

**AMENDED DECLARATION**  
**OF**  
**COVENANTS, CONDITIONS AND RESTRICTIONS**  
**of**  
**TRAPPER'S POINTE**  
(Planned Residential Unit Development)

This Amended Declaration of Covenants, Conditions and Restrictions of Trapper's Pointe ("Amended Declaration") is made and executed this 1<sup>st</sup> day of October, 2007 by the Trapper's Pointe Owners Association. The purpose of this Amended Declaration is to update, amend, replace, and restate various provisions of the original Declaration recorded in the Morgan County Recorder's Office on August 6, 1996, as entry number 00070904, in Book 122, beginning on Page 15 ("Original Declaration").

**RECITALS**

**A. Description of Land.** The planned residential unit development that is the subject of this Amended Declaration is situated in and upon that certain real property located in Morgan County, State of Utah, as specifically described in Exhibit "A" and Exhibit "B" attached hereto and incorporated herein by this reference, and including the common area that is appurtenant to each lot as shown on the plat maps for Trapper's Pointe P.R.U.D, Plat "A" and Plat "B", as recorded in the office of the County Recorder for Morgan County, State of Utah. There now exist 68 lots in two phases of Trapper's Pointe PRUD (24 Lots in Plat "A" and 44 Lots in Plat "B"), as shown on the various Plats.

**B. Association and Bylaws.** The lot owners in Trapper's Pointe are desirous to create the Trapper's Pointe Owners Association, Inc., a Utah non-profit corporation ("Association"), which will be created by filing Articles of Incorporation with the Utah Division of Corporations and Commercial Code. The Association will be the governing body of the Project and will operate in accordance with this Amended Declaration, the Articles of Incorporation (Exhibit "C" attached hereto and incorporated herein by this reference) and the Bylaws of the Association (Exhibit "D" attached hereto and incorporated herein by this reference) for the purpose of managing the common area and enforcing the provisions of the Amended Declaration of Trapper's Pointe." The Bylaws attached hereto as Exhibit "D" shall serve as the Bylaws of the Association.

**C. Intent and Purpose.** By recording this Amended Declaration, the owners of lots in Trapper's Pointe PRUD intend: (1) to create a planned residential unit development with common areas including permanent open spaces, parks, landscaping and other related areas and facilities for the common use and enjoyment of the owners of the lots in Plat "A" and Plat "B"; and (2) to impose upon said property mutually beneficial restrictions under a general plan of improvement for the benefit of all lots within Trapper's Pointe PRUD and the owners thereof.

Ent 109554 Bk 254 Pg 386  
Date: 11-OCT-2007 4:13PM  
Fee: \$149.00 Check  
Filed By: CRB  
BRENDA NELSON, Recorder  
MORGAN COUNTY  
For: TRAPPERS POINT HOMEOWNERS ASSOC  
IATI

## AMENDMENT

1. **Incorporation.** The lot owners hereby authorize and approve the creation of a Utah nonprofit corporation, to be known as the Trapper's Pointe Owners Association, Inc. ("Association"), by filing with the State of Utah the Articles of Incorporation for the Association in a form substantially similar to those contained in Exhibit "C", attached hereto. The Association shall be responsible for managing the common area within Trapper's Pointe and governing the affairs of Trapper's Pointe in accordance with the provisions of the Amended Declaration, the Articles of Incorporation and the Bylaws. The Lot Owners also approve and adopt Association bylaws as attached hereto and identified as Exhibit "D".
2. **Phase 1 accepts Phase 2.** The lot owners in Phase 1 (Plat "A") hereby agree and consent to the admission of lot owners in Phase 2 (Plat "B") as part of the Trapper's Pointe Owners Association and agree that the lot owners in Phase 2 shall receive an undivided interest in the Phase 1 common area and further agree that the Phase 1 lot owners shall receive an undivided interest in the Phase 2 common area, and that Phase 1 and Phase 2 lot owners shall be subject to the provisions of the Amended Declaration.
3. **Phase 2 accepts Phase 1.** The lot owners in Phase 2 (Plat "B") hereby agree to become part of the Trapper's Pointe Owners Association and agree that the lot owners in Phase 1 shall receive an undivided interest in the Phase 2 common area and further agree that the Phase 2 lot owners shall receive an undivided interest in the Phase 1 common area, and that Phase 1 and Phase 2 lot owners shall be subject to the provisions of this Amended Declaration.
4. **Governing Documents.** By voting to approve this Amended Declaration, the lot owners hereby agree to adopt the following:
  - a. this Amended Declaration;
  - b. the terms of the Original Declaration (Exhibit "E" attached hereto and incorporated herein by this reference);
  - c. the Articles of Incorporation (Exhibit "C" attached hereto);
  - d. and the Bylaws of the Association (Exhibit "D" attached hereto)as the enabling and governing documents of Trapper's Pointe Association, which documents shall constitute equitable servitudes that shall run with the property described in Exhibit "A" and Exhibit "B".
5. **Approval of Amendment by Phase 1 Owners.** The affirmative vote of at least seventy-five percent (75%) of the Lot Owners in Phase 1 have been obtained to approve this Amended Declaration.
6. **Approval of Amendment by Phase 2 Owners.** The lot owners in Phase 2 (Exhibit "B") who voted in favor of this Amended Declaration have consented to the creation of the Association as a Utah non-profit corporation that will govern the common area in Phases 1

and 2 and have also agreed that the provisions of this Amended Declaration (and the original Declaration, Exhibit "E") are binding upon their lot and that this Amended Declaration may be recorded against their lot as a restrictive covenant. However, if (a) any lot owner in Phase 2 does not vote to approve all the terms of this Amended Declaration; and (b) does not agree to be subject hereto; and (c) if the Association or any member thereof brings an action seeking to require all lot owners in Phase 2 to be subject to the provisions of this Amended Declaration; and (d) if a court of competent jurisdiction determines that any lot owner in Phase 2, who did not vote to approve all the terms of this Amended Declaration, is not required to be subject to the provisions of this Amended Declaration, then, the remaining lot owners in Phase 2 may elect, within ninety days of a court so ruling, to revoke their vote herein and shall not be subject to any of the provisions of this Amended Declaration.

7. **Common Area Interest.** Subject to the provisions in paragraph 6, the recordation in the office of the Morgan County Recorder, Utah, of this Amended Declaration shall operate automatically to grant, transfer and convey to the owners of lots in Trapper's Pointe Phase 1, an undivided interest in the common area in Trapper's Pointe Phase 2, and to reduce their percentage of interest in the Phase 1 common area; and shall operate automatically to grant, transfer and convey to the owners of lots in Trapper's Pointe Phase 2, an undivided interest in the common area in Trapper's Pointe Phase 1, and to reduce their percentage of interest in the Phase 2 common area. Such recordation shall also operate to vest in any mortgagee of any lot in Phase 1 or Phase 2 as it exists, such interest so acquired by the lot owner encumbering the additional common area added as a result of such Amendment
8. **Adjustment in Percentages of Common Areas.** In connection with this Amended Declaration, the percentage interest and ownership in the common areas appurtenant to each Lot in Phase 1 and 2 shall be uniform and equal for each Lot (1/68th).
9. **Voting Interests.** The percentage of ownership in the common areas and facilities shall be for all purposes, including voting. Owners and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in a Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

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**CERTIFICATION**

It is hereby certified that owners holding at least 75 % of the total votes of the Phase 1 lots have voted to approve this Amended Declaration, and the owners of Phase 2 lots have voted to approve this Amended Declaration as indicated by the Acknowledgments attached hereto.

IN WITNESS WHEREOF, this 1<sup>st</sup> day of October, 2007 <sup>JK BH</sup>

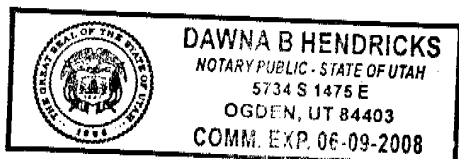
TRAPPER'S POINTE OWNERS ASSOCIATION

By: Tina Cannon  
Its: President

STATE OF UTAH            )  
  :SS.  
COUNTY OF MORGAN    )

On this 1<sup>st</sup> day of October, 2007 <sup>BH se</sup> personally appeared before me Tina Cannon who, being by me duly sworn, did say that she is President of the Trapper's Pointe Owners Association and that the within and foregoing instrument was signed in behalf of said Owners Association and she duly acknowledged to me she executed the same.

