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AMENDED AND RESTATED DECLARATION
OF
PROTECTIVE COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
RED HAWK
INCLUDING RED HAWK PHASE I, PHASE II PLAT A AND OTHER PROPERTIES
(AND BYLAWS)

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THIS AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS (hereafter “Declaration”) is made on the date evidenced below by Red Hawk Ranch Owners Association, Inc. (hereafter “Association”).

RECITALS

A. The property subject to this Declaration is the Red Hawk Phase I and Red Hawk Phase II Plat A subdivisions, all real property subjected to the Original Declaration (as defined in Recital C), and each other parcel specified in Exhibit A of this Declaration, all in Summit County, Utah. All Lots therein are part of the Association and each Owner of a Lot is a member thereof. The Association contains certain Common Area and easements for the benefit of the Owners of Lots therein.

B. The Association desires to continue to provide for the preservation and enhancement of the property values and improvements of the Property and for maintenance of the Common Area.

C. This Amended and Restated Declaration of Covenants, Conditions and Restrictions supersedes and replaces all prior declarations, and amendments or supplements thereto, recorded against the subdivision, specifically the Declaration of Protective Covenants, Conditions and Restrictions for Red Hawk Phase II Plat A recorded August 30, 1991, as Entry No. 346160, book 622, pages 253-274, in the Recorder’s Office for Summit County, Utah, as has been amended from time to time including that certain Amendment which caused such Phase II Plat A Declaration to supersede and replace the Declaration of Protective Covenants, Conditions and Restrictions for Red Hawk recorded October 11, 1989, as Entry No. 314082, book 538, pages 213-233, in the Recorder’s Office for Summit County, Utah (altogether the “Original Declaration”).

D. Pursuant to Section 8.2 of the Phase II Declaration as amended, the undersigned hereby certifies that all of the requirements to amend the Declaration have been satisfied and that at least 50% of the Lot owners in attendance at a meeting voted in favor of this document.

NOW, THEREFORE, the Association declares that the Property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions restrictions, easements, charges and liens hereinafter set forth:

ARTICLE I - DEFINITIONS

The following words when capitalized in this Declaration have the following meanings:

1.1 “Act” means the Utah Community Association Act, Utah Code, Title 57, Chapter 8a, as the same shall be amended from time to time.

1.2 “Architectural Review Committee” or “ARC” means the committee created pursuant to Article IV.

1.3 “Assessment” means any charge imposed or levied by the Association on or against an Owner or Lot pursuant to the terms of a Governing Document or applicable law.

1.4 “Association” means and refers to the Red Hawk Ranch Owners Association, Inc., or the successor incorporated or unincorporated association of the Lot Owners acting as the Association under this Declaration.

1.5 “Board” or “Board of Directors” means the entity with primary authority to manage the affairs of the Association.

1.6 “Building Activity Envelope” or “BAE” means the area on a Lot designated on a Plat as “buildable area,” or the area on a Lot designated as a Building Activity Envelope pursuant to Section 4.17 and the Design Guidelines and consists of that part of a Lot upon which any Unit or Outbuilding must be located.

1.7 “Bylaws” means the Bylaws of the Association (initially attached hereto as **Exhibit B**), as they may be amended from time to time.

1.8 “Common Area” means: (a) The real property and interests in the real property which comprise the Project and which is and are submitted to this Declaration, excluding all Lots as defined herein; (b) All common areas and facilities designated as such on the Plat and all property on the Plat excluding the Lots; (c) In general, all apparatus, installations and facilities included within the Project and existing for common use; (d) The areas designated as Red Hawk Lane and Red Hawk Ridge on a Plat, as well as any other areas designated as private roads or rights-of-way on a Plat, but not including private access easements, such as private driveways, that serve one or more but less than all the Lots generally; (e) All other parts of the project normally in common use or necessary or convenient to its use, existence, maintenance, safety or management; (f) All common areas as defined in the Act, whether or not enumerated herein.

1.9 “Community” means the Property.

1.10 “Design Guidelines” means the building and design criteria and procedures adopted from time to time by the Board pursuant to Sections 4.9 and 8.1 of this Declaration.

1.11 “Good Standing” means current in all payments of Assessments.

1.12 “Governing Documents” means a written instrument by which the Association may exercise powers or manage, maintain, or otherwise affect the property under the jurisdiction of the Association, including Articles of Incorporation, Bylaws, Plat, this Declaration, Rules and Regulations, and Design Guidelines.

1.13 “Improvement” means every structure or improvement of any kind, including landscaping, excavating, clearing or removal of trees or shrubs, Units and accessories or additions to Units, Outbuildings, decks, porches, awnings, buildings, fences, walls, garages, carports, driveways, storage areas or other products of construction efforts on or in respect to the Property (but does not include any exterior antenna or satellite dish authorized in accordance with this Declaration).

1.14 “Include,” “includes,” or “including” means (regardless of capitalization), without limitation, that the items listed are not an exclusive list and do not limit the application of the preceding word, unless the word “only” or similar language is used to expressly indicate that the list is an exclusive or limiting list.

1.15 “Lot” means any parcel of real property intended for independent ownership which is part of the Property, including any Improvements thereon.

1.16 “Manager” or “Managing Agent” means the person or entity retained to manage the Property and/or the Association according to the direction of the Board.

1.17 “Member” means a person who holds membership in the Association by virtue of his or her ownership of a Lot.

1.18 “Mortgage” means any mortgage or deed of trust encumbering any Lot and any other security interest existing by virtue of any other form of security instrument or arrangement, provided that such mortgage, deed of trust or other form of security instrument and/or security arrangement has been recorded among the records of the Recorder’s Office.

1.19 “Mortgagee” means the person or entity secured by a Mortgage.

1.20 “Outbuilding” means any structure other than a Unit used for any of the following: human or animal occupancy; a barn or loafing shed; storage; or a workshop.

1.21 “Owner” means the record owner of fee simple title to any Lot, as shown in the records of the County Recorder, but does not include a tenant, contract purchaser, or holder of a leasehold interest or person holding only a security interest in a Lot.

1.22 “Plat” or “Map” or “Record of Survey Map” (these terms may be used interchangeably herein) means the official plats for any part of the Property recorded at the Recorder’s Office of Summit County, as the same may be amended or substituted from time to time, including Red Hawk Subdivision Phase I plat, Red Hawk Subdivision Phase II Plat A, and any other recorded plat describing any part of the Property.

1.23 “Property” or “Project” means the real property described in the attached Exhibit A and any real property made subject to the Original Declaration or to this Declaration in accordance with Section 2.6 below, including all Lots, Common Area, easements, and open space.

1.24 “Rules and Regulations” or “Rules” means the written rules, regulations, resolutions, policies and procedures (including the Design Guidelines) that state what is or is not allowed or what will happen within the Community and which are adopted from time to time pursuant to Section 8.1 of this Declaration.

1.25 “Subdivision” means the Property.

1.26 “Unit” means the primary single-family residential dwelling unit constructed upon a Lot.

1.27 “Wildlife and Easement Areas” means the native and natural areas outside any Building Activity Envelope on a Lot.

ARTICLE II - PROPERTY DESCRIPTION

2.1 Property Subject to the Declaration and Bylaws. The real property which is, and shall be, transferred, held, sold, conveyed, used, occupied and improved subject to the Act and to this Declaration, the Governing Documents, and all agreements, decisions and determinations made

by the Association is all of the real property and interests described in the Plat, including any property annexed into the Project, and including the Lots described on **Exhibit A** attached hereto, which Declaration and covenants, conditions and restrictions herein shall run with the land and shall be binding upon each and every party which shall at any time have any right, title or interest in or to the Property or any part thereof, their heirs, successors and assigns, and to any other person who may in any manner use the Property or any part thereof, and shall inure to the benefit of each Owner. To the extent that the Governing Documents are or become inconsistent with the provisions of any future amendments to the Act, the Act, as amended, shall control.

2.2 Description and Legal Status of Lots. The Plat shows the Lots, dimensions from which their areas may be determined together with the Definitions above, and the Common Areas. All Lots are residential Lots. All Lots shall be capable of being independently owned, encumbered, and conveyed.

2.3 Form of Lot Conveyance - Legal Description of Lot. Each conveyance or installment contract for the sale of a Lot and every other instrument affecting title to a Lot may describe that Lot by the number shown on the Plat with appropriate reference to said Plat and to this Declaration, as each shall appear in the records of the County Recorder, and in substantially the following form: Lot ___ shown on the Plat for the subdivision, appearing in the records of the County Recorder as Entry No. ___ Map No. __; SUBJECT to the Declaration of Covenants, Conditions and Restrictions appearing in the official records of the County Recorder, as may be amended from time to time.

2.4 Use and Occupancy. Except as otherwise expressly provided in the Governing Documents, the Owner of a Lot shall be entitled to the exclusive use and benefits of ownership of such Lot. Each Lot, however, shall be bound by, and the Owner shall comply with, the restrictions contained below and all other provisions of the Governing Documents of the Association for the mutual benefit of the Owners.

