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RICHARD T. MAUGHAN  
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When Recorded Return To:  
Paxton R. Guymon, Esq.  
York Howell & Guymon  
6405 South 3000 East #150  
Salt Lake City, Utah 84121

12-842-0101 - 0130

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR THE BLUFF AT LAKEVIEW FARMS**

This DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE BLUFF AT LAKEVIEW FARMS (“**Declaration**”) is made by Lakeview Farms 1, LLC, a Utah limited liability company (“**Declarant**”) on the date set forth below.

**RECITALS**

A. The Declarant is the owner of certain real property located in the City of Syracuse (“**City**”), Davis County, Utah, more particularly described on **Exhibit A** attached hereto (“**Property**”). Declarant is developing the Property as a residential subdivision to be known as The Bluffs at Lakeview Farms (“**Project**”). The Project will be developed in phases, with the first phase containing thirty (30) single-family lots (“**Lots**”) together with streets and certain common facilities.

B. Declarant intends to subject the Property to mutually beneficial restrictions under a common scheme and plan for the possession, use, enjoyment, repair, maintenance, and improvement in accordance with the terms and provisions of this Declaration.

C. The Bluff at Lakeview Farms Homeowners Association (“**Association**”) has been or will be incorporated as a Utah non-profit corporation to act as a homeowners association with the powers of managing and maintaining the Common Areas in the Project, administering and enforcing this Declaration, and assessing and collecting from Owners a share of the costs for maintaining and repairing any and all Common Areas on the Property and performing such other acts as are provided for in this Declaration, the Association’s Bylaws, by statute, or which generally benefit the Property.

D. Declarant has adopted the covenants, conditions, restrictions, easements, servitudes, and limitations set forth in this Declaration (collectively, the “**Covenants**”) for the purpose of:

- i. Helping to insure uniformity in the development of the Lots;

ii. Creating certain covenants and use restrictions to help protect long-term property values and a desired quality of life in the Project;

iii. Facilitating the initial sale of Lots by the Declarant, its successors and assigns, and subsequent sale by the individual Owners of Lots in the Project, by assuring purchasers of uniformity and basic restrictions intended to preserve property values over time;

iv. Maintaining the Common Areas located within the Project in accordance with these Covenants and with City standards; and

v. Providing for mandatory dispute resolution procedures and requirements to avoid litigation, as set forth in Article 13.

NOW, THEREFORE, the Declarant does hereby establish the Covenants set forth herein, and does hereby declare that the Property, and all Lots within the Project, shall be held, sold, conveyed, leased, and rented subject to, and shall be encumbered by, the Covenants set forth below which shall run with the land and be binding on all persons or entities now or hereafter having or claiming any right, title, or interest in the Property, or any of the Lots within the Project.

#### ARTICLE 1 – DEFINITIONS

The plural of any word identified below shall have the same meaning as the singular and vice versa. The following words when used in this Declaration shall have the following meanings:

1.1 “Act” means the Utah Community Association Act, Utah Code Ann. § 57-8a-101 *et seq.*, as amended from time to time.

1.2 “Assessment” means any of the fees, assessments, or payments required to be made by Owners of Lots within the Project, including the reinvestment fee, annual assessments, supplemental assessments, and special assessments, as more particularly described in Article 4.

1.3 “Association” means The Bluff at Lakeview Farms Homeowners Association.

1.4 “Bylaws” means the Bylaws of the Association. A copy of the Bylaws is attached hereto as **Exhibit B**.

1.5 “Board” means the Board of Directors of the Association.

1.6 “City” means the City of Syracuse, a political subdivision of the State of Utah.

1.7 "Common Areas" mean the portions of the Project intended for common use by the Owners which are not included within the Lots and which are not dedicated or reserved for public use, as set forth on the Plat Map. The Common Areas are more particularly identified in Section 5.1.

1.8 "Common Expenses" means all sums lawfully assessed against the Lots or the Owners; expenses of administration, maintenance, repair or replacement of the Common Areas and management of the Association; all expenses allocated by the Association among the Owners; all expenses agreed upon as common expenses by the Association; and all expenses declared to be common expenses by this Declaration.

1.9 "Covenants" means every covenant, condition, restriction, easement, and limitation set forth in this Declaration.

1.10 "Declarant" means Lakeview Farms 1, LLC, and any assign or successor that acquires Declarant's interest in the Property.

1.11 "Declaration" means this Declaration of Covenants, Conditions and Restrictions as it may be amended from time.

1.12 "First Mortgage" means a recorded Mortgage or consensual lien granted by the Owner which is not subject to any senior lien or encumbrance except liens for taxes or other liens which are given priority by statute.

1.13 "First Mortgagee" means any person or entity named as a Mortgagee under a First Mortgage and any successor-in-interest to such Mortgagee.

1.14 "Improvement" means every structure, feature or improvement of any kind placed or constructed in the Project, including but not limited to any Residence, building, garage, lighting, deck, porch, patio, sidewalk, foundation, awning, fence, retaining wall, driveway, irrigation or drainage feature, storage structure or other product of construction and landscaping.

1.15 "Lot" means a subdivided and individually numbered residential parcel as designated on the Plat Map recorded with Davis County. Ownership of a Lot shall be inseparable from ownership of the Residence constructed thereon. As used in this Declaration, the term "Lot" shall mean and refer to both the land and the Residence constructed thereon within the boundaries of the Lot as shown on the Plat Map.

1.16 "Member" means a person or entity who is a member of the Association.

1.17 "Mortgage" means any mortgage, deed of trust, or other document pledging any portion of a Lot or interest therein as security for the payment of a debt or obligation.

1.18 "Mortgagee" means the mortgagee or beneficiary identified in a Mortgage.

1.19 "Owner" means the person or entity vested with legal, record fee simple title to any Lot. If there is more than one record holder of legal title to a Lot, each shall be an Owner.

1.20 "Period of Declarant's Control" means the period of time during which Declarant shall have administrative control of the Association and the other rights and privileges as set forth in this Declaration. Following the recording of this Declaration, the Period of Declarant's Control shall continue until such time as Declarant sees fit to, by written notice, transfer administrative control of the Association to the Owners, but in no event shall the Period of Declarant's Control extend beyond the time when one hundred percent (100%) of the Lots in the Project have been conveyed to individual purchasers.

1.21 "Plat Map" means the plat map filed of record with the Davis County Recorder's Office for the Project, and any plat incorporating additional real estate into the Project. A copy of the Plat Map current as of the date of this Declaration is attached hereto as Exhibit C. Declarant reserves the right to modify or amend the plat for the Project. Any such revisions or amendments recorded in Davis County shall be deemed the Plat Map for purposes of this Declaration. Also, Declarant may expand the Project to include additional phases of development with additional Lots. In the event the Project is expanded and one or more additional plats are recorded with Davis County, the term "Plat Map" shall mean and refer to all recorded plats for land and Lots in the Project.

1.22 "Project" means The Bluff at Lakeview Farms, including future phases thereof, as identified on the Plat Map. The Project is not a cooperative nor is it a condominium. The Project is comprised of single family detached residential dwellings and all public and common areas within the boundaries of the Project.

1.23 "Property" means the real property situated in Davis County, State of Utah, as more particularly described in Exhibit A, against which this Declaration is recorded, as well as any and all additional property that is made subject to this Declaration in the future if and when additional phases of the Project are developed.

1.24 "Residence" means the single-family dwelling structure built on a Lot in the Project.

1.25 "Rules and Regulations" means the rules, regulations, and restrictions, not inconsistent with this Declaration or the Bylaws, duly adopted and promulgated by the Board.

## ARTICLE 2 – PROPERTY SUBJECT TO THIS DECLARATION

2.1 Property. The Property, as identified in Exhibit A, together with additional phases of the Project is, and henceforth shall be, held, occupied, transferred, sold, and conveyed subject to the Covenants set forth in this Declaration.

2.2 Covenants Run with the Land. This Declaration, and the Covenants herein, shall run with the land and shall be binding on all persons or entities holding or taking title to any interest in the Property or any Lot therein, and all Owners shall hold or take title subject to this Declaration.

2.3 Applicability of the Act. Declarant hereby confirms and acknowledges that the Project is subject to the provisions of the Act with respect to items not addressed in this Declaration but covered by the Act.

2.4 Local Laws and Ordinances Applicable. The Property is located in Syracuse City, Davis County. In addition to the Covenants set forth in this Declaration, the Property and any Lot therein is subject to local laws and ordinances, including applicable building codes and zoning ordinances, now or hereafter in effect.

2.5 Expandable Project. The Project is expandable. Declarant hereby reserves the right to expand the Project to include additional real estate adjacent to or nearby the Property. If and when additional phases are developed, the Project may be expanded to include such additional phases by recording an instrument with the Davis County Recorder's Office subjecting such additional land/phases to these Covenants. All such additional land and Lots/Residences that are brought into this Project and made subject to these Covenants shall be part of the same Association. If the Project is expanded, all references to "Property" shall include all phases of the Project.

2.6 Enforcement of Covenants.

2.6.1 By the Association. The Association, through its Board, shall have the right to enforce compliance with the Covenants set forth in this Declaration, the terms of the Bylaws, and the Rules and Regulations promulgated by the Board. The Board may impose reasonable fines for non-compliance or may pursue legal action. The Board may also suspend any services provided to an Owner who fails to comply, or whose Lot does not comply, with the Covenants set forth in this Declaration. The Board may also suspend voting rights or privileges related to Common Areas for non-compliance. Any costs

associated with the Association's enforcement of this Declaration may be assessed to the non-complying Owner as a special assessment.

2.6.2 By an Owner. Any Owner aggrieved by another Owner's non-compliance with the Covenants set forth in this Declaration, the terms of the Bylaws, or the Rules and Regulations promulgated by the Board may commence an action seeking to enforce compliance with the same.

2.6.3 Injunction; Legal Fees. Under appropriate circumstances, the Association or an aggrieved Owner may seek a temporary restraining order or preliminary injunction to stop or prevent non-compliance with the Covenants set forth in this Declaration, the terms of the Bylaws, or the Rules and Regulations promulgated by the Board. In any such legal action, the prevailing party shall be entitled to an award of reasonable costs and attorney fees. In addition, the Association shall have all enforcement rights and remedies set forth in the Act as the same may be amended from time to time.

### **ARTICLE 3 – ASSOCIATION AND MEMBERSHIP THEREIN**

3.1 Membership. Each and every Owner, by accepting a deed for any Lot, whether or not it shall be so expressed in such deed, automatically becomes a Member of the Association, and agrees to be bound by the Covenants identified herein and by such reasonable Rules and Regulations as may, from time to time, be established by the Association. Membership is mandatory for all Owners. When more than one person or entity is an Owner of a Lot, all such persons or entities shall be Members. Membership shall be appurtenant to and may not be separated from ownership of a Lot. The rights and obligations of an Owner and membership in the Association shall not be assigned, transferred, pledged, conveyed or alienated in any way, except upon transfer of ownership of such Lot, whether by conveyance, intestate succession, testamentary disposition, foreclosure of a Mortgage, or such other legal processes as are now in effect or as may be hereafter established pursuant to the laws of the State of Utah. The foregoing is not intended to include persons or entities holding an interest merely as security for the performance of an obligation.

3.2 Classes of Membership. The Association shall have two (2) classes of memberships which shall be governed by the following voting rights and restrictions:

Class A. Each Owner of a Lot, which is not owned by Declarant, shall be a Class A Member of the Association and each such Owner is allotted one (1) vote per Lot owned. Each Class A Membership shall be held jointly by all Owners of such Lot.

