

Amended Restrictive Covenants Page 1 of 27
 Gary Christensen Washington County Recorder
 04/08/2022 03:58:31 PM Fee \$40.00 By BARNEY
 MCKENNA & OLMSTEAD, P.C.

WHEN RECORDED RETURN TO:

Sierra Bella Home Owners Association
 c/o Maysie Palmer, President
 1116 Bonneville Drive
 Salt Lake City, Utah 84108

**THIRD AMENDED AND RESTATED
 DECLARATION OF RESTRICTIVE COVENANTS AND
 CONDITIONS OF SIERRA BELLA SUBDIVISION**

THIS THIRD AMENDED AND RESTATED DECLARATION OF RESTRICTIVE COVENANTS AND CONDITIONS OF SIERRA BELLA SUBDIVISION (the “**Declaration**” or “**Third Amended and Restated Declaration**”) has been approved by Owners holding more than ninety (90%) of the voting rights of the Sierra Bella Home Owner’s Association (the “**Association**”), and is hereby made effective this 17th day of March, 2022, by certification of the President and the Secretary of the Association.

RECITALS

A. WHEREAS, Sierra Bella Development Group, LLC, a Utah limited liability company (hereinafter “**SB Development Group**”) was the owner and developer of the following described property, hereinafter referred to as the “**Property**”, located in Washington County, State of Utah. To-wit:

SEE LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT “A”
 AND INCORPORATED HEREIN BY REFERENCE

B. WHEREAS, SB Development Group as the original Declarant recorded a document titled DECLARATION OF RESTRICTIVE COVENANTS AND CONDITIONS OF SIERRA BELLA AT EQUESTRIAN PARK ESTATES SUBDIVISION dated June 6, 2008, and recorded in the official records of Washington County Recorder on June 6, 2008, as Document No. 20080023019 (hereinafter referred to as the “**Original Declaration**”), wherein the Declarant referenced the Sierra Bella at Equestrian Park Estates Subdivision.

C. WHEREAS, SB Development Group as the original Declarant recorded a document titled NOTICE OF PROTEST AND APPEAL dated June 3, 2008, and recorded in the official records of Washington County Recorder on June 6, 2008, as Document No. 20080023020 (the “**Protest**”), wherein SB Development Group protested the height restrictions imposed by the Town of Virgin on certain Lots within the Sierra Bella Subdivision.

D. WHEREAS, SB Development Group as the original Declarant recorded a document titled DECLARATION OF RESTRICTIVE COVENANTS AND CONDITIONS OF SIERRA BELLA SUBDIVISION dated September 18, 2008, and recorded in the official records of Washington County Recorder on September 18, 2008, as Document No. 20080036723 (the “**Corrected Declaration**”), wherein Declarant correctly referred to the Sierra Bella Subdivision.

E. WHEREAS, SB Development Group as the original Declarant caused the Property to be subject to certain easements, covenants, conditions, restrictions and charges as set forth in the DECLARATION OF RESTRICTIVE COVENANTS AND CONDITIONS OF SIERRA BELLA SUBDIVISION dated September 22, 2009, and recorded in the official records of Washington County Recorder on September 23, 2009, as Document No. 20090036760 (hereinafter referred to as the "Amended Declaration").

F. WHEREAS, SB Development Group as the original Declarant, determined that it was necessary to amend and restate the Amended Declaration, and thereafter SB Development Group unilaterally amended and restated the Amended Declaration as set forth in the AMENDED AND RESTATED DECLARATION OF RESTRICTIVE COVENANTS AND CONDITIONS OF SIERRA BELLA SUBDIVISION dated October 1, 2009, and recorded in the official records of Washington County Recorder on October 16, 2009, as Document No. 20090039969 (hereinafter referred to as "First Amended and Restated Declaration").

G. WHEREAS, prior to September 17, 2013, Odie Acquisition, LLC, a Utah limited liability company (hereinafter referred to as "Odie"), acquired all of the rights, title and interest in the Property from SB Development Group, including all of the rights, interests, and powers of Declarant.

H. WHEREAS, Odie became the successor Declarant and was entitled to all of the rights, interests and powers of Declarant, as set forth in the First Amended and Restated Declaration.

I. WHEREAS, Odie, as successor Declarant, determined that it was necessary to amend and restate the First Amended and Restated Declaration, and therefore Odie unilaterally amended and restated the First Amended and Restated Declaration as set forth in the SECOND AMENDED AND RESTATED DECLARATION OF RESTRICTIVE COVENANTS AND CONDITIONS OF SIERRA BELLA SUBDIVISION dated September 17, 2013, and recorded in the Official Records of Washington County Recorder on September 17, 2013, as Document No. 20130035248 (hereinafter referred to as "Second Amended and Restated Declaration").

J. WHEREAS, effective as of September 20, 2013, Odie assigned, transferred, conveyed and sold to Desert Pearl Inn, LLC, a Utah limited liability company fee title to the following lots: Lots 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, and 22 of Sierra Bella Subdivision, Phase 1 Amended & Extended, according to the Official Plat thereof, on file in the Office of the Recorder of Washington County, State of Utah; Lots 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, and 43 of Sierra Bella Subdivision Phase 2, according to the Official Plat thereof, on file in the Office of the Recorder of Washington County, State of Utah; Lots 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, and 58 of Sierra Bella Subdivision Phase 3, according to the Official Plat thereof, on file in the Office of the Recorder of Washington County, State of Utah.

K. WHEREAS, on May 10, 2017 the Association was incorporated with the Utah Secretary of State, and identified as Entity No. 10373932-0140.

L. WHEREAS, ARTICLE VIII, Section 8.2 of the Second Amended and Restated Declaration provides that each Owner of a Lot in the Property shall be a member of the Association, and the affairs of the Association shall be governed by a Board of Directors as provided for in the Bylaws.

M. WHEREAS, ARTICLE VIII, Section 8.3 of the Second Amended and Restated Declaration provides that each Lot shall be allocated one (1) vote in the affairs of the Association.

N. WHEREAS, ARTICLE XIV, Section 14 (b) of the Second Amended and Restated Declaration provides that the Second Amended and Restated Declaration may be amended by Owners holding at least sixty-seven percent (67%) of the voting rights of the Association.

O. WHEREAS, Odie, as the successor Declarant appointed an interim Board of Directors; Odie no longer owns any Lots or any portion of the Property; and a Turnover Meeting as set forth in ARTICLE VII of the Second Amended and Restated Declaration was not held prior to July 26, 2021.

P. WHEREAS, on July 26, 2021, at 12:00 p.m. a Special Meeting of the Members of the Association (hereinafter referred to as the "Turnover Meeting") was held after notice was properly given to all of the Owners, and the following items of business were presented, discussed, voted on, and approved by Owners holding more than ninety percent (90%) of the voting rights of the Association: (i) the Association governance was turned over from the interim Board of Directors to a newly elected Board of Directors; (ii) Bylaws for the Association were adopted consistent with this Declaration; (iii) an Architectural Control Committee (the "ACC") was appointed by the newly elected Board of Directors; and (iv) this Third Amended and Restated Declaration was voted on and approved to be recorded in the official records of the Washington County Recorder.

