



## **SOMERSET HOMEOWNERS ASSOCIATION**

**Farmington, Utah**

### **COVENANTS, CONDITIONS AND RESTRICTIONS**

Applies to the following properties as recorded in the office of the County Recorder of Davis County, Utah: Parcels **08-045-0003, 0004, 0008, 0009, 0032, 0033, 0037** thru **0043, 0045, 0073, 0074, 0078** thru **0083, 0091** thru **0094, 0097** thru **0101, 0104** thru **0109, and 0112**; Parcels **08-265-185** and **186**; and Common Areas **08-045-0095** and **0096**; Parcels **08-046-0010** thru **0013, 0017** thru **0020, 0023** thru **0029, 0048** thru **0050, 0053** thru **0056, 0060** thru **0063, 0066** thru **0070, 0074** thru **0078, 0081, 0083, 0084**; and Common Area **08-046-0073**; Parcels **08-047-0030** thru **0040, 0043** thru **0046, 0049** thru **0062, 0065, 0070** thru **0089, 0092** thru **0121, 0123, 0124, 0127, 0130, 0138, 0140, 0141, and 144**; and Common Area **08-047-0142**; Parcels **08-048-0003** thru **0014, 0019** thru **0021, 0024** thru **0029, 0090, 0091, 0122** thru **0139, 0141** thru **0145, 0148** thru **0150, 0160, 0161, 0164, 0166, 0169**; Parcels **0152** and **0168**; and Common Areas **08-048-0140, 0156, and 0161**; and Parcels **08-101-302, 304** and **305**.

## CONTENTS

CONTENTS	1
RECITALS	4
SUBMISSION	4
COVENANTS, CONDITIONS AND RESTRICTIONS	5
ARTICLE 1 DEFINITIONS	5
ARTICLE 2 PROPERTY RIGHTS IN COMMON AREAS	8
2.1 DESCRIPTION OF COMMON AREAS	8
2.2 TITLE TO COMMON AREAS	8
2.3 OWNER'S EASEMENTS OF ENJOYMENT	8
2.4 EXTENT OF OWNER'S RIGHTS	8
2.5 DELEGATION OF USE	10
2.6 RIGHTS OF DEVELOPER	10
ARTICLE 3 PROPERTY RIGHTS IN LOTS	11
3.1 USE AND OCCUPANCY	11
3.2 MAINTENANCE EASEMENT	11
3.3 UTILITY EASEMENTS	11
ARTICLE 4 RESTRICTIONS ON USE OF RESIDENTIAL LOTS AND COMMON AREAS	11
4.1. RESIDENTIAL USE	11
4.2 USE AS RENTAL PROPERTY	12
4.3. OFFENSIVE OR UNLAWFUL ACTIVITIES	12
4.4. ANIMALS	13
4.5. MAINTENANCE OF STRUCTURES AND GROUNDS	13
4.6. PARKING	14
4.7. VEHICLES IN DISREPAIR	15
4.8. SIGNS	15
4.9. RUBBISH AND TRASH	15
4.10. LICENSED CONTRACTORS	15
4.11. COMMENCEMENT AND COMPLETION OF CONSTRUCTION	16
4.12. LANDSCAPE	16
4.13. TEMPORARY STRUCTURES	16
4.14. FENCES	16
4.15. SERVICE FACILITIES	16
4.16. EXTERIOR LIGHTING OR NOISE-MAKING DEVICES	16
4.17. PEST CONTROL	17
4.18. ASSOCIATION RULES AND REGULATIONS	17
4.19. DIVISION OF LOTS	17
4.20. SATELLITE DISHES AND ANTENNAS	18

ARTICLE 5 ARCHITECTURAL REVIEW COMMITTEE	18
5.1. ARCHITECTURAL REVIEW	18
5.2. COMMITTEE DECISION	18
5.3. COMMITTEE DISCRETION	19
5.4. MEMBERSHIP: APPOINTMENT AND REMOVAL	19
5.5. MAJORITY ACTION	19
5.6. LIABILITY	19
5.7. NONWAIVER	19
5.8. COMMITTEE APPROVAL	20
5.9. EFFECTIVE PERIOD OF CONSENT	20
5.10. BUILDING DEPOSIT	20
ARTICLE 6 ASSOCIATION	20
6.1. NAME	20
6.2. ORGANIZATION	20
6.3. MEMBERSHIP	21
6.4. VOTING RIGHTS	21
6.5. GENERAL POWERS AND OBLIGATIONS	22
6.6. SPECIFIC POWERS AND DUTIES	22
6.7. LIABILITY	25
ARTICLE 7 MAINTENANCE	25
7.1. MAINTENANCE OF COMMON AREAS	25
7.2. MAINTENANCE OF UTILITIES	26
7.3. SERVICES	26
7.4. OWNER MAINTENANCE	26
ARTICLE 8 ASSESSMENTS	26
8.1. PURPOSE OF ASSESSMENTS	26
8.2. TYPES OF ASSESSMENTS	26
8.3. APPORTIONMENT OF ASSESSMENTS	26
8.4. MONTHLY ASSESSMENTS	27
8.5. SPECIAL ASSESSMENTS	27
8.6. EMERGENCY ASSESSMENTS	28
8.7. INDIVIDUAL ASSESSMENTS	28
8.8. DEFAULT ASSESSMENTS	28
8.9. OPERATIONS FUND	28
8.10. RESERVE FUND	29
8.11. CREATION OF LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS	30
ARTICLE 9 ENFORCEMENT	30
9.1. ENFORCEMENT OF SOMERSET HOMEOWNERS ASSOCIATION COVENANTS, CONDITIONS AND RESTRICTIONS	30
9.2. USE OF COMMON AREAS	31

9.3.	NONQUALIFYING IMPROVEMENTS AND VIOLATION OF GENERAL PROTECTIVE COVENANTS	31
9.4	DEFAULT IN PAYMENT OF ASSESSMENTS; ENFORCEMENT OF LIEN	32
9.5	SUBORDINATION OF LIEN TO MORTGAGES	34
9.6	INTEREST, EXPENSES, AND ATTORNEY'S FEES	34
9.7	NONEXCLUSIVENESS AND ACCUMULATION OF REMEDIES	35
ARTICLE 10 MORTGAGEES		35
10.1.	REIMBURSEMENT OF FIRST MORTGAGEES	35
10.2.	RIGHT OF FIRST MORTGAGEES RELATING TO MAINTENANCE	35
10.3.	EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS	35
ARTICLE 11 MISCELLANEOUS PROVISIONS		36
11.1.	AMENDMENT AND REPEAL	36
11.2.	DURATION	36
11.3.	JOINT OWNERS	36
11.4.	LESSEES AND OTHER INVITEES	37
11.5	EXPANSION OF ASSOCIATION	37
11.6.	NONWAIVER	38
11.7.	GOVERNING DOCUMENT CONFLICTS	38
11.8.	CONSTRUCTION; SEVERABILITY	38
11.9.	NUMBERS; GENDER; CAPTIONS	38
EXHIBIT A	LEGAL DESCRIPTION	39
EXHIBIT B	ARTICLES OF INCORPORATION	40
EXHIBIT C	BYLAWS	41
EXHIBIT D	DESIGN GUIDELINES AND APPROVAL PROCEDURES	42
EXHIBIT E	MAPS OF PROPERTY INCLUDING ROADS, COMMON AREAS AND LIMITED COMMON AREAS	47
EXHIBIT F	EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS	50
EXHIBIT G	FINE SCHEDULE	51
EXHIBIT H	TRUSTEE DESIGNATED BY THE BOARD	53
EXHIBIT I	CERTIFICATE OF APPROVAL OF AMENDMENT	54

This Amended and Restated Declaration is made as of the date of the recording in the Davis County Recorder's Office by the Somerset Homeowners Association, a Utah Nonprofit Corporation ("Association").

### RECITALS

1. This Declaration supersedes and replaces in its entirety the previously recorded Covenants, Conditions and Restrictions of the Somerset Homeowners Association ("Prior Declaration") that was recorded as Entry No. 1617928, Book 2700, Page 745 on October 11, 2000, at the Davis County Recorder's Office, and all amendment thereto as more fully described in the document attached as Exhibit J.
2. The Articles of Incorporation of the Association are referenced in Exhibit B.
3. The Association is the authorized representative of the Owners of certain real property known as Somerset Farm and Hollow, located in Davis County, State of Utah and more particularly described on Exhibit A attached to and incorporated in this Declaration by reference.
4. As of the date hereof, the Property consists of 219 Lots and certain Common Areas, Limited Common Areas, and Facilities. The name by which the Project is known is "Somerset Farm and Hollow."
5. Pursuant to Article VI, Section 6 of the Prior Declaration, this Declaration has been voted on and approved by the record Owners having a two-thirds (2/3) majority of the Owners. A Certificate of Approval of the amendment is attached as Exhibit J and incorporated into this Declaration by reference.
6. The Association desires to establish, for its own benefit and for the mutual benefit of all future Owners and occupants of the Project, certain covenants, conditions, restrictions, easements, rights, privileges, assessments, and liens as set forth in this Declaration.
7. Pursuant to Sections 3, 4, and 15 of Article I of the Prior Declaration, the Common Areas in the Somerset Farms II were previously conveyed to the Association pursuant to Section 3 of Article XI of the Prior Declaration.

### SUBMISSION

1. The Property described with particularity on Exhibit A attached hereto and incorporated herein by this reference is hereby re-submitted to the Act.
2. The Property is made subject to, and shall be governed by the Act, this Declaration, and the covenants, conditions and restrictions set forth herein. The Property is also subject to the right of Farmington City to access the roads within the

Project for emergency vehicles, service vehicles, and to all of the utility installations up to the residential meters.

3. The Property is subject to easements and rights of way and certain other matters of record. Easements and rights-of-way in favor of Farmington City include all dedicated roadways and public utility easements and are depicted on the Record of Survey Maps, copies of which are recorded in the office of the County Recorder of Davis County, Utah and described on Exhibit E attached hereto, together with all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the above-described parcel or real property shown of record.

### **COVENANTS, CONDITIONS AND RESTRICTIONS**

In consideration of the Recitals above, the Association, in order to further preserve and maintain the integrity of the Project, declares that the Property shall be held, sold, and conveyed subject to the following easements, covenants, conditions, and restrictions, which run with the land and are binding upon all parties having or acquiring any right, title, or interest in such Property or any part thereof and shall inure to the benefit of each Owner thereof.

### **ARTICLE 1**

#### **DEFINITIONS**

When used in this Declaration (including the "Recitals" and "Submission"), the following terms have the meaning indicated. Terms that are applicable to a single Section are defined in that Section. Any term used in this Declaration which is defined by the Act, to the extent permitted by the context of this Declaration, has the meaning given by the Act. This Declaration incorporates all terms defined in the Act under Utah Code Annotated § 57-8a-102.

1.1. Act means the Utah Community Association Act as codified in Utah Code Annotated §§ 57-8a-101 through 57-8a-601.

1.2. Annual Assessment means Assessments levied to cover the costs of maintenance and services and future needs of the Association, any previous over-Assessments, any common profits of the Association, and reserves or contingencies.

1.3. Architectural Review Committee means the architecture committee appointed by the Board of Directors. If no architecture committee is appointed by the Board of Directors, the duties, powers, rights and authorities given to the Architecture Committee by this Declaration may be exercised by the Board of Directors.

1.4. Articles of Incorporation means the Articles of Incorporation of Somerset Homeowners Association filed with the Department of Commerce, Division of Corporations and Commercial Code of the State of Utah.

