

**AMENDED AND RESTATED**  
**DECLARATION OF RESTRICTIVE COVENANTS**  
**FOR**  
**SUMMIT PARK SUBDIVISION**

This Amended and Restated Declaration of Restrictive Covenants is made and executed effective the --- day of ---, 2014.

WHEREAS, various restrictive covenants have been imposed upon the Summit Park *Plats A, B, C, D, E, F, G, H, I, J, [plat K under consideration], L, M, and M-2* pursuant to various documents which have been recorded in the Office of the Summit County Recorder, including:

Restrictions on Summit Park Subdivision, Plat A, January 1, 1957, and recorded on Feb. 13, 1957 as Entry No. 87566; and rerecorded on April 19, 2013

- [add list of other plats]

WHEREAS, as evidenced by the various Written acknowledgments attached hereto, a majority of the current owners of the various lots within the above-referenced Plats of Summit Park Subdivision have voted to amend these restrictive covenants in various respects, to establish a uniform set of restrictive covenants that apply to the above-referenced Plats of Summit Park Subdivision, in order to enhance and protect the value, desirability and attractiveness of the Summit Park Subdivision, and to restate said restrictive covenants in their entirety; and

WHEREAS, the Summit Park Homeowners Association, a Utah nonprofit corporation, is currently in existence, and it is desirable to make membership in that Association complimentary for all of the owners of lots within each of the above-referenced Plats of Summit Park Subdivision, and to delegate and assign to that Association the powers of maintaining, administrating and enforcing the restrictive covenants, and collecting and disbursing funds pursuant to the assessments and charges, all as set forth below.

NOW THEREFORE, a majority of the current owners of the various lots Within the above-referenced Plats of Summit Park Subdivision, do hereby make the following Declaration.

## ARTICLE I

### PROPERTY SUBJECT TO DECLARATION

**1.01 Property.** The property subject to this Declaration shall be all of the lots (collectively "Lots" and individually "Lot") Within Summit Park *Plats A, B, C, D, E, F, G, H, I, J, K* [plat K *under consideration*], *L, M, and M-2* as recorded in the Office of the Summit County Recorder.

**1.02 Covenants, Conditions, and Restrictions Binding Upon all Lots.** Each and every Lot shall be held, sold and conveyed subject to the covenants, conditions and restrictions contained with this Declaration, which are hereby declared to be for the benefit of all Lots as a Whole, each Lot individually, and all of the owners thereof (collectively "Owners" and individual "Owner"), their successors and assigns. These covenants, conditions, and restrictions shall run with the Lots and shall be binding upon all parties having or acquiring any right, title or interest in or to any Lot, or any part thereof.

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## **ARTICLE II**

### **HOMEOWNERS ASSOCIATION AND ARCHITECTURAL COMMITTEE**

**2.01 Board of Trustees.** It is the intent and purpose of the Summit Park Homeowners Association, a Utah nonprofit corporation and currently in existence (the "Association"), to delegate and assign to that Association via the Board of Trustees the powers of managing the business and affairs of the Association. To accomplish these goals, the Board of Trustees (also known as the Board of Directors) will fully adhere to the Association Constitution and By-Laws. Furthermore, it is hereby understood that the Board of Trustees are prohibited from obtaining compensation from the Association.

**2.02 Membership.** Every Owner shall be a member ("Member") of the Association. Membership in the Association shall be *complimentary* for all Owners of any Lot subject to this Declaration. Membership shall begin immediately and automatically upon becoming an Owner, and shall terminate immediately and automatically upon ceasing to be an Owner.

**2.03 One Membership Per Lot.** An Owner shall be entitled to one (1) membership in the Association for each Lot owned, which membership shall be appurtenant to the Lot in which the Owner has the necessary interest, and shall not be separated from the Lot to which it appertains. If title to a Lot is held by more than one person or entity, the membership appurtenant to that Lot shall be shared by all such persons or entities in the same proportionate interests and by the same type of tenancy in which title to the Lot is held.

