



THE LEGENDS
at Hawkins Creek

The Legends
At HAWKINS CREEK
AN EXCLUSIVE, PRIVATE, GATED COMMUNITY

CC&R's
Declaration of Covenants, Conditions & Restrictions
SINGLE FAMILY RESIDENTIAL HOMESITES

As filed with the Weber County Recorder's office on April 12, 2006 as Entry No. 2172624 which was amended on May 3, 2007 as Entry No. 2261121 and, again on March 24, 2009 as Entry No. 2399746.

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS**

THE LEGENDS @ HAWKINS CREEK

Recorded April 12, 2006 and as further Amended May 3, 2007 & March 24, 2009.

This Declaration of Covenants, Conditions and Restrictions regulating and controlling the use and development of certain real property as hereinafter described is made to be effective this 1st day of May, 2007, by HAWKINS CREEK ESTATES DEVELOPMENT, LLC, a Utah Limited Liability Corporation and SMITH & MORE PROPERTIES, LC being the managing general partner, hereinafter referred to as "Declarant", the owner or beneficial Owner of Lots 1 through 41 of THE LEGENDS at HAWKINS CREEK in accordance with the plat filed for record in the office of the Clerk of Weber County, Utah, and which shall hereinafter be referred to as the "Property". The Property contains significant wildlife habitat and is of high scenic and natural value, and Declarant is adopting the following Covenants, Conditions and Restrictions to preserve and maintain the natural character and value of the Property for the benefit of all Owners of the property or any part thereof.

NOW, Therefore, Declarant, pursuant to the power hereof reserved to it in Article XI, Section 3, as owner of more than twenty five percent (25%) of the lots in number, hereby declares that all of the Property described shall be owned, held, sold, conveyed, encumbered, leased, used, occupied and developed subject to the following amended easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real Property and be binding on all parties having any right, title or interest in the described Property or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each Owner of any part thereof.

ARTICLE I - DEFINITIONS

Unless the context clearly requires the application of a more general meaning, the following terms, when used in this Declaration, shall have the following meanings:

"Approved Color List" shall mean those colors (Approved Colors) described in the Design and Development Guidelines incorporated as a part of this Declaration.

"Association" shall mean and refer to HAWKINS CREEK ESTATES HOMEOWNERS ASSOCIATION, a Utah Non-Profit Corporation, its successors and assigns.

"Basement" shall mean habitable space within a Dwelling that is located entirely or substantially below the surface grade, including any spaces with exterior walls that extend less than four feet above the natural grade.

"Board" shall mean the Board of Directors of the Association, the non-profit corporation established to administer and enforce the terms and conditions of this Declaration as set forth herein.

“Common Area” shall mean all real property owned by the Association for the common use and enjoyment of all lot owners.

“Common Roads” shall mean the private roadways within the Property which provide access to individual Lot lines.

“Common Services” shall mean the maintenance and snow removal services for the common roads, utility line maintenance and repair services for utility lines located in the rights-of-way of such roads.

“Declarant” shall mean and refer to HAWKINS CREEK ESTATES DEVELOPMENT, LLC, a Utah Limited Liability Corporation and SMITH & MORE PROPERTIES, LC being the managing general partner, their successors and assigns.

“Defensible Space” shall mean and refer to that area on a lot within seventy five (75) feet of the foundation of the Lot’s Dwelling that shall be protected from wildland fire by the measures describe in the Design and Development Guidelines incorporated as a part of this Declaration.

“Development” shall mean any alterations of the natural land surface, and all buildings, structures or other site improvements placed on the land to accommodate the use of a lot.

“Dwelling” shall mean the single family residence built or to be built on any Lot.

“Entry Amenities” shall mean the landscape plantings, irrigation improvements, walls, fences, stonework, descriptive monuments, project signage, and the exterior surfaces of any structure installed by the Declarant and located within the public way at the entrance to Hawkins Creek.

“Excavation” shall mean any disturbance to the surface of the land, including the removal of native vegetation, and also including trenching which results in removal of soil or rock from a depth of more than 12 inches from the natural surface of the land, or any grading of the surface. Excavation shall include any activities for which an excavation or grading permit would be required under the Uniform Building Code as adopted by the County.

“Exterior Materials” shall mean and refer to stone, rock, stucco, wood siding, finished lumber, brick, or other similar materials but shall not mean cinder block or concrete block or aluminum or vinyl siding. Exterior residence materials shall be of a noncombustible material as approved by Weber County. The determination whether any specific material constitutes an acceptable Exterior Material shall be made by the HAWKINS CREEK Site and Architectural Review Committee or its’ designee.

“Fill” shall mean the depositing of earth, soil, rock or other materials to the surface of the land, whether imported from off-site or resulting from the re-grading of excavated material from

on-site, to raise the natural elevation of the surface. Fill shall also include any fill material as defined under the Uniform Building Code as adopted by the County.

“Floor Area” shall mean the total of all floor areas of any Dwelling or habitable structure, to be determined and calculated in the manner described and required by Weber County, as it may be revised from time to time.

“Guest” shall mean and refer to a visitor, invitee or person whose temporary presence within the Project is approved by or is at the request of an Owner.

“HAWKINS CREEK” shall mean and refer to the subdivision or development known as THE LEGENDS at HAWKINS CREEK and any and all phases thereof and may be periodically identified as Hawkins Creek, Hawkins Creek Estates, The Legends, The Legends at Hawkins Creek, and/or The Legends at Hawkins Creek Estates.

“Improvement” shall mean all structures and appurtenances of every type and kind, including but not limited to buildings, Dwelling units, garages, storage buildings, walkways, retaining walls, sprinkler pipes, driveways, landscaping, pools, decks, stairs, poles, lighting, signs, satellite dishes or other antennas, and any mechanical equipment located on the exterior of any building.

“Limits of Disturbance Area” shall mean the area within each Lot which is the outer limit of the area which may be disturbed by construction activity.

“Lot” shall mean and refer to any of the numbered single family residential land plots described above and shown upon that certain recorded subdivision plat of the Property filed by the Declarant in the Office of the Weber County Clerk.

“Natural Area” shall mean the portion of any Lot that is outside of the Limits of Disturbance Area.

“Open Space” shall mean any areas designated on the Plat as such, which may or may not be located within the boundaries of a particular lot, and may or may not provide for public access.

“Owner” shall mean and refer to the record Owner, whether one or more person or entities, of a fee simple title to any lot, including contract buyers and Owners of a beneficial interest, but excluding those having such interest purely as security for the performance of an obligation.

“Pedestrian Access Easement Areas” shall be those areas designated on the subdivision plat and shall be for the use and enjoyment of the Association. Such areas may be used for walking, jogging, bicycling, cross country skiing, and similar activities. No motorized vehicles are allowed on pedestrian-ways. The board will control the use of such pedestrian access easement areas and shall have the right to discontinue use of such areas from time to time.

“Primary Zone” shall mean and refer to the area of Defensible Space on each Lot within thirty (30) feet of the foundation of the Lot’s Dwelling that shall be protected from wildland fires by the measures described in the Design and Development Guidelines incorporated as a part of this Declaration.

“Principal Residence” shall mean the single family residential structure, constructed on any lot of the Property, which is the principal use of such lot, and to which other authorized structures on such lot are accessory.

“Property” shall mean and refer to that certain real property known as THE LEGENDS at HAWKINS CREEK in accordance with the Plat, and all subsequent Plat Amendments, filed for record in the office of the Clerk of Weber County, Utah, together with any such additions thereto as may hereafter be brought within the jurisdiction of the Association.

“Public View” shall mean that the object, improvement, or activity on the property is or would be in the line of sight originating from a point five feet above the surface of any public streets, including Roadways within the Subdivision.

“Riparian Lands” shall mean Lots adjacent to Smith Creek in HAWKINS CREEK.

“Secondary Zone” shall mean and refer to the area of Defensible Space on each Lot extending fifty (50) feet beyond the Lot’s Primary Zone of Defensible Space that shall be protected from wildland fires by the measures described in the Design and Development Guidelines incorporated as a part of this Declaration.

“Structure” shall mean anything built or placed on the ground, excluding fences and ground level features such as pathways or low profile patios contiguous to homes.

“Trail Easement” shall mean those areas designated on the Plat as trails for hiking, bicycling, or other non-motorized travel.

ARTICLE II - PROPERTY RIGHTS

Section 1. Owners’ Easement of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

- (a) The right of the Association to charge reasonable assessments for the construction, use and maintenance of the Hawkins Creek sewage and culinary water systems, as well as, the Common Area as hereinafter set forth.
- (b) The right of the Association to establish rules and regulations, including speed

limits, for the use of the Common Area and to impose reasonable sanctions for violations of published rules and regulations.

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by the Declarant or by two thirds (2/3) of the members agreeing to such dedication or transfer has been recorded.

Section 2. Delegation of the Association of Use. Owner may delegate, in accordance with the Bylaws of the Association, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, guests or contract purchasers who reside on the property.

Section 3. Books and Records Available for Inspection. The Committee or Association shall make available to the Owners, to Mortgagees, and lenders, and to holders, insurers, or guarantors of any Mortgage current copies of the Declaration, By-Laws, Articles of Incorporation, and administrative rules and regulations concerning the Project, as well as the books, records, and financial statements of the Committee and Association. The term "Available", as used in this Paragraph, shall mean available for reasonable inspection upon request during normal business hours or under other reasonable circumstances. The Association shall have the right to recover its' photocopying and service charges incurred in making the inspection and photocopying available.

ARTICLE III

ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section 1. Formation of Association. The Association shall be a nonprofit Utah corporation charged with the duties and invested with the powers prescribed by law and as set forth in its Articles, Bylaws and this Declaration. Neither the Articles nor Bylaws of the Association shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

Section 2. Association Membership. Every Owner of a lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from Ownership of any lot which is subject to assessment.

Section 3. Voting Rights. The Association shall have one class of voting membership. The members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot.

Section 4. Power of the Association. Each Owner agrees that the Association has all the powers granted to it by this Declaration and by the Utah Nonprofit Corporation and Co-operative Association Act and any amendments thereto or replacements thereof. Such powers shall include, without limitation, all of the following:

- (a) levying Assessments against Owners;
- (b) imposing a lien on Homesites for any unpaid or uncollected Assessments or penalties, and foreclosing any such liens;
- (c) enforcing any deed restrictions and covenants;
- (d) acquiring, holding, owning, leasing, mortgaging and disposing of property.
- (e) adopting rules and regulations;
- (f) defending, prosecuting or intervening in litigation on behalf of all Members;
- (g) borrowing money for Association purposes and the right to pledge future income in order to secure such borrowings. ie right to “pledge future income” shall include the right to impose a Special Assessment for repayment of such borrowings and to assign such Special Assessment (and all lien and collection rights appurtenant thereto) to the lender as security for repayment thereof, provided, however, the right to impose a Special Assessment hereunder shall at all times be subject to the limitations of Section 5.4 of this Declaration.
- (h) exercising any other right, power or privilege given to it expressly by this Declaration, the Articles and By-laws, or by law or by the operative documents of and rules and regulations adopted by the Association, and every other right, power or privilege reasonably to be implied from the existence of any right, power or privilege given to it herein or reasonably necessary to effectuate any such right, power or privilege. Association functions and assets may be held, owned, operated, performed, or carried out by one or more Subsidiaries; provided, however, any acts, operations or activities of any Subsidiary shall at all times be in compliance with this Declaration.
- (i) promulgating reasonable rules and regulations regarding guests which balance the rights of Owners to the full use and benefit of their property against the objective of preserving Hawkins Creek as an exclusive private community with reasonably restricted access. To this end, the Association may, when necessary to prevent interference with other Owners use and enjoyment of their property, adopt reasonable rules and regulations which:
 - (i) control the use by guests of (a) Common Area facilities and (b) and Easements across other Homesites; and/or
 - (ii) limit the number of guests and the duration of their stay on Hawkins Creek over extended periods of time; provided, however that no limits on the number of guests or the duration of their stay shall be enacted or revoked unless approved by seventy-five (75%) percent of the Members of the Association, present in person or by written proxy when a quorum has been established at any regular or special meeting of the Members of the Association.

