property within KRE.

2.13 Taxes. Each Owner shall execute such instruments and take such action as may reasonably be specified by the Board to obtain separate real estate tax assessments of each Lot. If any taxes or assessments may, in the opinion of the Board, become a lien on the Common Area, or any part thereof, they may be paid by the Association as a Common Expense, and the Association may levy against the Lot as a Corrective Assessment any amounts paid by the Association to rectify the problem.

2.14 Lot/Limited Common Area. Each Lot is owned in fee simple by the Owner. The Board may adopt Rules and Regulations concerning the use of the Limited Common Areas.

2.15 Community-Wide Standard. Owners recognize that the Community-Wide Standard is for the benefit of KRE and that it contains both objective and subjective standards, appearances, and other factors which may evolve over time. Owners further agree to abide by the Community-Wide Standard prevailing at KRE at any given time.

2.16 Reserved.

2.17 Reserved.

2.18 Display of the Flag. The Association may not prohibit an Owner from displaying one United States flag on the Owner's Lot or Limited Common Area appurtenant to the Owner's Lot if the display complies with United States Code, Title 4, Chapter 1. The Association may, by rule of the Board, restrict the display of a United States flag on the Common Area.

ARTICLE III KINGS ROW ESTATES PROPERTY OWNERS ASSOCIATION

3.1 Organization of Association. Declarant caused the Association to be organized and the Articles filed with the State of Utah, Department of Commerce, Division of Corporations and Commercial Code.

3.2 Parties and Powers. The Association shall have such duties and powers as set forth in the Articles, Bylaws, and this Declaration (and such other powers and duties as properly delegated or assigned through the ACC Restrictions and Rules and Rules and Regulations), as such documents are amended from time to time.

3.3 Membership. Every Owner shall be a Member of the Association. Membership in the Association shall be mandatory and shall be appurtenant to the Owner's Lot.

3.4 Transfer. Membership in the Association is nontransferable and shall not be separated from the Lot to which it appertains.

3.5 Non-Liability for Tort. The Association shall not be liable, in any civil action brought by or on behalf of a Member, for bodily injury occurring to a Member, or a Member's guests, invitees, licensees or trespassers, on the Association's Common Area or Limited Common Area. This immunity from liability shall not be effective if the Association causes bodily injury to the Member on the Common Area or Limited Common Area by its willful, wanton, or grossly negligent act of commission or omission.

3.6 Board Acts for Association. Except as limited in the Declaration or the Association Bylaws, the Board acts in all instances on behalf of the Association.

ARTICLE IV VOTING RIGHTS

4.1 Vote Distribution. Members shall be entitled to one (1) vote for each Lot which he or it owns. In no event, however, shall more than one (1) vote exist with respect to any Lot.

4.2 Multiple Ownership. In the event there is more than one (1) Owner of a particular Lot, the vote relating to such Lot shall be exercised as such Owners may determine among themselves. A vote cast at any Association meeting by any of such Owners, whether in person, by ballot, or by proxy, shall be conclusively presumed to be the vote attributable to the Lot concerned, unless an objection is immediately made by another Owner of the same Lot. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever, other than to determine whether a quorum exists.

ARTICLE V JURISDICTION OF ASSOCIATION

The Association has been organized to provide for the operation, maintenance, preservation, and architectural control of KRE and Improvements and to administer the Common Areas. The Association shall have jurisdiction and authority over KRE and the Members to the full extent allowed by law and also as provided for in this Declaration and in the Articles, Bylaws, Community-Wide Standard, ACC Restrictions and Rules, and Rules and Regulations, as such documents may be modified from time to time. The Association may also maintain public areas within KRE.

ARTICLE VI **COVENANT FOR ASSESSMENTS**

6.1 **Creation of Assessment Obligation.** Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (1) Annual Assessments for Common Expenses, (2) Special Assessments, (3) Corrective Assessments, (4) Benefitted Assessments, (5) Government Assessments, (6) Reinvestment Fee Assessments, and (7) any other amount or assessment levied by the Board pursuant to this Declaration; all such assessments to be established and collected as provided in this Declaration. The Association shall not levy or collect any Annual Assessment, Special Assessment, Corrective Assessment, Benefitted Assessment, or Government Assessment that exceeds the amount necessary for the purpose or purposes for which it is levied. All such assessments, together with interest, costs and reasonable attorneys' fees for the collection thereof, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, if applicable, shall also be and remain the personal obligation of the Person who was the Owner of such property at the time when the assessment fell due. This personal obligation cannot be avoided by abandonment of a Lot or by an offer to waive use of the Common Area. The personal obligation for delinquent assessments liability shall not pass to any new Owner ("Purchaser") successors in title unless expressly assumed by such Purchaser.

6.2 **Purpose of Annual and Special Assessments.** The Annual and Special Assessments levied by the Association shall be used exclusively to promote the common health, safety, benefit, and welfare of the Owners and for the improvement and maintenance of the Common Area, including establishing and funding a reserve to cover major repair or replacement of Improvements within the Common Area and any expense necessary or desirable to enable the Association to perform or fulfill its obligations, functions, or purposes under this Declaration or its Articles.

6.3 **Annual Assessments.** Annual Assessments shall be used to satisfy Common Expenses of the Association, as provided herein and in the Bylaws. The Annual Assessment shall be payable in twelve (12) equal monthly installments due on the first day of each month and shall be deemed delinquent if not paid by the tenth day of the month. The Annual Assessment shall be based upon the Budget prepared by the Board. The Board shall authorize and levy the amount of the Annual Assessment upon each Lot, as provided herein, by a majority vote of the Board.

6.4 **Special Assessments.** In addition to the Annual Assessment, a Special Assessment can be assessed to pay the costs of any one (1) or more of the following:

- (a) **Approved by Board.** Special Assessments for the following extraordinary expenses can be levied by the Board without Member approval:
 - (i) An extraordinary expense required by an order of a court;
 - (ii) An extraordinary expense necessary to repair or maintain the Common Area or any portion thereof for which the Association is responsible where a threat to personal safety on the Common Area is discovered. Prior to the imposition or collection of a Special Assessment pursuant to this Subsection 6.4(a)(ii), the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was necessary and was not or

could not have been reasonably foreseen in the budgeting process. The resolution shall be distributed to the Members with the notice of Assessment;

- (iii) Taxes, if any, payable to Washington County;
- (iv) To protect the Common Areas against foreclosure; and
- (v) To cover other short falls, or other needs approved by the Board as being reasonably necessary for the protection or preservation of KRE, provided that any such assessment levied under this subparagraph (iv) does not exceed fifty percent (50%) of the current Annual Assessment.

(b) Approved by Association. Special assessments which must be assented to by more than fifty percent (50%) of all votes which Members represented in person, by proxy, or by ballot are entitled to cast at a meeting duly called and held for such purpose pursuant to the Bylaws involve:

- (i) the replacement or improvement of the Common Area or Improvements thereon; and
- (ii) an extraordinary expense necessary to repair or maintain the Common Area or any portion thereof for which the Association is responsible.

6.5 Corrective Assessments. In addition to the Annual Assessment and any Special Assessments, the Association may levy Corrective Assessments against a particular Owner and his Lot to pay the following: costs directly attributable to, or reimbursable by, that Owner, equal to the costs incurred by the Association for corrective action, performed pursuant to the provisions of this Declaration, including, without limitation, Sections 2.12, 8.7, 9.1, and Article XI, plus interest, an administration fee of fifteen percent (15%) of the total cost of the corrective action, and other charges on such Corrective Assessments.

The Board shall deliver a Notice of Noncompliance and Right to Hearing to the Owner upon whom it intends to levy a Corrective Assessment. Corrective Assessments shall be due and payable within forty-five (45) days following delivery of Notice of Board Adjudication and shall bear interest thereafter at the rate of eighteen percent (18%) per annum until paid in full.

6.6 Benefitted Assessments. The Board may levy Benefitted Assessments against particular Lots for expenses incurred or to be incurred by the Association to cover the costs, including overhead and administrative costs, of providing benefits, items, or services to the Lot or occupants thereof upon request of the Owner pursuant to a menu of special services which the Board may from time to time authorize (which might include, without limitation, landscape maintenance, caretaker services, etc.), which assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Owner.

6.7 Government Assessments. In addition to the Annual Assessments, Special Assessments, and Corrective Assessments, the Association shall levy such additional assessments as may be necessary from time to time for the purpose of repairing and restoring the damage or disruption resulting to streets or other Common or Limited Common Areas from the activities of the City of Washington.