**2.04 Personal Obligation and Lien.** Each Owner shall, by acquiring or in any way becoming vested with an interest in a Lot, agree to pay the Association the assessments, charges and/or dues set forth in this Declaration. Any assessment not paid when due shall constitute and remain a continuing lien on the affected lot, provided, however, that such lien will be subordinate to any first mortgage on the lot recorded prior to the date any such assessments became due. No Owner shall exempt himself or his Lot from liability for payment of assessments by abandonment of his Lot. When the ownership of a lot is transferred, any unpaid amounts due the Association shall be paid at closing.

**2.05 Annual Subdivision Fire Prevention and Common Area Maintenance Assessment.** Each Lot will be assessed an annual Fire Prevention and Subdivision Common Area Maintenance Fee. This assessment is for, but not limited to, the maintenance of the Subdivision Common Areas, implementation and maintenance of fuel modification projects and fire prevention and education programs. The amount and time of payment of annual assessments for each Lot shall be determined by the Board of Trustees of the Association, after giving due consideration to the current expenses and future needs of the Association. Written notice of the amount of the annual assessment, including the due date for payment thereof, shall be mailed to every Owner at the mailing address last provided to the Association by each Member. The first annual assessment after the effective date of this Agreement shall be Fifty Dollars (\$50.00) per Lot, and shall not to exceed One Hundred Dollars (\$100.00) per Lot, thereafter. If the annual assessment amount necessitates a change that exceeds One Hundred Dollars (\$100), it shall be subject to amendment only upon the affirmative vote of the majority of ballots cast of the Owners of record of the Lots subject to this Declaration, either in person or by absentee ballot. Written notice of this vote and meeting date will be sent to all Members at least thirty (30) days and not more than sixty (60) days prior to the meeting date. Written notice of any change in assessment amount, including the due date for the payment thereof, shall be mailed to every Owner at the mailing address last provided to the Association by each Member.

#### **2.05 a. Hazardous Fuels Management Protocols**

The Homeowners' Association shall perform "Fire Prevention Maintenance" for all Common Area Fuel Modification Zones and it's Perimeter Shaded Fuel Break. These expenditures shall be considered a

community obligation. Similarly, each Owner is subject to Fuel Modification Zone requirements and shall be obligated to comply with such fire prevention strategies.

All provisions concerning the assessment, construction and maintenance of Home Ignition Zone Fuel Modification Requirements will be based on minimum standards set forth by the current Utah Wildland-Urban Interface Code. A more complete and protective list of recommended standards can voluntarily be met by following the Summit Park Firewise Fuel Modification Plan and Maintenance Program document. The Homeowner's Association and its Wildland Fire and Safety Advisory Committee shall have the ability to provide, on an individual basis, technical guidance and advice for the design, implementation and creation of a Firewise landscape. All lot and homeowner defensible space and home ignition zone fuel modification maintenance costs, shall be the obligation of the homeowner. For the benefit of homeowners that are unable to complete the work themselves, the association shall have the ability to budget and execute payment for privately contracted work done on or around a lot or home, if applicant meets requirements.

**2.06 Architectural Committee.** It is the intent and purpose of this Declaration to encourage architectural, building and use standards of a type and nature which result in uses, structures and improvements which maintain and compliment the present natural beauty and surroundings of the subdivision, and comply with the covenants, conditions and restrictions set forth in this Declaration. To accomplish these goals, the Owners hereby establish an architectural committee ("Architectural Committee"), which is empowered to oversee in an *advisory role*, the architectural design standards per the current code of the municipality (Summit County, et. al), and other covenants, conditions and restrictions with respect to improvements upon the Lots, as set forth in this Declaration. The Architectural Committee shall review, offer suggestions for modification of plans and approve any variances before County approval, for new construction or major exterior remodel of existing structures. All plans must be reviewed by the Architectural Committee *prior* to being submitted to the municipality. Members of the Architectural Committee shall be selected pursuant to rules established by the Committee and approved by a majority vote of the Board of Trustees of the Association.