NOW, THEREFORE, the President and the Secretary of the Association hereby certify that this Third Amended and Restated Declaration has been adopted in accordance with the requirements and terms of the Second Amended and Restated Declaration, and is hereby recorded in the Recorder's Office of Washington County, Utah, setting forth the following restrictive covenants and conditions:

ARTICLE I

CREATION OF COVENANT

The Property, as described in Exhibit "A", which was made subject to the Original Declaration, as cited above, is made subject to this Third Amended and Restated Declaration. Said Property has been sub-divided into Lots according to Official Recorded Plat(s) for the Sierra Bella Subdivision in the Office of the Washington County Recorder ("Lots"). The easements indicated on said Plat(s) are hereby perpetually reserved for public utilities and for any other uses as designated therein or as set forth herein, and no structures or installations other than for such utility or other indicated purposes are to be erected or installed within the lines of said easements. Streets within the Sierra Bella Subdivision (hereinafter referred to as the "Subdivision") are public-

dedicated streets.

All of the Property described herein (including all of the Lots located within the Subdivision) is subject to this Declaration and is held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved subject to this Declaration. This Third Amended Declaration is in furtherance of a plan for the improvement, preservation, and sale of the Property, and is established and agreed upon for the purposes of enhancing and protecting the value, desirability and attractiveness of the Property and every Lot, part or portion thereof. This Declaration shall be construed as covenants of equitable servitude, shall run with the land, and shall be binding on all parties having any right, title, or interest in any Lot, part or portion of the Property that is subject to this Declaration, and their heirs, successors, assigns, and mortgagees, and shall inure to the benefit of each Owner thereof.

Notice to Purchasers: The acceptance of any deed-to, or conveyance of any Lot, part or portion of the Property by the grantees therein named or by their legal representatives, heirs, executors, administrators, successors or assigns, shall constitute their covenant and agreement with the Association, and with each other, to accept, hold, improve, use and convey the Property described and conveyed in or by such deed or conveyance subject to this Declaration. By acceptance of any deed to or conveyance of any Lot, part or portion of the Property, the grantees therein named acknowledge and agree that the use, enjoyment, and marketability of any Lot can be affected by this Declaration and they further acknowledge that this Declaration may be further amended, from time to time, as provided herein.

ARTICLE II

PURPOSES AND DEFINITIONS

2.1 **Purposes.** This Declaration is placed of record as a series of covenants running with the Property and all Lots thereon, as herein set forth for the purpose of establishing and preserving a quality residential subdivision. The restrictive covenants contained in this Declaration are designed to ensure that the highest quality building standards will be observed and that the Property and all Lots thereon will be kept free and clear of any rubbish, trash, and noxious or offensive activity. Any person or entity purchasing any Lot or any portion of the Property, after the date of recording of this Declaration, takes title to such Property or Lot subject to and with a commitment to abide by each of the covenants and conditions herein contained.

2.2 **Definitions.**

2.2.1 **“Architectural Control Committee” or “ACC”** means that committee constituted and acting pursuant to Article VIII herein.

2.2.2 **“Articles” or “Articles of Incorporation”** means the Articles of Incorporation of the Association filed in the office of the Secretary of State of the State of Utah, as such Articles may be amended from time to time.

2.2.3 "Assessment" or "Assessments" means any charge imposed or levied by the Association on or against an Owner or Lot pursuant to the provisions of this Declaration, the Bylaws or Utah Code Ann. 57-8a-101, et. seq., as the same may be amended or superseded from time to time. Assessments shall consist of Annual Assessments, Special Assessments, and Corrective Assessments, which Assessments shall be established and collected as provided in this Declaration and the Association's Governing Documents.

2.2.4 "Association" mean the Sierra Bella Home Owners Association, a Utah non-profit corporation, the Company formed to serve as the Owners' Association as provided in this Declaration, including its successors and assigns.

2.2.5 "Bylaws" means the Bylaws of the Association as adopted by the Board as such Bylaws may be amended by the Board from time to time.

2.2.6 "Declaration" means this Third Amended and Restated Declaration of Restrictive Covenants and Conditions of Sierra Bella Subdivision as the same may be amended or supplemented from time to time in accordance with the provisions herein.

2.2.7 "Improvement" means every structure, building, dwelling, or improvement of any kind situated on a Lot.

2.2.8 "Good Standing" means that the Owner of a Lot is not delinquent on any Annual Assessments, whether paid on an annual or monthly basis.

2.2.9 "Lot" means a numerically designated and platted Lot on the Plat (including the living unit located thereon).

2.2.10 "Mortgage" means a mortgage or trust deed; "Mortgagee" means a mortgagee or a beneficiary of a trust deed; and "Mortgagor" means a mortgagor or a grantor of a trust deed.

2.2.11 "Owner" means any person or entity, or combination thereof, at any time owning a Lot in the Property, as shown on the records of Washington County, State of Utah. The terms "Owner" shall not refer to any mortgagee, unless the mortgagee has acquired title for other than security purposes. Regardless of the number of parties participating in ownership of each Lot, the group of those parties shall be treated as one "Owner."

2.2.12 "Plat" means the plat maps of Sierra Bella Subdivision as recorded in the Plat Records of Washington County, Utah, including any amendment or supplements thereto.

2.2.13 "Property" means the property described on the attached Exhibit A and shown on the Plats, and all improvements located thereon.

2.2.14 "Setback Lines" means:

For Rural Residential – 1 Zones:

Front Property Setback: 1 acre and larger – forty (40) feet from the property lines.

Rear Property Setback: Forty (40) feet from the property line. Notwithstanding the foregoing, the rear property setback for Lots 34-38 will be sixty (60) feet.

Side Property Setback: Twenty (20) feet from side property line.

2.2.15 "Subdivision" means the Sierra Bella Subdivision.

ARTICLE III

PROPERTY RIGHTS IN LOTS / USE AND OCCUPANCY RESTRICTIONS

3.1 Single Family Dwelling / Prohibition against Multiple Unit Dwellings. Except as stated herein, Owners shall use each Lot only for one single family residential dwelling, and observe all City zoning requirements. There will be no multiple unit dwellings of any kind, including but not limited to basement apartments, duplexes or apartment buildings. No condominiums of any kind are allowed. Owners shall not divide the use of any Lot.

3.2 Single Families / No Boarding House or Group Homes. Owners shall cause each dwelling to be occupied only by a single family. No boarding houses or other group housing for unrelated people of any kind is allowed, regardless of the method or structure of the occupancy-arrangement.

3.3 Occupancy Exception. Notwithstanding Articles 3.1 and 3.2, to the extent the town of Virgin allows it, Lots 1, 2, 3, 4, 13, 14 and 15 shall be permitted to be nightly rentals.

3.4 Noxious, Illegal or Offensive Uses. No noxious, illegal, or offensive use of the Property shall be allowed on any Lot nor shall anything be done thereon that may be or become an annoyance or nuisance to the neighborhood. No grantee or grantees, under any conveyance, nor purchasers, shall at any time conduct or permit to be conducted on any residential Lot any trade or business of any description, either commercial or non-commercial, religious or otherwise, including day schools, nurseries, or church schools, nor shall premises be used for any other purpose whatsoever except for the purpose of providing a private, single-family dwelling or residence. Home based businesses may be approved by the Architectural Control Committee if not detracting from the overall integrity of the residential community.