1.5. Assessment means any charge imposed or levied by the Association on or against an Owner or Lot pursuant to the terms of this Declaration, the Articles of Incorporation, the Bylaws, or applicable law.

1.6. Association means Somerset Farm and Hollow Homeowners Association, a Utah nonprofit corporation, its successors and assignees, formed to manage the affairs of the Project.

1.7. Board of Directors or Board means the body responsible for the administration of the Association, elected as provided in the Articles of Incorporation and generally serving the same role as a Board under the Revised Non-Profit Corporations Act.

1.8. Bylaws means the Bylaws of the Association and recorded simultaneously with this Declaration and attached to this Declaration as Exhibit C, and as they may be amended from time to time.

1.9. Common Areas means those areas of land shown on the Map attached to this Declaration as Exhibit E and marked as "Common Areas" and/or intended to be devoted to the common use and enjoyment of the owners of the Lots as well as all equipment, fixtures, and personal property on the Common Areas. The Common Areas are more extensively defined in Article 2. Common Areas do not include Lots. Equipment purchased or used for the maintenance of the Common Areas is not considered and is not included within the definition of "Common Areas."

1.10. Declaration means this document, including all attached Exhibits.

1.11. Default Assessment means an Assessment levied against a Lot or certain Lots under Article 8.8 of this Declaration.

1.12. Developer means person or persons previously associated with development of property now contained within the Association. Current status is designated in Article 2.6.

1.13. Emergency Assessment means Assessments levied under Article 8.6 of this Declaration in the event that levied Annual Assessments at any time are, or will become, inadequate to meet all expenses incurred under this Declaration.

1.14. Improvement means every temporary or permanent structure or improvement of any kind, including, without limitation, sidewalks, fences, walls, driveways, swimming

pools, storage shelters, or other product of construction efforts on or in respect to any property within the Project, including any alteration or reconstruction thereof.

1.15. Individual Assessment means an Assessment levied exclusively against a Lot or certain Lots under Article 8.7 of this Declaration.

1.16. Limited Common Area means Common Areas allocated or licensed for the exclusive use of one or more Lot owners. The singular known designated Limited Common Area is identified as that property between the two parcels identified as Lot 56 and Lot 57, on the Plat Map of Somerset Farm recorded in the office of the County recorder of Davis County, Utah, as Dedicated Plat Map 929.

1.17. Lot means any plot of land upon which is located a dwelling or which is intended for the location of a dwelling. Lots are identified on the Record and Survey Map. Lots are not part of and do not include the Common Areas as defined in this Declaration. Lots also do not include the streets within the Property. The streets within the property are dedicated to the public as shown upon the Map and in the contracts with the City of Farmington included in Exhibit F.

1.18. Map or Record and Survey Map means any record of survey map of the Property on record with the County Recorder of Davis County, Utah.

1.19. Member means any Owner who qualifies as a member of the Association under the requirements of Article 6.

1.20. Mortgage includes a mortgage, or trust deed or other similar security instrument.

1.21. Mortgagee includes a mortgagee under a mortgage and a beneficiary under a trust deed.

1.22. Owner means the owner of record, whether one or more persons or entitled to the fee simple title. The term Owner does not include any Mortgagee unless and until that Mortgagee acquired title pursuant to foreclosure or any other method in lieu of foreclosure.

1.23. Project means the Somerset Farm and Hollow development, including the Lots, Common Areas, and Limited Common Areas.

1.24. Property means the land described in Exhibit A along with all the buildings, improvements, easements, rights, and appurtenances as well as all articles of personal property intended for use in connection therewith.

1.25. Reserve Fund means the fund established by the Association for covering the cost of repairing, replacing, and restoring Common Areas that have a useful life of three



years or more, excluding costs that can reasonably be funded from the Association's general budget or from other Association funds.

1.26. Rules and Regulations means the Rules and Regulations adopted from time to time by the Board of Directors that are deemed necessary for the enjoyment of the Project.

1.27. Special Assessment means an Assessment levied under Article 8 of this Declaration during any fiscal year, applicable to that year only, for the purpose of deferring all or any part of the cost of any construction or reconstruction, unexpected repair, or acquisition or replacement of a described capital improvement, or for any other one-time expenditure not to be paid for out of Annual Assessments.

## ARTICLE 2

### PROPERTY RIGHTS IN COMMON AREAS

2.1. DESCRIPTION OF COMMON AREAS. The Common Areas shall mean and refer to that part of the Property which is not included within the Lots including all improvements except utility pipes, electrical and cable television lines, culinary and secondary water systems, sewer systems, and any similar systems. Common Areas, generally indicated on the maps included in Exhibit E, include but are not limited to, all common landscaped areas, private sidewalks, perimeter fencing, and, in general, all apparatuses and installations existing for common use and all repairs and replacements of any of the foregoing.

2.2. TITLE TO COMMON AREAS. The Common Areas are owned in common by all Owners, with legal title in the name of the Association. No Owner may bring an action for partition thereof except upon termination of this Declaration. Provided, however, that no Owner shall attempt to or shall have the right to mortgage or otherwise encumber the Common Areas, except as to the appurtenant undivided interest therein of the Owner's Lot.

2.3. OWNER'S EASEMENTS OF ENJOYMENT. Subject to the provisions of this Article, every Owner and his or her invitees shall have a right and easement of enjoyment in and to the Common Areas, which easement shall be appurtenant to and pass with the title to every Lot.

2.4. EXTENT OF OWNER'S RIGHTS. The rights and easements of enjoyment in the Common Areas created hereby shall be subject to the following and all other provisions of this Declaration:

a. EASEMENTS. The Association holds the following easements over, under, and upon the Common Areas and Property:

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

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

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

b. USE OF THE COMMON AREAS.

i. Partitions. Except as otherwise provided in this Declaration, the Common Areas shall not be partitioned or otherwise divided into parcels for residential use, and no private structure of any type shall be constructed on the Common Areas.

ii. Private Use Prohibited. Except as otherwise provided in this Declaration, the Common Areas shall be reserved for the use and enjoyment of all Owners and no private use may be made of the Common Areas.

iii. Signs. Nothing herein shall prevent the placing of a sign or signs upon the Common Areas identifying the subdivision or identifying items of interest, provided such signs are approved by the Architectural Review Committee and comply with any applicable governmental requirements.

iv. Trespass. The Board of Directors of the Association shall have authority to abate any trespass or encroachment upon the Common Areas at any time, by any reasonable means and with or without having to bring legal proceedings.

c. ALIENATION OF THE COMMON AREAS. The Association may not by act or omission seek to abandon, partition, subdivide, or encumber the Common Areas owned directly or indirectly by the Association for the benefit of the Lots unless the holders of at least seventy-five percent (75%) of the Association voting Members, or such lesser amount as may be required by applicable law, have given their prior written approval. This provision shall not apply to the easements described in Article 2.4.a above.

d. LIMITATIONS ON USE. Lots are to be used primarily for residential purposes. Use of the Common Areas by the Owners is subject to the provisions of this Declaration and to the following:

- i. The right of the Association to suspend such use rights of an Owner to the extent provided in Article 9 below; and
- ii. The right of the Association to adopt, amend, and repeal Rules and Regulations in accordance with this Declaration.

2.5. DELEGATION OF USE. Any Owner may delegate, in accordance with Article 11.4 of this Declaration, his right of enjoyment of the Common Areas to the members of his family and to tenants or contract purchasers who reside on the Property.

2.6. RIGHTS OF DEVELOPER. Pursuant to the Prior Declaration, Farmington Meadows Limited Partnership, a Utah Limited Partnership (also known as Farmington Meadows I Limited Partnership), Somerset Hollow Limited Partnership, a Utah Limited Partnership, Farmington Meadows II Limited Partnership, a Utah Limited Partnership, and/or any successor and their successors were identified as the "Developer". All entities previously comprising the Developer have been dissolved or removed from ownership of any portion of the Project. Therefore, all rights of the Developer under the Prior Declaration are hereby removed and are of no further force and effect.

### **ARTICLE 3**

#### **PROPERTY RIGHTS IN LOTS**

3.1. **USE AND OCCUPANCY.** The Owner of a Lot in the Property shall be entitled to the exclusive use and benefit of such Lot, except as otherwise expressly provided in this Declaration, but the Lot shall be bound by and the Owner shall comply with the restrictions contained in Article 4 below, and all other provisions of this Declaration for the mutual benefit of all Owners.

3.2. **MAINTENANCE EASEMENT.** The Association reserves an easement for the purpose of maintaining landscaping or abating any nuisance when the Owner has not kept landscaping in good maintenance and repair, and such failure continues for 10 business days after the Association has delivered written notice of such failure to the Owner. If the situation is deemed to be an emergency, the resolution of the nuisance may proceed immediately. The owner may be charged for costs incurred in such maintenance as provided in Articles 4.5.c, 4.11 and 4.16 below.

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

### **ARTICLE 4**

#### **RESTRICTIONS ON USE OF RESIDENTIAL LOTS AND COMMON AREAS**

##### **4.1. RESIDENTIAL USE.**

a. Generally. Lots shall only be used for residential purposes. Except with the consent of the Board of Directors of the Association, no trade, craft, business, profession, commercial, or similar activity or any kind shall be conducted on any Lot, nor shall any goods, equipment, vehicles, materials, or supplies used in connection with any trade, service, or business be kept or stored on any Lot, except as allowed by Farmington City Ordinances and as authorized by the issuance of a Conditional Use Permit by the City. Nothing in this Section will be deemed to prohibit (1) activities relating to the rental or

sale of Lots; or (2) the right of the Owner of a Lot to maintain his professional personal library, keep his personal business or professional records or accounts, handle his personal business or professional telephone calls, or confer with business or professional associates, clients or customers on his Lot, provided, however, there is no external evidence thereof and such use complies with all applicable governmental requirements.

b. Commercial Use Approval. The Board of Directors shall not approve commercial activities otherwise prohibited by this paragraph unless the Board of Directors determines that only normal residential activities would be observable outside of the residence and that the activities would not be in violation of applicable Farmington City ordinances.

#### 4.2. USE AS RENTAL PROPERTY

a. If an owner uses a Lot as residential rental property, the owner shall have the responsibility to assure that the home and yard are maintained at community standards.

b. It is expected that any rental or lease agreement include a statement requiring tenants to abide by the Covenants, Conditions and Restrictions of the Association. Both the Owner and tenant shall be obligated to comply with this Declaration and all Rules and Regulations. If the tenant incurs a fine or violates rules or regulations or this Declaration, the Association may hold the Owner responsible if the tenant does not pay the fine or resolve the violation.

c. The Owner shall have the responsibility to make arrangements for the tenant to have access to the pool and other amenities or improvements of the Association. The Rules and Regulations shall apply to both the Owner and the tenant. The Owner has the responsibility to advise the tenant of the Rules and Regulations and to cause such Tenant to comply with them.

e. If the Owner defaults in payments as provided in Article 9.4 of this Declaration, the Association may suspend both the rights of the Owner and the tenant, to the extent permitted hereunder, and may require an assignment of rents as provided in Article 9.4.e.

4.3. OFFENSIVE OR UNLAWFUL ACTIVITIES. No noxious or offensive activities shall be carried on upon any Lot or Common Area, nor shall anything be done or placed on any Lot or Common Area which interferes with or jeopardizes the quiet enjoyment of other Lots or the Common Areas, or which is a public or private nuisance to residents. No unlawful use shall be made of a Lot or any part thereof, and all valid laws, zoning

ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed.