**2.07 Variances.** The Architectural Committee may, in its sole discretion, by an affirmative vote of a majority of its members, allow reasonable variances as to any of the provisions set forth in Article III of this Declaration.

**2.08 Trustees and Architectural Committee Not Liable.** No member of the Board of Trustees or the Architectural Committee shall be liable to any Owner of a Lot or any other individual or entity regarding any action, inaction, approval or disapproval, of any set of plans submitted to the Architectural Committee for review. In the absence of bad faith or malicious actions, the Owners shall have no claim against the Board of Trustees, the Architectural Committee, or any member thereof, as a result of the performance or failure to perform the duties created by this Declaration or the Architectural Committee rules established by the Committee and approved by a majority vote of the Board of Trustees of the Association. Each Owner has the right to enforce this Declaration against any other Owner, and may seek independent redress if he believes that the Architectural Committee has acted improperly.

**2.9 Enforcement Powers.** The Association shall have the power, but not the obligation, to enforce the provisions of this Declaration by actions in law or equity brought in its own name. The Association shall have the power to retain professional services needed for the enforcement of the provisions of this Declaration, and to incur expenses for that purpose. The Board of Trustees of the Association shall have the exclusive right to initiate enforcement actions in the name of the Association, however, this shall not limit the rights of individual Owners to personally enforce these covenants in their own name. The Board of Trustees of the Association may appear and represent the interest of the Association at all public meetings concerning any matter of general application and interest to its Members.

**2.10 Attorneys Fees.** If the Association is required to consult with an attorney for the

purpose of collecting past due assessments, or enforcement of other covenants, conditions, or restrictions in this Declaration, the Owner in default or violation agrees to reimburse the Association for its reasonable attorney's fees, whether suit is filed or not. The Association will send written notification in the United States mail, registered, postage prepaid, to any Owner in default or violation no less than thirty (30) days prior to a suit being filed. If a suit is filed, the prevailing party shall recover all enforcement costs, including all actual attorney's fees reasonably incurred, whether the action is based on legal or equitable principles or both. If an Owner successfully brings suit against another Owner in order to enforce the covenants, conditions, or restrictions set forth in this Declaration, the Owner in violation agrees to reimburse the plaintiff Owner for his reasonable attorney's fees and costs.

**2.11 Violation Notice.** The Owner and/or contractor shall respond within three (3) working days of receiving any notice from the Homeowners Association regarding any violation or notice that the condition of a site is not in conformity with any provision(s) of this Declaration.

### **ARTICLE III**

#### **PERMITTED AND PROHIBITED LAND USES AND BUILDING DESCRIPTIONS**

**3.01 Existing Structures.** Uses and Improvements are Grandfathered. Any and all uses, structures and improvements existing as of the date of this Declaration are hereby declared to be express permitted variances from the covenants, conditions and restrictions set forth in this Declaration and shall not be considered violations of this Declaration. However, existing uses, structures and improvements which do not comply with the covenants, conditions and restrictions set forth in this Declaration shall not be considered as support for the granting of future variances which are similar in nature to these existing uses, structures and improvements which otherwise would be in violation of this Declaration.

**3.02 Compliance With Zoning Regulations.** All Lots shall be occupied or used in a manner which is consistent with the current municipal zoning regulations and ordinances applicable thereto.

**3.03 Building Height.** No building height shall exceed three (3) stories or *thirty-two* (32) feet above existing or finished elevation, whichever is greater. If the current municipal code height is different, it prevails. The complete set of plans (as submitted to the applicable municipality for approval) must show the front, all sides, and the rear elevation drawing of the building, with both the existing grade and the finished grade clearly shown and identified with the corresponding topographic footage, on each drawing.