2.5 Easements Reserved. In addition to the easements shown on the Plat or provided for under this Declaration, the Bylaws or law, the following easements are hereby reserved for the benefit of the Owners and the Association:

(1) Wildlife and Easement Areas. Every Owner shall have a right and easement of enjoyment in and to the Wildlife and Easement Areas for the purpose of travel by foot, horseback, bicycle or on skis, for the protection and welfare of all native wildlife, and for the aesthetic enjoyment of the Owners. Any Owner may delegate the Owner's right of use and enjoyment of the Wildlife and Easement Areas to the Owner's family members, Lot occupants, contract purchasers, and guests. All such rights are subject to reasonable regulation by the Board. Notwithstanding the foregoing provisions, an Owner may fence a portion of his or her Lot for use as a pasture and as approved by the ARC in which event other Owners shall not have access to the fenced portion.

(2) Utility and Drainage Easements. The Association and any private or public utility provider shall have an easement through all Lots and the Common Areas for the installation, maintenance and development of utilities and drainage facilities, as may be necessary, and for providing any other governmental, municipal, or utility service to the Project. Within these

easements, no structure, planting or other material shall be placed or permitted to remain which may reasonably interfere with or damage utilities or drainage facilities. No Owner shall interfere with the established points at which drainage enters and or leaves the Owner's Lot. The easement area within each Lot and all improvements therein shall be maintained continuously by the Owner of the Lot in accordance with the terms herein, except for those improvements for which a public authority, utility provider, or the Association is responsible. Each Lot Owner shall have an easement in common with all Owners to use all pipes, wires, ducts, cables, conduits, public utility lines and other common facilities located in any of the other Lots and serving the Owner's Lot.

(3) Right of Entry. The Association may at any reasonable time, and from time to time at reasonable intervals, enter upon any Lot (but not a Unit) for the purpose of performing maintenance referred to herein or determining whether or not the use of the Lot is causing damage or harm to the Common Areas or other Lots. Requests for entry to an area enclosed by a fence on a Lot shall be made in advance and at a time convenient to the Owner, except in the case of an emergency, when such right shall be immediate. No such entry shall be deemed to constitute a trespass or otherwise create any right of action in the Owner of such Lot.

(4) Common Areas. All Owners are hereby granted a non-exclusive right and easement of enjoyment to the Common Areas, which right shall be irrevocable, perpetual, and appurtenant to such Lot, subject to the provisions of the Governing Documents and to the right of the Association to limit the number of residents, guests and invitees using the Common Area at one time, and which right shall include (without limitation) the right of ingress and egress to such Owner's Lot.

(5) Individual Lot Easements. Any easement agreement entered into by and between individual Lot Owners for driveway access to an Owner's Lot must be pre-approved by the ARC. The Association shall not be responsible for any part of the construction or maintenance of any private driveway upon any Lot, including snow removal.

2.6 Expansion of Community; Voluntary Annexation. An owner of any lot or parcel of real property adjacent to or in the vicinity of the Property may, at the property owner's option and if consented to, and at the direction of, the Board, subject such lot or parcel to this Declaration and to the jurisdiction of the Association by recording with the county recorder a supplemental declaration against the owner's lot or parcel describing the property being subjected to the Declaration and which shall state the lot or parcel owner's intention to have the property described therein subject to this Declaration and to the jurisdiction of the Association. From that point forward, such lot or parcel shall be subject in all respects to this Declaration and the jurisdiction of the Association, and the supplemental declaration shall be a part of this Declaration and subject to its terms and may only be amended in the same manner as this Declaration.

2.7 Wildfire Risk. All Lot Owners acknowledge and assume the risks associated with property ownership in a wildfire-susceptible area. The Association is not responsible for limiting the spread of a potential or actual wildfire, or for any damage caused by or as a result of a wildfire.

ARTICLE III – RESTRICTIONS ON USE

3.1 Residential Use.

Lots shall be used for residential purposes in accordance with, and subject to, the Governing Documents. No trade, craft, business, profession, commercial, or similar activities shall be conducted on any Lot or in any other portion of the Community if the same causes pedestrian or vehicular traffic which in the Board's determination is in excess of a normal level for residential occupancy; creates a sight or noise nuisance as determined by the Board; is not merely incidental to the use thereof as a dwelling; or has external visible, audible or other indications of use of the dwelling as anything but as a dwelling, all as determined by the Board. Owners engaging in any business activities from their Lots hereby agree to indemnify, defend, and hold harmless the Association and its officers, directors, employees, agents, and other Owners from all claims which may arise from such business activities. Notwithstanding any other provision, no Owner may use the property of any other Owner for any business purpose without the express consent of such other Owner, or to cause or allow a business invitee to enter onto the property of any other owner without the express consent of such other owner.

3.2 Lease Restrictions.

All leases shall be in writing and shall be for no less than one year. All leases are subject to the Governing Documents and any failure by the lessee to comply with the terms of the Governing Documents shall be a default under the lease. An Owner renting a Lot must provide the Lot occupant's contact information to the Association within 30 days of renting the Lot.

3.3 Animals.

3.3.1. No animal (including horses) may be kept on a Lot unless the Lot is improved to adequately care for the animal's needs, including, as applicable, by approved fencing, adequate stalls, hay storage, water, and so forth, and as determined by the ARC. All such improvements must be approved in advance in writing by the ARC. No more than the number of saddle horses, mares and geldings approved by the ARC for a particular Lot may be kept on that Lot. No stallions or other types of livestock may be kept on a Lot without ARC approval. The owner of any dog must keep such dog under the owner's control when outside of the Lot or keep it confined within the Lot.

3.3.2. Those animals which are permitted shall not cause any noise or disturbance that would be deemed a nuisance to other Owners or residents within the Property. The Board may require any animal deemed to be a nuisance by the Board or that is in violation of the Governing Documents to be removed from the Property. Any damage caused by an animal shall be the responsibility of the owner thereof. The Association may, by rule, further restrict or regulate the keeping of pets.

3.4 Offensive or Unlawful Activities, Nuisances.

Except as reasonable and typical to an equestrian community, as determined by the Board: (1) no unsanitary, offensive, unsightly, hazardous or noxious conditions or activities, including noise, odor, or other nuisance, is permitted on any Lot or Common Area, and (2) anything which interferes with or jeopardizes the enjoyment of other Lots or which is a source of annoyance to residents is prohibited. Motorized vehicles are not permitted except upon platted roads or approved improvements designed for vehicular travel or storage. No firearms may be discharged

on the Property. No open fires shall be lighted or permitted on the Property except in a contained barbecue unit well attended and in use for cooking purposes or in a fireplace or screened fire pit. No unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. No cesspools are permitted on the Property. Any sewage disposal system must be approved by the ARC.

3.5 No Hunting; Streams.

The Property is intended, in part, to preserve the beauty and the natural habitat of wildlife and is intended, in part, for the visual enjoyment of the Owners. Alteration of any Lot requires the approval of the ARC as provided in Article IV. No hunting is allowed within the Property. All violators will be prosecuted to the maximum extent of the law and may result in fines up to the maximum extent of the law. No provision of this Declaration shall be construed to grant or confer any special right or standing on any person or organization including, but not limited to, the United States, the state of Utah, Summit County, or any agency, employee or representative of any of them.

The flow of any stream, creek or spring may not be stopped or dammed without Board approval.

3.6 Underground Utility Lines.

All water, gas, electrical, telephone and all other utility lines on a Lot running from the road or the point of distribution to the Unit must be installed underground. Water and septic lines must be buried at least 6 feet deep. All utility lines must be buried underground and may not be exposed above the surface of the ground.

3.7 No Unsightliness; Storage; Equipment.

The following shall be kept within an approved structure or screened by approved planting, fencing or structures so as to not be visible on any part of another Lot or a street: (1) all equipment, service yards, storage piles and storage areas (including grass, shrub or tree clippings, lumber, plant waste, metals, building materials or scrap); (2) any facilities, boats, vehicles other than automobiles in working order, and unsightly structures, objects and conditions; (3) trailers, mobile homes, tractors, truck campers, motor homes or trucks other than pickup trucks, which must be screened from view as stated above or the Lot Owner may seek ARC approval for parking or storage of such items, which approval may be given in the ARC's discretion; and (4) covered trash containers, and all refuse, garbage and trash shall be placed and kept at all times in such a covered container.

3.8 Signs.

No sign, advertisement, poster, flag or banner of any kind may be displayed to the public view on or from any Unit or Lot or the Common Area, except: (1) a residential identification sign for a Lot approved by the ARC, (2) signs to warn of danger or as may be required or required to be allowed by law may be placed on a Lot. The foregoing exceptions may be modified, limited or expanded by Rule of the Association from time to time.