#### 4.4. ANIMALS.

a. Generally. No animals, livestock, or poultry of any kind shall be raised, bred or kept, or permitted within any Lot other than a reasonable number of household pets which are not kept, bred, or raised for commercial purposes and which are reasonably controlled so as not to be a nuisance. Any damage or public or private nuisance caused by such pets shall be the responsibility of the respective owners thereof. All Owners shall promptly clean up any defecation of any such pets. The keeping of animals on a Lot shall be in conformance with all applicable laws and this Declaration. When standards of the applicable laws and this Declaration vary, the most restrictive shall apply.

b. Dogs. No dog shall be permitted to roam the Property unattended, and all dogs shall be kept on a leash while outside a Lot.

c. Pet Enclosures. All outdoor pet enclosures must be approved by the Architectural Review Committee and the Board of Directors and shall not be visible from the street.

d. Violations. The Board may enact reasonable rules respecting the keeping of animals within the Project and may designate certain areas in which animals may not be taken or kept, or may require that specific animals not be allowed on any part of the Project. If any Owner fails to abide by the Rules and Regulations and/or covenants applicable to the keeping of pets, the Board, in the exercise of its sole discretion, may impose a fine for such violation. In addition, an Owner or resident may be required to remove a pet upon receipt of the third notice in writing from the Board of Directors of violations of any rule, regulation, or restriction governing pets within the Property.

#### 4.5. MAINTENANCE OF STRUCTURES AND GROUNDS.

a. Responsibility of Owners. Each Owner shall maintain his Lot and Improvements thereon in a clean and attractive condition, in good repair, and in such fashion as not to create a fire hazard. Such maintenance shall include, without limitation, painting, repair, replacement, and care for roofs, gutters, downspouts, exterior building surfaces, walks, and other exterior Improvements and glass surfaces.

b. Repainting and Remodeling. All repainting or restaining of the exterior of buildings (other than that done for maintenance), along with any exterior remodeling shall be subject to prior review and approval by the Architectural Review Committee. In addition, each Owner shall keep all shrubs, trees, grass, and plantings of every kind on his Lot neatly trimmed, properly cultivated, and free of trash, weeds, and other unsightly material.

c. Violations. If an Owner fails to comply with the Rules and Regulations of the Association, and such failure continues for 15 business days after written notice, the Association may enter the Lot, remove the trash, weeds, or other unsightly material and assess the cost against the Owner of the Lot, including vacant Lots or Lots under construction.

d. Damage from Force Majeure. Damage caused by fire, flood, storm, earthquake, riot, vandalism, or other causes shall likewise be the responsibility of each Owner and shall either (1) be restored within a reasonable period of time, or (2) razed by the Owner, and returned to a clean, safe condition as required by this Declaration.

#### 4.6. PARKING.

a. Street Parking. All motor vehicles of the Owner or occupants shall be parked in the Lot's off-street parking area. Guests may park on the street, but only during the hours of 6:00 am – 11:59 pm. Farmington City Ordinance states that "from November 15 to the last day of February no vehicles of any kind may be parked in the street right-of-way from 1 am to 7 am." Motor vehicles shall not be parked on grass at any time.

b. Motor Homes, Boats, and Trailers. No motor homes, campers, recreational vehicles, boats, trailers, campers, disabled or unsightly vehicles, or vehicles larger than a one-ton passenger vehicle shall be parked or kept anywhere on the Property, except in enclosed garages or otherwise screened from view by allowable fencing. Exceptions shall be allowed only for recreation vehicle or boat preparation and cleanup within a period not to exceed 48 hours before and after vacation use. Except within an enclosed garage, maintenance or repair of motor vehicles shall not be permitted on the Property unless approved, in writing, by the Board of Directors.

c. Loud Vehicles. Motor vehicles with loud mufflers or exhaust systems shall not be permitted on the Property.

d. Motorcycles and Scooters. Motorcycles, motorbikes, motor scooters, and similar vehicles shall be permitted on the Property only if they are owned

by residents or invited guests of residents of the Property and are used for transportation in and out of the Property. No vehicle is allowed to park on any sidewalks; all wheels must be on the asphalt pavement or in a driveway. Motorcycles, motorbikes, motor scooters, and other forms of motorized transportation are limited to street usage only, unless the vehicle is being used for snow removal at the time.

e. Ingress and Egress. All vehicles shall not be driven within the Property except for the purpose of ingress and egress to Lots.

f. Garages. Garages, carports, or similar structures may not be used nor completed for living quarters, businesses, nor commercial workshops.

4.7. VEHICLES IN DISREPAIR. No Owner shall permit any vehicle which is in an extreme state of disrepair to be abandoned or to remain parked upon any Lot or on the Common Areas or on any street for more than twenty-four (24) hours, except within an enclosed garage. No inoperative vehicle shall be located on any Lot, except within an enclosed garage. Should any Owner fail to remove such vehicle within 4 days after receiving written notice from the Association, the Association may have the vehicle removed from the Property and charge the expense of such removal to the Owner.

4.8. SIGNS. No signs shall be erected or maintained on any Lot except that one temporary sign not exceeding three (3) feet by five (5) feet in size, advertising the specific Lot for sale or rent or a construction sign may be displayed on the premises affected. The restrictions contained in this paragraph shall not prohibit the temporary placement of "political" signs on any Lot by any Owner. No sign shall be erected or maintained for more than three (3) consecutive months upon any Lot other than a "Home For Sale" sign.

4.9. RUBBISH AND TRASH. No Lot or part of the Common Areas shall be used as a dumping ground for trash or rubbish of any kind. All garbage and other waste shall be kept in appropriate sanitary containers for proper disposal and out of public view. Yard rakings, dirt, and other material resulting from landscaping work shall not be dumped onto streets, Common Areas, or on any Lots other than the Owner's Lot. The intent of this clause is not to preclude a Homeowner using landscaping materials for composting and mulching on his own Lot, insofar as it does not create an unsightly condition, as referenced in Article 4.5.a.. Should any Owner fail to remove any trash, rubbish, garbage, yard rakings, or any such materials from any Lot, any streets or Common Areas where deposited by him within 5 days following the date on which notice is mailed to him by the Board of Directors of the Association, the Association may have such materials removed and charge the expense of such removal to the Owner.



4.10. LICENSED CONTRACTORS. Unless waived in writing by the Architectural Review Committee, all dwellings and Improvements shall be constructed using a licensed general contractor approved by the Architectural Review Committee.

4.11. COMMENCEMENT AND COMPLETION OF CONSTRUCTION. In any case, all unimproved Lots shall be kept in a neat and orderly condition, free of brush, vines, weeds, and other debris, and any grass thereon shall be cut or mowed at sufficient intervals to prevent creation of a nuisance or fire hazard. The construction of any building on any Lot, including painting and all exterior finish, shall be completed within six (6) months from the beginning of construction so as to present a finished appearance when viewed from any angle. In the event of undue hardship due to weather conditions, this provision may be extended for a reasonable length of time upon written approval from the Architectural Review Committee. The building area shall be kept reasonably clean and in workmanlike order, free of litter, during the construction period with a garbage can or other garbage disposal facility on the site during such period. Construction work shall not be performed on Sundays or between the hours of 10 p.m. and 7 a.m.

4.12. LANDSCAPE. Each Owner shall properly maintain the lawn and shrubbery and the exterior of any structures located on the Lot in accordance with the Rules and Regulations. If such Owner shall fail to comply with the foregoing within 15 business days after written notice from the Association, the Association has the right to repair any landscaping not kept in good maintenance and repair. The Association may levy an Individual Assessment against the Lot for reasonable costs in repairing or maintaining any landscaping for that Lot.

4.13. TEMPORARY STRUCTURES. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuildings shall be used on any Lot at any time as a residence either temporarily or permanently.

4.14. FENCES. All fences shall be constructed of materials approved by the Architectural Review Committee and in compliance with Article 7 of Exhibit D, Design Guidelines and Approval Procedures, attached to this Declaration. No fences shall have a gate opening onto or granting any access, ingress or egress to property outside the Project, unless prior written approval is granted by the Architectural Review Committee.

4.15. SERVICE FACILITIES. Service facilities (garbage containers, fuel tanks, clotheslines, etc.) shall be screened such that the elements screened are not visible at any time from the street or a neighboring property.

4.16. EXTERIOR LIGHTING OR NOISE-MAKING DEVICES. Except with the consent of the Architectural Review Committee, no exterior lighting or noise-making devices

shall be installed or maintained on any Lot, other than security and fire alarms, and accent house/yard lighting.

4.17. PEST CONTROL. No Owner shall permit any thing or condition to exist upon any portion of the Property which shall induce, breed, or harbor infectious plant diseases, noxious insects, or vermin. The Association has the right to remove noxious plants, insects, or vermin and may levy a Default Assessment against the Lot for reasonable costs of such removal, if an Owner fails to remove the same within 15 business days after written notice from the Association.

4.18. ASSOCIATION RULES AND REGULATIONS.

a. Additional Use Restrictions. In addition, the Association, through the Board of Directors, from time to time, may adopt, modify, or revoke Rules and Regulations governing the conduct of persons and the operation and use of Lots and the Common Areas as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Property. At least 30-day's notice must be given to all Owners before any change to the Rules and Regulations becomes effective and if any owner submits to the Board a written objection to the change, the change will not become effective until the Board has offered such owner an opportunity to explain to the Board the reasons for the objection.

b. Delivery of Rules and Regulations. A copy of the Rules and Regulations, upon adoption, and a copy of each amendment, modification, or revocation thereof, shall be delivered by the Association Board of Directors promptly to each Owner and shall be binding upon all Owners and occupants of all Lots upon the date of delivery. The Board can make delivery in person, by regular mail, by e-mail or by posting the document to an internet website maintained by the Association and to which all Owners and mortgagees of Owners have access. Association Rules and Regulations may be modified, amended, or revoked through the Board of Directors without the vote of the membership, but must not be inconsistent with this Declaration or the Bylaws.

c. Fines. The Association may assess a Default Assessment against any Owner for violation of the Declaration. The Association shall adopt a Fine Schedule listing specific types of violations with their corresponding fine amounts, by following the process for amendments or modification to the rules and regulations found in Article 4.18.a. The Fine Schedule is attached to this Declaration as Exhibit G.

4.19. DIVISION OF LOTS. No division of any Lot shall occur without the written consent of the Architectural Review Committee and the Association's Board of Directors.

4.20. SATELLITE DISHES AND ANTENNAS. All television antennas must be placed within the enclosed area of the home or garage. Small satellite dishes may be mounted on rear walls or roofs of homes if they are not visible from the street. All exceptions must be approved in writing by the Architectural Review Committee. The Architectural Review Committee will in its sole discretion approve, upon written application, small digital satellite dishes that are not visible from the street.

## ARTICLE 5

### ARCHITECTURAL REVIEW COMMITTEE

5.1. ARCHITECTURAL REVIEW. No building, improvement, addition, or major landscaping project other than seasonal landscape maintenance, shall be commenced, erected, placed, installed, or altered on any Lot until the construction plans and specifications showing the nature, shape, heights, materials, colors, and proposed location of the Improvement have been submitted to and approved in writing by the Architectural Review Committee. It is the intent and purpose of this Declaration to assure quality of workmanship and materials, to assure harmony of external design with the existing Improvements and landscapes and as to location with respect to topography and finished grade elevations, and to avoid plan repetition. The Committee is not responsible for determining compliance with structural and building codes, zoning codes, or other governmental regulations, all of which are the responsibility of the applicant. All Improvements shall be in conformance with all applicable laws and this Declaration. When standards of applicable laws and this Declaration vary, the most restrictive shall apply. The procedure and specific requirements for review and approval of residential construction may be set forth in Design Guidelines and Approval Procedures adopted from time to time by the Architectural Review Committee. Modifications or amendments of Design Guidelines and Approval Procedures shall be made following the procedures for modification or amendment of Rules and Regulations as provided in Article 4.18. In all cases in which the Architectural Review Committee consent is required by this Declaration, the provisions of this Article shall apply. The Design Guidelines and Approval Procedures in existence at the adoption of the Declaration are attached as Exhibit D.