6.8 Reinvestment Fee Assessments. In addition to all other assessments and upon the conveyance of a Lot there shall be one (1) Reinvestment Fee charged to the buyer or seller, as the buyer and seller may determine, comprised of one (1) or more of the following charges:

- (a) An assessment determined pursuant to resolution of the Board and charged for:
 - (i) Common planning, facilities, and infrastructure,
 - (ii) Obligations arising from an environmental covenant,
 - (iii) Community programming,
 - (iv) recreational facilities and amenities,
 - (v) the following Association expenses:
 - (A) the administration of the common interest Association;
 - (B) the purchase, ownership, leasing, construction, operation, use, administration, maintenance, improvement, repair, or replacement of Association Facilities, including expenses for taxes, insurance, operating reserves, capital reserves, and emergency funds;
 - (C) providing, establishing, creating, or managing a facility, activity, service, or program for the benefit of property Owners, tenants, Common Areas, the burdened property, or property governed by the common interest Association; or
 - (D) other facilities, activities, services, or programs that are required or permitted under the common interest Association's organizational documents; and
 - (E) Expenses reasonably charged to the Association by the Association's Manager for the administration of the conveyance.
- (b) No reinvestment assessment shall exceed one-half percent (0.5%) of the fair market value of the Lot, plus all improvements. When the seller is a financial institution, the reinvestment assessment shall be limited to the costs directly related to the transfer, not to exceed Two Hundred and Fifty Dollars (\$250.00). The Association may assign the charges in Subsection 6.8(a)(v)(E) directly to the Association's manager. No reinvestment fee shall be effective or issue until six (6) months after the date of recording of this Declaration.

6.9 Uniform Rate of Assessment. Annual Assessments and Special Assessments imposed pursuant to subsections 6.2, 6.3, and 6.4(a) and (b) of this Declaration shall be assessed equally and uniformly against all Owners and their Lots.

6.10 Date of Commencement of Annual Assessments. Written notice of any change in the amount of any Annual Assessment shall be sent to every owner subject thereto, not less than thirty (30) days prior to the effective date of such change.

6.11 Exempt Property. The following property subject to this Declaration shall be exempt from the assessments herein:

- (a) All portions of KRE dedicated to and accepted by a local public authority; and
- (b) The Common Area owned by the Association in fee.

6.12 Notice of Members Meetings; Quorum Requirements. Before any Special Assessment is levied, the Board shall deliver a Notice of Members Meeting. The quorum required for any action authorized by Section 6.4(b) shall be as follows: at the first meeting called, the presence of Members or of proxies entitled to cast fifty percent (50%) of all outstanding votes shall constitute a quorum. If a quorum is not present at any meeting another meeting may be called by the Board issuing a Notice of Members Meeting at which a quorum shall be one-half (½) of the quorum which was required at such preceding meeting. The process of calling subsequent meetings may continue until a quorum is reached and the quorum requirement will continue to be reduced as provided for above at each subsequent meeting. No such subsequent meeting shall be held more than forty-five (45) days following such preceding meeting at which a quorum was not present.

6.13 Reserved.

6.14 Reserve Fund. The Board shall, on behalf of the Association, cause to be funded through Annual Assessments or other periodic assessments an adequate reserve to cover the cost of reasonably predictable and necessary major repairs and replacement to the Common Areas. The Board shall cause a reserve analysis to be conducted no less frequently than every six (6) years and shall review and, if necessary, update a previously prepared reserve analysis every three (3) years. The Board may conduct the reserve analysis by itself or may engage a reliable person or organization to conduct the reserve analysis. The Board shall annually provide Owners a summary of the most recent reserve analysis or update and provide a complete copy of the reserve analysis or update to an Owner upon request. In formulating the Budget each year, the Board shall include a reserve line item in an amount required by the governing documents, or, if the governing documents do not provide for an amount, the Board shall include an amount it determines, based on the reserve analysis, to be prudent. Unless a majority of the Association Members vote to approve the use of reserve fund money for that purpose, the Board may not use money in a reserve fund: (i) for daily maintenance expenses; or (ii) for any purpose other than the purpose for which the reserve fund was established. A Board shall maintain a reserve fund separate from other Association funds.

ARTICLE VII
NONPAYMENT OF ASSESSMENTS; REMEDIES

7.1 Nonpayment of Assessments; Remedies. Pursuant to Utah Code Ann. §§ 57-8a-301, *et seq.*, any assessment installment payment not paid when due shall, together with the hereinafter provided for interest and costs of collection, be, constitute, and remain a continuing lien on the Lot provided, however, that any such lien will be subordinate to the lien or equivalent security interest of any Mortgage on the Lot recorded prior to the date any such installment payment on assessments become due. If any installment payment on the assessment is not paid within ten (10) days after the date on which it becomes due, the amount thereof shall bear interest from the date of delinquency at the rate of twelve percent (12%) per annum plus a late payment service charge of Ten Dollars (\$10.00) if the assessment is not paid within ten (10) days of when it is due, or such larger amount as set by the Board, provided the charge does not exceed twenty-five percent (25%) of the amount of the installment payment, and the Association may, in its discretion, bring an action either against the Owner or to foreclose the lien against the Lot judicially or non-judicially. Any judgment obtained by the Association and any foreclosure commenced

shall include reasonable attorney fees, court costs, and each and every other expense incurred by the Association in enforcing its rights. If a monthly installment payment is not timely made, the Board may declare the entire Annual Assessment in default and accelerate the Annual Assessment and declare the entire amount of the Annual Assessment immediately due and owing.

7.2 Washington County Tax Collection. It is recognized that under the Declaration the Association will own the Common Area and that it may be obligated to pay property taxes to Washington County. It is further recognized that each Owner of a Lot is a Member of the Association and as part of his assessment may be required to pay to the Association his pro rata share of such taxes. Notwithstanding anything to the contrary contained in this Declaration, or otherwise, Washington County shall be, and is, authorized to collect such pro rata share (on an equal basis) of taxes directly from each Owner by inclusion of said share with the tax levied on each Lot. To the extent allowable, Washington County is hereby directed to do so. In the event that the assessor shall separately assess Common Areas to the Association, the Board may impose, in its discretion a Special Assessment to pay such taxes, or they may be incorporated into the Annual Assessment.

7.3 Lien. The Board may elect to file a claim of lien against the Lot of the delinquent Owner by Recording a notice ("Notice of Lien") setting forth (a) the amount of the claim or delinquency, (b) the interest and costs of collections which have accrued thereon, (c) the legal description of the Lot against which the lien is claimed, and (d) the name of the Owner thereof. Such Notice of Lien shall be signed and acknowledged by an officer of the Association or duly authorized agent of the Association. The lien shall continue until the amounts secured thereby and all subsequently accruing amounts are fully paid or otherwise satisfied. When all amounts claimed under the Notice of Lien and all other costs and assessments which may have accrued subsequent to the Notice of Lien have been fully paid or satisfied, the Association shall execute and Record a notice releasing the lien upon payment by the Owner of a reasonable fee as fixed by the Board to cover the cost of preparing and recording the release of lien. Unless paid or otherwise satisfied, the lien may be foreclosed in a like manner as a mortgage or any other manner provided by law, including without limitation, a deed of trust as set forth in this Declaration.

7.4 Trust Deed for Assessments. By acceptance of a deed for a Lot, each Owner as Trustor conveys and warrants to Trustee in trust for the Association as Beneficiary, with power of sale, the Owner's Lot and appurtenant Limited Common Area, and all Improvements thereon for the purpose of securing payment of all assessments (including basis of collection) provided for in this Declaration. For purposes of this Section and Utah Code §§ 57-1-19, *et seq.*, as amended from time to time. The Association and each Lot Owner hereby conveys and warrants pursuant to Sections 212 and 302 of the Nonprofit Act, and Utah Code § 57-1-20, to attorney Bruce C. Jenkins, or any other attorney that the Association engages to act on its behalf to substitute for Bruce C. Jenkins, with power of sale, the Lot and all improvements to the Lot for the purpose of securing payment of assessments under the terms of this Declaration. The Trustee shall mean the attorney for the Association and the Association may provide notice and disclosure of the Trustee by recording an "Appointment of Trustee" on the records of the Washington County Recorder.

7.5 Perfection of Lien and Priority. Upon the recording of Notice of Lien by the Manager or Board, such lien constitutes a lien on the Lot Owner's interest in the property prior to all other liens and encumbrances, recorded or unrecorded, except:

- (a) tax and special assessment liens on the Lot in favor of any assessing Lot or special improvement district; and
- (b) encumbrances on the interest of the Lot Owner:
 - (i) recorded prior to the date of the recording of Notice of Lien; and
 - (ii) that by law would be a lien prior to subsequently recorded encumbrances.

