

After recorded mail to:

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JEFFERY SMITH  
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RECORDED FOR CONCORD HEIGHTS HOA

**SECOND AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS FOR  
CONCORD HEIGHTS PLANNED UNIT DEVELOPMENT**

Orem, Utah

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This Amended and Restated Declaration of Concord Heights (“Declaration”) is made on the date executed below by Concord Heights Homeowners’ Association, Inc., a Utah nonprofit corporation, (“Association”).

## RECITALS

A. Concord Heights is a planned unit development located in Orem City, Utah County, Utah;

B. A certain Declaration of Easements, Covenants, Conditions & Restrictions was executed on April 8, 1993 and recorded in the office of the County Recorder of Utah County, State of Utah, as Entry No. 21003 ("Original Declaration");

C. The Original Declaration was amended and restated in its entirety by the Amended and Restated Declaration of Easements, Covenants, Conditions & Restrictions on June 15, 2001, and recorded in the office of the County Recorder of Utah County, State of Utah as Entry No. 58729:2001 ("First Amended Declaration")

D. The following Record of Survey Maps of Concord Heights P.U.D. were recorded in the Utah County Recorder's Office:

1. Phase I as Entry No. 62842, Map #4779 on November 19, 1992;
2. Phase II as Entry No. 32801, Map #5005 on May 25, 1993;

Collectively, the Record of Survey Maps of Concord Heights P.U.D. are hereafter collectively referred to as the "Plat."

E. All Owners, guests, invitees, agents, and residents shall abide by the provisions of this Declaration;

F. These covenants, conditions, restrictions, easements, and limitations shall run with the land described in Exhibit "A" and shall be binding on and burden all parties having or acquiring any right, title, or interest to the land or any part thereof and shall create servient tenements on the land. The covenants, conditions, restrictions, easements, and limitations shall also benefit all parties having or acquiring any right, title, or interest to the land and shall create dominant tenements on the land;

G. The Association may be incorporated as a Utah nonprofit corporation. If incorporated, it shall be entitled to the rights, obligations, and benefits of the Revised Nonprofit Corporation Act (Utah Code Ann. 16-6a-101, *et. seq.*) as amended from time to time.

H. Under the First Amended Declaration Article VII, Section 4 and Utah Code § 57-8a-104, more than 67% of the total votes which members present in person or represented by proxy are entitled to cast at a meeting duly called for such purpose approved this Declaration and the Bylaws;

NOW THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, and for other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, the First Amended Declaration, as amended, is hereby amended and restated in its entirety as follows.

## **1 DEFINITIONS**

Capitalized terms used in the Governing Documents (including recitals) have the following meanings:

### **1.1 Articles**

Articles mean the Articles of Incorporation for Concord Heights Homeowner's Association, as amended from time to time.

### **1.2 Association**

Association means Concord Heights Homeowner's Association. It is intended that the Association be a Utah non-profit corporation. Failure of the Association to maintain its corporate status will not result in dissolution of the Association. The Association may renew its corporate status, reinstate its corporate status, or incorporate without Owner approval. Any actions taken during any period of un-incorporation shall be binding.

### **1.3 Board**

Board means the Board of Directors. The Board governs the Project, business, and affairs of the Association. The Board of Trustees shall now be known as the Board of Directors.

### **1.4 Bylaws**

Bylaws mean the bylaws of the Association, as amended or restated from time to time. The Bylaws are attached to this document as Exhibit "B."

### **1.5 Common Areas**

**1.5.1** Those Common Areas and Facilities specifically set forth and designated as such on the Map;

**1.5.2** The part of the Project not specifically included in a Living Unit;

**1.5.3** Exterior walkways, streets, all open parking spaces, and any other areas shown on the Map as Common Area or open space. The Common Areas may consist of landscaping, irrigation equipment, playground equipment, paving, and other improvements. The Association owns all Common Areas.

### **1.6 Common Expenses**

Common Expenses mean all sums spent to administer, maintain, or replace the Common Areas; expenses agreed upon as common expenses by a majority of an association quorum; expenses authorized by the Governing Documents or the Community Association Act as common expenses; any other expenses necessary for the common benefit of the Owners.

### **1.7 Community Association Act**

Community Association Act shall mean Utah Code §§ 57-8a-1 *et seq.*, as amended or replaced from time to time.

### **1.8 Declaration**

Declaration means this document, as amended, annexed, supplemented, or restated from time to time.

**1.9 Director**

Director means a member of the Board.

**1.10 Governing Documents**

Governing Documents shall mean the Declaration, Bylaws, Articles of Incorporation, Map, and rules and regulations.

**1.11 Limited Common Area**

Limited Common Area means Common Area designated for exclusive use by the Owner of a particular Lot. Limited Common Area may be designated as Limited Common Area or restricted use area of open space on the Map or in this Declaration. Limited Common Areas include the rear yards, driveways, walkways from the driveway to the front porch, or any other Common Area feature designed to be used by one or more Lots but not all Lots.

**1.12 Living Unit**

Living Unit means a structure or portion of a structure which is designed and intended for use and occupancy as a single-family residence, together with all improvements located on the Lot concerned, which are used in conjunction with such residence.

**1.13 Lot**

Lot means a separately numbered parcel of property as shown on the Map. Lots shall include the Living Unit, and all utility lines, and other installations exclusively serving the Lot whether or not under or over the Common Areas.

**1.14 Map**

Map means the Plat for Concord Heights, on file with the Utah County Recorder and any amendments or supplements thereto.

**1.15 Member**

Member means an Owner. If an Owner is not a natural person, the Owner may designate in writing a natural person to act as its representative. If no representative is designated, then an officer, trustee, director, manager, or member as shown in the entity's formative documents shall be its representative.

**1.16 Nonprofit Act**

Nonprofit Act means Utah Code §§ 16-6a-101 *et seq.*, as amended or replaced from time to time.

**1.17 Owner**

Owner means the owner of the fee in a Lot as shown in the real property records of Utah County. If a Lot is subject to an executory purchase contract, the contract purchaser shall be considered the Owner. However, the seller and buyer may otherwise agree, but must inform the Board in writing of the alternative arrangement.

**1.18 Person**

Person means an individual, corporation, partnership, association, trustee, or other legal entity.

**1.19 Project**

Project means Concord Heights P.U.D., as shown on the Map. The project includes the land, buildings, improvements and structures, easements, rights, appurtenances, and articles of



personal property intended for use in connection therewith. Exhibit "A" contains the legal description for the Project.

### **1.20 Resident**

Resident means any Person living or staying at the Project. Residents include without limitation: Owners, family members of Owners, and guests staying more than a week.

## **2 SUBMISSION**

### **2.1 Submission**

The Project is submitted to be bound by the Governing Documents, to provisions of the Community Association Act, and to the Nonprofit Act. All Owners shall take title subject to the Governing Documents, Community Association Act, and Nonprofit Act. All Residents and users of the Project shall be subject to the Governing Documents and Community Association Act.