Section 5. Other Association Functions The Association may undertake, to the extent the Board in its sole discretion so elects, to provide functions or services for the benefit of all, or some, Members on such basis as the Board may reasonably determine. Such functions may be

provided by the Association's employees or an independent contractor retained by the Association. With respect to any functions or services, the Board may establish "cost centers" for the operation thereof. A "cost center" shall mean the identification and aggregation of all costs reasonably estimated by the Board to be attributable to a particular function or service. Where cost centers are established, the Board shall have the discretion, based on benefits received, to determine which Members shall be charged for such benefits and what amounts shall be paid by each such Member. No Owner shall, without the consent of such Owner having been first obtained, be charged a disproportionate or unequal share for any cost center functions or services greater than what such share would have been if the cost center function was charged equally to all Owners.

ARTICLE IV

STATUS OF OWNERS: BOARD OF DIRECTORS

Section 1. Legal Status. The Owners do not constitute an association or entity of any kind, and the sole legal entity created hereunder is the Association. The name of the Association shall be the name in which contracts shall be entered into, title to property shall be acquired, held, dealt in and disposed of, bank accounts shall be opened and suit shall be brought and defended by the Association, through the Board of Directors or office thereof on behalf of and as agents for the owners in the manner specified in this Declaration, the charter, the bylaws or by applicable law.

Section 2. Management of Association and Property. The management and maintenance of the Property and the business, property and affairs of the Association shall be managed by a Board of Directors as provided in this Declaration and its' articles and bylaws. All agreements and determinations with respect to the Property lawfully made or entered into by the Board of Directors shall be binding upon all of the Owners and their successors and assigns.

Section 3. Board of Directors of the Association. The Board of Directors (the "Board") of the Association shall consist of five (5) members, in accordance with the Articles and Bylaws. The term of a member shall be three (3) years. Three (3) of the five (5) Board members shall be residents of Weber County, Utah.

Until December 31, 2011, or until 75% of the lots have been sold and title transferred to Owners, whichever occurs first, the Declarant reserves the right to appoint and remove all members of the Board and to exercise the powers and responsibilities otherwise assigned by the Declaration of the Association. By express written declaration, Declarant shall have the option to at any time turn over to the Association the total responsibility for electing and removing the members of the Board.

Section 4. Authority and Duties. The duties and obligations of the Board and rules governing the conduct of the Association shall be as set forth in the Articles of Incorporation and the Bylaws of the Association as they may be amended from time to time.

Section 5. Limited Liability of Board of Directors, etc. Members of the Board and the officers, assistant officers, agents and employees acting in good faith on behalf of the Association:

- (1) Shall not be liable to the Owners as a result of their activities as such for any mistake of judgment, negligence or otherwise, except for their own willful misconduct or bad faith;
- (2) Shall have no personal liability in contract to an Owner or any other person or entity, except under any agreement, instrument or transaction entered into by them on behalf of the Association in their capacity as such;
- (3) Shall have no personal liability in tort to any Owner or any person or entity, except for their own willful misconduct or bad faith;
- (4) Shall have no personal liability arising out of the use, misuse or condition of the Property which might in any way be assessed against or imputed to them as a result of or by virtue of their capacity as such.

Section 6. Formative Documents. The Articles of Incorporation and the By-Laws of the Association are included as Exhibits “A” and “B” respectively to this Declaration, and are incorporated by reference as part of this Declaration.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to have consented to be subject to these covenants and agrees to pay to the Association:

- (1) Annual assessments or charges; and
- (2) Special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

All Members of the Association hereby covenant and agree, and each Owner by acceptance of a deed to a Homesite, including trustee’s deed or sheriffs deed, is deemed to covenant and agree, to pay to the Association all Annual Assessments, Special Assessments, Compliance Assessments and such other assessments and charges which may be established and collected, as hereinafter provided. Assessments, together with interest, costs, and reasonable attorneys’ fees, if unpaid or uncollected, shall be secured by a lien (the “Assessment Lien”) on the Homesite to which they relate in favor of the Association, and shall be a continuing servitude and lien upon the Homesite against which each such Assessment or charge is made. The Assessment Lien shall be a charge on the Homesite, shall attach from the date when the unpaid

Assessment or charge shall become due, shall be a continuing lien upon the Homesite, together with interest, costs and reasonable attorneys' fees, and shall be the personal obligation of the Owner of such Homesite at the time the Assessment became due. Where there is more than one Owner, each shall be jointly and severally liable for all Assessments. The Assessment Lien may be foreclosed by the Association in the same manner as a mortgage on real property upon the recording of a Notice of Delinquent Assessment or charge as set forth in Section 5.8 hereof. The Association shall be entitled to purchase the Homesite at any foreclosure sale. The grantee of any Homesite (i.e., purchaser or other transferee) shall be jointly and severally liable with his grantor (i.e., seller or other transferor) for all unpaid Assessments or other proper charges due the Association prior to, as well as subsequent to, the date of the recording of the conveyance without prejudice to the rights of said grantee to recover from grantor any Assessments paid. Notwithstanding the preceding, no Mortgagee shall be personally liable for any Assessment or other proper charges due the Association, except in the event such Mortgagee shall acquire title to the Homesite through a foreclosure or deed in lieu of foreclosure or otherwise. Any Mortgagee who so acquires title also shall be liable for Assessments or other proper charges due the Association arising on or subsequent to the date such Mortgagee became the record owner of the Homesite.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the property and for the improvement and maintenance of the utilities and common area, to include road maintenance and utility line maintenance, landscape maintenance, waterway maintenance, recreational facility maintenance, property liability insurance, Association employees wages, mailing costs and other related expenses incurred on behalf of the Association.

Section 3. Annual Assessments. An Annual Assessment shall be made against each Homesite based upon an annual budget approved by the Board for the purpose of paying Common Expenses, cost center functions or services allocated to certain or all Homesites, including but not limited to, reserves for operating deficiencies, a fund for capital improvements or any other matters reasonably determined by the Board to be the subject of an Annual Assessment. Homesites owned by Declarant shall not be liable for any annual assessments unless the Declarant builds a residence on a homesite. The Annual Assessment may include any and all assessments made by the Association or may be levied separately. The Board shall prepare an annual budget estimate for Common Services and administration of the Association and fix the amount of the Annual Assessment based upon its estimate. Such annual budget shall be prepared and approved by the Board at least thirty (30) days in advance of each Annual Assessment period.

Section 4. Special Assessments for Capital Improvements In addition to the Annual Assessment authorized above, the Association may levy, in any Assessment period, a Special Assessment for the purpose of defraying, in whole or in part, any special assessment of the Association, the cost of any construction, reconstruction, repair or replacement of a capital improvement, or for other extraordinary expenses, provided that any Special Assessment in excess of Thirty-Five Thousand and No/100 Dollars (\$35,000.00), other than a special assessment of the Association, shall have the approval of eighty percent (80%) of the Owners who vote in person or by proxy at a meeting duly called for such purpose (except in the event of

an emergency where there shall be no such limit). For purposes of this Section, the term “emergency” shall mean any loss or damage, actual or threatened, to persons or property. Except in emergencies, the limit on the amount (i.e. \$35,000.00) of the Special Assessment that may, be levied by the Association without obtaining approval of the Owners is defined as the sum of the total assessments to be levied on all Homesites and not the amount of the assessment applicable to each Homesite. Prior to adopting any emergency Special Assessment, the Association shall make reasonable efforts, via telephone or facsimile, to notify each Owner of the amount and purpose of the emergency Special Assessment to be levied.

Section 5. Notice and Quorum for any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than thirty (30) days and no more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all lots and may be collected on an annual basis. Each lot will be assessed no more than 1/40th of the actual cost incurred for common area and special assessments.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all lots subject to assessment on the first day of the month following the issuance, by Weber County, of the first occupancy permit for a homesite within Hawkins Creek. The first annual assessment for lots Purchased thereafter shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors of the Association shall fix the amount of the annual assessment again for each lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto.

The due dates shall be established by the Board of Directors. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any Assessment or charge or installment thereof not paid when due shall be deemed delinquent and, in the discretion of the Board, may bear interest from and after the due date until paid at a rate set by the Association, but in no event greater than applicable law. The delinquent Member also shall be liable for all costs, including attorneys’ fees, which may be incurred by the Association in collecting a delinquent Assessment. The Board may also record a Notice of Delinquent Assessment or charge against any Homesite as to which an Assessment or charge is delinquent. The Notice shall be executed by an officer of the Board, shall set forth the amount of the unpaid Assessment, the name of the delinquent Owner and a description of the Homesite and shall, upon

recording, constitute an Assessment Lien. The Board may, but shall not be required to, establish a fixed fee to reimburse the Association for the Association's cost in preparing and recording such notice, processing the delinquency and recording a release of said lien, which fixed fee shall be treated as part of the delinquent Assessment secured by the Assessment Lien. The Association may bring an action at law against the Owner personally obligated to pay the delinquent Assessment and/or foreclose the lien against said Owner's Homesite. No Owner may waive or otherwise avoid liability for the Assessments provided for herein by non-use of the benefits derived from Assessments or abandonment of his Homesite. No delinquent Member shall be entitled to vote on any Association matters until the assessment due, including any interest and/or other costs, shall have been paid in full. Where assessments due from any Member are more than six (6) months delinquent, the Association may temporarily cut off any or all Association services or benefits to such Homesite, until all delinquent assessments are fully paid.

Section 9. Subordination of the Lien to Mortgages. A lien of the assessments provided for herein shall be subordinated to the lien of any first mortgage or purchase contract. Sale or transfer of any lot shall not affect the assessment lien.

Section 10. Common Area Assessment. There shall be set aside not less than ten percent (10%) of the regular annual assessment for the sole purpose of maintaining the Utility Systems and Common Area and as approved by the Association. The Association shall have the obligation of clearing bushes and shrubs at the intersection of Sweetwater and Utah State Highway 226 for the purpose of improving and/or maintaining the sight distance.

Section 11. Insurance. The Association shall obtain and keep in full force and effect the following insurance coverage:

- (a) Property and fire insurance with extended coverage and standard all-risk endorsements, including vandalism and malicious mischief, on Property Conveyed or Leased by Declarant or any other Association Property. The total amount of insurance, after application of deductibles, shall be 100% of the replacement value of the insured property exclusive of land, foundations and other items normally excluded from property policies.
- (b) Public liability and property damage insurance, including medical payments insurance, in an amount to be determined by the Board, covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the ownership, operation, maintenance or other use of Association Property. This policy shall also cover operation of automobiles or other vehicles or equipment on behalf of the Association. The minimum public liability insurance to be carried by the Association shall be Two Million Dollars and No Cents (\$2,000,000.00) and limits of coverage shall be reviewed annually to determine whether the Association should carry public liability insurance in excess of this minimum amount. The maximum deductible amount for the insurance required by this subsection (b) shall be \$25,000.00.
- (c) Workmen's compensation and employer's liability insurance in the amounts and in the forms required by law, unless the Association has no employees which would require such coverage.
- (d) Fidelity coverage in the minimum amount of \$250,000.00 against the dishonesty of employees, destruction or disappearance of money or securities, and forgery.

