

**AMENDED AND RESTATED COLOR COUNTRY RETREAT
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**

A Declaration of Covenants, Conditions, and Restrictions dated June 1, 1980 was recorded against the Property in Book 0-34 at Page 135-142, Official Kane County Records. "Property" means the real property which is more particularly described as follows:

Plats A, B, C, D, E, F, G, H, and I of the Color Country Retreat Subdivision as recorded in The County Recorder's Office, Kane County, Utah.

The Declaration of Covenants, Conditions, and Restrictions referred to above was subsequently amended and restated and recorded against the Property in Book 0-66 at Pages 486-494 and again in Book 0-167 at Pages 238-246, Official Kane County Records (as amended, the "Existing CC&Rs").

The Existing CC&Rs provide for amendment and/or modification by a vote of the owners of record of at least 55% of the total Lots on the Property.

At least 55% of the owners of record of the total Lots on the Property have voted to amend the Existing CC&Rs as set forth below.

PURPOSE AND INTENT

The Owners desire and intend to protect the value and desirability of the Property as a harmonious and attractive mixed-use residential and commercial community, with commercial use limited to the Lots set forth below. Owners will convey all Lots subject to the following covenants, conditions, and restrictions, which, along with the Articles and Bylaws, provide for a governance structure and a system of standards and procedures for development, maintenance, and preservation of the Property.

Each Lot shall be held, sold, conveyed and occupied subject to the following covenants, conditions, restrictions, easements, assessments, charges and liens, and to the Plats previously recorded against the Property. This Declaration and the Plats shall be construed as covenants of equitable servitude; shall run with the land and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns; and shall inure to the benefit of each Owner thereof.

**ARTICLE 1
DEFINITIONS AND CONCEPTS**

The following definitions shall control this Declaration:

1.1. "Articles" means and refers to the Articles of Incorporation of Duck Creek Ridge Owners' Association.

1.2. “**Association**” means Duck Creek Ridge Owners’ Association its successors and assigns.

1.3. “**Bylaws**” means and refers to the Association’s bylaws.

1.4. “**Common Area**” means all real property (including the improvements thereto and facilities thereon) owned or hereafter acquired by the Association for the common use and enjoyment of the Owners and includes that portion of Property owned by the Association, shown on the Plats as Common Area, if any. Common Area is dedicated to the common use and enjoyment of the Owners, and is not dedicated for the use of the general public, except as specifically determined by the Directors. Specifically exempted from Common Area are Lots and dedicated public streets, if any that are identified on the Plats. Common Area shall also include all land in which the Association has an easement right.

1.5. “**Declaration**” means this instrument and any amendments, restatements, supplements, or annexations thereto, which are recorded in the office of the Kane County Recorder.

1.6. “**Directors**”, “**Board of Directors**”, or “**Board**” means the governing body of the Association.

1.7. “**Governing Documents**” is a collective term that means and refers to this Declaration, the Articles, the Bylaws, and the Rules and Regulations.

1.8. “**Lot**” means a separately numbered and individually described plot of land shown on the Plats designated as a Lot for private ownership, but specifically excludes the Common Area.

1.9. “**Mortgage**” includes “deed of trust” and **mortgagee** includes “trust deed beneficiary.

1.10. “**Owner**” means the entity, person, or group of persons owning fee simple title to any Lot. Regardless of the number of parties participating in ownership of each Lot, the group of those parties shall be treated as one “Owner”. The term “Owner” includes contract purchasers but does not include persons who hold an interest merely as security of the performance of an obligation unless and until title is acquired by foreclosure or similar proceedings. The rights of Owners are appurtenant to ownership of Lots. Rights of Owners may not be transferred or conveyed to anyone who is not and Owner.

1.11. “**Plats**” or “**Maps**” means the subdivision Plats recorded against the Property or any permitted replacements thereof, or additions thereto.

1.12. “**Rules**” or “**Regulations**” means and refers to any rules or regulations created by the Board of Directors, pursuant to its authority under the Articles and Bylaws, to govern the Association.

ARTICLE 2
RESPONSIBILITY OF OWNERS UPON DELEGATION OF USE

2.1. Delegation of Use. An Owner or one having a right of use of facilities is deemed to delegate any right of enjoyment to the Common Area and facilities to family Owners, tenants, or contract purchasers who reside on the Property. Damage caused to the Common Area and facilities, including personal property owned by the Association, by an Owner, or by a person who has been delegated the right to use and enjoy such Common Area and facilities by the Owner, shall create a debt to the Association. Debts owed to the Association as a result of damage to the Common Area and facilities shall be an assessment charged to the Owner.

ARTICLE 3
OWNERSHIP AND VOTING RIGHTS

3.1. Ownership and Voting Rights. Ownership in the Association automatically transfers upon transfer of title by the record Owner to another person or entity. Owners in good standing are entitled to one vote for each Lot owned. Votes for a Lot owned by more than one party shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. A vote cast at any Association meeting by any of such co-Owners, whether in person or by proxy, is conclusively presumed to be the vote attributable to the Lot concerned unless written objection is made prior to that meeting, or verbal objection is made at that meeting, by another co-Owner of the same Lot. In the event an objection is made, the vote involved shall not be counted for any purpose except to determine whether a quorum exists.

ARTICLE 4
FINANCES AND OPERATIONS

4.1. Authority to Assess Owners. The Association is hereby authorized to levy assessments as provided for in this Article and elsewhere in the Governing Documents.

4.2. Creation of Lien and Personal Obligation of Assessments. Each current Owner of any Lot and each future Owner of any Lot, whether by acceptance of a deed or otherwise, whether or not it shall be so expressed in any such deed or other conveyance, covenants and agrees to pay to the Association all assessments authorized in the Governing Documents, including but not limited to: (1) annual assessments or charges; (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided; (3) emergency assessments; (4) any other amount or assessment levied or charged by the Board of Directors pursuant to this Declaration; and (5) interest, costs of collection and reasonable attorney fees, as hereinafter provided.