3.9 Antenna and Dish Policy.

Satellite dish antennas one meter in diameter or less designed to receive direct broadcast satellite service, including direct-to-home satellite service, or to receive or transmit fixed wireless signals

via satellite, may be installed; provided the dish and any wires are installed so as to not be visible from the streets. If locating the dish or antenna so that it is not visible from the streets precludes reception of an acceptable quality signal, the dish shall be installed with the least visibility from the streets possible. Location of an FCC approved dish may not be restricted by the Association so as to: (1) cause unreasonable delay in installation; (2) unreasonably increase the cost of the equipment or its installation, maintenance, or use; or (3) preclude reception of an acceptable quality signal. No dish may encroach upon the Common Area or the property of another Owner. The Owner shall keep the dish in good repair so that it does not violate any portion of this Declaration. Satellite dishes not regulated by the FCC are prohibited.

3.10 Wind and Solar Installations.

All installations of solar or wind power equipment must be approved by the ARC before installation. The installation of any system, including its components, that is used to produce electric energy from sunlight (a “Solar Energy System”) may be restricted by the Design Guidelines as to size, location, or manner of placement if such a restriction decreases the Solar Energy System’s production by 5% or less, or increases the solar energy system’s cost of installation by 5% or less. The Design Guidelines may require that if a Solar Energy System is mounted on a roof, that it not extend above the roof line, or that it have panel frame, support bracket, and visible piping or wiring that has a color or texture that is similar to the roof material; or if the Solar Energy System is mounted on the ground, that it not be visible from the street that a Lot fronts.

3.11 Increase in Insurance Cost.

Nothing shall be done or kept within any Lot or on the Common Areas, including Limited Common Areas, which will increase the cost of insurance to the Association or to other Owners. No Owner shall permit anything to be done or kept within his or her Lot or Common Areas which will result in cancellation of insurance on any Lot.

3.12 No Subdividing; Dwellings.

No Lot may be subdivided. No more than one dwelling may be constructed or allowed on a Lot without Board approval.

3.13 No Mining, Drilling or Quarrying.

No mining, quarrying, tunneling, excavating or drilling for any substances within the earth, including but not limited to oil, gas, minerals, gravel, sand, rock, and earth, is permitted on the surface of the Property.

3.14 Association Rules and Regulations.

In addition to the restrictions and requirements above, the Association from time to time may adopt, modify, or revoke such rules and regulations governing the operation and use of the Lots and Common Areas as necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Property.

ARTICLE IV - ARCHITECTURAL REVIEW

4.1 Modifications Require Approval. No Improvement (including landscaping) shall be commenced, erected, maintained or altered upon any Lot without prior written Architectural

Review Committee approval. No exterior addition, change or alteration to any Lot, whether structural, landscaping, cosmetic or otherwise, may be made without prior written ARC approval. ARC approval shall be requested through submission of plans and specifications showing the nature, kind, shape, height, materials, and location of the changes. ARC approval is subject to qualifications and criteria determined by the ARC, including but not limited to harmony of external design and location in relation to surrounding structures, topography and the Community generally. Such approval shall be solely at the discretion of the ARC as it deems appropriate from time to time. Notwithstanding the foregoing, ARC approval is not required for maintenance, repair or reconstruction performed upon a Lot that does not result in a material change to the appearance of a previously-approved Improvement (other than the naturally-resulting cosmetic change from new materials). The quality of all materials used for any Improvement shall be equal or superior to that utilized for original construction.

4.2 Architectural Review Committee. The Board shall appoint an Architectural Review Committee (the “Committee” or “ARC”), which shall have the authority to ensure that all Units and other improvements on the Lots harmonize with existing surroundings and structures and comply with the requirements set forth in this Article and the applicable provisions of the Declaration for which the Committee is granted authority. The Committee may appoint a consulting architect. ARC members shall not be compensated other than for actual costs they incur.

4.3 Standard. In deciding whether to approve or disapprove plans and specifications submitted to it, the Committee shall use its best judgment to ensure that all improvements and construction on Lots within the Property conform to and harmonize with existing surroundings and structures and comply with the requirements of this Article.

4.4 Time for Approval or Denial. The Board may establish in the Design Guidelines timelines and procedures for submission, review, and approval or denial of an application for approval. Unless different timelines and procedures are specified in the Design Guidelines, the following shall apply: In the event the ARC fails to approve or disapprove a request by an Owner within 30 days, the application is deemed disapproved.

4.5 Preliminary Approval. An Owner may request informal and preliminary approval or disapproval by the ARC. If the ARC grants the request, preliminary plans must contain a proposed site plan together with sufficient information covering all aspects that are required to be in final plans and specifications to allow the ARC to give an informed preliminary approval or disapproval, as well as any other information or specifications required by the ARC. All preliminary approvals are informal and nonbinding.

4.6 No Liability for Damages. The ARC shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of any plan or design from the standpoint of structural safety or conformance with building or other codes. Neither the ARC nor any member thereof shall be liable to the Association or any person whatsoever for any loss, damage or injury arising out of, or in any way connected with the performance of the ARC’s duties hereunder.

4.7 Fees and Review Costs. The Association may charge a fee for the actual cost of reviewing and approving plans for construction on and improvement or modification of a Lot, including any costs charged to the Association by any other party. At such time that any

dwelling is constructed upon an Owner's Lot, the Owner shall pay the Association a road impact fee for the maintenance of the roads in the Project, and such fee shall be in the amount determined by the Board from time to time and is presently calculated at the rate of \$1.00 per square foot of total floor area of such dwelling. Prior to construction of a Unit on a Lot, the Lot Owner shall pay the Association a gate fee in the amount determined by the Board from time to time.

4.8 Non-Waiver. The approval of the ARC of any plans, drawings, or specifications for any work done or proposed or in connection with any other matter requiring the approval of ARC under these restrictions 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.

4.9 Design Guidelines. The Lots and all Improvements, including design and construction thereof, shall be consistent with and shall comply with the procedures and criteria set forth in this Declaration and such other building and design criteria, timeframes, and procedures which the Board is hereby empowered to adopt (referred to as "Design Guidelines") upon its own or the ARC's recommendation, to expand and clarify this Article IV and to otherwise provide for the harmony and compatibility of the Improvements constructed within the Project with surrounding property. All Owners shall comply with and are bound by the design restrictions herein and the Design Guidelines, as may be adopted from time to time. The Design Guidelines may specify requirements for construction and location of any Improvements, including Units, driveways, landscaping and utility lines.

4.10 Variances. A variance may be granted from the requirements contained in this Article IV if a requirement would create a substantial and unreasonable hardship or burden for an Owner as determined by, and if the variance is approved by, both a majority of the members of the ARC and a majority of the members of the Board.

4.11 General Requirements. The ARC shall exercise its best judgement in overseeing all improvements, construction, landscaping and alterations on the lands within the Subdivision, conforming and harmonizing with the natural surroundings and existing Structures as to external design, materials, color, location, height, topography, grade and finished grade elevations in keeping with the Design Guidelines. No dome-shaped, A-frame or other types of structures deemed by the ARC to be in conflict with the mountain-style design are allowed.

4.12 Construction Supervision. The ARC shall have authority, in the exercise of its sole discretion, to supervise and control the activities of contractors constructing improvements in the subdivision. Such supervision shall include, without limitation, setting hours during which construction may take place; requiring that contractors post bonds for the benefit of the Association and other owners against any damage caused to any property within the subdivision by such contractors, their subcontractors, or vendors; limiting access to the property by such contractors, subcontractors, and vendors to those areas that are necessary for them to complete their work; prohibiting the presence at job sites of dogs owned by such contractors, subcontractors, and vendors; and setting additional rules to limit noise and other impacts arising from construction.

4.13 Completion Required Before Occupancy. Unless approved by the ARC, no Unit may be occupied until and unless the Unit has been completed in accordance and compliance with all approved plans and specifications and the county has issued a certificate of occupancy for the Unit.

4.14 Number and Location of Unit. No Unit or Improvement shall be placed, erected or permitted to remain on any Lot other than one single-family dwelling and one garage together with related structures and Improvements. At the time of initial construction of a Unit, the Lot must be improved with a garage with at least a two-car capacity. Whenever possible, the garage doors may not face towards the main access road or the main view corridor from other Owners' home sites.

4.15 Residence Floor Area. The single-family dwelling which may be constructed on a Lot shall have a minimum living floor area, exclusive of garages, balconies, porches, decks and patios of thirty-five hundred square feet and a maximum of ten thousand square feet.

4.16 Single Family Dwelling to be Constructed First. No garage or other structure shall be constructed on any Lot until after commencement of construction of the single-family dwelling on the same Lot except as otherwise specifically permitted by the ARC. All construction and alteration work shall be prosecuted diligently, and each Unit and other improvement shall be entirely completed within fifteen months after commencement of construction. A three (3) month grace period after the initial fifteen-month period has expired may be given with ARC approval.