Dawna B. Hendricks  
Notary Public



## Exhibit "A"

### Legal Description of Lots in Phase 1 (Plat "A")

Lots 1 through 24, Trapper's Pointe PRUD- Plat "A", a Planned Residential Unit Development, according to the official Plat thereof, on file and of Record in the Office of the Morgan County Recorder, together with that percentage of interest of the subdivision's common area associated with the lot.

## Exhibit "B"

### Legal Description of Lots in Phase 2 (Plat "B")

Lots 25 through 68, Trapper's Pointe PRUD- Plat "B", a Planned Residential Unit Development, according to the official Plat thereof, on file and of Record in the Office of the Morgan County Recorder, together with that percentage of interest of the subdivision's common area associated with the lot, but excluding those lots whose owners have not signed an Acknowledgment which is attached hereto.

# Exhibit "C"

Articles of Incorporation

## ARTICLES OF INCORPORATION

FOR

### TRAPPER'S POINTE OWNERS ASSOCIATION, INC.

WE, THE UNDERSIGNED NATURAL PERSONS, all being of the age of eighteen years or more, acting as incorporators under the Utah Non-Profit Corporation and Cooperative Association Act, adopt the following Articles of Incorporation:

**Name.** The name of the Corporation is TRAPPER'S POINTE OWNERS ASSOCIATION, INC. (herein referred to as the "Corporation").

**Duration.** The duration of the Corporation shall be perpetual, unless dissolved by the action of the Corporation or by operation of law.

**Purposes.** The purposes of the Corporation are to function in behalf of and part of the members of the TRAPPER'S POINTE PROPERTY OWNERS ASSOCIATION, and through all additional Phases that may be made subject hereto, located in Morgan County, Utah, and to enforce the Covenants, Conditions and Restrictions as set forth in the Declaration of Covenants, Conditions and Restrictions pertaining to each such phase and to provide the other services and perform all of the other functions set forth in the Declarations of Covenants, Conditions and Restrictions and as may become desirable or necessary for the benefit of the members. The Corporation shall have all powers, rights, and privileges available to corporations under the laws of the State of Utah.

**Membership/Stock.** The owners of the Corporation shall be the owners of Lots in all of TRAPPER'S POINTE, and through all additional Phases that may be made subject hereto, located in Morgan County, Utah. Membership is appurtenant to the Lot, and shall pass automatically to the owner of that Lot upon conveyance of title. There shall not be issued more than 100 shares in the Corporation. The Lot Owners shall have an interest in the Corporation as described below:

The Association shall have one (1) class of membership--Class A, described more particularly as follows:

1. **Class A.** Class A Members shall be all Owners. Class A Members shall be entitled to vote on all issues before the Association, subject to the following:
  - a. **Voting.** Each Lot Owner shall have right of one vote, pursuant to the Trapper's Pointe Owners Association By-Laws.
  - b. **Subject to Assessment.** No vote shall be cast or counted for any Lot not subject to assessment;
  - c. **Multiple Owners.** When more than one (1) person or entity holds such

interest in a Lot, the vote for such Lot shall be exercised as those persons or entities themselves determine and advise the Secretary of the Association prior to any meeting. In the absence of such advise, the vote of the Lot shall be suspended in the event more than one (1) person or entity seeks to exercise it.

d. **Leased Unit.** Any Owner of a Lot which has been leased may, in the lease or other written instrument, assign the voting right appurtenant to that Unit to the lessee, provided that a copy of such instrument is furnished to the Secretary at least three (3) days prior to any meeting.

e. **Number of Shares.** The Corporation is authorized to issue up to 100 shares of Class A stock.

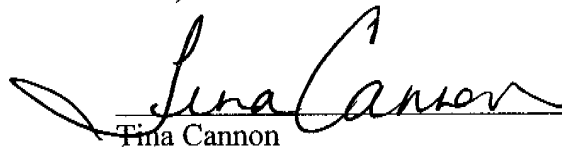
2. Class A shares shall have unlimited voting rights.
3. The owners of Class A shares shall be entitled to receive the net assets of the Corporation upon dissolution.

**Registered Agent.** The registered agent for the Corporation is:

Tina Cannon  
5273 West Frontier Drive  
Mountain Green, UT 84050

**Acceptance of Appointment**

I, Tina Cannon, hereby accept the appointment as the registered agent for Trapper's Pointe Owners Association, Inc.

  
Tina Cannon

**Bylaws.** Bylaws have been adopted in accordance with the Amended Declaration for Trappers Pointe. The Corporation hereby adopts the bylaws attached to the Amended Declaration as Exhibit "D." Hereafter, bylaws may be adopted, amended, or replaced by the vote of Members.

**Address of Corporation's Registered Office.** The principal place of business of the Corporation, and its initial offices are located at, 5273 West Frontier Drive, Mountain Green, UT 84050. The Corporation may establish such other offices and locations as it deems appropriate for the operation of its business.

**Distributions.** No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to its Directors, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services

rendered and to make payments and distributions in furtherance of the purposes as set forth above. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office.

Notwithstanding any other provision of these Articles of Incorporation, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, as amended or supplemented, or (b) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code, as amended or supplemented.

**Dissolution.** Upon the dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code, as amended or supplemented, or shall be distributed to the federal government or to a state or local government for a public purpose. Any such assets not so disposed of shall be disposed of by the District Court of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

**Board of Directors.** There will initially be three Directors of the Corporation, provided, however, the Board of Directors may consist of a minimum of three Directors up to a maximum of seven Directors as determined by the members in a duly called meeting. The initial Board of Directors, who will serve until the election of officers and Directors at the first annual member's meeting, are:

<u>Name</u>	<u>Address</u>
Tina Cannon	5273 West Frontier Drive Mountain Green, UT 84050
Thomas McFarland	5184 West Rendezvous Mountain Green, UT 84050
Richard Mortensen	5205 West Rendezvous, Mountain Green, UT 84050

The Directors will elect one of them to act as Chairman until the first annual member's meeting.

**Officers.** The initial officers of the corporation are:

President	Tina Cannon
Vice President	Richard Mortensen
Secretary/Treasurer	Thomas McFarland

**Annual Meeting.** The annual meeting of the members shall be held in September of each year, to run consistent with the Association's fiscal year, at such place as shall be stated in the notice of meeting or in a duly executed waiver of notice; provided however, that whenever such a date falls upon a legal holiday, the meeting shall be held on the next succeeding business day and further provided that the Board of Directors may by resolution, fix the date of the annual meeting at such other date as the Board may deem appropriate. At such meeting, the current members shall elect Directors for one two (2) year term to serve until their successors shall be elected and shall qualify. Only current members of lots owned in the Association shall be elected Directors according to the percentage as required by law.

**Limitations on Liability.** The Officers, Directors, and Members of the Corporation shall not be held personally liable for the debts and obligations of the Corporation.

**Incorporators.** The incorporators of the Corporation are:

Tina Cannon  
5273 West Frontier Drive  
Mountain Green, UT 84050

Thomas McFarland  
5184 West Rendezvous  
Mountain Green, UT 84050


Richard Mortensen  
5205 West Rendezvous,  
Mountain Green, UT 84050

**Amendment.** These Articles of Incorporation may be amended from time to time as authorized by the members and permitted by law.

In Witness Whereof, we, Tina Cannon, Thomas McFarlane and Richard Mortensen have executed these Articles of Incorporation in duplicate this 1<sup>st</sup> day of October, 2006, and say: That we are the incorporators herein; that we have read the above and foregoing Articles of Incorporation; that we know the contents thereof and that the same is true to the best of our knowledge and belief, excepting as to matters herein alleged upon information and belief and as to those matters we believe them to be true.