5.2. COMMITTEE DECISION. The Architectural Review Committee shall render its decision with respect to the construction proposal within thirty (30) days. Any proposal application is not deemed submitted until: (1) all documents and plans pertaining to the

proposal have been given to the Committee, and (2) the applicant has received written acknowledgement of receipt by a member of the Committee, which acknowledgement shall promptly be delivered by the Committee upon receiving all such materials. The date stated on the Committee's written acknowledgment shall begin the timeframe for the review and decision. In the event the Committee fails to render its approval or disapproval within the thirty (30) day period, approval will not be required and the related provisions of this Declaration shall be deemed to have been fully complied with.

5.3. **COMMITTEE DISCRETION.** The Architectural Review Committee may, at its sole discretion, withhold consent to any proposed work if the Committee finds the proposed work would be inappropriate for the particular Lot or incompatible with the design standards that the Committee intends for the Project. Considerations such as shape, size, color, design, height, solar access, impairment of the view from other Lots within the Property or other effect on the enjoyment of other Lots or the Common Areas, disturbance of existing terrain and vegetation and any other factors which the Committee reasonably believes to be relevant, may be taken into account by the Committee in determining whether or not to consent to any proposed work.

5.4. **MEMBERSHIP: APPOINTMENT AND REMOVAL.** The Architectural Review Committee shall consist of as many persons, but not less than three, as the Association Board of Directors may from time to time appoint. The Association Board of Directors may remove any member of the Committee from office at any time and may appoint new or additional members at any time. The Association shall keep on file at its principal office and shall post on its internet web site a list of the names and addresses of the members of the Committee. In the event that the Association Board of Directors fails to appoint an Architectural Review Committee, the Board of Directors shall serve as the Architectural Review Committee.

5.5. **MAJORITY ACTION.** Except as otherwise provided in this Declaration, a majority of the members of the Architectural Review Committee shall have the power to act on behalf of the Committee, without the necessity of a meeting, and without the necessity of consulting the remaining members of the Committee. The Committee may render its decision only by written instrument setting forth the action taken by the members consenting thereto.

5.6. **LIABILITY.** Neither the Architectural Review Committee nor any member thereof shall be liable to any Owner, occupant, builder, or developer for any damage, loss, or prejudice suffered or claimed on account of any action or failure to act of the Committee or a member thereof, provided only that the member has, in accordance with the actual knowledge possessed by him, acted in good faith.

5.7. **NONWAIVER.** Consent by the Architectural Review Committee to any matter proposed to it or within its jurisdiction shall not be deemed to constitute a precedent or waiver impairing its right to withhold approval as to any similar matter thereafter proposed or submitted to it for consent.

5.8. **COMMITTEE APPROVAL.** Once the Architectural Review Committee approves an application, the Committee's decision shall be forwarded to the Board of Directors for its consent, subject to the time limitations required in Article 5.2 above. If the Board of Directors approves of the Committee's decision, the Committee shall then notify the applicant.

5.9. **EFFECTIVE PERIOD OF CONSENT.** The Architectural Review Committee's consent to any proposed work shall automatically be revoked one (1) year after issuance unless construction of the work has been commenced or the Owner has applied for and received an extension of time from the Committee.

5.10 **BUILDING DEPOSIT.** Prior to the final approval of construction on a Lot, the Owner/Builder shall submit to the Association a \$500 security deposit to insure compliance with the provisions of this Declaration. Four Hundred Dollars (\$400) of such deposit shall be refundable if all provisions of the Declaration are complied with through the completion of the home and yard. One Hundred Dollars (\$100) of said deposit shall be retained by the Architectural Review Committee to reimburse it for plan approval costs. Such fees shall become part of the Association's Operations Fund to be utilized as deemed appropriate by the Association. The amount of the security deposit and the amount to be retained by the Architectural Review Committee may be increased by the Board of the Association without a vote of the Owners and without an amendment to this Declaration.

## **ARTICLE 6**

### **ASSOCIATION**

6.1. **NAME.** An association of all of the Owners within the Project was lawfully organized under the name "Somerset Homeowners Association, Inc." The Association has such property, powers, and obligations as are set forth in this Declaration for the benefit of the Property and all Owners of property located therein. As more fully described in this Declaration and the Bylaws, the Association shall be governed by a Board of Directors, each member of which shall be an Owner and Member of the Association.

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

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

6.4. VOTING RIGHTS. Each Member shall be entitled to one (1) vote for each Lot that Member owns. When more than one (1) person or entity owns a Lot, the vote for such Lot may be cast as they shall determine, but in no event will fractional voting be allowed. Fractionalized or split votes shall be disregarded, except for purposes of determining a quorum.

a. Multiple Adjoining Lots/Assessments. An owner of multiple adjoining Lots on which a home has been constructed and which Lots have been landscaped and improved as if they were one Lot shall be assessed the full monthly assessment for the Lot on which the home is located, or if the home is located on more than one Lot, then on the first Lot designated by the Association. The monthly assessment of each additional adjoining Lot of the owner shall be (1) twenty percent (20%) of the full monthly assessment for full Lots, (2) ten percent (10%) of the full monthly assessment for half Lots, and (3) seven percent (7%) of the full assessment for one-third Lots.

b. Voting Multiple Adjoining Lots. An owner of multiple adjoining Lots subject to this reduced assessment for multiple adjoining Lots landscaped

and improved as if they were one Lot shall be entitled to only one (1) vote for such Lots.

c. Severance of Multiple Adjoining Lots. If the multiple adjoining Lots cease to be treated as one Lot by the owner, then each Lot will be assessed the normal monthly assessment applicable to such Lot and the owner will be entitled to a vote for each such Lot as provided in Article 6.4.a.

6.5. GENERAL POWERS AND OBLIGATIONS. The Association shall have, exercise, and perform all of the following powers and obligations:

a. The powers and obligations granted to the Association by this Declaration.

b. The powers and obligations of a nonprofit corporation pursuant to the general nonprofit corporation laws of the State of Utah.

c. The powers and obligations of a homeowners association pursuant to the Utah Community Association Act, or any successor thereto.

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

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

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

b. Insurance. The Association shall obtain and maintain in force policies of insurance as provided in this Declaration or the Bylaws of the Association or as required by applicable law. The Association shall have no obligation to obtain or maintain any insurance covering a Lot, any structure on a Lot or on any personal property of any Owner(s), and each Owner shall be responsible for obtaining and maintaining insurance on their own Lot, structures on such Lot and all personal property. The Association will obtain and maintain at least the following forms of insurance in the name of the Association:

i. Hazard Insurance. Fire and extended coverage insurance covering the insurable portions of the Common Areas and Facilities in an amount not less than one hundred percent (100%) of

replacement cost of such insurable portions of the Commons Areas and Facilities.

ii. Fidelity Insurance. Fidelity coverage against dishonest acts on the part of directors, officers, managers, trustee, employees, or volunteers responsible for handling funds collected and held for the benefit of the Owners. The fidelity bond or insurance shall be written in an amount sufficient to afford the protection reasonably necessary, but in no event less than one and one-half times the Association's estimated annual operating expenses and reserves. An appropriate endorsement to such policy shall be secured to cover any persons who serve without compensation if such policy would not otherwise cover volunteers.

iii. Liability Insurance. A comprehensive policy of public liability insurance covering all of the Common Areas and Facilities. Such policy shall contain a "Severability of Interest" clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association or other Owners. The scope of coverage shall include all other coverage in the kinds and amounts commonly required by private institution Mortgage investors for projects similar in construction, location, and use. The liability coverage for personal injury and/or property damage shall be for at least \$1,000,000 per occurrence.

iv. General Requirements Concerning Insurance. Each insurance policy maintained pursuant to the foregoing paragraphs i, ii, and iii shall be written by an insurance carrier which is licensed to transact business in the State of Utah and which has a financial rating by Best's Insurance Reports of Class VI or better. No such policy shall be maintained where: (1) under the terms of the carrier's charter, bylaws, or policy, contributions may be required from, or assessment may be made against an Owner, a Mortgagee, or the Association; (2) by the terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders, or members; or (3) the policy includes any limiting clauses (other than insurance conditions) which could prevent an Owner, a Mortgagee, or the Association from collecting insurance proceeds. The provisions of this Article 6.6 b. shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage, in addition to any insurance coverage required hereunder, in such amounts



and in such forms as the Association may deem appropriate from time to time.

c. **Rulemaking.** The Association shall make, establish, promulgate, amend, and repeal Rules and Regulations as provided in Article 4.18 of this Declaration.

d. **Assessments.** The Association shall adopt budgets and impose and collect Assessments as provided in Article 8 of this Declaration as modified by Article 6.4.a of this Declaration.

e. **Enforcement.** The Association shall perform such acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary to enforce the provisions of this Declaration and the Rules and Regulations adopted by the Association, including, without limitation, enforcement of the decisions of the Architectural Review Committee.

f. **Injunction for Violation.** If any Owner violates the Rules or Regulations, including taking action which requires review by the Architectural Review Committee but without obtaining the consent of that Committee, the Association may seek an injunction from an appropriate court to stop the violation. If the Association prevails in such action, the reasonable legal costs incurred by the Association in bringing that action and any reasonable costs incurred in remedying any damage caused by the Owner's action shall become a special assessment against the Owner's Lot or Lots.

g. **Employment of Agents, Advisers, and Contractors.** The Association, through its Board of Directors, may employ the services of any person or corporation as managers, hire employees to manage, conduct, and perform the business, obligations, and duties of the Association, employ professional counsel and obtain advice from such persons or firms or corporations such as, but not limited to, landscape architects, accountants, recreational experts, architects, planners, lawyers, as is convenient for the management, maintenance, and operation of the Property.

h. **Borrow Money, Hold Title, and Make Conveyances.** The Association may borrow and repay moneys for the purpose of maintaining and improving the Common Areas, subject to Article 2.4.c above, and encumber the Common Areas as security for the repayment of such borrowed money. The Association may acquire, hold title to, and convey, with or without consideration, real and personal property and interests therein, including but not limited to easements across all or any portion of the Common Areas and shall accept any real or personal property, leasehold, or other property

interests within the Project that were conveyed to the Association by its developer.

i. **Transfer, Dedication, and Encumbrance of Common Areas.** Except as otherwise provided in Article 2.4.c above, the Association may sell, transfer, or encumber all or any portion of the Common Areas to a person, firm, or entity, whether public or private, and dedicate or transfer all or any portion of the Common Areas to any public agency, authority, or utility for public purposes.

j. **Create Classes of Service and Make Appropriate Charges.** The Association may, in its sole discretion, create various classes of service and make appropriate Individual Assessments or charges therefore to the users thereof, including but not limited to reasonable admission and other fees for the use of any and all recreational facilities situated on the Common Areas, and avail itself of any rights granted by law, without being required to render such services to those of its Members who do not assent to such charges and to such other Rules and Regulations as the Board of Directors deems proper. In addition, the Board of Directors shall have the right to discontinue any service upon nonpayment or to eliminate such service for which there is no demand or adequate funds to maintain the same.

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

## **ARTICLE 7**

### **MAINTENANCE**

7.1. **MAINTENANCE OF COMMON AREAS.** The Association shall provide exterior lighting for and perform all maintenance upon the Common Areas, including but not limited to grass, trees, planters, walks or walkways, private roads, and street lighting unless the maintenance thereof is assumed by a public body. Such areas shall be maintained in a safe condition to at least applicable Farmington City standards and in a

good and workmanlike manner such as to carry out the purpose for which such areas are intended.

