

**RESTATED AND AMENDED
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
OF QUAIL CREEK MOBILE HOME AND TOWNHOME ESTATES
a/k/a/ QUAIL LAKE ESTATES**

RECITALS : This Declaration amends, restates, and supersedes all previous Declarations of Covenants, Conditions and Restrictions of Quail Lake Mobile Home and Townhome Estates, to-wit:

(1) That certain Declaration of Covenants, Conditions, and Restrictions of Quail Creek Mobile Home Estates dated January 2, 1985, and recorded on February 4, 1985, as Entry No. 271542, in Book 368, at pages 465 through 468 of the Official Records of the Washington County (Utah) Recorder's Office;

(2) that certain Declaration of Covenants, Conditions and Restrictions of Quail Creek Mobile Home Estates dated April 14, 1986 and recorded as Entry No. 292753 in Book 204 at pages 644 through 665 of the Official Records of the Washington County (Utah) Recorder's Office; and

(3) that certain First Amendment to Declaration of Covenants, Conditions and Restrictions of Quail Creek Mobile Home Estates dated October 24, 1989 and recorded on October 25, 1985, as Entry No. 355850, in Book 539, at pages 68 through 94 on the Official Records of the Washington County (Utah) Recorder's Office.

This Declaration affects all of the Quail Creek Mobile Home Estates Planned Unit Development, specifically all of Lots 1 through 170 as recorded on the official Plat Map of Quail Creek Mobile Homes Estates, Planned Unit Development Amended (3) recorded on the official Records of the Washington County (Utah) Recorder's Office on November 19, 1986, as Entry No. 305119, in Book 432, page 518.

PURPOSE OF DECLARATION: To protect the value and desirability of the real property contained within "QUAIL LAKE ESTATES", and to meet health and safety codes of governing agencies having jurisdictional responsibilities therefor, the following Covenants, Conditions, Restrictions, Reservations, Assessments, Charges and Liens shall be construed as covenants of equitable servitude, and shall run with the land and be binding on all parties having any right, title, or interest in "Quail Lake Estates" or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof.

The official name of Quail Creek Mobile Home and Townhome Estates is hereby changed to **QUAIL LAKE ESTATES**.

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RUSSELL SHIRTS * WASHINGTON CO RECORDER
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FOR: QUAIL LAKE HOMEOWNERS ASSN

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ARTICLE I - DEFINITIONS

- a) ASSOCIATION: Quail Lake Estates Homeowners Association, also known as Quail Lake Homeowners Association
- b) COMMON AREA: Areas and facilities owned by Association
- c) DECLARANT: Quail Lake Estates, a Utah general partnership
- d) DECLARATION: Statement of CC& Rs and Amendments
- e) DOUBLE OR COMBINED LOTS: Two single contiguous lots or one lot plus a portion of another contiguous lot for use as a single family residence.
- f) DUES: Annual Association assessment paid by members
- g) EASEMENTS: The right of use over property of another
- h) FRANCHISE: Trash collection, cable TV service, etc
- i) GOVERNMENTAL AGENCY: Federal, State, County, City, Special District
- j) LOT (or PARCEL) Any separately numbered and individually described plot of land (as shown on Plat Map or amendments thereto) designated for private ownership, and shall exclude the common area.
- k) LOT OWNER: Holder of ownership title, as on Assessor's roll
- l) MAP: The subdivision plat recorded with the Washington County (Utah) Recorder's office
- m) MOBILE HOME: Residential structure conforming to local county specifications
- n) MORTGAGEE: Entity to whom mortgage is given (the lender)
- o) MORTGAGOR: One who pledges property as security (borrower)
- p) PARKING: Leaving motor vehicle unattended for more than one hour
- q) PROPERTY: Certain real property hereinbefore described, and such additions thereto as may hereafter be subject to this Declaration

DEFINITIONS, CONTINUED:

- r) RECREATIONAL FACILITIES: Club house, pool and spa, and park (green belt)
- s) RESIDENCE: Mobile Home or townhome unit permanently located upon a lot
- t) SPEED LIMITS: Safe speeds set and enforced by Association
- u) STORAGE: Material or vehicles which are not in current use
- v) TOXIC SUBSTANCE: Any hazardous substance, waste, material, or toxin, or other environmental contaminant
- w) TOWNHOME; Permanent residential structure
- x) TRUSTEES: Elected administrators of the Association
- y) VEHICLES (licensed)
 - 1) Transportation - auto or light truck
 - 2) Recreational (motorized)
 - 3) Recreational (non-motorized and trailerable)
 - 4) Commercial (non-recreational)
 - 5) Other wheeled transportation, including off road, motorcycles, go-carts, etc.
- z) USE OF LOTS: recreational vehicle or home sites

ARTICLE II - PROPERTY RIGHTS AND COMMON AREA USEAGE

Section 1: Each owner of a parcel or lot shall be a member of Quail Lake Estates Homeowners Association.