All amounts are a charge on the Lot and shall be a continuing lien upon the Lot against which each such assessment or amount is charged. Assessments and other amounts shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment became due. No Owner may exempt himself from liability for assessments by non-

use of Common Area, abandonment of the Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making or repairs or improvements, or from any other action it takes.

4.3. Purpose of Assessments. The assessments levied by the Association shall be used (a) for the purpose of promoting the recreation, health, safety, and welfare of the residents of the Property; and (b) for the improvement and maintenance of any property, services, and facilities devoted to this purpose. The assessments must provide for, but are not limited to, the payment of taxes on Association property and insurance maintained by the Association; the payment of the cost of repairing, replacing, maintaining and constructing or acquiring additions to the Common Area; the payment of administrative expenses of the Association; the payment of insurance deductible amounts; the establishment of a reserve account for repair, maintenance and replacement of Common area, if any, which must be replaced on a periodic basis; the payment of any professional services deemed necessary and desirable by the Board; and other amounts required by this Declaration or that the Directors shall determine to be necessary to meet the primary purposes of the Association. The assessments may provide, at the discretion of the Directors, for the payment of other charges including (without limitation) maintenance, management, utility, trash collection, sewer and water charges.

4.4. Annual Assessment. The annual assessment need not increase annually. The Board shall set the actual annual assessment on an annual basis. Notice shall be given to each owner as provided below.

4.5. Special Assessments for Capital Improvements. In addition to the annual assessments, the Board may levy in any assessment year a special assessment, applicable to that year only. Special assessments may only be levied to defray, in whole or in part, the cost of any construction, reconstruction, repair or replacement of Common Area structures, fixtures and personal property related thereto.

4.6. Additional Assessments. In addition to the annual assessments and special assessments for capital improvements authorized herein, the Association shall levy such additional assessments as may be necessary from time to time for the purpose of repairing and restoring the damage or disruption resulting to streets of other Common Areas from the activities of Kane County (the "County") or other utility provider in maintaining, repairing or replacing the utility lines and facilities thereon. It is acknowledged that the ownership of said utility lines, underground or otherwise, is in the County of other utility provider up to and including the meters for individual units, and that they are installed and shall be maintained to County or utility provider specifications. The Association may also levy such additional assessments as may be necessary from time to time for the payment of any professional services deemed necessary and desirable by the Board.



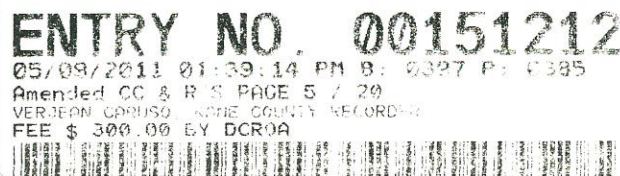
4.7. Emergency Assessments. Notwithstanding anything contained in this Declaration, the Board, without approval of the Owners, may levy emergency assessments, increase annual assessments, or levy special assessments in response to an emergency situation. Prior to the Imposition or collection of any assessment due to an emergency situation, the Board shall pass a resolution containing the written findings as to the necessity of such expenditure and why the expenditure was not or could not have been reasonably foreseen or accurately predicted in the budgeting process and the resolution shall be distributed to the Owners with the notice of the assessment. If such expenditure was created by an unbudgeted utility maintenance or similar expense or increase, the assessment created thereby shall be discontinued by the Board by a similar resolution, if such expense is subsequently reduced, or to the extent the next succeeding annual budget incorporates said increase into the annual assessment. An emergency situation is one in which the Board finds:

- (a) An expenditure, in its discretion, required by an order of a court, or to settle litigation;
- (b) An expenditure necessary to repair or maintain the Property or any part of it for which the Association is responsible where a threat to personal safety on the Property is discovered; or
- (c) An expenditure necessary to repair, maintain, or cover actual Association expenses for the Property or any part of it that could not have been reasonably foreseen by the Board in preparing and distributing the pro forma operating budget (for example: increases in utility rates, landscape or maintenance contract services, attorney fees incurred in the defense of litigation, etc.).

4.8. Single Lot Assessment. The Association may also levy a special assessment against any Owner and/or Lot to reimburse the Association for costs incurred in bringing an Owner and/or Lot into compliance with the provisions of the Governing Documents. A Single Lot Assessment may be levied upon the vote of the Board after notice to the Owner and the opportunity to be heard.

4.9. Notice and Quorum for Any Action Authorized Under Sections 4.4. and 4.5. Written notice of any meeting of Owners called for the purpose of taking any action authorized under Sections 4.4 and 4.5 shall be sent to all Owners at least thirty (30) days in advance of the meeting. For the annual assessment under section 4.4. the quorum shall be 51% of those attending the annual meeting. Special assessments for capital improvements, under section 4.5. must have the assent of sixty-seven percent (67%) of the votes of the owners authorized to vote, in person or by proxy, at a meeting duly called for this purpose. If the quorum requirement is not met at such a meeting, another meeting may be called, on at least thirty (30) days advance written notice, and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

4.10. Uniform Rate of Assessment; Periodic Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots; provided, however, the assessment for commercial Lots may be altered if the Association's burden of providing services is greater for a commercial Lot or Lots than the burden for residential Lots.



4.11. Date of Commencement of Annual Assessment; Payment; Due Dates.

(a) At least thirty (30) days prior to the commencement of each new assessment period, the Directors shall send or cause to be sent a written notice of the annual assessment to each Owner subject thereto. This notice shall not be a pre-requisite to validity of the assessment. Failure of the Board to fix assessment amounts or rates or to deliver or mail to each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

(b) The assessment due dates shall be established by the Directors. The Directors may provide for the payment of annual, special, and/or additional assessments in equal installments throughout the assessment year on a monthly or quarterly basis.