This policy shall also cover persons who serve the Association without compensation.

- (e) Coverage of any person(s) who is or was a member of the Board, officer, employee, fiduciary or agent of the Association against any liability asserted against or incurred by such person in that capacity or arising from such person's status as a director, officer, employee, fiduciary or agent, whether or not the Association would have the power to indemnify such person under the applicable provisions of any State of Utah statute, and against libel, slander, false arrest, invasion of privacy and errors and omissions and other forms of liability generally covered in officers and directors liability policies.
- (f) Coverage against such other risks of a similar or dissimilar nature as the Board deems appropriate.
- (g) With respect to Subsidiaries, any or all of the insurance coverage described in this Section 5.11.
- (h) Notwithstanding the preceding, the Association shall be permitted to omit any of the coverage described in (d) above where premiums are unreasonably expensive or the coverage is not available in this geographic area or the coverage is not offered by a carrier of sufficient credit rating.

5.11.1 Named Insured(s) and Interests. The Association and, where appropriate, Subsidiaries of the Association, shall be the named insured(s) under each of said policies. Where appropriate, the named insured(s) may also be the officers and directors of the Association. Policies of insurance also shall name Declarant as an insured so long as it shall retain any interest in Hawkins Creek. The certificate or memoranda of insurance, duplicate originals of all policies and renewals, and proof of payment of premiums shall be issued to the Association, and upon request, to Declarant and to any Owner who is a named insured or to any Eligible Mortgage Holder. Provided that such arrangements can be made with the Association's insurers and provided further there shall be no additional cost to the Association (other than a nominal cost not to exceed \$ 100.00 per policy annually) each policy shall provide that twenty (20) days written notice will be given to each Owner prior to any cancellation of such policy. The Association shall promptly report, in writing, to all Owners any claims made against the Association, which report shall contain the name of the claimant, date the Association received notice of the claim, amount of the claims, if known, and a brief description of the nature of the claim.

5.11.2 Insurance Proceeds. The Association shall receive the proceeds of any settlements resulting from any insurance purchased by the Association. In the event of damage or destruction due to fire or other disaster, if the insurance proceeds are sufficient to reconstruct the improvements, the Association shall promptly cause such reconstruction to occur. If the insurance proceeds are not sufficient for such purpose, the Association may levy a Special Assessment against the Owners for such deficiency.

5.11.3 Indemnification of Members of the Board. The Association shall indemnify the directors of the Association in all cases in which a corporation or association may indemnify a director under applicable statutes. The Association shall consider and act as expeditiously as possible upon any and all requests by a director for indemnification or advancement of expenses.

5.11.4 Indemnification of Officers Employees and Agents Who are Not Members of the Board. The Board may indemnify and advance expenses to any officer, employee or agent of the Association who is not a director of the Association to any extent consistent with public policy, as determined by the general and specific actions of the Board.

Section 12. Covenants to Run with Land. This declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of the Association, all other signatories hereto, all parties who hereafter acquire any interest in a Lot, and their respective grantees, transferees, heirs, devisees, personal representative, successors, and assigns. Each Owner or resident of a Lot shall comply with, and all interests in all Lots shall be subject to, the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, supplements, amendments, and determinations contemplated by this Declaration. By acquiring any interest in a Lot in the Project, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

ARTICLE VI - ARCHITECTURAL STANDARDS

Section 1. Site Committee; Organization. There shall be a Site and Architectural Review Committee organized as follows:

(a) The Site and Architectural Review Committee shall consist of three members of the Board of Directors of the Association for their respective terms of office.

Section 2. Initial Site Committee. The members of the initial Site and Architectural Review Committee (SARC) shall be appointed by Declarant, and will likely include practicing architects or design professionals who are not Owners. After Weber County has allowed occupancy on ten of the Lots, one Owner will be appointed to the Committee by the Trustees to replace an appointee of the Declarant. After Weber County has allowed occupancy on fifteen of the Lots, a second Owner will be appointed to the Committee by the Board of Trustees. No later than on the fifth anniversary of the recording of the plat, all three members of the Committee will be elected by the Lot Owners. To maintain continuity, the Declarant intends to remain active in the administration and enforcement of these Covenants, Conditions, and Restrictions while the homes on the Lots are being constructed.

Section 3. Site Committee: Duties. It shall be the duty of SARC to consider and act upon such proposals for plans submitted to it from time to time, to adopt SARC rules pursuant to Section 5 of this Article, and to perform such other duties from time to time as delegated to it by the HAWKINS CREEK Covenants.

Section 4. Site Committee: Meetings; Action; Expenses. The SARC shall meet from time to time as necessary to properly perform its duties hereunder. The vote or written consent of any two (2) members shall constitute an act by SARC unless the unanimous decision of its members is otherwise required by the HAWKINS CREEK Covenants. The SARC shall keep and maintain a record of all action taken by the SARC at such meetings or otherwise. Unless

authorized by the Association, the members of the SARC shall not receive any compensation for services rendered. All members shall be entitled to reimbursement for reasonable expenses incurred by them in connection with the performance of any SARC function.

Section 5. Site Committee Rules. The SARC may, from time to time, and in its sole discretion, adopt, amend and repeal by unanimous vote, rules and regulations, to be known as “Design and Development Guidelines”. The Design and Development Guidelines are incorporated by reference to this Declaration. A copy of the SARC rules, as they may from time to time be adopted, amended or repealed, certified by any member of the SARC, shall be available for each lot Owner requesting same from any member of the SARC, and shall have the same force and effect as if they were a part of the HAWKINS CREEK Covenants. The SARC may record the same if deemed necessary.

Section 6. Non-Waiver. The approval by the SARC of any plans, drawings or specifications for any work done or proposed, or in connection with any other matter requiring the approval of the SARC under the HAWKINS CREEK Covenants, shall not be deemed to constitute a waiver of any right to withhold approval as to any similar plan, drawing, specification or matter whenever subsequently or additionally submitted for approval.

Section 7. Estoppel Certificate. Within thirty (30) days after written demand therefore is delivered to the SARC by any Owner, and upon payment therewith to the Association of a reasonable fee from time a time to be fixed by the Association, the SARC shall record an estoppel certificate executed by any two (2) of its members, certifying with respect to any lot of said Owner, that as the date thereof either (a) all improvements or other work made or done upon or with said lot by the Owner, or otherwise, comply with the HAWKINS CREEK Covenants, or (b) such improvements and/or work do not comply, in which event the certificate shall also (1) identify the noncomplying improvements and/or work, and (2) set forth with particularity the cause or causes for such noncompliance. Any purchaser from the Owner, or mortgagee or other encumbrancer shall be entitled to rely on said certificate with respect to the matters therein set forth, such matters being conclusive as between the Association, Declarant and all Owners and such purchase, mortgagee or other encumbrancer.

Section 8. Liability. Neither the SARC nor any member thereof shall be liable to the Association or to any Owner or project committee for any damage, loss or prejudice suffered or claimed on account of (a) the approval of any plans, drawings and specifications, whether or not defective, (b) the construction or performance of any work whether or not pursuant to approved plans, drawings and specifications (c) the development, or manner of development, of any property within HAWKINS CREEK or (d) the execution and filing of an estoppel certificate pursuant to Section 7 above, of this Article, whether or not the facts therein are correct; provided, however, that such member has, with the actual knowledge possessed by him, acted in good faith. Without in any way limiting the generality of the foregoing, the SARC, or any member thereof, may, but is not required to, consult with or hear the Association or any Owner with respect to any plans, drawings or specifications, or any other proposal submitted to SARC.

ARTICLE VII - DESIGN STANDARDS

Section 1. General Standards. The guiding design concept for the Hawkins Creek Subdivision is that the dominant visual feature of the Subdivision, whether viewed from within the property or from locations off-site, should be the natural landscape consisting of the alpine meadow, the oak forest, and the mountain backdrop. Dwellings and other improvements must blend into this natural setting and not dominate it. These Architectural Standards have been prepared with the intention of insuring that the impacts of construction of the Subdivision are minimal, acceptable, and respectful of the natural landscape. Suggested clear standards of design will provide direction and guidance to the Owners and their design professionals in the planning and construction of improvements on each lot's unique setting. It is not the intention of these standards to create uniformity, but to encourage a diversity of design and materials within and architectural approach that respects each site, and is compatible with the mountain landscape and community.

A concise set of standards has been established for the development and is incorporated into this Declaration by reference. Owners should obtain a copy of the most recent "Design and Development Guidelines" prior to engaging their own design professionals. The SARC expressly reserves the right to wholly reject plans which in its sole and exclusive judgment are determined to be inconsistent with the stated intent or explicit requirements of these guidelines.

The following general standards and restrictions are applicable to the construction, remodeling, alteration and exterior refinishing of any and all improvements and site preparation upon each lot.

Section 2. Design Character.

(a) All improvements shall be of new construction. Pre-built, component, or modular construction shall not be allowed.

(b) Exterior materials shall be new material except for architectural detailing which may utilize used materials, provided that used materials may be approved for barns and other outbuildings.

(c) Exterior finishes shall be semi-transparent or heavy bodied stains, or pigmented or clear non-glossy preservatives. Gloss painted finishes shall not be permitted. All exposed metals shall have a dull colored finish, or shall be flat color anodized or painted.

(d) Exterior Colors shall be subdued. Color samples, on pieces of all exterior materials and roofing materials to be used, shall be submitted to the SARC for approval.

Section 3. Building Design.

(a) No more than one single family residence shall be constructed on any residential site. A detached guest house, garage facilities, and associated outbuildings, not to exceed a

total of three structures, may be permitted if of similar design character to the principal residence and approved within the guidelines of the Weber County Planning Commission.

(b) The minimum single floor area of any single family residence shall be no less than 2,500 square feet, exclusive of a garage, carport or unenclosed porches or decks and shall not exceed a maximum of 8,000 square feet. The area of a top or intermediate floor template shall not exceed 70% of area of the floor template directly beneath it. The floor area template directly above the lowest floor level template, shall not exceed 85% of the area of the floor template directly beneath it, whether such lowest floor level template is finished, unfinished, or crawl space. Each principal residential structure shall have, as a minimum, an attached two-car garage. Guest houses shall comply with the requirements of the **Weber County Comprehensive Plan** as it shall exist from time to time.

(c) The maximum building height of any structure shall not exceed 30 feet above natural Grade and the massing of the dwelling should follow the natural, existing contour of the land. On wooded lots, the Owner is strongly encouraged to limit the height of any exterior walls to the height of the adjacent surrounding woodland's canopy, generally less than 20 feet. No ridge line on a detached garage or detached accessory dwelling unit shall exceed 22 feet in height above finished grade. All heights shall be measured at any cross section of the structure from undisturbed original grade to the highest point of the structure immediately above. Minor projections such as chimneys or other structures not enclosing habitable space, but not including solar collectors, shall be excluded in determining the maximum height.

(d) Roofs shall have a minimum pitch of five feet in twelve feet. All primary roofs shall have a minimum overhang of two feet. Solar collectors shall not be considered to be roofs. Roofs materials should be selected to minimize their off-site visual impacts and to not contrast with the surrounding natural landscape. The only permitted roofing materials are those listed in the Design and Development Guidelines.