**3.04 Dwelling Square Footage.** No single story dwelling shall be erected or placed on any Lot with floor space of the dwelling less than one thousand five hundred (1,500) square feet on the main floor level, excluding garage, carport, patio and basement. Two (2) or more story dwellings shall have at least one thousand two hundred (1,200) square feet on the main floor level, exclusive of garage, carport, patio, and at least eight hundred (800) square feet finished area on other levels excluding garage, carport, patio and basement. Variances may be granted dependent on terrain and/or lot size.

**3.05 Setbacks.** The front setback shall be fifteen feet (15') from the front property line. However, if more than fifty percent (50%) of the "lot frontage" (defined as that property that abuts the front property line) exceeds thirty percent (30%; ~15degrees) slope, measured for a distance of fifteen feet (15') back from the front property line, then the front setback shall be fifteen feet (15') from the edge of the road

pavement. The minimum side yard and back yard setbacks shall be twelve feet (12') from the property lines. If the current municipal code setbacks are different, they prevail.

**3.06 Garage.** Every dwelling must have a minimum of a two-car garage and may have a maximum of a four-car garage. Garages may be attached to the dwelling or may be a separate structure. Dwellings may have a carport which will accommodate a maximum of two (2) vehicles in addition to a garage.

**3.07 Driveway.** Every dwelling must have a driveway which can accommodate at least two (2) parked vehicles. Recommended driveway finishes are asphalt or concrete.

**3.08 Accessory Buildings and Structures.** All dwellings may include the following accessory buildings and structures not used for residential occupancy: greenhouses, private swimming pools, pool houses, various sport courts, arbors, pergolas, storage sheds and solar panel arrays. Each of these structures must be reviewed by the Architectural Committee prior to construction.

**3.09 Residential Purposes.** The Lots within the subdivision shall be used exclusively for Single-family residential living purposes, and shall never be occupied or solely used for any commercial or business purpose. Any Owner or their duly authorized agent may rent or lease said Owner's residential building from time to time, however, nightly rentals are prohibited.

**3.10 Landscaping/Re-Vegetation Plan.** A landscaping and/or re-vegetation plan must be reviewed by the Architectural Committee prior to the beginning of new construction or major lot excavations. All landscaping and/or re-vegetation must be completed within one (1) year of the issuance of a Certificate of Occupancy.

**3.11 Removal of Trees.** All trees to be removed for new construction are subject to approval by the Architectural and Fire & Safety and Committees.

**3.12 Restoration of Cut and Fill.** Owners shall be responsible for the restoration of cut and fill slopes between the street(s) and each respective property line within a period of one (1) year from the beginning of construction. All cut or fill slopes shall be restored as per the Owner's landscaping plan for the Lot at the sole expense of the Owner.

**3.13 Building Completion Time Frame.** All exterior construction must be completed within a period of one (1) year from the date construction of the building was started which coincides with the issuance of the building permit.

**3.14 Completion Required Before Occupancy.** No building on any Lot shall be occupied until the Owner of the Lot has completed the building in accordance with, and complied with, all approved plans and specifications, and a Certificate of Occupancy has been issued by the appropriate municipal body.

**3.15 Notification of Construction Activity.** Owners or their contractors shall notify neighboring residence owners of any dangerous proposed construction activities at least two (2) days prior to the commencement of such activities. Blasting shall be permitted only with the prior written consent of the Architectural Committee, and shall only be performed by qualified and insured personnel.

**3.16 Construction Maintenance.** The Owner and their contractor shall regularly inspect the site and access roadways, and shall perform whatever clean-up and maintenance is necessary to maintain these areas in a clean and orderly condition. Burning of scrap lumber or other construction waste materials is strictly forbidden. For sanitary reasons, the owner and/or contractor must provide a regularly serviced portable toilet for the duration of new home construction.