3.5 Unsafe or Hazardous Activities or Improvements. No activity shall be conducted upon the Property, nor any improvements constructed thereon, which are or may become unsafe or hazardous to any person or property.

3.6 Vehicles and Parking. No automobiles, trailers, recreational vehicles, boats or other vehicles may be kept or stored on streets within the Property. No automobiles, trailers, recreational

vehicles, boats or other vehicles may be parked on the Lots unless they are in running condition, properly licensed and being regularly used or must be stored out of sight and not detracting from the overall integrity of the residential community. "Out of sight" means inside a garage or fully enclosed and completely out of view behind a permanent solid wall or gate at least six (6) feet in height.

3.7 Signs. No signs of any kind shall be displayed to public view on any Lot, except that each owner may display one sign of not more than five (5) square feet advertising the property for sale.

3.8 Animals and Pets. No animals, livestock or poultry of any kind shall be raised, kept, bred or maintained for any commercial purpose. Owners may have a maximum of three (3) large animals, e.g. horses or mules, or a combination thereof per Lot. The following are not permitted on any Lot either temporarily or permanently: cattle, mink, swine, fowl, reptile, or any type of wild exotic or vicious animal. Notwithstanding the above, Owners may have a maximum of twelve (12) chickens per Lot, not including roosters. All permitted animals are to be adequately maintained in a sanitary and healthful manner in compliance with city, county and state regulations and standards and to prevent annoyances or offensive noise or odors, insects and disease. All animals and poultry must be adequately restrained to prevent escape from the Lot, marauding nuisance, or damage to other property. No sale of any kind of animals, poultry, livestock, or by-products of the same shall be allowed within the Subdivision. All pets must be kept on the Lots or on some type of restraint when off of the owner's Lot. All permitted animals, livestock or poultry must be cared for, maintained, fed, watered and housed within the boundaries of the Property Lines. The restrictive covenants and conditions set forth in this Section 3.8 may be clarified, amended, or revised by rules adopted by the Architectural Committee.

3.9 Trash, Waste and Rubbish. All Lots shall be used and kept free of trash, rubbish, garbage or other waste including animal waste. No animal waste shall be allowed to accumulate and must be hauled away or spread out over pasture or fields for use as fertilizer and reduce the attraction of flies, health concerns and odors on the Property. Hay or other feed shall at all times be kept in a slightly and attractive manner.

3.10 Storage of Garbage and Waste. All garbage shall be kept at all times in appropriate sanitary containers. Garbage containers shall be stored out of prominent view at all times. Any building materials or construction materials shall be neatly stacked and kept upon the Property in the rear yard and shall not remain thereon for more than thirty (30) days following the completion of construction.

3.11 Compliance with Zoning / Land Use. All land use and all buildings constructed shall fully comply with all zoning and land-use ordinances and regulations applicable to the Property, which include the land-use and zoning ordinances of the State of Utah, Washington County and/or Town of Virgin. All grading shall be done so as to preserve or restore the drainage of the land and so as to comply with all flood control requirements of any applicable agency, and structures must be built high enough out of the existing ground level to have at least a 2% grade slope away from said structures and must not create a flood or drainage hazard for any other Lot or street. All drainage for each Lot must be mitigated and retained upon each Lot.

3.12 **No Partial Conveyances.** No Lot within the Property shall be divided, encumbered or conveyed in part which will allow for or result in a smaller Lot, or a greater number of total Lots in the Property.

3.13 **Easement reservations.** Easements for installation and maintenance of utilities and drainage are reserved, as shown on the recorded Plat. Within these easements, no permanent structure planting, block wall or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or drainage. Any structure, planting or other material shall be removed or restored by the Lot owner in the event of exercise of an easement. The easement area of each Lot shall be maintained continuously by the Owner except for those improvements for which a public or utility company is responsible.

ARTICLE IV

BUILDING RESTRICTIONS

4.1 **Rural Residential Estates / Approval of Landscaping Plan.** The Property is intended to be a rural estate setting with approved landscaping in harmony with country living with residences on the Property. Desert or Xeriscape landscaping is encouraged. The front and side yard landscaping shall be finished within twelve (12) months after receiving the Certificate of Occupancy and must receive approval from the Architectural Control Committee. Front landscaping includes the placement of 2-inch caliper trees (selected from the Architectural Control Committee's approved list) every 25 feet along the roadway. Owners shall ensure that an adequate watering system is in place for the landscape design.

4.2 **Minimum Square Footage.** The Property will have minimum size of the dwelling living area. No dwelling shall be constructed or erected on any Lot which has a finished, ground-level living area of less than that shown in the table below, excluding garages and other outbuildings. The ACC can approve homes with smaller minimum square footage based on exceptional architectural design and building quality.

Minimum sizes for RR-1

Rural Residential estate Lots (1 acre and larger) are:

One Story:

Minimum Ground Level 2,000 sq. ft.

Two Story:

Minimum Ground Level Portion 1,800 sq. ft.

Minimum Total Finished Portion 2,500 sq. ft.

Multi-Level:

Minimum Ground Level Portion 1,800 sq. ft.

Minimum Total Finished Portion 2,500 sq. ft.

4.3 **Maximum Height.** The maximum height for any dwelling constructed on Lots 34-41 will be 20 feet above elevation grade. The maximum height for any dwelling or structure on a lot other than Lots 34-41 shall be 25 feet above elevation grade.

4.4 **Lot Building Coverage.** No more than 30% of the total Lot area may be covered with permanent structures, including any dwelling, building, barn, pool house, or shed.

4.5 **Lot Landscaping.** Desert or Xeriscape landscaping is encouraged on all Lots in the Subdivision. Sod landscaping in front yard shall not exceed 25% of the front yard.

4.6 **Garages.** Every dwelling constructed on the Property shall have an enclosed garage with a minimum capacity of two cars. All garages shall be fitted with a door, which shall be closed, except for normal use.

4.7 **Exterior Styles/Colors.** All styles of Improvements must be Mission, Southwestern, Spanish or Adobe style, and must be approved by the ACC. Colors must be subdued earth tone to compliment and harmonize with the natural surroundings, and must be approved by the ACC. No style should distract from the surrounding Improvements, and should not include unusual or distracting architectural or landscaping features.

4.8 **No Temporary Buildings, Structures or Improvements.** No temporary buildings, structures, or improvements of any kind shall ever be erected or maintained on any of the Lots within the Property. Provided, however, that in a reasonable manner during construction, a general or subcontractor shall be entitled to keep a temporary construction trailer or portable building on the Property, however, said construction persons cannot use a trailer or portable building as a residence during or after construction.

4.9 **No Mobile Homes, Manufactured Homes or Modular Homes.** No mobile homes, manufactured homes or modular homes may be moved onto or constructed on the Property. All dwellings shall be of stick-built, on-site construction.

4.10 **Submission of Plans and Approval from Architectural Control Committee.** Dwellings, structures, barns, outbuildings, fences or construction of any kind or additions thereto shall not be constructed or erected on any Lot until the plans i.e., home and landscape, specifications and plot plans showing the locations and style of such dwelling and landscape have been approved in writing as to conformity with this Declaration and harmony with external design and the natural surroundings and existing structures in the Subdivision, by the Architectural Control Committee. Exterior colors for all dwellings and structures will be earth tones and must be approved by the ACC. Any modification, alteration (including re-painting) of an existing structure, or any other improvement or construction, shall also require the approval of the ACC.