Section 2: The Quail Lake Estates Homeowners Association shall administer the affairs of the project in accordance with this Declaration, the Bylaws, and the Articles of incorporation; shall contract for necessary services to maintain common area recreational facilities, and shall manage the common areas owned by Quail Lake Estates Homeowners Association.

Section 3: Members who are current on dues owed to the Association shall have use of all common recreational areas and facilities for themselves, their families, renters, and/or guests - consistent with certain rules set by the Homeowners Association that pertain to health and safety of the members and idemnification of the Homeowners Association.

Section 4: The Association retains the right to suspend a member's rights and assess penalties for damage to Homeowners Association property. Upon Trustees receipt of a member's written and signed complaint regarding activity which is perceived by the complainer as having the potential to adversely effect the health, safety, or tranquility of other members, or to cause damage to Homeowners property, Trustees shall be authorized to investigate said complaint. If such activity is found to exist, Trustees shall demand an immediate end of such activity. Failure to comply with request to cease and desist from such activity shall be cause for suspension of membership and/or fine commensurate with the severity of the violation.

Section 5: The Association reserves the right to limit the number of persons using the recreational facilities at any one time. Pool capacity (regulated by Washington Co (Utah) Health Dept) is 40 in "nonswimmer" (less than 5 feet in depth) area and 16 in "swimmer" area.

Club room capacity including the lounge area is regulated by Hurricane City building department as one person per seven square feet of floor area; total of 237 at any one time.

Section 6: In addition to applicable governmental laws and regulations, the Association reserves the right to regulate and set appropriate guidelines for safe handling, storage, and periodic usage of certain toxic chemicals (including motor fuels and oils) which may create noxious odors, health hazards, or environmental damage.

Section 7: The Association reserves the right to regulate usage within Quail Lake Estates of certain construction machinery to protect residents against emission, noise pollution, or damage to Park infrastructure not covered by Contractor's bond.

ARTICLE II. CONTINUED:

Section 8: Parcel owners who are current on their dues shall have rights and use of common areas for enjoyment of the facilities; said rights shall pass to any renter of said parcel owner and shall be appurtenant to and pass with title to every lot in Quail Lake Estates, subject to above guidelines and limitations.

Section 9: Government agencies and authorized franchisees shall be authorized to use common areas as needed to install, maintain, or repair utility equipment or infrastructure to service Quail Lake Estates. Said Agency or Franchisee shall send written notice to Quail Lake Homeowners Association ten days prior to anticipated start of work, unless the work is of an emergency nature. Said notice shall clearly state the anticipated visual or environmental impact of the project, and what actions the agency or franchisee will take to mitigate such impact. If said work is of emergency nature, the Agency or franchisee is authorized to take such action as is necessary to mitigate the potential damage or danger, and advise Quail Lake Homeowners Association of said action after the imminent damage or danger has been forestalled or controlled. Proper indemnification by the Agency or franchisee must be provided for work on and around property owned by Quail Lake Homeowners Association.

Section 10: Protection of common areas - Any change in status involving sale, exchange, hypothecation, encumbrances, etc., of common areas, shall require a written approval of two thirds of the members of the Association.

ARTICLE III - MEMBERSHIP AND VOTING RIGHTS:

Section 1: Membership and Voting Rights:- Each owner of a lot in Quail Lake Estates shall be a member of the Association, and shall be entitled to one (1) vote for each lot owned on which dues are paid up to and for the month in which the vote is being cast, with the following exceptions:

a) Owner(s) of "double" or "combined" lots shall be entitled to one (1) vote for the "double" or "combined" lot on which dues are paid up to and for the month in which the vote is being cast. All rights and responsibilities inherit with the ownership of a "single" lot shall inure with ownership of a "double" or "combined" lot; i.e., one "vote", one "assessment" with the exception of special assessments, which may be assessed on a pro rata basis.

b) " Developers" a/k/a Quail Lake Estates shall be entitled to six-tenths (6/10) of one vote for each lot owned on which dues are paid up to and for the month in which vote is being cast; when voting on special assessments Developers shall be entitled to one(1) vote for each lot owned.