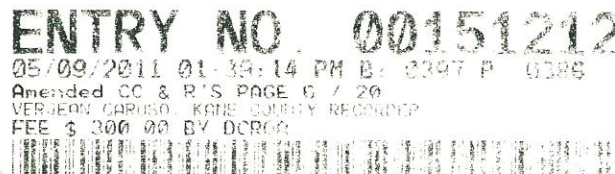
(1) The Board may require advance payment of assessments at closing of the transfer of title to a Lot.

(2) The Directors shall prepare a roster of Owners and the applicable assessments at the same time that it fixes the amount of the annual assessment, which roster shall be kept by the Treasurer of the Association, who shall record payments of assessments and allow inspection of the roster by any Owner at reasonable times.

(3) 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 specific Lot has been paid. Such certificates, when properly issued, shall be conclusive evidence of the payment of any assessment or fractional part thereof which is therein shown to have been paid.

4.12. Effect of Non-Payment of Assessment – Remedies of the Association. Any assessment or installment thereof not paid within thirty (30) days after the due date therefor shall be delinquent and shall bear interest from the due date at the rate of eighteen percent (18%) per annum (or such lesser rate as the Directors shall determine appropriate) until paid. In addition, the Directors may assess a late fee for each delinquent installment which shall not exceed ten percent (10%) of the installment.

(a) The Directors may, in the name of the Association, (a) bring an action at law against the Owner personally obligated to pay any such delinquent assessment without waiving the lien of assessment, or (b) may foreclose the lien against the Lot in accordance with the laws of the State of Utah applicable to the exercise of powers of sale in deeds of trust or to the foreclosure of mortgages, or in any other manner permitted by law, and/or (c) may restrict, limit, or totally terminate any or all services performed by the Association on behalf of the delinquent Owner or any and all rights such Owner has to the use and enjoyment of the Common Area and facilities.



(b) There shall be added to the amount of any delinquent assessment the costs and expenses of any action, sale or foreclosure, and reasonable attorney fees, together with an account for the reasonable rental for the Lot from time to time of commencement of the foreclosure. The Association shall be entitled to the appointment of a receiver to collect the rental income or the reasonable rental without regard to the value of the other security.

(c) A power of sale is hereby conferred upon the Association which it may exercise. Under the power of sale the Lot of an Owner may be sold in the manner provided by Utah law pertaining to deeds of trust as if said Association were beneficiary under a deed of trust. The Association may designate any person or entity qualified by law to serve as trustee for purposes of power of sale foreclosure.

4.13. Exempt Property. The following property subject to this Declaration is exempt from the assessments created herein:

- (a) All property dedicated to and accepted by any local public authority; and
- (b) All Common Areas.

4.14. Subordination of Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage held by an institutional lender if the mortgage was recorded prior to the date the assessment became due. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure of a first mortgage or any proceeding in lieu thereof, shall extinguish the assessment lien as to payment which became due prior to such sale or transfer. No sale or transfer, however, shall relieve a Lot or Owner from personal liability for assessments coming due after he takes title or from the lien or such later assessments.

4.15. Books, Records, and Audit. The Association shall maintain current copies of the Declaration, Articles, Bylaws, Rules and other similar documents, as well as its own books, records and financial statements which shall all be available for inspection by Owners and insurers as well as by holders, insurers and guarantors of first mortgages during normal business hours upon reasonable notice. Charges shall be made for copying, researching or extracting from such documents. An Owner or holder, insurer or guarantor of a first mortgage may obtain an audit of Association records at its own expense so long as the results of the audit are provided to the Association.

ARTICLE 5 INSURANCE

5.1. Casualty Insurance on Insurable Common Area. The Directors shall keep all insurable improvements and fixtures of the Common area insured against loss or damage by fire for the full insurance replacement cost thereof, and may obtain insurance against such other hazards and casualties as the Association may deem desirable. The Association may also insure any other property whether real or personal, owned by the Association, against loss or damage by fire and such other hazards as the Association may deem desirable, with the Association as

the Owner and beneficiary of such insurance. The insurance coverage with respect to the Common Area shall be written in the name of, and the proceeds thereof shall be payable to, the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried. Premiums for all insurance carried by the Association are common expenses which shall be included in the regular annual assessments made by the Association.

OWNERS AND THE DECLARANT SHALL MAINTAIN AT THEIR OWN EXPENSE
HAZARD (FIRE) AND LIABILITY INSURANCE ON THEIR RESPECTIVE LOTS AND
CONTENTS.

The Association policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements herein. In the event of an insured loss, the deductible shall be treated as a common expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and opportunity to be heard, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner and the Owner's Lot.

5.2. Replacement or Repair of Property. In the event of damage to or destruction of any part of the Common Area improvements, the Association shall repair or replace the same from the insurance proceeds available. If such insurance proceeds are insufficient to cover the costs of repair or replacement of the property damaged or destroyed, the Association may make a reconstruction assessment against all Owners to cover the additional cost of repair or replacement not covered by the insurance proceeds, in addition to any other common assessments made against such Owner.

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 Directors are empowered to and shall represent the Owners in any proceedings, negotiations, settlements or agreements. The Association is appointed attorney-in-fact of each Owner for this purpose.

5.3. Liability Insurance. The Directors shall obtain a comprehensive policy of public liability insurance covering all of the Common Areas for at least \$1,000,000.00 per occurrence for personal or bodily injury and property damage that results from the operation, maintenance or use of the Common Areas. Liability insurance policies obtained by the Association 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 of other Owners.

5.4. Fidelity Insurance. The Directors may elect to obtain fidelity coverage against dishonest acts on the part of managers, Directors, officers, employees, volunteers, management agents or others responsible for handling funds held and collected for the benefit of the Owners or Owners. In procuring fidelity insurance the Directors shall seek a policy which shall (1) name the Association as obligee or beneficiary, (2) be written in an amount not less than the sum of (i) three-months' operating expenses and (ii) the maximum reserves of the Association which may

be on deposit at any time, and (3) contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee".