## **3 PROPERTY RIGHTS IN LOTS**

### **3.1 Use and Occupancy**

Except as otherwise expressly provided in the Governing Documents, the Owner of a Lot shall be entitled to the exclusive use and benefit of such Lot and Living Unit. Each Lot shall be bound by, and the Owner shall comply with, the Governing Documents for the mutual benefit of the Owners.

### **3.2 Easements Reserved**

In addition to the easements shown on the Map or provided for under this Declaration, the Bylaws or law, the following easements are hereby reserved for the benefit of the Owners and the Association:

**3.2.1 Right of Entry.** The Association and any person authorized by the Association may at any reasonable time, and from time to time at reasonable intervals, enter upon any Lot for the purpose of performing maintenance and determining whether or not the Lot is in compliance with the Governing Documents. Requests for entry shall be made in advance. Entry shall be made at a time convenient to the Owner, except in the case of an emergency, when such right shall be immediate. No such entry shall be deemed to constitute a trespass or otherwise create any right of action in the Owner of such Lot. The right of entry granted by this subsection is in addition to the Association's enforcement rights and applies only to Lots upon which the Association has maintenance responsibilities as provided for in the Governing Documents.

**3.2.2 Easement for Encroachment.** If any part of the Common Areas encroaches on a Lot, an easement for the encroachment and for maintenance shall exist. If any part of a Lot encroaches upon the Common Areas, an easement for the encroachment and for maintenance shall exist. Such encroachments will not be considered to be encumbrances to the Common Areas or Lots. Encroachment causes include, without limitation, errors in the original construction; errors in the Map; settling, rising, or shifting of the earth; or

changes in position caused by good faith mistakes in the repair or reconstruction of the Project.

**3.2.3 Utility Easements.** The Association or any public utility provider shall have an easement over all Lots for the installation, maintenance, and development of utilities and drainage facilities. The easement area of each Lot and all Improvements therein shall be maintained continuously by the Owner of the Lot in accordance with the terms of the Governing Documents, except for those improvements for which a public authority or utility provider is responsible.

### **3.3 Easements Shown on the Map**

Lots shall be subject to the easements shown on the Map.

## **4 PROPERTY AND USE RIGHTS IN COMMON AREA**

### **4.1 Member's Right of Enjoyment**

**4.1.1** The Project will have Common Areas as designated in the Map for the benefit of all owners. Every member of the Association shall have a non-exclusive right and easement for the use, benefit and enjoyment in and to the Common Area, but not Limited Common Area, and such nonexclusive right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the restrictions herein set forth.

**4.1.2** Subject to the Governing Documents, each Resident, guest, or invitee has the right to ingress and egress across the Common Areas necessary for access to his Lot. The rights described in this Section are appurtenant to and pass with title to the Lot.

**4.1.3** No portion of the Common Area may be used exclusively by any Owner or Owners for personal gardens, storage facilities, or for any other purpose.

### **4.2 Delegation of Right of Use**

Any member of the Association may delegate its rights to the use and enjoyment of the Common Area to Residents, all subject to such reasonable rules and regulations which the Association may adopt.

### **4.3 Compliance with Covenants and Restrictions and Rules and Regulations**

Each Owner and Resident shall comply with the covenants and restrictions imposed by this Declaration on the use and enjoyment of the Common Area. Further, each Owner and Resident shall fully and faithfully comply with the rules, regulations, and restrictions applicable to use of the Common Area, as such rules, regulations, and restrictions are from time to time adopted by the Association for the safety, care, maintenance, good order, and cleanliness of the Common Area.

## **5 MAINTENANCE**

### **5.1 Association Responsibility**

The Association shall improve, develop, supervise, manage, operate, examine, insure, inspect, care for, repair, replace, restore, and maintain the Common Areas. The Board, after notice and opportunity for hearing, or immediately in the case of an emergency, may assume the maintenance responsibility over a Lot or Living Unit if, in the opinion of the Board, the Owner is unwilling or unable to adequately provide such maintenance. Should the Board exercise its right under this provision, it shall not be liable for trespass or nuisance and shall have the right to levy an Individual Assessment to recover its maintenance costs.

### **5.2 Owner Responsibility**

Unless otherwise assigned to the Association in 5.1, all maintenance, repair, and replacement of the Lots, Living Units, Limited Common Area, and improvements shall be the sole responsibility of the Owner thereof, who shall maintain such Lot and Living Unit in good repair and in accordance with the Governing Documents. Maintenance, repair, and replacement responsibility shall include, by way of illustration only: all interior and structural components; exterior doors, exterior door frames, exterior door casings, exterior door jambs, exterior door hardware, thresholds, and any weatherproofing required for the exterior doors; garage doors, garage door casing and molding, garage door hardware and openers; windows, window frames, window casing, window hardware, any weatherproofing required for the windows; walkways, patios, or any other concrete adjoining the Lot; exterior light fixtures, exterior electrical outlets, light bulbs; HVAC installations; plumbing installations; electrical installations; roofs, and any other component of the Living Unit, Limited Common Area, or Lot not expressly assumed by the Association.

### **5.3 Party Walls**

Each wall used as the dividing line between Living Units is a party wall. Nothing in this section shall alter or limit the general rules of law regarding party walls and liability for damage due to negligence, or willful acts or omissions. The cost of reasonable repair and maintenance of party walls shall be shared by the Owners who use the party wall in proportion to their use. If a party wall is destroyed or damaged by fire or other casualty, and is not a covered loss under insurance, either Owner may restore the wall and the other Owner shall contribute to the cost of restoration in proportion to the damage sustained by the Owner compared to all damage to the party wall. The right of an Owner for contribution from any other Owner for party wall costs shall be appurtenant to and run with the land and shall pass to an Owner's successor in title.

### **5.4 Sprinklers**

The original sprinkler system for the Project (by the builder I. & T Construction) was designed, installed, and set up to water the limited and common areas for each individual lot. The builder did not plan the sprinkler system so that the HOA could be billed for any water usage. The individual Owner is responsible for all water usage, including all grounds watered by the sprinkler system, as billed by The City of Orem. Each lot has a water meter to measure all water metered for the one property. The original design used sprinkler control stations to water more than one individual lot. Typically, one control station will control two or more properties. The Owner is responsible to pay for all water used for their own lot and limited common area (rear yards). The HOA will maintain the sprinkler system throughout the Project. The only responsibility the Owner has regarding the sprinkler system is to alert the HOA Board or Maintenance Committee of any leaking pipes or broken sprinklers. Owners are not to adjust any control station unless

specifically given approval to do so by the Board or Maintenance Committee. The Board will hire an independent contractor to maintain the entire sprinkler system.

## **6 ASSESSMENTS**

### **6.1 Covenant for Assessment**

By accepting a deed or other conveyance, each Owner covenants and agrees to pay the Association all regular assessments, special assessments, supplemental assessments, individual assessments, late penalties, and collection costs (including attorney's fees) whether or not a lawsuit is commenced. No Owner may exempt themselves from liability for assessments by abandonment of their Lot, failure of the Association to maintain the Common Areas, or non-use of the Common Areas. Except for foreclosures, the personal obligation for unpaid assessments, late fees, interest, and collection costs, including attorney's fees, shall pass to the successor in title. A successor in title is entitled to a statement from the Association setting forth the amounts due by the prior owner. The amounts set forth in the statement shall be binding upon the Association. If an Owner loses their Lot to foreclosure or voluntarily conveys it, they shall remain personally liable for unpaid assessments, late fees, interest, and collection costs (including attorney's fees).