ARTICLE IV - ASSESSMENT OF DUES:

Section 1: Each lot owner shall be obligated by Covenant to pay annual dues for the maintenance cost of common areas, and for any special assessment for capital improvement authorized by the Association with the approval of its members.

A) The Trustees shall fix the amount of the annual assessment against each parcel/lot and send written notice of the annual assessment to each lot owner at least thirty (30) days in advance of the commencement of the assessment period, which shall begin January 1 of each calendar year. Receipt of such notice shall not be a prerequisite to validity of the assessment.

B) Basis and Maximum Annual Assessment was established as \$300.00 per lot by CC&Rs dated 14 April 1986; the annual assessment may be increased a maximum of 10% per year by the Trustees without a vote of the members. The Assessment was increased in 1993 to \$330.00 per annum and to \$360.00 in 1995.

C) "Double" or "combined" lot owner shall be assessed the same as owner of "single" lot for annual assessment, and on pro-rata basis for special assessment.

D) Developers lots shall be assessed annual dues at 60% rate of single lot assessment, and assessed on a pro rata basis for special assessments.

E) Lot owners who own more than one lot and who rent or otherwise designate by word or actions a portion of their property as a separate residence(s) will be assessed annual due(s) for the portion(s) used as separate residence(s), and will be assessed on the basis of having separate residence(s) so long as that lot owner owns the lots so assessed.

Section 2: Special Assessments - Special Assessments can be levied against all members only if 2/3 of all members in person or by absentee ballot approve such assessment at a meeting noticed in writing at least 30 days prior to the proposal requiring said special assessment. Said notice shall clearly state the reason for the proposed special assessment. Any special assessment authorized by said members shall have a 12 month duration, unless such capital improvement requires an amortization period longer than 1 year.

Section 3: Payment of dues: The Trustees may authorize discounts for advance payment of annual assessment if the total annual assessment, less discount, is paid by January 31st of the year of the Assessment. The payment of annual and special assessments may be paid in 12 equal monthly installments throughout the assessment year. The due date of monthly installments for annual and special assessments shall be the first day of the calendar month, and shall be delinquent and subject to a \$5 late charge per lot if installment is not paid within 15 days of the due date. The lot owner will not be sent a "reminder" notice unless the delinquency is chronic; in which case owner may have lien filed against the property and/or be subject to foreclosure proceedings.

Article IV, continued:

Section 4. Use of funds: Funds from Assessments shall be used for Association expenses deemed to be reasonable and necessary by the Board of Trustees, including but not limited to payment of taxes and insurance for common areas, replacement and/or repair of common area facilities including but not limited to water lines, street repairs, and drainage pipes ; and to pay for municipal services which shall include but not be limited to water to residences and common areas, power to common areas, and expenses for postage, and other office supplies, payment for maintenance and janitorial services, accounting and legal service when necessary.

Section 5: Any lot owner who sells his lot must be current on dues payment at the time of the sale or be subject to immediate liens. Such lien of the assessments shall be subordinate to the lien of any first mortgage or Deed of Trust. Sale or transfer of any parcel shall not affect the assessment lien; however, the sale or transfer of any lot pursuant to mortgage foreclosure or proceeding in lieu thereof shall extinguish the lien of such assessment which became due prior to such sale or transfer. No such sale or transfer shall relieve parcel owner from liability for assessments thereafter becoming due or from the lien thereof.

Section 6: The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association, setting forth whether the assessment on a specified parcel has been paid. Such certificates when properly issued shall be conclusive evidence of the payment of any assessment or fractional part thereof. A first mortgage holder, upon request, is entitled to a written certificate from the Association advising of any default in the performance by an owner of any obligation not cured within 60 days.

Section 7: Exempt Properties: The following property subject to this declaration shall be exempt from the assessments, charges, and liens created therein:

- A) Any properties dedicated to and accepted by local public authority and devoted to public use.
- B) All common and limited common area
- C) Those lots and areas designated on the official plat as commercial property, so long as those lots and areas are owned by Quail Lake Estates. If said property is sold and used for commercial purposes by the new owner(s) said property shall be subject to special assessments on a pro rata basis with that of individual lot owners.

ARTICLE V - INSURANCE:

Section 1: The Trustees of the Association or their duly authorized agents shall have the authority and responsibility to obtain and continue in effect:

A) A "master" or "blanket" policy of property insurance equal to full replacement value of the buildings, contents and improvements, and other assets owned by the Association; said insurance affording protection against loss or damage by fire and other hazards covered by the standard extended coverage endorsement, and against costs of debris removal or demolition, loss due to vandalism, malicious mischief, windstorm, water damage, and such other risks as are customarily covered in similar projects.

