



W3324152

E# 3324152 PG 1 OF 12
 Leann H. Kilts, WEBER COUNTY RECORDER
 02-May-24 0935 AM FEE \$40.00 DEP SD
 REC FOR: OLD REPUBLIC TITLE (LAYTON)
 ELECTRONICALLY RECORDED

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
BURCH CREEK TOWNS

THIS DECLARATION is made this 26 day of March, 2024,
 by Parkridge Inc., hereinafter referred to as "Declarant".

BT

RECITALS

SW

- A. Declarant is the record Owner of certain real property in the County of Weber, State of Utah which is more particularly described as follows:
 See Legal Description attached hereto as Exhibit A.
- B. Whereas, the aforesaid property consists of the land, together with three (3) buildings, comprised of Eighteen (18) townhouse Units each with garage, garage level floor, main floor and upper floor, and Common Areas and improvements to be constructed.
- C. Declarant desires, by filing this Declaration, to impose upon the real property constituting the Project and all the improvements now or hereafter constructed thereon mutually beneficial restrictions under a general plan of improvement and operation for the benefit of the Project and the Owners thereof.
- D. Declarant intends to sell and convey to various persons the fee title to the individual Lots, and improvements constructed thereon, subject to the covenants, conditions, restrictions, and limitations herein set forth.

NOW, THEREFORE, Declarant hereby declares that all of the property described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title, or interest in the described property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I
Definitions

- 1.01 "Association" shall mean and refer to the Burch Creek Towns Homeowners Association Inc., its successors and assigns.
- 1.02 "Common Area" shall mean all real property (including the improvements thereon) owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot shall constitute all portions of the Project, except the Lots.

- 1.03 "Declarant" shall mean Parkridge Inc..
- 1.04 "Limited Common Area" means and refers to a portion of the Common Area which has been designated for the primary or exclusive use of a particular Owner or Owners. Generally Limited Common Area, as a portion of Common Area, is owned by the Association but reserved for the use and enjoyment of the Owner or Owners to whose Unit the Limited Common area is Adjacent or appurtenant.
- 1.05 "Lot" shall mean and refer to any one of the numbered plots of land within the project as shown and designated on the Plat for private ownership and individually numbered.
- 1.06 "Owner" shall mean any person or entity or combination thereof, including the Declarant, who, according to the official records of the County Recorder, Weber County, State of Utah, is the Owner of fee simple title to any Lot.
- 1.07 "Project" shall mean all areas within the Burch Creek Towns subdivision, including the Lots and Common Area, and all improvements constructed thereon which are the subject of this Declaration and the Plat. More particularly described in Exhibit A attached hereto.
- 1.08 "Residential Unit" shall mean each individual single family residence, including garages, patios or other such similar facilities, which are constructed, or shall be constructed, upon each respective Lot within the project.

ARTICLE II

Nature and Incidents of Ownership

- 2.01 *Separate Ownership.* Each Lot, together with the Residential Unit and any other improvements constructed thereon, is and shall hereafter be a parcel of real property which may be separately held, conveyed, devised, mortgaged, encumbered, leased, rented, occupied, improved, and otherwise used in accordance with provisions of this declaration.
- 2.02 *Use and Occupancy.* Subject to the limitations contained in this declaration, each Owner shall have the non-exclusive right to use and enjoy the Common Area and the exclusive right to use and enjoy said Owners Lot.
- 2.03 *Exterior of Residential Units.* Each Owner shall keep the exterior of that Owner's Residential Unit in a sanitary condition and in a state of good repair. In the event that any Residential Unit should develop an unsanitary conditions or fall into a state of disrepair due to the willful or negligent conduct, or lack of conduct, of the Owner of such Residential Unit, the Association shall have the right at the expense of the Owner, and without liability to the Owner for trespass or otherwise, to enter upon said Owner's Lot and correct or eliminate said conditions at the Owner's expense.
- 2.04 *Interior of Residential Units.* Each Owner of a Residential Unit shall, at the Owner's expense, keep the interior of such Residential Unit and its