5.5. Annual Review of Policies. The Directors shall review all insurance policies at least annually in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacements of the property which may be damaged or destroyed.

ARTICLE 6

ARCHITECTURAL REVIEW COMMITTEE

6.1. ARCHITECTURAL REVIEW COMMITTEE.

(a) Members of an Architectural Review Committee shall be selected and appointed each year at the Association's annual meeting by a vote of the record owners of the Lots, with each lot having one vote. Selection of such members shall be by vote cast either in person at the meeting, or received by mail prior to the meeting. The Architectural Review Committee will consist of three (3) representatives. The Architectural Review Committee shall be vested with the powers described herein and shall have jurisdiction over all of the Property. The Architectural Review Committee will make decisions by a majority vote.

(b) The Architectural Review Committee shall adopt reasonable rules and regulations for the conduct of its proceedings and to carry out its duties and may fix the time and place for its regular meetings and such extraordinary meetings as may be necessary, and shall keep written minutes of its meetings, which shall be open for inspection upon request. The Architectural Review Committee shall, by majority vote, elect one of its members as chairman and one of its members as secretary and the duties of each will be such as usually appertain to such offices. Notice of meetings shall be given to Owners who have made application to the Architectural Review Committee for approval of plans. Meetings may be held telephonically as long as all materials reviewed are available to all members of the Architectural Review Committee and any Owner entitled to participate.

(c) Unless authorized by resolution of the Board, the members of the Architectural Review Committee shall not receive any compensation for services rendered. Members shall be entitled to reimbursement for reasonable expenses incurred by them in connection with the performance of any Committee function or duty. Professional consultants retained by the Architectural Review Committee shall be paid such compensation as the Architectural Review Committee determines.

6.2. SUBMISSION AND APPROVAL. Prior to the commencement of any excavation, construction or remodeling of any structure or of any addition to any structure, or modification of the natural topography of any Lot, or installation of fences or landscaping elements, approval of the Architectural Review Committee is required.

(a) Two (2) complete sets of building plans and specifications shall be sent to the Architectural Review Committee by mail to Duck Creek Ridge Owners' Association, P.O. Box 1021, Duck Creek Village, UT 84762 or such other address as the Architectural Review

Committee may reasonably require, together with a site or plot plan showing grading, landscaping and all lighting, indicating the exact part of the building site which the improvements will cover, which such a fee as the Architectural Review Committee may determine from time to time, and an application and such supporting material, such as samples of building materials, as the Architectural Review Committee deems necessary. No work of improvement of any kind, including, without limitation, any alteration to any work of improvement, shall commence unless and until the Architectural Review Committee shall endorse on one set of such plans its written approval that such plans are in compliance with the covenants herein set forth and with the standards herein or hereafter established by said Architectural Review Committee pursuant hereto. The second set of such plans shall be filed as a permanent record with the Architectural Review Committee.

(b) The Architectural Review Committee shall have the right to refuse to approve any such plans and specifications and shall have the right, in so doing, to take into consideration the suitability of the proposed building, the materials of which it is to be built, the site upon which it is proposed to be erected, the harmony thereof with the surroundings, and the effect of the building, or other planned structure, on the outlook from adjacent or neighboring property, the grading plan, location of the structure on the Lot, the finished ground elevation, the color scheme, finish, design, proportions, architecture, shape, height and style of the proposed structure or altered structures, the materials used therein, the kind, pitch or type of roof proposed to be placed thereon, or because of reasonable dissatisfaction with any or all other matters or things which, in the reasonable judgment of the Committee, will render the proposed structure inharmonious or out of keeping with the general plan or intent of this Declaration as supplemented by the Bylaws. All plans submitted to the Architectural Review Committee are assumed to meet all applicable county codes of construction. Failure to meet building codes voids Architectural Review Committee approval.

(c) The Architectural Review Committee shall promulgate and maintain a list of standards for guidance in approving or disapproving plans and specifications pursuant to this Article.

(d) If the Architectural Review Committee fails to approve or disapprove in writing any such plans within sixty (60) days after the submission thereof to the Architectural Review Committee, then approval shall be deemed to have been given.

(e) The Architectural Review Committee shall not be held liable for damages by reason of any action, inaction, approval, or disapproval by it with respect to any request made pursuant to this Article. Any errors or omissions in the design of any building, other improvement or landscaping and any violation of any governmental ordinance are the sole responsibility of the Owner and the Owner's designer, architect, or contractor. The Architectural Review Committee's review of plans shall in no way be concerned with structural or mechanical integrity or soundness.

(f) The approval of the Architectural Review Committee of any plans and specifications for any work done or proposed shall not constitute a waiver of any right of the



Architectural Review Committee to disapprove any similar plans and specifications subsequently submitted.

(g) Architectural Review Committee approval in no way alleviates the need for independent county approval, appropriate building permit(s), approval(s), and compliance with all otherwise applicable state, county and local building codes, ordinances, etc.

ARTICLE 7 **MAINTENANCE**

7.1. Maintenance by Owner. Each Owner shall be responsible for maintenance to all improvements constructed on the Owner's Lot. The Directors may, however, in the default of the Owner to perform maintenance which is the Owner's responsibility, and in the Directors' reasonable discretion, and after ten (10) days written notice (which notice shall not be required in the event of emergency or threat to life, health, property or safety), provide maintenance to the improvements on any Lot. The cost of such maintenance shall be assessed against the Owner and the Lot as a Single Lot Assessment. Notwithstanding the foregoing, the Directors shall not be required to perform any maintenance on any improvement on any Lot.