(e) Exposed foundations of concrete or masonry construct shall not have an exposed surface which exceeds a height of 8" above finished grade, unless approved by the SARC. No single or continuous exterior wall plane shall measure more than thirty (30) feet in length before a change in depth of at least three (3) feet.

(f) Solar collectors may be of any construction, materials or pitch required for efficient operation, but they shall not be placed on any structure in a manner which causes objectionable glare to any neighboring residence. Solar collectors shall be integrated into the structure of a residence, garage, carport or accessory building and shall not be free-standing. Solar collectors shall be permitted only upon specific approval of the SARC.

Section 4. Site Design.

(a) Building envelopes for each residential Lot are designated on a map held and

maintained by the SARC. No structure may be constructed or placed outside of the building envelope, with the exception of necessary and approved driveway and access structures, without the approval of the SARC. Building envelopes may be relocated only with the approval of the Board and the Owners of immediately adjacent lots.

(b) Finish grading on buildings shall assure drainage of surface water from the buildings and avoid concentrating runoff onto adjacent properties. For a distance of ten feet a minimum fall of six inches in ten feet shall be provided at the perimeter of all buildings which have impervious surfaces and one inch in ten feet for non-impervious surfaces. The entire site shall have positive drainage to common open space right-of-way and shall utilize swales as required.

(c) Landscaping for each Lot shall be regularly maintained. In the event any landowner shall fail to maintain the landscaping, the Board shall have the right to provide required maintenance and assess the cost thereof to the property Owner as an additional assessment subject to becoming a lien. A landscape plan shall be provided to the SARC along with Architectural drawings and will be part of the review process.

(d) Fencing shall comply with the following requirements:

(1) No boundary fences around the exterior lot lines of any lot, or around the perimeter of any building envelope, shall be permitted. The following are the only fences permitted on any lot, which shall be within the building envelope:

(i) Privacy fences shall be permitted immediately adjacent and contiguous to structures, provided that the construction and location shall have been approved by the Board;

(ii) Fence around tennis courts or swimming pools are permitted provided that the size and construction type shall have been approved by the Board;

(iii) A dog run shall be permitted provided that the size, construction and location shall have been approved by the Board.

(e) Exterior lighting fixtures shall not cause glare to the adjacent lot or outside the subdivision and neither the elements nor translucent parts of any exterior light shall be visible outside the subdivision.

(f) Utilities shall be installed underground. There shall be no visible roof antennae.

(g) House numbers shall be visible and readable for each residential lot.

ARTICLE VIII

LAND CLASSIFICATIONS, USES AND RESTRICTIVE COVENANTS

Section 1. Land Classifications. All land within HAWKINS CREEK has been classified into the following areas:

- (a) Residential;
- (b) Common Area;

Section 2. General Restrictions. The following general restrictions shall apply to all land, regardless of classification:

(a) No building, structure, sign, fence, refinishing or improvement of any kind shall be erected, placed or permitted to remain on any structure, lot or tract, and no excavation or other work which in a way alters any lot from its natural improved state existing on the date such lot was first conveyed in fee by Declarant to an Owner shall be erected, placed on or permitted to remain on any structure, lot or tract until the plans, specifications and exterior material samples and color selections thereof and landscape plan have been approved in writing and a building permit has been issued by the SARC. Plans for buildings for the refinishing or improvement of the same shall include scaled floor plans, exterior elevations indicating height, a list of exterior materials, a site plan and landscape plan. Plans and elevations shall show all external features and materials for all structures. They shall show garages, porches, decks, stoops, chimneys, vents, doors and windows, trim and special architectural features. Site plans shall show the elevations of finished floors and existing and finished grades, existing trees or shrubs, and shall show the entire site and the location of all rights-of-way, easements, buildings, decks, driveways, parking areas, fences and utilities. The landscape plan shall show tree and shrub plantings, lawn areas, areas to be irrigated, berming, and other features. Specifications shall describe all exterior finishes and materials.

(b) The sum of fifteen hundred dollars (\$1,500.00) for each residential lot shall be submitted, along with the proposed building site or alteration plans to the SARC to cover the expenses of reviewing said plans. Said amount may be increased from time to time by SARC rules.

(c) Two copies of all proposed plans and related data shall be furnished to the SARC, one of which may be retained by the SARC for its records. Any approval given by the SARC shall not constitute a warranty express or implied, of compliance with any applicable building or safety codes or for any other purposes other than the authority for the person submitting the plan to commence Construction.

Section 3. Residential Area; Uses; Restrictions.

(a) Each residence shall be used exclusively for residential purposes and no more than one family (including its servants and transient guests) shall occupy such residence; provided, however, that nothing in this subparagraph (a) shall be deemed to prevent:

(1) Construction of guest houses in accordance with these Covenants.

(2) Any artist, artisan or craftsman from pursuing his artistic calling upon the lot or dwelling unit owned by such artisan if such artist, artisan or craftsman also uses such lot or dwelling unit for residential purposes, is self-employed and has no employees working on such lot or in such dwelling unit, and does not advertise any product or work of art for sale to the public upon such lot or dwelling unit;

(3) The leasing of any lot from time to time by the owner thereof, subject, however, to all of the restrictions as may be adopted from time to time by the Association.

(4) The rental of the principal residence to groups on a week to week basis only and to families on a week to week or longer basis, subject to such further restrictions, rules or regulations as may be approved by the board of the Association.

(b) Each residential lot, and any and all improvements from time to time located thereon, shall be maintained by the Owner thereof in good condition and repair, and in such manner as not to create a fire hazard, all at such Owners' sole cost and expense.

(c) No noxious or offensive activity shall be carried on at any lot, nor shall anything be done or placed thereon which may be or become a nuisance, or cause unreasonable embarrassment, disturbance or annoyance to other Owners in the enjoyment of their lots, or in their enjoyment of the Common Area. In determining whether there has been a violation of this paragraph recognition must be given to the premise that Owners, by virtue of their interest and participation in HAWKINS CREEK are entitled to the reasonable enjoyment of the natural benefits and surroundings of HAWKINS CREEK. Without limiting any of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of the lots and improvements thereon, shall be placed or used on any lot.

(d) No domestic animals or fowl shall be maintained on any lot. Not more than two generally recognized house or yard pets are permitted, provided, however, that such animals shall at all times be restrained or leashed and provided further that subject to the provisions of subparagraphs (a) and (c) above and subject to such limitations as may from time to time set forth in the Bylaws of the Association, which may reduce the allowable number or restrict the type of pet, or require that such pets be contained indoors. If any animals are caught or identified chasing or otherwise harassing livestock, wildlife or

people, the Board shall have the authority to have such animal or animal impounded at any available location and shall assess a penalty against the Owner of such animal or animals of not more than one hundred dollars (\$100.00) plus all costs of impoundment. If any such animal or animals are caught or identified as chasing or harassing wildlife, livestock or people on a second occasion, the Board shall have the authority to have such animal impounded or destroyed, the determination of disposition being the sole discretion of the Board. In the event that such animal or animals are not destroyed, the Board shall assess a penalty of not more than two hundred dollars (\$200.00) per animal, plus costs of impoundment. No Owner of any animal or animals impounded or destroyed for chasing or harassing livestock, wildlife, or people shall have the right of action against the Board or any member thereof, for impoundment or destruction of any such animal or animals.

(e) No signs whatsoever, including but without limitation commercial, political and similar signs, visible from neighboring property, shall be erected or maintained upon a lot, except:

(1) Such signs may be required by legal proceeding;

(2) Standardized residential identification signs of combined total face area of three (3) square feet or less for each residence, and signs used in connection with facilities of history, informational or instruction nature.

(3) Such residential identification signs to be placed in the Common areas associated with each living unit area, as the homeowners within that area determine appropriate and feasible.

(f) No house trailer, mobile home, tent, tepee or similar facility or structure shall be kept, placed or maintained upon any lot at any time; provided, however, that the provisions of this subparagraph shall not apply to temporary construction shelters maintained during, and used exclusively in connection with, the construction of any work or improvement permitted by these covenants. No person shall reside in or live in such temporary construction shelters or facilities unless application is made therefore and approved by the SARC.

(g) No trailer of any kind, truck camper or boat shall be kept, placed or maintained upon any lot in such a manner that such trailer, truck camper, or boat is visible from neighboring property, unless the same is approved as a temporary construction shelter or facility as provided above.

(h) No accessory structures, buildings, garages or sheds shall be constructed, placed or maintained upon any lot prior to the construction of the main structure of the residence; provided, however, that the provisions of this subparagraph shall not apply to temporary construction shelters and used exclusively in connection with the construction of the main structure or to the guest house which may be constructed in advance of the primary residence and occupied for no more than 2 years prior to completion of the primary

residence.

(i) All garbage and trash shall be placed and kept in closed containers which shall be maintained so as not to be visible from neighboring property. The collection and disposal of garbage and trash shall be in strict compliance with such rules as may be adopted by the Association, which may provide for common collection points. The maintenance of accumulated waste plant materials is prohibited. The cost of garbage and trash collection shall be paid by each Owner, in accordance with the billing of the collector.

(j) Outside clothes lines or other outside clothes drying or airing facilities shall be maintained exclusively within a fenced service yard and shall not be visible from neighboring lots or any other area located within the subdivision, unless approved by the SARC.

(k) There shall be no exterior fires whatsoever except barbecue fires contained within receptacles therefore and such fires as may from time to time be permitted by the Association rules. The burning of trash, organic matter, or miscellaneous debris shall be prohibited whether in the open or in trash burning receptacles except where approved and authorized by the Association rules.

(l) An Owner shall not permit designated parking spaces to be used for purposes other than to park vehicles. The Board shall have full power and authority to regulate the parking and storage of cars and any and all motor homes, recreational vehicles, boats, bicycles, motorbikes, motorcycles, trailers and other similar vehicles and equipment, and to regulate the use of roadways by imposing and enforcing speed limits and other restrictions all with full power and authority to impose and enforce (by special assessments hereunder or otherwise) fines and other penalties for violations of such regulations.

(m) Each residential building shall be required to connect to the HAWKINS CREEK community water supply system at the Owners' sole expense, and such connection shall conform to all applicable standards of the State of Utah, Weber County or any other regulatory agency.

(n) Each residential building shall be required to connect to the HAWKINS CREEK community sewage disposal system at the Owners' sole expense, and such connection shall conform to all applicable standards of the State of Utah, Weber County or other regulatory agency. No outdoor toilets shall be permitted, except for a six (6) month period during construction.

Additionally, each individual lot must contain a 1,000 gallon holding tank (minimum size) which is to be installed and serviced at the homeowners expense. This tank is to capture effluent prior to it entering the main sewage system for the development. No deviations from this requirement will be allowed without approval of SARC.

(o) Each residential building shall be required to connect to the Questar natural gas distribution system at the Homeowners' sole expense. Any such connection shall conform to all applicable standards of Questar, the State of Utah, Weber County or other regulatory agency.

Declarant has made every effort to ensure that the natural gas distribution lines are contained within utility easement areas located "outside" of paved roadways. However, should connection to the natural gas distribution line prove to be necessary by disturbing or sawcutting any paved area, said road disturbance and repair shall be performed at the homeowner's expense. Any roadway repair work performed must conform to Weber County engineering specifications and be duly inspected by Weber County personnel.

(p) The Common roads on the Property shall be private roads at all times, and each lot Owner shall be responsible for an equal portion of the snow removal and maintenance costs for said roads. Bushes and shrubs shall be cleared within the road and highway rights-of-way to improve sight distance, with related costs being common costs.