4.11 Lot enclosures, Fences, Walls, and Hedge Restrictions / Requirements. All Lots may be enclosed by a wall but before construction can commence any wall(s) must first be reviewed and approved by the ACC. All walls shall be constructed of stucco, adobe style, natural stone, concrete or metal. Walls shall be designed and constructed to conform to this Declaration, all local planning ordinances, and not to constitute a nuisance or offensive effect to other persons residing within the Subdivision. All walls shall be maintained after installation and shall be a minimum height of four (4) feet and a maximum height of (6) feet. Any deviation or exception to the requirements of this Section or changes, or additions to existing walls must be approved in writing by the ACC.

4.12 Materials. All construction within the Property shall be with new materials only, except that used materials such as natural stone may be used for the purpose of aesthetics and architectural interest when approved by the Architectural Control Committee and then properly maintained thereafter.

4.13 Time Period to Complete Front Yard Landscaping. The prior-approved front yard landscaping must be completed for each Lot within twelve months after the occupancy of any dwelling on said Lot.

4.14 Approval for Extensions or Solar Energy Systems. Extensions such as roof mounted solar collectors, heating units, etc., may not be installed without written approval by the Architectural Control Committee. Any approval by the ACC shall include the requirement that such extension, solar system or collectors be as inconspicuous as possible given the requirements of the system.

4.15 Lighting. All exterior lighting shall be approved in advance by the ACC. No exterior lights of a high intensity nature including, without limitation, mercury vapor, sodium vapor, metal halide, and florescent, shall be used within the Subdivision. All exterior lighting sources shall be shielded from direct view to provide indirect or reflected light. The direct point source of all interior lighting shall be shielded from view from the exterior of the Improvement from which the light originates.

4.16 Exterior Materials / Natural Stone / Adobe / Stucco. All exterior building elevations shall be accented with masonry materials to include natural stone, or cementitious siding covering at least twenty percent (20%) of each exterior elevation of the home. Adobe style homes will be exempt from this requirement if approved by the ACC. The use of vinyl or aluminum siding shall not be permitted on any home, structure or Improvement in the Subdivision, save and except for the soffit and fascia, if approved by the ACC.

4.17 Storm Run-Off. All Lot Owners shall provide and maintain proper facilities to control mitigate and retain storm run-off onto adjacent Lots or properties and to ensure that sediments do not enter the natural water drainage system.

4.18 Telephone / Power Lines / Outside Installations. All lines or wires for telephone, power, cable television or otherwise shall be placed underground and no such wires shall be visible

on the exterior of any Improvement unless the same shall be underground or in a conduit attached to a building. No exterior radio antenna, shortwave or "C.B." antenna, television antenna, satellite dish, internet receiver, or other antenna or wiring of any type shall be erected or maintained at any Lot within the Subdivision, unless shielded from view to the extent practicable and approved in advance and in writing by the ACC. No other projections of any type shall be placed or permitted to remain above the roof of any Improvement within the Subdivision, except pipes, vents, ventilators, chimneys or other similar devices commonly located on rooftops. No patio cover, wiring, or air conditioning fixture, water cooler, water softeners, or other devices shall be installed on the exterior of any Improvement or be allowed to protrude through the walls or roof of the Improvement unless the prior written approval of the ACC is obtained. Any outside installation shall be painted a color that is approved by the ACC, which shall generally match the color(s) of that portion of the Improvement adjacent to the outside installation. The intent is that any approved outside installation be as inconspicuous as possible.

4.19 Roof Pitches. Roof pitches shall be 4/12, unless otherwise approved by the Architectural Control Committee. All roofing material shall be approved by the ACC. Flat roofs may be used if approved by the ACC.

4.20 Driveways and Parking Bays. All driveways and parking bays shall be constructed of concrete or concrete aggregate, unless written approval for the use of some other material is given by the Architectural Control Committee. The color and material thereof shall be in a color that blends with the exterior of the dwelling unit located on a Lot. The color and material of any driveways must be approved in advance by the ACC.

4.21 Front Setback and Construction. All homes shall be constructed beginning at the front property Setback Line, unless the Architectural Control Committee approves an alternate plan which utilizes the front portion of the Lot for other aesthetic purposes (such as a circular driveway or preserving Lot features), provided that Owner provides an acceptable front yard landscaping plan.

4.22 Mailboxes. All mailboxes and mailbox holders shall be of a standard design accepted by the ACC and adhere to the applicable specifications of the U.S. Postal Service. All mailboxes shall be located as directed by the U.S. Postal Service. Each Lot Owner shall be responsible for the maintenance and replacement of his or her mailbox so as to keep it in a state of repair at all times.

4.23 Propane Tanks. Any propane tanks with a capacity to hold more than 10 pounds of propane must be completely hidden from view.

4.24 Pools and Spas. Swimming pools and spas are allowed only following written approval from Virgin City and the prior written approval of the ACC. The ACC shall not consider an application for a pool installation until the Owner presents an engineering study indicating the sub-surface soils are suitable for such; additionally, such engineering report shall provide indication that drainage from such installation will be properly accommodated. An Owner who has received written approval for a pool or spa may not commence construction without, first, entering into an indemnification agreement with the Association that will indemnify the

Association for claims, damages, or any other such matters involving said pool or spa. Before using any pool or spa, appropriate walls and gates must be installed for safety purposes that comply with state, county and Town of Virgin laws. Above ground pools are prohibited within the Subdivision.

4.25 Prior to building construction on Lot 53, a detailed grading and drainage plan must be provided by a Professional Engineer to determine appropriate pad grades/finished floor elevations/potential flooding/erosion mitigation, and any other site specific recommendations. A flood plain analysis may also be required if fill is placed within the Virgin Creek 100 year flood plain.

ARTICLE V

BUDGET, EXPENSES AND ASSESSMENTS

5.1 Covenant for Assessment.

(a) Each Owner, by acceptance of a deed or otherwise acquiring title to the Lot, whether or not so expressed in the deed or other conveyance, shall be deemed to have covenanted and agreed to pay the Association the following types of assessments:

- (1) Annual assessments;
- (2) Initial Construction assessments;
- (3) Special assessments;
- (4) Emergency assessments; and
- (5) Individual assessments.

(b) Assessments shall be established and collected as provided in this Article.

No member may exempt itself from liability for Assessments by abandonment of any Lot owned by such member.

5.2 Annual Budget and Assessment.

(a) Adoption of Budget. The Board of Directors shall prepare or cause the preparation of an annual budget for the Association which shall provide, without limitation, for the administration, management and operation of the Association. If the Board fails to adopt an annual budget, the last adopted budget shall continue in effect.

(b) Determination of Annual Assessment.

(1) The Board of Directors of the Association shall fix the amount of the annual assessment (“**Annual Assessment**”) against each Lot for each assessment period at least thirty (30) days in advance of the beginning of the period. Written notice of the Annual Assessments shall be sent to all members of the Association at least thirty (30) days in advance of the beginning of any assessment period. The initial Annual Assessment beginning January 2022 shall be \$100.00 per year, per Lot.