7.2. **MAINTENANCE OF UTILITIES.** The Association shall not have any liability for any utility services furnished to any Lot. The Association shall be liable for any utility services provided to Common Areas except to the extent that the City of Farmington is liable for the cost of electricity for street lights.

7.3. **SERVICES.** The Association shall provide or contract for such services as the Board of Directors may reasonably deem to be of benefit to the Property, including, without limitation, garbage and trash removal for Common Areas and security services.

7.4. **OWNER MAINTENANCE.**

a. **Lots.** Maintenance of the Lots shall be the sole responsibility of the Lot Owner(s), who shall maintain the Lot in good repair so as to not interfere with other Owner's Lots or the Common Areas. Each Lot shall be maintained so as to not detract from the appearance of the Project and so as to not adversely affect the value or use of any other Lot.

b. **Limited Common Area.** Each Lot Owner shall, at its own cost, keep the Limited Common Areas licensed for their use in a clean, sanitary, and attractive condition at all times. Each Lot Owner shall be responsible for the cost of maintenance and repair of any Limited Common Areas licensed for their use.

## **ARTICLE 8**

### **ASSESSMENTS**

8.1. **PURPOSE OF ASSESSMENTS.** The Assessment levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners and occupants of Project and for the improvement, operation, and maintenance of the Common Areas. See also Article 8.9.

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

8.3. **APPORTIONMENT OF ASSESSMENTS.** Each Lot is liable for an equal share of the Monthly Assessments, Special Assessments, and Emergency Assessments commencing upon the date such Lots are made subject to this Declaration. The share shall be based upon the total amount of each such Assessment divided by the total

number of Lots subject to Assessment. Apportionment shall be based upon the Lots on the original plat of the Property and any Lot properly added thereto. Where an Owner owns more than one (1) Lot, the apportioned Assessments shall be paid on each Lot owned, except as provided in Article 6.4.a.

8.4. MONTHLY ASSESSMENTS. The Board of Directors shall from time to time and at least annually prepare an operating budget for the Association, taking into account the current costs of maintenance and services and future needs of the Association, any previous over-Assessments and any common profits of the Association. The budget shall provide for such reserve or contingency funds as the Board deems necessary or as may be required by law, but not less than the Reserve Fund required by Article 8.10 below. Monthly Assessments for such operating expenses and Reserve Fund shall then be apportioned among the Lots as provided in Article 8.3 above. The method of adoption of the budget and the manner of billing and collection of Assessments shall be as provided in the Bylaws.

a. At the time of the adoption of this Declaration, the monthly assessment per Lot was \$79. The monthly assessment may be increased by up to ten percent (10%) per year without approval of the Owners. The Board of the Association may from time to time, and in its discretion, set the amount of the monthly assessment at an amount not in excess of the then applicable maximum amount, i.e. up to ten percent (10%) higher than the prior year.

b. An increase in the monthly assessment larger than ten percent (10%) per year may be made so long as the increase is agreed to by two-thirds (2/3) of the votes which Owners present in person or represented by proxy cast at a meeting duly called for such purpose. Written notice setting forth the purpose of the meeting shall be sent to all Owners at least ten (10) but not more than thirty (30) days prior to the meeting date with notice sent by regular mail unless the Owner has previously consented to notice by e-mail or otherwise.

c. If any owner fails to pay a monthly assessment within ten (10) days of its due date, the Board may assess a late fee of \$15, which shall become part of the monthly assessment due from the Owner.

8.5. SPECIAL ASSESSMENTS. In addition to the Monthly Assessment authorized above, the Board of Directors may levy during any fiscal year a Special Assessment applicable to that year only, for the purpose of deferring all or any part of the cost of any construction or reconstruction, unexpected repair, or acquisition or replacement of a described capital improvement, or for any other one-time expenditure not to be paid for out of Monthly Assessments. Special Assessments which in the aggregate in any fiscal

year exceed an amount equal to twenty percent (20%) of the budgeted gross expenses of the Association for the fiscal year may be levied only if approved by sixty percent (60%) of the votes of the Lot owners who are voting in person or by proxy at a meeting duly called for this purpose under the procedures contained in Article 8.4.b above. Special Assessments shall be apportioned as provided in Article 8.3 above and may be payable in lump sum or in installments, with or without interest or discount, as determined by the Board of Directors.

8.6. EMERGENCY ASSESSMENTS. If the total of the Monthly Assessments levied at any time are, or will become, inadequate to meet all expenses incurred under this Declaration for any reason, including nonpayment of any Owner's Assessments on a current basis, the Board of Directors of the Association shall immediately determine the approximate amount of such inadequacy and issue a supplemental budget, notes as to the reason therefore, and levy an Emergency Assessment for the amount required to meet all such expenses on a current basis. Any Emergency Assessment which in the aggregate in any fiscal year would exceed an amount equal to five percent (5%) of the budgeted gross expenses of the Association for the fiscal year may be levied only if approved by sixty percent (60%) of the votes of the Lot owners who are voting in person or by proxy at a meeting duly called for this purpose under the procedures contained in Article 8.4 b. above. Emergency Assessments shall be apportioned as set forth in Article 8.3 above and payable as determined by the Board of Directors.

8.7. INDIVIDUAL ASSESSMENTS. Any common expense or any part of a common expense benefiting fewer than all of the Lots may be assessed exclusively against the Lots benefited. Individual Assessments include, without limitation, charges for services provided under Article 6.6.a. Unless otherwise provided by the Board of Directors, Individual Assessments shall be due 30 days after the Board of Directors has given written notice thereof to the Owners subject to the Individual Assessments. Any Individual Assessment may be levied only if approved by sixty percent (60%) of the votes of the Lot owners affected by the assessment present in person or by proxy at a meeting duly called for this purpose under the procedures contained in Article 8.4.b above.

8.8. DEFAULT ASSESSMENTS. Default Assessments include any assessment levied against any Lot to reimburse the Association for costs incurred in bringing such Lots or its Owner into compliance with the provisions of this Declaration or the Rules and Regulations of the Association and for fines or other charges imposed pursuant to this Declaration for violation thereof. Unless otherwise provided by the Board of Directors, Default Assessments shall be due 30 days after the Board of Directors has given written notice thereof to the Owners subject to the Default Assessments.

8.9. OPERATIONS FUND. The Association shall keep all funds received by it as Assessments, other than Reserve Fund described in Article 8.10, separate and apart from its other funds, in an account to be known as the "Operations Fund." The Association shall use such fund exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents within the Property and in particular for the improvement and maintenance of properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas and of the Lots situated upon the Property. The use made by the Association of monies deposited in the Operations Fund may include payment of:

- a. Taxes assessed against the common areas and any improvements;
- b. Maintenance, repair, and improvement of the Common Areas (See also Article 7);
- c. Management and supervision of the Common Areas;
- d. Establishment and funding of a Reserve Fund to cover major repairs of the improvements within the common Areas (See also Article 8.10);
- e. Costs of insurance as described in this Declaration and in the Bylaws of the Association;
- f. Costs of other services which the Association deems to be of general benefit to the Owners, including but not limited to accounting, legal, and secretarial services; and,
- g. Any expense necessary or desirable to enable the association to perform or fulfill its obligations, functions, or purposes under this Declaration or the By-laws or Articles of Incorporation of the Association.

8.10. RESERVE FUND.

- a. Establishment of Reserve Fund. The Association shall establish a Reserve Fund for covering the cost of repairing, replacing, and restoring Common Areas that have a useful life of three years or more, excluding costs that can reasonably be funded from the Association's general budget or from other Association funds. Such Reserve Fund shall be funded by Assessments against the individual Lots assessed for maintenance of the items for which the Reserve Fund is being established.
- b. Amount of Reserve Fund. The amount assessed shall take into account the estimated remaining life of the items for which the Reserve Fund is created and the current replacement cost of such items. The Reserve

Fund shall be established in the name of the Association and shall be adjusted at regular intervals to recognize changes in current replacement costs over time.

c. Use of Reserve Funds. The Reserve Fund shall be used only for replacement of common property as determined by the Board of Directors and shall be kept separate from the Operations Fund. The Board of Directors may borrow funds from the Reserve Fund to meet high seasonal demands on the regular operating funds or to meet other temporary expenses which will later be paid from regular Assessments, Special Assessments, or Emergency Assessments. Nothing in this Section shall prohibit prudent investment of the Reserve Fund under the business judgment rule.

d. No Refunds. Assessments paid into the Reserve Fund are the property of the Association and are not refundable to sellers or Owners of Lots. Sellers of the Lots, however, may treat their outstanding share of the Reserve Fund as a separate item in any sales agreement.

#### 8.11. CREATION OF LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS.

a. Assessment Lien. Each Owner of any Lot by acceptance of a conveyance thereof, whether or not so expressed in any such conveyance, is deemed to covenant to pay to the Association all Assessments or other charges as may be fixed, established, and collected from time to time in the manner provided in this Declaration or the Bylaws. Such Assessments and charges, together with any interest, expenses, or attorney fees imposed pursuant to Article 9, are a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment or charge is made.

b. Personal Obligation of Owner. Such Assessments, charges, and other costs are also the personal obligation of the person who is the Owner of such Lot at the time when the Assessment or charge fell due. Such liens and personal obligations shall be enforced in the manner set forth in Article 9 below.

### ARTICLE 9

#### ENFORCEMENT

9.1. ENFORCEMENT OF SOMERSET HOMEOWNERS ASSOCIATION COVENANTS, CONDITIONS AND RESTRICTIONS. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions,

conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration, or any rule of the Association, including but not limited to any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants. Failure of the Association or of any Owner to enforce any covenant or restriction herein contained or any rule of the Association shall in no event be deemed a waiver of the right of the Association or any Owner to do so thereafter. In the event action, with or without suit, is undertaken to enforce any provision hereof or any rule of the Association, the party against whom enforcement is sought shall pay to the Association or enforcing Owner the reasonable attorney fees incurred with respect to such enforcement. The Board may levy a fine or penalty not to exceed ten percent (10%) of the amount of the maximum annual assessment against any Owner who fails to refrain from violation of these covenants or a rule of the Association, provided the Board has given said Owner three (3) days written notice and an opportunity for a hearing. An Owner who cures his violation within the three (3) days of receiving notice may not be levied against.

9.2. **USE OF COMMON AREAS.** In the event that any Owner violates any provision of this Declaration, the Bylaws of the Association, or other rules adopted by the Association governing the use of the Common Areas, then the Association, acting through its Board of Directors, shall notify the Owner in writing that the violations exist and that he/she is responsible for them, and may, after reasonable notice and opportunity to be heard, do any or all of the following:

- a. Suspend his voting rights and rights to use the Common Areas for the period that the violations remain unabated, or for any period not to exceed sixty (60) days for any infraction of its Rules and Regulations;
- b. Impose reasonable fines upon the Owner, in the manner and amount the Board deems appropriate in relation to the violation, which fines shall be paid into the Maintenance Fund; or
- c. Bring suit or action against such Owner to enforce this Declaration. Nothing in this Section, however, shall give the Association the right to deprive any Owner access to and from his Lot.