Class B. Declarant shall be the only Class B Member of the Association and shall be entitled to five (5) votes for each Lot owned by Declarant within the Project. Declarant shall be entitled to cast votes for each such Lot even if the Lot is temporarily classified as exempt from assessments under Section 4.7 of this Declaration.

3.3 Voting Rights. The Owner or Owners of each Lot shall be entitled to one (1) vote for each Lot owned. The one (1) vote for such Lot shall be exercised as they, among themselves, determine. Where a Lot is owned by more than one Owner, the vote of any one of them shall be conclusively presumed to have been exercised as a result of an agreement among such Owners and in the event multiple Owners attempt to exercise a vote for such Lot on any question or issue, the Owners of such Lot will forfeit the right to vote on that question or issue. In no event shall more than one (1) vote be cast with respect to any Lot. With respect to any question or issue requiring a vote of the Association, vote of the Owners, or vote of the Members of the Association, the total number of votes cast shall not exceed the number of Lots in the Project. Unless otherwise required by this Declaration or the Bylaws, the number of affirmative votes required for approval of any matter submitted to vote of the Members shall be a majority of the votes cast with respect to such matter. All voting rights shall be subject to the restrictions and limitations provided herein and in the Bylaws.

3.4 Declarant Approval. Notwithstanding any provision to the contrary in this Declaration, Class A Members shall have no voting rights in the Association so long as Declarant is a Class B Member of the Association unless governing law (State or Federal) requires that Class A Members be allowed to vote on the topic or matter at issue, in which event the voting rights shall be as stated above (1 vote for each Lot owned by a Class A Member, and 5 votes for each Lot owned by Declarant). Subject to the preceding sentence, during the period of time in which Declarant is a Class B Member, all matters requiring a vote of the Members or otherwise submitted to a vote of the Members shall be determined solely by the Class B votes (i.e., solely by the Declarant) with or without a meeting and with or without a vote of the Members. When Declarant is no longer a Class B Member of the Association, then (i) the Class B membership shall cease being a class of membership; (ii) there shall no longer be any Class B votes of the Association; and (iii) Class A votes shall become activated and shall be allowed to vote on all matters of the Association requiring votes of Members.

3.5 Transfer. Upon the transfer or conveyance of any Lot, the transferee or grantee shall become a Member, and the transferor or grantor shall immediately cease being a Member. The Board shall maintain a list of all Members and shall note each transfer of ownership on such list. Upon the transfer or conveyance of any Lot, the selling or transferring Owner shall promptly inform the Association of the name of the transferee or grantee.

3.6 Meetings. Unless otherwise provided by this Declaration or by the Bylaws, all matters requiring a vote of the Members of the Association shall be decided at a meeting of the Members held for that purpose. Except in the case of an emergency or other situation which requires shorter notice, written notice designating the time and place of such meeting shall be provided to each Member no less than ten (10) or more than sixty (60) days in advance of a

meeting. Other provisions for giving notice of such meetings, determining a quorum, and tallying votes shall be included in the Bylaws, or shall be established by the Board. In lieu of attending a meeting held for the purpose of exercising voting rights, Members may exercise such voting rights in writing or through a proxy, if designated in writing before the time for such vote. By attending a meeting where a vote is held, by exercising a vote in writing, or by designating a proxy, an Owner shall be conclusively deemed to have received adequate notice of such meeting or such vote.

3.7 Board of Directors. The Board shall be the governing body of the Association. In addition to those set forth herein, the powers, rights, privileges, and duties of the Board shall be set forth in the Bylaws. During the Period of Declarant's Control, the Declarant shall appoint the members of the Board, which shall number no less than three (3) directors. After the Period of Declarant's Control, the members of the Board shall be chosen, removed, or replaced by the vote of the Members of the Association in accordance with the provisions of the Bylaws.

3.8 Professional Management. The Association may carry out the functions required of it pursuant to this Declaration, the Bylaws, or the Rules and Regulations, to the extent such functions are properly delegable, by and through a professional manager ("**Manager**"). If a Manager is engaged, the Manager shall be an independent contractor and not an employee of the Association, shall be responsible for managing the Project for the benefit of the Association and the Owners, and shall, to the extent permitted by the Board, be authorized to perform any of the properly delegable functions or acts required or permitted or performed by the Association.

3.9 Reserve Account. The Association shall comply with the provisions of the Act pertaining to a reserve analysis and the funding of a reserve account for those Common Area components of the Project, if any, that require reserve funds.

3.10 Bylaws. Nothing in the Bylaws shall substantially alter, amend, or impair the rights and obligations of the Owners set forth in this Declaration.

#### ARTICLE 4 – ASSOCIATION ASSESSMENTS

4.1 Covenant to Pay Assessments. The Owner of any Lot, excluding Declarant whose obligations regarding Assessments are set forth below, by accepting a Deed for said Lot, whether or not it shall be expressed in the Deed, agrees and is deemed to have agreed to pay to the Association all fees, annual assessments, supplemental assessments, and special assessments as set forth in this Declaration.

4.2 Purpose of Assessments. The operations and obligations of the Association, as identified in the Act, this Declaration, and the Bylaws, shall be funded through fees, annual assessments, supplemental assessments, and special assessments levied against the Lots.



4.3 Types of Fees and Assessments. The Association may impose the following fees and assessments:

4.3.1 Reinvestment Fee. The initial Owner of a Lot from the Declarant, and each subsequent Owner of a Lot, shall be obligated to pay the Association a Reinvestment Fee. If not paid at the closing of such Owner's purchase of a Lot, the Reinvestment Fee shall be due and payable to the Association within the first calendar month of ownership of a Lot. The Reinvestment Fee shall be dedicated to meeting the Association's obligations and benefitting the Property and may be used for any purpose allowed by law. The amount of the Reinvestment Fee shall be fixed and, from time to time adjusted, by the Declarant during the Period of Declarant's Control and thereafter by the Board.

4.3.2 Annual Assessment. After the first calendar month of ownership, each Owner shall pay an annual assessment for each Lot owned by such Owner. The annual assessment shall be the Lot's share of the total annual amount necessary for the Association to perform all of its obligations, whether imposed by the Act, this Declaration, or the Bylaws. Without limitation, the annual assessment shall include each Lot's share of the Common Expenses including the cost to maintain and preserve the Common Areas, including insurance thereon, the amounts necessary to perform the Association's other maintenance obligations, the amounts necessary to fund the Association's reserve fund in a manner consistent with the Act, the Association's administrative expenses, and the amount any obligations imposed on the Association by any applicable law, ordinances, or regulations, all of which shall be identified in the Association's budget. The annual assessment shall be fixed, and from time to time adjusted, by the Declarant during the Period of Declarant's Control and thereafter by the Board in accordance with the provisions of the Act. At a minimum, the Board or the Declarant shall review the annual assessment on an annual basis and make such adjustments as are necessary. The Declarant or the Board may require that the annual assessment attributable to each Lot be divided in twelve equal shares and paid in the form of a "monthly membership assessment," to be due and payable each month on a date fixed by the Board. Subject to the exemption for the Declarant set forth below, the amount of the annual assessment shall be fixed at a uniform rate for each Lot assessed and shall be a portion of the Association's annual Common Expenses determined by dividing the total Common Expenses by the number of Lots to which assessments are imposed. As additional Lots are constructed or conveyed to purchasers, the Declarant or the Board shall adjust the amount of the annual assessment accordingly. After the period of Declarant's Control, the Board may not increase the amount of an annual assessment for any fiscal year by more than 20% over the previous fiscal year's annual assessment.

without first obtaining the affirmative vote of a majority of the Members at a meeting of the Association called for such purpose.

4.3.3 Supplemental Assessment. In the event the annual assessment is insufficient to meet the Association's regular recurring obligations in any given fiscal year, the Declarant during the Period of Declarant's Control or the Board thereafter may assess a supplemental assessment against each Lot for a share of any supplemental amount necessary to meet the Association's annual obligations. Each Lot's share of a supplemental assessment shall be determined in the manner for annual assessments as set forth in Section 4.3.2.

4.3.4 Special Assessment. The Declarant during the Period of Declarant's Control or the Board thereafter may assess a special assessment to pay for special, non-recurring, or emergency expenses of the Association or the Project which exceed the Association's annual budget for the fiscal year during which such expenses arise, including but not limited to expenses related to damage to the Project, unanticipated repairs, and Common Area improvements. Any special assessment shall represent the pro-rata share of such expenses attributable to the Lot or Lots benefited by such expenses, or to which such expenses apply. In the event such expenses apply to or benefit less than all the Lots in the Project, the Declarant or Board may impose a special assessment against less than all of the Lots in the Project.

4.3.5 Capital Improvements. Notwithstanding any other provision of this Declaration, after the Period of Declarant's Control, the Association shall not make any Capital Improvement without the authorization of 67% of the Owners voting at a meeting called for the purpose of proposing such Capital Improvement. For purposes of this Section, a "Capital Improvement" shall mean the installation of a new Improvement, or a major upgrade to an existing Improvement, located within a Common Area or other portion of the Project managed by the Association, for which funds are not otherwise identified in the Association's budget. If approved as provided in this Section, the cost of a Capital Improvement may be assessed to the Lots as a special assessment.

4.4 Budget. The annual assessment shall be determined on the basis of a fiscal year beginning January 1 and ending December 31 next following, provided that for the first fiscal year shall begin on the date of the conveyance of the first Lot by Declarant. On or before December 1 of each year thereafter, the Board shall prepare and furnish to each Owner, or cause to be prepared and furnished to each Owner, an operating budget for the upcoming fiscal year. The budget shall itemize the estimated Common Expenses for such fiscal year, the anticipated receipts (if any), and any deficit or surplus from the prior operation period. The budget shall serve as the supporting document for the annual assessment for the upcoming fiscal year and as

the major guideline under which the Project shall be operated during such annual period. On or before December 1 of each year, the Board shall also notify each Owner of the amount of the following fiscal year's annual assessment for each Lot owned by such Owner.

4.5 Lien and Personal Obligation. The fees and assessments identified above, together with any applicable late payment fees, interest, costs, and reasonable attorney fees, shall be a charge and lien against the Lot against which such assessment is imposed. In addition, each Owner's obligation to satisfy such assessments is an independent and personal covenant of such Owner, with all amounts being due and payable without setoff or deduction when assessed. In the event of a failure to pay such assessments, or other default, the Association may pursue an action against the Owner to collect the assessment and enforce the lien against a Lot by foreclosure in the manner set forth below. The Association's lien shall be a continuing lien on each Lot and shall be subordinate to a First Mortgage, where the Mortgagee is a lender who loaned funds for the purchase of the Lot, and shall also be subordinate to a lien for property taxes or other public assessments, but the Association's lien shall be superior to all other liens, charges, or encumbrances of any sort which shall hereafter arise or be imposed on any Lot. The Association's lien shall not be affected by the sale or transfer of any Lot.

4.6 Statement and Evidence of Payment. Upon receipt of a written request by an Owner, or any other person or entity, the Board shall within a reasonable time issue to such Owner or other person or entity a written certificate stating, as applicable, (i) that all annual, special, and supplemental assessments (plus any applicable costs or fees) have been paid with respect to any specified Lot as of the date of the certificate, or (ii) if all assessments have not been paid, the amount of such outstanding annual, special, or supplemental assessments (plus any applicable costs or fees) due and payable as the date of the certificate. The Board may make a reasonable charge for issuing such certificates. Any such certificate, when issued as provided herein, shall be conclusive and binding with respect to any matter therein stated.