(q) No mining or mineral extraction or development activities shall be permitted on any lot without the prior written approval of the Board.

(r) Lot Owners shall take all actions necessary to control noxious weeds as defined by the **Weber County Weed and Pest Control Board** and/or the Board. Because the timing for effective control of noxious weeds is very critical, if a lot Owner fails to respond immediately to a written request to weed control from the SARC, the Board shall have the right to contract for such control services and the company contracted shall have the right to enter upon any such lot to treat noxious weeds without any liability for trespass. In the event that the Board provides for noxious weed treatment as described herein, the Owner of a lot treated for noxious weed control shall pay all costs incurred by the Board.

(s) There are waterways located on the Property. The waterways are identified on the subdivision plat of the Property. It is essential to keep these areas flowing freely, to avoid flooding problems caused by blockage. The Owner of any lot upon which any waterway is located shall not take any action to plug or impede the flow of such. If possible, the Owner of any such lot shall clean out any debris it collects in the waterway located on such lot. Any such lot Owner shall promptly notify the Board of any animals such as beaver who are plugging a waterway so that the SARC can take necessary control action. No pesticides or other noxious or dangerous chemicals shall be put into or allowed to enter waterways.

(1) Flood Irrigation. Flood irrigation methods shall not be employed on lots once residential usage occurs to avoid potential conflicts with the function of septic drain fields.

(2) Sprinkler irrigation. Sprinkler irrigation methods shall be employed for landscaped areas on all lots, such irrigation systems are to be approved by the

Committee. Irrigated areas are to be limited to 4,000 sq. ft. on each Homesite.

(3) Non-Consumptive Wildlife Habitat Improvement Water. Declarant is pursuing the necessary permits to allow for the use of water from the Smith Creek to improve wildlife habitat on the property by stabilizing seasonal water flows. It is not the intention herein to increase such flows beyond those now seasonally occurring.

The Board shall have jurisdiction over the maintenance over such water use and shall enlist the aid of competent professionals in determining course and distribution. The Board shall designate an individual who is responsible for the day-to-day maintenance, oversights and adjustment of this water source. The Board shall also make provisions within the Budget for the normal maintenance and upkeep of waterways and any structures appurtenant thereto. The Board shall also be authorized on behalf of the Owners to work and deal with other recipients of water which are not located within the Property.

(t) Owners shall not obstruct Common Areas. Owners shall not place or store anything within the Common Areas without the prior written consent of the Board or its designee, except in a facility specifically designated or approved for such storage.

(u) The discharge of firearms, firecrackers or fireworks is forbidden.

(v) No snowmobile, motorcycle, or other similar device shall be operated on any lot for recreational purposes. Snowmobiles, motorcycles or similar vehicles may be used for access to and from residential structures, with the prior written approval of the Board. The approval of the Board to access use may be terminated if such vehicles are not strictly limited to access use.

(w) It is recognized by the Declarant and the purchasers or Owner of any lot within the Property that many wildlife species live on or migrate through the Property during various times of year. The following limitations on use and development are intended, in addition to all other requirements of these Covenants, to protect, preserve and maintain the existing wildlife habitat on the Property and to minimize the adverse effects of development on wildlife habitat:

(1) No Owner of any lot shall remove or alter or allow others to remove or alter any of the existing vegetation thereon, except as is absolutely necessary for the clearing and preparation of the building envelope for the purposes of constructing authorized structures or roads thereon;

(2) Dogs and other domestic animals shall be controlled and restrained at all times, and shall not be allowed to run at large on any portion of any lot except within an enclosed impounded area;

(3) No hunting or shooting of guns shall be allowed on any lot.

ARTICLE IX

EASEMENTS AND RESERVED RIGHTS

Section 9.1 Existing Easements Within Hawkins Creek and Reservation of Right to Grant Additional Easements. The lands within Hawkins Creek are subject to all easements of record which affect said lands at the time of the recording of this Declaration, whether or not said easements are described or otherwise reflected in this Declaration or on the Final Subdivision Plat(s), and any other easements which are not of record, but which may hereafter be determined by a court to affect land within Hawkins Creek. The Declarant reserves the right to grant easements to other land owners in the area adjacent to Hawkins Creek, over the Easements described in this Declaration which Declarant, in its sole discretion, may deem necessary or desirable.

Section 9.2 Development of Hawkins Creek. Declarant reserves the right for itself (and to the extent necessary, such right is hereby extended to the Association and its Subsidiaries, agents, employees and contractors), to enter upon any Common Area, Easement, or any Homesite, Association Property or Property Conveyed by Declarant and to do whatever Declarant deems necessary or advisable in connection with construction or other work to be performed by Declarant for the development of Hawkins Creek subdivision improvements, including, but without limitation, the construction and installation of a central sewage system, domestic water system, fire protection, drainage, irrigation and water storage facilities, the installation of all utilities, the construction of all Roads, grading and landscaping, the construction of all buildings and other improvements to be constructed by Declarant, including amenities, the erection or placement of such temporary structures as may be reasonably necessary to facilitate such development, and the placement of such sign or signs as Declarant may deem advisable in connection with the construction of the subdivision improvements and with the sale of the Homesites. The foregoing rights shall remain in Declarant and may also be exercised by Declarant as to any Property Conveyed by Declarant notwithstanding such conveyance to the Association. No rights reserved in this Section 9.2 shall extend into any Development Envelopes on any Homesite after the closing on the sale to an Owner other than Declarant.

Section 9.3 Utility Easements. Declarant and the Association hereby reserve the right:

(a) to grant non-exclusive easements at any time for utilities, ditches, irrigation and drainage purposes, including, without limitation, for the installation, relocation, operation, maintenance, repair and replacement of water and sewer mains, utility lines, pumps, pipes, transformers, towers, tanks, wires, conduits, culverts, ditches, ponds and other necessary facilities or systems and for ingress and egress to and from the same over and across any portions of Hawkins Creek including any Homesite except across any Development Envelope; and

(b) without extinguishing the aforementioned general easement, from time to time to substitute one or more specific easements for the use by utility companies or others by

recording of an instrument in the real estate records of Weber County, Utah. Unless the written consent of Declarant or the Association is first obtained, utility companies shall have no right to use easements over Hawkins Creek lands to serve properties adjacent to Hawkins Creek lands. If Declarant shall grant any easements to utility companies to serve properties adjacent to Hawkins Creek, Declarant shall be entitled to receive any consideration paid by such adjacent property owner or the utility company for such easement. When necessary, Declarant shall have the right, without obtaining the consent of any Owner, Mortgagee or the Association to amend the Final Subdivision Plat(s) as applicable to reflect any relocation of existing easements shown thereon or the granting of new easements for any of the purposes permitted hereunder. Declarant is responsible for the construction and installation of the central sewage and domestic water systems and shall also make necessary arrangements with utility companies to provide electric, telephone and natural gas service to Hawkins Creek; provided, however, the central sewage and domestic water systems and electric, telephone and gas service may be extended to Hawkins Creek in phases. Accordingly, utilities may not be available to all Homesites at the same time and any Owner, prior to the purchase of a Homesite, shall be responsible for obtaining from Declarant a schedule for the phasing of utilities.

Section 9.4 Operations Easements. There is hereby reserved to Declarant and the Association the right from time to time to enter upon Common Areas, Easements, or any Homesite, Association Property, Property Conveyed by Declarant, or any other portions of Hawkins Creek to perform or carry out any of Hawkins Creek operations, drainage or fence maintenance, repair or operation of the water or utility systems, or any other actions reasonably required to implement wildlife, agricultural, weed control or livestock control (including controlled burning or cutting to enhance wildlife habitat), or other operations approved by the Association.

Section 9.5 Emergency and Service Access Easement. A non-exclusive easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance, trash collection, mail service and other similar emergency and service agencies or persons, now or hereafter servicing Hawkins Creek and its residents and to Declarant, the Association or its Subsidiaries, the Maintenance Manager or any of their employees, to enter upon all Common Areas, Easements, Association Property, Property Conveyed by Declarant, and on any Homesites or other property in Hawkins Creek in the lawful performance of their duties. Private security contracts or other security arrangements made by Owners must first be approved by the Association.

Section 9.6 Agricultural Operations. There are hereby reserved to the Association perpetual easements over and across all Homesites for the purposes of conducting agricultural activities. Unless the written consent of the Owner of the affected Homesite is first obtained, agricultural activities shall be limited to the growing, irrigating and cutting of grass, weed control and maintaining or enhancing existing meadow vegetation.

Section 9.7 Hawkins Creek Private Trail Easement. There is hereby created a private trail easement for the use and enjoyment of Owners and their guests easements over and across all of Hawkins Creek, excepting only Development Envelopes. Said easement is for the purpose of trails and a trail system as presently located or as hereafter located or relocated, constructed and/or enlarged for purposes of hiking, biking, horseback riding, jogging, cross-country skiing, snow shoeing and other activities consistent with this Declaration (the Private Trail Easement).

Use of the Private Trail Easement by the public is prohibited. Hawkins Creek trail system within the Private Trail Easement shall be constructed by either Declarant or the Association and thereafter maintained and operated by the Association as a Common Expense. Construction and operation of the trail system may include cutting, clearing, stabilizing or maintaining trails, the posting of signs and erosion control. The use of the trail system shall be subject to such rules and regulations as the Association shall from time to time establish. The Association shall indemnify Owners of Homesites subject to the Private Trail Easement in regard to any injury or death to persons or damage to property occurred by use of the trails. The Association shall have authority to establish trail set-backs from Development Envelopes. Each Owner, members of their families and their guests or invitees assume all risk in connection with use of the trails. Unless the prior written consent of all Owners is first obtained, no amendment to this Section 9.7 shall be adopted which would limit or impair the right of any Owner to use the Private Trail Easement for hiking, biking, horseback riding, cross country skiing or other purposes as allowed in this Declaration together with the right to enter upon other Homesites in Hawkins Creek for such purposes; provided however, Declarant and/or the Association may modify or relocate specific trail locations on any Homesite to accommodate the Owner thereof.

Section 9.8 Road Easements. By separate grant of easement, Declarant shall grant to the Association permanent, perpetual and non-exclusive road easements for the purpose of providing access to all Homesites within all phases of Hawkins Creek (the "Grant of Easement") and all road easements created thereby shall be for the use, benefit and enjoyment all Owners, their family members, guests and invitees and for use of the Association, its officers, employees, agents, contractors and or its Subsidiaries. Said easements shall be located under, over, along and across those areas designated as Road Easement and Driveway Easement on the Final Subdivision Plat(s) (collectively, the "Road Easements") and shall include all embankment slopes created by the construction of the improvements within the Road Easements, all drainage structures, utilities, walls, bridges and other structures appurtenant to the Roads, whether located inside or outside the "Road Easements" (the "Road Improvements"). The Declarant shall construct and the Association shall permanently operate, maintain, repair and replace the Road Improvements within the Road Easements, and may in the future construct, install, operate, maintain, repair or replace other Road Improvements within the Road Easements for any purpose consistent with this Declaration. Road Improvements which may be constructed by Declarant and/or the Association within the Road Easements and the Commons Areas adjacent thereto, may include, but shall not be limited to, security and entry gates, security gate house, development and sales office, fences, signage, speed bumps or dips, drainage structures, guard rails and the like. There is further reserved to Declarant the right to increase the width of any Road Easement shown on the Final Subdivision Plat(s) including any Primary Access or Secondary Access provided that such widening does not encroach into any Development Envelope. With respect to all Homesites, no increased road width shall exceed forty (40') feet on either side of the centerline thereof as such centerlines are shown on the Final Subdivision Plat(s) or as-built if the as-built location shall vary from the Final Subdivision Plat(s). In the event Declarant shall determine to increase the width of any Road, Declarant shall have the right, but not the obligation, to amend the Final Subdivision Plat(s) for that purpose without requirement to obtain the consent of any Owner, Mortgagee or the Association. The width of any Road Easement may be increased for Road purposes or to accommodate a security gatehouse as long as the width of such enlargement does not exceed the maximum widths set forth herein.