### **6.2 Annual Budget**

The Board shall prepare an annual budget for the Association. The annual budget shall provide for: the maintenance, repair, and replacement of the Common Areas; maintenance of other areas required to be maintained by the Association; insurance; all other Common Expenses; and the administration, management, operation, and reserves of the Association. If the Board fails to adopt an annual budget, the last adopted budget shall continue in effect.

### **6.3 Reserve Account**

The Association shall establish a reserve account to fund long-term maintenance and replacement items. The Board shall use reasonable efforts, subject to the Owners rights under the Community Associations Act, to fund the reserve account. The Board shall not be personally liable for failure to fund the reserve account unless gross negligence or intentional misconduct is proven in a court of law.

### **6.4 Regular Assessment**

The Association may collect the regular assessment on an annual basis, semi-annual basis, quarterly basis, or monthly basis. Written notice of the regular assessment amount and payment schedule shall be sent to Owners at least 30 days in advance of the beginning of the fiscal year for which the regular assessment will be due. Apart from the initial notice of regular assessment, the Association is not obligated to send periodic invoices for regular assessments. If the Board fails to adjust a regular assessment, the amount of the last regular assessment and payment schedule will continue in effect, whether or not notice is sent.

### **6.5 Special Assessment**

The Association may levy a special assessment for the purpose of defraying in whole or in part the cost of any construction, reconstruction, maintenance, repair, or replacement of the Common Areas or exteriors of Lots. The Association may levy a special assessment up to 50% of the annual budget without approval from the Owners. If a special assessment exceeds 50% of the annual budget, it must be approved by a majority of an association quorum.

## **6.6 Supplemental Assessment**

If the regular assessments are inadequate to pay the Common Expenses, the Board shall determine the amount of the shortfall. Once the amount of the shortfall is determined, the Board shall adopt a supplemental budget. The Association may levy a supplemental assessment to fund the supplemental budget. The Association may levy a supplemental assessment up to 50% of the original annual budget without approval from the Owners. If a supplemental assessment exceeds 50% of the original annual budget, it must be approved by a majority of an association quorum.

## **6.7 Individual Assessment**

Any expenses attributable to less than all the Lots may be assessed exclusively against the affected Lots. Individual assessments include, without limitation:

- 6.7.1** Assessments levied against a Lot to reimburse the Association for costs incurred in correcting a violation of the Governing Documents;
- 6.7.2** Fines, late fees, interest, collection costs (including attorney's fees);
- 6.7.3** Services provided to a Lot due to an Owner's failure to maintain, for emergency repairs, or to protect the health, safety, and welfare of adjoining Lots and Common Areas;
- 6.7.4** Reinvestment or transfer fees due at the transfer of a Lot; and
- 6.7.5** Any charge described as an individual assessment by the Governing Documents;

## **6.8 Apportionment of Assessments**

Regular, special, and supplemental assessments will be apportioned equally among the Lots. Individual assessments shall be apportioned exclusively to the Lots benefitted or affected.

## **6.9 Nonpayment of Assessment**

Assessments not paid within fifteen (15) days after the due date established by the Board will be late and subject to interest at 18% per annum on any delinquent balance and a late fee in an amount to be determined by the Board. Late fees may only be charged once per missed payment.

## **6.10 Application of Payments**

Payments shall be credited first to collection costs (including attorney's fees), then to interest and late fees, then to the oldest assessments, then the most recent assessments.

## **6.11 Acceleration**

If an Owner fails to pay their assessments for 61 days or more, the Board may elect to accelerate the remainder of the Assessments due that year.

## **6.12 Suspension of Voting Rights**

If an Owner has a delinquent assessment balance, the Association may suspend their right to vote.

## **6.13 Lien for Assessment**

All assessments, late fees, interest, and collection costs (including attorney's fees) not timely paid shall be a charge and continuing lien upon each Lot against which the assessment is made. The Association shall file a notice of lien with the county recorder as evidence of nonpayment.

**6.14 Enforcement of Lien**

Without waiving its right to personally pursue an Owner for unpaid assessments, the Association may foreclose its lien in the same manner as deeds of trust, mortgages, or any other manner permitted by Utah law.

**6.15 Termination of Utilities/Access to Recreational Facilities**

If an Owner fails to pay their assessments, the Association may terminate utility services paid in common and access to recreational facilities. The Board shall establish procedures for terminating utilities and access to recreational facilities, which shall comply with the Community Association Act.

**6.16 Appointment of Trustee**

The Owners hereby convey and warrant pursuant to U.C.A. Sections 57-1-20 and 57-8a402 to a member of the Utah State Bar, with power of sale, the Lot and all improvements to the Lot for the purpose of securing payment of assessments under the terms of the Declaration.

**6.17 Subordination of Lien**

A lien for assessments shall be subordinate to a first Mortgage now or hereafter placed upon a Lot. The sale of a Lot pursuant to foreclosure of a first Mortgage shall extinguish the lien for assessments which became due prior to the foreclosure sale. A foreclosure will not relieve the purchaser's obligation to pay assessments, late fees, and penalties.

**7 RESTRICTIONS ON USE****7.1 Use of Lots - Residential Use**

Each of the Lots in the Project is limited to single family, residential use only. The use is further defined by Orem City zoning code. Each Lot and Owner is subject to the uses and restrictions imposed by such restrictions (including any parking restrictions). Home businesses are allowed (example: phone, computer, and internet type, in-home businesses) only insofar as they do not require street traffic in Concord Heights PUD location. No signs are to be displayed on homeowners' properties advertising any such business.

**7.2 Limitations on Renting or Leasing**

The leasing or renting of Living Units is prohibited.

**7.3 No Obstruction of Common Areas**

There shall be no obstructions of the Common Areas by the Owners, Residents, and their guests or invitees without the prior written consent of the Board. The Board may by Rules and Regulations prohibit or limit the use of the Common Areas as may be reasonably necessary for protecting the interests of all the Owners or protecting the Lots or the Common Areas.

Nothing shall be kept or stored on any part of the Common Areas without the prior written consent of the Board, except as specifically provided herein. Nothing shall be altered on, constructed in, or removed from, the Common Areas except upon the prior written consent of the Board.

#### **7.4 Cancellation of Insurance, Illegal Activity**

Nothing shall be done or kept in any Lot or in the Common Areas or any part thereof which would result in the cancellation of the insurance on the Project or any part thereof or increase of the rate of the insurance on the Project or any part thereof over what the Board, but for such activity, would pay, without the prior written consent of the Board.

Nothing shall be done or kept in any Lot or in the Common Areas or any part thereof which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the Common Areas or any part thereof shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Board and the Owners harmless against all loss resulting from any such damage or waste caused by him or his invitees.