(2) The omission by the Board of Directors, before the expiration of any assessment period, to fix the amount of the Annual Assessment for that or the next period, shall not be deemed a waiver or modifications in any respect of the provisions of this Article or a release of any member from the obligation to pay the Annual Assessment, or any installment thereof, for that or any subsequent assessment period. In the event of such omission, the Annual Assessment fixed for the preceding period shall continue until a new assessment is fixed.

5.3 **Initial Construction Assessments.** At the time an Owner submits architectural plans to the Architectural Committee for the initial construction of a dwelling, and prior to the issuance of a building permit, the Owner shall pay to the Association a one-time Initial Construction Assessment of \$500.00

5.4 **Apportionment of Assessments.** Assessments shall be apportioned as follows:

(a) **Annual Special and Emergency Assessments.** All Lot Owners shall pay a pro rata share of the Annual Assessment, Special Assessments and Emergency Assessments commencing upon the date the Lots are made subject to this Declaration. The pro rata share shall be based upon the total amount of each such assessment divided by the total number of Lots.

(b) **Initial Construction Assessments.** Each Lot Owners shall be required to pay the one-time Initial Construction Assessment at the time the Owner (or its agent) first submits plans to the Architectural Review Committee for a dwelling, and prior to the issuance of a building permit.

(c) **Individual Assessments.** Individual Assessments shall be apportioned exclusively against the Lots benefitted or to which the expenses are attributable as provided in Section 5.12 below.

(d) **Payment of Assessments.** Annual Assessments may be levied and collected on an annual basis rather than on a monthly basis. Any member may prepay one or more installments of any Assessment levied by the Association, without premium or penalty.

5.5 **Lien.** The Annual Assessment and all other Assessments imposed shall be a charge and continuing lien upon each of the Lots against which the Assessment is made in accordance with the terms and provisions of this Article 5 and shall be construed as a real covenant running with the land.

5.6 **Personal Obligation and Costs of Collection.**

(a) Assessments imposed under this Declaration, together with interest at a rate to be established by the Board of Directors, not to exceed the maximum permitted by law, and costs and reasonable attorneys' fees incurred or expended by the Association in the collection thereof, shall also be the personal obligation of the Owner holding title to any Lot at the time when the Assessment became due.

(b) The personal obligation for any delinquent Assessment, together with interest, costs and reasonable attorneys' fees, however, shall not pass to the Owner's successor or successors in title unless expressly assumed by such successor or successors.

5.7 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents of the Subdivision and paying all expenses related thereto, including but not limited to:

(a) The costs of services which may be provided by the Association for the Subdivision as may be approved from time to time by a majority of the members of the Association;

(b) The cost of labor, equipment, insurance, materials, management, legal and administrative fees incurred or expended in performing the duties under this Declaration or the Bylaws;

(c) The cost of enforcement of the Owner's obligations for regular maintenance of the drainage channel and easement on a Lot due to erosion, sediment buildup, etc.;

(d) The cost of funding all reserves established by the Association, including a general operating excess and a reserve for replacements in accordance with Section 5.16 below, and

(e) Any other items properly chargeable as an expense of the Association.

5.8 Special Assessments. In addition to the Annual Assessments authorized in this Article, the Association may levy in any Assessment year, a special assessment ("Special Assessment"), provided that such Assessment shall first be approved by two-thirds (2/3) of the votes of the members of the Association voting in person or by proxy at a meeting duly called for such purpose.

5.9 Notice and Quorum for any Action Authorized Under Section 5.8 and 5.11.

(a) Written notice of any meetings of members of the Association called for the purpose of taking any action authorized under Section 5.8 and 5.11 of this Article shall be sent to all members not less than thirty (30) days, nor more than sixty (60) days, in advance of the meeting. At the first such meeting called, the presence at the meeting of members, or of proxies, entitled to cast sixty percent (60%) of all the votes of members entitled to be cast at such a meeting shall be necessary and sufficient to constitute a quorum.

(b) If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at any subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that no subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

5.10 Commencement and Due Date of Assessments.

(a) Commencement of Assessments. All Lots subject to this Declaration shall be subject to Assessments as provided in Section 5.1 above.

(b) Due Dates. The Annual Assessment is due in full by the 1st of January each year, and shall be delinquent if not paid within thirty (30) days after the due date. An Owner of a Lot is considered in good Standing if they are not delinquent on any Assessments.

5.11 Emergency Assessments.

(a) If the Annual Assessments levied at any time are, or will become, inadequate to meet all expenses incurred under this Declaration for any reason, including nonpayment of any Owner's Assessments on a current basis, the Board of Directors shall, as soon as practicable, determine the approximate amount of the inadequacy and adopt a resolution which establishes a supplemental budget and levies the additional assessment ("Emergency Assessment"). The resolution shall require the reason for the Emergency Assessment.

(b) Any Emergency Assessment in the aggregate in any fiscal year that would exceed an amount equal to five percent (5%) of the budgeted expenses of the Association for the fiscal year may be levied only if approved by not less than a majority of the members voting in person or by proxy, at a meeting duly called for such purpose.

(c) Emergency Assessments shall be apportioned as provided in Section 5.4 above.

5.12 Individual Assessments.

(a) Any expenses benefitting or attributable to fewer than all of the Lots may be assessed exclusively against the Lots affected or benefitted ("Individual Assessment"). Individual Assessments shall include, but are not limited to:

(1) Assessments levied against any Lot to reimburse the Association for costs incurred in bringing the Lot or its Owner into compliance with the provisions of this Declaration or rules and regulations of the Association and for fines or other charges imposed pursuant to this Declaration for violation of this Declaration, the Bylaws or any rules and regulations of the Association.

(2) Any reasonable services provided to an unimproved or vacant Lot by the Association due to an Owner's failure to maintain the same in order to avoid a nuisance or

offensive effect, or to protect the health, safety and welfare of adjoining Lot Owners and the Association in general.

5.13 Nonpayment of Assessments. Any Assessment or portion thereof not paid within thirty (30) days after the due date (which shall be established by resolution of the Board of Directors):

(a) Shall be delinquent and shall bear interest from the date of delinquency at the rate, established by resolution of the Board of Directors, not to exceed the maximum rate permitted by law; and

(b) Shall be subject to a late charge of Ten Dollars (\$10.00) per month until paid, or ten percent (10%) of the Assessment, whichever is greater.

5.14 Subordination of Lien to Mortgages.

(a) The lien of the Assessments provided for in this Article shall be subordinate to the lien of any first mortgages or deeds of trust now or hereafter placed upon the Lot subject to Assessment, except as provided in subsection (b) of this Section.

(b) The sale or transfer of any Lot pursuant to mortgage or deed of trust foreclosure, or any proceeding in lieu thereof, shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer. Such sale or transfer shall not relieve the Lot from liability for any Assessment thereafter becoming due or from the lien of any future Assessment.

5.15 Enforcement of Lien. The Association may establish and enforce the lien for any Assessment, including Annual, Initial Construction, Emergency, Special, Individual or otherwise, pursuant to the provisions of this Declaration. The lien is imposed upon the Lot against which the Assessment is made. The lien may be established and enforced for damages, interest, costs of collection, late charges permitted by law, and attorneys' fees provided for in this Declaration or by law or awarded by a court for breach of any provisions of this Declaration, the Bylaws or any rules and regulations of the Association.