**3.17 Construction Time Activity.** No exterior construction shall be permitted between 7:00 p.m. and 7:00 a.m.

**3.18 Construction Traffic Flow.** Construction work and/ or activity shall not obstruct the flow of residential traffic. There shall be at least two (2) on-site parking spaces for vehicles at all times during construction work and/or activity on a Lot.

**3.19 Construction Plan Approval.** Prior to the construction, alteration, or addition to any building, dwelling or other structure, the construction plans and specifications, as well as a plan showing the location of the structure, must be reviewed and any variances approved by the Architectural Committee.

**3.20 Maintenance.**

a. It is the responsibility of each Lot Owner and Home Owner to maintain their property in a manner which will not detract from, or depreciate the value of, the surrounding community. Lots shall be kept free from visible refuse including but not limited to: disabled appliances, dilapidated vehicles, used tires and construction debris.

b. It is the responsibility of each Lot Owner and Home Owner to maintain their property in accordance with the minimum standards set forth by the current Utah Wildland-Urban Interface Fire Code. This shall include the removal and disposal of diseased and beetle infested trees.

**3.21 Temporary Structures.** No structure of temporary character, including, but not limited to a trailer, mobile home, motor home, or a basement tent, shack, garage, barn or other outbuilding, shall be used on any Lot as a residence.

**3.21a. Parking** RVs, Campers and Utility Trailers are limited to parking on the private property of the owner and shall not be positioned on public roadways.

**3.22 Location of Storage and Utility Buildings.** Location of all storage and utility buildings, as well as refuse containers, air conditioning equipment, mechanical equipment, tanks of any sort, utility pipes, solar panels (if not on the roof), etc., must be placed in such a manner as not to be conspicuous from the frontage street. Variances may be granted.

**3.23 Offensive Trade or Activities.** No noxious or offensive trade or activity shall be carried on upon any Lot or any part of portion thereof, nor shall anything be done thereon which may become an annoyance or nuisance to the occupants of the remaining Lots.

**3.24 Businesses.** No businesses of an industrial nature are allowed on or about any Lot. No person will be allowed to operate a business out of a residence unless the business is a professional or service type with low impact regarding traffic and visibility. Long term storage of large commercial vehicles or trailers shall not be permitted.

**3.25 Animals and Livestock.** No livestock of any kind, including, but not limited to, horses, cattle, sheep, roosters, etc. shall be raised or kept on any Lot. Dogs, cats and other household pets, and chickens may be kept provided that they are not kept or maintained for any commercial purpose. Any Owner who keeps dogs shall maintain suitable facilities to keep said pets confined and not free to roam the neighborhood. All dogs must be leashed whenever the dog is outside the property of its owner, subject to municipal ordinances.

**3.26 Fences.** Fences, walls or hedge height shall not exceed 6ft in pursuant to municipal code.

**3.27 Waste Material.** No Lot shall be used or maintained as a dumping ground for trash, rubbish, garbage, construction materials, vehicles or other waste. Such trash, rubbish, garbage or other Waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such material must be kept in a clean and sanitary condition and away from public view. No rubbish, trash, construction materials, papers, junk or debris shall be burned upon any Lot.

**3.28 Recreation Vehicles.** No automobiles, trucks, motorcycles, trail bikes, snowmobiles, four-wheel-drive vehicles or other motorized vehicles shall be operated on or about any Lot other than on the public roadways, private driveways, and established parking areas.

**3.29 Environmental Pollution.** Owners will not use any Lot for any purpose that would result in the pollution of any stream, wash or any other type of waterway that flows through or adjacent to such Lot by refuse, sewage, oil or gas, or other material that might tend to pollute the waters of any such stream or streams or otherwise impair the ecological balance of the surrounding lands.

**3.30 Hunting.** Any harassment, hunting or other cruelty to any wildlife on the lands or in the waters within or bordering any Lot is strictly prohibited. Owners shall be responsible for their children, pets and guests in complying with this provision.