  
\_\_\_\_\_  
Incorporator

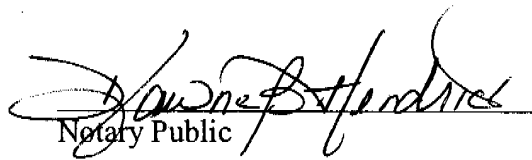
  
\_\_\_\_\_  
Incorporator

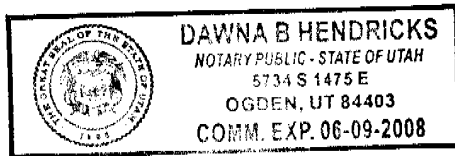
  
\_\_\_\_\_  
Incorporator

State of Utah )  
 : ss  
County of Morgan )

On the 1<sup>st</sup> day of October, 200~~9~~<sup>08</sup>, the foregoing instrument was acknowledged and verified before me by Tina Cannon, Thomas McFarland and Richard Martensen who personally appeared before me, and being by me duly sworn declare under penalty of perjury that they are the incorporators of TRAPPER'S POINTE OWNERS ASSOCIATION, INC., and that they signed the foregoing, and that the statements contained therein are true and correct.

In witness whereof, I have set my hand and seal this 1<sup>st</sup> day of October, 200~~9~~<sup>08</sup>.

  
Notary Public



# Exhibit "D"

Corporate Bylaws

EXHIBIT "D"

**BYLAWS**

FOR

**TRAPPER'S POINTE OWNER'S ASSOCIATION INC.**

The following are adopted by the Declarant as the administrative Bylaws of Trapper's Pointe Owner's Association, Inc.

**ARTICLE I**

**PLAN OF LOT OWNERSHIP AND INCORPORATION**

1. **Submission.** These Bylaws are referred to and incorporated by reference in the foregoing Declaration of Trapper's Pointe Center (the "Declaration"), which is located in Morgan County, State of Utah. These Bylaws shall govern the administration of Trapper's Pointe and its Association of Owners.
2. **Conflict.** In the event of any conflict, incongruity or inconsistency between the provisions of these Bylaws and the provisions of the Declaration, the latter shall in all instances govern and control.
3. **Office and Registered Agent.** The Registered Agent of the Association shall be the President of the Association and the Registered Office of the Association shall be the office of the President or such other place as shall be designed by him.
4. **Bylaws Applicability.** All present and future Owners, residents, tenants, renters, lessees, and their guests, licensees, invitees, servants, agents or employees, and any other person or persons who shall be permitted at Trapper's Pointe shall be subject to and abide by these Bylaws.

**ARTICLE II**

**ASSOCIATION**

1. **Composition.** The association of Lot Owners is a mandatory association consisting of all Lot Owners at Trapper's Pointe.
2. **Voting.** Each Lot Owner shall have an equal number of votes.
3. **Place of Meeting.** Meetings of the Association shall be held at the principal office of the Association or at such other suitable place as may be designated by the Board from time to time and stated in the notice of meeting.

4. Annual Meeting. Unless otherwise designated by the Board, the annual meeting of the Association shall be held at 7:00 o'clock p.m. on the second Tuesday of September of each year, or at such other suitable day, date and time as may be designated by the Board from time to time. When such day is a legal holiday, the meeting shall occur on the first business day thereafter. The place of meeting shall be the principal office of the Association unless otherwise specified in the notice of meeting.

5. Special Meetings. The President shall call a special meeting (a) if he or she so desires, (b) if a majority of the members of the Board of Directors direct him to do so, or c) upon receipt of a petition signed and presented to the Secretary of the Board by at least twenty-five percent (25%) of the members of the Association. The notice of any special meeting shall state the date, time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

6. Notice of Meeting. It shall be the duty of the Secretary to hand deliver or mail, by regular U.S. mail postage prepaid, a notice of (a) each annual meeting of the Owners not less than ten (10) and not more than thirty (30) days in advance of such meeting; and (b) each special meeting of the Owners at least three (3) days and not more than twenty (20) days in advance of such meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Owner of record, at the address of his respective Unit or such other address as each Owner may have designated by notice in writing to the Secretary. The mailing of a notice of meeting in the manner provided in this Section shall be considered service of notice.

7. Voting Requirements. An Owner shall be deemed to be in "good standing" and "entitled to vote" at any annual meeting or at any special meeting of the Association if, and only if, he shall be in full compliance with all of the terms, covenants, and conditions of the Project Documents, and shall have fully paid all Assessments and/or Additional Charges due.

8. Proxies. The votes appertaining to any Unit may be cast pursuant to a proxy or proxies duly executed by or on behalf of the Unit Owner, or in cases where the Unit Owner is more than one person, by or on behalf of all such persons. No such proxy shall be revocable except by actual written notice to the person presiding over the meeting, by the Unit Owner or by any of such persons, that it be revoked. Any proxy shall be void if it is not dated, if it purports to be revocable without notice, or if it is not signed by a person having authority, at the time of the execution thereof, to execute deeds on behalf of that person. Unless it expressly states otherwise, a proxy shall terminate automatically upon the adjournment of the first meeting held on or after the date of that proxy. Each proxy must be filed with the Secretary of the Board before the meeting. Only individual Lot Owners or the legal representative of an Organizational Unit Owner may be proxies.

9. Quorum. A majority of the members of the Association shall constitute a quorum for the adoption of decisions. If, however, such quorum shall not be present or represented at any meeting, the Owners entitled to vote thereat, present in person or represented by proxy, shall have power to adjourn the meeting and reschedule for a time no earlier than two (2) days nor more than thirty (30) days after the set time for the original meeting. No notice of such rescheduled meeting shall be required except an announcement thereof at the original meeting. The Owners present at the rescheduled meeting shall constitute a quorum for the adoption of decisions. When a quorum is present at any meeting, the vote of the Lot Owners representing a majority of the members of the

Association present at the meeting either in person or by proxy, shall decide any question brought before the meeting; provided, however, if the Declaration requires a fixed percentage of Lot Owners to approve any action, however, that percentage shall be required anything to the contrary notwithstanding.

10. Order of Business. The order of business at all meetings of the Association shall be as follows:

- a) roll call;
- b) proof of notice of meeting;
- c) reading of minutes of preceding meeting;
- d) reports of officers;
- e) report of special Boards, if any;
- f) election of inspectors of election, if applicable;
- g) election of Board Members, if applicable;
- h) unfinished business; and
- i) new business.

11. Conduct of Meeting. The President shall, or in his absence the Vice-president, preside over all meetings of the Association; the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted by the meeting as well as record of all transactions occurring thereat.

### ARTICLE III

#### BOARD OF DIRECTORS

1. Powers and Duties. The affairs and business of the Association shall be managed by the Board of Directors. The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Association in accordance with the provisions of the Declaration, and may do all such acts and things necessary to operate and maintain the Project. The Board may delegate its authority to a manager or managers. Subject to any limitations or provisions contained in the Declaration, the Board shall be responsible for at least the following:

- a) Preparation of an annual budget;
- b) Determining the annual assessment of each Owner;
- c) Managing the Association;
- d) Maintaining the Common Areas and Facilities;
- e) Collecting the Assessments;
- f) Depositing the collections into a federally insured interest bearing account or accounts;
- g) Adopting and amending rules and regulations;
- h) Enforcing the Project Documents;
- i) Opening of bank accounts on behalf of the Association and designating the signatories required therefor.

- j) Making, or contracting for the making of, repairs, additions, and improvements to, or alterations of, the Property and repairs to, and restoration of, the Property, in accordance with the Declaration and other provisions of these Bylaws, after damage or destruction by fire or other casualty.
- k) Commencing legal action when necessary;
- l) Purchasing and maintaining insurance;
- m) Paying the cost of all services rendered to the Project and not billed directly to Owners of individual Units.
- n) Keeping books and records of the Association;
- o) Providing common utility services as needed;
- p) Paying any amount necessary to discharge any mechanic's or materialmen's lien or other encumbrance levied against the Common Area or Facilities;
- q) Giving notice of alleged violations of the Project Documents and providing the alleged violator the opportunity to be heard;
- r) Levying fines, sanctions and citations;
- s) Making emergency repairs;
- t) Towing or impounding motor vehicles;
- b) Evicting non-Owner residents in material violation of the Project Documents or who have created and failed to abate a nuisance;
- v) Assigning parking spaces; and
- w) Doing such other things and acts necessary to accomplish the foregoing.

2. Composition of Board of Directors. The Board of Directors shall be composed of at least three (3) members of the Association but not more than seven (7).

3. Qualification. Only individual Lot Owners or officers or agents of organizational Owners other than individuals shall be eligible for Board Membership.

4. Election and Term of Office of the Board. The term of office of membership on the Board shall be two (2) years and each member shall serve on the Board until such time as his successor is duly qualified and elected.