The Manager or Board may enforce the assessment lien by sale or foreclosure of the Owner's interest. The Manager or Board may bid at a sale or foreclosure and hold, lease, mortgage, or convey the Lot that is subject to the assessment lien.

7.6 Discontinuance of Common Utility Service and Suspension of Common Facility Use. If the Owner fails or refuses to pay an assessment when due, the Board may, after giving notice and an opportunity to be heard as provided for below, terminate an Owner's right:

- (a) to receive utility services paid as a common expense; and
- (b) of access and use of recreational facilities.

Before terminating utility services or right of access and use of recreational facilities, the Manager or Board shall give written notice to the Owner in the manner provided in the Bylaws. The notice shall inform the Owner (i) that utility service or right of access and use of recreational facilities will be terminated if payment of the assessment is not received within thirty (30) days; (ii) of the amount of the assessment due, including any interest or late payment fee; and (iii) of the right to request a hearing as provided for in this Section 7.6.

As used in this section, "Delinquent Member" means a Lot owner who fails to pay an assessment when due.

- (a) The Board may terminate a Delinquent Member's right:
 - (i) to receive a utility service for which the Member pays as a common expense; or
 - (ii) of access to and use of recreational facilities.
- (b) (i) Before terminating a utility service or right of access to and use of recreational facilities under Subsection (a) the Manager or Board shall give the Delinquent Member notice. Such notice shall state:
 - (A) that the Association will terminate the Member's utility service or right of access to and use of recreational facilities, or both, if the Association does not receive payment of the assessment within fourteen (14) calendar days;
 - (B) the amount of the assessment due, including any interest or late payment fee; and
 - (C) the Member's right to request a hearing.
 - (ii) A notice under Subsection b(i) may include the estimated cost to reinstate a utility service if service is terminated.
- (c) (i) The Delinquent Member may submit a written request to the Board for an informal hearing to dispute the assessment.

- (ii) A request under Subsection c(i) shall be submitted within fourteen (14) days after the date the Delinquent Member receives the notice under Subsection b(i).
- (d) The Board shall conduct an informal hearing requested under in accordance with the hearing procedures of the Association.
- (e) If the Delinquent Member requests a hearing, the Association may not terminate a utility service or right of access to and use of recreational facilities until after the Board:
 - (i) conducts the hearing; and
 - (ii) enters a final decision.
- (f) If the Association terminates a utility service or a right of access to and use of recreational facilities, the Association shall take immediate action to reinstate the service or right following the Member's payment of the assessment, including any interest and late payment fee.
- (g) The Association may:
 - (i) levy an assessment against the Delinquent Member for the cost associated with reinstating a utility service that the Association terminates as provided in this section; and
 - (ii) demand that the estimated cost to reinstate the utility service be paid before the service is reinstated, if the estimated cost is included in a notice under Subsection b(ii).

7.7 Tenant Payment of Assessments. Pursuant to Utah Code § 57-8a-310, the Board may require a tenant under a lease with a Lot owner to pay the Association all future lease payments due to the Lot owner if the Lot owner fails to pay an assessment for a period of more than sixty (60) days after the assessment is due and payable, beginning with the next monthly or periodic payment due from the tenant and until the Association is paid the amount owing. Before requiring a tenant to pay lease payments to the Association, the Association's manager or Board shall give the Lot owner notice, which notice shall state: (i) the amount of the assessment due, including any interest, late fee, collection cost, and attorney fees; (ii) that any costs of collection, including attorney fees, and other assessments that become due may be added to the total amount due and be paid through the collection of lease payments; and (iii) that the Association intends to demand payment of future lease payments from the Lot owner's tenant if the Lot owner does not pay the amount owing within fifteen (15) days.

If a Lot owner fails to pay the amount owing within fifteen (15) days after the Association's manager or Board gives the Lot owner notice, the Association's manager or Board may exercise the Association's rights by delivering a written notice to the tenant. The notice to the tenant shall state that: (i) due to the Lot owner's failure to pay an assessment within the required time, the Board has notified the Lot owner of the Board's intent to collect all lease payments until the amount owing is paid; (ii) the law requires the tenant to make all future lease payments, beginning with the next monthly or other periodic payment, to the Association, until the amount owing is paid; and (iii) the tenant's payment of lease payments to the Association does not constitute a default under the terms of the lease with the Lot owner. The manager or Board shall mail a copy of this notice to the Lot owner.

A tenant to whom notice is given shall pay to the Association all future lease payments as they become due and owing to the Lot owner: (i) beginning with the next monthly or other periodic payment after the notice is delivered to the tenant; and (ii) until the Association notifies the tenant under Subsection (6) that the amount owing is paid. A Lot owner shall credit each payment that the tenant makes to the Association under this section against any obligation that the tenant owes

to the owner as though the tenant made the payment to the owner; and may not initiate a suit or other action against a tenant for failure to make a lease payment that the tenant pays to an Association as required under this section.

Within five (5) business days after the amount owing is paid, the Association's manager or Board shall notify the tenant in writing that the tenant is no longer required to pay future lease payments to the Association. The manager or Board shall mail a copy of this notification to the Lot owner. The Association shall deposit money paid to the Association under this Section 7.7 in a separate account and disburse that money to the Association until the amount owing is paid; and any cost of administration, not to exceed Twenty-Five Dollars (\$25.00), is paid. The Association shall, within five (5) business days after the amount owing is paid, pay to the Lot owner any remaining balance.

7.8 Reserved.

7.9 Payment by Encumbrancer. An encumbrancer holding a lien on a Lot may pay any unpaid assessment due with respect to the Lot. Upon such payment, the encumbrancer has a lien on the Lot for the amounts paid.

7.10 Cumulative Remedies. The assessment liens and the rights to foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may have hereunder and by law, including a suit to recover a money judgment for unpaid assessments, as above provided.

7.11 Mortgage Protection. Notwithstanding all other provisions hereof, no lien created under this Article VII, nor any breach of this Declaration, nor the enforcement of any provision hereof shall defeat or render invalid the rights of the Beneficiary under any Recorded first Deed of Trust (meaning any deed of trust with first priority over other deeds of trust) upon a Lot made in good faith and for value; provided that after such Beneficiary or some other Person obtains title to such Lot by judicial foreclosure or by means of the powers set forth in such Deed of Trust or through a deed in lieu of foreclosure, such Lot shall remain subject to the Declaration and the payment of all installments of Assessments accruing subsequent to the date such Beneficiary or other Person obtains title.

7.12 Rent After Foreclosure. In the event the Association takes title to a Dwelling Unit through foreclosure, the Board may elect to allow the occupant to remain in the Dwelling Unit and the occupant shall be required to pay a reasonable rental to the Association for the Dwelling Unit.

ARTICLE VIII
ARCHITECTURAL CONTROL

8.1. Architectural Control Committee. The Board shall appoint a three (3) to five (5) - member Committee, the function of which shall be to ensure that all exteriors of Living Units and landscaping within the Property harmonize with existing surroundings and structures. The Committee need not be composed of Owners. If such a Committee is not appointed the Board itself shall perform the duties required of the Committee.

8.2. Submission to Committee. No Living Unit, accessory or addition to a Living Unit, landscaping, or other improvement of a Lot which is visible from the Common Areas shall be constructed, maintained, or accomplished, and no alteration, repainting, or refurbishing of the exterior of any Living Unit shall be performed, unless complete plans and specifications therefor have first been submitted to and approved by the ACC.

8.3. Standard. In deciding whether to approve or disapprove plans and specifications submitted to it, the Committee shall use its best judgment to ensure that all improvements, construction, landscaping, and alterations on Lots within the Property conform to and harmonize with existing surroundings and structures. The Board may formulate general guidelines and procedures. The adopted guidelines and procedures shall be incorporated in the Book of Resolutions and the Architectural Control Committee or the Board, as the case may be, shall act in accordance with such guidelines and procedures.

8.4. Approval Procedure. Any plans and specifications submitted to the Committee shall be approved or disapproved by it in writing within thirty (30) days after submission. In the event the Committee fails to take any action within such period it shall not be deemed to have approved the material submitted.

8.5. Construction. Once begun, any improvement, construction, landscaping, or alterations approved by the Committee shall be diligently prosecuted to completion. If reasonably necessary to enable such improvement, construction, landscaping, or alteration, the person or persons carrying out the same shall be entitled to temporary use and occupancy of unimproved portions of the Common Areas in the vicinity of the activity.