4.7 Declarant Exemption. No assessment for a Lot owned by the Declarant shall be imposed until three (3) months after a certificate of occupancy for such Lot has been granted by the City. If the Declarant still owns the Lot after said 3-month period has expired, Declarant shall pay only twenty-five percent (25%) of any assessment attributable to each such Lot until the Lot is conveyed to a purchaser. After the date the Lot is conveyed to a purchaser, the full amount of the assessment attributable to such Lot shall be imposed and collected from the new Owner in the manner set forth in this Declaration.

4.8 Effect of Non-Payment and Remedies.

4.8.1 Late Fees and Interest. Any assessment not paid within ten (10) days from the due date thereof shall be subject to a late payment fee in an amount to be determined

by the Board. In addition, all fees and assessments not paid when due shall bear interest at the rate of eighteen percent (18%) per annum, or at such lesser rate as may be set from time to time by the Board.

4.8.2 Legal Remedies. The Association may bring an action at law against the Owner personally obligated to pay the same, and may foreclose the lien against such Owner's Lot in the manner provided by the laws of the State of Utah, and in the event a judgment is obtained, such judgment shall include interest on the assessment and reasonable attorney fees to be fixed by the court, together with the costs of the action. Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to estop or otherwise preclude the Association from thereafter again foreclosing or attempting to foreclose the Association's lien for any subsequent assessments, charges, costs or fees, which are not fully paid when due. The Association shall have the power and right to bid on or purchase any Lot at foreclosure or other legal sale, and to acquire and hold, lease, mortgage, vote the membership votes appurtenant to ownership of such Lot, and to convey or otherwise deal with such Lot. In addition to the other rights and remedies set forth herein, the Association shall have all of the rights and remedies pertaining to enforcement of assessment liens as set forth in, and to be exercised in accordance with, the provisions of the Act, including, without limitation, the provisions in Utah Code Ann. §§ 57-8a-302 and -303, as the same may be amended. To this end, the Declarant (and each Owner by acceptance of a deed to a Lot) hereby conveys and warrants pursuant to Utah Code Ann. §§ 57-1-20 and 57-8a-302 to Paxton R. Guymon, Esq., an attorney licensed in the State of Utah, as trustee, with power of sale, the Lot and all improvements to the Lot for the purpose of securing payment of assessments under the terms of this Declaration. The Association shall have the right to substitute said trustee and appoint a successor trustee as provided by statute. The lien of the Association shall be superior and prior to all other liens and encumbrances except liens and encumbrances recorded prior to the recordation of this Declaration, a First Mortgage on a Lot, and assessments, liens, and charges in favor of the State of Utah or a political subdivision thereof imposed for taxes or other governmental assessments or charges past due and unpaid. In any action brought by the Association (or counterclaim or cross-claim brought by the Association) to collect assessments or to foreclose a lien for unpaid assessments, the Association shall be entitled to have a receiver of the Owner appointed to collect all sums alleged to be due from the Owner prior to or during the pendency of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association's assessments of any kind or nature permitted hereunder.

## ARTICLE 5 – COMMON AREAS

5.1 Identification. The Project shall have Common Areas consisting of portions of the Project intended for the common use of the Owners, including areas designated as Common Areas on the Plat Map. The Declarant during the Period of Declarant's Control and the Association thereafter may install additional amenities on Common Areas which are deemed appropriate or beneficial to the Project. The Declarant reserves the right to construct and install, but is not obligated to construct or install, common amenities for the Association to own, maintain, and manage such as a common swimming pool and pool house for the use and benefit of all Owners. There is no guarantee that such amenities will be constructed, or, if they are to be constructed, the phase in which they will be constructed. If and when such Common Area amenities are constructed, they shall automatically be owned, managed, and operated by the Association, and the Association shall be responsible to maintain adequate liability insurance coverage for the same. In addition, without limitation, the Common Areas in the Project shall include the landscaping and park strip (including snow removal) along that portion the sidewalk of 700 South and 3000 West that is adjacent to the Project.

5.2 Use and Enjoyment. Each Owner shall have a non-exclusive right to use and enjoy the Common Areas. The right of use and enjoyment shall include an access easement to and over all Common Areas. The right to use and enjoy the Common Areas shall be appurtenant to such Owner's ownership of a Lot within the Project and shall immediately transfer upon any conveyance of the Lot.

5.3 Ownership. The Common Areas and Common Area amenities shall be owned by the Association, except for any portion of the Common Areas along 700 South and 3000 West that are located within the dedicated public right of way.

5.4 Rules to be Promulgated by the Board. Notwithstanding the foregoing, the Rules and Regulations promulgated by the Board may include reasonable restrictions on the time, manner, and character of use of the Common Areas by the Owners, their guests, or invitees, including the limitations on total number of persons permitted to use the Common Areas at any given time.

5.5 Maintenance. The Association directly, or through designated agents, shall improve, develop, supervise, manage, operate, examine, insure, inspect, care for, repair, replace and maintain the Common Areas. The Association shall maintain all landscaping of the Common Areas. The Association shall pay all utility charges attributable to the Common Areas. No Owner, directly or indirectly, shall make any alterations to any Common Areas without prior written consent of the Board.

5.6 No Obstruction. No person shall obstruct or permanently occupy any portion of a Common Area without prior written permission of the Board.

5.7 Limitations on Use. In addition to restrictions set forth in the Rules and Regulations, an Owner's right to use and enjoy the Common Areas may be temporarily or permanently restricted in the following circumstances to the extent allowed by, and in accordance with the provisions of, the Act:

5.7.1 Any period during which the fees or assessments imposed against such Owner's Lot remain unpaid.

5.7.2 Any period during which such Owner, such Owner's Lot, or any Improvement upon such Owner's Lot is or remains in a state of non-compliance with the Covenants set forth in this Declaration, the terms of the Bylaws, or the Rules and Regulations promulgated by the Board, provided that such Owner shall have thirty (30) days after receiving written notice of such non-compliance to remedy the same before any restriction shall be imposed under this subsection.

5.7.3 Any other reasonable grounds as determined by the by the Board and promulgated in the Rules and Regulations.

## **ARTICLE 6 – PROPERTY RIGHTS, LIMITATIONS, AND USE RESTRICTIONS**

6.1 Residential Use and Occupancy. Each Lot, and all Improvements thereon, shall be used only for residential purposes. No Lot shall be used, occupied, or altered in violation of law, so as to jeopardize the support of any other Lot, so as to create a nuisance or interfere with the rights of any Owners, or in any way which would result in an increase in the cost of any insurance.

6.2 No Further Subdivision. No Lot or Common Area shall be further subdivided or separated into smaller parcels. No conveyance of less than all of any Lot shall be permitted without prior written approval from the Board.

6.3 Prompt Repair. Each Residence and other Improvement on an Owner's Lot shall be kept in good repair. As applicable, the Owner or Association shall promptly repair damage to any Residence or Improvement on such Owner's Lot. Repairs shall be made in accordance with the design guidelines promulgated by the Association's Architectural Control Committee ("ACC") (see Article 8 below).

6.4 Nuisance. No Owner shall use, or permit a guest or invitee to use, a Lot in a manner that constitutes a nuisance or unreasonably interferes with the use and enjoyment of any other Lot by the Owner or Owners thereof. Each Lot shall be bound by, and the Owner shall comply with, the Covenants set forth in this Declaration, the terms of the Bylaws, and the Rules

and Regulations promulgated by the Board. Without limiting the foregoing, no rubbish or debris of any kind may be permitted to accumulate on the Project in a manner that becomes unsightly or causes offensive odors. No unreasonably loud or disruptive noises shall be permitted in the Project.

6.5 Temporary and Other Structures. No temporary or prefabricated structures shall be permitted or used in the Project.

6.6 Offensive, Unsightly, and Unsafe Conditions. No Owner shall permit any noxious, offensive, unsightly, or unsafe activity, object, animal, or condition to exist on such Owner's Lot. Without limiting the generality of the foregoing, trailers, mobile homes, trucks other than pickups, boats, tractors, vehicles other than automobiles, campers not on a truck, snowmobiles, snow removal equipment and garden or maintenance equipment shall be kept at all times, except when in actual use, in an enclosed structure or screened from view. Refuse, garbage and trash shall be kept at all times in a covered, noiseless container and any such container shall be kept within an enclosed structure or appropriately screened from view. Service areas, storage piles, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view. No lumber, grass, shrub or tree clippings or plant waste, metals, bulk materials or scrap or refuse or trash shall be kept, stored or allowed to accumulate on any Lot, except within an enclosed structure or when appropriately screened from view. No Owner shall dispose, or permit to be disposed, any oil, gas, toxic or hazardous material, or other unsafe substance within the Project. The Board may adopt reasonable Rules and Regulations to further clarify the responsibilities of Owners.

6.7 Signs. Without restricting the right to display political, religious, and holiday signs, the Association may impose design guidelines for the display of any signs in the Project and may adopt Rules and Regulations restricting the time place and manner in which signs are displayed. However, the Declarant may display signs in connection with the development of the Project and the sale of Lots, and Owners may display signs of customary and reasonable dimensions on a Lot advertising a Lot for sale or lease. Except for signs maintained by Declarant, display of any "for sale" or "for lease" sign more than three (3) feet by two (2) feet shall require the prior written approval of the Association. A residential identification sign is permitted but should not exceed one (1) square foot in surface area. Numbers on Residences shall be located in a position clearly legible from the street, but not more than six (6) feet above the floor of the main floor level.

6.8 Rooftop Antennas. The Architectural Control Committee's design and maintenance criteria shall include guidelines regulating the installation of television, ham radio, citizens band, or radio antennas, satellite dishes, and other similar devices ("**Antennas**"). The ACC's design and maintenance criteria regulating Antennas shall comport with all applicable

federal, state, and local laws and regulations governing Antennas and no Antennas shall be installed within the project without the approval of the ACC. Notwithstanding the foregoing, however, Declarant reserves the right and option, for itself and for the Association, to install cable or other data service lines and Antennas as needed throughout the Project in connection with its development.

6.9 Pets. The Board may adopt Rules and Regulations establishing reasonable restrictions on the type and number of pets permitted within the Project. Poultry, livestock, and other non-domesticated farm animals shall not be permitted within the Project. No pets which constitute a danger or nuisance shall be permitted within the Project.

6.10 Ingress and Egress. Each Owner shall have a right of ingress to and egress from such Owner's Lot, with such right of ingress and egress being perpetual and appurtenant to ownership of the Lot.

6.11 Vehicles. The Board may adopt Rules and Regulations governing the parking, repair, and storage of vehicles within the Project. Vehicles parked, repaired, or stored in violation of this Declaration or the Rules and Regulations may be towed and impounded, at the Owner's expense, without further notice. No off-road motorcycles, ATVs, snowmobiles, or similar off-road vehicles shall be operated within the Project.

6.12 Encroachment. No Improvement on any Lot shall encroach on an adjoining Lot or Common Area and any such encroaching Improvements must immediately be removed at the expense of the Owner of the Lot from which the Improvement encroaches. If, however, encroachment occurs due to natural settling or shifting or for other reasons beyond the control of the Owner, the Owner shall be deemed to have an easement for the maintenance of such encroaching Improvement which shall exist, and shall run with the land, for so long as the encroaching Improvement exists.

6.13 Leases. Any lease agreement relating to any Lot shall be subject to all the Covenants set forth in this Declaration, the terms of the Bylaws, and the Rules and Regulations promulgated by the Board. All leases shall be in writing and shall specifically reference the existence and applicability of this Declaration, the terms of the Bylaws, and the Rules and Regulations. An Owner shall be responsible and liable for any damage to the Project caused by such Owner's tenant.