5. Initial Organizational Meeting. The first meeting of the members of the Board shall be immediately following the annual meeting of the Association or at such other time and place designated by the Board.

6. Regular Meetings. Regular meetings of the Board shall be held from time to time and at such time and place as shall be determined by a majority of the members of the Board, but no less often than monthly.

7. Special Meetings. Special meetings of the Board may be called by the President, Vice-president or a majority of the members on at least forty-eight (48) hours prior notice to each member. Such notice shall be given personally, by regular U.S. mail postage prepaid, or by telephone, and such notice shall state the time, place and purpose of the meeting. Any meeting attended by all members of the Board shall be valid for any and all purposes.

8. Waiver of Notice. Before or at any meeting of the Board, any member may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member at any such meeting of the Board shall constitute a waiver of notice. If all the members are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

9. Quorum. At all meetings of the Board, a majority of the members then in office shall constitute a quorum for the transaction of business, and the acts of the majority of all the Board members present at a meeting at which a quorum is present shall be deemed to be the acts of the Board. If, at any meeting of the Board, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time but for no longer than two (2) days. At any such rescheduled meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

10. Vacancies. Vacancies in the Board caused by any reason other than removal of a member by a vote of the Association shall be filled by vote of the majority of the remaining members of the Board at a special meeting of the Board held for that purpose promptly after the occurrence of any such vacancy, even though the total members remaining may constitute less than a quorum of the Board; and each person so elected shall be a member for the remainder of the term of the member so replaced. A vacancy created by the removal of a member by a vote of the members of the Association at a special meeting called for that purpose shall be filled by the election and vote of the members of the Association at said meeting.

11. Removal of Board Member. A member may be removed, with or without cause, and his successor elected, at any duly called regular or special meeting of the Association at which a quorum of the Association is present, by an affirmative vote of a majority of the members of the Association. Any member whose removal has been proposed by the Owners shall be given at least thirty (30) days notice of the calling of the meeting and the purpose thereof and an opportunity to be heard at the meeting. Any Board Member who misses twenty-five percent (25%) or more of the Board Meetings or who misses three (3) consecutive meetings in any calendar year, shall be automatically removed from the Board.

12. Compensation. Board members shall not be compensated for their services but shall be reimbursed for all expenses reasonably incurred in connection with Board business and approved by the Board.

13. Conduct of Meetings. The President shall preside over all meetings of the Board and the Secretary shall keep a Minute Book of the Board recording therein all resolutions adopted by the Board and a record of all transactions and proceedings occurring at such meetings, subject to the following:

a) Open Meetings. A portion of each meeting of the Board shall be open to all members of the Association, but members other than members of the Board may not participate in any discussion or deliberation unless expressly so authorized by a majority of a quorum of the Board. The Board shall establish procedures, policies, and guidelines for conducting of its meetings, retiring to executive session, and prohibiting photographs and/or any electronic (video or audio) recordation of the meetings, or any part thereof.

b) Executive Session. The Board may, with approval of a majority of a quorum, adjourn a meeting and reconvene in an Executive Session to discuss and vote upon private, confidential, sensitive or personnel matters, litigation, and orders of business of a similar nature. The nature of any and all business to be considered in an Executive Session shall first be announced in open session.

c) Action Without a Formal Meeting. Any action to be taken at a meeting of the Board may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all members of the Board.

14. Report of Board. The Board shall present at each annual meeting, and when called for by vote of the Association at any special meeting of the Association, a full and clear statement of the business and condition of the Association.

## ARTICLE IV

### OFFICERS

1. Designation. The principal officers of the Association shall be a President, a Vice-president, a Secretary and a Treasurer, all of whom shall be elected by the Board. The Board may appoint assistant secretaries and such other officers as in its judgment may be necessary. All officers shall also be members of the Board. Two or more offices may be held by the same person, except that the President shall not hold any other office.

2. Election of Officers. The officers of the Association shall be elected annually by the members of the Board of Directors at their first meeting after the annual meeting of the Association. Any vacancy in an office shall be filled by the remaining members of the Board of Directors at a regular meeting or special meeting called for such purpose.

3. Removal of Officers. The officers shall hold office until their respective successors are chosen and qualify in their stead. Any officer elected or appointed by the Board may be removed at any time by the affirmative vote of a majority of the Board, and his successor may be elected at any regular meeting of the Board, or at any special meeting of the Board called for such purposes.

4. President. The President shall be the chief executive officer; he shall preside at meetings of the Association and the Board and shall be an ex officio member of all Boards; he shall have general and active management of the business of the Board and shall see that all orders and resolutions of the Board are carried into effect. He shall have all of the general powers and duties, which are usually vested in or incident to the use of president of a stock corporation organized under the laws of the State of Utah.

5. Vice-president. The Vice-president shall, in the absence or disability of the President, perform the duties and exercise the powers of the President, and shall perform such other duties as the Board or the President shall prescribe. If neither the President nor the Vice-president is able to act, the Board shall appoint a member of the Board to do so on an interim basis.

6. Secretary. The Secretary shall attend all meetings of the Board and all meetings of the Association and record all votes and the minutes of all proceedings in a book to be kept by him or her for that purpose and shall perform like duties for Boards when required. He shall give, or cause to be given, notices for all meetings of the Association and the Board and shall perform such other duties as may be prescribed by the Board. The Secretary shall compile and keep current at the principal office of the Association, a complete list of the Owners and their last known post office addresses. This list shall be open to inspection by all Owners and other persons lawfully entitled to inspect the same, at reasonable hours during regular business days. The Secretary shall also keep current and retain custody of the Minute Book of the Association, containing the minutes of all annual and special meetings of the Association and all sessions of the Board including resolutions.

7. Treasurer. The Treasurer shall have custody of all funds and securities. He shall keep full and accurate records of receipts and disbursements, shall prepare all required financial data, and shall deposit all monies and other valuable effects in such depositories as may be designated by the Board. He shall disburse funds as ordered by the Board, taking proper vouchers for such disbursements, and shall render to the President and members, at the regular meetings of the Board, or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Project.

#### ARTICLE V

#### FISCAL YEAR

The fiscal year of the Association shall be the calendar year consisting of the twelve month period commencing on January 1 of each year terminating on December 31 of the same year. The fiscal year herein established shall be subject to change by the Board should it be deemed advisable or in the best interests of the Association.

#### ARTICLE VI

#### AMENDMENT TO BYLAWS

1. Amendments. These Bylaws may be modified or amended either (i) by the affirmative vote of a majority of the members of the Association or (ii) pursuant to a written instrument of consent duly executed by a majority of the members of the Association provided all of the written consents are obtained within a ninety day period.

2. Recording. An amendment to these Bylaws shall become effective immediately upon recordation in the Office of the County Recorder of Morgan County, State of Utah.

#### ARTICLE VII

#### NOTICE

1. Manner of Notice. All notices, demands, bills, statements, or other communications

provided for or required under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or sent by regular U.S. Mail postage pre-paid, (a) if to an Owner, at the address of his Unit and at such other address as the Owner may have designated by notice in writing to the Secretary; or (b) if to the Board or the Manager, at the principal office of the Manager or at such other address as shall be designated by notice in writing to the Owners pursuant to this Section.

2. Waiver of Notice. Whenever any notice is required to be given under the provisions of the statutes, the Declaration, or of these Bylaws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether signed before or after the time stated therein, shall be deemed equivalent thereto, unless such waiver is ineffective under the provisions of the Declaration.

## ARTICLE VIII

### COMPLIANCE, CONFLICT, AND MISCELLANEOUS PROVISIONS

1. Compliance. These Bylaws are set forth in compliance with the requirements of the Declaration.

2. Conflict. These Bylaws are subordinate to and are subject to all provisions of the Declaration. All of the terms hereof, except where clearly repugnant to the context, shall have the same meaning as they are defined to have in the Declaration.

3. Severability. If any provisions of these Bylaws or any section, sentence, clause, phrase, or work, or the application thereof in any circumstance is held invalid, the validity of the remainder of these Bylaws shall not be affected thereby and to this end, the provisions hereof are declared to be severable.

4. Waiver. No restriction, condition, obligation, or provision of these Bylaws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

5. Captions. The captions contained in these Bylaws are for convenience only and are not part of these Bylaws and are not intended in any way to limit or enlarge the terms and provisions of these Bylaws.