#### **7.5 Nuisances**

No Resident shall create, maintain or permit a nuisance in, on, or about the Project. For purposes of this section, a "nuisance" includes behavior which annoys, disturbs, or interferes with other Residents and interferes with their right to the quiet and peaceful enjoyment of their property. A nuisance includes but is not limited to the following:

**7.5.1** The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about a Lot, Limited Common Area, or the Common Areas;

**7.5.2** The storage of any item, property, or thing that will cause any Lot, Limited Common Area, or the Common Areas to appear to be in an unclean or untidy condition or that will be noxious to the senses.

**7.5.3** The accumulation of rubbish, unsightly debris, garbage, equipment, or other things or materials so as to constitute an eyesore as reasonably determined by the Board or the Association;

**7.5.4** The storage of any substance, thing, or material upon any Lot, Limited Common Area, or in the Common Areas that will emit any foul, unpleasant, or noxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the other residents at the Project;

**7.5.5** The creation or maintenance of any noxious or offensive condition or activity in or about any Lot, Limited Common Area, or the Common Areas;

**7.5.6** Actions or activities tending to cause embarrassment, discomfort, annoyance, distress, or a disturbance to any other residents, their guests, or invitees, particularly if the police or sheriff must be called to restore order;

**7.5.7** Maintaining any plants, animals, devices or items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature that diminishes or destroys the enjoyment of the Community by other residents, their guests or invites;

**7.5.8** Excessive noise in, on, or about any Lot, Limited Common Area, or the Common Areas, especially after 10:00 p.m. and before 7:00 a.m.;

**7.5.9** Excessive traffic in, on, or about any Lot, Limited Common Area, or the Common Areas, especially after 10:00 p.m. and before 7:00 a.m.;

**7.5.10** Allowing a dog to be unleashed while outside of the Living Unit;

**7.5.11** Continuous barking, meowing, or other animal noises;

**7.5.12** Allowing a pet to urinate or defecate in the Limited Common Area, Common Areas, or failing to clean up immediately any feces deposited by a pet in the Limited Common Area or Common Area.

## **7.6 Rules and Regulations**

No Owner or Resident shall violate the Rules and Regulations for the use of the Lots and of the Common Areas as adopted from time to time by the Board. An Owner shall be responsible to advise their guests and invitees about the rules and shall be responsible for their guests' and invitees' compliance with the rules and regulations.

## **7.7 Structural Alterations**

No improvements, alterations, repairs, excavation, or other work which in any way alters the exterior appearance of the Property or the improvements located thereon shall be made without the prior approval of the Board. No alterations to a Living Unit may be performed without the prior approval of the Board and the appropriate governmental entity. No building, fence, wall, or other structure shall be erected, maintained, improved, altered, made or done (including choice of exterior color scheme and building materials) without the prior written approval of the Board.

## **7.8 Window Coverings**

The Board, by rule, may require that certain colors and types of exterior window covering be used.

Under no circumstances shall any cardboard or tinfoil be used as window coverings in the Project. Additionally, with the exception of security system notifications as required by Orem City, no stickers or non-holiday decorations will be permitted in windows, without Board approval.

## **7.9 Signs**

No signs shall be erected or maintained in the Common Areas without the prior written consent of the Board.

## **7.10 Pets**

No animals, livestock, birds, insects, or poultry of any kind shall be raised, bred, or kept on any Lot, except that not more than two domesticated dogs or cats shall be allowed as long as said animals do not unreasonably bother or constitute a nuisance to others and provided such animals are kept in compliance with the rules and regulations of the Association.

If a pet owner violates any of the pet rules and regulations, the Board shall have the express authority to issue citations or levy assessments, and collect these by judgment, lien, or foreclosure. In extreme cases, the Board may require the Owner or Resident to remove their pet from the premises.



### **7.11 Storage and Parking of Vehicles**

The driving, parking, standing, and storing of motor vehicles in, on or about the Project shall be subject to the following:

- 7.11.1** The parking rules and regulations adopted by the Board from time to time.
- 7.11.2** No vehicles of any kind shall be permitted to be parked on any private street or in any common-area parking longer than 72 hours without being moved, except with written prior approval from the Board.
- 7.11.3** No recreational, commercial, or oversized vehicles shall be allowed within the Project unless said vehicle or trailer is kept at all times within the garage and the garage door is closed, or for purposes of loading or unloading passengers or supplies (for a period of time up to 24 hours).
- 7.11.4** No motor vehicle or trailer, including but not limited to any car, automobile, truck, van, or any other transportation device of any kind may be parked or stationed in such a manner so as to block access to any Lot or parking space or to create an obstacle.
- 7.11.5** Residents may only park their motor vehicles within their garages, driveways, or open parking spaces.
- 7.11.6** No resident shall repair or restore any vehicle of any kind in the Common or Limited Common Areas, on a Lot (outside the garage), Limited Common Areas, or the Common Area, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility. No inoperable vehicles are allowed to remain parked in the Project, except inside an Owner's garage.
- 7.11.7** No garage may be altered in such a manner that the number of motor vehicles which may reasonably be parked therein after the alteration is less than the number of motor vehicles that could have been reasonably parked in the garage as originally designed and constructed.
- 7.11.8** Recreational vehicles and accessories (boats, motorhomes, ATVs, recreational trailers, etc.) may be stored in the Project storage area, as space permits, and with the prior approval of the Board. Storage fees will be assessed monthly, as per the schedule approved by the Board. Space may be allocated to non-residents only if space is available, with priority always being given to Owners in the Project. The storage area is not to be used for non-vehicle or non-recreational accessory use.

Vehicles of any kind parked in violation of this Declaration may be impounded or towed without further notice, and at the Owner's sole expense.

### **7.12 Aerials, Antennas, and Satellite Dishes**

Aerials, antennas, and satellite dishes larger than one meter in diameter are prohibited. Aerials, antennas, and satellite dishes may not be installed on Common Areas. One antenna or satellite dish smaller than one meter in diameter may be installed within the Lot. The Association may create policies to create a hierarchy of preferred installation locations to protect the aesthetics of the Project. The hierarchy of preferred installation locations may not interfere with reception.

**7.13 Timeshares**

Timeshares and time-sharing of Living Units within the Project is prohibited, and under no circumstances shall any condominium be owned or used for time sharing, including but not limited to a "Timeshare Interest" as that term is defined in Utah Code Ann. § 57-19-2(17), as amended.

**7.14 Temporary Structures, etc.**

No structure of a temporary character, or trailer, camper, tent, shack, garage, or other outbuilding shall be used on any Lot at any time as a residence either temporarily or permanently, unless first approved in writing by the Board.

**7.15 Repair of Buildings**

No improvement upon any Lot shall be permitted to fall into disrepair, and each such improvement shall be at all times be kept in good condition and repair and adequately painted or otherwise finished.