6.14 Short Term Rentals and Timeshares. Unless prohibited by local ordinance or state statute, the Board may adopt Rules and Regulations permitting overnight or short-term rentals within the Project. No Owner shall use a Residence or other Improvement on a Lot for purposes of overnight or short term nightly rentals unless the Board has approved the practice of short



term rentals and has established appropriate guidelines. Any overnight or short term rental agreement shall be in writing and shall reference the existence and applicability of this Declaration, the terms of the Bylaws, and Rules and Regulations. An Owner shall be responsible and liable for any damage to the Project caused by such Owner's short term guest. Any overnight or short term rental arrangement shall comply with all laws and ordinances governing short term nightly rentals. No timesharing arrangement or timeshare interest, as defined in Utah Code Ann. § 57-19-2, is permitted within the Project.

6.15 Declarant Exemption. Notwithstanding any other provision of this Declaration, the Declarant may use any Lot owned by it, and during the Period of Declarant's Control may also use the Common Areas, for any purposes, including construction purposes, consistent with or intended to facilitate the improvement and sale of the Lots owned by Declarant. Declarant may use and maintain temporary structures on the Project. Declarant may operate one or more construction or sales offices and one or more model homes within the Project. Declarant shall also have the right to maintain a reasonable number of signs, banners, or similar devices throughout the Project. Declarant may from time to time relocate any of its sales offices, model homes, signs, banners or similar devices.

## ARTICLE 7 – MAINTENANCE AND OTHER OBLIGATIONS

7.1 Owner's Compliance with Declaration. Each Owner shall fully comply with, and shall cause such Owner's guests and invitees to fully comply with, the Covenants set forth in this Declaration, the terms of the Bylaws, and the Rules and Regulations promulgated by the Board.

7.2 Maintenance by Owner. Each Owner shall maintain such Owner's Lot, and all Improvements thereon, in good repair and in a clean and tidy manner, and in accordance with all the Covenants set forth in this Declaration and the ACC's design and maintenance criteria, so as to not detract from the overall appearance of the Project. The Owner shall maintain the Residence and all other Improvements in a safe and functional condition. Each Owner shall maintain such Owner's Lot at the Owner's expense without any setoff right. The Board may adopt reasonable Rules and Regulations governing the appearance and use of driveways, decks, patios, and balconies within the Project.

7.3 Maintenance by Association.

7.3.1 The Association shall maintain Common Areas including, opens spaces, trails, roads, and other portions of the Project not within a Lot and not dedicated to the public. The Association shall keep Common Areas and other areas for which it is responsible clean, appropriately landscaped, functional, attractive, and generally in good condition and repair consistent with any applicable requirements of the City.

7.3.2 In the event that maintenance or repair to Common Areas is caused by the willful or negligent acts of any Owner or group of Owners, or by their guests or invitees, the cost of maintenance may be assessed solely to the responsible Owner or Owners as a special assessment.

7.4 Utilities. The Owner of each Lot shall pay for all utility services provided to such Lot, except utility services which are not separately billed or metered. Any such common utilities shall be paid by the Association and an appropriate share shall be charged to each Lot as part of the annual assessment.

## ARTICLE 8 – ARCHITECTURAL CONTROL

8.1 Residential Structures. The primary Improvement on each Lot shall be a residential structure. No Residence shall be constructed unless the plans and design of the Residence have first been approved the Architectural Control Committee (defined below). Any other Improvements on the Lot shall be consistent with and shall not detract from the residential nature of the Project, and must comply with local zoning ordinances. Subject to the Declarant exemption set forth below, there shall be no temporary or prefabricated structures, mobile homes, trailer houses, or other non-permanent structures allowed in the Project.

8.2 Construction. Unless otherwise permitted by the Board, all Improvements must be completed within twelve (12) months from the commencement of construction. For Residences, this includes all exterior painting and finish work and the installation of all required landscaping. During the construction of any Improvement, the affected Lot must be kept reasonably clean and tidy and all construction debris must be controlled and regularly removed. All construction activities must comply with the Covenants set forth in this Declaration, the terms of the Bylaws, and the Rules and Regulations promulgated by the Board and all local zoning ordinances, building codes, and other applicable laws.

8.3 Architectural Control Committee.

8.3.1 There shall be an Architectural Control Committee (“ACC”) of the Association. During the Period of Declarant’s Control, Declarant shall select the members of the ACC, which shall number no less than three (3) members. During the Period of Declarant’s Control, members of the ACC do not need to be Owners. After the Period of Declarant’s Control, the Board shall select not less than three (3) Owners to be the members of the ACC. The Board may, from time to time, remove or replace members of the ACC. Until the ACC is appointed, the Board shall perform all functions and exercise all rights of the ACC set forth herein.

8.3.2 The ACC shall promulgate design and maintenance criteria for residential structures and all other Improvements permitted within the Project. The design and maintenance criteria shall be consistent with the building, land use, and other ordinances and regulations promulgated by the City. The ACC may regulate the placement of signs, banners and similar displays within the Project. The ACC shall make such design and maintenance criteria available to all Owners or prospective Owners and, if possible, shall publish the design and maintenance criteria in electronic format.

8.3.3 All Residences, fences, and other Improvements shall be constructed and maintained in accordance with the ACC's design and maintenance criteria. Prior to construction, alteration, modification, or replacement of any Improvements within the Project, an Owner shall submit plans for the same to the ACC. The ACC shall evaluate all such plans for compliance with the ACC's design and maintenance criteria.

8.3.4 The ACC may employ architects, engineers, and other professionals to review plans submitted by an Owner. The Owner shall pay all expenses reasonably associated with the ACC's review of the plans.

8.3.5 The ACC shall approve or deny such plans in writing within thirty (30) business days following receipt of the same. Failure to approve or deny such plans within the time period provided shall constitute an approval.

8.3.6 The ACC shall have the right, but not the duty, to enforce compliance with the design criteria, including by means of fines levied by the Association or by legal action, in which case the ACC shall be entitled to recover the costs of enforcement, including reasonable attorney fees.

8.4 Residence Cost, Quality, and Size. No Residence shall be permitted on any Lot unless the actual construction costs of the Residence (excluding profit and overhead and excluding the cost of the Lot and finance charges) are at least \$200,000.00, based upon cost levels prevailing on the date these Covenants are recorded, it being the intention and purpose of insuring that all Residences shall be of a quality of workmanship and materials substantially the same or better than that which can be produced on the date these Covenants are recorded at the minimum cost stated-herein for the minimum permitted Residence size. The minimum permitted Residence size and finishes shall be as follows: (i) in a rambler type home with a basement the above grade finished square footage shall not be less than 1,500 square feet with 2 car garage, or 1,400 square feet with 3 car garage attached; (ii) in a two-story home, or a multi-level home, the combined area of the ground story level and the story above ground-story level, exclusive of garage and any one-story open porches, shall total not less than 1,800 square feet above ground level.

8.5 Additional Architectural Requirements. All Residences shall be set on permanent foundations. Each Residence shall have an attached garage large enough to accommodate at least two automobiles. All Residences shall be finished with brick, stucco, hardy-type materials or stone on all exterior parts of the front of the home. The rear and sides of the home may be any of the above materials chosen by the home builder. Aluminum siding shall be allowed in soffit and fascia areas only. Foundations or basement cement must not exceed three feet of exposure above the ground line, unless the appropriate finish materials as described above are used for the facade. All homes shall have a roof with a minimum 5/12 pitch. Roofing materials shall be cedar shake, tile, or architectural grade asphalt shingles (25+ year type). There shall be no mobile or manufactured home of any type permitted within the Project.

8.6 Location of Residence. The Declarant shall determine the location of the Residence (the footprint of the home) upon the Lot, which must be within the designated buildable area and must comply with the applicable set back requirements of local zoning ordinances. For the purpose of this covenant, eaves, steps, and open porches shall not be considered as a part of a building; provided, however, that this shall not be construed to permit any portion of any structure or Improvement on a Lot to encroach upon another Lot.

8.7 Declarant Exemption. Nothing in this Article 8 shall prohibit or restrict the ability of the Declarant to use any Lots owned by Declarant, and the Common Areas during the Period of Declarant's Control, for any purposes consistent with or intended to facilitate the improvement and sale of Lots owned by Declarant. Declarant may maintain and operate temporary structures for construction, sales, or business purposes. Declarant shall not be bound by the ACC's design and maintenance criteria and reserves the right to alter or modify the plans for any Improvement on any Lot at any time Declarant owns such Lot. Declarant shall not be bound by the time limitation for construction activities set forth in this Declaration. Declarant's sales and marketing activities are exempt from the ACC's design and maintenance criteria.

## ARTICLE 9 – EASEMENTS

9.1 Easements Shown on Plat Map. The Property and Lots are subject to the easements, rights of way, encroachments, and other encumbrances as shown on the Plat Map. Within such easements, no Improvement of any type shall be placed or permitted to remain which may damage or interfere with the intended purpose of such easement.

9.2 Easements Reserved. In addition to easements shown on the Plat Map or otherwise provided for in this Declaration, the following easements are reserved for the benefit of the Owners and the Association:

9.2.1 Easement for Encroachment. If, because of an error in original construction, an error on the Plat Map, natural settling or shifting of the earth, or good faith mistakes during repair or reconstruction, any part of the Common Areas encroaches on an adjoining Lot, an easement for the encroachment and for maintenance of the Common Areas shall exist in favor of the Declarant during the Period of Declarant's Control and the Association thereafter.

9.2.2 Public Dedication. The Declarant reserves, for itself and its successors and assigns, the right to dedicate all roads, streets, alleys, open space, rights of way or easements shown on the Plat Map to public use. No road, street, avenue, alley, right of way or easement shall be laid out or constructed through or across any Lot or Lots in the Project except as set forth in this Declaration, or as shown on the Plat Map.

9.2.3 Current Utility Easements. The Association and public utility or public service providers shall have an easement for the installation, maintenance, and repair of such utilities and services as shown on the Plat Map. Except for equipment or improvements for which the public utility or public service provider is responsible, each Owner shall maintain the portion of such Owner's Lot burdened by a utility easement.

9.2.4 Future Utility Easements. Declarant reserves, for itself and its successors and assigns, an easement, and the right to grant easements to any person, individual, corporate body, or municipality, across, over, under, upon, and through any Lot, Common Area, Limited Common Area, road, street, open space, or other portion of the Project, for the installation, construction, maintenance, reconstruction and repair of public, quasi-public, or private utilities to serve the Project and the Lots therein, including but not limited to the mains, conduits, pipelines, underground or above-ground lines and cables, transmission facilities, meters and other facilities and appurtenances necessary or useful for the provision of water, storm sewer, sanitary sewer, gas, electricity, telephone, cable television, internet and data and other public, quasi-public or private services or utilities deemed by Declarant necessary or advisable to provide any service to the Project or any Lot, Common Area, Limited Common Area, or other portion thereof.

9.2.5 Grading. Declarant reserves, for itself and its successors and assigns, the right at or after the time of grading of any street or any part thereof for any purpose, to enter upon any abutting Lot and grade a portion of such Lot adjacent to such street, provided such grading does not materially interfere with the use or occupancy of any Residence built on such Lot, but Declarant shall not be under any obligation or duty to do such grading or to maintain any slope.

9.2.6 Right of Entry onto Lots. The Declarant during the Period of Declarant's Control and the Association thereafter shall have the right, through authorized agents, to enter onto any Lot after reasonable notice to the Owner thereof for the purpose of performing maintenance or determining whether the Lot, or any Improvements thereon, complies with this Declaration, the Bylaws, and the Rules and Regulations. Except in the event of an emergency, entry made pursuant to this Section shall be during normal business hours, at a time convenient for the Owner, after reasonable notice.