4.17 Setbacks and Dwelling Placement. The placement of dwellings shall respect existing land forms and generally follow contours and fit into the existing land mass rather than ignoring and dominating these forms. All dwellings on all Lots shall be set back at least fifty feet from each side, fifty feet from the rear, and fifty feet from the front Lot line. The "front Lot line" of a Lot means the Lot line abutting a road. On corner Lots, a Unit shall be set back at least fifty feet from any street with consideration given to the maintenance of a clear view of intersecting streets as defined in the Summit County Building Code. All Unit site locations, driveways and any excavations must be approved by the ARC. Building Activity Envelopes are designed to insure maximum privacy, view corridors and maximum benefit to the individual Lot and the surrounding Lot Owners to maintain the overall beauty of the area. Building Activity Envelopes are designated by a recorded Plat map as "buildable area." Location of construction on Lots without a BAE designated on a Plat must be approved by the ARC. All Units, Outbuildings and such other Improvements specified by the Design Guidelines must be within a BAE. Any modification or creation of a BAE must be consistent with the Design Guidelines and approved by the ARC, and if so approved shall supersede and replace any designation of "buildable area" on a Plat for the purposes of this Declaration and the Design Guidelines.

4.18 Height Limitation. No portion of a Unit shall exceed a height greater than twenty-eight feet, measured from natural or unmodified grade to a point midway between the lowest part of the eaves or cornice and the ridge of a hip or pitched roof. The maximum height of the ridge shall be the height designated for that Unit site by the ARC. This measurement applies to all elevations of the Unit; the intent being that building will conform with and reflect the natural contour of the land.

4.19 Landscape Plan Required. Each Lot is required to be landscaped with vegetation similar the vegetation that was removed during construction within one year of the Unit’s substantial completion. A landscaping plan is required to be submitted to the ARC for approval. Any area of natural vegetation disturbed by construction or other activities must be restored to be consistent with and complement existing native areas.

ARTICLE V - MAINTENANCE OBLIGATIONS

5.1 Owner’s Responsibility. Maintenance of a Lot and Unit shall be the responsibility of the Owner thereof, who shall maintain such Lot and Unit in good condition and repair. Each Unit and Lot shall be maintained so as to not detract from the appearance of the Community and so as to not adversely affect the value or use of any other Unit or Lot. In the event an Improvement is damaged or destroyed, repair or removal of the Improvement must begin within 90 days and must be completed within the time period specified by the Board, if any.

5.2 Maintenance by Association. The Association shall maintain the Common Areas of the Property, unless otherwise stated in this Declaration. However, if the Common Areas are damaged by the willful misconduct or negligence of an Owner or the Owner’s guests, tenants, or invitees, the Owner shall be responsible for all such damage and the cost of required maintenance, repair or replacement shall automatically and immediately be an Assessment against such Owner.

Additionally, the Association may assume an Owner’s general maintenance responsibility over a Lot if, in the opinion of the Board, the Owner is unwilling or unable to adequately provide such maintenance. Before assuming such maintenance responsibility, the Board shall provide notice to the Owner of its intention to do so, and if such Owner has not commenced and diligently pursued remedial action with fifteen days after mailing of such written notice, then the Association may proceed to maintain the Lot. The expenses of such maintenance incurred by the Association shall be reimbursed to the Association by the Owner. Such expenses shall constitute an assessment and collected in the same manner as assessments pursuant to this Declaration.

ARTICLE VI - ASSESSMENTS

6.1. Covenant for Assessments. Each Owner, by acceptance of a deed conveying a Lot, whether or not so expressed in the deed or other conveyance, or by otherwise submitting the Owner’s Lot to this Declaration, shall be deemed to have covenanted and agreed to pay Assessments.

The Board shall determine whether installments of Annual Assessments are levied and collected on a monthly, quarterly, semi-annual, annual or other basis. Any Owner may prepay one or more installments of any Assessment, without premium or penalty. No Owner may exempt itself from liability for Assessments by abandonment of any Lot owned by such Owner.

Each Lot Owner shall pay an equal share of the Annual Assessments and Special Assessments. Any property not otherwise subject to this Declaration but that utilizes services provided by the Association shall pay such amounts and upon such terms as established by separate agreement between the Association and the property owner.

6.2. Annual Budget and Assessment.

6.2.1. Adoption of Budget. The Board shall prepare, or cause the preparation of, and adopt an annual budget for the Association, which shall provide, without limitation, for the maintenance of the Common Areas and for the administration, management and operation of the Association, and shall include a reserve fund line item in an amount the Board determines to be prudent based on the reserve analysis (as defined in Section 6.6.2). The Board shall present the adopted budget to Owners at a meeting of the Owners and the notice of such meeting shall include the amount of the Annual Assessment for the ensuing year. A budget is disapproved if at the meeting at which the Board presents the budget, there is a vote of disapproval by a majority of the total voting interests of the Association. If a budget is disapproved, or if the Board fails to adopt a budget, the last adopted budget shall continue in effect until and unless the Board presents another budget to Owners and that budget is not disapproved.

6.2.2. Determination of Annual Assessment.

(a) Amounts, Notice. The Board shall fix the amount of the annual assessment (“Annual Assessment”) against each Lot in advance of the beginning of the fiscal year and in accordance with the budget.

(b) Approval for Increases of More Than 15%. The Annual Assessment may not be increased by more than 15% above the prior fiscal year’s Annual Assessment unless such increase is approved by a vote of the Owners in accordance with the Bylaws.

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

(d) Equitable Changes. If the Annual Assessments levied at any time are, or will become, inadequate to meet the expenses incurred by the Association for any reason, including nonpayment of any Owner’s Assessments on a current basis, the Association may determine the approximate amount of the inadequacy and adopt a resolution which establishes a supplemental budget and establishes the equitable change in the amount of the Annual Assessment.

6.3. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of fulfilling the purposes of the Association and carrying out this Declaration, and including, but not limited to: (a) The improvement and maintenance, operation, care, and services related to the Common Areas; (b) The payment of insurance premiums; (c) The costs of utilities and other services which may be provided by the Association for the Community; (d) The cost of labor, equipment, insurance, materials, management, legal and other professional and administrative fees incurred or expended in performing the duties under this Declaration or the Bylaws; and (e) The cost of funding all reserves established by the

Association, including a general operating excess and a reserve for replacements as provided below; and (f) Any other items properly chargeable as a common expense of the Association.

6.4. Special Assessments. In addition to the Annual Assessments authorized in this article, the Association may levy a special assessment from time to time (“Special Assessment”) for the purpose of defraying, in whole or in part, the costs incurred or to be incurred by the Association which cannot reasonably be paid for through other types of Assessments, as determined by the Board including any special government requirements that may arise.

6.5. Individual Assessments. Any expenses which are not common expenses, and which benefit or are attributable to fewer than all of the Lots may be assessed exclusively against the Lots affected or benefitted (“Individual Assessments”). Individual Assessments shall include, but are not limited to: (1) Assessments levied against any Lot to reimburse the Association for costs incurred in bringing the Lot or its Owner into compliance with, or to otherwise defend or uphold, or carry out, the provisions of the Governing Documents, and for fines or other charges, including attorney fees, imposed pursuant to this Declaration for violation of the Governing Documents; (2) Expenses, other than common expenses, relating to the cost of maintenance, repair, replacement and reserves of the Lots which may be incurred by the Association.

6.6. Reserve Analysis.

6.6.1. Reserve Analysis Required. The Board shall cause a reserve analysis to be conducted no less frequently than every ten years, and shall review and, if necessary, update a previously conducted reserve analysis no less frequently than every five years. However, the Board may increase or decrease the frequency of conducting and updating a reserve analysis in a formal resolution of the Board delivered to all Owners. The Board may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the Board, to conduct the reserve analysis.

6.6.2. Reserve Analysis Defined. “Reserve analysis” means an analysis to determine the need for a reserve fund to accumulate reserve funds, and the appropriate amount of any reserve fund. A reserve analysis shall include:

- (a) a list of the components identified in the reserve analysis that will reasonably require reserve funds;
- (b) a statement of the probable remaining useful life, as of the date of the reserve analysis, of each component identified in the reserve analysis;
- (c) an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis;
- (d) an estimate of the total annual contribution to a reserve fund necessary to meet the cost to repair, replace, or restore each component identified in the reserve analysis during the component's useful life and at the end of the component's useful life; and
- (e) a reserve funding plan that recommends how the Association may fund the annual contribution described in subsection (d) above.

6.6.3. Reserve Analysis Summary Provided to Owners. The Association shall: (a) annually provide Owners a summary of the most recent reserve analysis or update; and (b) provide a copy of the complete reserve analysis or update to an Owner who requests a copy.

6.7. Reserve Funds. The Association shall establish and maintain a reserve fund for the purpose of (1) repair, replacement and restoration of the Common Areas and other items for which it is responsible to maintain, repair or replace, (2) any emergency, unforeseen, unusual, or unanticipated expenditures, and (3) for any other purpose determined from time to time by the Board, by the allocation and payment to such reserve fund of an amount to be designated from time to time by the Board in its best business judgment or of an amount and in the manner as may be required by law.

6.8. Amounts Due on Transfer of Lot – Reinvestment Fee. If a notice of reinvestment fee covenant is recorded by the Association, then each time legal title to a Lot passes from one Owner to another, within thirty days after the effective date of such title transaction, the new Owner shall pay to the Association, in addition to any other required amounts, a reinvestment fee in the amount determined by the Association from time to time.