6. Construction. Whenever in these Bylaws the context so requires, the singular number shall refer to the plural and the converse; the use of any gender shall be deemed to include both masculine and feminine, and the term "shall" is mandatory and "may" permissive.

7. Effective. These Bylaws shall be effective upon recording in the Office of the County Recorder of Morgan County.

# Exhibit "E"

Original Declaration

**Declaration of Covenants, Conditions, Restrictions of  
TRAPPER'S POINTE  
Planned Residential Unit Development**

This Declaration is made and executed this 5th day of August, 1996, by Mt. DevCo, Inc., hereafter referred to as "Developer" pursuant to the provisions in the Morgan County Land Development Code.

R E C I T A L S

- A. Developer is the record Owner of that certain tract of property more particularly described as Trappers Pointe. Developer desires to create on said property a Planned Residential Unit Development with open spaces and other common areas. Developer desires [to] provide for preservation of the values and amenities in said development and for the maintenance of the common areas. To this end and for the benefit of the property and of the owners thereof, Developer desires to subject the property of the Declaration to the covenants, restrictions, easements, charges and liens hereinafter set forth. The developer may subject additional real property from time to time to the conditions herein.
- B. Developer deems it desirable for the efficient preservation of the values and amenities in the development, to create an entity which possesses the power to maintain and administer the common areas, to collect and disburse the assessments and enforce the provisions of this declaration. For such purpose Developer will, in conjunction with the recordation of this Declaration, cause to be incorporated under the laws of the State of Utah, as a nonprofit corporation, Trappers Pointe Homeowners Association.

NOW, THEREFORE, for the foregoing, Developer and Owner declare that the property of this Declaration is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

I. **GENERAL PURPOSES**

The platted portion of the real property described in plat "A" and any subsequent phases, both common and private, are subject to the conditions, restrictions, reservations, easements, liens and/or charges hereby declared to ensure the best use thereof; to protect the owners of lots against such improper use of surrounding lots as will depreciate the value of their property; to

provide for the preservation of the open areas especially the natural landscape, wildlife and streams; to guard against the erection thereon of poorly designed or proportioned structures; and structures built of improper or unsuitable materials; to obtain harmonious color schemes; to ensure the highest and best development of said property consistent with the ordinances and land use development policies of Morgan County; to encourage and secure the erection of attractive homes thereon, with appropriate locations thereof on the lots; to secure and maintain proper setbacks from roads, and adequate free space between structures; and in general provide adequately for a high type and quality of improvements in said property, and thereby to enhance the values of investments made by purchasers of lots therein.

## II. MEMBERSHIP AND VOTING RIGHTS

1. Membership Every owner shall be a Member of the Association. Membership in the Association shall be mandatory, shall be appurtenant to the lot in which the Owner has the necessary interest, and shall not be separated from the lot to which it appertains.

2. Voting Rights The Association shall have the following two classes of voting membership:

CLASS A - The class A members shall be all Owners, but excluding the Developer until the class B membership ceases. Class A members shall be entitled to one vote for each lot in which the interest required for membership in the Association is held. In no event, however, shall more than one class A vote exist with respect to any lot.

CLASS B - The class B member shall be the Developer. The class B member shall be entitled to six (6) votes for each lot in which it holds the interest required for membership in the Association. The class B membership shall automatically cease and be converted to class A membership on the first to occur of the following events:

(a) When the total number of votes held by all class A members equals the total number of votes held by the class B member.

(b) The expiration of twenty (20) years after the date on which this Declaration is filed for record in the office of the County Recorder of Morgan County, Utah.

3. Multiple Ownership Interest In the event there is more than one Owner of a particular lot, the vote relating to such lot shall be exercised as such Owners may determine among themselves. A vote cast at any Association meeting by any of such Owners, whether in person or

by proxy, shall be conclusively presumed to be the vote attributable to the lot concerned unless an objection is immediately made by another Owner of the same lot. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.

### III. PROPERTY RIGHT IN COMMON AREAS

1. Easement of Enjoyment Each member shall have a right and easement of use and enjoyment in and to the common areas. Such right shall be appurtenant to and shall pass with title to each lot and in no event shall be separated therefrom. Any member may delegate the right and easement of use and enjoyment described herein to any family members, household guest, tenant, leasee, contract purchaser, or other person who resides on such member's lot.

2. Limitation on Easement A member's right and easement of use and enjoyment concerning the common areas shall be subject to the following:

(a) The right of the Association to suspend a member's right to the use of any recreational facilities included in the common areas for any period during which an assessment on such member's lot remains unpaid and for a period not exceeding ninety (90) days for any infraction by such member of the provisions of this Declaration or of any rule or regulation promulgated by the Association;

(b) The right of the Association to impose reasonable limitations on the number of guests per member who at any given time are permitted to use the common areas;

(c) The right of Morgan County and any other governmental or quasi-governmental body having jurisdiction over the property to access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained with the property for purposes of providing police and fire protection, transporting school children, and providing other governmental or municipal service.

(d) The right to develop and the responsibility to improve a public right-of-way for future access, from Frontier Drive in the Trapper's Pointe P.R.U.D. to the property abutting the western portion of the "common area" open space, will be the responsibility of the future developer. The home owner's association will not be compensated for any property used for this future access.

#### IV. ASSESSMENTS

1. Personal Obligation and Lien Each Owner shall, by acquiring or in any way becoming vested with his interest in a lot, be deemed to covenant and agree to pay to the Association the monthly assessments described in this Article, together with the hereinafter provided for interest and costs of collection. All such amounts shall be, constitute, and remain (i) a charge and continuing lien upon the lot with respect to which such assessment is made; and (ii) the personal obligation of the person who is the Owner of such lot at the time the assessment falls due. No Owner may exempt himself or his lot from liability for payment of assessments by waiver of his rights concerning the common areas or by abandonment of his lot.

2. Purpose of Assessments Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of residents of the Property. The use made by the Association of funds obtained from assessments may include payment of the cost of taxes and insurance on the common areas; maintenance, repair, and improvements of common areas; management and supervision of the common areas; establishment and funding of a reserve to cover major repair of the improvements within the common area; and any expense necessary or desirable to enable the Association to perform or fulfill its obligations, functions or purposes under this Declaration or its Articles of Incorporation.

3. Maximum Monthly Assessment As of the date of this recording of this Article, each lot shall be subject to a monthly assessment of not more than \$25.00. From and after one year from recording date of this Article, the maximum monthly assessment may be increased or decreased so long as the change is assented to by sixty percent (60%) of the votes of each class or membership which Members present, in person or represented by proxy are entitled to cast at a meeting duly called for such purpose. Written notice setting forth the purpose of the meeting shall be sent to all members at least ten (10) but not more than thirty (30) days prior to the meeting date. The Board of Directors of the Association may from time to time and at its discretion, set the mount of the monthly assessment at any sum not in excess of the then applicable maximum amount.

4. Quorum Requirements The quorum required for any action authorized by Section 3 above shall be as follows: at the first meeting called the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a

quorum. If a quorum is not present at the first meeting or any subsequent meeting, another meeting may be called (subject to the notice requirements set forth in Section 3) at which a quorum shall be one-half of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting.

5. Uniform Rate of Assessment Monthly assessments shall be fixed at a uniform rate for all occupied lots; provided, however, that until home construction is begun on a lot the monthly assessment applicable to such a lot shall be one-fourth (1/4) of the monthly assessment fixed for a fully improved lot occupied for residential purposes. Once home construction has begun, the next monthly assessment will be increased to one-half (1/2) of the monthly assessment fixed for lots which have been improved with a living unit and occupied for the first time for residential purposes. (The Developer shall only be subject to a 1/10th fee until the lot is sold) and any builder of a speculation home is subject to the above provisions with the added stipulation that the one-half (1/2) of monthly assessment shall be increased to the full assessment in any event not later than nine (9) months after construction began on the particular lot.

6. Effect of Nonpayment - Remedies Any assessment not paid when due shall, together with the hereinafter provided for interest and costs of collection, be, constitute, and remain personally liable for payment. Such personal liability shall not pass to the Owner's successors in title unless expressly assumed by them. If the assessment is not paid within thirty (30) days after the date on which it becomes delinquent, the amount thereof shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum and the Association may bring an action either against the Owner who is personally liable or to foreclose the lien against the lot.