B) A comprehensive policy of public liability insurance covering all of the common and limited common property for at least One Million Dollars per occurrence for personal injury and/or property damage. Such liability insurance policy shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of an owner because of negligent acts of the Association, and

C) Maintain fidelity coverage against dishonest acts on the part of managers, Trustees, officers, employees or volunteers responsible for handling funds held and collected for the benefit of the owners or members. Said fidelity insurance shall (1) name the Association as beneficiary, (2) be written in an amount not less than 150% of the annual operating expenses and reserves of the Association, and (3) contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee".

Section 2: Any insurance obtained pursuant to the above shall provide that:

A) The named insured under any such policy shall be the Association as Trustee for the parcel/lot owners and shall have standard mortgagee clauses.

B) Insurance coverage may not be brought into conflict with insurance purchased by the lot owners or their mortgagees.

C) Coverage must not be prejudiced by (1) any act or neglect of the parcel/lot owners when such act or neglect is not within the control of the Association, or (2) Any failure of the Association to comply with any warranty or condition regarding any portion of the premises over which the Association has no control.

ARTICLE V CONTINUED: (INSURANCE)

D) Coverage may not be cancelled or substantially modified (including cancellation of nonpayment or premium) without at least 30 days prior written notice to any and all insureds, including holders of first mortgages.

E) The insurer shall waive subrogation as to any and all claims against the Association, the owner of any parcel/lot, and/or their respective agents, employees or tenants, and any defenses based on co-insurance or on invalidity arising from the acts of the insured.

(F) Any provisions that the carrier may elect to restore in lieu of cash settlement shall not be exercisable without the prior written approval of the Association or when in conflict with any requirement of law.

Section 3: Premiums for insurance obtained by the Trustees pursuant to this section shall be a common expense of the Association and shall be collectible from members of the Association as part of the annual assessments.

Section 4: Each owner shall insure his own personal property and his real property for his own benefit.

Section 5: *Damage or Destruction* - In the event of damage or destruction by fire or other casualty to any portion of the development covered by insurance written in the name of the Association, the Trustees shall, upon receipt of the insurance proceeds, contract to rebuild, restore or repair such damaged or destroyed portions of the development to its former condition. Unless at least 75% of the owners have given their prior written approval, the Association shall not be entitled to use insurance proceeds for other than the repair, replacement, or reconstruction of the damaged or destroyed property.

ARTICLE VI. MANAGEMENT: The Board of Trustees shall have power and authority to employ a manager, an independent contractor, or such other employee(s) as is deemed necessary by a quorum of Trustees, and to prescribe the duties of said manager, independent contractor, or employee(s). Contracts for services may not exceed one year duration, and must provide for termination by either party without cause on thirty days written notice.

ARTICLE VII. MAINTENANCE:

Section 1: The Association shall have no obligation regarding maintenance or care of parcel/lot(s) or structures thereon except common areas.

Article VII. Maintenance, continued:

Individual lot owner shall provide maintenance upon his/own lot and structures thereon, including, but not limited to the following: Paint, repair, replace and care for all structures, including but not limited to: concrete pad surfaces, fences, trees, shrubs, grass, walks, driveways and other exterior improvements, all utilities, fixtures and equipment installed within or upon a parcel/lot.

Landscaped areas on each parcel/lot shall be watered adequately and kept free of weeds, debris, filth, refuse, with driveways and walks kept clean. No obstruction, including trees or landscaping or other obstacle, shall hinder use of common property or block clear visibility for vehicular traffic entering or exiting adjacent driveways.

Section 2. Failure to comply: Parcel/lot owner may be held individually liable for damage resulting from failure to comply with this provision. In the event a parcel/lot owner or occupant neglects the maintenance and/or repair of a parcel/lot or the structure(s) thereon, or of personal property located upon the lot, and allows the same to remain in an unsightly condition, state of disrepair or condition hazardous to health or safety, on recommendation of the Architectural Review Committee or a quorum or Trustees, a written notice shall be mailed to the lot/parcel owner of action necessary to conform to this provision.

Said notice shall offer the lot owner opportunity to object to Association intervention. Unless valid objection is raised or remedial action started within 10 days of said notice, the Association may enter upon any parcel or lot at reasonable hours and take remedial action and charge the owner for the cost of such repairs/maintenance.