6.9. Nonpayment of Assessments. The Annual Assessments shall be due and payable on such basis established by the Association and shall be delinquent if not paid within the period established by the Association from time to time. The due date of any Special Assessment or other Assessment shall be fixed in the resolution authorizing the Assessment or in the notice of the Assessment.

6.9.1. Interest, Late Charge. Delinquent Assessments shall bear interest and be subject to a late charge at the rate and amount determined by the Association from time to time.

6.9.2. Acceleration. If the delinquent installments of any Assessment, including an Annual Assessment, and any charges thereon are not paid in full, the Association may declare all of the unpaid balance of the Assessment to be immediately due and payable upon not less than ten (10) days' written notice to the Owner, and may enforce the collection of the full Assessment and all charges thereon in any manner authorized by law and this Declaration. If, however, the Assessment is accelerated and an Owner subsequently files bankruptcy or the Association otherwise decides acceleration is not in its best interest, the Association, at its option, may elect to decelerate the obligation.

6.9.3. Rent Payments by Tenant to Association. If the Owner of a Lot who is leasing the Lot fails to pay an Assessment for more than 60 days after the Assessment is due, the Association may demand that the tenant pay to the Association all future lease payments due to the Owner, beginning with the next monthly other periodic payment, until all amounts due to the Association are paid. Such demand to the tenant shall be made in accordance with the law and any written procedures of the Association. The Association shall give the Owner written notice of its intent to demand full payment from the tenant and such notice shall be made in accordance with the law and any written procedures of the Association.

6.9.4. Remedies, Including Suspension of Membership Rights and Services. All membership rights, including the right of an Owner to vote, shall be automatically suspended during any period of delinquency, unless otherwise determined by the Association. A Board member shall become immediately ineligible to serve on the Board and automatically dismissed

from such position if delinquent more than 60 days in the payment of any Assessment. Any service provided by the Association to the Owners may also be terminated as to the delinquent Owner. The Association shall have each and every remedy for collection of Assessments provided in the Utah Community Association Act, Utah Code Title 57, Chapter 8a, as amended from time to time, and the provisions of the Act shall be deemed to be fully set forth herein when required by such Act in order to exercise any such remedy.

6.10. Lien. All Assessments imposed together with late charges, interest, fines, costs and reasonable attorney fees provided for in this Declaration (whether or not a legal proceeding is initiated) or by law or awarded by a court for enforcement of the Governing Documents shall be a charge and continuing lien upon each of the Lots against which the Assessment or charge is made and shall be construed as a real covenant running with the land. If an Assessment is payable in installments, the lien is for the amount of each installment as such becomes due and this provision shall be deemed a notice of assessment.

6.11. Personal Obligation and Costs of Collection. Assessments (including late charges, interest, fines, costs and reasonable attorney fees incurred or expended by the Association in the collection of Assessments), whether or not a legal proceeding is initiated, shall also be the personal obligation of the Owner holding title to any Lot at the time when the Assessment became due. In a voluntary conveyance, the grantee of a Lot shall be jointly and severally liable with the grantor for all unpaid Assessments against the latter for his share of the unpaid Assessments up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the grantor the amounts paid by the grantee.

6.12. Appointment of Trustee. By acceptance of a deed for a Lot, each Owner as trustor conveys and warrants to trustee in trust for the Association, as beneficiary, with power of sale, the Owner's Lot and all improvements thereon for the purpose of securing payment of all Assessments provided for in this Declaration. For purposes of this Section and Utah Code Ann. §§57-1-19, et seq., as amended from time to time, the trustee shall mean the attorney for the Association, and the Association may provide notice and disclosure of the trustee by recording an "Appointment of Trustee" on the records of the local County Recorder. Each Owner hereby also grants to the Association and trustee all powers and rights of non-judicial trust deed foreclosure provided for in Utah Code Ann. §§57-1-19, et seq.

6.13. Enforcement of Lien. The lien for unpaid Assessments may be foreclosed by the Association judicially or non-judicially, consistent with the laws of the state of Utah for the non-judicial foreclosure of deeds of trusts. The Association, through duly authorized agents, shall have the power to bid on the Lot at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Upon completion of the foreclosure sale, an action may be brought by the Association or the purchaser at the sale in order to secure occupancy of the defaulting Owner's Lot, and the defaulting Owner shall be required to pay the reasonable rental value of such Lot during any period of continued occupancy by the defaulting Owner or any persons claiming under the defaulting Owner. The Association shall be entitled to the appointment of a receiver to collect the rental income or the reasonable rental value without regard to the value of the security.

6.14. Subordination of Lien to Mortgages. The lien of the Assessments provided for in this article shall be subordinate to the lien of any first mortgagees or deeds of trust now or hereafter placed upon the Lot subject to assessment, except as follows: the sale or transfer of any Lot pursuant to mortgage or deed of trust foreclosure shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. Such sale or transfer shall not relieve the Lot from liability or lien for any Assessments thereafter becoming due.

6.15. Duty to Pay Independent. No reduction or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under the Governing Documents, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, order or directive of any municipal or other governmental authority, the obligation to pay Assessments being a separate and independent covenant on the part of the each Owner.

6.16. Statement of Unpaid Assessment & Payoff Information. The Association shall, upon demand at any time, furnish to any Owner liable for assessment a certificate in writing signed by an officer or Managing Agent of the Association setting forth whether Assessments have been paid. The certificate shall be conclusive evidence of payment of any assessment therein stated as having been paid. A reasonable charge may be levied in advance by the Association for each certificate so delivered. The Association may charge a fee for providing Association payoff information needed in connection with the financing, refinancing, or closing of an Owner's sale of the Owner's lot up to the maximum amount allowed by law.

ARTICLE VII - THE ASSOCIATION

7.1 Organization. The Association has been or will be organized as a nonprofit corporation under the nonprofit corporation laws of the state of Utah (Utah Code Annotated Titled 16 Chapter 6a, as may be amended from time to time). In the event the Association is at any time administratively dissolved by the Division of Corporations and Commercial Code, the Board may re-incorporate the Association without a vote of the Owners. The affairs of the Association shall be governed by a Board of Directors as provided herein and in the Bylaws. The Board acts in all instances on behalf of the Association except as to matters specifically requiring approval by the Owners in the Governing Documents or the law.

7.2 Membership. Each Owner shall be a member of the Association. The membership shall commence, exist and continue by simply virtue of the ownership, shall expire automatically upon termination of ownership, and need not be confirmed or evidenced by any certificate or acceptance of membership.

7.3 Voting Rights. The method of voting shall be as provided in the Bylaws. Each Owner in Good Standing shall have one vote in matters of the Association for each Lot owned, subject to the Bylaws.

7.4 Powers, Duties and Obligations. The Association shall have such powers and duties as may be granted to it or imposed by this Declaration, the Articles of Incorporation and the

Bylaws, together with its general powers as a corporation and under any applicable statute, as such statute may be amended, and the power to do any and all things that may be authorized, required or permitted to be done by the Association under and by virtue of this Declaration. Without in any way limiting the generality of the foregoing, the Association shall have the power to: (1) establish a separate water company known as the Red Hawk Ranch Water Company to maintain and repair the water system that services the Lots and replace those elements of the water system that must be replaced on a periodic basis, and otherwise manage the water system, including providing for distribution of water to the persons entitled thereto and assessing costs thereof to its members, (2) delegate by resolution or contract to a manager any of the Board's powers or duties, (3) borrow money if first approved by a vote of the Owners in accordance with the Bylaws, and (4) grant easements and rights-of-way over the Common Area and to approve signage for the Project.

ARTICLE VIII - RULES, ENFORCEMENT, APPEAL

8.1 Rules and Regulations. The Board may adopt, amend, modify, cancel, limit, create exceptions to, expand, or enforce the Rules and Regulations (including Design Guidelines), subject to limitation and requirements of the law, including the right of the Owners to disapprove a rule pursuant to law, and subject to the Board's duty to exercise business judgment on behalf of the Association and the Owners.

8.1.1. Requirements. Before adopting, amending, modifying, canceling, limiting, creating exceptions to, or expanding the Rules and Regulations, the Board shall:

(1) at least 15 days before the Board will meet to consider a change to the Rules and Regulations, deliver notice to the Owners that the Board is considering a change to the Rules and Regulations;

(2) provide an open forum at the Board meeting giving Owners an opportunity to be heard at the Board meeting; and

(3) deliver to the Owners a copy of the change in the Rules and Regulations approved by the Board within 15 days after the date of the Board meeting.

8.1.2. Imminent Risk of Harm. The Board may adopt a rule without first giving notice to the Owners if there is an imminent risk of harm to the Common Area, an Owner, an occupant of a Lot, a Lot, or a Unit. The Board shall provide notice to the Owners of such a rule within 15 days of adoption by the Board.