## V. OPERATION AND MAINTENANCE

1. Operation and Maintenance by Association The Association shall provide for such maintenance and operation of the common areas as may be necessary or desirable to make them appropriately functional, attractive and generally in good condition and repair.

2. Board of Directors The Board of Directors of the Association shall have the authority to enter into agreement on behalf of the Association with lenders, obligating the Association to carry such hazard, flood, and liability insurance and fidelity bond as shall be required by lenders.

3. Manager The Association may carry out through a Property Manager any of its

functions which are properly the subject of delegation.

4. Temporary Snow Removal Responsibility for any snow removal on the dedicated public streets within the boundaries of the Trapper's Pointe Planned Residential Unit Development will be borne, temporarily by the home owner's association. The Morgan County road department will not provide snow removal until the Trapper's Pointe street system is connected to the existing street system in the Highlands Subdivision.

## VI. GENERAL USE RESTRICTIONS

All real property within Trappers Pointe shall be held, used and enjoyed subject to the following limitations and restrictions:

1. Use of Common Areas The common areas shall be used only in a manner consistent with their community nature and with the use restrictions applicable to lots and living units.

2. Use of Lots and Living Units All lots are intended to be improved with Living Units and are restricted to such use. Each Living Unit shall be used only as a single-family residence not to exceed two stories in height and a private 2 or more car garage (side or rear-entry garages are encouraged). No lot or Living Unit shall be used, occupied, or altered in violation of law, so as to do any of the following: 1) jeopardize the support of any other Living Unit, 2) create a nuisance, or 3) interfere with the rights of any Owner, 4) anything which would result in an increase in the cost of any insurance covering the common areas, or 5) to increase use beyond one (1) single family unit per lot.

3. Dwelling Size No dwelling shall be permitted on any lot with the ground floor area of the main structure, exclusive of open porches and garages, of less than 1,500 square feet for one story dwelling, nor less than 1,800 square feet for a dwelling of more than one story. A split entry or bi-level dwelling with garage under must exceed 2,000 square feet on main levels.

4. Exception for Developer Notwithstanding the restrictions contained in this Article VI, for the twenty (20) year period following the date on which this Declaration is filed for record in the office of the County Recorder of Morgan County, Utah, Developer shall have the right to use any lot or Living Unit owned by it, and any part of the common areas reasonably necessary or appropriate, in furtherance of any other activities designed to accomplish or facilitate improvement of the common areas or improvement and/or sale of all lots owned by Developer.

5. Easements Easements for installation and maintenance of utilities and drainage

facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the Owner of the lot, except for those improvements for which a public authority or utility company is responsible.

6. Nuisances No rubbish or debris of any kind shall be placed or permitted to accumulate upon any property within Trappers Pointe and no odors shall be permitted to arise therefrom so as to render any such property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to the occupants of any property. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns whistles, bells, or other sound devices (other than security devices used exclusively for security purposes) shall be located, used or placed on any such property without the prior written approval of the Board.

7. Animals Dogs, cats, or other household pets may be kept. Any such animals shall be controlled by owner on his own lot.

8. Accessory Buildings It is understood that guest facilities, storage sheds, and other types of rural buildings, except outhouses, may be constructed on the property so long as they are approved by the Architectural Control Committee and constitute a harmonious development of properties. No basement, shack, garage, or other out-building (except the guest facility) shall, at any time, be used for human habitation, temporarily or permanently, nor shall any structure of an temporary character be used for human habitation. The guest facility shall not be used for a permanent residence. No old or secondhand structures shall be moved onto any of said lots, it being the intention hereof that all dwellings and other buildings be erected on said lots, or within said Planned Residential Unit Development, shall be new construction of superior quality, workmanship and materials.

9. Unsightly Articles No unsightly articles shall be permitted to remain so as to be visible from adjoining property. No compost piles and grass, shrub, or tree clippings or plant waste, metals, build materials, scrap, refuse, or trash shall be kept, stored, or allowed to accumulate on any property except within an enclosed structure or appropriately screened from view.

10. No Further Subdividing No lot, common area or residence may be further subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owners thereof (excluding Developer); provided, however, that nothing herein shall be deemed to prevent the transfer of sale of any lot or living unit to more than one person to be held by them as tenants in common, joint tenants, tenants by the entirety or as community property.

11. Signs No sign of any kind shall be displayed to the public view without the approval of the Architectural Committee, except such signs as may be used by Developer in connection with the development of Trappers Pointe and the sale of residences and lots, and except such signs be customary and reasonable dimensions as set forth by the Committee as may be displayed on or from a residence advertising the residence for sale or lease. Any "for sale" or "for lease" signs not more than three (3) feet by two (2) feet, plain white with black block letters, shall not require Committee approval. A residential identification sign is permitted by should not exceed two (2) square foot in surface area.

12. Vehicle and RV Parking No automobiles, trailers, boats or other vehicles are to be stored on streets of front and side lots unless they are in working condition, properly licensed, and are being regularly used. No vehicle or RV shall be permitted to be parked on any street within Trappers Pointe between the hours of 2 o'clock a.m. and 6 o'clock a.m. of any morning. No large vehicle (semi-tractor trailers or buses) shall be parked within the streets of the Planned Residential Unit Development at any time. All RV storage to be on side or rear of homes and concealed from front of street.

13. No Hazardous Activities No activities shall be conducted on any property and no improvements constructed on any property which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any property and no open fires nor incinerators shall lighted or permitted on any property except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well-designed interior fireplace, as within a designated common area.

14. Exemption of Developer Nothing in the Trappers Pointe Restrictions shall limit the right of Developer to complete excavation, grading and construction of improvements to any property within Trappers Pointe owned by Developer, or to alter the foregoing or to construct such additional improvements as Developer deems advisable in the course of development of the same in Trappers Pointe as a model home or real estate sales or leasing office. The rights of

Developer hereunder and elsewhere in these Restrictions may be assigned by Developer.

15. Antennas, Satellite Dishes, & Etc. All antennas are to be placed in the attic out of view. Satellite dishes over 24" in diameter are to be hidden from view and located in the rear or side yards. All roof mounted heating and cooling equipment to be located on the rear or side of the roof, remaining out of view.

16. Motorbikes All motorcycles, trail bikes, three-wheel powered devices, automobiles, two or four-wheel drive recreational type vehicles are to be properly muffled to reduce excessive noise and are to be operated only on established roads and streets and are specifically prohibited from other common areas, footpaths and walkways. No hill-climbing activities by motorized vehicles is allowed on the real property because of the noise and erosion-enhancing of such activities.

17. Liability for Damage to Common Area Any damage done to the common area or facilities thereon, by persons or their vehicles while in Trappers Pointe shall be paid for by the person or person doing the damage.

18. Park-strip Landscaping All park-strips are to be landscaped and maintained with similar street trees and appropriate ground cover (lawn). The street trees shall be a Spring Snow Flowering Crab (fruitless), a minimum of 2 inch caliper at the time planting, and spaced every 15' to 20' apart.

19. Mail Boxes All mail boxes and posts will be installed and constructed of similar material. The material will be a 4" x 4" white PVC post with a spire top and a white mail box. The address numbers will be mounted vertically on the post facing the street in black 3" numbers.

20. Front Yard Landscaping The front yard landscaping will be completely installed within 6 months of occupancy of the dwelling unit. A front yard landscaping plan will need to be approved by the Architectural Control Committee. Landscaping shall be defined as live plant material, primarily green in color.

## VII. ARCHITECTURAL CONTROL

1. Architectural Control Committee The Board of Trustees of the Association shall appoint a three member Committee, the function of which shall be to insure that all improvements and landscaping within the property harmonize with existing surroundings and structures. The Committee shall be composed of Owners. If such a Committee is not appointed, the Board itself

shall perform the duties required of the Committee.

2. Standard In deciding whether to approve or disapprove plans and specifications submitted to it, the Committee shall use its best judgment to insure that all improvements, construction, landscaping and alterations on lots within the property conform to and harmonize with existing surroundings and structures.

3. Land Use and Building Type No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted on any lot other than one detached single family dwelling not to exceed two stories in height and a private two (2) or more car garage. (Side or rear-entry garages are encouraged.) Attached carports are prohibited.