9.3. **NONQUALIFYING IMPROVEMENTS AND VIOLATION OF GENERAL PROTECTIVE COVENANTS.**

- a. **Notification of Violations.** In the event any Owner constructs or permits to be constructed on his Lot an Improvement contrary to the provisions of this Declaration, or causes or permits any Improvement, activity, condition, or nuisance contrary to the provisions of this Declaration to remain uncorrected



or unabated on his Lot, then the Association acting through its Board of Directors shall notify the Owner(s) in writing of any such specific violations of this Declaration and shall require the Owner to remedy or abate the same in order to bring his Lot, the Improvements thereon and his use thereof, into conformance with this Declaration at the Owner's sole expense.

b. Refusal by Owner to Cure. If the Owner is unable, unwilling, or refuses to comply with the Association's specific directives for remedy or abatement, or the Owner and the Association cannot agree to a mutually acceptable solution within the framework and intent of this Declaration, after notice and opportunity to be heard and within thirty (30) days of written notice to the Owner, then the Association acting through its Board of Directors, shall have the right to do any or all of the following:

i. Impose reasonable fines against such Owner in the manner and amount the Board deems appropriate in relation to the violation, which fines shall constitute Default Assessments for purposes of this Declaration;

ii. Enter the offending Lot and remove the cause of such violation, or alter, repair, or change the item which is in violation of this Declaration in such a manner as to make it conform thereto, in which case the Association may assess such Owner for the entire cost of the work done, which amount shall be payable to the Operations Fund; or

iii. Bring suit of action against the Owner on behalf of the Association and other Owners to enforce this Declaration.

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

a. Suspension of Rights. The Association may suspend such Owner's voting rights and right to use the Common Areas and recreational facilities until such amounts, plus other charges under this Declaration, are paid in full. In no event, however, shall the Association deprive any Owner of access to and from his Lot.

b. Notice of Lien. At any time any Assessment (of any type provided for by this Declaration or the Bylaws) or installment thereof is delinquent, the

Association, by and through its Board or any management agent, may file a notice of lien in the deed records of County Recorder of Davis County, Utah against the Lot in respect to which the delinquency pertains. Once filed, such lien shall accumulate all future Assessments or installments, interest, late fees, penalties, fines, attorneys' fees, and other appropriate costs properly chargeable to an Owner by the Association, until such amounts are fully paid. Said lien may be foreclosed at any time allowed by law. The lien of the Association shall be superior to all other liens and encumbrances except property taxes and Assessments, any first mortgage, deed of trust or land sale contract recorded previously to the Association's notice of lien and any mortgage or deed of trust granted to an institutional lender which is recorded previously to the Association's notice of lien. The Association through its duly authorized agents, may bid on the Lot at any foreclosure sale, and may acquire and hold, lease, mortgage, and convey the Lot.

c. Foreclosure. The lien may be foreclosed judicially or non-judicially consistent with the laws of the State of Utah for the non-judicial foreclosure of Deeds of Trusts. A Lot Owner's acceptance of the Owner's interest in a Lot constitutes a simultaneous conveyance of the Lot in trust, with power of sale, to the trustee designated for the purpose of securing payment of all amounts due under the declaration and this chapter. The Association has appointed a trustee with power of sale for purposes of this Section. The Trustee is identified in Exhibit H and may be changed by the Board by Amendment of Exhibit H without amendment of this Declaration. For purposes of non-judicial foreclosure, an Owner's acceptance of the Owner's interest in a Lot constitutes a simultaneous conveyance of the Lot in trust, with power of sale, to the designated trustee for the purpose of securing payment of all amounts due under this Declaration.

d. Money Judgment. The Association may bring an action to recover a money judgment for unpaid Assessments, fines, and charges under this Declaration without foreclosing or waiving the lien described in Article 9.4.b above. Recovery on any such action, however, shall operate to satisfy the lien, or the portion thereof, for which recovery is made.

e. Assignment of Rents. If the delinquent Owner is leasing his Lot or any portion thereof, the Board of Directors may, at its option, so long as such default shall continue for more than 60 days after the payment is due, demand and receive from any tenant of the Owner the rent due or becoming due and the payment of such rent to the Board of Directors shall discharge such tenant for rent due, and shall discharge the Owner for such Assessments to the extent of the amount so paid. The Association must give

notices to the Lot Owner and the tenant as required by UTAH CODE ANNOTATED § 57-8a-310 or any successor statute.

f. Other Remedies. The Association shall have any other remedy available to it by law or in equity.

#### 9.5 SUBORDINATION OF LIEN TO MORTGAGES.

a. Priority. A lien under this Section has priority over any other lien and encumbrance on a Lot except a lien or encumbrance recorded before the Declaration is recorded, a first or second security interest on the Lot secured by a Mortgage that is recorded before a recorded notice of lien by or on behalf of the Association, or a lien for real estate taxes or other governmental assessments or charges against the Lot.

b. Sale or Transfer. Sale or transfer of any Lot shall not affect the Assessment lien, but the sale or transfer of any Lot which is subject to any Mortgage pursuant to a decree of foreclosure thereunder or pursuant to any foreclosure under a deed of trust or through a deed or assignment in lieu of foreclosure shall extinguish any lien of an Assessment notice which was recorded after the recording of the Mortgage. Such sale or transfer, however, shall not release the Lot from liability for any Assessments or charges thereafter becoming due or from the lien of such Assessments or charges.

#### 9.6 INTEREST, EXPENSES, AND ATTORNEY'S FEES.

a. Interest. Any amount not paid to the Association when due in accordance with this Declaration shall bear interest from the due date until paid at the rate of ten percent (10%) per annum.

b. Late Fees. In addition, a late fee may be charged for each delinquent Assessment in an amount established from time to time by resolution of the Board of Directors of the Association.

c. Recording Fees. In the event the Association shall file a notice of lien, the lien amount shall also include the recording fees associated with filing the notice, and a fee for preparing the notice of lien established from time to time by resolution of the Board of Directors of the Association.

d. Costs and Legal Fees. In the event the Association shall bring any suit or action to enforce this Declaration, or to collect any money due hereunder or to foreclose a lien, the Owner defendant shall pay to the Association all costs and expenses incurred by it in connection with such suit or action, including a foreclosure title report and any and all attorney fees.

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

## **ARTICLE 10**

### **MORTGAGEES**

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

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

10.3 EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS. In consideration of the Recitals above, the Association, in order to further preserve and maintain the integrity of the Project, declares that the Property shall be held, sold and conveyed subject to the easements, covenants, conditions, and restrictions set out in Exhibit F to this Declaration. The identified easements, covenants, conditions, and restrictions run with the Property and are binding upon all parties having or acquiring

any right, title, or interest in such Property or any part thereof and shall inure to the benefit of each owner thereof. However, the easements, covenants, conditions, and restrictions identified in Exhibit F include only those items of which the Board is currently aware.

## ARTICLE 11

### MISCELLANEOUS PROVISIONS

11.1. **AMENDMENT AND REPEAL.** This Declaration or any provision thereof, as from time to time in effect with respect to all or any part of the Property, may be amended or repealed by the vote or written consent of Owners holding not less than sixty-seven percent (67%) of the voting rights in the Association. Any such amendment or repeal shall become effective only upon the recordation, in the Davis County Recorder's Office, of a certificate of the president or secretary of the Association setting forth in full the amendment, amendments, or repeal so approved and certifying that said amendment, amendments, or repeal have been approved in the manner required by this Declaration. In no event shall an amendment under this Section change the boundaries of any Lot or any uses to which any Lot is restricted unless the Owners of the affected Lots unanimously consent to the amendment.

11.2. **DURATION.** This Declaration shall run with the land and shall be and remain in full force and effect at all times with respect to all property included within the Property and the owners thereof for the life of the Association. The Association shall continue in existence perpetually unless dissolved or otherwise terminated according to law. Such termination shall not have the effect of denying any Owner access to his Lot unless such Owner and any Mortgagee of such Lot have consented in writing to the termination.

11.3. **JOINT OWNERS.** In any case in which two (2) or more persons share the ownership of any Lot, regardless of the form of ownership, the responsibility of such persons to comply with this Declaration shall be a joint and several responsibility and the act or consent of any one (1) or more of such persons shall constitute the act or consent of the entire ownership interest; provided, however, that in the event such persons disagree among themselves as to the manner in which any vote or right of consent held by them shall be exercised with respect to a pending matter, any such person may deliver written notice of such disagreement to the Association, and the vote or right of consent involved shall then be disregarded completely in determining the proportion of votes or consents given with respect to such matter.

11.4. LESSEES AND OTHER INVITEES. Lessees, invitees, contractors, family members, and other persons entering the Property under rights derived from an Owner shall comply with all of the provisions of this Declaration restricting or regulating the Owner's use, improvements, or enjoyment of his Lot and other areas within the Property. The Owner shall be responsible for obtaining such compliance and shall be liable for any failure of compliance by such persons in the same manner and to the same extent as if the failure had been committed by the Owner him/herself.

11.5 EXPANSION OF ASSOCIATION. The Association may expand the Property through a vote to add Additional Land using the procedures provided in Article 11.1 and the following:

a. Additional land may be added to the Property upon vote of the Owners as provided for Amendments in Article 11.1. In addition to the vote to amend and add to the property, the owner of the additional property and any mortgagee of such property must consent in writing in recordable form to be filed with the office of the County Recorder of Davis County, Utah. The amendment to the property definition and the written consent of the owner of the additional property and any mortgagee must include:

i. Data sufficient to identify this Declaration and the subdivision plat respecting that portion of the Additional Land being added to the Property.

ii. The legal description of the Additional Land being added to the Property.

iii. A statement that such portion of the Additional Land shall thereafter be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges, and liens set forth in this Declaration.

iv. A conveyance to the Association of good and marketable title, free and clear of all liens and encumbrances, to all Common Areas situated in the portion of the Additional Land being added to the Property.

v. A statement that the Lots situated on that portion of the Additional Land shall be subject to the Design Guidelines and Approval Procedures and this Declaration.

vi. Such other matters as may be necessary, desirable, or appropriate and as are not inconsistent with any limitation imposed by this Declaration.

b. Upon the recordation of the amendment to the Property definition, the written consent of the owners or owners, the written consent of any mortgagees and the conveyance of the additional Common Areas to the Association, those documents shall supplement this Declaration and any previously recorded Amendments.

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

11.7. GOVERNING DOCUMENT CONFLICTS. If this Declaration conflicts in any way with the Association's Bylaws, Articles of Incorporation, or any Rules and Regulations, this Declaration shall trump and govern.

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

11.9. NUMBERS; GENDER; CAPTIONS. The captions which precede the various portions of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any reference to gender shall include all genders. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Declaration.

## EXHIBIT A

### Legal Description

Legal Description for Somerset Farm and Hollow includes:

1. All property described in the subdivision plat of the Somerset Farm Planned United Development, a Planned Residential Development recorded in the office of the County Recorder of Davis County, Utah, as Dedicated Plat Map 929.
2. All property described in the subdivision plat of the Somerset Hollow Planned Unit Development, a Planned Residential Development, recorded in the office of the County Recorder of Davis County, Utah, as Dedicated Plat Map 1219.
3. The subdivision plan of the Somerset Farm II Planned Unit Development, a Planned Residential Development, recorded in the office of the County Recorder of Davis County, Utah, as Plat Map 1238.
4. The subdivision plan of Somerset III, recorded in the office of the County Recorder of Davis County, Utah, as Dedicated Plat Map 1487.
5. An Amendment to the subdivision plan of Somerset Hollow, recorded in the office of the County Recorder of Davis County, Utah, as Dedicated Plat Map 3336.
6. Any duly approved subdivision plat or plats respecting all or any portions of the Additional Land, but only after the recordation of such plat or plats and the recordation of amendments and supplements in accordance with the provisions of Article XI of the Amended and Restated Joint Declaration dated December 10, 1980, adding the real property covered by such plat or plats to the Somerset Farm and Hollow and subjecting such real property to the Declaration.