8.2 Remedies. Violation of any provisions of the Governing Documents, or of any decision of the Association made pursuant to such documents, shall give the Board the right, but not the obligation, in addition to any other rights set forth in the Governing Documents, or under law, to do any or all of the following after giving notice:

(1) subject to the provisions of this Declaration, to enter the Lot as to which such violation exists and to summarily abate and remove or otherwise bring into compliance, at the expense of the defaulting Owner, any structure, thing, or condition that may exist contrary to such provisions, and the Board shall not thereby be deemed guilty of any manner of trespass;

- (2) enjoin, abate, or remedy such thing or condition by appropriate legal proceeding;
- (3) levy fines according to Section 8.3 below;
- (4) suspend the right to receive, access or use any services or facilities provided by or through the Association until the violation is corrected, and to suspend the voting rights of an Owner, but not for longer than 60 days unless violation is continuous;
- (5) bring suit or action against the Owner on behalf of the Association and other Owners to enforce the Governing Documents. The Association shall be entitled to an award of its attorney fees and costs in any action taken for the purpose of enforcing or otherwise carrying out the terms of the Governing Documents, or for any action taken pursuant to the Governing Documents, if it prevails in such action, regardless of who instituted the action; and
- (6) record in the records of the county recorder against a Lot as to which a violation exists and the noncompliance of the Lot with the Governing Documents, a notice of noncompliance setting forth the thing, condition or violation that exists and thereby providing notice to prospective purchasers and all others of the violation and of the requirement that the violation be remedied by the Owner or future Owner of the Lot.

8.3 Fines. The Board may assess a fine against an Owner for a violation of the Governing Documents in accordance with the provisions in this Section 8.3.

8.3.1. **Warning.** A written warning (“Warning”) shall be sent to the Owner of the lot. The Warning shall:

- (1) describe the violation;
- (2) state the rule or provision of the Governing Documents that the Owner has violated;
- (3) state that the Board may, in accordance with the provisions of the law, assess fines against the Owner and suspend membership rights if a continuing violation is not cured or if the Owner commits similar violations within one year after the day on which the Board gives the Owner the Warning or assesses a fine against the Owner;
- (4) if the violation is a continuous violation, state a time by which the Owner must cure the violation (which time must be at least 10 days after the day the Owner is given the Warning); and
- (5) state the amount of the fine that will be assessed if a continuous violation is not cured within 10 days or if the Owner commits similar violations within one year after the day on which the Board gives the Owner the Warning.

8.3.2. **Initial Fine.** The Board may assess a fine against an Owner if: (1) within one year after the day on which the Board gives the Owner a Warning, the Owner commits another violation of the same rule or provision identified in the Warning; or (2) for a continuing violation, the Owner does not cure the violation within 10 days after the day the Owner is given the Warning.

8.3.3. **Subsequent Fines for Same Violation.** After a fine is assessed against an Owner, the Board may, without further warning, assess an additional fine against the Owner each time the Owner: (1) commits a violation of the same rule or provision within one year after the day on

which the Board assesses a fine for a violation of the same rule or provision; or (2) allows a violation to continue for 10 days or longer after the day on which the Board assesses the fine.

8.3.4. Notice of Fine. Each time a fine is assessed, notice of the fine shall be sent to the Owner describing the violation, stating the rule or provision of the Governing Documents that the Owner has violated, and stating that the Owner may request an informal hearing before the Board to dispute the fine within 30 days after the date of the notice.

8.3.5. Fine Amounts. A violation of any express rule, regulation, covenant, restriction or provision of any of the Governing Documents shall be subject to a fine in the amount set forth in a schedule of fines adopted by Rule from time to time.

8.4 Appeal by Owner. Any Owner who is assessed a fine or other penalty or who has rights suspended may request an informal hearing before the Board to dispute the fine, penalty or suspension within 33 days after the date of the notice stating that the fine or penalty is assessed or that rights have been suspended. The hearing requested shall be conducted in accordance with procedures promulgated by resolution of the Board from time to time, or if none, in accordance with the standards determined by the Board at the hearing.

8.5 Action by an Owner. Each Owner and every user of the Property shall comply with the provisions of the Governing Documents and any applicable statute. Failure to comply therewith shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by an aggrieved Owner, provided that either party to a dispute may demand mediation or arbitration of a dispute other than a dispute over payment of Assessments. Upon making a written demand for mediation or arbitration, the dispute shall be submitted promptly to a mediator or an arbitrator mutually selected by the parties, and if arbitrated, the determination of the arbitrator shall be binding upon both parties. The prevailing party in an action for the interpretation of, the enforcement of, or to obtain redress for violation of any provisions of the Governing Documents shall be entitled to an award of its attorney fees and costs.

8.6 Injunctive Relief. Nothing in this section shall prevent an Owner, the Association, or other interested party from resorting to a court of competent jurisdiction in those instances where injunctive relief may be appropriate. In such an action, the violation of any covenants or restrictions in the Governing Documents shall be presumed to cause irreparable harm to the Association and its members.

8.7 Purchase Subject to Violations. Buyers shall take ownership of Lots subject to any violations of the Governing Documents which may exist concerning the Lot, whether or not such violations were disclosed by the seller of the Lot and whether or not the Association knew of the violations at the time of sale. Such buyers shall be liable for correcting such violations upon demand by the Association.

ARTICLE IX - INSURANCE

9.1 Insurance Maintained by Association. The Association shall at all times purchase, maintain in force, and pay the premiums for (as well as such other insurance as it deems

reasonable) if reasonably available, and consistent with that of similarly situated first-class subdivisions in the county and with the Act: (1) property insurance, if required by law or deemed necessary by the Board; and (2) liability insurance with adequate limits of liability for bodily injury and property damage.

9.2 Other Insurance. The Board may purchase and maintain in force, if and as it deems reasonable, the following types of insurance:

(1) Director's and Officer's Insurance. Directors and officers (D & O) liability insurance coverage.

(2) Fidelity. Fidelity insurance or bond covering all Board members, officers, employees and other persons handling or responsible for the funds of, or administered by, the Association. Where a Managing Agent has the responsibility for handling or administering funds of the Association, fidelity coverage shall include coverage for its officers, employees, and agents handling or responsible for funds of, or administered on behalf of, the Association. Such fidelity bond or insurance shall name the Association as an obligee and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or Managing Agent, as the case may be, at any given time during the term of each bond or policy, and in no event, no less than a sum equal to three months aggregate assessments on all Lots plus reserve funds. The bonds or policies shall contain waivers by the issuers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees," or similar terms or expressions. The bonds or policies shall provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least 10 days' prior written notice to the Association or insurance trustee.

9.3 Miscellaneous Items. The following provisions shall apply to all insurance coverage of the Association:

(1) Certificate of Insurance. Evidence of insurance shall be issued to each Owner and Mortgagee upon request.

(2) Deductible. The Association shall pay for the deductible on any claim made against the Association's property insurance policy, except where the claim is made because of the negligence or willful acts of an Owner or occupant, including a guest, invitee, or visitor, as determined by the Board. In such cases, the corresponding Owner shall pay the deductible amount.

(3) Waiver of Subrogation; Individual Neglect. All policies shall include a waiver of the right of subrogation against Owners individually. All policies shall include a provision that the insurance is not prejudiced by any act or neglect of an individual Owner.

(4) Special Endorsements. Each policy shall contain or provide those endorsements commonly purchased by other community associations in the county.

(5) Intent. The foregoing provisions shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Board or Association may deem necessary or appropriate from time to time.

ARTICLE X - AMENDMENT AND DURATION

10.1 Amendments.

10.1.1 How Proposed. Amendments to the Declaration shall be proposed to the Owners by and through the Board upon the request of (1) a majority of the Board of Directors, or (2) Owners holding thirty percent (30%) or more of the voting rights of the Association, in which case the Board shall cause the amendment to be proposed to the membership within 65 days of receipt of such request. The Board shall cause the proposed amendment to be appropriately reduced to writing, which shall then be included in the notice of any meeting at which action is to be taken thereon or attached to any request for vote on or consent to the amendment at least 21 days before the deadline for return of ballots.

10.1.2 Approval Required. This Declaration may be amended, and any provision, covenant, condition or restriction whatsoever, may thereby be added, modified or deleted, if such amendment is approved: (1) by 50% of the Owners in attendance at a meeting, provided the notice of the meeting states that a purpose of the meeting is to vote on an amendment to this Declaration and a quorum of at least 50% of the total voting rights of the Association is represented at the meeting, or (2) by Owners holding 50% of the voting rights of the Association by an action by written ballot without a meeting or by an action without notice and a meeting, pursuant to the Bylaws.

10.1.3 Execution and Recordation. An amendment shall not be effective until the amendment is certified by the president of the Association as being adopted in accordance with this Declaration, is acknowledged, and is recorded in the appropriate County Recorder's Office.

10.1.4 Consistency with Law. Certain provisions in Sections 6.6, 6.7, 8.1, 8.3, and 8.4 of this Declaration reflect requirements or limitations imposed by law at the time of adoption of this Declaration and are included for that reason. If such a restriction or limitation is changed or removed in the law after recording of this Declaration, the Board may change the applicable section to restate or reflect then current law by adopting and recording an amendment to this Declaration, and subsections 10.1.1 and 10.1.2 shall not apply.