8.6. Disclaimer of Liability. Neither the ACC, nor any member thereof acting in good faith shall be liable to the Association or to any Owner for any damage, loss, or prejudice suffered or claimed on account of (a) the approval or rejection of, or the failure to approve or reject, any plans, drawings or specifications, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications, (c) the development or manner of development of any of KRE, or (d) any engineering or other defect in approved plans and specifications.

8.7. Nonwaiver. The approval by the ACC of any plans and specifications for any work done or proposed shall not constitute a waiver of any right of the ACC to disapprove any similar plans and specifications.

8.8. Fee Limit. The Association may not charge a plan fee that exceeds the cost of reviewing and approving the plans. As used in this section, "plans" mean any plans for the construction or improvement of a Lot which are required to be approved by the Association before the construction or improvement may occur.

ARTICLE IX MAINTENANCE AND REPAIR OBLIGATIONS

9.1 Maintenance Obligations of Owners. It shall be the duty of each Owner, at his sole cost and expense, subject to the provisions of this Declaration requiring ACC approval, to maintain, repair, replace and restore all Improvements located on his Lot or structures built by the

Owner on the Limited Common Area, and to ensure that the Lot itself is maintained in a neat, sanitary, and attractive condition. If any Owner shall permit any Improvement, the maintenance of which is the responsibility of such Owner, to fall into disrepair or to become unsafe, unsightly or unattractive, or to otherwise violate this Declaration, the Board shall have the right to seek any remedies at law or in equity which it may have. In addition, the Board shall have the right, but not the duty, to enter upon such Owner's Lot to perform such emergency and non-emergency repairs or maintenance as the Board deems appropriate and to charge the cost thereof to the Owner. Said cost shall be a Corrective Assessment enforceable as set forth in this Declaration. For non-emergency repairs or maintenance, the Owner shall be entitled to Notice by the Board and right to hearing. Owner's may assign certain of their maintenance obligations to the Association under written contract pursuant to a menu of service which may be offered by the Association under the provisions of this Declaration relating to Benefitted Assessments.

9.2 Maintenance Obligations of Association. No improvement, excavation or work which in any way alters the Common Area shall be made or done by any person other than the Association or its authorized agents after the completion of the construction or installation of the Improvements thereon by Declarant. The Association shall provide for the maintenance, planting, repair, and replacement of the Common Area and all Improvements (including drainage) thereon in a safe, sanitary and attractive condition, and in good order and repair, and shall likewise provide for the commonly metered utilities serving the Common Area, if any. The Association shall ensure that the landscaping on the Common Area and the Limited Common Area in the front in side yards of the Lot to the exterior walls of the Dwelling Unit are watered and mowed. It shall be the obligation of the Owner to place, replace, or remove all plants as may be approved by the Board. The Association shall be authorized, but shall not be required, to maintain any lands within KRE which have been dedicated to and accepted for maintenance by a state, local or municipal governmental agency or entity. All of the foregoing obligations of the Association shall be discharged when and in such manner as the Board shall determine in its judgment to be appropriate.

The Board, or its authorized representative, after giving not less than twenty-four (24) hours advance notice posted to the Lot, may access a Lot, including the Dwelling Unit, from time to time during reasonable hours, as necessary for maintenance, repair, or replacement of any of the Common Areas. If repair to a Lot, Dwelling Unit or Common Area -- that if not made in a timely manner -- will likely result in immediate and substantial damage to a Common Area or another Lot or Dwelling Unit, then the Board may enter the Lot or the Dwelling Unit to make the emergency repair upon such notice as is reasonable under the circumstances.

9.2.1 Association's Water and Sewer Responsibility. The Association shall be responsible for the maintenance, repair, and replacement of sewer and water lines within the Common and Limited Common Areas up to, but not to include, the shut-off valve on the Lot. If water or sewer lines are damaged by the negligence of an Owner, the Owner shall be responsible for all costs of repair or replacement of the water or sewer lines.

9.3 Damage to Dwelling Units - Reconstruction. If all or any portion of any Lot or Dwelling Unit is damaged or destroyed by fire or other casualty, the owner of such Lot shall, at the owner's election, either (i) rebuild, repair or reconstruct the Lot and the Dwelling Unit on such Lot in a manner which will restore them substantially to their appearance and condition immediately prior to the casualty or as otherwise approved by the ACC or (ii) restore the Lot by removing from KRE all damaged or destroyed building materials. The Owner of any damaged

Lot or Dwelling Unit and the ACC shall be obligated to proceed with all due diligence hereunder, and such Owner shall cause reconstruction or restoration of the Lot to commence within two (2) months after the damage occurs and to be completed within nine (9) months after damage occurs, unless prevented by causes beyond his reasonable control. A transferee of title to the Lot which is damaged, or upon which is located a damaged Dwelling Unit shall commence and complete reconstruction of the Dwelling Unit or restoration of the Lot in the respective periods which would have remained for the performance of such obligations if the Owner of the Lot at the time of the damage still held title to the Lot. However, in no event shall such transferee of title be required to commence or complete such reconstruction of the Dwelling Unit or restoration of the Lot in less than thirty (30) days from the date such transferee acquired title to the Lot.

9.4 Access at Reasonable Hours. Except as otherwise provided for in this Article IX, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot or Limited Common Area at reasonable hours for the purpose of performing the maintenance required by this Article IX.

9.5 Alteration of Certain Maintenance Duties by Rules. The duty of maintenance for the area of a Lot outside the walls of the Dwelling Units, and the Limited Common Areas adjacent and appurtenant to the Dwelling Units may be altered by rule of the Association.

ARTICLE X USE RESTRICTIONS

All real property within KRE shall be held, used, and enjoyed subject to such limitations and restrictions set forth below.

10.1 Residential Use. Each Dwelling Unit shall be used as a residence. The Dwelling Unit shall not be partitioned physically or otherwise and rented as individual rooms. This Section shall not prohibit fractional ownership of a Dwelling Unit. Each Lot may be occupied or used by Owner(s), or by the tenants of any such Owner(s) as a single family residence and occupied by one family per Unit, so long as the occupiers do not compromise the Senior Park designation, as the term Senior Park/fifty-five (55) older is defined in Article XIV provided, however, that to the extent such use is not prohibited by Article XIV a Property may be occupied and used by family, or social guests of any such Owner or tenant.

10.1.1 Age Restriction on Recreational Vehicles. Only Recreational Vehicles which are no more than ten (10) years old at the time of their first use on the Lot shall be permitted in KRE. Exceptions to this may be granted by the Board upon a showing that the R.V. is in a good and sightly condition, which determination shall be made in the sole discretion of the Board.

10.2 Accountability of Members. As more fully provided in Article XI(d), each Member shall be liable to the Association for any damage to the Common Area sustained by reason of the negligence or willful misconduct of said Member or the Persons deriving their right and easement of use and enjoyment of the Common Area from said Member, or of his respective family and guests, both minor and adult.

10.3 Business or Commercial Activity. Subject to the following exceptions, no part of KRE shall ever be used or caused to be used or allowed or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storage, vending or other such nonresidential purposes without the prior written approval of the Board. Upon written consent from the Board, which consent may contain reasonable restrictions, occupations without external evidence thereof -- including without limitation, traffic generation which are merely incidental to the use of the Dwelling Unit as a residential home – are permitted for so long as such occupations are conducted in conformance with all applicable governmental ordinances shall be permitted.

10.4 Signs. Except for one (1) professional quality “For Rent” or “For Sale” sign of not more than four (4) square feet, no advertising signs, billboards, objects of unsightly appearance, or nuisances shall be erected, placed, or permitted to remain on any Lot. The foregoing restrictions shall not apply to the commercial activities, signs and billboards, if any, by the Association in furtherance of its powers and purposes set forth hereinafter and, in its Articles, Bylaws, ACC Restrictions and Rules, and Rules and Regulations, as the same may be amended from time to time.

10.5 Quiet Enjoyment. No noxious, offensive, or illegal activity or noise shall be carried on upon any part of KRE, nor shall anything be done thereon which may be or may become an annoyance or, offensive to the senses, or an obstruction to the free use of property, so as to interfere with nuisance to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the Owners or which shall in any way increase the rate of insurance. No Lot shall be used in whole or in part for the storage of rubbish, trash, used or new building materials, used or new metals, trucks, automobiles, or machines in whole or in part. Any property or any part thereof that will emit foul and noxious odors, or that will cause any noise that might disturb the peace and quiet of the surrounding property Owners or will cause the Property or any part thereof to appear in an unclean or untidy condition is prohibited. As used in this Section 10.5 a nuisance is anything which constitutes unruly behavior, is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

A nuisance will also include the following: (a) drug houses and drug dealing; (b) gambling; (c) criminal activity committed in concert with two or more persons; (d) criminal activity committed for the benefit of, at the direction of, or in association with any criminal activity; (e) criminal activity committed to gain recognition, acceptance, membership, or increased status with a criminal street gang; (f) party houses which frequently create conditions that may be classified as a nuisance.