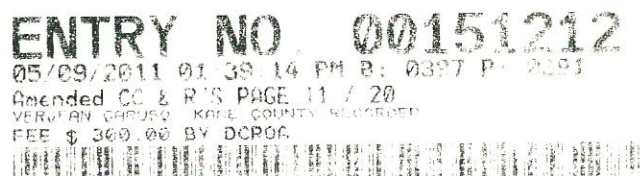
7.2. Access at Reasonable Hours. For the sole purpose of performing the maintenance required by the Article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot at reasonable hours.

ARTICLE 8 **USE RESTRICTIONS AND REQUIREMENTS**

8.1. General Use Restrictions. Except as set forth below, all of the Lots which are subject to this Declaration are hereby restricted to residential dwellings, and buildings in connection therewith, including but not limited to community buildings on the common Property. All buildings or structures erected on the Property shall be of new construction and no buildings or structures shall be removed from other locations to the Property. After the initial construction on a Lot, no subsequent building or structure dissimilar to that initially constructed shall be built on that Lot. No building or structure of a temporary character, trailer, basement, tent, camper, recreational vehicle, shack, garage, barn or other outbuilding shall be placed or used on any Lot at any time.

8.2. Quiet Enjoyment. No noxious or offensive activity shall be carried on upon any part of the Property not shall anything be done thereon which may be or may become an annoyance or nuisance to the Owners, or which shall in any way interfere with the quiet enjoyment of each of the Owners or which shall in any way increase the rate of insurance.

8.3. Hazardous Activities and Substances. No Owner shall engage in or permit any of said Owner's guests, visitors, tenants, or invitees to engage in any activity that will cause an increase in insurance premiums for insurance coverage on the Property now shall any Owner or any Owner's guests, visitors, tenants, or invitees engage in any activity that will cause or permit any hazardous substance or material to be stored, used or disposed of on or within the Properties.



8.4. Use of Common Area. Except for the rights of ingress and egress, Owners are prohibited from using any Common Area or facilities other than as permitted in this Declaration or as may be allowed by the Directors. For this purpose, the Directors are authorized to establish rules and regulations to govern the use of the Common Area and facilities. It is expressly acknowledged and agreed that this restriction is for the mutual benefit of all Owners and is necessary for the protection of the interests of the Owners in and to the Common Area.

8.5. Garbage Removal. All rubbish, trash and garbage shall be regularly removed from the Lots and shall not be allowed to accumulate thereon. Garbage shall be placed in proper containers. The Owner of each Lot shall keep his/her Lot free and clear of all rubbish and do all other things necessary or desirable to keep the premises neat and in good order, and it is hereby agreed that in the event of the default in the performance of this covenant, the Directors shall have the right to enter upon the Lot and remove all rubbish and do all other things necessary to place the Lot in a neat and orderly condition in accordance with this covenant, and the expense thereof shall be come due and payable from such owner to the Association within five (5) days after written demand thereof. Every effort must be made to ensure fire safety, and the provisions of this Article must be read as seeking a balance between the rural wooded nature of the general plan described by this Declaration and fire protection. Association members are free to consult with the Cedar Mountain Fire Protection District for advice. Owners are expected to remove dead trees; treat or remove beetle infested trees, spray as required for beetles; and to remove mistletoe infected trees.

8.6. Pest Control. No Owner or Unit occupant shall permit any thing or condition to exist upon the Lot or Unit which would induce, breed, or harbor infectious plant diseases or noxious insects. In addition to such pest control services as may be provided by the Association, each Owner shall perform such pest control activities on his Lot and in his Unit as may be necessary to prevent insects, rodents, and other pests from being present on his Lot and in his Unit.

8.7. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or the Property. No derrick, lift, shaft or other structure designed for use in boring for oil or natural gas or for taking water or other hydrocarbon substances, minerals or ores of any kind shall be erected, maintained or permitted upon the Property. Notwithstanding the foregoing, one Lot has been designated for water storage.

8.8. Interior Utilities. All utilities, fixtures and equipment installed within a Lot, commencing at a point where the utility lines, pipes, wires, conduits or systems enter boundaries or a Lot, shall be maintained and kept in repair by the Owner thereof. An Owner shall do no act nor any work that will impair any easement or hereditament nor do any act nor allow any condition to exist which will adversely affect the other Lots or Owners.

8.9. Violation Constitutes a Nuisance. Any act or omission whereby any restriction, condition or covenant as set forth in this Declaration if violated in whole or in part is declared to be and shall constitute a nuisance, and may be abated by Declarant or affected property Owners

ENTRY NO. 00151212
05/09/2011 01:39:14 PM D: 0597 P: 0097
Amended CC & R'S PAGE 12 / 20
VERJEAN CARUSO - KANE COUNTY RECORDER
FEE \$ 300.00 BY DCR09

and such remedy shall be deemed to be cumulative and not exclusive. Regardless of whether an activity violates any other part of this Declaration, no noxious or offensive activity, or use of firearms for any purpose shall be carried on out upon the Property or any part thereof, nor shall anything be done or maintained thereon which may be or become an annoyance or nuisance to the neighborhood.

8.10. Animals. No horses, cattle, cows, sheep, rabbits, pigs or other animals, fowls or poultry shall be kept, raised or permitted on the Property, except that domestic cats, dogs and birds may be kept as household pets, provided that they are not kept, bred or raised thereon for commercial purposes or in unreasonable quantities. Horses may be ridden on the Property, but not stabled.