**EXHIBIT B**

**Articles of Incorporation**

**Of**

**SOMERSET HOMEOWNERS ASSOCIATION, INC.**

The Articles of Incorporation of the Association, as of the approximate date of this Declaration have been filed with the Department of Commerce, Division of Corporations and Commercial Code and are available at that office. The Business Name of the Association is Somerset Homeowners Association and the Entity Number is 147294201-0140.

**EXHIBIT C**

**BYLAWS**

Of

**SOMERSET HOMEOWNERS ASSOCIATION, INC.**

As of the date of the filing of this document, the Somerset Homeowners Association had not adopted any Bylaws but reserves the right to do so in the future.

## EXHIBIT D

### Design Guidelines and Approval Procedures

Of

#### SOMERSET HOMEOWNERS ASSOCIATION, INC.

1. **Building Location.** The following minimum yard requirements shall apply to all living units:
  - A. **Front Yard.** No building shall be located on any Lot nearer than twenty (20) feet to the front Lot line.
  - B. **Side Yard.** Each Lot shall have a side yard of at least ten (10) feet on each side, however, based on prior Declarations, Somerset Hollow has a separate standard.
  - C. **Somerset Hollow – Side Yard.** In Somerset Hollow, each Lot shall have minimum combined side yards of twenty (20) feet. The smallest side yard shall be two (2) feet. The minimum distance between any dwelling and/or garage on one Lot from any dwelling and/or garage on an adjacent Lot shall be twenty (20) feet.
  - D. **Side Yard – Corner Lots.** On corner Lots the side yard contiguous to the street shall not be less than twenty (20) feet in width, and shall not be used for vehicular parking except such portion as is devoted to driveway use for access to a garage.
  - E. **Side Yard – Driveway.** When used for access to a garage or parking area, a side yard shall be wide enough to provide an unobstructed twelve (12) foot paved driveway which shall have a maximum grade of six percent (6 %).
  - F. **Side Yard – Utility Building.** A utility building may be located on a side property line if, and only if, all of the following conditions are met:
    - (1) The utility building is located more than six (6) feet to the rear of any main building on the same Lot or the Lot adjacent to the property line on which said building is being placed.
    - (2) It has no openings on the side which is contiguous to the property line and is of one-hour fire resistant construction on said side.
    - (3) The building is designed to keep all roof drainage on the Lot on which the building is located.

- G. A utility building which does not conform to the conditions of paragraph 1.E., shall maintain the same side yard as a main building.
  - H. Rear Yard. Each Lot or parcel of land shall have a rear yard of not less than twenty-five (25) feet.
  - I. Somerset Hollow Rear Yard. Each Lot or parcel of land in Somerset Hollow shall have a rear yard of not less than twenty (20) feet.
  - J. Rear Yard – Utility Buildings. A utility building may be located on the rear property line when the following conditions are met:
    - (1) The building has no opening on the side which is contiguous to the property line and is one-hour fire resistant construction on said side.
    - (2) The building is designed to keep all roof drainage on the Lot on which the building is located.
  - K. A utility building which does not meet the requirements of paragraph 1.H. must be located at least five (5) feet from the rear property line.
2. Projections into Yard.
- A. The following structures may be erected on or project into any required yard:
    - (1) Fences and walls that conform with Article 7 of this document.
    - (2) Landscape elements such as trees, shrubs, garden plants and other plants.
    - (3) Necessary appurtenances for utility services.
  - B. The structures listed below may project into a minimum front or rear yard not more than four (4) feet and into a minimum side yard not more than two (2) feet:
    - (1) Cornices, eaves, belt courses, sills, buttresses or other similar architectural features.
    - (2) Fireplace structures and bays, provided they are not wider than eight (8) feet and are generally parallel to the wall of which they are a part.
    - (3) Stairways, balconies, door stoops, fire escapes, awnings and planter boxes or masonry planters not exceeding twenty-four (24) inches in height.
3. Building Height. No Lot or parcel of land in the Property shall have a building or structure used for dwelling or public assembly which exceeds a height of two (2) stories. Chimneys, flagpoles, church towers, and similar structures not used for human occupancy are excluded in determining height.

4. Permissible Lot Coverage. All buildings, including utility buildings and any other structure shall not cover more than forty (40) percent of the area of the Lot or parcel of land.
5. Dwelling Construction. In order to promote a harmonious community development and protect the character of the neighborhood, any Owner building on a Lot shall comply with the following guidelines:
  - A. Dwelling styles, design, alterations or additions will conform to standards determined by the Architectural Review Committee.
  - B. Exterior construction materials will be limited to stone veneer, brick or brick veneer, rough sawn or resawn wood siding, or stucco and shall be in earth tones indigenous to the area. White brick may also be used. Specifications regarding the color, texture, finish, and quality for the above will be posted and made available by the Architectural Review Committee. All roof vent cap louvers, plumbing stacks, chimney flashing, basketball backboards, down spouts, etc. are to be painted to match the color of the field, roof or the trim. The Board reserves the right to update the list of materials from time to time. Any amendments to the list can be found on the website of the Association.
  - C. Roof design shall be limited to a minimum of a 4/12 pitch and a maximum of 9/12 pitch. Pitch may be increased to 12/12 pitch with Architectural Review Committee approval.
  - D. All roofs of newly constructed homes and replacement roofs in the subdivision shall be of bar tile or other non-flammable material. Architectural grade shingles with a 30+ year life and metal roofing manufactured with the appearance of wood shingles shall also be permitted. The Board reserves the right to update the list of materials from time to time. Any amendments to the list can be found on the website of the Association.
  - E. Location of all storage or utility buildings, garbage and refuse containers, air conditioning equipment, clothes drying lines and utility pipes, etc., must be placed at the rear of the dwelling and located on the site in such a manner as not to be conspicuous from the frontage street.
  - F. Any light used to illuminate garages, patios, parking areas or for any other purpose shall be so arranged as to reflect light away from adjacent residences and away from the vision of passing motorists.

- G. Each residence constructed on the property must include a garage large enough for at least two (2) cars, which garage shall be fully enclosed.
- H. Evaporative coolers shall not be allowed without the prior written approval of the Architectural Review Committee.

6. Fences

- A. **Materials.** Fences or walls shall be of wood, brick, vinyl, or such other materials as the Architectural Review Committee shall approve in writing. No fence or walls of chain link, wire mesh, slump block or unpainted concrete block shall be allowed. The Board reserves the right to update the list of materials from time to time. Any amendments to the list can be found on the website of the Association.
- B. **Height.** Fences, walls or hedges shall not exceed six (6) feet and shall not extend beyond the front yard set back at any point.
- C. **Dimensions.** No wall, fence, or opaque hedge or screening materials higher than thirty-six (36) inches shall be maintained within a required front yard, except that a masonry privacy wall may be erected upon approval of the Architectural Review Committee if it meets the following conditions:
  - (1) The wall may not extend more than eighteen (18) feet into the required front yard;
  - (2) The wall may not exceed six (6) feet in height;
  - (3) The wall may not extend into the clear vision area of a corner Lot;
  - (4) The wall may not be a site hazard to vehicular or pedestrian traffic.

7. **Landscaping.** All open areas between the front Lot line and the rear line of the main buildings, except driveways, parking areas, walkways, utility areas, improved decks, patios porches, etc., shall be maintained with suitable landscaping of plants, shrubs, trees, grass and similar landscaping materials.

- A. With six (6) months of occupancy of any home, the homeowner must have substantially completed the landscaping of his/her Lot. Such landscaping shall include, but not be limited to, the preparation for and planting of lawn grass or other appropriate ground cover and the planting of appropriate shrubbery and trees. If any Owner fails to comply with the provisions of this Section, the Architectural Review

Committee shall have the power to obtain an order from a court of proper jurisdiction requiring specific performance, as per Article 6.6.f of the Declaration. Alternatively, the Architectural Review Committee may complete the landscaping and the Association may make a Default Assessment against the Owner for the cost of the landscaping as per Article 8.8 of the Declaration.

- B. Upon approval and/or completion of the landscaping plan pursuant to this Section, no healthy tree shall be removed, nor other major changes made without approval of the Architectural Review Committee. However, all Owners must remove any diseased tree on the Owner's Lot within a reasonable time after the diseased condition is discovered.

8. Drainage. No owner may interfere with the established drainage pattern over any Lot or Common Area unless adequate provision is made for proper drainage and the proposed drainage plan is approved by the Architectural Review Committee and any appropriate Government agencies. For purposes of this Section, "established drainage" is defined as the drainage which existed at the time of the overall grading of the Lots and Common Areas which make up the Property with such changes as have been made and approved by the Architectural Review Committee.

9. Exterior Lamp Posts. If desired, any free-standing light fixture located in a front yard shall be of such uniform and standardized design that has been selected and approved by the Architectural Review Committee.

10. Exposed Concrete. Any exposed concrete which, in the discretion of the Architectural Review Committee, does not harmonize with the existing surroundings and structures shall be painted the color of such surroundings, covered with approved siding, or hidden from view with appropriate landscaping of the Owner's choice.

11. Mail Boxes. Mail boxes are to be of the uniform standardized design designated by the Architectural Review Committee.

12. Dead Walls. Every outside dwelling wall which is located within five (5) feet of a Lot boundary line shall be a "dead wall." Said dead wall shall contain no windows, doors, or other openings. Said dead wall shall be constructed out of masonry material so as to comply with local building and fire codes.

**EXHIBIT E**

**Maps of Property Including Roads, Common Areas, and Limited Common Areas**

of

**SOMERSET HOMEOWNERS ASSOCIATION, INC.**

Plat Maps are recorded in the office of the County Recorder of Davis County, Utah.

**Somerset Hollow**, PRD AKA PUD, South Half (Lots 1 thru 9, 30 thru 47, and 73 thru 94), Parcels **08-045-0003**, 0004, 0008, 0009, 0032, 0033, 0037 thru 0043, 0045, 0073, 0074, 0078 thru 0083, 0091 thru 0094, 0097 thru 0101, 0104 thru 0109, and 0112; and **Somerset Hollow Amended** PUD (Lots 185 and 186), Parcels **08-265-185** and 186; and Common Areas **08-045-0095** and 0096.

**Somerset Hollow**, PRD AKA PUD, North Half (Lots 10 thru 29 and 48 thru 72); Parcels **08-046-0010** thru 0013, 0017 thru 0020, 0023 thru 0029, 0048 thru 0050, 0053 thru 0056, 0060 thru 0063, 0066 thru 0070, 0074 thru 0078, 0081, 0083, 0084; and Common Area **08-046-0073**.

**Somerset Farm**, PRD AKA PUD, Northeast Half (Lots 30 thru 89 and 92 thru 121); Parcels **08-047-0030** thru 0040, 0043 thru 0046, 0049 thru 0062, 0065, 0070 thru 0089, 0092 thru 0121, 0123, 0124, 0127, 0130, 0138, 1040, 0141, and 144; and Common Area **08-047-0142**.