If maintenance or repairs are deemed to be of an emergency nature by the Architectural Review Committee or a Quorum of Trustees phone contact with the lot owner shall be attempted in lieu of the written notice; however, if contact can not be made and owner is unavailable to resolve the emergency, Association reserves the right at the discretion of the Trustees to perform emergency repairs upon the property of individual lot owners to prevent further damage or destruction.

ARTICLE VIII. USE RESTRICTIONS:

SECTION 1. General Use: All of the properties which are subject to this Declaration are hereby restricted to use as recreational vehicle sites or home sites, including free standing outside storage shed not to exceed 10' by 12' and covered carport if the dimensions of the lot are adequate to comply with established setbacks. No building or structure of a temporary character, such as a tent, shack, or barn shall be placed or used on any lot at any time.

ARTICLE VIII. USE RESTRICTIONS. continued:

SECTION 2: Construction, Business, Sales: It shall be expressly permissible for the Declarant to maintain such facilities as in the sole opinion of Declarant may be reasonably required, convenient, or incidental to the construction and sale of lots during the period of construction and sale of said lots, and upon such portion of the premises as Declarant deems necessary, including, but not limited to, a business office, storage areas, construction yards, signs, model units, and sales offices. It is expressly permissible for the Declarant to rent developed lots on a daily or weekly basis in an effort to promote sales.

Section 3: Vehicles: Vehicles used expressly for commercial purposes shall be parked in storage area, except when loading or unloading, or when being used in connection with construction, or to temporarily service a residence.

Section 4: Parking: Individual lot owners are responsible for sufficient off-street parking for their own vehicles and their guests' vehicles, temporary loading and unloading excepted.

Section 5: Speed: Vehicular speed limit is 15 miles per hour throughout Quail Lake Estates; this speed limit is posted on two streets.

Section 6: Signs, Commercial Activity: Except for one "For Sale" sign not to exceed five square feet, no advertising signs, billboards, object of unsightly appearance, or nuisances shall be erected, placed, or permitted to remain on any parcel/lot or any portion of the properties. No commercial activity shall be conducted in any building or on any portion of the properties. The foregoing restriction shall not apply to the laundry facilities and pay telephone in Clubhouse, or signs and billboards of the Declarant during the construction and sales period.

Section 7: Quiet Enjoyment: Activity which produces or has the potential to produce noxious fumes, or activity which produces or has the potential to produce noise of a volume and length of time which a prudent individual would find uncomfortable, or other activity that may be an annoyance or nuisance to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the members, or which in any way may increase the rate of their insurance, shall not be carried on within the confines of Quail Lake Estates.

Section 8. Animals: With the exception of dogs, cats, or other household pets (maximum total two per household and not kept, bred or maintained for commercial purpose) no animal, livestock, or poultry of any kind shall be raised, bred, or kept on any of said parcels/lots. Pets must be kept within the boundaries of the parcel/lot; and leashed when in the common area. Pet owner shall take every reasonable precaution to prevent his pet annoying other lot owners. Care and control of animals shall also be governed by local ordinances.

ARTICLE VIII. USE RESTRICTIONS, continued:

Section 9. Use of Common Area: Except for the right of ingress and egress, owners are hereby prohibited and restricted from using any of said common area, other than as permitted in this Declaration, or as may be allowed by the Trustees of the Association. It is expressly acknowledged and agreed by all parties concerned that this restriction is for the mutual benefit of all owners of parcels/lot(s) and is necessary for the protection of the interests of all said owners in and to the common area.

As part of the overall program of development of the properties into a residential community, and to encourage the marketing thereof, the Declarant shall have the right of use of the common area and facilities thereon; such use by the Declarant for promotion purposes must be approved by the Trustees.

Section 10. Planting and Gardening: Planting and gardening upon the parcel/lot shall be done in a manner not to detract from the overall appearance of the development. Hedges and trees shall be kept pruned to prevent obstruction of walks or of view of adjacent owner or of vehicular traffic entering street.

ARTICLE IX. RIGHTS OF FIRST MORTGAGEES:

Notwithstanding any other provisions of this Declaration, the following provisions shall govern the rights of first mortgagees:

Section 1. Preservation of Regulatory Structure and Insurance: Unless the holders of 100% of all first mortgages and 75% of the parcel/lot owners shall have given their prior written approval, the Association shall not be entitled to:

- A) By act or omission to change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the Architectural design of the exterior appearance of living units/structures, the exterior maintenance of structures, or the upkeep of the common areas; or
- B) Fail to maintain fire and extended coverage insurance on the insurable portions of the common areas in an amount not less than 100% of the insurable value (based on current replacement cost); or
- C) Use hazard insurance proceeds for losses to the common area for other than the repair, replacement, or reconstruction of improvements to the common area.