**7.16 Subdivision of Lots**

No Lot shall be further subdivided or separated into smaller Lots or parcels by any Owner, and no portion less than all of any such Lot, shall be conveyed or transferred by any Owner without the prior written approval of the Board. No Lot may be converted into a condominium or cooperative or other similar type of entity without the prior written approval of the Board. No further covenants, conditions, restrictions, or easements shall be recorded against any Lot without the written consent of the Board being evidenced on the recorded instrument containing such restrictions, and without such approval such restrictions shall be null and void. No applications for rezoning, variances, or use permits shall be filed without the written approval of the Board and then only if such proposed use in compliance with this Declaration.

**7.17 Clothes Drying Facilities**

Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed, or maintained on any Property.

**7.18 Front Porches**

Front porches are required to be maintained in a clean and tidy fashion. Any outdoor furniture kept on the front porch shall be well maintained and in good condition. The Association may require worn furniture or furniture that detracts from the aesthetic of the Project to be removed from the front porch.

Front porches shall not be used for storage. Examples of items prohibited from being kept on front porches include, without limitation, bicycles, toys, barbecues, trash receptacles, ash trays, and anything else which appears unkempt, dirty, or detracts from the appearance of the Project.

**7.19 Off-Road Vehicles**

No off-road motor vehicles, including but not limited to snow mobiles, three wheelers, or four wheelers may be driven on the roads, footpaths, walkways, Limited Common Areas, or Common Areas within the Project.

**7.20 Firearms and Projectile Weapons**

The unlawful discharge of firearms, airsoft guns, BB guns, pellet guns, archery equipment, or any other projectile weapon, however powered, is prohibited.

## **8 MEMBERSHIP AND ASSOCIATION**

### **8.1 Membership**

Every Owner is a Member of the Association. Membership in the Association is mandatory, is appurtenant to the Lot, and shall not be separated from the Lot.

### **8.2 Voting Rights**

Voting is governed by the Bylaws.

### **8.3 Status and Authority of Board**

The Board is the governing body of the Association. It is obligated to manage, operate, and maintain the Project and to enforce the Governing Documents. The Board has exclusive authority to act in the Association's name. Any action taken by the Board on behalf of the Association will be deemed to be done in the Association's name. The rights and powers of the Board are governed by the Bylaws.

### **8.4 Composition and Selection of Board**

The Bylaws govern how the Board is established and selected.

### **8.5 Adoption of Bylaws**

The Association has adopted Bylaws which are being recorded simultaneously with this Declaration.

## **9 COMPLIANCE AND ENFORCEMENT**

### **9.1 Compliance**

Each Owner or Resident of a Lot shall comply with the provisions of the Governing Documents and the rules and regulations adopted pursuant thereto and any applicable statute. Failure to comply therewith shall be grounds for an action or suit maintainable by the Association or an aggrieved Owner.

### **9.2 Remedies**

Violation of any provisions of the Governing Documents, or of any decision of the Association made pursuant to such documents, shall give the Board acting on behalf of the Association, the right, in addition to any other rights set forth in the Governing Documents, or under law, to do, any or all of the following after giving notice and an opportunity to be heard:

**9.2.1** To enter the Lot which, or as to which, such violation exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing, or condition that may exist contrary to the intent and meaning of such provisions, and the Board shall not thereby be deemed guilty of any manner of trespass, provided that judicial proceedings shall be instituted before any items of construction may be altered or demolished. Costs and attorney's fees shall be an Individual Assessment;

**9.2.2** To enjoin, abate, or remedy such thing or condition by appropriate legal proceeding;

**9.2.3** To levy reasonable fines pursuant to a schedule of fines adopted by resolution of the Board;

**9.2.4** To terminate the right to receive utility services paid for out of assessments, if any, or, except for the right to an assigned parking space, to terminate the right of access to and use of recreational and service facilities of the Association, until the correction of the violation has occurred; or

**9.2.5** The right of the Association to suspend the voting rights and the rights to use of the Common Area after notice and a hearing for any period not to exceed sixty (60) days for any infraction of any of the Governing Documents; or

**9.2.6** Bring suit or action against the Owner on behalf of the Association and other Owners to enforce this Declaration, the Bylaws, and any rules or regulations adopted pursuant thereto. Costs and attorney's fees shall be an Individual Assessment.

### **9.3 Action by Owners**

Subject to any limitation imposed under the Governing Documents or Utah law, an aggrieved Owner may bring an action against such other Owner or the Association to recover damages or to enjoin, abate, or remedy such thing or condition by appropriate legal proceedings.

### **9.4 Injunctive Relief**

Nothing in this Section shall prevent an Owner, the Association, or other interested party from resort to a court of competent jurisdiction in those instances where injunctive relief may be appropriate.

### **9.5 Hearing**

The Board shall, by resolution, promulgate procedures for hearings. When a hearing is requested or required, the hearing shall be conducted in accordance with the Board's resolution on hearings.

## **10 INSURANCE**

### **10.1 Types of Insurance Maintained by the Association**

**10.1.1** Property and liability insurance for the attached Living Units and Common Areas as required by Community Association Act Sections 401 through 407, as amended or replaced from time to time;

**10.1.2** Directors and officers for at least \$1,000,000.00; and

**10.1.3** Fidelity bond or dishonest acts insurance for at least the value of the reserves and operating capital of the Association.

The Board may adopt insurance rules and policies to maintain the insurability of the Project, keep the premiums reasonable, and enforce responsibilities of the Owners.

**10.2 Insurance Company**

The Association shall use an insurance company knowledgeable with community association insurance, which is licensed in Utah.

**10.3 Premium as Common Expense**

The premiums for the Association's insurance policies shall be a Common Expense.

**10.4 Insurance by Owner**

Owners shall obtain their own insurance coverage for personal property, contents, and personal liability. Owners shall also obtain their own standard fire insurance for all real property (standard building/dwelling coverage) in sufficient dollar amounts to cover total replacement, if necessary. The Board may request copies of all such policies.

**10.5 Payment of Deductible**

The deductible on a claim made against an Association policy shall be allocated amongst the parties to the loss as described in Community Association Act Section 405(7)-(8), as amended or replaced from time to time.

**10.6 Right to Adjust Claims**

The Association has the right and authority to adjust claims.

**10.7 Damage to the Project/Insurance Proceeds**

If the Project is damaged or destroyed, the Association shall follow Community Association Act Section 407, as amended or replaced from time to time, to determine whether to rebuild and how to use insurance proceeds.

**11 AMENDMENT AND DURATION****11.1 Amendments**

**11.1.1 Approval Required.** Except as otherwise provided in this Declaration, this Declaration may be amended by approval of Owners holding sixty-seven percent (67%) of the voting rights of the Association.

**11.1.2 Execution and Recordation.** An amendment shall not be effective until the amendment is certified by the president and secretary of the Association as being adopted in accordance with this Declaration and acknowledged and recorded in the Utah County Recorder's Office, Utah.

**12 MISCELLANEOUS PROVISIONS****12.1 Professional Management**

The Association may be managed by a professional management company. The Board may select the professional management company using criteria set by the Board and complying with Utah law.

### **12.2 Invalidity; Number; Captions**

The invalidity of any part of this Declaration shall not impair or affect in any manner the validity, enforceability, or effect of the balance of this Declaration. As used herein, the singular shall include the plural and the plural the singular. The masculine and neuter shall each include the masculine, feminine, and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Declaration.