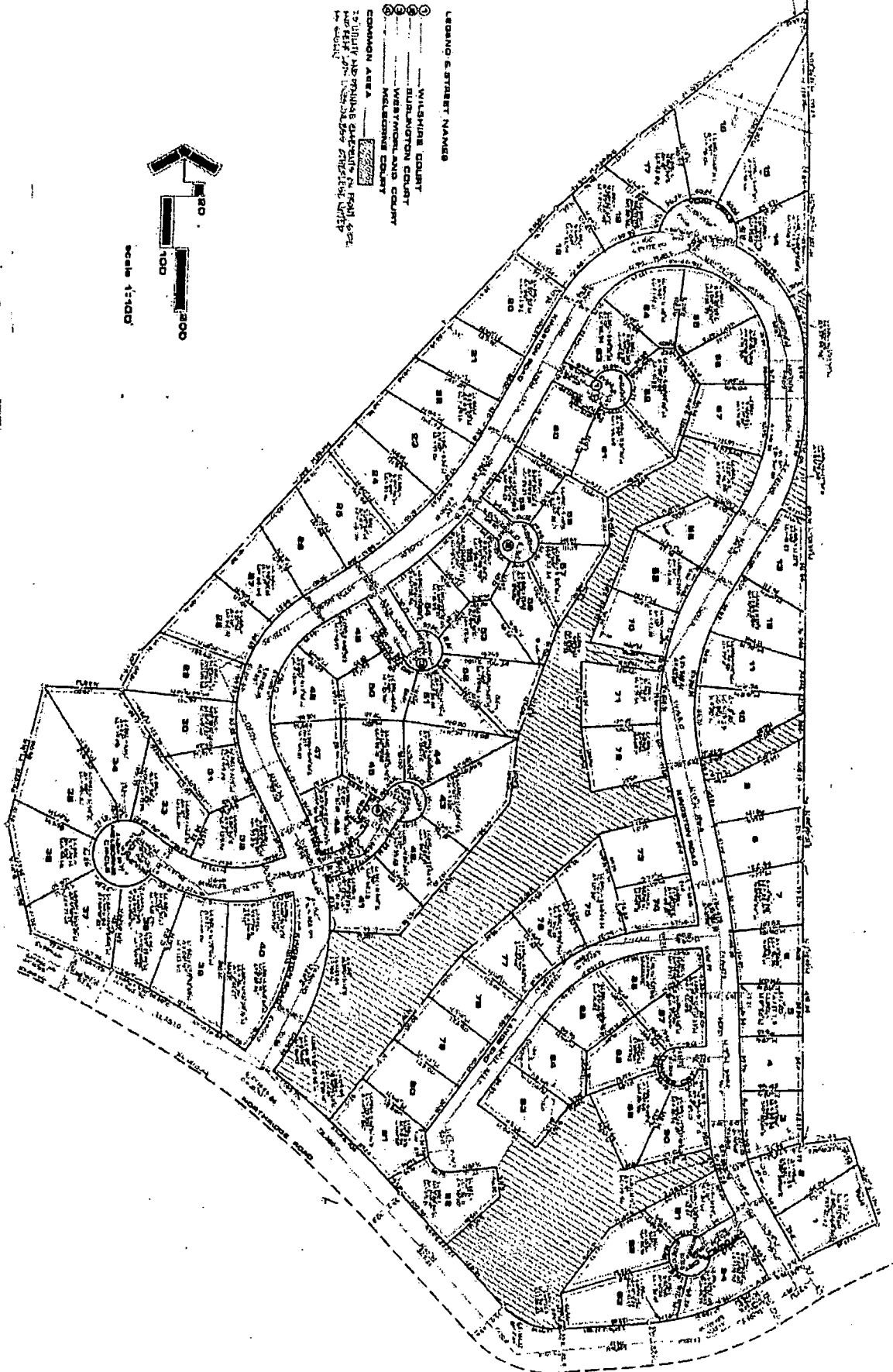
**Somerset Farm**, PRD AKA PUD, Southwest Half (Lots 1 thru 29, 90, 91 and 122 thru 150); Parcels **08-048-0003** thru 0014, 0019 thru 0021, 0024 thru 0029, 0090, 0091, 0122 thru 0139, 0141 thru 0145, 0148 thru 0150, 0160, 0161, 0164, 0166, 0169; and **Somerset Farm II** PRD AKA PUD (Lots 151 thru 154); Parcels 0152 and 0168; and Common Areas **08-048-0140**, 0156, and 0161.

**Somerset III**, PRD AKA PUD, (Lots 301 and 302), Parcels **08-101-304** and 305.

Reduced copies of Plat Maps for Somerset Farm and Somerset Hollow are attached in the following pages for convenience of general reference only and are not intended to provide specific details. They show an approximation of the location of roads, Lots and Common Areas. For greater detail and specific legal descriptions refer to current maps and records maintained by the office of the County Recorder of Davis County, Utah.







**EXHIBIT F**  
**EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS**  
Of  
**SOMERSET HOMEOWNERS ASSOCIATION, INC.**

Contract with City of Farmington dated December 31, 1986 on road dedication and swales.

Contract with City of Farmington dated January of 2005 on drainage systems and snow removal.

Contract with City of Farmington on street lights.

Easement issues with Harley and Jean Evans.

Easement issue with Houghs.

Easement issue on cable TV.

Copies of these documents have been posted on the Association's website and are available for reference.

**EXHIBIT G**  
**FINE SCHEDULE**  
Of  
**SOMERSET HOMEOWNERS ASSOCIATION, INC.**

The current Fine Schedule of the Association is included herein. Such Fine Schedule may be modified by the Board from time to time. In the event of such modification the Board shall not be required to amend this Declaration, however, the Fee Schedule shall be posted on the Association's website and may be reviewed by each Owner. An offense shall be deemed to be a "1st Offense" for a Homeowner only if there has not been an occurrence of the same category of offense by that Homeowner in the preceding twelve (12) months.

<b>FINES SCHEDULE</b>				
<b>OFFENSE</b>	<b>CC&amp;R Reference</b>	<b>1<sup>ST</sup></b>	<b>2<sup>ND</sup></b>	<b>3<sup>RD</sup></b>
Late payment of Monthly Assessment.	8.4.c Page 24	\$15	\$15	\$15, plus filing of lien
Dogs off Owner's property / Animal violations	4.4.d Page 10	\$35	\$65	\$100, potential removal of pet
Parking of RVs, boats, trailers, or disabled vehicles for more than 48 hours.	4.6.b Page 11	Warning	\$50	\$100
Failure to clean up after use of Park.	9.2.b Page 28	\$50	\$100	\$100
Diaper incident in Pool (fecal incident requiring Pool closure)	9.2.b Page 28	\$150 plus 1 month loss of Pool privileges	\$300 plus season loss of Pool privileges	\$300 plus season loss of Pool privileges
Food in Pool area	9.2.b Page 28	Warning	\$25 plus 1 week loss of Pool privileges	\$50 plus 1 month loss of Pool privileges
Maintenance Easement	3.2 Page 8	Costs incurred	Costs incurred	Costs incurred

<b>FINES SCHEDULE</b>				
<b>OFFENSE</b>	<b>CC&amp;R Reference</b>	<b>1<sup>ST</sup></b>	<b>2<sup>ND</sup></b>	<b>3<sup>RD</sup></b>
Trash, weeds, unsightly material	4.5.c Page 11	Warning	Clean up costs incurred, following 15 days notice	Clean up costs incurred, following 15 days notice
Vehicles in Disrepair	4.7 Page 12	Warning	Removal costs incurred after 5 days notice	Removal costs incurred after 5 days notice
Rubbish and trash on Common Areas	4.9 Page 12	Warning	Removal costs incurred after 5 days notice	Removal costs incurred after 5 days notice
Landscaping	4.12 Page 13	Warning	Reasonable costs for repair and maintenance after 15 business day notice	Reasonable costs for repair and maintenance after 15 business day notice
Noxious plants, insects, vermin	4.17 Page 14	Warning	Reasonable costs for removal after 15 business day notice	Reasonable costs for removal after 15 business day notice
Violation of Rules or Regulations	6.6.f Page 21	Court injunction and reasonable legal costs	Court injunction and reasonable legal costs	Court injunction and reasonable legal costs
Violation of covenants or rule	9.1 Page 27	3 day warning	Fine or penalty up to 10% of annual assessment	Fine or penalty up to 10% of annual assessment
Violation of CC&Rs, Bylaws, or Rules	9.2.a Page 28	Suspend voting rights and Common Area use for 60 days	Suspend voting rights and Common Area use for 60 days	Suspend voting rights and Common Area use for 60 days
Violation of CC&Rs, Bylaws, or Rules	9.2.b Page 28	Reasonable fine in relation to violation	Reasonable fine in relation to violation	Reasonable fine in relation to violation
Violation of CC&Rs, Bylaws, or Rules	9.2.c Page 28	Bring legal suit	Bring legal suit	Bring legal suit

**EXHIBIT H**  
**TRUSTEE DESIGNATED BY THE BOARD**  
Of  
**SOMERSET HOMEOWNERS ASSOCIATION, INC.**

As Provided in Declaration 9.4.c.

The Association currently has established a Professional HOA Management Agreement with Future Community Services, Inc, dba Horizon HOA Management, 12159 Business Park Drive, Suite 100, Draper, Utah 84020. That agreement may be changed as deemed necessary by Board of Directors.


## EXHIBIT I

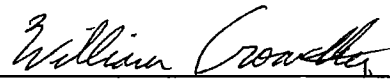
### Certificate of Approval of Amendment

The undersigned, being the officers of Somerset Homeowners Association, being duly sworn, certify as follows:

1. Attached to this Certification is the SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF SOMERSET HOMEOWNERS ASSOCIATION, a Planned Unit Development, situated in Farmington City, Davis County, State of Utah.
2. The Prior Declaration and other proceeding amendment(s) was amended by a two-thirds (2/3) vote of all votes which Owner/Members present in person or represented by proxy cast at a meeting duly called for that purpose and held on October 24, 2013. Written notice setting forth the purpose of the meeting and the substance of the amendment proposed was sent to all Member/Owners at least ten (10) but not more than thirty (30) days prior to the meeting date.
3. A quorum was found to be present for the meeting or represented by proxy consisting of sixty percent (60%) of all Members/Owners entitled to cast a vote. See Article XII, paragraph 3 of the Amended and Restated Joint Declaration of Covenants, Conditions and Restrictions of Somerset Farm Planned Unit Development, Somerset Hollow Planned Unit Development, and Somerset Farm II Planned Unit Development dated the 10<sup>th</sup> day of December of 1980.
4. The officers of the Association executing this certification for the SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF SOMERSET HOMEOWNERS ASSOCIATION do hereby certify that at such special meeting, 122 votes were cast in favor and 2 votes were cast against the amendments to the old Declaration represented by this SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF SOMERSET HOMEOWNERS ASSOCIATION.
5. This SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF SOMERSET HOMEOWNERS ASSOCIATION amends, supersedes, and completely replaces the old Declaration and is designed to dovetail with certain Amended and Restated Articles of Incorporation of the Somerset Homeowners Association filed with the Utah Secretary of State concurrently with the recording of this SECOND

AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS OF SOMERSET HOMEOWNERS ASSOCIATION.

Date: 25 Oct 2013 By:   
President

Date: 25 Oct 2013 Attest:   
Vice-President and Treasurer



IN WITNESS WHEREOF, the Association adopted this Second Amended Declaration of Covenants, Conditions and Restrictions for and respecting Somerset Farm and Hollow Homeowners Association, a Planned Unit Development, with the necessary approval of Lot owners as required herein, on the 24th day of October, 2013.

SOMERSET HOMEOWNERS ASSOCIATION, INC.

BY: Roy B. Rencher  
TITLE: President

STATE OF UTAH            )  
                                          ) SS:  
COUNTY OF DAVIS        )

On the 25 day of Oct, 2013, who by me being duly sworn, did say that he/she is the President of Somerset Homeowners Association, Inc. and that the foregoing instrument was properly ratified.

Kory Kearns  
Notary Public

Residing At: DAVIS county

My Commission Expires:  
Oct 10 2016