ARTICLE 9
DESIGN RESTRICTIONS AND REQUIREMENTS

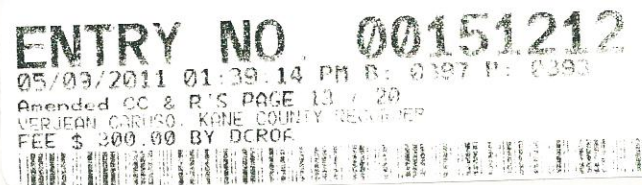
9.1. In order to promote a harmonious community development and protect the character of the Property, the following guidelines, together with any guidelines hereafter established by the Architectural Review Committee, are applicable to the Property:

(a) Purpose and Intent. The intent of these Architectural Guidelines is to encourage a blending of styles within the Property with the natural surroundings and prevailing architecture of the created environment of the Property. These standards allow design latitude and flexibility, while ensuring that the value of the Property will be enhanced through the control of site planning, architecture and landscape elements. The Architectural Guidelines serve as an evaluative aid to owners, builders, project developments, design professionals, City/County staff, the Planning Commission, City/County Council and the Architectural Review Committee in the design review of individual, private and public developments within the Property. The Kane County Zoning Regulations will apply for any area of design not addressed in these guidelines.

(b) Reflective Exterior Surfaces of Materials. No reflective exterior surfaces or materials shall be used. Sheet metal, flashing, vents and pipes must be colored or painted to match the material to which they are attached or from which they project.

(c) Temporary or Other Structures. No structure of a temporary nature, including trailers, recreational vehicles, buses, basements, outhouses, tents, shacks, garages, or other buildings shall be used at any time as a home either temporarily or permanently, nor shall any such structures be erected or placed on the Property at any time except that such shelters may be used for a period not to exceed ninety (90) days while constructing a permanent residence. Recreational vehicles, trailers or tents may be used for the purpose of temporary camping by guests of Association homeowners for up to two weeks time. No old or second-hand structures shall be moved onto any Lot.

(d) External Illumination. Light used to illuminate garages, patios, parking areas or for any other purposes, shall be so arranged as to reflect light away from adjacent Lots and away from the vision of passing motorists. Low level outdoor illumination may be used for particular landscape features (trees, rock formations, etc.).



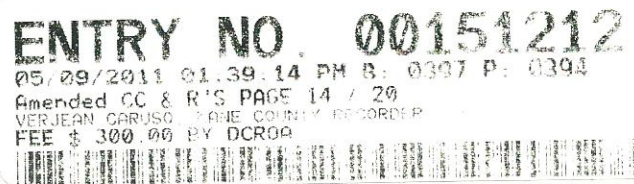
(e) Slope and Drainage Control. No structure, planting or other material shall be placed or permitted to remain or other activities undertaken which may damage or interfere with natural or established slope ratios, create erosion or sliding problems, or which may change the direction of flow of drainage channels. The slope control areas of each Lot and all improvements in them shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible. Owners are responsible to see that no nuisance or damage is created by drainage location or flow to any adjacent property. Notwithstanding the foregoing, Owners are not responsible to alter existing drainage flows.

(f) Lateral and Subjacent Support and Drainage. An owner's activities which affect the lateral or subjacent support, or both, of adjacent landowners shall be responsible for damages proximately caused by such activities. Owners shall be responsible for all damage proximately caused by drainage from their lot(s) to adjacent landowners.

(g) Single Family Dwellings. No building, structure or improvement shall be constructed, erected, altered, placed or permitted to remain on any Lot other than one single family dwelling with a living area of not less than 1000 square feet, exclusive of carports, garages and covered porches and designed for occupation by not more than one family together with appurtenant outbuildings provided however, that if and while two or more Lots having a combined area equal to or greater than the original area of either of the Lots which are contiguous are held in the same ownership and only one main residence is located on the combined area, the other Lots or Lots or portions thereof may be used for private outbuildings and grounds appurtenant to the main residence. No shed, tent, garage, trailer or other outbuilding shall at any time be used as a residence upon any part of said property.

(h) Exceptions to Single Family Restriction. Plat F, a 20 acre, 38 lot parcel, is in general exception to same sections as they relate to single family dwelling lot noted immediately above. Lots 143 through 145 and 112 through 129 of Plat F along with Lots 67, 68 and 91 of Plat E have been approved by Kane County for commercial development and may be used for commercial purposes. The remaining lots of Plat F may be used for multiplex units upon approval from the Kane County Planning Board and Commission. All proposals for building on these Lots must be submitted to the Architectural Review Committee for evaluation with approval being determined on the same criteria of location, quality, design, etc., as previously outlined for individual dwellings. Prior to final approval of any plans or the erection of any structure on any commercial lot on Plat F or Lots 67, 68, or 91 of Plat E, written approval must be received by the owner for the type of commercial use proposed as well as the general location and character of the structure to be built from the Kane County Planning Board and the Kane County Commission. Such approval is required in order to assure the appropriateness and quality of the commercial development permitted in this area.

(i) Conformity of Outbuilding and Garages. Outbuildings or garages erected and maintained upon any lot or building site shall conform generally in architectural design and exterior material to the finish of the dwelling house to which they are appurtenant, and may be, but need not be, attached to the dwelling. An attached garage, a detached garage, or other



auxiliary buildings or structures, not maintained or used for human habitation, shall be located to provide a minimum 7 ½ foot clearance from the side property line of each lot to eaves or other projections.

(j) Mobile and Manufacture Homes Prohibited. No mobile homes or manufactured homes will be allowed on the Property. No old or second hand structures shall be moved onto any of Lot, it being the intention hereof that all dwellings to be erected on the Lots shall be new construction of good quality workmanship and materials.

(k) Signage. No person shall erect or maintain upon any part of the Property or any Lot, other than those designated as commercial, any sign, advertisement, billboard, or other advertising structure of any kind without prior approval of the Architectural Review Committee, with the exception of standard real estate signs.

(l) No Obstruction from Fences, Walls and Hedges. No fence, wall or hedge shall be planted, erected, located or maintained upon any lot in such location or at such height as to unreasonably obstructs the view from any other Lot.