(see Article V, Section 5)

ARTICLE IX. CONTINUED:

Section 2. Preservation of Common Area: Change in Method of Assessment:

Unless the Association shall receive the prior written approval of 100% of all first mortgagees (based on one vote for each mortgagee) of the parcel/lots and at least 75% of individual parcel/lot owners, the Association shall not:

- 1) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the common areas, except by grant to easements for utilities and similar or related purposes, as herein elsewhere reserved; or
- 2) Change the ratio or method of determining the obligations, assessments, dues or other charges which may be levied against a parcel/lot or the owner thereof.

Neither this paragraph nor the insurance provisions contained in Article V may be amended without the prior approval of all first mortgagees.

Section 3. Notice of Matters Affecting Security. The Association shall give written notice to any first mortgagee of any parcel/lot requesting such notice under the circumstances enumerated in Article V or whenever any of the following matters come up for consideration or effectuation by the Association:

- A) Abandonment or termination of Quail Lake Estates established by this Declaration
- B) Material amendment of this Declaration; or
- C) Any decision to terminate professional management (if any) of the common area and assume self-management by the Association members.

ARTICLE X. GENERAL PROVISIONS:

Section 1: Enforcement: The Association Trustees, or any parcel/lot owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, including but not limited to any proceeding at law or in equity against any person or persons violating or attempting to violate any Covenant or Restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these Covenants. Failure of the Association Trustees or any parcel/lot owner to enforce any Covenant or Restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In any proceeding arising because of an alleged default by a parcel/lot owner, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be determined by the Court.

ARTICLE X. GENERAL PROVISIONS, continued:

Section 2. Severability. All of said Conditions, Covenants and Restrictions contained herein shall be construed together, but if any one of said Conditions, Covenants or Restrictions, or any part thereof, shall at any time be held invalid, or for any reason become unenforceable, no other Condition, Covenant, or Restriction, or any part thereof, shall thereby be affected or impaired; and the Association and parcel/lot owners, their successors, heirs, and assigns, shall be bound by each Article, Section, subsection, paragraph, sentence, clause and phrase of this Declaration, irrespective of the invalidity or enforceability of any other Article, section, subsection, paragraph, sentence, clause or phrase.

Section 3. Duration: The Covenants and Restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association Trustees or the parcel/lot owner, their respective legal representatives, heirs, successors, and assigns.

Section 4. Amendment: The Covenants, Conditions, and Restrictions of this Declaration may be amended by an instrument signed by not less than 75% of all lot owners. Any amendment must be properly recorded in the records of Washington County, Utah., to become effective.

Section 5. Notices: Any notice required to be sent under the provisions of this Declaration shall be conclusively deemed to have been given when deposited in the U. S. Mail, postage paid, to the last known address of the person who is entitled to receive it.

Section 6. Gender and Grammar: The singular, wherever used herein, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to Corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

Section 7. Waivers: No provision contained in this Declaration shall be deemed to have been waived by reason of any failure to enforce it, irrespective of the number of violations which may occur.

Section 8. Topical Headings: The topical headings contained in this Declaration are for convenience only and do not define, limit or construe the contents of the Declaration.

ARTICLE XI ASSIGNMENT OF POWERS:

Any and all rights and powers of the Declarant herein contained may be delegated, transferred, or assigned.

ARTICLE XII. COMMERCIAL PROPERTY:

Notwithstanding any provision contained herein to the contrary, the Declarant reserves Lot 1, Lot 1A, and areas designated on the plat map as commercial areas, which areas shall be owned in private ownership and which shall not be subject to the assessments as imposed by this Declaration. Further, a right-of-way and easement is afforded those private owners for ingress and egress, and utilities over and across the roadways delineated on the plat map. The Homeowners Association reserved the right to impose assessments for maintaining and improving said roadway(s).

ARTICLE XIII. ARCHITECTURAL CONTROL:

Section 1: Architectural Control Committee: The Trustees of the Association shall appoint a three member committee, the function of which shall be to ensure that all exteriors of homes, recreational vehicles, and townhomes and the landscaping within the properties harmonize with existing surroundings and structures. The Committee need not be composed of owners. If such a Committee is not appointed, the Trustees shall perform the duties required of the Committee.

Section 2: Alterations/changes: Any structural change or major change in landscaping which might effect drainage or the use of adjacent lots requires a written plan and approval by the Trustees of the Architectural Control Committee.