Miscellaneous prohibitions:

(a) No major repairing or overhauling of cars or trucks is permitted on the streets, driveways, or parking Lots of KRE.

(b) Such other actions deemed from time to time by the Association to constitute a nuisance.

10.6 Reserved.

10.7 Trash Disposal. Trash, garbage or other waste shall be kept only in sanitary containers or receptacles, which containers or receptacles, shall be placed at the discretion of the Association. No Owner of a Property or tenant thereof shall permit or cause any trash or refuse to be kept on any portion of KRE other than in the receptacles customarily used for it.

No outdoor burning of trash or other debris shall be permitted. This shall not prohibit the use of a normal residential barbecue or other similar grill.

10.8 Outside Drying and Laundering. No exterior clothes lines shall be erected or maintained and there shall be no exterior drying or laundering of clothes or other items of personal property on balconies, patios, porches, railings, or other areas.

10.9 Compliance with Laws. Nothing shall be done or kept in any Lot or in KRE that might change KRE's designation of "Senior Park/ Fifty-five (55) and older". No Owner shall permit anything to be done or kept in his Lot that violates any permanent, law, ordinance, statute, rule or regulation of any local, county, state or federal body. No Owner shall allow any furniture, furnishings or other personal property belonging to such Owner to remain within any portion of KRE except in such Owner's Lot or exclusive use area and except as may otherwise be permitted by the Board.

10.10 Parking and Vehicular Restrictions.

(a) Parking. Unless otherwise permitted by the Association, no automobile, boat, trailer or recreational vehicle, camper, truck or commercial vehicle shall be parked or left on any street or any part of KRE other than in any parking area designated by the Association for the parking and storage of such vehicles. However, parking by commercial vehicles for the purpose of making deliveries, shall be permitted in accordance with Association rules. Except with the written consent of the Association, no Owner shall park anywhere in KRE more motor vehicles than there are parking spaces owned by or assigned to such Owner.

(b) Vehicle Maintenance. No Person shall conduct repairs or restorations of any Vehicle or Recreational Vehicle upon any portion of KRE, except as specifically provided in this subparagraph (b). However, repair and restoration shall be permitted within an Owner's garage when the garage door is closed, provided that such activity may be prohibited entirely if the Board determines in its discretion that such activity constitutes a nuisance. Owners may, on their driveways, wash the exteriors of any Vehicle or Recreational Vehicle, provided that any debris from the washing is promptly removed.

10.11 Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any of said Lots, except that dogs, cats, birds or other household pets, two or less in total number, may be kept provided that they are not kept, bred or maintained for any commercial

purpose. Notwithstanding the foregoing, no animals or fowl may be kept on KRE which result in an annoyance or are obnoxious, by noise, smell or otherwise, to Lot Owners. All pets must be kept within an enclosed area of the Lot (such enclosure being approved by the ACC in advance) or on a leash attended to by a person when in the Common Areas. Such pets may not be kept in the Limited Common Areas unless attended to at all times by a person. All pet waste must be immediately cleaned up. All animals/pets are subject to removal if they result in an annoyance or are obnoxious, by noise, odor or otherwise to Lot Owners. If the Board notifies an Owner in writing on two (2) or more occasions that an animal/pet on a Lot is kept in violation of any provision of this Section or the Rules and Regulations, the Association shall have the right to have the animal/pet permanently removed from the Property and shall charge all costs to the Lot Owner as an assessment and lien against the Lot. This Section may be made more restrictive by Rule of the Association.

10.12 Insurance and Governmental Requirements. No Owner shall permit or cause anything to be done or kept on KRE, or on any Street visible from KRE, which may increase the rate of insurance on KRE, or result in the cancellation of such insurance, or which will obstruct or interfere with the rights of other Owners, nor commit or permit any nuisance thereon or violate any law. Each Owner shall comply with all of the requirements of the local or state health authorities and with all other governmental authorities with respect to the occupancy and use of a Dwelling Unit.

10.13 Construction. Construction of Dwelling Units shall be diligently pursued to substantial completion which generally shall occur within nine months of commencement, subject to extensions by the ACC in its sole discretion. All damage caused by construction activity (including construction related vehicles), shall be promptly repaired by the Owner or his contractor. No outbuilding, tent, shack, or other temporary building or Improvement of any kind (except portable outhouses and dumpsters with lids or covers during construction) shall be placed upon any portion of KRE either temporarily or permanently.

10.14 Reserved.

10.15 Drilling. No oil drilling, oil, gas or mineral development operations, oil refining, geothermal exploration or development, quarrying or mining operations of any kind shall be permitted in KRE, nor shall oil wells, tanks, tunnels or mineral excavations or shafts be permitted on or below the surface of any Lot. Further, except as permitted for earth-coupled heat pumps or similar devices as provided for below, no derrick or other structure used in boring for water, oil, geothermal heat or natural gas shall be erected, maintained or permitted in KRE.

The Board in its discretion may approve earth-coupled heat pumps or similar devices which may require the excavation or drilling of vertical or horizontal trenches or shafts below the surface of the improved area of a Lot.

10.16 Further Subdivision; Lease Provisions. No Owner shall further partition or subdivide his Lot or the rooms in the Dwelling Unit and Limited Common Area, including without limitation any division of his Lot into time-share estates, time-share uses, or creation of additional living quarters; provided, however, that this provision shall not be construed to limit the right of an Owner (1) to rent or lease his entire Lot to a single family by means of a written lease or rental agreement; (2) to sell his Lot; or (3) to transfer or sell any Lot to more than one (1) person to be held by them as tenants-in-common, joint tenants, tenants by the entirety or some other form of joint ownership. The terms of any such lease or rental agreement shall be made expressly subject to this Declaration and the Bylaws of the Association. Any failure by the lessee of such Lot to comply with the terms of this Declaration, the Bylaws of the Association, the ACC Restrictions and Rules, or the Rules and Regulations shall constitute a default under the lease or rental agreement.

10.17 Drainage. There shall be no interference with or alteration of the established drainage pattern over any Lot within KRE, without the approval of the ACC. For the purposes hereof, "established drainage pattern" is defined as the drainage which exists at the time that such Lot is conveyed to a purchaser from Declarant and shall include drainage from the Lots onto the Common Area. Declarant shall be held harmless from and against any causes of action related to an alteration in the "established drainage pattern."

10.18 Water Supply and Sewage Disposal Systems. No individual water supply or sewage disposal system shall be permitted on any Lot within KRE unless such system is designed, located, constructed, and equipped in accordance with the requirements, standards and recommendations, if any, of the ACC and of any public agency having jurisdiction over KRE, the Washington County, Utah, Health Department, and all other applicable governmental authorities.

10.19 External Apparatus. No Lot Owner shall cause or permit anything (including, without limitation, awnings, canopies or shutters) to hang, be displayed or otherwise affixed to or placed on the exterior walls or roof or any part thereof, or on the outside of windows or doors, without the prior written consent of the ACC.

10.20 Limited Common Area Restrictions. The garages may only be used to park vehicles and store such belongings as may fit and still provide for the parking of the number of vehicles for which the garage is designed. Porches, patios, and decks must be kept clean and orderly.

10.21 Reserved.

10.22 Planting and Gardening. No planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon any property except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by the ACC.

10.23 Rubbish Removal. All rubbish, trash and garbage shall be regularly removed from the Lots and shall not be allowed to accumulate thereon.

10.24 FCC Antenna and Dish Policy. Owners are encouraged to use cable service for television and internet. Satellite dishes and antennas not regulated by the FCC are prohibited. Satellite antennas, such as Direct Broadcast Satellite dishes one (1) meter in diameter or less, and designed to receive direct broadcast satellite service, including direct-to-home satellite service, or receive or transmit fixed wireless signals via satellite, may be installed. Location of an FCC approved dish may not be restricted by the Association so as to cause unreasonable delay in installation; unreasonable increases in the cost of the equipment or its installation, maintenance, or use; or preclude reception of an acceptable quality signal. No dish may encroach upon the Common Area or the property of another Owner. The dish must comply with all applicable city, county and state laws, regulations and codes. The Association must be provided with a copy of any applicable governmental permits. Installation must be pursuant to the manufacturer's instructions. In order to protect against personal injury and property damage, a dish may not be placed in a location where it may come into contact with a power line. In order to protect against personal injury and property damage, all dishes must be properly grounded and secured. In order to protect against personal injury, dishes may not block or obstruct any drivers view of an intersection or street. The Owner is responsible for all costs associated with the installation and maintenance of a dish. The Owner is responsible for all damage caused by or connected with the dish. The Owner must hold the Association harmless and indemnify the Association in the event that someone is injured by the dish. The Owner shall keep the dish in good repair so that it does not violate any portion of this Declaration.