5.16 Reserve Funds.

(a) The Association shall establish and maintain a reserve fund for such purposes as the Board of Directors may from time to time consider necessary or appropriate in an amount to be designated from time to time by the Board of Directors. The fund shall be conclusively deemed to be a common expense of the Association and may be deposited with any banking institution, the accounts of which are insured by an agency of the United States of America or may, in the discretion of the Board of Directors, be invested in obligations of, or fully guaranteed as to principal by, the United States of America.

(b) The proportional interest of any members of the Association in any reserve fund established under this Section shall be considered an appurtenance of such Owner's Lot and

shall not be separated from the Lot to which it appertains and shall be deemed to be transferred with the Lot.

5.17 Certificate of Assessment. The Association shall, upon demand at any time, furnish to any Owner liable for Assessment a certificate in writing signed by an officer of the Association setting forth whether Assessments have been paid. The certificate shall be conclusive evidence of payment of any Assessment therein stated as having been paid. A reasonable charge, determined by resolution of the Board, may be levied in advance by the Association for each certificate so delivered.

ARTICLE VI

ASSOCIATION

6.1 Organization.

(a) The Association has been organized as a nonprofit corporation under the nonprofit corporation laws of the State of Utah. The name of the Association is "Sierra Bella Home Owners Association."

(b) The Articles of Incorporation of the Association provide for its perpetual existence, but in the event the Association is at any time dissolved, whether inadvertently or deliberately, it shall automatically be succeeded by an unincorporated association of the same name. All of the property, powers and obligations of the incorporated Association existing immediately prior to its dissolution shall thereupon automatically vest in the successor unincorporated association. Such vesting shall thereafter be confirmed as evidenced by appropriate conveyances and assignments by the incorporated Association. To the greatest extent possible, any successor unincorporated association shall be governed by the Articles of Incorporation and Bylaws (as the same may be amended from time to time) as if they had been drafted to constitute the governing documents of the unincorporated association.

6.2 Membership Board of Directors.

(a) Each Owner shall be a member of the Association. The rights, obligations and other entitlements granted to or imposed upon an Owner commence upon acquisition of the ownership of a Lot and terminate upon disposition of such ownership, but termination of ownership shall not discharge an Owner from obligations incurred prior to termination.

(b) The affairs of the Association shall be governed by a Board of Directors as provided in the Bylaws.

6.3 Allocation of Voting Rights. Each Lot shall be allocated one (1) vote in the affairs of the Association. If an Owner owns more than one Lot, such person shall have one (1) vote for each Lot owned.

6.4 Powers, Duties and Obligations. The Association shall have such powers and duties as may be granted to it or imposed by any relevant Utah statute, as may be amended from time to time with such additional powers and duties afforded by this Declaration, the Bylaws, and the Articles of Incorporation. Furthermore, the Association shall have all necessary powers and authority to lawfully administer the common needs of a community association in the State of Utah.

ARTICLE VII

MAINTENANCE, SERVICES, CONDEMNATIONS, DAMAGE

7.1 Maintenance, Repair and Replacement of Lots and Improvements.

(a) Association Responsibilities. The Association shall be responsible for:

(1) The enforcement of the Owner's obligation to maintain and repair drainage channels and easements.

(b) Owners' Responsibilities. Each Owner shall be responsible for:

(1) All maintenance and repair to a Lot and any improvements thereon, including the maintenance and repair of any drainage channels and easements in compliance with all Town, County, State and Federal requirements for drainage and flood waste.

7.2 Damage Due to Act or Neglect of Owner. In the event that maintenance or repair of a Lot is necessitated by the willful neglect or negligent acts of the Owner, their family, guests or invitees, the Association may assess the Owner the cost of such maintenance or repair as a Special Assessment which shall be added to and become part of the regular Annual Assessment to which such Lot and Owner are subject.

ARTICLE VIII

ARCHITECTURAL CONTROL COMMITTEE

8.1 Architectural Control Committee. The Architectural Control Committee (ACC) shall consist of no fewer than three (3) members and no more than five (5) members as appointed by the Board of Directors. The terms of office for each member of the ACC shall be for one (1) year unless lengthened or shortened by the Board of Directors at the time of appointment. The Board may appoint any or all of its members for the ACC and there shall be no requirement for non-Board members to serve on the ACC.

(a) Submission of Architectural Plans. Any property owner seeking to construct a new home or other appurtenant structure, or add to or modify any portion of the exterior of an existing home or structure, shall submit the plans to the Architectural Control Committee for review. A modification of the home and/or structure exterior will include fences, barns, drives, decks, hot tubs, patios, pools, and similar alterations. Construction of new structures includes

equipment and material housing, dog runs, gazebos, arbors associated with landscaping, and other similar construction.

(b) Approval of Architectural Plans. No excavation, construction, change, modification, alteration, or issuance of a building permit, for which plans are to be submitted to the Architectural Control Committee pursuant to paragraph (a), immediately above, shall commence until the plans and specifications showing the nature, kind, shape, height, materials, size, estimate of cost, and location of the same have been submitted to and approved in writing by the Architectural Control Committee. The Architectural Control Committee has the sole authority and discretion, after reviewing the plans and specifications, to make a determination as to the harmony of the external vegetation design and location in relation to surrounding structures and topography, and other such factors as the Architectural Control Committee considers necessary, appropriate, and relevant to maintain property values of nearby properties. In the event the Architectural Control Committee fails to approve or disapprove such design or plants within twenty-one (21) days after such plans and specifications have been submitted to and received by it, approval will not be required and full compliance with this Section of the Declaration will be deemed to have occurred.

(c) Submission of Site Plan. In addition to the payment of the Initial Construction Assessment, any property owner seeking to construct a new home must also submit a site plan to the Architectural Control Committee for review along with a retainer in an amount determined by the Architectural Control Committee, not to exceed \$500.00, to be used to pay for a site plan review. The site plan will be submitted to a local engineering firm for review and recommendations. The Lot Owner will be responsible for any additional charges in excess of the retainer amount. The Lot Owner will be refunded any balance remaining from the retainer. The Lot Owner will not be able to proceed with any excavation or construction until approval of the site plan is provided.

(d) Limitation of Liability. Notwithstanding the foregoing provisions, the Architectural Control Committee shall have no affirmative obligation to be certain that all elements of the design comply with the restrictions contained in this Declaration, and no member of the Architectural Control Committee shall have any liability, responsibility, or obligation, whatsoever for any decision or lack thereof in carrying out of duties as a member of such committee. Such committee and its members shall have only an advisory function, and the sole responsibility for compliance with all of the terms of this Declaration shall rest with the Lot Owner. Each Lot Owner agrees to save, defend, and hold harmless the Architectural Control Committee and each of its members on account of any activities of the Architectural Control Committee relating to such Owner's Lot or buildings to be construed on his or her Lot.

(e) Enforcement by Architectural Control Committee. Upon approval by the Board of Directors, the Architectural Control Committee may enforce compliance with the provisions and this Declaration, by proceedings at law or in equity against any person or persons violating any covenant to restrain violation and/or recover damages. If any enforcement action is necessary, the Architectural Control Committee shall be entitled to injunctive relief, damages and such other remedies as the law allows, and shall be entitled to recover from the Owner or other person in violation all of its costs, expenses and reasonable attorney's fees.