Section 3: Standard: The Trustees may formulate general guidelines and procedures for the Architectural Control Committee, which shall be incorporated in the Resolutions of the Association and the Policy Book of the Architectural Control Committee, and the Architectural Control Committee or the Trustees shall act in accordance with such guidelines and procedures. Any policy guidelines or Resolutions must be consistent with and conform to the Building Codes and Ordinances of the controlling Governmental Agencies. The following standards shall be used as guidelines until Resolutions are adopted, and may be changed by the Architectural Control Committee with the written concurrence of the Declarant, its successors or assigns:

- A) Residential units shall be built to code as required by Hurricane City, Washington County, or financial institutions offering loans to prospective purchasers, or FHA requirements.
- B) Construction of each residential structure or major alteration/addition thereto must be substantially completed within six months of commencement of construction. Any and all damage as a result of construction activity shall be promptly repaired by the responsible contraction.

ARTICLE XIII ARCHITECTURAL CONTROL:

- C) Maximum height of any residential structure is limited to one story above grade.
- D) For permanent structures, all driveways shall be paved with concrete.
- E) Additions to or extension of exterior of structure or major alteration thereof must be approved in writing by the Architectural Control Committee and by the City of Hurricane prior to the commencement of said addition/extension/alteration.
- F) Landscaping plans must harmonize with existing landscaping general plan and scheme, and be pre-approved by the Architectural Control Committee.
- G) The Association by a quorum of Trustees may grant legal non-conforming status to existing structures used as residences (grandfather clause).

Section 4: Approval procedures: Plans and specifications submitted to the Architectural Control Committee shall be approved or disapproved in writing within 30 days after submission.

Section 5: Disclaimer of Liability: Neither the Architectural Control Committee, nor any member thereof acting in good faith, shall be liable to the Association or to any owner for damage, loss, or prejudice suffered or claimed on account of the following:

- 1) the approval or rejection of, or the failure to approve or reject, any plans, drawings, or specifications;
- 2) The construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications;
- 3) The development or manner of development of any of the properties; or
- 4) any engineering or other defect in approved plans and specifications.

Section 6: Declarant's Obligation: Declarant hereby Covenants in favor of each owner that all residential structures erected by the Declarant, or caused to be erected by the Declarant, and all future improvements of the common areas, including any playground area, shall be architecturally compatible with respect to one another.

ADDENDUM

EASEMENTS: section 1: Encroachments - each lot and the property included in the common areas shall be subject to an easement for encroachments created by construction and settling as designated or constructed by the Declarant. A valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist. In the event any lot is partially or totally destroyed, and then rebuilt, the owners of the lot(s) so affected agree that minor encroachments of parts of the adjacent parcel or common areas due to construction shall be permitted and that a valid easement for said encroachment and maintenance thereof shall exist.

EASEMENTS: SECTION 2: Utilities: There is hereby created a blanket easement upon, across, over and under all of the properties for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to, water, sewer, gas, telephone and electricity, data transmission and television transmission systems. By virtue of this easement, it shall be expressly permissible for all public utilities servicing the properties to lay, construct, renew, operate, and maintain conduits, cables, pipes, mains, ducts, wires and other necessary equipment on the properties.

EASEMENTS: Section 3: Emergency Services: An easement is hereby granted to all police, fire protection, ambulance services, and all similar persons to enter upon the common areas and facilities and other Quail Lake Estates structures, in the performance of their duties.

EASEMENTS, Section 4: Maintenance by Association: An easement is hereby granted to the Association, its officers, agents, employees, and to any maintenance company selected by the Association to enter into any home, townhome, or recreational vehicle in case of emergency, or to perform the duties of maintenance and repair, in the event the same are neglected by the owner and/or lessee, or for the purpose of repair to the common areas and facilities.

MISCELLANEOUS USE RESTRICTIONS:

Section 1: No exterior Television, radio or other antenna shall be placed, allowed, or maintained upon any parcel/lot without prior written approval and the authorization of the Trustees, except that such antenna may be upon mobile home units, RV units, or of temporary nature.

Section 2: Garbage Removal. All rubbish, trash, and garbage shall be regularly removed from the parcel/lot, and shall not be allowed to accumulate thereon.

Section 3: Oil and Mining Operations - No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in the properties of any parcel/lot. No derrick, lift, shaft, or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon the properties or any parcel/lot.

Section 4: Leases: Any lease agreement between an owner and lessee shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration. Any failure by lessee to comply with the terms of such documents shall be a default under the lease. The Owner (lessor) is responsible to the Trustees for any damages and/or litigation which may result.