4. Approval Procedure All plans including site plans and specifications for building upon a lot by an Owner and/or builder must be submitted to the Architectural Control Committee for approval prior to commencing construction. Such approval is conditioned upon compliance with the following procedure:

(a) A cross section of the proposed wall of the home indicating type of support, insulation, and exterior finish.

(b) One complete set of all exterior colors in the form of samples or color chips, with detailed information as to the location of the color, including brick, siding, trim, roofing material, etc.

(c) The Owner/builder submitting a set of landscape plans for front yard (as defined herein).

Any subsequent changes, improvements, or alterations in such plans must be submitted to the Committee for written approval.

Any approval or disapproval must be made in writing within thirty (30) days after submission. In the event the Committee fails to take any action within such period, it shall be deemed to have approved the material submitted.

5. Construction Construction on all lots must commence within eighteen (18) months of the date of closing. In the event that construction has not been commenced within the 18 months, written approval must be obtained from the Committee. The building time shall not exceed twelve (12) months from start to finish. All debris, excavation dirt, etc., associated with the building process shall be removed within these specified building times. Excavation dirt shall either be removed entirely or shall be spread out and re-seeded within this specified time so

as to return the lot to a pleasing appearance. If reasonably necessary to enable such improvement, construction, landscaping, or alteration, the person or persons carrying out the same shall be entitled to temporarily use and occupy unimproved portions of the common areas and of the lots in the vicinity of the activity. No building should be permitted to remain incomplete for a period in excess of one year from the date the building was started. The Committee is entitled to approve plans and specifications which are not in strict compliance with these covenants, if the Committee determines such would be in the best interest of the Planned Residential Unit Development.

6. No Liability for Damages The Committee shall not be held liable for damages by reason of any action, inaction, approval, or disapproval by it with respect to any request made pursuant to this Article VII.

7. Failure of the Committee to Insist on Strict Performance - No Waiver The failure of the Committee to insist in any one or more instances, upon the strict performance of any of the terms, conditions, or restrictions of the Covenants contained herein, or to exercise any right or option herein contained, or to serve any notice of or to institute any action, shall not be construed as a waiver or relinquishment for the future, and such term, covenant, condition, or restriction shall remain in full force and effect. The receipt by the Committee of any assessment from a lot Owner, with knowledge of the breach, and no waiver by the Committee of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Committee.

## VIII. BUILDING LOCATION

1. Building Location The following minimum yard requirements shall apply to all Living Units in Trappers Pointe:

(a) Front Yard. No building shall be located on any lot nearer than thirty (30) feet to the front lot line, unless a hardship is shown as concerning hook-up to the sewer and then set back will be allowed by review of the Architectural Committee.

(b) Side Yard. Each lot shall have side yards consisting of at least twenty-four (24) feet, with a minimum of ten (10) feet on one side

(c) Side Yard - Corner Lots. On corner lots, the side yard contiguous to the street shall not be less than twenty (20) feet, and shall not be used for vehicular parking except such portion as it devoted to driveway use for access to a garage.

(d) Rear Yard. Each lot shall have a rear yard of not less than thirty (30) feet.

(e) Building Height. No lot or parcel of land in the development shall have a building or structure used for dwelling or public assembly which exceeds a height of two and one half (2 ½) stories. Chimneys, flagpoles, church towers and similar structures not used for human occupancy are excluded in determining height.

(f) Accessory Buildings. An accessory building shall not be built upon a front yard, or closer than five (5) feet to a side lot property line or closer than five (5) feet to a rear property line. All accessory buildings must be approved by the Architectural Control Committee prior to construction.

## IX. QUALIFICATIONS FOR HOME MORTGAGE LOANS

Rights of First Mortgagee. Nothing contained herein or in the bylaws of the Association shall impair the rights of a first mortgagee to:

- (1) foreclose or take title to a lot pursuant to the remedies provided in the mortgage, or
- (2) accept a deed (or assignment) in lieu of foreclosure in the event of default by a mortgagor, or
- (3) participate in the subsequent sale or lease of the lot so acquired by the mortgagee.
- (4) Provided further, any first mortgagee who obtains title to a lot pursuant to 1, 2, and 3 above, will not be liable for that lot's unpaid dues or charges which accrue prior to the acquisition of title to such lot by the mortgagee.

Power of First Mortgagees. First mortgagees of any Trapper's Ponte lots may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any of the Associations' Common Areas and may pay overdue premiums on hazard insurance policies, or secure a new hazard insurance coverage on the lapse of a policy, for such Common Areas and first mortgagees making such payments shall be owed immediate reimbursement therefore from the Association.

Written Notification to First Mortgagee. A first mortgagee, upon request, shall be entitled to written notification from the Trustees of the Association of any default in the performance by any individual lot Owner of any obligation of the Owner under the Articles of

Incorporation, Bylaws of the Association or this Declaration, which default is not cured within sixty (60) days after notice to the said Owner.

## X. MISCELLANEOUS

1. Notices Any notice required or permitted to be given to any Owner or Member under the provisions of this Declaration shall be deemed to have been properly furnished if mailed, postage prepaid, to the latest address for the person who appears as a Member or Owner, in the records of the Association at the time of mailing.

2. Rules and Regulations The Association shall have authority to promulgate and enforce such reasonable rules, regulations and procedures as may be necessary or desirable to aid the Association in carrying out any of its functions or to insure that the property is maintained and used in a manner consistent with the interest of the Owners.

3. Amendment Any amendment to this Declaration shall require:

(a) The affirmative vote of at least seventy-five (75) percent of all members entitled to vote thereon.

(b) Written notice setting forth the purpose of the meeting and the substance of the amendment proposed shall be sent to all members at least ten (10) but not more than thirty (30) days prior to the meeting date. The quorum required for any such meeting shall be as follows: at the first meeting called the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of the Class A membership shall constitute a quorum. If a quorum is not present at the first meeting or any subsequent meeting, another meeting may be called (subject to the notice requirement set forth in the foregoing portion of this Section 2) at which a quorum shall be one half of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting. Any amendment authorized pursuant to this Section shall be accomplished through the recordation of any instrument executed by the Association (and by the Developer if the Class B membership then exists). In such instrument an officer or Trustee of the Association shall certify that the vote required by this Section for amendment has occurred.

4. Consent in Lieu of Vote In any case in which this Declaration required for authorization or approval of a transaction the assent or affirmative vote of a stated percentage of the votes present or represented at a meeting, such requirement may be fully satisfied by

obtaining, with or without a meeting, consents in writing to such transaction from Members entitled to cast at least the stated percentage of all membership votes outstanding in connection with the Class of membership concerned. The following additional provisions shall govern any application of the Section 4.

(a) All necessary consent must be obtained prior to the expiration of ninety (90) days after the first consent is given by any Member.

(b) The total number of votes required for authorization or approval under this Section 4 shall be determined as of the date on which the last consent is signed.

(c) Except as provided in the following sentence, any change in ownership of a lot which occurs after consent has been obtained from the Owner thereof shall not be considered or taken into account for any purpose. A change in ownership which would otherwise result in any increase in the total number of Class A votes outstanding shall, however, be effective in that regard and shall entitle the new Owner to give or withhold his consent.

(d) Unless the consent of all Members whose memberships are appurtenant to the same lot are secured, the consent of none of such Members shall be effective.

5. Mortgage Protection All assessments of the Association and the lien thereof shall be subordinate to the lien of any first mortgage or deed of trust on a lot. Each holder of a first mortgage lien on a lot who comes into possession of the lot by virtue of foreclosure of the mortgage, or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale will take the lot free of any claims for unpaid assessments and charges against the lot which accrue prior to the time such entity comes into possession of the lot, except for claims for a share of such assessments or charges resulting from a reallocation of such assessments or charges to all lots including the mortgaged lot.

6. Developer's Right Assignable The rights of Developer under this Declaration or in any way relating to the Property may be assigned.

7. Interpretation Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both other genders. The invalidity or unenforceability of any portion of the Declaration shall not affect the validity of or enforceability of the remained thereof. This Declaration shall be liberally construed to effect all of its purposes.