### **12.3 Joint Owners**

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

### **12.4 Lessees and Other Invitees**

Invitees, contractors, family members, and other persons entering the Property under rights derived from an Owner shall comply with all of the provisions of this Declaration, the Bylaws and rules and regulations adopted by the Association restricting or regulating the Owner's use, improvement, or enjoyment of such Owner's Lot and other areas within the Property. The Owner shall be responsible for obtaining such compliance and shall be liable for any failure of compliance by such persons in the same manner and to the same extent as if the failure had been committed by the Owner.

### **12.5 Covenants Run with the Land**

The Declaration contains covenants which run with the land and create equitable servitudes. The Declaration shall be binding upon, and inure to the benefit of, the Association, all parties who hereafter acquire any interest in or occupy a Lot or any part of the Project, their heirs, successors, assigns, grantees, devisees, personal representatives, guests, and invitees. Each Owner or Resident shall comply with the Governing Documents. All interests in the Lots shall be subject to the Governing Documents. Failure to comply shall be grounds for an action for damages or injunctive relief by the Association or an Owner. By acquiring any interest in a Lot, each Owner or Resident agrees to be bound by the Governing Documents.

### **12.6 Waiver, Precedent and Estoppel**

No restriction, condition, obligation, or provision contained in this Declaration or rules and regulations adopted pursuant hereto shall be deemed to have been abrogated or waived by the Association or any Owner by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur and any failure to enforce the same shall not be deemed to constitute precedent or estoppel impairing the right of the Association or Owner as to any similar matter.

### **12.7 Notice of Sale, Mortgage, Rental, or Lease**

Immediately upon the sale or mortgage of any Lot, the Owner shall promptly inform the secretary or manager of the name and address of said grantee, vendee, or mortgagee.

**12.8 Taxes on Lots**

Each Owner will pay all taxes which may be assessed against him or his Lot.

**12.9 Service of Process**

The registered agent of the Association will be the Person named in the corporate records on file with the Utah State Department of Commerce.

If the corporate status of the Association expires, the president shall be the successor agent. The name and address of the president shall be kept with the Association's records at its principal place of business.

**12.10 Conflicts**

If the Declaration conflicts with the Community Association Act, the Community Association Act shall control. If the Declaration conflicts with the Map, the Map shall control. If the Declaration conflicts with the Bylaws, Articles, or rules, the Declaration shall control.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed by its duly authorized representative.

DATED: JUNE 14, 2016

**Concord Heights Homeowner's Association, Inc.**

Ronald G. Wilson

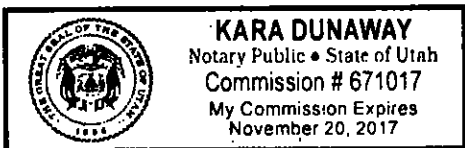
By: RONALD G. WILSON

Its: DIRECTOR

STATE OF UTAH )  
 ) :ss.  
County of UTAH )

On this 14 day of JUNE, 2016, personally appeared before me Ronald G. Wilson who being by me duly sworn, did say that they are the authorized agent of the Declarant authorized to execute this Declaration and did certify that this Declaration was approved by Declarant's members.

Kara Dunaway  
NOTARY PUBLIC





## **Exhibit A**

### **Legal Description**

All Lots shown on the Plat Maps for Phases I and II the Concord Heights P.U.D. containing the following Parcel Numbers:

#### **PHASE I, CONCORD HEIGHTS PUD**

Serial Numbers:

36:433:0001  
36:433:0002  
36:433:0003  
36:433:0004  
36:433:0005  
36:433:0006  
36:433:0007  
36:433:0008

#### **PHASE II, CONCORD HEIGHTS PUD**

Serial Numbers:

36:457:0001  
36:457:0002  
36:457:0003  
36:457:0004  
36:457:0005  
36:457:0006  
36:457:0007  
36:457:0008  
36:457:0009  
36:457:0010  
36:457:0011  
36:457:0012  
36:457:0013  
36:457:0014  
36:457:0015  
36:457:0016  
36:457:0017  
36:457:0018  
36:457:0019  
36:457:0020  
36:457:0021

## Exhibit B

### Bylaws of Concord Heights Homeowner's Association

#### **1 BYLAW APPLICABILITY/DEFINITIONS**

##### **1.1 Definitions**

The capitalized terms used in the Bylaws shall have the same meaning given to them in the Declaration, unless otherwise specifically stated.

##### **1.2 Bylaw Applicability**

The provisions of these Bylaws are binding upon the Association and the Owners. All present and future Owners shall be subject to these Bylaws, as amended from time to time. Acquisition of any Lot constitutes an acknowledgment that the Owner has agreed to and ratified these Bylaws and will comply with them.

#### **2 ASSOCIATION**

##### **2.1 Composition**

All of the Owners acting as a group in accordance with the Governing Documents shall constitute the Association. Except for matters specifically reserved for a vote of the Owners, the Board, on behalf of the Owners, shall administer the Association's affairs.

##### **2.2 Annual Meeting**

Annual meetings shall be held once a year. The Board shall determine the date, time, and place of the annual meeting. The Association shall send notice of annual meetings at least 10 days but not more than 60 days in advance of the meeting. At the annual meeting the Association shall conduct the following business in any order the Board sees fit:

- 2.2.1** Roll call and verification of quorum;
- 2.2.2** Approval of minutes from preceding annual meeting;
- 2.2.3** Reports of officers;
- 2.2.4** Special committee reports;
- 2.2.5** Election of Directors;
- 2.2.6** Review of reserve analysis, vote on funding reserves;
- 2.2.7** Unfinished business from preceding annual meeting; and
- 2.2.8** New business.

### **2.3 Special Meeting**

Special meetings may be held at any time for any purpose. A special meeting may be called by a majority of the Directors or upon petition of at least 20% of the Owners in good standing. The Association shall schedule and send notice of a special meeting within 30 days of request. The notice of a special meeting shall state the date, time, place, and purpose of the meeting. The Association shall send notice of a special meeting at least 10 days in advance of the meeting. No business may be transacted at a special meeting except as stated in the notice.

### **2.4 Place of Meeting**

Meetings shall be held at a place designated by the Board and stated in the notice of meeting. Meetings shall be held in Utah County.

### **2.5 Conduct of Meeting**

The President shall preside over all meetings of the Association. The Secretary shall keep the minutes of the meeting and take record of all resolutions adopted at the meeting.

### **2.6 Association Quorum**

An association quorum shall be formed by 67% or more of vote-eligible Owners (sec 2.7.1) present in person or by proxy at a meeting.

### **2.7 Voting**

The Association shall have one voting class.

**2.7.1 Class A.** Class A Members shall be all Owners. Class A Members shall be entitled to one vote for each Lot in which the interest required for membership in the Association is held. In no event, however, shall more than one Class A vote exist with respect to any Lot.