Section 5: Appearance of Homes and other property: Notwithstanding any provision of the Declaration, a home, recreational vehicle, or personal property upon any parcel/lot or in the common area shall not be of an unsightly appearance, state of disrepair, or in a condition hazardous to health or safety.

SUMMARY PROVISIONS:

1. By-laws for Association Operations: Written By-laws and/or operational procedures, consistent with the purpose and guidelines set forth in this Declaration, shall be used by the Association and its Trustees to conduct the business as specified in this Declaration. In cases of dispute over interpretation of By-laws resulting from actions taken by the Association or its Trustees, the Declaration of Conditions, Covenants and Restrictions shall be the prevailing document as to limitations and authorizations.

2. Association Elected Trustees: The Association shall authorize up to seven Trustees to manage the affairs of the Association as set forth in this Declaration. These Trustees shall not be paid a salary or stipend by the Association, but may receive reasonable and proper reimbursed expenses incurred doing the business of the Association as authorized by this Declaration and approved by the Association Trustees. Such expenses shall include, but not limited to, certain auto travel mileage, telephone, fax, postage and office supplies. Trustees shall be elected for two year terms, with 3 positions and 4 positions to be filled in alternate years, at the annual meeting on or about March 1st.

3. Use and Control of Association Documents: All Association documents drafted/created for management use or for legal purposes shall be the property of the Association, once approved by the Trustees. Rosters containing personal information of members, or documents pertaining to actions discussed by the Trustees that protect the parcel/lot owners in Quail Lake Estates shall not be used by members without authorization of the Trustees. Failure to comply with this Summary Provision may result in legal action by the Trustees against the offending member.

4. Property Rights, Government Affairs. This Declaration is for the purposes originally stated, and shall not be in conflict with certain health and safety codes of government jurisdictions, nor shall property rights be denied that are inherently protected by Constitutional provisions. Neither the Association nor its Trustees shall be construed as a governmental Agency for the purposes of civic activities or political issues.

This Declaration supersedes and makes obsolete all previous Declarations and their amendments, and henceforth shall be the sole Declaration of Conditions, Covenants and Restrictions for Quail Lake Estates.

IN WITNESS WHEREOF the undersigned bear witness as representatives of QUAIL LAKE ESTATES, a Utah General Partnership, that 84 individual votes of approval from eligible voters of Quail Lake Homeowners Association (77% of the membership) is on file in the office of Quail Lake Homeowner Association, authorizing the adoption of this document as the Restated and Amended Declaration of Covenants, Conditions, and Restrictions of Quail Creek Mobile Home and Townhome Estates, which shall henceforth be known as QUAIL LAKE ESTATES, and that said written approval may be examined by any and all interested parties within thirty days of the signing of this document.

QUAIL LAKE ESTATES, A Utah General Partnership

By William Birrell Jr Title Partner Date 8/14/95
By Harold E. Rice Title Partner Date 8/14/95

STATE OF UTAH)

County of UT)

On the 14 day of Aug 1995 personally appeared before me
William Birrell Jr and Harold E. Rice
signers of the within and foregoing instrument, who, being by me duly sworn,
acknowledged to me that they executed the same.

Anette O'Connell
Notary Public, Residing at

My Commission Expires
11-18-98



IN WITNESS WHEREOF, the undersigned bear witness as representatives of QUAIL LAKE HOMEOWNERS ASSOCIATION, a non-profit corporation, that 84 individual votes of approval from eligible voters of Quail Lake Homeowners Association (77% of the membership) is on file in the office of Quail Lake Homeowners Association, authorizing the adoption of this document as the Restated and Amended Declaration of Covenants, Conditions, and Restrictions of Quail Creek Mobile Home and Townhome Estates, which shall henceforth be known as Quail Lake Estates, and that said written approval may be examined by any and all interested parties within thirty days of the signing of this document.

QUAIL LAKE HOMEOWNERS ASSOCIATION,
a Utah non-profit corporation

By Mary B. Hansink Title President Date 8/24/95

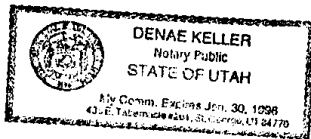
By Daniel J. Ryan Title SECTY/TREAS. Date 8/24/95

STATE OF UTAH)
 :
 WASHINGTON COUNTY)

On this 24 day of August 1995 personally appeared before me
MARY B. Hansink and Daniel J. Ryan

signers of the within and foregoing instrument, who, being by me duly sworn, acknowledge to

me that they executed the same.



Dena Keller
Notary Public, Residing at
St George, Utah

My commission expires 1-30-96