Section 9.9 Easements for Sewage System. Easements are reserved by the Declarant and the Association under, over, along and across all Common Areas, Easements, Association Property, and Property Conveyed by Declarant whether or not shown on the Final Subdivision Plat(s) for purposes of installing, constructing, maintaining, repairing and operating the primary sewage system for Hawkins Creek, including but not limited to, pumps, pipes, lines, manholes, cleanouts and the like. It shall be the responsibility of each Owner to install, in accordance with specifications approved by the SARC, sewage service lines from the central sewage system to and within the Development Envelope on each Homesite. All sewage service lines installed by an Owner to and within the Development Envelope of a Homesite, together with easements fifteen (15) feet on either side of the centerline of such sewage service lines, shall become the property of the Association, and such sewage service lines shall be operated, maintained, repaired or replaced as part of the central sewage system. The cost of the maintenance, repair or replacement of individual service lines shall be charged to each Owner of such Homesite as a special cost center.

Section 9.10 Easements for Water System. Easements are reserved by the Declarant and the Association under, over, along and across all Common Areas, Easements, Association Property, and Property Conveyed by Declarant whether or not shown on the Final Subdivision Plat(s) for purposes of installing, constructing, maintaining, repairing and operating the primary water system for Hawkins Creek, including but not limited to, pumps, pipes, lines, fire hydrants and the like. It shall be the responsibility of each Owner to install, in accordance with specifications approved by the SARC, water service lines from the primary water system to and within the Development Envelope on each Homesite. All water service lines installed by an Owner to and within the Development Envelope of a Homesite, together with easements fifteen (15) feet on either side of the centerline of such water service lines, shall become the property of the Association, and such water service lines shall be operated, maintained, repaired or replaced as part of the primary water system. The cost of the maintenance, repair or replacement of individual water service lines shall be charged to each Owner of such Homesite as a special cost center.

Section 9.11 Ownership of Easements. Any easements or rights reserved by Declarant in Sections 9.1 through 9.10 above shall remain vested in Declarant until such time as Declarant has executed and delivered an instrument in writing transferring the same to the Association or a Subsidiary, or any successor or assign of Declarant. Where the instrument recites it is a complete transfer of a particular easement or right, Declarant shall be relieved from all continuing responsibilities therefore. With respect to any easements created within Hawkins Creek by this Declaration and with respect to any easements hereafter granted by Declarant or the Association that benefit the Owner of any Homesite such as roads, utilities, drainage ditches and trails, no such easements may be vacated, extinguished, impaired or limited (other than temporary limitations for maintenance, repair or replacement), except upon the written consent of the Owner of such Homesite and any Eligible Mortgage Holder thereon, and notwithstanding the provisions of Section 14.3 below, no amendment to this Declaration may repeal or change this requirement except upon the written consent of all Owners and all Eligible Mortgage Holders

Section 9.12 Performance Standards, Indemnification. Notwithstanding the provisions of Section 4.5 of this Declaration, all activities undertaken by Declarant, the Association or their assigns within or in connection with the easements and reservations described in this Section 9 shall be performed in a good and workmanlike manner and as expeditiously as possible, and

shall at all times be in complete compliance with all applicable construction, health, safety and other laws, regulations and codes. Natural vegetation shall be disturbed as little as possible, and any disturbed areas shall be re-graded and revegetated to the extent reasonably necessary to restore the same to an aesthetic and stabilized condition. All such activities shall be performed at the sole cost and expense of Declarant, the Association, or their assigns, and all areas subject to said easements shall be kept free from mechanics' or materialmen's liens of any kind and which may rise from the aforementioned activities. Nothing herein shall limit the ability of the Association as provided in this Declaration to assess Owners for costs of activities undertaken in connection with the easements and reservations described in this Section. Declarant, the Association, and their respective assigns shall indemnify, defend (including reasonable attorney's fees and costs), save and hold harmless any Owners and such Owner's partners and their respective affiliated companies, employees and agents, from and against any and all losses, liabilities, damages, expenses, claims or demands for personal injury, death, property damage, or any other form of loss or damage suffered by any person or persons (collectively "Liabilities") arising from the exercise by Declarant or the Association, as the case may be, or their respective assigns of any of the easement rights created in this Section 9, and for claims covered by insurance, to the extent of such insurance coverage, this indemnification shall apply even if any of such Liabilities arise from or are attributable to the concurrent negligence of any Owner. The insurance coverage required under Section 5.11(b) shall include Broad Form Contractual Liability specifically in support of, but not limited to, the indemnity contained herein. The liability of the Association and Declarant under this indemnification shall be several and separate it being understood that Declarant shall not indemnify Owners for activities of the Association and the Association shall not indemnify Owners for activities of Declarant. Further, neither the Association nor Declarant shall be liable under this indemnification for the exercise of such easements or reservations by third parties such as police, fire protection, utility, or other approved uses of the easements.

Section 9.13 Rights to Establish Conservation Easements. The Declarant hereby reserves to itself and to the Association the right to convey Conservation Easements on all of the open spaces in Hawkins Creek by conveying a Conservation Easement to an eligible entity under applicable Federal and Utah law for the establishment of such easements. Declarant intends to create contiguous, meaningful Conservation Easements on contiguous parcels and Homesites within Hawkins Creek but the granting of Conservation Easements hereunder shall not be required in each or every instance to be in such an order or pattern as to require a common boundary with a contiguous parcel or Homesite. The location and extent of the Conservation Easements shall be determined in the sole discretion of the Declarant and/or the Association. The right to grant Conservation Easements reserved herein is permissive and not mandatory. Nothing in this Declaration shall require the Declarant and/or the Association to establish a Conservation Easement, but either the Declarant or the Association, in its sole discretion, shall have the right to do so if it considers such action to be in the best interests of all the Owners of land in Hawkins Creek.

ARTICLE X

OPERATION OF HAWKINS CREEK

Section 10.1 Maintenance Manager's Parcel. The Maintenance Manager's Parcel includes or may include the Maintenance Manager's residence and outbuildings, access roads, utility lines and such other improvements or structures as shall be made or installed by Declarant or the Association. The Association may promulgate rules and regulations for the use of any areas of the Maintenance Manager's Residence.

Section 10.2 Water Distribution System. Domestic water shall be provided to all Homesites through a water system which will be constructed according to specifications and requirements as required by the Utah State Department of Environmental Quality, Division of Drinking Water. All costs of construction are to be borne by Declarant and, upon completion, the Association will operate and administer the water system for Hawkins Creek. Distribution lines will generally, but not necessarily be installed in the Easements and in those areas designated on the Final Subdivision Plat(s) as Common Areas for purposes of supplying domestic culinary water, firefighting water, and limited irrigation water to the Homesites and the Common Areas. The Declarant, pursuant to Section 9 reserves the right to grant an easement across any portion of a Homesite which is outside the Development Envelope if it is needed to complete the water system.

Additionally, all homeowners shall be subject to the Hawkins Creek Drinking Water Source Protection Plan. Specifically, all lots shall be subject to, and homeowners shall comply with the following Land Use Agreement:

That no uncontrolled potential contamination source as defined in R309-600-6(1)(w) of the Utah Administrative Code, shall be located or allowed within Zone One. Zone One being defined as the area within 100 feet of the water well in any direction which, in this case, is an area confined to Lot 26 of the development. It is also agreed that no pollution source as defined in R309-600-6(1)(v) of the Utah Administrative Code shall be allowed within Zone Two, and/or any additional Lot within Hawkins Creek, unless specific design standards are implemented to prevent contamination discharges.

Section 10.3 Water Connection and Development/Impact Fees. For each user connection in Hawkins Creek, certain connection fees and development or impact fees must be paid in order for the Homesite to be connected to the water system. Each Owner shall be responsible for the payment of the connection fees and the development or impact fees assessed by the Homeowners Association. In addition to applying to the County for building permits for the construction of buildings and other improvements on each Homesite, each Owner shall also be required to apply to the Homeowners Association for a water connection.

Section 10.4 Payment for Water Usage. Payment for water usage from the water system in Hawkins Creek shall be made by each Owner to the Association, and shall be billed by the Association to the Owners in accordance with the billing policies of the Association.

Section 10.5 Limitation on Water Usage. It is intended that the maximum annual water consumption for each Homesite in Hawkins Creek shall not exceed three quarters (3/4) acre foot. The Design and Development Guidelines shall include provisions for water conserving plumbing

fixtures and water conserving irrigation systems in an attempt to reduce actual consumption to less than three quarters (3/4) acre foot per connection per year. Any Homesite Owner who consumes more than three quarters (3/4) acre feet of water per year shall be subject to regulatory restrictions, fines and penalties consistent with the general policies of the Association and/or Weber County governing excessive water consumption. In the event of drought conditions, limits on peak source capacity may require restrictions on all water users within Weber County and the Association, and those restrictions will apply to water users within Hawkins Creek. This provision concerning restrictions during drought conditions, however, shall not limit the right of Homesite Owners to obtain water connections from the Association.

Section 10.6 Individual Wells. Subject to the provisions hereof, and to all applicable provisions of Utah law concerning the drilling of private water wells, and subject to the availability of well water, the Declarant or the Association may drill and operate private water wells. The Owner of a Homesite shall not be allowed to drill a private water well on a Homesite unless approved by the Association for any on-site pond or other purpose permitted by law, and if approved by the Utah State Engineer. Any Owner desiring to drill an individual well shall be responsible for obtaining all water rights, state and local permits and approvals for such wells and shall also be responsible for the payment of all costs associated with the drilling, development, operation, repair, maintenance and replacement of such a well. Declarant makes no representation or warranty that water for such wells is available on any particular Homesite or, if available, the depth at which it may be found or the quality or quantity of water that may be available. No drilling or operation of any well shall occur until the location, specifications, design and proposed use shall have been approved by the SARC and the State Engineer. In connection with any approval, SARC shall have the right to prohibit clustering of wells and to establish such other restrictions or prohibitions on the drilling or operation of wells as shall be necessary to prevent injury to any other water sources.

Section 10.7 No Impairment of Water Rights by Owners. Notwithstanding that Owners of Homesites are entitled to develop individual wells or thus obtain individual water rights appurtenant thereto, in no event shall Owners be entitled to have any standing, by virtue of ownership of said individual wells and water rights appurtenant thereto, to object to any application for a well permit, any water rights applications, including but not limited to, a change of water right, approval of any augmentation plans or new water right that may be filed by Declarant or the Association or their assigns. Each Owner hereby irrevocably constitutes and appoints Declarant or the Association as its attorney-in-fact to file, join in or object or to not file, join in or object as Declarant or the Association deems appropriate, in its sole discretion, to any water rights application affecting any Hawkins Creek lands.