(f) **Discretion of Architectural Control Committee.** The approval of building plans and specifications shall not be unreasonably withheld by the ACC. The ACC shall, however, have the sole and absolute discretion to evaluate plans and specifications for the purpose of assuring that the proposed buildings and accessor structures are consistent with the use contemplated by these CC&Rs, that the plans and specifications are in all particulars consistent with applicable laws and ordinances and that the proposed construction is aesthetically consistent with the objectives herein set forth. Any Owner or builder may not, however, rely on the opinion of the Architectural Control Committee as to whether the plans meet the applicable laws and municipal ordinances in place at the time of construction. It shall be the sole and exclusive responsibility of the Owners of the Lots within the Property to be sure that all laws and ordinances are complied with in connection with their construction.

8.2 **Majority Action.** A majority of the members of the ACC shall have the power to act on behalf of the ACC, without the necessity of a meeting and without the necessity of consulting the remaining member or members of the ACC. All decisions rendered by the ACC must be by written instrument setting forth the action taken by the members consenting thereto.

8.3 **Non Waiver, Precedent and Estoppels.** Approval or disapproval by the ACC of any matter proposed to it or within its jurisdiction shall not be deemed to constitute a precedent, waiver or estoppel impairing its right to withhold approval or grant approval as to any similar matter thereafter proposed or submitted to it.

8.4 **Appeal.**

(a) Any Owner adversely impacted by action of the ACC may appeal such action to the Board of Directors.

(b) Appeals shall be made in writing within ten (10) days of the ACC's action and shall contain specific objections or mitigating circumstances justifying the appeal. A final, conclusive decision shall be made by the Board of Directors within twenty (20) days after receipt of such appeal. The determination of the Board shall be final.

8.5 **Effective Period of Consent.** The ACC's approval of any proposal shall automatically be revoked within six (6) months after issuance unless construction or other work relating to the proposal has been commenced or the Owner has applied for and received an extension of time from the ACC.

8.6 **Determination and Notice of Compliance.**

(a) **Inspection.** The ACC may inspect from time to time, all work performed and determine whether it is in substantial compliance with the approval granted.

(b) **Notice of Noncompliance.** If the ACC finds that the work was not performed in substantial conformation with the approval granted, or if the ACC finds that the approval required was not obtained, the ACC shall notify the Owner in writing of the

noncompliance. The notice of noncompliance shall specify the particulars of noncompliance and shall require the Owner to remedy the noncompliance by a specific date.

8.7 Noncompliance.

(a) **Notice of Hearing.** If after receipt of a noncompliance the Owner fails to diligently commence to remedy such noncompliance in accordance with the provisions of the notice of noncompliance, at the expiration of the third day from the date of such receipt of notice, the ACC shall provide notice of a hearing to consider the Owner's continuing noncompliance. The hearing shall be set not less than seven (7) or more than thirty (30) days from receipt of the notice of noncompliance.

(b) **Hearing.** At the hearing, if the ACC finds that there is no valid reason for the continuing noncompliance, the ACC shall determine the estimated costs of correcting it and may fine the Owner for such noncompliance. After such determination, the ACC shall require the Owner to remedy or remove the same within a period the ACC determines reasonable.

(c) **Continued Noncompliance.** If the Owner does not comply with the ACC's ruling within the specified period or within any extension of such period as the ACC, at its discretion, may grant, the ACC may either remove the non-complying improvement or otherwise remedy the noncompliance. The cost of any such action shall be assessed against the Owner.

8.8 Liability. Neither the ACC nor any member thereof shall be liable to any Owner, occupant, builder or other person for any damage, loss or prejudice suffered or claimed on account of any action or failure to act of the ACC or a member thereof, provided only that the member has in accordance with the actual knowledge possessed by him or her, acted in good faith. The ACC is not responsible for determining compliance with structural and building codes, solar ordinances, zoning codes or other governmental regulations, all of which are the responsibility of the Owner.

8.9 Estoppel Certificate.

(a) Within fifteen (15) business days after written request is delivered to the ACC by an Owner, and upon payment to the ACC of a reasonable fee fixed by the ACC to cover costs for each review requested by an Owner, the ACC shall provide such Owner with a certificate executed by the chairman, or other authorized member of the ACC certifying with respect to any Lot owned by the Owner, that as of the date thereof either:

(1) All improvements made or done upon or within such Lot by the Owner that are subject to the requirements of this Article comply with the Declaration and the Bylaws; or

(2) Such improvements do not comply, in which event, the certificate shall also identify the non-complying improvements and set forth with particularity the nature of such noncompliance.

(b) The Owner, Owners heirs, devisees, successors and assigns shall be entitled to rely on the certificate with respect to the matters set forth. The certificate shall be conclusive as between and among the ACC, the Association and all Owners and such persons deriving any interest through any of them.

8.10 Fees. The ACC may charge a reasonable application fee, not to exceed \$500.00, and charge applicants additional costs incurred or expected to be incurred by the ACC to retain architects, attorneys, engineers, landscape architects and other consultants to advise the ACC concerning any aspect of the application or compliance with any appropriate architectural criteria or standards. Such fee shall be collectible as an assessment.

ARTICLE IX

COMPLIANCE AND ENFORCEMENT

9.1 Compliance. Each Owner, tenant or occupant of a Lot shall comply with the provisions of this Declaration, the Bylaws and the rules and regulations adopted pursuant thereto. 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 this Declaration, the Bylaws, or any rules or regulations adopted pursuant thereto, or of any decision of the Association made pursuant to such documents, shall give the Board of Directors (or the ACC as the case may be) acting on behalf of the Association, the right, in addition to any other rights set forth above or in any other provision of this Declaration, the Bylaws or under law, to do any or all of the following after giving notice and an opportunity to be heard:

(a) To enter the Lot 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 of Directors 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;

(b) To enjoin, abate, or remedy such thing or condition by appropriate legal proceeding;

(c) To levy reasonable fines pursuant to a schedule of fines adopted by resolution of the Board of Directors a copy of which will be delivered to each Owner, mailed to the mailing address of Lot or mailed to the mailing address designated by the Owner in writing to the Association; and

(d) 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.

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

9.4 **Notification of First Mortgage.** The Board of Directors shall notify in writing any first Mortgagee of any individual Lot of any default in performance of the terms of this Declaration by the Lot Owner which is not cured within sixty (60) days provided such Mortgagee has requested in writing to be so notified.

ARTICLE X

INSURANCE

10.1 **Types of Insurance Maintained by the Association.** The Association may obtain the following types of insurance:

(a) A public liability insurance policy covering the Association, its officers, directors and managing agents, having at least a One Million Dollar (\$1,000,000.00) limit per total claims that arise from the same occurrence, or in an amount not less than the minimum amount required by applicable law, ordinance or regulation;

(b) Workers' compensation insurance, if and to the extent required by law; and

(c) If the Association deems necessary, fidelity bond or bonds covering all directors, officers, employees and other persons handling or responsible for the funds of the Association, in such amounts as the Board of Directors deems appropriate.

10.2 **Premiums for Insurance Maintained by Association.** Premiums on any fidelity bond maintained by a third party manager shall not be an expense of the Association.

10.3 **Hazard Insurance on Improved Lots.** Each Owner of an improved Lot at all times shall maintain fire and extended coverage insurance or other appropriate damage and physical loss insurance, in an amount equal to not less than one hundred percent (100%) of the current replacement value of the improvements on the Lot.