- equipment and appurtenances in good order, condition and repair and in a clean and sanitary condition.
- 2.05 *Maintenance of Lots.* The Association shall be responsible to keep all Lots, including, without limitations, all trees, shrubs, grounds, and lawns, in a sanitary condition and in a state of good repair.
- 2.06 *Maintenance of Culinary and Sewer Water Laterals.* The Association will maintain, repair and as necessary, replace those culinary and sewer laterals located on the Owner's Lot.
- 2.07 *Common Area Maintenance.* The Association shall be responsible to keep the Common Area in a state of good repair and maintenance, including all detention basins, storm drains, fencing, parking, landscaping, Common Area appurtenances, sumps, storm drainage piping, water supply & service lines, water meters, sewer collection lines, manholes & cleanouts free from all damage and accumulations of snow, refuse, rubbish, and other inappropriate materials of any kind. Should the Common Area fall into disrepair, it is the Association's responsibility to restore the common area to its original condition and will not be South Ogden City's responsibility to maintain or restore the Common Areas.
- 2.08 *Limited Common Area Maintenance.* Each Owner shall be responsible for maintenance and repair of its own unit including Exterior doors, Windows and Garage doors. The HOA shall maintain Limited Common Area designated for the exclusive use and occupancy of its Unit including the roof, exterior walls and patio areas. Limited Common areas used for vehicular access, a private alley that is part of the Common Area, and an individual Owner's lot shall be maintained by the Association.
- 2.09 *Additions, Constructions, Alterations of Residential Lots.* No construction, additions, alterations, painting, fencing or other structures on any Lot shall be commenced, erected or maintained until the Plans and Specifications showing the nature, kind, shape, height, colors, materials and location of the same have been submitted to and approved in writing by the architectural control committee. In the event said architectural control committee fails to approve or disapprove such designs within sixty (60) days after said Plans and Specifications have been submitted to it, approval will not be required, and this Article will be deemed to have been fully complied with. Any and all construction, improvements or alterations shall meet all requirements of South Ogden City.
- 2.10 *No Subdivision.* No Owner shall cause a Lot or Residential Unit to be divided in any manner so as to permit the permanent occupancy and ownership thereof by more than one family, and any documents purporting to convey any portion of a Lot or Residential Unit shall be void and of no effect.
- 2.11 *All culinary water infrastructure, sanitary sewer infrastructure and storm sewer infrastructure within the project is privately owned and maintained by the association for the benefit of the Lots, the costs of which shall be shared as a Regular or Common Assessment.*

- 2.12 *Responsibility of Residents:* all owners/residents will own & maintain all site utilities, stormwater infrastructure (including retention structures), landscaping, and site improvements.
- 2.13 *Parking:* parking stalls within the common area are reserved as shared parking in favor of building units

ARTICLE III

Easements

- 3.01 *Right to Ingress, Egress, and Enjoyment.* Each Owner shall have the right to ingress and egress over, upon, and across the Common Area and shall have the right of easement and enjoyment in and to the Common Area which shall be appurtenant to and pass with the title to every Lot subject to the terms and conditions of said easements as herein set forth.
- 3.02 *Delegation of Use.* Any Owner may delegate, in accordance with the Bylaws, his or her right of enjoyment to the Common Area and any recreational facilities located thereon to the members of his or her family and his or her tenants and shall be deemed to have delegated said rights to contract purchasers who reside on said Owner's Lot.
- 3.03 *Easement for Temporary Use by Declarant.* Declarant, for itself, its successors and assigns, and its and their agents, employees, contractors, subcontractors, and other authorized personnel, reserves for a period of five (5) years following the date of recordation of this Declaration and exclusive easement in gross in, over, and through the Common Area for the purposes of construction, (i) marketing and selling the Lots; (ii) displaying signs; and (iii) showing the Lots.
- 3.04 *Easement for Maintenance of Lots.* The Association, its agents, employees, or subcontractors, shall have the right of easement over and across each Lot, but not to any portion of the interior of any Residential Unit, for the purpose of maintaining the Lot in accordance with the provisions of Section 2.05 hereof, together for the purpose of maintaining, repairing or replacing, as necessary, any and all laterals that may traverse said Lots.

ARTICLE IV

Restrictions on Use

- 4.01 *Residential Uses.* All Lots are intended to be used for single family residential housing and are restricted to such use. No Residential Unit shall be used for business or commercial activities; provided, however, that nothing herein shall be deemed to prevent (i) Declarant, the Association, or its duly-authorized agents from using any Units owned by the Declarant or the Association as sales models; or (ii) any Owner or his or her duly-authorized agent from renting or leasing his or her Residential Unit; long or short term.