8. Covenants to Run with Land This Declaration and all of 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 insure to the benefit of developer, all parties who hereafter acquire any interest in a lot or in the Common Areas, and their respective grantees, transferees, heirs, devisees, personal representatives, successors and assigns until December 31, 2006, at which time said covenants shall be automatically extended for successive periods of ten (10) years, unless by the vote of seventy-five percent (75%) of the then Owners of the plotted lots these covenants are terminated. Each Owner or occupant of a lot or Living Unit shall comply with, and all interests in all lots or in the Common Areas shall be subject to, the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments and determinations contemplated by this Declaration. By acquiring any interest in a lot or in the Common Areas, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

If the parties hereto or any of them, or their heirs or assigns, shall violate or attempt to violate any of the covenants, servitudes, obligations, restriction, easements, charges, or liens contained herein, it shall be lawful for any other person or persons owning any lot situated in Trapper's Pointe Planned Residential Unit Development to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any of the covenants, servitudes, obligations, restrictions, easements, charges, or liens, and either to prevent him or them from so doing or to recover damages, attorney's fees costs of Court or other dues for such violation.

9. Effective Date This Declaration and any amendment hereof shall take effect upon its being filed for record in the office of the County Recorder of Morgan County, Utah.

IN WITNESS WHEREOF, Developer has executed this Declaration on the date first above written.

Rodger A. Smith, President

Bret T. Smith, Treasurer

Kirk L. Smith, Vice-President

Matt M. Smith, Secretary

County of Morgan }

State of Utah }

On the 5th day of August, 1996, personally appeared before me, the undersigned Notary Public, in and for said County of Salt Lake in said State of Utah the signers of the forgoing instrument, who duly acknowledged to me that all officers of Mt. DevCo, Inc. signed it freely and voluntarily for the use and purposes therein mentioned.

Jean D. Bigler  
NOTARY PUBLIC residing in  
Morgan County

My commission expires: October 10, 1996

**ACKNOWLEDGMENT**

58-4779 03-TP2-44

The undersigned are the record owner(s) of Lot 66, Plat B, Trapper's Pointe P.R.U.D., located at 6838 North Black Powder Raod, Mountain Green, Utah, and hereby acknowledge that they have voted in favor of the Amended Declaration of Covenants, Conditions and Restrictions of Trapper's Pointe and consent to the recording of the Amended Declaration against Lot 66 in the Morgan County Recorder's Office.

Donald J. Bidwell, trustee

STATE OF )

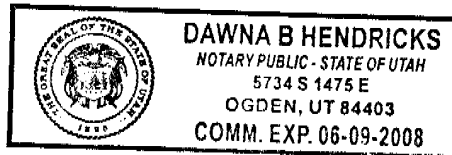
:SS

COUNTY OF )

On the 21<sup>ST</sup> day of May 2007, personally appeared before me Donald J. Bidwell, trustee, the signer of the above instrument who duly acknowledged to me that he executed the same.

*Dawna B. Hendricks*  
NOTARY PUBLIC

Trapper's Pointe- Amended Declaration




**ACKNOWLEDGMENT**

The undersigned are the record owner(s) of Lot 62, Plat B, Trapper's Pointe P.R.U.D., located at ~~6845~~<sup>6846</sup> North Trapper's Circle, Mountain Green, Utah, and hereby acknowledge that they have voted in favor of the Amended Declaration of Covenants, Conditions and Restrictions of Trapper's Pointe and consent to the recording of the Amended Declaration against Lot 62 in the Morgan County Recorder's Office.

58-4027 03-TP2-42

  
Robert W. Pommerville, trustee

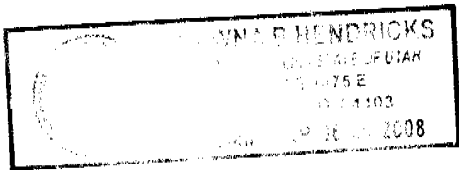
  
S. Arlene Pommerville, trustee

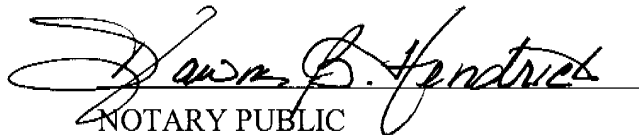
STATE OF UTAH )

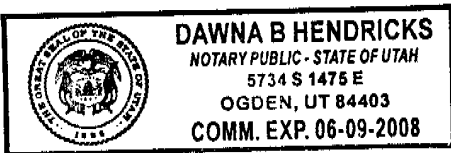
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COUNTY OF MORGAN )

On the 29<sup>th</sup> day of ~~August~~<sup>November</sup>, 2006, personally appeared before me Robert W. Pommerville and S. Arlene Pommerville, trustees, the signers of the above instrument who duly acknowledged to me that they executed the same.



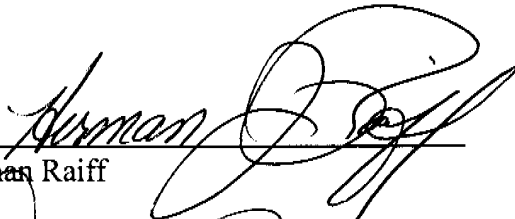
  
NOTARY PUBLIC

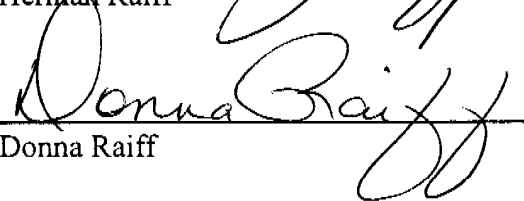


# ACKNOWLEDGMENT

The undersigned are the record owner(s) of Lot 56, Plat B, Trapper's Pointe P.R.U.D., located at 5177 West Rendezvous Road, Mountain Green, Utah, and hereby acknowledge that they have voted in favor of the Amended Declaration of Covenants, Conditions and Restrictions of Trapper's Pointe and consent to the recording of the Amended Declaration against Lot 56 in the Morgan County Recorder's Office.

58-2872 03-TP2-56

  
\_\_\_\_\_  
Herman Raiff

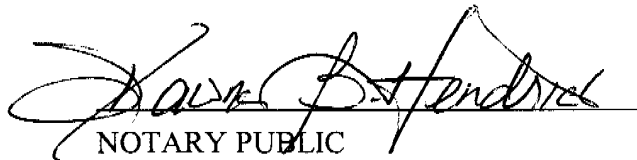
  
\_\_\_\_\_  
Donna Raiff

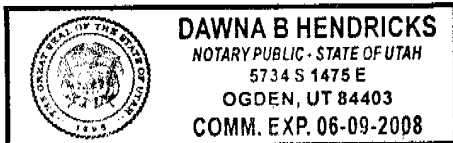
STATE OF UTAH )

:SS

COUNTY OF MORGAN )

On the 9<sup>th</sup> day of ~~August~~ <sup>SEPT</sup> 2007, personally appeared before me Herman Raiff and Donna Raiff, the signers of the above instrument who duly acknowledged to me that they executed the same.

  
\_\_\_\_\_  
NOTARY PUBLIC



**ACKNOWLEDGMENT**

58-1700 03-TP2-24

The undersigned are the record owner(s) of Lot 26, Plat B, Trapper's Pointe P.R.U.D., located at 6863 North Black Powder Road, Mountain Green, Utah, and hereby acknowledge that they have voted in favor of the Amended Declaration of Covenants, Conditions and Restrictions of Trapper's Pointe and consent to the recording of the Amended Declaration against Lot 26 in the Morgan County Recorder's Office.

M. V. Oldham  
Marriner V. Oldham

Julie Oldham  
Julie Oldham

STATE OF ~~UTAH~~ <sup>Azores</sup> <sub>DO</sub>  
COUNTY OF ~~MORGAN~~ <sup>Terceira</sup> <sub>DO</sub> <sup>SS</sup> <sub>DO</sub>

**Serving with the U.S. Armed Forces  
at Lajes Field, Azores, Portugal**

On the 17<sup>th</sup> day of ~~August~~ <sup>November</sup>, 2006, personally appeared before me Marriner V. Oldham and Julie Oldham, the signers of the above instrument who duly acknowledged to me that they executed the same.

Joanne M. Deuermeier  
NOTARY PUBLIC

**JOANNE M. DEUERMEIER**, SSgt, USAF  
Paralegal, OSABW/JA  
NOTARY BY FEDERAL STATUTE  
10 U.S.C. 1044a  
IAW AFI 51-504