If requested by the Association, the Owner must establish a mutually convenient time to meet with a representative of the Association to review and discuss the antenna. In the event of a violation of this Section 10.24, the Association may bring an action for declaratory relief with the FCC or the Fifth District Court, Washington County, after notice and an opportunity to be heard. If the FCC or Court determines that this Section 10.24 is enforceable, the Owner shall pay a Fifty Dollar (\$50.00) fine to the Association for each violation. If the violation is not corrected within a reasonable length of time, additional fines of Ten Dollars (\$10.00) per day will be imposed for each day that the violation continues. If an antenna poses a serious, immediate safety hazard, the Association may seek injunctive relief to compel the removal of the antenna. The Association shall be entitled to recover its reasonable attorney's fees, costs and expenses incurred in the enforcement of this Section 10.24. If any provision of this Section 10.24 is ruled invalid, the remainder of these rules shall remain in full force and effect. If the FCC modifies its rules, the modified rules shall be incorporated into this Section 10.24 as if fully set forth herein.

It is the Owners obligation, at the Owners expense, to remove any satellite dish that is not in use or is not functional.

10.25 Lease; Rental. Any such lease or rental agreement must be in writing and shall in all respects be subject to the requirements of the Park documents and the Association. Notwithstanding any other provision of this Declaration of the contrary, no owner may lease or rent a unit or enter an agreement to lease or rent a property for a period of less than thirty (30) days.

10.26 Firearms, Incendiary Devices, and Graffiti. The use of firearms and incendiary devices, or the painting of graffiti, within KRE is prohibited. The term firearms includes but is not limited to all guns, pistols, handguns, rifles, automatic weapons, semi-automatic weapons, BB guns, pellet guns, sling shots, wrist-rockets, blow-dart guns, archery bows, and other firearms of all types, regardless of size.

ARTICLE XI DAMAGE AND CONDEMNATION

Damage to or destruction of all or any portion of the Common Area and condemnation of all or any portion of the Common Area shall be handled in the following manner:

(a) If the Common Area is damaged or destroyed, the Association shall first utilize insurance proceeds and second reserve funds to cause the same to be repaired and reconstructed substantially as they previously existed.

(b) If the cost of effecting total restoration of such Common Area exceeds the amount of insurance proceeds and reserve funds, the Association shall, if and to the extent a Special Assessment is approved as provided for in Section 6.4(b), cause the same to be repaired and reconstructed substantially as they previously existed, and the difference between the insurance proceeds and the actual cost shall be levied as a Special Assessment against each Lot and its respective Owner.

(c) To the extent of funds available for restoration, any restoration or repair of such Common Area shall be performed substantially in accordance with the original plans and specifications subject to such changes within the scope of such original plans and specifications as may be approved by the Board.

(d) Each Member shall be liable to the Association for any damage to the Common Area or Improvement thereon sustained by reason of the negligence or willful misconduct of said Member or the Persons deriving their right and easement of use and enjoyment of the Common Area from said Member, or of his respective family and guests, both minor and adult. In the event of such damage to the Common Area or Improvement thereon the Board may either assess a penalty under the Rules and Regulations established by the Board in an amount sufficient to pay all costs of the Association attributable to such damage, including deductibles and increase in insurance premiums, if any, or the Board may repair the damage to the Common Area or Improvement thereon with the proceeds from the Association's insurance and assign to the Association's insurance company, its claims against the Member who, by his own acts or the acts (both minor and adult) of his family member, guest, invitee, or assignee, damaged the Common Area or Improvement thereon. In the case of joint ownership of a Lot, the liability of the Owners

thereof shall be joint and several, except to the extent that the Association has previously contracted in writing with such joint Owners to the contrary. All such expenses may be levied by the Association as a Corrective Assessment.

(e) If at any time the Common Area, or any part thereof, shall be taken or condemned by any authority having the power of eminent domain, the Association shall represent the Lot Owners in these proceedings, negotiations, settlements or agreements. All compensation and damages shall be payable to the Association and shall be used promptly by the Association to the extent necessary for restoring and replacing any Improvements on the remainder of the Common Area. Upon completion of such work and payment in full therefor, any proceeds of condemnation then or thereafter in the hands of the Association which are proceeds for the taking of any portion of the Common Area shall be disposed of in such manner as the Association shall reasonably determine.

ARTICLE XII **INSURANCE**

12.1. Casualty Insurance. The Association shall secure and at all times maintain the following insurance coverages: A policy or policies of fire and casualty insurance, with extended coverage endorsement, for the full insurable replacement value of all Improvements comprising a part of the Common Area. The name of the insured under each such policy shall be in form and substance similar to: "Kings Row Estates Property Owners Association" for the use and benefit of the individual Lot Owners and Mortgagees, as their interests may appear.

12.2. Liability Insurance. A comprehensive policy or policies insuring the Owners, the Association, and its Board, officers, agents, and employees against any liability incident to the ownership, use or operation of the Common Areas which may arise among themselves, to the public, and to any invitees or tenants of the Property or of the Owners. Limits of liability under such insurance shall not be less than One Million Dollars (\$1,000,000.00) for all claims for personal injury and/or property damage arising out of a single occurrence, such coverage to include protection against water damage, liability for non-owned or hired automobile, liability for property of others, and such other risks as shall customarily be covered with respect to projects similar in construction, location and use. Such policies shall be issued on a comprehensive liability basis, shall provide a cross-liability endorsement pursuant to which the rights of the named insured as between themselves are not prejudiced, and shall contain "a severability of interest" clause or endorsement to preclude the insurer from denying the claims of an Owner in the Development because of negligent acts of the Association or other Owners.

12.3. Fidelity Insurance. A fidelity policy or policies to protect against dishonest acts on the part of Board, officers, Manager, employees of the Association and all others (including volunteers) who handle or are responsible for handling funds of the Association. This fidelity coverage shall name the Association as the obligee or insured and shall be written in an amount sufficient to offer the protection reasonably required, but in no event less than one hundred percent (100%) of the Association's estimated annual operating expenses including reserves. The fidelity bond or insurance shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression. Said policy shall also provide that it may not be canceled or substantially modified (including cancellation for

non-payment of premiums] without at least thirty (30) days prior written notice to all Mortgagees of Lots.

12.4. Additional Insurance Requirements. The following additional provisions shall apply with respect to the insurance:

- (a) In addition to the insurance described above, the Association shall secure and at all times maintain insurance against such risks as are or hereafter may be customarily insured against in connection with developments similar to the Property in construction, nature, and use.
- (b) All policies shall be written by a company holding a rating of A- or better from Best's Insurance Reports or equivalent rating. Each insurer must be specifically licensed in the State of Utah.
- (c) The Association shall have the authority to adjust losses.
- (d) Insurance secured and maintained by the Association shall not be brought into contribution with insurance held by the individual Owners or their Mortgagees.
- (e) Each policy of insurance obtained by the Association shall, if reasonably possible, provide: A Waiver of the insurer's subrogation rights with respect to the Association, the Owners, invitees, and tenants; that it cannot be canceled, suspended, or invalidated due to the conduct of any particular Owner or Owners; that it cannot be canceled, suspended, or invalidated due to the conduct of the Association or of any Board, officer, Manager, agent or employee of the Association without a prior written demand that the defect be cured; that any "no other insurance" clause therein shall not apply with respect to insurance held by the Owners.
- (f) Notwithstanding any provisions to the contrary herein, so long as the Mortgagee or its designee holds a mortgage or beneficial interest in a trust deed on a Lot in the Development or owns a Lot, insurance policies shall meet all requirements and contain such other coverage and endorsements as may be required from time to time by the Mortgagee or its designee.
- (g) Mortgagee Clause. All policies of hazard insurance must contain or have attached the standard Mortgagee clause commonly accepted by private institutional mortgage investors in the area in which the mortgaged premises are located. The mortgagee clause must provide that the insurance carrier shall notify the first Mortgagee (or trustee) named at least ten (10) days in advance of the effective date of any reduction in or cancellation of the policy.
- (h) Review of Insurance. The Board shall, no less than every three (3) years, review the adequacy of the Association's insurance program and shall report in writing the conclusions and action taken on such review to the Owner of each Lot and to the holder of any mortgage on any Lot who shall have requested a copy of such report. Copies of every policy of insurance procured by the Board shall be available for inspection by the Owners.
- (i) Lots and Dwelling Units Not Insured by Association. The Association shall have no duty or responsibility to procure or maintain any fire, liability, extended coverage or other insurance covering any Lot or Dwelling Unit on a Lot and acts and events occurring thereon.