- 4.02 *No Noxious or Offensive Activity.* No noxious, offensive, or illegal activity shall be carried on in or upon any part of the Project, nor shall anything be done or placed in or upon any part of the Project which is or may become a nuisance or may cause embarrassment, disturbance, or annoyance to Owners. No automobile or other vehicle is ever allowed to be parked on the streets with painted red curbs, the private alley within the Project, or at any other location within the Project and that parking in the limited common area may not impair or tend to impair vehicular or pedestrian access within the Project or to and from its various parts.
- 4.03 *Restrictions on Animals.* No animals other than two (2) household pets shall be kept or allowed in any part of the Project. Whenever a pet is allowed to leave the Lot of its Owner, it shall be on a leash or some other appropriate restraint. All pets must be housed inside the Owner's Residential Unit. No permanent or temporary restraint or housing that is unsupervised by the Owner is allowed on the outside of the Residential Unit.
- 4.04 *Prohibition of Damage.* No damage to, or waste of, the Common Area shall be committed by an Owner or guest or invitee of any Owner, and each such Owner shall indemnify and hold harmless the Association, other Owners and Declarant, against all loss resulting from any such damage or waste caused by such Owner, his or her family guests, tenants, licensees, or invitees.

ARTICLE V

The Association By-Laws

- 5.01 *The association.* The administration of the Project shall be through BURCH CREEK TOWNS HOMEOWNERS ASSOCIATION, INC., a Non profit organization, which has been organized and will be operated to perform the functions and provide the services contemplated in the Declaration. Said Association shall operate in accordance with the laws of the State of Utah, and with the Articles of Incorporation of the Association and the Bylaws of the Association which have been adopted in accordance therewith. A true copy of the duly adopted Bylaws of the Association shall be available for inspection and copying by any Owner.
- 5.02 *Board of Directors.*
- Numbers.* The affairs of this Association shall be managed by a Board of three (3) directors, who need not be members of the Association.
- Term of Office.* At the first annual meeting, the members shall elect two (2) directors for a term of two years, and one (1) director for the term of three years; and at each annual meeting thereafter the members shall elect the applicable number of directors for a term of three years.
- Removal.* Any director may be removed from the Board, with or without cause, by a majority vote of members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected

by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

5.03 *Nomination and Election of Directors.*

Nomination. Nomination for election to the Board of Directors shall be made by the Declarant and/or homeowners. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall, in its discretion, determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among member or non-members.

Election. Election to Board of Directors shall be by secret written ballot. At such election the members 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 person receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

5.04 *Meetings of Directors.*

Regular Meetings. Regular meetings of the Board of Directors shall be held quarterly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said 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.

Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any two directors, after not less than three (3) day's notice to each director.

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 a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

5.05 *Powers and Duties of the Board of Directors.*

Powers. The Board of Directors shall have power to:

- (a) adopt and publish rules and regulations governing the use of the Common Areas, and the personal conduct of the members

and their guests thereon, and to establish penalties for the infraction thereof.

- (b) Suspend the voting rights and right to use the common areas of a member during any periods in which such member shall be in default in the payment of any assessment levied by the Association. Such right may also be suspended after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations.
- (c) Exercise for the Association all power, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of the By-Laws, the Articles of Incorporation, or the Declaration.
- (d) Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and
- (e) Employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

Duties. It shall be the duty of the Board of Directors to:

- (a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class A members who are entitled to vote;
- (b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed.
- (c) as more fully provided in this Declaration, to; fix the amount of the annual assessment period, send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period, and foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring and action at law against the owner personally obligated to pay the same.
- (d) Issue, or 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 and assessment has been paid, such certificate shall be conclusive evidence of such payment.
- (e) Procure and maintain adequate liability and hazard insurance on property owned by the Association.
- (f) Cause all officers or employees having fiscal responsibilities to be bonded, as may deem appropriate.
- (g) Cause the Common Areas to be maintained.

5.06 *Officers and Their Duties.*

Enumeration of Offices. The officers of this Association shall be a president and vice-president, who shall at all times be members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create.

Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year, unless he shall sooner resign, or shall be removed, or otherwise disqualified.

Special Appointment. 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.

Resignation and Removal. Any officer may be removed from office, with or without cause, by the Board. Any officer may resign at any time given 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.

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.

Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any other offices except in the case of special offices created pursuant to Section 5.06 of the Article.