(m) Setbacks. No building, or any part thereof, shall be placed, erected or maintained on any Lot within fifteen (15) feet of the front property line. A side yard shall be maintained on each Lot of at least ten (10) feet in depth from all side property lines to the building line of any structure, with a minimum clearance of 7 ½ feet from eaves or other projections to the side property line. A rear yard shall be maintained on each lot of at least twenty (20) feet from the property line to the nearest structural projection. Notwithstanding anything to the contrary herein contained, no building, of any part thereof, shall be placed, erected or maintained any closer to the front, rear or side property line than as shown on the Maps. If due to the shape or topography of a Lot, the owner of the Lot desires to install a building, structure or improvement so close to any boundary line of the Lot that it would violate the set-back provisions, the Owner may present a plat of the proposed location thereof and the full plans and specifications therefore to the Architectural Review Committee together with a contour map as may be required by the Architectural Review Committee. If the Architectural Review Committee determines, in its discretion, that the desired location is of prime importance to the convenient and beneficial use of the Lot, and that, in the light of other circumstances, including the proposed plan, the building, structure or improvement's location will not be unduly detrimental to the Property in general or to adjoining Lots in particular, and if the Architectural Review Committee approves the proposed location and the plans and specifications therefore in writing, then the erection and maintenance of the building, structure or improvement on the approved location and in accordance with the approved plans and specifications may be affected notwithstanding the limitations expressed above. Provided, further, that approval by the Architectural Review Committee shall not relieve the owner from obtaining appropriate consent, approval and/or variance, when necessary from appropriate local governmental entities, including but not limited to Kane County.

(n) Natural Growth and Setting. All structures shall be constructed in such a manner as to protect the natural growth and setting insofar as possible; the natural growth and

other conditions of each lot such as trees, shrubs, streams and natural setting, shall be preserved and remain as nearly as possible in the natural state.

(o) Maintenance of Trees. Each Owner shall do whatever is reasonable for the maintenance, care, growth and development of trees on his or her Lot and will, for such purpose, expend the funds and engage expert personnel as may be reasonably necessary to maintain and care for such trees adequately. The removal or thinning of trees for the purpose of fire control is considered reasonable maintenance.

(p) Removal of Trees. Regardless of whether a tree is living or dead, each Owner shall pay the cost and expense for the removal of any tree or trees, and indemnify and hold the Association harmless therefore.

(q) Self-Draining Water Faucet. On each lot, the lot owner shall install (not less than twenty-five (25) feet from the family dwelling), a self-draining water faucet attached to the water line feeding the dwelling from the main system.

(r) Sewage Disposal System. Until a sanitary sewer system has been constructed to serve the Lots, a sewage disposal system constructed in accordance with the requirements of the Utah State Department of Health shall be installed to serve each dwelling. The effluent from septic tanks shall not be permitted to discharge into streams, storm sewers, open ditch or drain unless it has first passed through an absorption field approved by the County Health Authority.

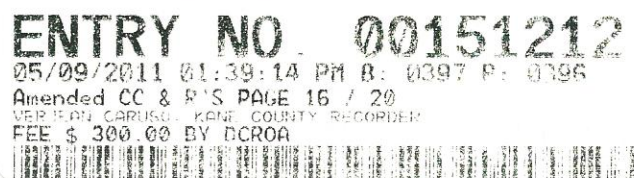
9.2. Construction and Contractor Provisions. In order to promote a harmonious community development and protect the character of the Property, the following guidelines shall be applicable to the Property:

(a) Completion of Construction. The construction of any building on any portion of the Property shall be continuously and diligently pursued from and after the commencement of such construction, and in any event shall be substantially completed within twelve (12) months after such commencement.

(b) Building Materials Storage. No Lot, part or portion of the Property shall be used or maintained as a storage for building materials except during a construction phase. Once a home is occupied or made available for sale all building materials shall be removed or stored inside such home, out of public sight.

(c) Damages. Any damage inflicted on existing improvements such as curbs, gutters, streets, concrete sidewalks and such, by the owner and/or their agents of any particular Lot in the subdivision must be repaired within thirty (30) days after such damage is discovered, and the expense of such repair shall be borne by the purchaser of Owner.

(d) Maintenance of Lot during Construction. Contractors or subcontractors as owner/builder must provide on-site dumpsters during construction and are required to clean up the site daily to maintain a clean work site during construction. Dirt or mud from the



construction site of elsewhere, dispersed, directly or indirectly, on the public streets within the Property must be cleaned up within twenty-four (24) hours by the contractor or subcontractor as owner/builder. The Architectural Review Committee may levy up to a Five Hundred Dollar (\$500) fine against a violator of this subsection and/or the owner of the Lot for each day of a continuing violation. The fine shall be a charge on the land and shall be a continuing lien on the Lot.

ARTICLE 10 **EASEMENTS**

10.1. Utilities. There is hereby created a blanket easement upon, across, over and under all of the Property for public utility purposes. By virtue of this easement, it shall be expressly permissible for all public utilities serving the Property to lay, construct, renew, operate and maintain conduits, cables, pipes, mains, ducts, wires and other necessary equipment on the Property, provided that all such services shall be placed underground, except that said public utilities may affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under roofs and exterior walls. Notwithstanding anything to the contrary contained in the Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Property in such a way as to unreasonably encroach upon or limit the use of the Common Areas or any structure thereon. In the initial exercise of easement rights under this Section, a utility shall make reasonable efforts to occupy and use the same physical location or lane as other utilities. After a utility service has initially exercised its easement rights under this Section, the utility shall make reasonable efforts to occupy and use the same physical location as its prior installations. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Declarant or the Association shall have the right to grant such easement on said Property without conflicting with the terms hereof.

10.2. Police, Fire and Ambulance Service. An easement is hereby granted to all police, fire protection, ambulance services and all similar persons to enter upon the streets and Common Areas in the performance of their duties.

10.3. 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 in or to cross over the Common Areas and any Lot to perform the duties of maintenance and repair.

10.4. Owners' Easements of Enjoyment. Every Owner has a right and easement of use and enjoyment in and to the Common Areas. This easement is appurtenant to and passes with the title to every Lot, subject to:

- (a) The right of the Association to charge reasonable admission, use, service and other fees for the use of any service of the Association or provided upon the Common Areas.
- (b) The right of the Association to limit the number of guests of Owners using the Common Area.