If a Lot is owned by more than one Person and multiple Owners are present at a meeting, the vote appertaining to that Lot shall be cast by agreement of a majority of the lot's Owners. If a Lot is owned by more than one Person and a single Owner is present at a meeting, the vote appertaining to that Lot shall be cast by the Owner present. The Association may conclusively presume the consent of all a Lot's Owners when a vote is cast by a Lot with multiple Owners.

Except where a greater number is required by the Governing Documents or the Nonprofit Act and elections of Directors, any decision requiring Owner consent shall be passed by majority vote of an association quorum.

### **2.8 Good Standing**

An Owner shall be in good standing if he has paid assessments levied against his Lot, including late fees, interest, fines, collection costs, and attorney fees. An Owner must have paid in full at least three days prior to the meeting or action.

### **2.9 Proxies**

An Owner in good standing may vote or otherwise act by proxy. An Owner may appoint a proxy by signing a proxy appointment form. The proxy appointment form may be submitted to the

Association in person, by mail, or electronically. The proxy appointment form must name a proxy, be dated, and signed by the Owner. Any proxy appointment form that does not contain a proxy's name, date, or signature shall be void. A proxy appointment form is valid until revoked by the Owner's attendance at a meeting, a signed and dated revocation delivered to the Association, a subsequent proxy appointment, notice of death or incapacity of the Owner, or the passage of 11 months.

#### **2.10 Mail-in Ballots**

Any action requiring a vote of the Owners, except election of Directors, may be taken by mail-in ballots. Action by mail-in ballot shall comply with the procedures set forth in Nonprofit Act Section 16-6a-709, as amended from time to time. A combination of mail-in ballots, ballots collected electronically, and ballots cast in person may be used.

#### **2.11 Written Consent in Lieu of Vote**

Any action requiring a vote of the Owners, except election of Directors, may be taken by written consent. Action by written consent shall comply with the procedures set forth in Nonprofit Act Section 16-6a-707, as amended from time to time. Written consents may be collected electronically.

#### **2.12 Record Date**

The record date for determining which people are entitled to vote shall be the date notice of the meeting or action is sent. The Board may change the record date prior to sending notice of the action. The Owners shown on the records of the Association on the record date shall be the people entitled to vote on an action.

### **3 BOARD OF DIRECTORS**

#### **3.1 Number and Qualification of Directors**

There shall be four or more Directors, the required number to be determined by the Board. Directors must be Members in good standing.

#### **3.2 Selection and Term of Directors**

Directors shall serve for a term of two years and shall serve until their successors have been elected. There is no limit on the number of terms or consecutive terms an Owner may serve as a Director. Directors' terms shall be staggered as follows: (i) two or more Directors shall be elected in years ending with an even number; and (ii) two or more Directors shall be elected in years ending with an odd number.

#### **3.3 Vacancies**

Director vacancies, for any reason other than removal by vote of the Association, shall be filled by vote of a majority of the remaining Directors. The Board shall conduct a special meeting for the purpose of filling the vacancy. The meeting shall be valid even if a quorum is not present. Each replacement Director shall serve until the next annual Owners' meeting, then the vacancy shall be filled by vote of the Owners. The replacement Director elected by the Owners shall serve the remaining term of the replaced Director.

### **3.4 Removal of Directors**

A Director may be removed with or without cause by vote of a majority of an association quorum of Owners. If the Owners propose to remove a Director, the Association shall give the Director and Owners at least 15-day written notice of the meeting and the purpose of the meeting. The Director shall be given an opportunity to be heard at the meeting prior to the vote to remove him. At any meeting where a Director is removed by the Owners, the Owners must vote to replace the Director. The replacement will serve the remaining term of the removed Director.

Any Director who allows his assessments to become more than 90 days past due may be removed and replaced by vote of a majority of the Board. The Board shall give the Director 10day written notice to cure the default prior to voting to remove the Director.

### **3.5 Organization Meeting**

The Directors shall hold a meeting following the annual owners meeting for the purpose of electing officers. Notice of the organization meeting shall be given verbally at the annual meeting. The organization meeting shall be conducted at the next regular meeting of the Board or may be conducted at a special meeting.

### **3.6 Regular Meetings**

The Board shall hold regular meetings. The Board shall determine frequency, times, and locations of regular meetings. However, the Board shall conduct at least two regular meetings per year. Notice of regular meetings shall be given to each Director at least three days prior to the meeting.

### **3.7 Special Meetings**

A Director may call a special meeting of the Board. Notice shall be given at least three days prior to the meeting. Notice shall state the time, place, and purpose of the meeting.

### **3.8 Conduct of Meetings**

The President shall preside over all meetings of the Board. The Secretary shall take minutes of the Board meetings and shall make record of all resolutions.

### **3.9 Board Quorum**

A majority of the Board shall constitute a board quorum. A board quorum shall be required to conduct business at a meeting. If less than a quorum is present at a meeting, the majority of those present may adjourn the meeting until such time as a quorum is present. Once established, a quorum will be present even if Directors leave. Directors may attend a meeting telephonically or electronically.

### **3.10 Notice and Waiver of Meeting Notice**

Notice to Directors may be personally delivered, mailed, or delivered by any available electronic mean, including, without limitation: text, email, fax, or posting on the website. Directors may waive notice of meetings in writing. A waiver shall be deemed equivalent to notice. Attendance of a Director at a meeting will be considered a waiver of notice, unless the Director attends to dispute notice. If all Directors are present at a meeting, notice of the meeting is waived and any business may be conducted.

### **3.11 Action without Meeting**

Any action by the Board may be taken without a meeting if all the Directors submit a written vote either for, against, or abstaining from the action. Written votes may be given in person, by mail, or electronically. The Association shall file the written votes with its record of minutes.

### **3.12 Powers and Duties**

The Board shall manage the affairs and business of the Association. The Board is vested with all power and authority necessary to administer the affairs of the Association in accordance with the Governing Documents. The Board may do any act required or allowed by the Governing Documents, the Community Association Act, the Nonprofit Act, or any other rule of law.

Subject to the limitations contained in the Declaration, Bylaws, or Community Association Act, the Board shall have the following authority:

- 3.12.1.** Prepare an annual budget and establish what constitutes a Common Expense;
- 3.12.2** Adopt and amend rules, regulations, policies, and procedures governing the Common Areas, and administration of the Association, and to enforce and interpret the Governing Documents;
- 3.12.3** Delegate authority to a managing agent to act on behalf of the Association;
- 3.12.4** Provide for the maintenance, repair, and replacement of the Common Areas and exterior of Living Units;
- 3.12.5** Hire, contract for, and terminate personnel or contractors necessary for the maintenance repair and replacement of the Common Areas, exterior of Living Units, and administration of Association business. Provide for the compensation of personnel. Purchase supplies, equipment, and materials for use in the Association;
- 3.12.6** Open and maintain bank accounts on behalf of the Association. Designate authorized signers for the bank accounts;
- 3.12.7** File lawsuits or initiate other legal proceedings on behalf of the Association;
- 3.12.8** Defend lawsuits, administrative actions, and other legal proceedings against the Association;
- 3.12.9** Pay costs of any services rendered to the Project or multiple Owners, but not billed to the Owners individually;
- 3.12.10** Keep books with detailed accounts of the receipts and expenditures of the Association. Make the books available to the Owners as required by the Community Association Act and Nonprofit Act. The books shall be kept in accordance with generally accepted accounting practices. Upon resolution by the Board, retain an independent auditor to audit the books;
- 3.12.11** Grant easements, licenses, or permission over, under, and through the Common Areas;

**3.12.12** Upon approval by 67% of the ownership interest in the Common Areas, to convey Common Areas;

**3.12.13** Create committees;

**3.12.14** Take any other action allowed or required by the Governing Documents, the Community Association Act, or the Nonprofit Act;

**3.12.15** Any act allowed or required to be done in the name of the Association.

### **3.13 Manager**

The Board may employ a manager to perform such duties and services as the Board shall authorize. The Board may delegate to the manager all powers granted to the Board and officers by the Governing Documents. However, the manager must obtain the Board's written consent to exercise the powers listed in Bylaw Sections 3.12.2, 3.12.6, 3.12.7, 3.12.8, 3.12.11, 3.12.12.