10.4 **Obligation of Lot Owner to Repair and Restore.**

(a) In the event of any damage or destruction of the improvements on a Lot, the insurance proceeds from any insurance policy on an improved Lot, unless retained by a Mortgagee of a Lot, shall be applied first to the repair, restoration or replacement of the damaged or destroyed improvements. Any such repair, restoration or replacement shall be done in accordance with the plans and specifications for such improvements originally approved by the Architectural Control Committee; unless the Owner desires to construct improvements differing from those so approved, in which event the Owner shall submit plans and specifications for the improvements to the Architectural Control Committee and obtain its approval prior to commencing the repair, restoration or replacement.

(b) If any Owner of an improved Lot fails to maintain the insurance required by this Article, the Association may, but shall not be obligated to, obtain such insurance and pay any premiums required in connection with obtaining such insurance. Such Owner shall be personally liable to the Association for any costs incurred by the Association in obtaining such insurance, to the same extent as such Owner is liable for Assessments levied against its Lot, and, upon the failure of the Owner to pay such costs within ten (10) days after such Owner's receipt of a written demand therefore from the Association, the Association may establish a lien therefore upon the Owner's Lot in accordance with and subject to the provisions of this Declaration applicable to an Assessment lien.

ARTICLE XI

AMENDMENT AND DURATION

11.1 Amendments.

(a) How Proposed. Amendments to this Declaration shall be proposed by either a majority of the Board of Directors or by Owners holding thirty percent (30%) or more of the voting rights. The proposed amendment must be reduced to writing and shall be included in the notice of any meeting at which action is to be taken thereon or attached to any request for approval or consent to the amendment.

(b) Approval Required. Except as otherwise provided in Subsection (c) of this Section or by other provisions of this Declaration, this Declaration may be amended if such amendment is approved by Owners holding sixty-seven percent (67%) of the voting rights of the Association.

(c) Additional Approval Requirements.

(1) No amendment may change the boundary of any Lot or uses to which any Lot or building is restricted, change the method of determining liability for common expenses or right to common profit, or voting rights of any Lot unless the Owners of the affected Lots unanimously consent to the amendment.

(2) Execution and Recording. 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 is acknowledged and is recorded in the Recorder's Office of Washington County, Utah.

11.2 Duration. This Declaration perpetually shall run with the land and shall be and remain in full force and effect at all times with respect to all property included within the Property and the Owners thereof. This Declaration may be terminated upon approval by the vote or written consent of not less than one hundred percent (100%) of all Owners and the Town of Virgin. Any such termination shall become effective only if a certificate of the President and Secretary of the Association, certifying that termination as of a specified termination date has been approved in the

manner required herein, is duly acknowledged and recorded in the Deed records of Washington County, Utah.

ARTICLE XII

MISCELLANEOUS PROVISIONS

12.1 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.

12.2 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 of Directors, 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.

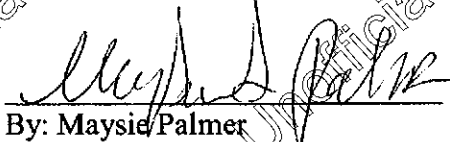
12.3 Lessees and Other Invitees. Lessees, invitees, contractors, family members and other persons entering the Property under rights derived from an Owner shall comply with all of the provisions of this Declaration, the Bylaws and rules and regulations adopted by the Association restricting or regulating 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.

12.4 Non Waiver. Failure by the Association or any Owner to enforce any covenant or restriction contained in this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

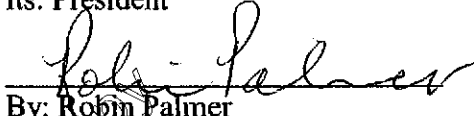
12.5 Notice of Sale, Mortgage, Rental or Lease. Immediately upon the sale, mortgage, rental, or lease of any Lot, the Owner shall promptly inform the secretary of manager of the name and address of said grantee, vendee, mortgagee, lessee, or tenant.

IN WITNESS WHEREOF, the undersigned President and Secretary of the Association hereby: (i) execute this Declaration; (ii) acknowledge that each is signing in their respective capacity as President and Secretary of the Association; and (iii) certify that this Third Amended and Restated Declaration has been adopted in accordance with the terms and requirements of the Second Amended and Restated Declaration.

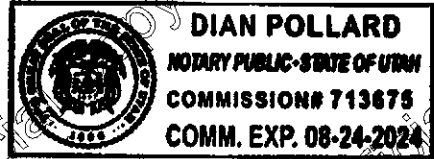
SIERRA BELLA HOMEOWNERS ASSOCIATION:



By: Maysie Palmer
Its: President



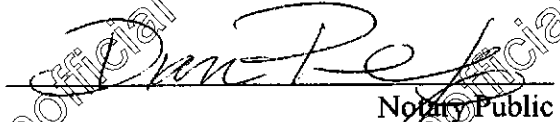
By: Robin Palmer
Its: Secretary



STATE OF UTAH

COUNTY OF Salt Lake ss:

On this 17 day of ~~September, 2021~~ March DP 2022, before me personally appeared Maysie Palmer, whose identity is personally known to or proved to me on the basis of satisfactory evidence, and who being by me duly sworn (or affirmed), did say that she is the President of Sierra Bella Homeowners Association, and that the foregoing document was signed by her personally and on behalf of Sierra Bella Homeowners Association and she acknowledged before me that she executed the document on behalf of Sierra Bella Homeowners Association and for the stated purposes herein.


Notary Public

STATE OF UTAH)

COUNTY OF Salt Lake ss:

On this 17 day of ~~September, 2021~~ March DP 2022, before me personally appeared Robin Palmer, whose identity is personally known to or proved to me on the basis of satisfactory evidence, and who being by me duly sworn (or affirmed), did say that she is the Secretary of Sierra Bella Homeowners Association, and that the foregoing document was signed by her personally and on behalf of Sierra Bella Homeowners Association and she acknowledged before me that she executed the document on behalf of Sierra Bella Homeowners Association and for the stated purposes herein.


Notary Public

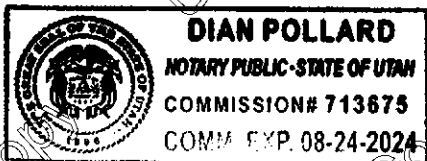


EXHIBIT "A"

LEGAL DESCRIPTION / PROPERTY DESCRIPTION

PARCEL 1:

All of SIERRA BELLA SUBDIVISION PHASE 1 AMENDED & EXTENDED, according to the Official Plat thereof, on file in the Office of the Recorder of Washington County, State of Utah.

Tax Serial Nos. V-SBS-1-1 through V-SBS-1-22

PARCEL 2:

All of SIERRA BELLA SUBDIVISION PHASE 2, according to the Official Plat thereof, on file in the Office of the Recorder of Washington County, State of Utah.

Tax Serial Nos. V-SBS-2-23 through V-SBS-2-43

PARCEL 3:

All of SIERRA BELLA SUBDIVISION PHASE 3, according to the Official Plat thereof, on file in the Office of the Recorder of Washington County, State of Utah.

Tax Serial Nos. V-SBS-3-44 through V-SBS-3-58