(c) The right of the Association to suspend the voting rights and/or common utility service of an Owner for any period during which any assessment or portion thereof against the Owner's Lot remains unpaid; and for a period of not to exceed sixty (60) days for any infraction of its published rules and regulations.

(d) The right of the Association to enter into agreements or leases which provide for use of the Common Areas and facilities by a similar Association in consideration for use of the Common Areas and facilities of the other Association, or for cash consideration;

(e) The right of the Association, with the approval of sixty-seven percent (67%) of the Entire Ownership, to sell, exchange, hypothecate, alienate, mortgage, encumber, dedicate, release of transfer all or part of the Common Area to any private individual, corporate entity, public agency, authority, or utility.

(f) The right of the Association to grant easements for public utilities or other public purposes consistent with the intended use of the Common Area by the Association.

(g) The right of the Association to take such steps as are reasonably necessary or desirable to protect the Common Area against foreclosure.

(h) The terms and conditions of this Declaration.

(i) The right of the Association, through its Directors, to adopt rules and regulations concerning use of the Common Areas.

10.5. Easements of Record. The easements provided for in this Article shall in no way affect any other recorded easement.

ARTICLE 11 **AMENDMENT**

This Declaration may be amended or cancelled by an instrument signed by not less than fifty-five percent (55%) of the Owners of the total Lots. Or, if such action is properly noticed and on the agenda of the annual meeting, such amendment or cancellation may be passed by unanimous vote of members present at the annual meeting. Any amendment must be properly recorded in the records of Kane County, Utah, to become effective.

ARTICLE 12 **GENERAL PROVISIONS**

12.1. Enforcement. The Association or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, or any rule of the Association, including but not limited to any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants.

Failure of the Association or of any Owner to enforce any covenant or restriction herein contained or any rule of the Association shall in no event be deemed a waiver of the right of the Association or any Owner to do so thereafter. If action, with or without suit, is undertaken to enforce any provision hereof or any rule of the Association, the party against whom enforcement is sought shall pay to the Association or enforcing Owner the reasonable attorney fees incurred with respect to such enforcement. The Directors may levy a fine or penalty not to exceed ten percent (10%) of the amount of the maximum annual assessment against any Owner who fails to refrain from violation of these covenants or a rule of the Association, provided the Directors have given the owner three (3) days written notice and an opportunity for a hearing. An Owner who cures his violation within the three (3) days of receiving notice may not be levied against. All such fines will constitute a Single Lot Assessment on the Owner's Lot. In any legal or equitable proceeding for the enforcement or to restrain the violation of any provision of this Declaration, the prevailing party shall be entitled to recover such reasonable attorney fees as the court shall award from the unsuccessful party or parties. The remedies contained and set forth in this Declaration shall be cumulative and not exclusive.

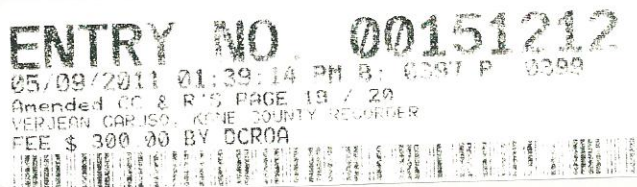
12.2. Severability. All of the conditions, covenants, and restrictions contained in this Declaration shall be construed together, but if any one of said conditions, covenants, or restrictions, or any part thereof, shall at any time be held invalid, or for any reason become unenforceable, no other condition, covenant, or restriction, or any part thereof, shall be thereby affected or impaired; and the Declarant, Association and Owners, their successors, heirs and assigns shall be bound by each article, section, subsection, paragraph, sentence, clause and phrase of the Declaration, irrespective of the invalidity or unenforceability of any other article, section, subsection, paragraph, sentence, clause or phrase.

12.3. Duration. The covenants, conditions, and restrictions of this Declaration shall run with and bind the Property and each Lot, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years.

12.4. Interpretive Conflicts. In the event of any conflict between the provisions of this Declaration, the Articles, and/or the Bylaws, the provisions of this Declaration shall control.

12.5. Notices. Any notice required to be sent under the provisions of this Declaration shall be deemed to have been properly sent when deposited in the U.S. Mail, postpaid, to the last known address of the person who is entitled to receive it.

12.6. 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.



12.7. 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.

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

IN WITNESS WHEREOF, the undersigned, representing at least 55% of the Owners, have hereunto set their hand as of the respective dates set forth below.

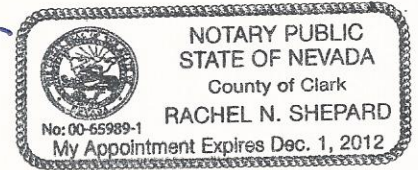
DUCK CREEK RIDGE OWNERS' ASSOCIATION

By: Michael Voegelé
Print Name: M Voegelé
Its President

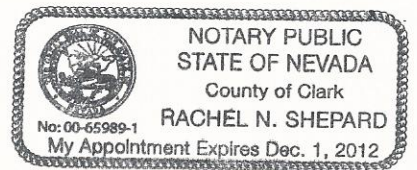
STATE OF Nevada)
COUNTY OF Clark) :SS.

The foregoing instrument was acknowledged before me on the 20th day of April in the year of 2011 by Michael Voegelé President

By: Donna Lee Mooers
Print Name: Donna-Lee Mooers
Its Secretary



The foregoing instrument was acknowledged before me on the 20th day of April in the year of 2011 by Donna L. Mooers Secretary



ENTRY NO. 00151212
05/09/2011 01:29:14 PM B: 0397 P: 0400
Amended CC & P'S PAGE 20 / 20
VERIFIED CAPUSO, CLARK COUNTY RECORDS
FEE \$ 300.00 BY DCRGA