### **3.14 Limitation of Liability**

The Directors shall not be liable to the Owners for any mistake of judgment, negligence, or other errors, unless it was by willful misconduct or criminal conduct. The Association shall indemnify and hold the Directors harmless against liability to third parties for actions taken on behalf of the Association, while acting in their capacity as Director, unless the action constitutes willful misconduct or criminal conduct.

## **4 OFFICERS**

### **4.1 Election and Term of Officers**

The Board shall elect the officers of the Association. Officers shall be elected from the Directors. Officers shall serve one-year terms and shall serve until their successor is elected.

### **4.2 Removal of Officers**

The Board may remove any officer with or without cause by affirmative vote of a majority of a quorum of the Board. If an officer is removed, the Board shall replace them.

### **4.3 Offices**

The Association officers shall be president, vice president, secretary, and treasurer. The Board may appoint assistant officers, who need not be Directors, as it may deem necessary. Except for the president, the same person may hold two offices.

#### **4.3.1 President**

The president shall be the chief executive officer. He shall preside at meetings of the Association and the Board. He shall be an unofficial member of all committees. He shall have general and active management of Association business. He shall see that all resolutions and policies of the Association are executed.

#### **4.3.2 Vice President**

The vice president shall perform the duties and exercise the powers of the president in the absence or disability of the president. If the president and vice president are unable to act, the Board shall appoint a Director to fulfill the duties on an interim basis.

#### **4.3.3 Secretary**

The secretary shall attend all meetings and take minutes thereof. He shall also make record of all resolutions, rule, policies, and procedures. He shall give or cause to be given notice of all meetings. He shall compile or cause to be compiled a complete list of the owners and their contact information.

#### **4.3.4 Treasurer**

The treasurer shall oversee the finances of the Association. He shall be responsible to ensure that the Association has full and accurate records of income and expenses. He shall give financial reports at regular Board meetings and the annual Owners' meeting.

### **4.4 Delegation of Duties**

The Association officers may delegate any of their duties to a manager or to committee. However, the officers shall be responsible to oversee and ensure that the duties so delegated are being properly discharged.

### **4.5 Compensation**

Officers shall not be compensated for their work. However, officers may seek reimbursement for actual costs and mileage incurred during their service.

## **5 NOTICE**

### **5.1 Manner of Notice**

All notices and other communications required under the Governing Documents shall be in writing.

#### **5.1.1 Notices to Owners may be delivered using the following methods:**

**5.1.1.1** By professional courier service or First-class U.S. mail, postage prepaid, to the address of the Lot or to any other address designated by the Owner in writing to the Association;

**5.1.1.2** By hand to the address of the Lot or to any other address designated by the Owner in writing to the Association;

**5.1.1.3** By posting on the Association website; or

**5.1.1.4** By facsimile, electronic mail, or any other electronic means to an Owner's number or address as designated by the Owner in writing to the Association.

#### **5.1.2 Notice to the Association may be delivered using the following methods:**



**5.1.2.1** By professional courier service or First-class U.S. mail, postage prepaid, to the principal office of the Association as designated in writing to the Owners; or

**5.1.2.2** By facsimile, electronic mail, or any other electronic means to the Association's official electronic contact as designated in writing to the Owners.

**5.1.2.3** Notices sent via courier or mail shall be deemed received 3 days after being sent. Notices hand delivered or sent via electronic means shall be deemed received upon delivery or being sent.

## **5.2 Waiver of Notice**

Whenever any notice is required under the Governing Documents, the Community Association Act, or the Nonprofit Act, an owner may waive notice in writing. The waiver may be signed before or after the time for notice. A waiver of notice shall be equivalent to notice.

## **6 FINANCES**

### **6.1 Fiscal Year**

The fiscal year of the Association shall be the calendar year.

### **6.2 Checks, Agreements, Contracts**

All checks, contracts, deeds, leases, and other instruments used for expenditures or obligations may be executed by any person authorized by the Board.

### **6.3 Availability of Records**

Association financial records shall be available as provided by the Community Association Act and Nonprofit Act.

## **7 AMENDMENT TO BYLAWS**

### **7.1 Amendments**

These Bylaws may be amended by the Board, unless it would result in changing the rights, privileges, preferences, restrictions, or conditions of a membership class as to voting, dissolution, redemption, or transfer by changing the rights, privileges, preferences, restrictions, or conditions of another class. These Bylaws may also be amended by a majority vote of an association quorum.

### **7.2 Recording**

Any amendment to these Bylaws shall become effective on the date it is recorded in the Utah County Recorder's Office.

## **8 MISCELLANEOUS**

### **8.1 Office**

The principal office of the Association shall be located at any place within the State of Utah which may be designated from time to time by the Board.

### **8.2 Conflicts**

The Bylaws are subordinate to any conflicting provisions in the Community Association Act, the Nonprofit Act, the Articles, the Map, or the Declaration. The Bylaws are superior to the rules, regulations, and policies of the Association.

### **8.3 Severability**

If any provision of these Bylaws is held by a court of law to be invalid, the validity of the remainder of these Bylaws shall not be affected.

### **8.4 Waiver**

No provision of these Bylaws shall be deemed to be waived because of a failure to enforce the provision.

### **8.5 Captions**

The captions contained in these Bylaws are for convenience only. The captions shall not be used to interpret, limit, or enlarge the provisions of these Bylaws.

### **8.6 Gender, etc.**

Whenever the context so requires, the singular shall include the plural and vice versa. The use of any gender shall include all genders.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed by its duly authorized representative.

DATED: \_\_\_\_\_

**Concord Heights Homeowner's Association, Inc.**

*Ronald G. Wilson*

By: RONALD G. WILSON

Its: DIRECTOR

STATE OF UTAH )  
 ) :ss.  
County of UTAH )

On this 14 day of JUNE, 2016, personally appeared before me  
RONALD G. WILSON who being by me duly sworn, did say that they  
are the authorized agent of the Declarant authorized to execute this Declaration and did certify  
that this Declaration was approved by Declarant's members.

*Kara Dunaway*  
NOTARY PUBLIC