9.2.7 Right of Entry onto Common Areas. Declarant during the Period of Declarant's Control and the Association thereafter shall have the right, through authorized agents, to enter upon the Common Areas for maintenance, repair, replacement, and such other purposes as Declarant deems necessary, including the right to make openings and excavations thereon, which openings and excavations shall be restored in a reasonable period of time, and the right to make such alterations of the contour of the land as may be necessary or desirable to affect such purposes.

#### **ARTICLE 10 – DECLARANT RIGHTS AND CONTROL**

10.1 Declarant's Administrative Control. During the Period of Declarant's Control, neither the Board nor the Association shall take any action without Declarant's prior written approval.

10.2 Construction Activities. So long as Declarant owns at least one (1) Lot within the Project, Declarant shall have the right to conduct construction activities on or related to such Lot and shall not be bound by any limitations related to construction activities set forth in this Declaration. During the Period of Declarant's Control, Declarant shall have a non-exclusive easement and right-of-way in, through, under, over and across the Common Area for the purpose of the storage of building supplies and materials, and for all other purposes reasonably related to the completion of construction and development of the Project and the provision of utility services and other services or facilities to the Project. Notwithstanding any other provision of this Declaration to the contrary, Declarant, in its absolute discretion, shall have the right to construct and install any and all Improvements within the Project which Declarant desires, so long as they comply with the applicable ordinances of the City, but this provision shall not be construed to impose any obligations on Declarant to construct any such Improvements.

10.3 Sales Activities. Notwithstanding any other provision of this Declaration, so long as Declarant owns at least one (1) Lot within the Project, Declarant shall have the right to conduct reasonable sales activities including, but not limited to maintaining one or more sales office or model home on Lots owned by the Declarant and using the same for business purposes

and maintaining a reasonable number of “for sale” signs or other similar marketing materials in the Project, including Common Areas.

10.4 Declarant’s Rights Assignable. Declarant may assign the rights of Declarant set forth under this Declaration, or those rights in any way relating to the Property. Upon such assignment, such assignee shall be deemed the Declarant for all purposes under this Declaration.

#### ARTICLE 11 – INSURANCE

11.1 Insurance Held by Owner. Each Owner shall obtain and maintain insurance covering the personal contents of the Residence or other Improvements on such Owner’s Lot. Each Owner shall also maintain a policy of homeowner’s insurance on the Residence on such Owner’s Lot, protecting such Residence against casualty and loss, in an amount not less than 100% of the current replacement value of such Residence.

11.2 Insurance Held by Association. The Association shall obtain and maintain all insurance policies required by Part 4 of the Act consistent with the terms and conditions of the Act. All premiums for insurance policies held by the Association shall be funded by Assessments. Without limiting the foregoing, the Association shall obtain and maintain:

11.2.1 Property and liability insurance for all Common Areas.

11.2.2 Such other insurance policies for casualty or liability as the Board deems necessary or desirable.

11.3 Deductible. The deductible on any claim made under a policy maintained by the Association shall be allocated among all Owners if the loss affects the Common Areas or all the Lots in the Project. If the loss affects or impacts less than all the Lots in the Project, the deductible shall be allocated among the Owners of affected Lots.

#### ARTICLE 12 – DURATION AND AMENDMENT

12.1 Duration. This Declaration shall be effective, and the Covenants set forth herein shall encumber the Property, from the date the Declaration is recorded in Davis County and, as amended from time to time, this Declaration shall continue in full force and effect against the Property and the Covenants shall run with the land in perpetuity, for as long as the law allows unless amended or terminated as provided herein.

12.2 Amendment. During the Period of Declarant’s Control, the Declarant shall have the right to amend this Declaration without the consent of any other Owner. Any other amendment proposed during the Period of Declarant’s Control must be approved by sixty-seven percent (67%) of the Members of the Association and must also be approved by the Declarant in

writing before it can be effective. After the Period of Declarant's Control, this Declaration may be amended by the affirmative vote of not less than sixty-seven percent (67%) of the Members of the Association and such amendment must contain a statement from the Board certifying that the required vote has taken place. No amendment to this Declaration shall be effective until it is recorded in the real property records of Davis County.

12.3 Termination. An agreement to terminate this Declaration and the Covenants set forth herein, shall require the same approval required for an amendment as set forth in Section 12.2, above. In addition, after the Period of Declarant's Control any agreement to terminate must be approved, or deemed approved, by at least sixty-seven percent (67%) of the Eligible Mortgagees as provided in Section 14.3, below.

### **ARTICLE 13 – MANDATORY DISPUTE RESOLUTION REQUIREMENTS AND DECLARANT'S REPURCHASE OPTION**

13.1 Statement of Intent. Prior to purchasing a Lot, every Owner is capable of obtaining an inspection and is permitted to perform, or pay someone else to perform, an inspection on any Lot that Owner is purchasing or any other aspect of the Project, including, without limitation, the Common Areas. Moreover, if any written warranty has been provided, it identifies the only items that are warranted by the Declarant. Having had the ability to inspect prior to purchasing a Lot, having received a written warranty if any warranty is provided, and having paid market price for a Lot in the condition it and the Lots and Common Area are in at the time of purchase, it is acknowledged that it is unfair and improper to later seek to have the Declarant and/or any subcontractor performing work in the Project to change, upgrade, or add additional work to the Project outside of any express warranty obligation. Moreover, the Owners (by purchasing a Lot) and the Declarant acknowledge and agree that litigation is an undesirable method of resolving disputes and conflicts in that it can be slow, expensive, uncertain, and can often negatively impact the sale value and ability to obtain financing for the purchase of Lots for years, unfairly prejudicing those Owners who must or want to sell their Lot during any period when litigation is pending. For this reason, the Owners, by purchasing a Lot, and the Declarant covenant and agree that claims and disputes shall not be pursued through court action, but shall be asserted and resolved only through the specific alternative dispute resolution mechanisms described below, and only after full disclosure, satisfaction of the right to cure periods, and knowing approval of the Owners, as set forth in the provisions of this Article 13. In addition, the Association and the Owners agree that they take ownership and possession of the Lots and Common Areas AS IS, with no warranties of any kind except as otherwise required as a matter of law. The Declarant specifically disclaims any and all warranties of merchantability, fitness for a particular use, or of habitability, to the full extent allowed by law.

13.2 Binding Arbitration for All Disputes. To the fullest extent permitted by law, all claims and disputes of any kind that any Owner or the Association may have involving the



Declarant, or any agent, employee, executing officer, manager, affiliate or owner of the Declarant, or any engineer or contractor involved in the design or construction of the Project, which arise from or are in any way related to a Residence or other Improvement on a Lot, Common Areas, Limited Common Areas or any other Improvement on or component of the Project (a “Dispute”), shall be submitted to final and binding arbitration. Binding arbitration shall be the sole remedy for resolving claims and disputes between or involving the Declarant and any Owner or between or involving the Declarant and the Association. Arbitration proceedings, however, shall not be commenced unless the Pre-Arbitration Requirements set forth in Section 13.3 below have been satisfied in full. Without in any way limiting the foregoing, Disputes subject to binding arbitration shall include the following:

13.2.1 Any allegation that a condition in any of the Residences on the Lots, the Common Areas, the Limited Common Areas, or other Improvements in the Project is or involves a construction defect;

13.2.2 Any disagreement as to whether an alleged construction defect has been corrected;

13.2.3 Any disagreement about whether any warranties, including implied warranties, are applicable to the subject matter of any Dispute;

13.2.4 Any disagreement as to the enforceability of any warranties alleged to be applicable to the subject matter of any Dispute;

13.2.5 Any disagreement about whether any warranty alleged to be applicable to the subject matter of any Dispute has been breached;

13.2.6 Any alleged violations of consumer protection, unfair trade practice, or other statutes or laws;

13.2.7 Any allegation of negligence, strict liability, fraud, and/or breach of duty of good faith, and all other claims arising in equity or from common law;

13.2.8 Any allegation that any condition existing in the Project or created by the Declarant (or any of its contractors), including construction-related noise, dust, and traffic, is a nuisance, a defect, or a breach of any implied warranties of habitability or other implied warranties;

13.2.9 Any disagreement concerning the scope of issues or claims that should be submitted to binding arbitration;

13.2.10 Any disagreement concerning the timeliness of performance of any act to be performed by Declarant or any of its contractors;

13.2.11 Any disagreement as to the payment or reimbursement of any fees associated with binding arbitration;

13.2.12 Any disagreement or dispute regarding management of the Association, or regarding reserve studies or funding of Association expenses; and

13.2.13 Any other claim or disagreement arising out of or relating to the sale, design, or construction of any of Improvement on the Lots, Common Areas, Limited Common Areas, off-site improvements, management of the Association, or other claims regarding the Project.

13.3 Pre-Arbitration Requirements. An Owner or the Association may only pursue a claim against the Declarant in arbitration after all of the following efforts of dispute resolution have been completed: (1) Right to Cure: the claimant (e.g. the Owner or the Association) shall provide to the Declarant a written Notice of Claim (defined below) and permit the Declarant one hundred eighty (180) days to cure or resolve the claim or defect or to try to get the builder or the appropriate subcontractor to cure or resolve the claim or defect, prior to initiating any formal arbitration proceedings; (2) if the dispute is not resolved within the 180-day Right to Cure period, the parties shall participate in formal mediation with a mutually-acceptable third-party mediator in an effort to resolve the Dispute prior to taking further action or commencing arbitration. If additional, different, or modified claims, damages, calculations, supporting information, or descriptions are added, provided to, or asserted against the Declarant that were not included in any previously submitted Notice of Claim, the Right to Cure period provided for in this Section shall immediately apply again and any pending action or proceedings, including any mediation or arbitration, shall be stayed during the 180-day period.

13.3.1 "Notice of Claim" shall mean and include the following information: (1) an explanation of the nature of the claim, (2) a specific breakdown and calculation of any alleged damages, (3) a specific description of the claim along with any supporting opinions, information, or factual evidence upon which the claim is based, (4) photographs of any alleged defective condition, if applicable, (5) samples of any alleged defective conditions or materials, if reasonably available, (6) an explanation of the efforts taken to avoid, mitigate, or minimize the claim or any alleged damages arising therefrom, and (7) the names, phone numbers, and address of each person providing factual information, legal or factual analysis, or legal or factual opinions related to the claim.

13.4 Member Approval; Legal Opinion; Arbitration. If a claim or dispute has not been resolved after satisfying and complying with the above-described "Pre-Arbitration Requirements," then the claimant (Owner or Association) shall have the right to proceed with binding arbitration; however, the Association shall not pursue or commence binding arbitration unless such action is first approved by a majority of the total votes of the Association after the Association has obtained a written opinion from legal counsel advising the Association of the likelihood of success on the merits of the claims, the anticipated costs and legal fees, the anticipated expert witness fees, and the likelihood of recovery if the Association prevails. The written opinion from legal counsel, addressing these topics, must be provided to all Owners before the formal vote on whether to proceed with binding arbitration. The binding arbitration shall be conducted by a mutually-acceptable arbitrator (preferably a former judge), or, if an arbitrator cannot be mutually selected, then by a member of the American Arbitration Association's Panel of Construction Arbitrators appointed by the American Arbitration Association ("AAA"). The binding arbitration shall be conducted according to the rules and procedures set forth in the Construction Industry Arbitration Rules promulgated by the AAA. The award of the arbitrator shall be final and may be entered as a judgment by any court of competent jurisdiction.

13.5 Fees and Costs of Arbitration. Each party shall bear its own attorney fees and costs (including expert witness costs) for the arbitration. The arbitration filing fee and other arbitration fees shall be divided and paid equally as between the parties. The arbitrator shall not award attorney fees, expert witness fees or arbitration costs to the prevailing party.