12.5. Insurance Obligations of Owners. Each Owner is encouraged to secure and keep in force at all times fire and extended coverage insurance which shall be equal to or greater than

fire and extended coverage and shall be at least equal to that commonly required by private institutional mortgage investors in the area in which the mortgaged premises are located.

12.6. Reserved.

12.7. Association and Owner's Flood Insurance. It is recommended that all Owners in the Development obtain flood insurance, even if their Lot is not located within the 100-year flood plain.

ARTICLE XIII
MORTGAGEE PROTECTION CLAUSE

13.1 Notices. Any Owner who mortgages his Property shall furnish the Association the name and address of such Mortgagee, and the Association shall maintain such information in a book entitled "Mortgages of Properties". The Association shall provide timely written notice to such mortgagee of:

- (a) Any condemnation or casualty loss that affects with a material portion of the Property securing its mortgage;
- (b) Any ninety (90) day delinquency in the payment of assessments or charges owed by the Owner of any Property on which it holds the mortgage;
- (c) A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and
- (d) Any proposed action that requires the consent of a specified percentage of eligible mortgage holders. In addition, any mortgage holder, insurer or guarantor of any Property located within KRE shall be entitled to the information referred to in this paragraph upon presenting a written request for such to the Association, which request shall state the name, address, and the Property number or address of the Property in which the mortgage holder, insurer or guarantor has an interest.

13.2 Right to Examine. The Mortgagee shall have the right to examine the books and records of the Association upon request and to require annual reports of the financial status of the Association.

ARTICLE XIV
55 & OVER

14.1 Age Restriction/Quiet Enjoyment. Kings Row Estates R.V. Subdivision is intended to, and shall be managed to, provide housing for persons 55 years of age or older, and shall prohibit occupancy by persons under age eighteen (18), as well as all others falling within the defined term of familial status under Federal law; except that persons under age eighteen (18) may visit any Dwelling Unit on a Lot, but not for more than two (2) weeks consecutively nor more than thirty (30) days in any calendar year. Further, except as provided in the Policies, Procedures, and Rules concerning housing for persons 55 years of age or older, adopted by the Board, each and every Dwelling Unit within the Property, if occupied, shall be occupied by at least one person 55 years of age or older (qualifying occupant). Without limiting the foregoing, at no time shall less than eighty percent (80%) of the occupied Dwelling Units subject to this Declaration be occupied by at

least one person 55 years of age or older; unless all remaining Lots are reserved for occupancy by at least one person 55 years of age or older.

The provisions of the Policies, Procedures, and Rules shall not apply to occupants of a Dwelling Unit who occupied the Dwelling Unit prior to adoption of that certain "Amended and Restated Declaration of Covenants, Conditions, Restrictions, and Reservation of Easements for Kings Row Estates R.V. Subdivision," to prohibit the occupancy of (i) persons under age 18 and (ii) a child born to an occupant who is pregnant at the time the Policies were adopted, so long as eighty percent (80%) of the occupied Dwelling Units are occupied by at least one (1) person age 55 or older. Any sale or rental of a Dwelling Unit by such an Owner or occupant, however, must be in accordance with the provisions of the Policies, Procedures, and Rules.

The Board shall, through the rule making process, establish Policies and Procedures from time to time as necessary to maintain the Property as an age restricted community intended for housing persons 55 years of age or older under State and Federal law.

ARTICLE XV GENERAL PROVISIONS

15.1 Enforcement. Subject to the provisions of Sections 15.11 through 15.14, this Declaration may be enforced by the Association, and any Owner as follows:

Breach of any of the provisions contained in the Declaration and the continuation of any such breach may be enjoined, abated or remedied by appropriate legal proceedings instituted by any Owner and by the Association. The offending party is entitled to such notice and rights to a hearing as provided for in the Bylaws. Any judgment rendered in any action or proceeding pursuant hereto shall include a sum for attorneys' fees in an amount as the court may deem reasonable, in favor of the prevailing party, as well as the amount of any delinquent payment, interest thereon, costs of collection and court costs.

(a) The result of every act or omission whereby any of the provisions contained in this Declaration are violated in whole or in part is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance either public or private shall be applicable against every such result and may be exercised by any Owner, and by the Association.

(b) The remedies herein provided for breach of the provisions contained in this Declaration shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

(c) The failure of the Association to enforce any of the provisions contained in this Declaration shall not constitute a waiver of the right to enforce the same thereafter.

(d) Any breach or amendment of the provisions contained in this Declaration, the Articles or the Bylaws shall not affect or impair the lien or charge of any first Mortgage made in good faith and for value on any Lot or the Improvements thereon, provided that any subsequent Owner of such property shall be bound by such provisions of this Declaration, the Articles, and the Bylaws, whether such Owner's title was acquired by foreclosure in a trustee's sale or otherwise.

(e) The Association, through its Board, shall have the power to levy fines for violations of the Association's governing documents and fines may only be levied for violations of the governing documents. In addition to the levy of fines, the Board may also elect to pursue other

enforcement remedies and/or damages permitted under the governing documents. Furthermore, pursuant to Utah Code § 57-8a-218(2)(b), a tenant shall be jointly and severally liable to the Association with the Owner leasing to such tenant for any violation of the governing documents by the tenant. The Board shall adopt a rule for the procedure to enforce the governing documents and levy fines, including a schedule of fines.

15.2 Severability. Invalidation of any provision of this Declaration by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

15.3 Rule Against Perpetuities. The rule against perpetuities and the rule against unreasonable restraints on alienation of real estate may not defeat or otherwise void a provision of this Declaration, the Articles, Bylaws, Plat, Rules or other governing document of the Association. If for any reason the Declaration does not comply with the Act, such noncompliance does not render a Lot or Common Area unmarketable or otherwise affect the title if the failure is insubstantial.

15.4 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community and for the maintenance of the Common Area. The article and section headings have been inserted for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine, and neuter shall each include the masculine, feminine, and neuter. Except for judicial construction, the Board shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Board's construction or interpretation of the provisions hereof shall be final, conclusive, and binding as to all persons and property benefited or bound by this Declaration.

15.5 Amendment. Any amendment to this Declaration shall require the affirmation of at least sixty-seven percent (67%) of all Membership votes actually represented in person, by proxy, or by ballot that are entitled to be cast at a meeting duly called for such purpose. The Board shall cause to be delivered to all Members a Notice of Members Meeting setting forth the purpose of the meeting and the substance of the amendment proposed. The quorum required for any such meeting shall be as follows: At the first meeting called the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of the Membership shall constitute a quorum. If a quorum is not present at any meeting, another meeting may be called by the Board causing to be delivered another Notice of Members Meeting, at which meeting a quorum shall be one-half (1/2) of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting.

15.6 Notice. When notice is required under this Declaration, notice shall be given as provided in the Bylaws.

15.7 Manager. The Association may carry out through a Manager any of its functions which are properly the subject of delegation. Any Manager so engaged may be an independent contractor or an agent or employee of the Association. Such Manager shall be responsible for

managing KRE for the benefit of the Association and the Owners, and shall, to the extent permitted by law and the terms of a management agreement with the Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Association itself.

15.8 Terms of Management Agreement. Any agreement for professional management of the Development, or any other contract providing for services of the Board, sponsor, or builder, may not exceed three (3) years. Any such agreement must provide for termination by either party without cause and without payment of termination fee on not more than ninety (90) but not less than thirty (30) days written notice.