ARTICLE XI

ADDITIONAL COVENANTS - WILDLIFE AND WETLANDS

Section 1. Easements for Cross-Drainage. Every Lot and the Common Area shall be burdened with easements for natural drainage of storm water runoff from other portions of the Project; provided, no person shall alter the natural drainage on any Lot to increase materially the drainage of storm water onto adjacent portions of the Project without the consent of the Owner(s) of the affected property, the HAWKINS CREEK Site Review Committee, and the Declarant as

long as it owns any property in the project.

Section 2. Wetlands Protection. The HAWKINS CREEK site and access roads have been designed to be sensitive to naturally occurring streams, ponds, aquatic sites, and wetlands. Such sites have been mapped and delineated in the subdivision plat of record and were used on locating roads and building sites to minimize environmental impacts and to preserve the natural integrity of the property. The SARC will review all proposed construction and land use proposals on the properties to assure that wetlands which are mapped are protected. The allowing covenants are based on the fundamental precept that dredged or fill material should not be discharged into the aquatic ecosystem.

(a) Permanent Standing or Permanently or Seasonally Flowing Water. Owners proposing an activity which would have the effect of reducing the reach or changing the bottom elevation of delineated wetlands by filling shall furnish proof to the SARC that Section 404 of the Clean Water Act as been fully complied with (such compliance normally takes the form of a letter of permission, a nation-wide permit or an individual permit issued by the District Engineer of the US Army Corps of Engineers authorizing the filling of wetlands).

Notwithstanding the owners' compliance with the above federal program, the SARC shall not approve proposed activities which involve the discharge of dredged or fill material into any water body on the property which consists of permanent standing water or permanently or seasonally flowing water.

(b) Seasonally Inundated Wetlands, or Wetlands not Inundated. For proposed activities which may affect seasonally inundated wetlands or wetlands not inundated, but seasonally with groundwater, the owner shall first furnish proof that the requisite Section 404 permissions have been obtained. Notwithstanding federal approval of the activity, the SARC shall not approve the activity unless it can be determined that the activity will not have a significant adverse impact on wetland values either individually or in combination with known and/or probable impacts of other proposed or approved activities of which the SARC is aware.

Section 3. Wildlife Protection. The property contains significant wildlife value and the purpose of this section is to provide guidelines to aid in the protection and preservation of such values.

(a) Agricultural Practices. There shall be no agricultural activities carried on on any lot including but not limited to the growing of crop or raising of livestock.

(b) Fencing. Perimeter fences around individual lots are prohibited. Only privacy fences as previously defined in Article VII, Section 4(d) shall be allowed. Perimeter fencing around the entire property is discouraged but if required for livestock protection, such fencing shall consist of a buck and rail or a low post and pole fence with only two poles to be both attractive and to permit wildlife to move freely.

(c) Landscaping:

(1) Non-native plants. Introduction of non-native plant species which might compete with or harm native species and result in their decline is prohibited except where it is shown that such introduction can improve or prevent undue damage to the natural environment. The planting of ornamental (non-native) woody or shrubby vegetation for landscape purposes is discouraged in order to reduce the likelihood of human-wildlife encounters.

(2) Clearing/Cutting of Trees/Vegetation. No destruction, removal, or alteration of living vegetation except during preparation of a building within the designated building envelope shall occur without permission from the SARC. There shall be no clearing of any dead or down trees or brush or the felling of live or dead trees without permission from the SARC. The Committee may grant such permission when a building site is being prepared for construction or when trees threaten buildings, block an established road, fall across a fence, or otherwise inhibit established residential activities.

(d) Animal Control.

(1) Non-native Animal Species. Introduction to the wild of any non-native animal species which might compete with or harm native species and result in their decline, is prohibited. This includes domestic waterfowl in common or private aquatic areas because they have been proven to be very aggressive towards native waterfowl species.

(2) Taking of Wildlife. The taking of any and all wildlife species by any means within the property is prohibited except for the catching and keeping of fish which may be stocked in private ponds, and the control of individual animals known to be causing unacceptable damage to property (e.g. a beaver damming a waterway or a porcupine identified as girdling planted trees).

(3) Domestic Pets. Domestic pets, including cats, shall not be allowed to roam free. Any pets caught or identified chasing or harassing wildlife, livestock, or people for a third time shall be banished and removed from the property or destroyed.

(4) Human/ Wildlife Confrontations. Residents and guests on the property shall not harass wildlife and should avoid areas of wildlife concentration. Use of specific trails is encouraged where applicable. Loud, offensive, or other behavior which harasses or frightens wildlife in common areas or pedestrian access easement areas is prohibited. Indiscriminate use and disturbance of wildlife refuge is discouraged.

(5) Artificial Feeding. Artificial feeding of moose, deer, and elk anywhere on the property is prohibited. Artificial feeding tends to “short-stop” wildlife in route to natural winter ranges and causes them to rely on humans when it is not necessary.

(e) Construction/Development.

(1) Roads. Construction of any roads except in association with specified residential activities is prohibited.

(2) Watercourses. There shall be a minimum 50 foot undisturbed setback between spring fed water bodies and any building or man made structure including but not limited to decks, leach fields, roads, etc.

(3) Excavation. Filling, excavating, dredging, mining, drilling or removing of topsoil, sand, gravel, rock, minerals, or other material or other changes in topography is prohibited except as provided for elsewhere in these covenants.

(4) Structures. Care shall be taken during construction of any structure to protect any nearby vegetation and trees. Where necessary, trees shall be wrapped or protected by other means to prevent damage.

(5) Wildlife Habitat Enhancement. Wildlife habitat improvements and enhancements are controlled by the SARC. Such activities would include pond excavation for waterfowl and fish, stream improvements for fisheries, and creation of waterfowl nesting habitat areas and describing appropriate activities shall be developed by a knowledgeable professional and submitted to the SARC for approval. Any activities of this nature shall be coordinated with the Utah Department of Wildlife Resources. The Owners Association will retain a wildlife expert to monitor habitat improvements and recommend management procedures based on wildlife usage and activities.

(f) Other:

(1) Firearms/Fireworks. The discharge of firearms and fireworks is prohibited on all lots, common areas, open space and access and utility easement areas.

(2) Chemicals. The use of chemical herbicides and pesticides is prohibited except for controlling noxious weeds. Only approved herbicides should be used and a **Weber County Weed and Pest** representative should be consulted before applying chemicals to sensitive areas.

(3) Burning. The burning of any materials or vegetation except in accordance with government regulations and in the case where burning is shown to be beneficial to wildlife is prohibited. Burning permits shall be obtained from SARC.

(4) Off Road Vehicles. The use of off-road vehicles such as all wheel drives, motorcycles, and all terrain vehicles is prohibited except when necessary for specified activities on improved roads.

(5) Damage Claims. Owners acknowledge that wildlife damage to landscaping will undoubtedly occur since the property is located within wildlife habitat. Owners shall not file claims against the Utah State Department of Fish and Game for such damages.

ARTICLE XII

ADDITIONAL COVENANTS - COMMON ENTRY / RIPARIAN LANDS.

Section 1. Use of Common Areas. No property owner shall have the right to occupy or possess any of the Common Areas by reason of owning a lot in HAWKINS CREEK.

Section 2. Common Areas. The Common Areas shall be reserved for Owner use of roadways and recreational activities. Common Area properties may contain construction, maintenance, utilities and like facilities necessary for the keeping, maintaining, and care of the Common Areas. The Association may construct entry amenities, recreational facilities, caretakers' residence of not less than 1,500 square feet and maintenance barns for storage and upkeep of maintenance equipment. No commercial use shall be permitted thereon. Until such time as all lots have been sold by Declarant, Declarant may maintain a sales office on the Common Area without charge by the Association.

Section 3. Use of Riparian Lands. The riparian lands adjacent to residential lots located along Smith Creek shall be limited to recreational pedestrian uses. No hunting mining, commercial, industrial or other use shall be permitted except that from time-to-time on an occasional or on an as needed basis debris may be extracted from the active creek bed by the Association on a fully licensed and permitted basis, such extraction not to cause a nuisance or distraction to any lot owner.

ARTICLE XIII - GENERAL PROVISIONS

Section 1. Lot Splitting; Consolidation.

(a) Two or more contiguous lots within HAWKINS CREEK may be combined, provided notice of intention to consolidate such lots is filed with the SARC. Such consolidated lots may thereafter be treated as one building site, and such site may be subjected to these restrictions the same as a single lot except for the purpose of levying and collecting assessments. The SARC will consider the authorization of guest houses on two or more

consolidated lots.

(b) No residential lot within HAWKINS CREEK shall be split or divided or subdivided, unless such lot as split is then consolidated with a contiguous lot, and unless the resulting area to be built upon be larger than one lot.

Section 2. Common Area; Reservation of Easements and Rights-of-Way;
Reclassification of Land Area.

(a) The Common Area is subject to any or all of the following exceptions, liens, encumbrances and easements:

(1) Such easements and rights-of-way on, over or under all or any part thereof as may be reserved by Declarant or granted to any Owner or participated facility for the use thereof in accordance with the provisions of the HAWKINS CREEK Covenants;

(2) Such easements and rights-of-way on, over or under all or any part thereof as may be reserved to Declarant for access to real property contiguous to Common Areas;

(3) Easements and rights-of-way on, over or under all or any part thereof as are hereby reserved to Declarant or which may be granted by Declarant to or for the benefits of the United States of America, the State of Utah, or the County of Weber, any other political subdivision or public organization, or any utility corporation, any participating subcontractor, any project, or any lot, for the purpose of constructing, erecting, operating and maintaining utilities thereon, therein and thereunder, at that time or at any time in the future;

(aa) Roads, streets, walks, driveways, bicycles and horse paths, parkways and park areas;

(bb) Public and private sewers, storm water drains, land drains and pipes, water systems, sprinkling systems, electrical lines and systems, telephone and community television lines, water, heating and gas lines or pipes and any and all equipment in connection therewith,

Section 3. Assignment of Powers. Any and all of the rights and powers vested in Declarant pursuant to the HAWKINS CREEK Covenants may be delegated, transferred, assigned, conveyed or released by Declarant to the Association, and the Association shall accept the same, effective upon the recording by the Declarant of a notice of such delegation, transfer, assignment, conveyance or release.

Section 4. Condemnation on Common Area. If at any time, or from time to time, all or any portion of Common Area, or any interest therein, be taken for any public or quasi-public use,

under any statute, by right of eminent domain or by private purchase in lieu of eminent domain, the entire award in condemnation shall be paid to the Association and deposited into either the operating fund or the development fund as the Association may, in its sole discretion, determine. No owner shall be entitled to participate as a party, or otherwise, in any proceeding relating to such condemnation, such right or participation being herein reserved exclusively to the Association which shall, in its name alone, represent the interests of all owners; provided, however, that the portion of any award relating to improvements which constitute a private recreation facility shall be divided equally among the owners whom at the time of such taking are permitted users of such facility.

Section 5. Notices; Documents; Delivery. Any notice or other document permitted or required by the HAWKINS CREEK Covenants is to be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered twenty-four (24) hours after a copy of same has been deposited in the United States mail, postage prepaid, addressed as follows: If to the Association or to the SARC, at P.O. Box 213, Huntsville, Utah 84317; if to an Owner, then at any lot within HAWKINS CREEK owned by the Owner; if to Declarant, at P.O. Box 213, Huntsville, Utah 84317 provided, however, that any such address may be changed from time to time by an Owner, by the SARC, or by Declarant by notice in writing, delivered to an Association member.