13.6 No Waiver of Arbitration Right. If any Owner, the Association, or the Declarant files a proceeding in any court to resolve any Dispute, such action shall not constitute a waiver of the right of such party, or a bar to the right of any other party, to seek arbitration or to insist on compliance with the requirements set forth in this Article 13. If any such court action is filed, then the court in such action shall, upon motion of any party to the proceeding, stay the proceeding before it and direct that such Dispute be arbitrated in accordance with the terms set forth herein, including, without limitation, compliance with the Pre-Arbitration Requirements set forth above.

13.7 Waiver of Subrogation. The Association and each Owner waives any and all rights to subrogation against the Declarant and any builder, contractor, and engineer in the Project. This waiver shall be broadly construed and applied to waive, among other things, any attempt by any insurer of any Owner or of the Association from pursuing or exercising any subrogation rights, whether arising by contract, common law, or otherwise, against the Declarant, the Project engineer, and builder, contractors of the Declarant and the builder, and their officers, employees, owners, and representatives. To the full extent permitted by law, the Association and Owners hereby release Declarant, the Project engineer, and builder, and their

respective officers, employees, owners, contractors, insurers, and representatives from any and all liability to the Association and all Owners, and anyone claiming through or under them by way of subrogation or otherwise, for any loss, injury, or damage to property, caused by fire or any other casualty or event, even if such fire or other casualty shall have been caused by the fault or negligence of Declarant or builder, their officers, employees, owners, and representatives. The Association and each Owner agrees that all policies of insurance shall contain a clause or endorsement to the effect that this release and waiver of subrogation shall not adversely affect or impair such policies or prejudice the right of the Association or any Owner to recover thereunder. The Association and all Owners shall indemnify and defend the Declarant, the builder, and any of their officers, employees, owners, contractors, or representatives from any claims barred or released by this provision, including but not limited to any claim brought under any right of subrogation.

#### **ARTICLE 14 – MISCELLANEOUS PROVISIONS**

##### **14.1 Damage or Destruction.**

14.1.1 Attorney in Fact. Each Owner irrevocably appoints the Association as such Owner's true and lawful attorney-in-fact in such Owner's name, place and stead for the purpose of dealing with the Project in the event of damage or destruction as hereinafter provided. Acceptance by any grantee of a deed from the Declarant or from any Owner shall constitute an appointment by said grantee of the Association as his or her attorney-in-fact as herein provided. As attorney-in-fact, the Association shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or other instrument with respect to the interest of an Owner which may be necessary or appropriate to exercise the powers herein granted. All insurance proceeds shall be payable to the Association, except as otherwise provided in this Declaration.

14.1.2 Definition of Repair and Reconstruction. Repair and reconstruction of the Improvements as used herein means restoring the Project to substantially the same condition in which it existed prior to the damage or destruction, with each Lot and the Common Areas having substantially the same vertical and horizontal boundaries as before.

14.1.3 Procedure. In the event all or any part of the Project is damaged or destroyed, the Association shall proceed as follows. The Association shall give timely written notice to any First Mortgagee on a Lot or who requests such notice in writing in the event of substantial damage to or destruction of any part of the Common Areas or a Lot subject to the Mortgage held by such First Mortgagee. As soon as practicable after an event causing damage to or destruction of any part of the Project, the Association shall obtain complete and reliable estimates of the costs to repair and reconstruct the part of the

Project damaged or destroyed. In no event shall an Owner of a Lot or any other party have priority over the First Mortgagee on such Lot with respect to the distribution to such Lot of any insurance proceeds.

14.1.4 Repair or Reconstruction. If the damage or destruction is to be repaired or reconstructed as provided above, the Association shall, as soon as practicable after receiving the said estimate of costs, commence and diligently pursue to completion the repair and reconstruction of that part of the Project damaged or destroyed. The Association may take all necessary or appropriate action to effect repair and reconstruction, as attorney-in-fact for the Owners, and no consent or other action by any Owner shall be necessary in connection therewith, except as otherwise expressly provided herein.

14.1.5 Disbursement of Funds for Repair and Reconstruction. If repair or reconstruction is to occur, the insurance proceeds held by the Association, and any amounts received from assessments made shall constitute a fund for the payment of costs of repair and reconstruction after casualty. It shall be deemed that the first money disbursed in payment for costs of repair and reconstruction shall be made from insurance proceeds; if there is a balance after payment of all costs of such repair and reconstruction, such balance shall be distributed to the Owners equally.

## 14.2 Condemnation.

14.2.1 In General. If at any time, or from time to time, all or any part of the Project shall be taken or condemned by any public authority under power of eminent domain, the provisions of this Section shall apply. A voluntary sale or conveyance of all or any part of the Project in lieu of condemnation, but under threat of condemnation, shall be deemed to be a taking by power of eminent domain. If any Lot or portion thereof, or the Common Areas or Limited Common Areas or any portion thereof, are made the subject matter of any condemnation or eminent domain proceeding, or are otherwise sought to be acquired by a condemning authority, the Board shall give prompt written notice of any such proceeding or proposed acquisition to each Owner in the Project and to any First Mortgagee who has requested in writing notice thereof. The Association shall represent the Owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the Common Areas, or any part thereof, and each Owner hereby appoints the Association as such Owner's attorney-in-fact for the purposes of such representation.

14.2.2 Proceeds. All compensation, damages and other proceeds from any such taking by power of eminent domain (hereinafter "**Condemnation Award**") shall be made

payable to the Association and shall be distributed by the Board, on behalf of the Association as herein provided.

14.2.3 Complete Taking. In the event the entire Project is taken by power of eminent domain, ownership pursuant hereto shall terminate and the Condemnation Award shall be allocated among and distributed to the Owners and the Owners shall divide the Condemnation Award based upon the relative values of the Lots immediately prior to the condemnation. Such distribution shall be made by check payable jointly to the respective Owners and their respective Mortgagees, as appropriate.

14.2.4 Partial Taking. In the event that less than the entire Project is taken by power of eminent domain, the following shall occur:

14.2.4.1 Allocation of Condemnation Award. As soon as practicable, the Board shall, on behalf of the Association, reasonably and in good faith, apportion the Condemnation Award between compensation, severance damages or other proceeds and shall allocate such apportioned amount and pay the same to the Owners as follows: (a) The total amount apportioned to taking of or injury to the Common Areas shall be allocated among and distributed to all Owners (including Owners whose entire Lots have been taken); (b) The total amount apportioned to severance damages shall be allocated among and distributed equally to the Owners of those Lots that have not been taken; (c) The respective amounts apportioned to the taking of or injury to a particular Lot shall be allocated and distributed to the Owner of such Lot; (d) The total amount apportioned to consequential damages and any other taking or injuries shall be allocated and distributed as the Association determines to be equitable under the circumstances; (e) If apportionment or allocation is already established by negotiation, judicial decree, statute or otherwise, the Association shall employ such apportionment and allocation to the extent it is relevant and applicable; (f) Distribution of allocated proceeds shall be made by check payable jointly to individual Owners and their respective Mortgagees, as their interests may appear; and (g) No provision of this Section, or any other provision of this Declaration, the Association's Articles of Incorporation or the Bylaws shall entitle the Owner of a Lot, or other party, to priority over any First Mortgagee of such Lot with respect to the distribution to such Lot of the proceeds of any award, settlement or proceeds from any eminent domain or condemnation proceedings.

14.2.4.2 Continuation and Reorganization. If less than the entire Project is taken by power of eminent domain, ownership pursuant hereto shall not terminate but shall continue. In such event the Project shall be reorganized as

follows: (a) If any partial taking results in the taking of an entire Lot, then the Owner thereof shall cease to be a Member of the Association and all voting rights shall terminate; (b) If any partial taking results in the taking of a portion of a Lot, the voting rights appertaining to such Lot shall continue; (c) If any partial taking results in the taking of a portion of a Lot and if there is a determination made by the Board, after duly considering any recommendations, proposals, or other input from the Owners, that such taking makes it impractical to use the remaining portion of such Lot, then all voting rights shall terminate and the remaining portion of such Lot shall thenceforth be part of the Common Areas; (d) The Board, after duly considering any recommendations, proposals or other input from the Owners, shall have the duty and authority to make all determinations and to take all actions necessary or appropriate to effectuate reorganization of the Project under the provisions of this Section (including a possible reallocation of voting rights); provided, however, that if any such determination shall have been or such action is taken by judicial decree, the Board shall defer thereto and proceed in accordance therewith.

14.2.4.3 Repair and Reconstruction. Any repair and reconstruction necessitated by condemnation shall be governed by the provisions specified in Section 14.1 for cases of Damage or Destruction, as applicable.

14.3 Mortgagee Protection.

14.3.1 Notice of Action. Upon written request made to the Association by a First Mortgagee, or an insurer or governmental guarantor of a First Mortgage (any one of which is an “**Eligible Mortgagee**”), which written request shall identify the name and mailing address of such First Mortgagee, insurer, or governmental guarantor and the Lot number or physical address of the Residence, any such First Mortgagee, insurer or governmental guarantor shall be entitled to timely written notice of: (a) Any condemnation, loss or any casualty loss which affects a material portion of the Project, or any Lot on which there is a First Mortgage held, insured or guaranteed by such First Mortgagee, insurer or governmental guarantor; (b) Any delinquency in the payment of assessments or charges owed by an Owner, whose Lot is subject to a First Mortgage held, insured or guaranteed by such First Mortgagee, insurer or governmental guarantor, which default remains uncured for a period of sixty (60) days; (c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and (d) Any proposed action which would require the consent of a specified percentage of Eligible Mortgagees as specified in Section 14.3.2 or elsewhere herein.

14.3.2 Matters Requiring Mortgagee Approval. After the Period of Declarant's Control, and except as otherwise provided in this Declaration, the prior written consent of Owners entitled to vote at least sixty-seven percent (67%) of the votes of the Lots in the Association, and Eligible Mortgagees holding First Mortgages on Lots having at least fifty-one percent (51%) of the votes of the Lots subject to First Mortgages held by Eligible Mortgagees shall be required to: (a) Abandon or terminate the legal status of the Project after substantial destruction or condemnation occurs; (b) Add or amend any material provision of the Declaration, Articles of Incorporation, Bylaws or Plat Map, which establishes, provides for, governs or regulates any of the following (an addition or amendment to such documents shall not be considered material if it is for the purpose of correcting technical errors or for clarification only): the conversion of Lots into Common Areas or vice versa, a material change to hazard or fidelity insurance requirements, the imposition of any restrictions on Owner's right to sell or transfer his Lot, the establishment of self-management by the Association if professional management had been required previously by the Declaration or by an Eligible Mortgagee, or a change to or deletion of any provision that expressly benefits Mortgagees, insurers, or guarantors.

14.3.3 Response. Any Eligible Mortgagee who receives a written request from the Association to approve additions or amendments to the constituent documents and who fails to deliver or post to the Association a negative response within sixty (60) days shall be deemed to have approved such request, provided the written request was delivered by certified or registered mail, with a "return receipt" requested.

14.3.4 Availability of Project Documents and Financial Statements. The Association shall maintain and have current copies of the Declaration, Articles of Incorporation, Bylaws, and Rules and Regulations as well as its own books, records, and financial statements available for inspection by Owners or by holders, insurers, and guarantors of First Mortgages that are secured by Lots in the Project. Generally, these documents shall be available during normal business hours. The Association shall make an audited financial statement for the preceding fiscal year (if the Project has been established for a full fiscal year) available to the holder, insurer, or guarantor of any First Mortgage on submission of a written request for it. The audited financial statement shall be made available within 120 days of the Association's fiscal year-end.