10.2 Termination of Covenants as a Whole. The provisions, covenants, conditions and restrictions contained in this Declaration, as amended, added to or deleted from, in whole or in part from time to time as provided above, may only be terminated as a whole upon recordation of an instrument directing the permanent termination of this Declaration and of the Association after the vote and approval of eighty percent of all of the Owners. Any such termination shall become effective only if a certificate of the president and secretary of the Association, certifying that termination as of a specified termination date has been approved in the manner required herein, is duly acknowledged and recorded in the County Recorder's Office not less than six (6) months prior to the intended termination date.

ARTICLE XI - MISCELLANEOUS PROVISIONS

11.1 Priority of Governing Documents. In the event of any conflict between or among this Declaration and any other Governing Document, the document in the highest priority beginning with the first document listed hereinafter shall prevail (as to any such conflict) over any later listed document: this Declaration, the Articles of Incorporation, Bylaws, Rules and Regulations, Design Guidelines.

11.2 Recovery of Costs and Attorney Fees. The Association shall be entitled to recover its costs and attorney's fees incurred for enforcement of this Declaration regardless of whether any lawsuit or other action is commenced. Such costs and attorney's fees shall automatically be and constitute an assessment against the Owner and the Lot. Additionally, the prevailing party shall be entitled to its attorney fees and costs in any dispute concerning any Governing Document, including an action dealing with the declaration of rights and obligations thereunder with or without a defaulting party, whether such costs and expenses are incurred with or without suit; before or after judgment; in any appeal; in any bankruptcy or receivership proceeding; or in connection with any alternative dispute resolution proceeding.

11.3 Invalidity; Number; Captions. The invalidity of any part of this Declaration shall not impair or affect in any manner the validity, enforceability, or effect of the balance of this Declaration. As used herein, the singular shall include the plural and the plural the singular. The masculine and neuter shall each include the masculine, feminine, and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Declaration.

11.4 Joint Owners. In any case in which two or more persons share the ownership of any Lot, regardless of the form of ownership, the responsibility of such persons to comply with this Declaration shall be a joint and several responsibility and the act or consent of any one or more of such persons shall constitute the act or consent of the entire ownership interest; provided, however, that in the event such persons disagree among themselves as to the manner in which any vote or right of consent held by them shall be exercised with respect to a pending matter, any such person may deliver written notice of such disagreement to the Board of Directors, and the vote or right of consent involved shall then be disregarded completely in determining the proportion of votes or consents given with respect to such matter in accordance with the Bylaws.

11.5 Lessees and Other Invitees. No damage to, or waste of the Common Areas or any part thereof shall be committed by any Owner or any Unit occupant, guest, invitee, lessee of any Owner, and each Owner shall indemnify and hold the Board and the other Owners harmless against all loss resulting from any such damage or waste caused by any such person. Lessees, invitees, guests, Unit occupants, contractors, family members and other persons entering the Property under rights derived from an Owner shall comply with all of the provisions of the Governing Documents restricting or regulating the Owner's use, improvement or enjoyment of such Owner's Lot and other areas within the Property. The Owner shall be responsible for obtaining such compliance and shall be liable for any failure of compliance by such persons in the same manner and to the same extent as if the failure had been committed by the Owner.

11.6 Waiver, Precedent and Estoppel. No restriction, condition, obligation or provision contained in this Declaration or rules and regulations adopted pursuant hereto shall be deemed to have been abrogated or waived by the Association, the Board or any Owner by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur and any failure to enforce the same shall not be deemed to constitute precedent or estoppel impairing the right of the Association, Board or Owner as to any similar matter.

11.7 Interpretation. All questions of interpretation or construction of any of the covenants or restrictions in this Declaration shall be resolved by the Board, and its decision shall be final, binding and conclusive on all parties affected for all purposes. The covenants, restriction and terms of this Declaration are to be interpreted broadly to give effect to the Association's role as the governing body of the Community and to grant all the powers necessary for management of the common property, administration of the servitude regime, carrying out other functions set forth herein, and furthering the purposes of the Association. The enumeration of specific items, acts, rights, or powers in this instrument does not limit or restrict and is not to be construed or interpreted as limiting or restricting, the general powers granted to the Association or Board except where powers are expressly restricted.

11.8 Premises Liability. The Association and the Board is and shall remain wholly free and clear of any and all liability to, or claims by, all Owners and all persons and entities, of whatever kind or character, whether sounding in contract or tort, deriving from the occurrence of any injury or damage to any person or property on, or in respect of the use and operation of, the Common Area or any of its improvements, fixtures, and facilities and an Owner shall defend, indemnify and hold harmless the Association and Board against such claim, loss or liability asserted by such Owner or his or her guest, invitee, licensee, tenant, or visitor. In this respect, it shall be the affirmative duty and responsibility of each Owner and user of the Common Area facilities to continuously inspect the same for any defects or perils or other unsafe conditions or circumstances, prior to and during such use or enjoyment thereof; and all users of, and visitors to, the Common Area and its improvements and facilities shall use, enjoy, and visit, the same at their own risk and peril.

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

11.10 No Public Right or Dedication. Nothing contained in the Declaration shall be deemed to be a gift or dedication of any part of the Subdivision to the public or for any public use, and no actual usage, acts or omissions by any party shall give rise to a dedication or grant of any property right of or in any part of the Subdivision other than an express and written dedication or grant.

IN WITNESS WHEREOF, Red Hawk Ranch Owners Association, Inc. has executed this Declaration this ____ day of _____, 201____.

**RED HAWK RANCH
OWNERS ASSOCIATION, INC.**
a Utah nonprofit corporation

Sign: _____

Print:

Title:

STATE OF UTAH)
)ss:
County of _____)

Subscribed and sworn to before me on this ____ day of _____, 201 ____ by
_____.

Notary Public

EXHIBIT A

(LEGAL DESCRIPTION)

Lot 1, RED HAWK SUBDIVISION PHASE 1 LOT 1 AMENDED, according to the official plat thereof on record with the Summit County Recorder's Office.

Parcel No. RHWK-1-AM

Lots 2 – 8, RED HAWK SUBDIVISION PHASE I, according to the official plat thereof on record with the Summit County Recorder's Office.

Parcel No.'s RHWK-2 through RHWK-8

Lot 9, RED HAWK PHASE II LOT 9 SECOND AMENDED PLAT, Lot 9 of Red Hawk Subdivision Phase II Plat A, Amendment to Lot 9, according to the official plat thereof on record with the Summit County Recorder's Office.

Parcel No. RHWK-II-9-AM

Lots 10 through 14, RED HAWK SUBDIVISION PHASE II PLAT A, according to the official plat thereof on record with the Summit County Recorder's Office.

Parcel No.'s RHWK-II-10 through RHWK-II-14

“Lot 15” (previously “Lot 14A”) described as follows:

SW Quarter of the NE Quarter of Section 33, Township 1 N, Range 4 E, Salt Lake Base and Meridian.

Parcel No. SS-154-F

Lot 1, BIG PINES SUBDIVISION AMENDMENT TO LOT 1, according to the official plat thereof on record with the Summit County Recorder's Office.

Parcel No. BP-1-AM

Lot 2, BIG PINES SUBDIVISION, according to the official plat thereof on record with the Summit County Recorder's Office.

Parcel No. BP-2

“Lot 18” described as follows:

SE 1/4 NE 1/4 SW 1/4 Sec 28 T1NR4E SLBM CONT 10.0 AC M87- 165-166 M97-666 791-617-618 (Ref: 796-367) 813-96 869-789 1747-866 1913- 1183 2015-76-97.

Parcel No. SS-146-D

“Lot 19” described as follows:

THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE
SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 1 NORTH, RANGE 4
EAST, SALT LAKE BASE AND MERIDIAN.

Parcel No. SS-146-D1

“Lot 20” described as follows:

The Northwest quarter of the Southeast quarter of Section 28, Township 1 North, Range 4 East, Salt Lake Base and Meridian.

Parcel No. SS-146-J

“Lot 21” described as follows:

Beginning at a point which is South $89^{\circ}26'00''$ east 2000 feet along the Quarter section line from the West Quarter corner of Section 28, Township 1 North, Range 4 East, Salt Lake Base and Meridian; running thence North $00^{\circ}03'00''$ West a distance of 660.000 feet; thence South $89^{\circ}26'00''$ East a distance of 660.000 feet; thence South $00^{\circ}03'00''$ East a distance of 660.000 feet; thence North $89^{\circ}26'00''$ West a distance of 660.000 feet to the point of beginning.

Parcel No. SS-146-M

“Lot 22” described as follows:

Beginning at a point which is South $89^{\circ}26'00''$ East 2660 feet along the Quarter section line from the West Quarter corner of Section 28, Township 1 North, Range 4 East, Salt Lake Base and Meridian; running thence North $00^{\circ}03'00''$ West a distance of 660.000 feet; thence South $89^{\circ}26'00''$ East a distance of 990.000 feet; thence South $00^{\circ}03'00''$ East a distance of 660.000 feet; thence North $89^{\circ}26'00''$ West a distance of 990.000 feet, to the point of beginning.