Section 6. Recreational Facilities. The Association shall have the right to construct recreational facilities in any portion of the common area that may be approved by a majority vote of the members voting at any regular or special meeting called in accordance with the provisions of these covenants.

Section 7. General Maintenance. The maintenance, alteration, replacement and/or repair of the Common Areas shall be the responsibility of the Board. The Board, as part of its responsibility, shall maintain, repair and provide for snow removal and maintenance activities on all roadways constituting part of the Common Areas. The maintenance, repair and replacement of all improvements on each Lot shall be the responsibility of the Owner of such Lot and not the Board, except as otherwise expressly set forth below.

Section 8. Access; Certain Additional Improvements. The Board or manager shall have the irrevocable right to have access to each Lot from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Area and facilities, and for making emergency repairs necessary to prevent damage to the Common Area or to a Lot, although there shall be no affirmative duty to do so.

The Declarant reserves full rights, but not the obligation, to conduct landscaping activities on the Property and to implement additional improvements including without limitation fencing, pathways, signs, outdoor lighting and maintenance sheds on the Property in the future with the consent or other authorization of the Association, the Board or the Owners, which shall be not be unreasonably withheld.

Section 9. Expansion of the Project.

- (a) Declarant hereby reserves the option to expand the Project to include additional Lots in the Project. This option to expand may be exercised from time to time, at different times and in any order, without limitation, provided however, the option shall expire ten (10) years from the date following the first conveyance of a Lot to a Lot purchaser unless sooner terminated by Declarants' recorded Waiver of such option, there being no other circumstances which will cause the option to expire prior to said ten (10) years. Such right may be exercised without first obtaining the consent or vote of Lot Owners and shall be limited only as herein specifically provided. Such Lots shall be constructed on any or all portions of Additional Property.
- (b) Supplemental Declarations and Supplemental Maps. Such expansion maybe accomplished by the filing for record by Declarant in the office of the Weber County Recorder, no later than ten (10) years from the date this Declaration is recorded, as Supplement or Supplements to this Declaration containing a legal description of the site or sites for new Lots, together with supplemental Map or Maps containing the same information with respect to the new Lots as was required on the Map with respect to previous Lots or phase of the Project. The expansion may be accomplished in subsequent phases by successive supplements or in one supplemental expansion.
- (c) Expansion of Definitions. In the event of such expansion the definitions used in this Declaration automatically shall be expanded to encompass and refer to the Project as so expanded. The term "Property" shall mean the real property initially submitted under the Declaration, plus any Additional Land added to the Project by a Supplemental Declaration or by Supplemental Declarations, and reference to this Declaration shall mean this Declaration as so supplemented. All conveyances of Lots after such expansion shall be effective to transfer rights in the Project, with additional references to the Supplemental Declaration and the Supplemental Map. The recordation in the office of the Weber County Recorder of a Supplemental Map incident to any expansion shall operate automatically to grant, transfer, and convey to then Owners of Lots in the Project as it existed before such expansion the respective undivided interests in the new Common Areas added to the Project as a result of such expansion. Such recordation shall also operate to vest in any then mortgagee of any Lot in the Project as it existed, interest so acquired by the Owner of the Lot encumbering the new Common Areas added to the Project as a result of such expansion.
- (d) Declaration Operative on New Lots. The new Lots, upon recording the Supplemental Map and Supplemental Declaration in the said office of the Weber County Recorder, shall be subject to all the terms and conditions of the Community Declaration and this Declaration, as amended or supplemented from time to time.
- (e) Right of Declarant to Adjust Ownership Interest in Common Areas. Each deed of a Lot shall be deemed to irrevocably reserve to the Declarant the power to appoint to

Lot Owners, from time to time, the percentages in the Common Areas set forth in Supplemental or Amended Declarations. The proportionate interest of each Lot Owner in the Common Areas after any expansion of the Project shall be an undivided interest of the Project as expanded. A power coupled with an interest is hereby granted to the Declarant, its' successors and assigns, as attorney in fact to shift percentages of the Common Areas in accordance with Supplemental or Amended Declarations recorded pursuant hereto and each deed of a Lot in the Project shall be deemed a grant of such power to the Declarant. Various provisions of this Declaration and deeds and mortgages of the Lots may contain clauses designed to accomplish a shifting of the Common Areas. None of said provisions shall invalidate the other, but each shall be deemed supplementary to the other toward the end that a valid shifting of the Common Areas can be accomplished. Notwithstanding anything to the contrary herein, no change in the percentage of undivided interest in the Common Areas may be effected more than ten (10) years after the effective date of the Declaration. Accordingly, upon the recordation of a Supplemental Declaration and Supplemental Map incident to any expansion, the revised schedule of undivided interests in the Common Areas contained therein shall automatically become effective for all purposes and shall fully supersede any similar schedule which was contained in any declaration associated with any prior phase. In the event the provisions of the separate instruments relating to the Project conflict irreconcilably, the terms of that instrument which was recorded most recently shall control.

(f) Other Provisions Concerning Expansion. If the Project is expanded as hereinbefore contained, then it is further provided that:

- (1) All or any part of the Additional Land may be added to the Project without any limitations whatsoever save and except that all additional Lots created must be restricted to single family residential housing;
- (2) Portions of the Additional Land may be added to the Project at different times without any limitations;
- (3) Declarant shall have the right without further conveyance or documentation to build roads and access ways to the Additional Property through the easement areas as shown on the Map. The Association of Lot Owners shall not allow anything to be built upon or interfere with said easement areas; and
- (4) No assurances are made concerning:
 - (a) The locations of any improvement that may be made on any portion of the Additional Land that may be added to the Project;
 - (b) The type, kind and nature of improvement which may be

created on any portion of the Additional Land, except that the improvements will be of a similar quality of materials and construction to those in the first phase of development and will be substantially completed prior to annexation; and

- (c) Whether any improvements created on any portion of the Additional Land will be substantially identical to those within the initial Project except that the improvements will be constructed of an equal or better quality of materials and construction than those in the first phase of development.
- (5) Notwithstanding anything to the contrary which may be contained herein, the Declaration is not intended, and shall not be construed so as to impose upon Declarant any obligation respecting, or to restrict Declarant in any way with regard to:
- (a) The submission of any portion of the Additional Land to the provisions of the Act as Land under this Declaration;
 - (b) The creation, construction, or addition to the Project of any additional property;
 - (c) The carrying out in any particular way or within any particular time of any development which may be undertaken except as herein mentioned; or
 - (d) The taking of any particular action with respect to the Additional Land, the Project, or any Land.

ARTICLE XIV

ENFORCEMENT, DURATION AND AMENDMENT

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Duration of Restrictions. All of the covenants, conditions, and restrictions set forth in these covenants shall continue and remain in full force and effect at all times against said property and the Owners thereof, subject to the right of amendment or modification provided for in this Article, for a term of twenty (20) years, after which time they shall be automatically extended for successive periods of twenty (20) years.

Section 3. Amendment. Until December 31, 2011, or until 51% of the lots have been sold and title transferred to Owners, whichever occurs first, the Declarant reserves the right to exercise the powers and responsibilities otherwise assigned by the Declaration of the Association including the filing of any amendment thereof. Thereafter, this Declaration may be amended during the next ten (10) year period by an instrument signed by not less than ninety percent (90%) of the lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the lot Owners, which instrument must be recorded in the office of the County Clerk of Weber County, Utah. Such amendments shall be duly executed by the Declarant and placed of record in the Office of the County Clerk of Weber County, Utah. The provisions of Article VII, Section 4(a), (d), (e), (f), and (g), Article VIII, Section 3(d), (l), (p), (r), (s), and (w), and Article XI, Sections 1 and 2 shall not be amended without consent of the County Commissioners of Weber County, Utah. Nothing in this Section shall limit the absolute right of Declarant, acting alone and/or on behalf of the Association, to amend at any time any provisions of this Declaration, and the related Grant of Easements, which Declarant believes are reasonably necessary to accommodate the overall objectives of this Declaration and said Grant of Easements.

Section 4. Annexation. Additional residential property and common area may be annexed to the Property by Declarant at any time, provided only that all of such additional property and property Owners shall be subject to these Covenants. All such future filings or additional property shall utilize as its access Hawkins Creek Road as designated on the plat of the First Filing.

Section 5. Violation Constitutes Nuisance. Every act or omission, whereby any restriction, condition or covenant in this Declaration set forth, if violated in whole or in part, is declared to be and shall constitute a nuisance and may be abated by Declarant or their successors in interest and/or by any lot Owner; and such remedies shall be deemed cumulative and not exclusive.

Section 6. Construction and Validity of Restrictions. All of said covenants, conditions, and restrictions contained in this Declaration shall be construed together, but if it shall at any time be held that any one of said conditions, covenants or reservations, or any part thereof, is invalid, or for any reason becomes unenforceable, no other condition, covenant or reservation, or any part thereof, shall be thereby affected or impaired and the Declarant, grantor and grantee, their heirs, successors and assigns, shall be bound by each Article, Section, subsection, paragraph, sentence, clause and phrase of this Declaration irrespective of the fact that any Article, section, subsection, paragraph, sentence, clause or phrase be declared invalid or inoperative or for any reason becomes unenforceable.

Section 7. No waiver. The failure of the Board or its agents to insist, in one or more instances, upon the strict performance of any of the terms, covenants, conditions, or restrictions of this Declaration, or to exercise any right or option herein contained, or to serve any notice or to institute any action, shall not be construed as a waiver or relinquishment, for the future, of such term, covenant, condition or restriction; but such term, covenant, condition or restriction shall remain in full force and effect. The receipt and acceptance by the Board or its agent of the

payment of any assessment from an Owner, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by the Board of any provision hereof shall be deemed to have been made unless expressed in writing and duly signed by or on behalf of the Board.

Section 8. Variances. The SARC may allow reasonable variances and adjustments of the foregoing covenants, conditions and restrictions in order to overcome practical difficulties and prevent unnecessary hardships in the application of the covenants contained herein, or to grant variances in regard to the requirements contained in Article VIII Section 3, for the purpose of enhancing views, utilizing a lot to better advantage preventing the removal of trees, and enhancing the placement of improvements on the property, provided this may be done in conformity with the intent and purpose thereof, and also provided in every instance that such grants or adjustments shall not be materially detrimental or injurious to other property or improvements in the neighborhood. With respect to movement of building envelopes, approval shall be required from both the SARC and contiguous lot Owners. Any variances from the provision, of Article VII, Section 4(a), (d), (e), (f), and (g), Article VIII, Section 3(d), (l), (p), (r), (s), and (w), and Article XI, Sections 1 and 2 shall also require the approval of the Board of County Commissioners of Weber County. Any variances or adjustments of these conditions, covenants and restrictions granted by the SARC, or any acquiescence or failure to enforce any violation of the conditions and restrictions herein, shall not be deemed to be a waiver of any of the conditions and restrictions in any other instance.

DATED this 1st day of May, 2007.

HAWKINS CREEK ESTATES DEVELOPMENT, LLC,
a Utah Limited Liability Corporation,

By: _____ (on file)
Its' Manager

SMITH & MORE PROPERTIES, LC, as managing general partner,

By: _____ (on file)
Its' Manager

STATE OF UTAH)

)ss

COUNTY OF WEBER)

The foregoing instrument was acknowledged before me by Keith B. Smith of SMITH & MORE PROPERTIES, LC, as managing general partner of HAWKINS CREEK ESTATES DEVELOPMENT, LLC, this 1st day of May, 2007.

WITNESS my hand and official seal.

(on file)
Notary Public