14.3.5 Subordination of Lien. The lien or claim against a Lot for unpaid assessments or charges levied by the Association pursuant to this Declaration shall be subordinate to the First Mortgage affecting such Lot if the First Mortgage was recorded before the delinquent assessment was due, and the First Mortgagee thereunder which comes into possession of or which obtains title to the Lot shall take the same free of such lien or claim for unpaid assessment or charges, but only to the extent of assessments or



charges which accrue prior to foreclosure of the First Mortgage, exercise of a power of sale available thereunder, or taking of a deed or assignment in lieu of foreclosure. No assessment, charge, lien, or claim which is described in the preceding sentence as being subordinate to a First Mortgage, or as not to burden a First Mortgagee which comes into possession or which obtain title, shall be collected or enforced by the Association from or against a First Mortgagee or the Lot affected or previously affected by the First Mortgage concerned.

14.3.6 Payment of Taxes. In the event any taxes or other charges which may or have become a lien on the Common Areas are not timely paid, or in the event the required hazard insurance described in this Declaration lapses, is not maintained, or the premiums therefore are not paid when due, any Mortgagee or any combination of Mortgagees may jointly or singly, pay such taxes or premiums or secure such insurance. Any Mortgagee which expends funds for any of such purposes shall be entitled to immediate reimbursement therefore from the Association.

14.3.7 Priority. No provision of this Declaration gives or may give an Owner or any other party priority over any rights of Mortgagees pursuant to their respective Mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for loss to or taking of all or any part of the Lots or the Common Areas.

14.4 Notices. The Association shall keep a list of contact information for Owners of all Lots within the Project and all Eligible Mortgagees. Each Owner, upon becoming an Owner, shall provide the Association with appropriate contact information including mailing address, telephone number, and email address. Each Owner or Eligible Mortgagee shall update the Association with any changes to contact information. Where written notice to an Owner is required under this Declaration, the Bylaws, or the Rules and Regulations, such notice will be deemed sufficient if it is sent to the mailing address or email address on file with the Association.

14.5 Interpretation. The captions and section headings set forth in this Declaration are for convenience and shall affect the provisions set forth in the sections hereof. The use of any plural shall, where the context requires, include the singular thereof, and vice-versa.

14.6 Governing Law. This Declaration shall be govern by, and interpreted in accordance with, the laws of the State of Utah.

14.7 Severability. If any section, term, or provision of this Declaration is determined to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the remaining sections, terms, and provisions of this Declaration, which shall all remain in full force and effect.

14.8 Waiver. The failure by the Declarant, the Association, or any Owner to enforce any term or provision of this Declaration shall not be deemed as a waiver of the right to thereafter enforce such term or provision.

IN WITNESS WHEREOF, Declarant has executed this Declaration on this \_\_\_\_ day of January, 2016.

**DECLARANT**

Lakeview Farms 1, LLC

By: *Allan Karras*  
Name: Allan Karras  
Title: Member / Manager

STATE OF UTAH                    )  
  SS.  
COUNTY OF Davis            )

The foregoing instrument was acknowledged before me this 11 day of January, 2016, by Allan Karras as the member/manager of Lakeview Farms 1, LLC.

*[Signature]*  
Notary Public



EXHIBIT "A"

ALL OF LOTS

101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122,  
123, 124, 125, 126, 127, 128, 129 & 130 THE BLUFF AT LAKEVIEW FARMS SUBDIVISION PHASE  
1, SYRACUSE CITY, DAVIS COUNTY, UTAH, ACCORDING TO THE OFFICIAL PLAT  
THEREOF

**EXHIBIT B**

**(Association Bylaws)**

**BYLAWS**

**OF**

**THE BLUFF AT LAKEVIEW FARMS HOMEOWNERS ASSOCIATION, INC.**

**ARTICLE I**

NAME AND LOCATION. The name of the corporation is The Bluff at Lakeview Farms Homeowners Association, Inc., hereinafter referred to as the "Association." The principal office of the Association shall be located at 17984 5150 So <sup>Seattle 103</sup> Roy Utah (or at such other location as the Board hereafter may designate), but meetings of Owners and Board Members may be held at such places within the State of Utah as may be designated by the Board.

**ARTICLE II**  
**DEFINITIONS**

Section 1. "Act" shall mean and refer to the Community Association Act, Utah Code Ann. 57-8a-101, *et seq.*, as amended.

Section 2. "Association" shall mean and refer to The Bluff at Lakeview Farms Homeowners Association, Inc., a Utah non-profit corporation, and its successors and assigns.

Section 3. "Board" shall mean and refer to the Board of Directors of the Association, with all powers as stated in the Declaration, the Articles of Incorporation of the Association, and these Bylaws.

Section 4. "Declaration" shall mean and refer to the *Declaration of Covenants, Conditions, and Restrictions for the Bluff at Lakeview Farms*, recorded in the Davis County Recorder's Office, as the Declaration may be amended in accordance with its terms and provisions.

Section 5. "Directors" shall mean and refer to those individuals who are members of the Board. The singular Director shall refer to the singular of the Directors.

Section 6. "Owner" shall mean the any person or entity owning a Lot within the Project, as such ownership is evidenced by the official records of the Davis County Recorder's office, but shall not include a Mortgagee unless such Mortgagee acquires ownership other than for security purposes. It is anticipated that Project shall be a residential community of at least thirty (30) single-family homes, and that the Project may be expanded to include additional single-family homes.

Section 7. All other capitalized terms used herein shall have the same meaning as stated elsewhere in these Bylaws or in the Declaration.

ARTICLE III  
MEMBERSHIP IN ASSOCIATION; MEETING OF OWNERS; VOTING

Section 1. Membership in Association. Every Owner and the Declarant shall be members of the Association. As set forth below, there shall be two (2) classes of members. The number of Members in the Association may increase if the Project is expanded as provided for in the Declaration.

A. Every Owner shall be a member of the Association. Membership shall be appurtenant to, and may not be separated from, ownership of any Lot. Membership will begin immediately and automatically upon becoming an Owner and shall terminate immediately and automatically upon ceasing to be an Owner. If a Lot is owned by more than one person, the membership appurtenant to that Lot shall be shared by all such persons in the same proportionate interest and by the same type of tenancy in which title to the Lot is held. An Owner, other than Declarant, shall be a "Class A" Member of the Association and shall be entitled to one (1) membership, and entitled to exercise one (1) vote, for each Lot owned by such Owner. Each membership shall be appurtenant to the Lot to which it relates and shall be transferred automatically by conveyance of that Lot. Ownership of a Lot within the Project cannot be separated from the Association membership appurtenant thereto, and any devise, encumbrance, conveyance or other disposition of a Lot shall constitute a devise, encumbrance, conveyance or other disposition, respectively, of such Owner's membership in the Association and the rights appurtenant thereto. Membership in the Association may not be transferred except in connection with the transfer of a Lot.

B. Declarant shall also be a member of the Association. Declarant shall be a "Class B" Member of the Association and shall be entitled to cast five (5) votes for each Lot owned by Declarant within the Project. Declarant may exercise such votes without regard to whether a Residence has been built on such Lot and without regard to whether Declarant is exempt from the obligation of paying assessments for the Lot.

Section 2. Voting. Unless otherwise stated herein, or in the Declaration, all voting shall be by a majority vote of all votes cast.

A. Pursuant to Section 3.4 of the Declaration, Class A Members shall have no voting rights in the Association so long as Declarant is a Class B Member of the Association (by virtue of Declarant being an owner of a Lot or by virtue of Declarant having a contractual right to purchase additional Lots shown on the plat), unless governing statutes (State or Federal) require that Class A Members be allowed to vote on the topic or matter at issue. During the period of time in which Declarant is a Class B Member, all matters requiring a vote of the Members or otherwise submitted to a vote of the Members shall be determined solely by the Class B votes (i.e., solely by the Declarant).

B. When Declarant is no longer a Class B Member, then (i) the Class B membership shall cease being a class of membership; (ii) there shall no longer be any Class B votes of the Association; and (iii) Class A votes shall become activated and shall be allowed to vote on all matters of the Association requiring votes of Members.

C. After Declarant is no longer a Class B Member, all matters submitted to a vote of the Association shall be decided by the votes of the Owners. A change in the ownership of a Lot shall be effective for voting purposes from the time the deed or other instrument effecting such change is recorded, or, in connection with Owners who are vendees under an installment purchase contract, upon the full execution of the installment purchase contract. Thereafter, the new Owner shall give the Board written notice of such change of ownership and provide satisfactory evidence thereof. The vote for each Lot must be cast as one vote, and fractional votes shall not be allowed. In the event that a Lot is owned by more than one Owner and such Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Owner casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he, she or it was acting with the authority and consent of all other Owners of the same Lot unless objection thereto is made at the time the vote is cast. In the event more than one Owner attempts to cast the vote for a particular Lot, the vote for that Lot shall be deemed void and shall not be counted.

Section 3. Annual Meeting. The first annual meeting of the Association shall be held in June following the date of incorporation of the Association, and each subsequent regular, annual meeting of the Association shall be held in June of each year thereafter. The Board may change the date of the annual meeting provided it gives reasonable advance notice to all Owners.

Section 4. Special Meetings. Special meetings of the Association may be called at any time by the Board, or upon written request of the Owners who are entitled to vote thirty percent (30%) of all of the total votes.

Section 5. Notice of Meetings. Written notice of each meeting of the Association shall be given by, or at the direction of, the Secretary or person authorized by the Board to call the meeting, by mailing a copy of such notice, postage prepaid, at least ten (10) days, and no more than sixty (60) days, before such meeting to each Owner entitled to vote, addressed to the Owner's address last appearing on the books of the Association, or supplied by such Owner to the Association for the purpose of notice. Such notice may also be given by email, in accordance with the provisions of the Act allowing for notices to be sent by email. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting. Those present at the meeting may vote to continue the meeting to any date within 30 days. Notice of the continued meeting will be given by mail, and at the subsequent continued meeting, a quorum will consist of those Owners present. The President of the Association will give notice of any meetings, and will chair meetings of the Owners.

Section 6. Quorum. The presence at the meeting of Owners entitled to cast, or of proxies entitled to cast, fifty-one percent (51%) of the total number of votes shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, the Owners entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented. Unless otherwise stated in the Declaration, the Articles of Incorporation, or these Bylaws, an action supported by majority of the votes cast at any meeting where a quorum is present shall be the action of the Association.

Section 7. Proxies. At all meetings of the Association, each Owner entitled to cast a vote may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and automatically cease upon conveyance by the Owner of his or her Lot.

ARTICLE IV  
BOARD; SELECTION; TERM OF OFFICE

Section 1. Nomination and Tenure. The Declarant shall select the three initial Directors, and the Declarant shall decide who serves on the Board while Declarant is a Class B Member of the Association. When Declarant is no longer a Class B Member, the Owners at the next annual Association meeting shall elect three (3) Directors from among the Owners. Each of the three elected Directors shall draw lots to divide themselves into terms of one, two and three years. At each successive annual meeting, provided a quorum is present, the Owners shall elect a Director to replace the Director whose term has expired or is then expiring. Each newly elected Director shall serve for a three year term. If a quorum is not present at a the annual meeting, the other Directors shall select a new Director. Nomination for election to the Board may be made by the Directors. Nominations may also be made from the floor at the annual meeting. During the period that Declarant is a Class B Member of the Association, Declarant may remove a Director with or without cause. After the Declarant is no longer a Class B Member, Directors may be removed with or without cause by a vote of the Owners owning a majority of the Lots. If any Director resigns, is removed, dies, or is otherwise unwilling or unable to serve during his or her term, the remaining Directors may appoint another Owner to fill the remainder of such term.