Duties. The duties of the offices are as follow.

- (a) *President.* The president shall preside at all meetings of the Board of Directors, shall see that orders and resolutions of the Board are carried out, shall sign all leases, mortgages, deeds and other written instruments, shall co-sign all checks and promissory notes.
- (b) *Vice-President.* The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.
- (c) *Secretary.* The secretary shall record the votes and keep the minutes of all meeting and proceedings of the Board and of the members, keep the corporate seal of the Association and affix it on all papers requiring a seal, serve notice of meetings of the Board and of the members, keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

(d) *Treasurer.* The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors, shall sign all check and promissory notes of the Association, keep proper books of account, elect to an annual audit of the of the Association books to be made by a public accountant at the completion of each fiscal year, and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular meeting , and deliver a copy of each to the members.

Committees. The Association shall appoint an Architectural Control Committee. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

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 member.

5.07 *Membership and Voting Rights.* The Association shall have two (2) classes of voting memberships, as follows:

(a) Class A. Class A Members shall consist of all Owners, except Declarant, and each Class A Member shall be entitled to one vote for each Lot owned.

(b) Class B. Class B Members shall consist of the Declarant, and each Class B Member shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of the first to occur of the following events.

(i) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B Membership; or

(ii) seven (7) years after date of recording this Declaration.

5.07 *Assessments.* The Association shall have the right to charge to, and collect from, each Owner of a Lot within the Project said Owner's *pro rata* share of all sums which are expended on behalf of all Owners and all sums which are required by the Association to perform or exercise the functions, duties, rights and powers of the Association under this Declaration. The term "Assessment" shall also include each and every annual Regular Assessment and each and every Special Assessment levied in accordance with the provisions hereof.

5.08 *Agreement to pay Assessments.* Each Owner of a Lot, by the acceptance of instruments of conveyance and transfer thereof, shall be deemed to covenant and agree with each the Declarant and the Association to pay to the Association all Assessments made for the purposes provided for in this Declaration.

5.09 *Commencement of Assessments.* Regular Assessment shall commence against all Lots sold, excluding developer, on the first day of the first calendar month following recordation of a conveyance instrument transferring the first Lot within the Project to an Owner

- 5.10 *Regular Assessment.* A Regular Assessment shall consist of each Owner's *pro rata* share of the estimated annual total of (1) the amount which is reasonably anticipated to be expended on behalf of all Owners, and (2) the sum of all amounts which are required to perform or exercise the rights, powers, and duties of the Association during each fiscal year. A regular Assessment shall be computed and levied annually against each lot by the Association.

ARTICLE VI
General Provisions

- 6.01 *Enforcement.* The Association or any Owner, shall have the right to enforce, by proceeding at law in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by an Owner to enforce any covenant or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter.
- 6.02 *Severability.* Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.
- 6.03 *Amendment.* The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) years period by an instrument signed by not less than two-thirds (2/3rds) of the Unit Owners. Any amendment must be recorded.

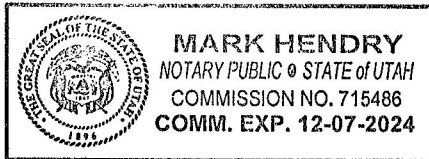
IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration on the day and year first above written.

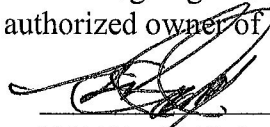
DECLARANT
Parkridge, Inc.

By:  _____

STATE OF UTAH)
COUNTY OF WEBER)

On this 26 day of MARCH, year 2024, personally appeared
before me JARVIN STRONG, the PRESIDENT of
PARKRIDGE Birch Creek Towns, Inc. who signed the foregoing instrument, and he
acknowledged to me that he is the authorized owner of Subject property.





NOTARY PUBLIC
Residing in: _____

EXHIBIT A

06-349-0001 - 0022 **BT**

All of Units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 & 18, Parcels A, B & C, and Common Area, BURCH CREEK TOWNS, (A PART OF BLOCK 1, COUNTRY CLUB HEIGHTS, ALL OF LOTS 29 & 30 GREENWOOD VILLAGE AMENDED, AND PART OF LOT 42 AMENDED CHIMES VIEW ACRES), according to the official plat thereof, on file and of record in the office of the Weber County Recorder, State of Utah.