**3.31 Fire and Fireworks.** No open fires are allowed at any time in Summit Park. Contained fires shall be in accordance with the Municipal Code. Fireworks shall not be allowed within Summit Park at any time.

**3.32 Signage.** No sign of any kind shall be nailed to any tree on any Lot. No sign shall be maintained on any Lot, except professionally painted signs with not more than six and one-quarter (6.25) square feet of area advertising the property for sale or rent.

**3.33 Duplicate Plans.** No two (2) dwellings may have substantially identical exterior designs and/or appearances on any Lots.

**3.34 Certified Survey.** A copy of the certified survey for a Lot must be submitted to the Architectural Committee prior to excavation or construction thereon, and all lot corners must be visibly staked.

**3.35 Visible Address Numbers.** All dwellings on Lots shall have a clearly visible address number displayed.

**3.36 Exterior Lighting.** Any light used to illuminate garages, patios, parking areas, or for any other purpose shall be so arranged as to reflect light away from adjacent residences and away from the vision of passing motorists.

**3.37 Specification of Exterior Materials**

Siding for new construction shall meet minimum recommendation for the current Utah Wildland-Urban Interface Code

**3.38 Neighborhood Compatibility.** The design of a dwelling should be compatible with the Lot upon which it is being built. A dwelling should not be placed so high or so low on a Lot that it causes problems with adjoining Lots and should not be overly large for the Lot. In reviewing plans and specifications for a dwelling, the Architectural Committee shall strive to maintain a community with an alpine appearance. , including, but not limited to, recommending a roof with a minimum 6/12 pitch

**3.39 Roofing.** Roofing for new construction shall meet minimum recommendation for the current Utah Wildland-Urban Interface Code

**3.40 Construction Disturbance Fencing.** Whenever a dwelling or other structure is to be constructed upon any Lot, prior to the commencement of any construction activity an orange (or other brightly colored) construction fence shall be erected upon the Lot which clearly identifies the limits of disturbance to the Lot resulting from the construction.

## ARTICLE IV

### GENERAL PROVISIONS

**4.01 Amendments.** Except as expressly stated otherwise in this Declaration or required by law, this Declaration is subject to amendment only upon the affirmative vote of the majority of ballots cast of the Owners of record of the Lots subject to this Declaration, either in person or by absentee ballot. Written notice of this vote will be sent to all Members at least thirty (30) days and not more than sixty (60) days prior deadline of voting period. Any and all amendments or other modifications of this Declaration must be in writing and recorded in the office of the Summit County Recorder.

**4.02 Successors and Assigns.** This Declaration and all the terms and provisions hereof shall be binding upon the Owners, their respective legal representatives, heirs, successors and assigns.

**4.03 Counterparts.** This Declaration may be executed in one or more counterparts, each of which, together with counterparts executed by the Owners, shall constitute one and the same original instrument.

**4.04 Captions and Pronouns.** Captions contained in this Declaration are inserted only as a matter of convenience and for reference, and in no way do they define, limit or describe the scope of this Declaration or the intent of any provision hereof. Whenever the singular number is used in this Declaration and when required by the context, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders, and the Word "person" shall include corporation, partnership, firm, association or other entity.

**4.05 No Waiver.** No delay or omission in the exercise of any power, remedy or right herein provided or otherwise available to the Association or an Owner shall impair or affect the right of the Association or any Owner to exercise the same. Any extension of time or other indulgence granted to an Owner hereunder shall not otherwise alter or affect any power, remedy or right of any other Owner or the Association, or the obligations of the Owner to whom such extension or indulgence is granted.

**4.06 Severability.** If any provision of this Declaration, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Declaration, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

IN WITNESS WHEREOF, the undersigned parties have consented to the foregoing Amended and Restated Declaration of Restrictive Covenants for Summit Park Subdivision, effective as of the date set forth above.