Section 2. Election. Election to the Board shall be by secret written ballot. At such election the Owners or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. There shall be no cumulative voting.

Section 3. Number of Directors. The Board shall consist of not less than three (3) Directors and not more than five (5) Directors. An odd number of Directors shall be required at all times. The initial number of Directors shall be three (3). The Owners may, at an annual meeting or a special meeting, vote to change the number of Directors. In the event the number of Directors is increased, such additional Directors shall draw lots for terms. The term of one of the additional Directors shall expire at the next annual meeting of the Association to be held after the vote to increase the number of Directors; the term of the other additional Director shall expire at the successive annual meeting of the Association.

ARTICLE V  
MEETINGS OF THE BOARD OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board shall be held as frequently as the Board deems appropriate, but at least annually, at such place and hour as may be fixed from time to time by resolution of the Board. Should such meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board shall be held when called by the President of the Association, or by any two Directors, after not less than three (3) days' notice to each Director.

Section 3. Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

ARTICLE VI  
POWERS AND DUTIES OF THE BOARD; APPLICABILITY OF THE ACT

Section 1. Powers. The Board shall have power to:

A. Adopt and publish rules and regulations governing the use of the common area within the Community as shown on the Plat Map ("Common Areas"), and the personal conduct of the Owners and their guests thereon, and to establish penalties for the infraction thereof;

B. Exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the Owners by other provisions of these Bylaws, the Articles of Incorporation, or the Declaration;

C. Declare the office of a member of the Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board; and

D. Employ managers, independent contractors, or such other persons as the Board deems necessary to exercise the powers, duties and authority vested in the Association, and to delegate to such persons such powers as are necessary to accomplish the Association purposes for which such persons have been employed.

Section 2. Duties. It shall be the duty of the Board to:

A. Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Owners at the annual meeting of the Association, or at any special meeting when such statement is requested in writing by the Owners who are entitled to vote twenty-five percent (25%) of the total votes;

B. Supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

C. To:

1. Fix the amount of the annual assessment against each Lot at least fifteen (15) and no more than sixty (60) days in advance of each annual assessment period, and fix the amount of any special assessments against each Lot;



2. Send written notice of each annual assessment to every Owner subject thereto at least fifteen (15) and no more than sixty (60) days in advance of each annual assessment period and similar notice for imposition of each special assessment; and

3. Foreclose the lien (at the option of the Board) against any Lot and Lot for which assessments are not paid within ninety (90) days after due date or to bring an action at law (at the option of the Board) against the Owner personally obligated to pay the same.

D. Issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

E. Procure and maintain insurance in accordance with the provisions relating to insurance in the Act;

F. Establish a reserve fund and conduct a reserve fund analysis in accordance with the provisions relating to reserve funds in the Act;

G. Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and

H. Cause all Common Areas and Facilities, as identified in Section 5.1 of the Declaration, to be properly maintained.

Section 3. Litigation Involving Declarant. Neither the Board nor any other person or entity acting, or purporting to act, on behalf of the Association shall file, commence, or maintain any lawsuits or legal proceedings of any nature against Declarant, the individual managers, owners, members, or officers of Declarant, Declarant's contractors, or any other person or entity involved in the construction of the Lots or Residences thereon unless and until all of the "PRE-ARBITRATION REQUIREMENTS" set out in Section 13.3 of the Declaration have been satisfied.

Section 4. Applicability of the Act. The provisions of the Act shall apply and govern the Association's rights with respect to levying of assessments, collection of assessments, and remedies that apply in the event of non-payment of assessments.

## ARTICLE VII OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Offices. The officers of this Association shall be a President, a Vice-President, a Secretary, a Treasurer, and such other officers as the Board may from time to time by resolution create. Following the expiration or termination of the Period of Declarant's Control, all officers of the Association must be Owners of Lots in this Project.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board following each annual meeting of the Association.

Section 3. Term. The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless they shall sooner resign, or shall be removed, or are otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one (1) of any of the other offices except in the case of special officers created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

President

A. The President shall preside at all meetings of the Owners and the Board; shall see that orders and resolutions of the Board are carried out; shall sign all written instruments of the Association, and shall co-sign all checks and promissory notes.

Vice-President

B. The Vice-President shall act in the place and stead of the President in the event of his or her absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him or her by the Board.

Secretary

C. The Secretary shall record the votes and keep minutes of all proceedings of the Board and of the Owners; at the direction of the President, serve notice of meetings of the Board and of the Owners; keep appropriate current records showing the Owners of the Association together with their addresses; and perform such other duties as required by the Board.

Treasurer

D. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by the Board; shall sign all checks and promissory notes of the Association; keep proper books of account; and shall prepare an annual budget and a statement of income and expenditures to be presented to the ownership at its regular annual meeting, and deliver a copy of each to the Owners.

ARTICLE VIII  
COMMITTEES

The Board may appoint Committees as it deems necessary or appropriate to carry out the purposes of the Association.

ARTICLE IX  
BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Owner. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any Owner at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE X  
ASSESSMENTS

Section 1. Exempt Lots. "Exempt Lot(s)" shall mean each Lot of the Project while owned by Declarant or a Declarant affiliate, until the earliest to occur of (i) the acquisition of title to the Lot by a person or entity other than Declarant or a Declarant Affiliate, or (ii) the one hundred eightieth (180<sup>th</sup>) day after the municipal authority having jurisdiction issues a certificate of occupancy for the Lot. In addition, each Lot that does not have contain a fully constructed Lot shall be an "Exempt Lot," and each model Lot owned by the Declarant shall be an "Exempt Lot" so long as the same is used as a model Lot by the Declarant, a Declarant Affiliate, or their assign(s).

Section 2. Association May Impose Assessments. As set forth in the Declaration, Declarant, for each Lot owned by Declarant which is not exempt from the requirement to pay assessments Lot, and each Owner, other than Declarant, by becoming an Owner of a Lot is obligated to pay assessments to the Association. The Board shall fix the date by which assessments must be paid. Prompt and full payment of the assessments is secured by a continuing lien upon each Owner's Lot and Residence. Any assessment which is not paid when due shall be delinquent. The Board has the authority to establish late fees and interest applicable to delinquent assessments and collect the same from any Owner whose assessment is delinquent. The remedies available to the Association are set forth in the Declaration and the Act. The amount the Association is entitled to recover in connection with the remedies it pursues shall include, without limitation, interest, costs, late fees, fines, and reasonable attorney's fees. No Owner may waive or otherwise escape liability for the assessments, late fees, and interest provided for herein or provided in the Declaration by nonuse of the Common Areas or abandonment of his or her Lot.

ARTICLE XI  
AMENDMENTS


Section 1. These Bylaws may be amended at a regular or special meeting of the Association, by a vote, in person or by proxy, of the Owners entitled to cast sixty-seven percent (67%) of the total votes; provided, however, that no amendment to the Bylaws shall be adopted that is inconsistent with or contradicts any provisions of the Declaration unless and until the Declaration is also amended, in accordance with the amendment requirements of the Declaration, to resolve such inconsistency or contradiction. The President may prepare amendments to these Bylaws and to the Declaration and submit the same to the Owners for approval. If such amendments are approved as provided herein, the President may execute, certify, and record such amendments as appropriate.

Section 2. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.


ARTICLE XII  
MISCELLANEOUS

The fiscal year of the Association shall begin on January 1 and end on December 31 of every year, except that the first fiscal year shall begin on the date of incorporation.


In witness whereof, we, the undersigned initial three (3) Directors of the Association have hereunto set our hands as of the 11 day of Jan, 2016.

Signature: 

Printed Name: Mike Schulte

Signature: 

Printed Name: Allan Karras

Signature: 

Printed Name: Michael Eastman

EXHIBIT C

(Plat Map)

2915401  
BK 6431 PG 332

12

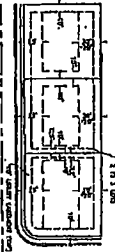
842

THE BLUFF AT LAKEVIEW FARMS SUBDIVISION PHASE 1

PART OF THE NORTHEAST QUARTER OF SECTION 8, TOWNSHIP 4 NORTH, RANGE 2 WEST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY  
SYRACUSE CITY, DAVIS COUNTY, UTAH

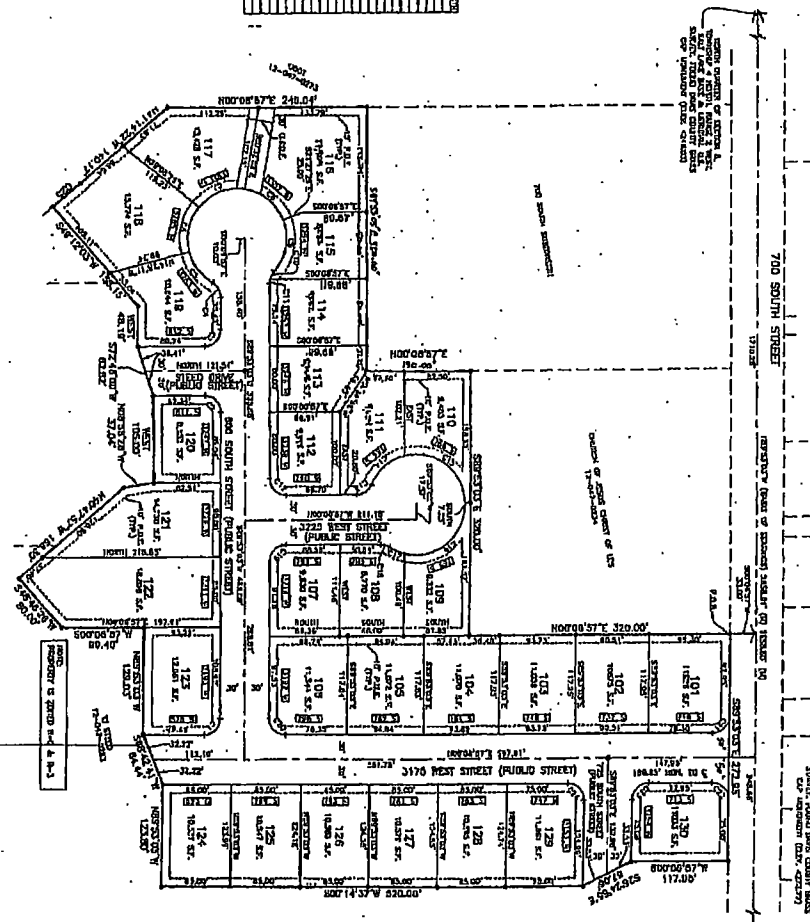
Lakeview Farms 1 LLC  
Dimes All Lots Not Marked

TYPICAL LOT UTILITY & SETBACK EASEMENT



CHIRVE TABLE

Table with multiple columns and rows, likely containing utility specifications or easement details.



- LEGEND
- Calculated corner corners
- 1/2" STREET WIDTH
- 1/2" SIDE SETBACK
- 1/2" FRONT SETBACK
- 1/2" REAR SETBACK
- 1/2" CORNER SETBACK
- 1/2" EASEMENT
- 1/2" EASEMENT

DEVELOPMENT: THE BLUFF AT LAKEVIEW FARMS SUBDIVISION PHASE 1
CITY: SYRACUSE LOTS: 101 THRU 130

SCALE: 1" = 100'



PREFIX 12-842
LAST # 030

NE 1/4 SEC. 8, T.4N, R.2W
S.L.M. DAVIS COUNTY, UTAH
FILED 8/29/11
R-11-30-15