15.9 Rules and Regulations. The Board shall have the authority to promulgate and adopt Rules and Regulations as the Board deems necessary or desirable (i) to aid it in administering the affairs of the Association, (ii) to ensure that KRE is maintained and used in a manner consistent with the interests of the Owners, (iii) to regulate the use of the Common Areas and to regulate the personal conduct of the Members and their guests thereon, and (iv) to establish penalties and fines for the infractions of any Rules and Regulations, this Declaration, or the Bylaws. Fines, subject to limitations under the Act, may be assessed as a Corrective Assessment against the Lot. The Board may adopt, amend, cancel, limit, create exceptions to, expand or enforce rules and design criteria of the Association that are not inconsistent with this Declaration or the Act. Except in the case of imminent risk of harm to a Common Area, a limited Common Area, an Owner, a Lot or a dwelling, the Board shall give at least fifteen (15) days advance notice of the date and time the Board will meet to consider adopting, amending, canceling, limiting, creating exceptions to, expanding or changing the procedures for enforcing rules and design criteria. The Board may provide in the notice a copy of the particulars of the rule or design criteria under consideration. A rule or design criteria adopted by the Board is only disapproved if Member action to disapprove the rule or design criteria is taken in accordance with the limitations under Section 217 of the Act

15.10. Reserved.

15.11. Agreement to Encourage Resolution of Construction Defect Disputes Without Litigation.

(a) The Association, and all persons subject to this Declaration (collectively "Bound Parties") hereby agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving a Claim (as defined in subsection (b)) without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in Section 15.12 in a good faith effort to resolve such Claim.

(b) As used in this Article XV, the term "Claim" shall refer to any claim, grievance, or dispute arising out of or relating to the design or construction of improvements by Declarant within KRE.

15.12 Dispute Resolution Procedures.

(a) **Notice.** The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") shall give written notice to each Respondent and to the Board stating plainly and concisely:

- (i) the nature of the Claim, including the persons involved and the Respondent's role in the Claim;
- (ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
- (iii) the Claimant's proposed resolution or remedy; and
- (iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) **Negotiation.** The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) **Mediation.** If the parties have not resolved the Claim through negotiation within thirty (30) days of the date of the notice described in Section 15.2(a) (or within such other period as the parties may agree upon), the Claimant shall have thirty (30) additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in the Washington County, Utah area.

If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the Parties do not settle the Claim within thirty (30) days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date the mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

DISPUTE RESOLUTION TIMELINE
Claim Between Bound Parties

Day 1	Days 2-30	Days 31-60	Days 61-90+
Written Notice of Claim	Negotiations	Request Mediation	Mediation
<ul style="list-style-type: none">• Factual Basis• Legal Basis• Propose a resolution	<ul style="list-style-type: none">• Good faith effort• Parties meet in person	<ul style="list-style-type: none">• Claimant must submit claim	<ul style="list-style-type: none">• Agency supplies rules• Fee split between parties

<ul style="list-style-type: none">• Propose a meeting• Send copy to Board	<ul style="list-style-type: none">• May request Board assistance	<ul style="list-style-type: none">• Mediator assigned by Association or independent agency• If Claim is not submitted, it is waived	<ul style="list-style-type: none">• Written summary from each side• Supervised negotiation• Contractual settlement or• Termination of mediation
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Each Party shall bear its own costs of the mediation, including attorney fees, and each Party shall share equally all fees charged by the mediator.

(d) Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the Parties. If any Party thereafter fails to abide by the terms of such agreement, then any other Party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the Party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from non-complying Party (or if more than one non-complying Party, from all such Parties in equal proportions) all costs incurred in enforcing such agreement or award, including without limitation attorney fees and court costs.

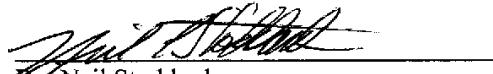
15.13. Reserved.

15.14. Easement to Inspect and Right to Correct. The Board, and others it may designate, grant the right to inspect, monitor, test, redesign, and correct any structure, improvement, or condition which may exist on any portion of KRE, including Lots or Parcels, and a perpetual, non-exclusive easement of access throughout KRE to the extent reasonably necessary to exercise such right. Except in any emergency, entry onto a Lot or Parcel shall be only after reasonable notice to the Owner and no entry into a dwelling shall be permitted without the Owner's consent. The person exercising this easement shall promptly repair, at such person's own expense, any damage resulting from such exercise.

[SIGNATURES ON FOLLOWING PAGE]

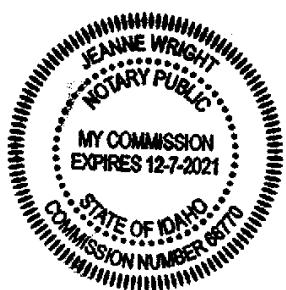
IN WITNESS WHEREOF, the undersigned President of Kings Row Estates Property Owners Association hereby certifies that on the 15 day of May, 2019, the following in relation to this Amended and Restated Declaration: (i) that it was agreed to by at least sixty-seven percent (67%) of the Members; and (ii) that it was approved by at least fifty-one percent (51%) of the First Mortgagees, all in accordance with the instruments cited in the preamble and Utah Code Section 57-8a-210.

**KINGS ROW ESTATES PROPERTY OWNERS
ASSOCIATION, a Utah nonprofit corporation**


By: Neil Stoddard
Its: President

STATE OF Idaho)
:ss.
COUNTY OF Madison)

On this 15th day of May, 2019, before me personally appeared Neil Stoddard, whose identity is personally known to or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that he is the President of Kings Row Estates Property Owners Association, a Utah nonprofit corporation, and that the foregoing document was signed by him on behalf of the Association by authority of its Bylaws, Declaration, or resolution of the Board, and he acknowledged before me that he executed the document on behalf of the Association and for its stated purpose.




Jeanne Wright
Notary Public

Exhibit A
to Declaration
(Legal Description)

This Amended and Restated Declaration of Covenants, Conditions, Restrictions, and Reservation of Easements for Kings Row Estates Property Owners Association affects the following real property, all located in Washington County, State of Utah:

All of Lots 1 through 91, King's Row Est. 1 (W), according to the Official Plat thereof, on file in the Office of the Recorder of Washington County, State of Utah.

PARCEL: W-KR-1-1 through W-KR-1-91

All of Lots 92 through 105, Lots 107 through 145, Lot 146-A, Lots 147-168, Lot 169-A, Lot 169-B, Lots 170-A through 171-A, and Lots 172 through 199, King's Row Est. 2 Amd. (W), according to the Official Plat thereof, on file in the Office of the Recorder of Washington County, State of Utah.

PARCEL: W-KR-2-92 through W-KR-2-105

PARCEL: W-KR-2-107 through W-KR-2-145

PARCEL: W-KR-2-146-A

PARCEL: W-KR-2-147 through W-KR-2-168

PARCEL: W-KR-2-169-A

PARCEL: W-KR-2-169-B

PARCEL: W-KR-2-170-A through W-KR-2-171-A

PARCEL: W-KR-2-172 through W-KR-2-199

Exhibit B
to Declaration
(Vote Certification by President)

Pursuant to Article X, Section 10.01 of the 2008 Bylaws, the President of Kings Row Estates Property Owners Association hereby certifies that:

1. On March 20, 2019, a Special Meeting of the Members was held to consider amending and restating the Declaration and the Bylaws. Said meeting was adjourned and reconvened on April 10, 2019.
2. The following people then met to review and count the votes: Janet O'Riley, Property Manager; Neil Stoddard, President; Kelly Bolingbroke, Vice President; Richard Luntz, Member; Terry Dick, Board Member; and Edith Olney, Member, and the vote tally is as follows:
 - a. 139 of the 199 Lot Owners, or 69%, voted to approve the proposed change to Section 9.2.1 (Association's Water and Sewer Responsibility) of the Declaration. *Passed.*
 - b. 89 of the 199 Lot Owners, or 44%, voted to approve the proposed change to Section 10.25 (Lease Restrictions) of the Declaration. *Failed.*
 - c. 135 of the 199 Lot Owners, or 67%, voted to approve all other proposed changes to the Declaration. *Passed.*

**KINGS ROW ESTATES PROPERTY OWNERS
ASSOCIATION, a Utah nonprofit corporation**

~~By: Neil Stoddard~~
Its: President

On the 15 day of May, 2019, personally appeared before me Neil Stoddard, who being by me duly sworn, did say that he is the President of Kings Row Estates Property Owners Association, the authorized individual empowered to sign this Vote Certification and that the Vote Certification was signed on behalf of said Association and said person acknowledged to me that said Association authorized the execution of same.



Jeanne Wright
Notary Public

Approved by:

Janet O'Riley

Janet O'Riley, Preferred Property Management

Kelly Bolingbroke, Vice-President

Richard C. Mitz
Richard C. Mitz, Community Member

Terry Dick
Terry Dick, Director

Edith Olney
Edith Olney, Community Member

Approved by:

Jane O'Riley

Jane O'Riley, Preferred Property Management

Kelli Bolingbroke

Kelli Bolingbroke, Vice President

Richard Lutz

Richard Lutz, Community Member

Terry Dick

Terry Dick, Director

Edith Oliney

Edith Oliney, Community Member