Parcel No. SS-146-6

“Lot 23” described as follows:

Northeast 1/4 of the Northeast 1/4 of Section 33, Township 1 North, Range 4 East, Salt Lake Base and Meridian

Parcel No. SS-154-B-1

EXHIBIT B

BYLAWS

OF

RED HAWK RANCH OWNERS ASSOCIATION, INC.

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ARTICLE 1 - DEFINITIONS

The definitions contained in or adopted by the Declaration shall be applicable to these Bylaws. In addition, a “Member,” when capitalized, means an Owner.

ARTICLE 2 – NOTICE, ELECTRONIC MEANS, HOA REGISTRY

2.1 Notice.

2.1.1 Association. All notices to the Association or the Board shall be sent care of the managing agent or, if there is no managing agent, to the principal office of the Association or to such other address as the Board may designate from time to time.

2.1.2 Owners.

(a) Notice by Electronic Means. In any circumstance where notice or any other document is required to be provided to the Owners or an Owner, the Association may provide the notice or document by electronic means, including text message, email, or an Association website, if the Board deems the notice to be fair and reasonable. An Owner may require the Association, by written demand, to provide notice to the Owner by mail. The Board may promulgate Rules and procedures facilitating the implementation of this section from time to time, including a requirement that Owners furnish the Association with a current email address.

(b) Sufficient Notice. Any notice provided by the Association to an Owner shall be deemed effective and received by the Owner on the day it is provided if provided electronically and three business days after the date of mailing, if mailed, whether delivery is proved or not, if sent by regular mail or email, then if properly addressed and either emailed, or mailed with sufficient postage, to such physical or electronic address as may have been designated by the Owner from time to time in writing to the Board, or if no address has been so designated, then, (1) if by mail or hand delivery, to the Owner’s Lot, and (2) if by email, to an email address from which the Association has received email correspondence from the Owner. If a Lot is jointly owned, a notice or other document sent to only one of the foregoing physical or electronic addresses shall be sufficient for all purposes.

2.2 Conducting Business, Electronic Means. Any transaction or action involving the business or affairs of the Association, including but not limited to voting and providing notice or records, may be conducted by electronic means. The Association may accept a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation as the act of the Owner if the Board does so in good faith and has no reason to believe it is not the act of the Owner. A writing may be delivered in an electronic medium or by electronic transmission, and may be signed by photographic, electronic, or other means. An electronic record or electronic signature is attributable to a person if it was the act of the person. An electronic signature may

consist of a mark, symbol, character, letter, or number or any combination thereof attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record and the same shall be considered the signature of such person. A writing includes any document, record, vote, ballot, proxy, or instrument required or permitted to be transmitted by an Owner or by the Association.

2.3 Utah HOA Registry. The Association shall register with the Utah Department of Commerce's Homeowner Associations Registry (currently at <https://secure.utah.gov/hoa>) and provide (1) the name and address of the Association, (2) the name, address, telephone number, and, if applicable, email address of the chair of the Board, (3) contact information for the manager, if any, and (4) the name, address, telephone number, and, if the contact person wishes to use email or facsimile transmission for communicating payoff information, the email address or facsimile number, as applicable, of a primary contact person who has Association payoff information that a closing agent needs in connection with the closing of a Lot Owner's financing, refinancing, or sale of the Owner's Lot. The Association shall update the information stated in this Section with the Utah HOA Registry within 90 days after a change in any of the information.

ARTICLE 3 – ASSOCIATION: MEETINGS, VOTING, QUORUM

3.1 Annual Meetings. The Association shall hold an annual meeting each year on the day and at a time and place within the state of Utah stated in the notice of such meeting.

3.2 Special Meetings. The Association, by and through the Board, shall notice, hold and conduct a special meeting of its Members: (1) on call of the president or any two members of the Board, or (2) if the Association receives one or more written demands for the meeting that state the purposes for which the meeting is to be held and are signed and dated by Owners in Good Standing holding at least 25% of the voting rights of the Association. When a special meeting is requested by the Owners, the Board shall set the time and date for the meeting so that the meeting occurs within 65 days of receipt of the request and if notice of the meeting is not given by the Board within 30 days after the date the written request is received by a Board member or the Manager, a person signing the request may set the time and place of the meeting and give notice pursuant to the requirements herein. Business transacted at a special meeting shall be confined to the purposes stated in the notice of the meeting.

3.3 Notice of Meetings. Written notice of each meeting of the Association shall be given by, or at the direction of, the secretary or person designated by the Board, in a fair and reasonable manner, including by delivering a copy of such notice to each Owner entitled to vote thereat, in accordance with the notice requirements specified in these Bylaws, and sufficiently in advance of the meeting to provide fair and reasonable notice of the meeting, as determined by the Board. Except as provided in Section 10.1 of the Declaration for amendments, notice shall always be deemed fair and reasonable if given 10 days before the meeting, but shorter notice may also be fair and reasonable when all the circumstances are considered. The notice shall specify the place, day and hour of the meeting, and must include a description of any matter that must be approved by the members and, in the case of a special meeting, the purpose of the meeting.

3.4 Owner List.

3.4.1 After determining the record date for a notice of a meeting or for determining the Owners entitled to take action by written ballot, the Association shall prepare a list of the names of all Owners who are entitled to notice of the meeting and to vote at the meeting (or to take the action by written ballot, as applicable). The list shall: (1) be alphabetical, (2) show the address of each Owner entitled to notice of, and to vote at, the meeting or to take such action by written ballot; and (3) show the number of votes each Owner is entitled to vote at the meeting or by written ballot.

3.5 Voting. Each Lot in Good Standing is allocated one vote.

3.6 Proxies and Absentee Ballots. A vote may be cast in the manner determined by the Board, including in person, by proxy or by absentee ballot. All proxy appointments shall be in writing, dated and signed by the Owner and shall be filed with the secretary in accordance with any procedures adopted by the Board. A proxy given for a specific meeting shall be valid for any adjournment of that meeting, unless otherwise stated in the appointment of proxy. No proxy shall be valid if it purports to be revocable without notice. An Owner may not revoke a proxy given except by actual notice of revocation to the person presiding over a meeting of the Association, or to the Board if a vote is being conducted by written ballot in lieu of a meeting.

3.7 Quorum of Owners.

3.7.1 “Quorum” means the minimum number of Owners and Board members necessary to make proceedings or an action valid. At any meeting of the Association membership, and for any action taken without a meeting by the Association membership, at least three Board members and Owners in Good Standing holding a Majority of the Association voting rights, represented in person, by proxy or by written ballot, shall constitute a quorum. When a quorum is once present to organize a meeting it is not broken by the subsequent withdrawal of an Owner or Board member.

3.8 Binding Vote. Action on a matter other than the election of Board members is approved and shall be binding for all purposes if a quorum exists and the votes cast favoring the action exceed the votes cast opposing the action, unless a greater number of affirmative votes is required by law or the Governing Documents.

3.9 Order of Business. The order of business at annual meetings of the Association shall be according to the order established by the president, and by way of example, may include the following: (a) calling of the roll and certifying of proxies; (b) proof of notice of meeting or waiver of notice; (c) reading of minutes of the preceding meeting; (d) reports of officers; (e) reports of committees, if any; (f) election of Board members; (g) unfinished business; (h) new business; and (i) adjournment.

3.10 Meeting Procedure. Rules of order may be adopted by resolution of the Board, otherwise, the president shall conduct meetings according to the procedure he or she deems fit and shall have absolute authority to fix the period of time allowed for the registration of Owners and the filing of proxies, to determine the order of business to be conducted at such meeting and to establish reasonable rules for expediting the business of the meeting (including any informal or question and answer portions thereof). A decision of the Association may not be challenged on the basis that appropriate rules of order were not used.

3.11 Action by Written Ballot without a Meeting. Any action that may be taken at any annual, regular, or special meeting of Owners may be taken without a meeting if the Association causes to be delivered a written ballot to every Owner entitled to vote on the matter not less than fifteen (15) days prior to the date on which the ballots must be received by the Association in order to be counted. A written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. All solicitations for votes by written ballot shall indicate the number of responses needed to meet the quorum requirements; state the percentage of approvals necessary to approve each matter other than election of directors; specify the time by which a ballot must be received by the Association in order to be counted; and be accompanied by written information sufficient to permit each person casting such ballot to reach an informed decision on the matter. In the event the action is for election of Board members, there shall be space on the ballot to write in nominations. Action taken under this section has the same effect as action taken at a meeting of Owners and may be described as such in any document. The Board may elect to conduct a vote pursuant to this section by a secrecy procedure whereby a written ballot is accompanied by: (1) a secrecy envelope; (2) a return identification envelope to be signed by the owner; and (3) instructions for marking and returning the ballot. Written ballots that are returned in secrecy envelopes may not be examined or counted before the deadline for returning ballots has passed.

3.12 Action without Notice and a Meeting. Any action required to be taken or which may be taken at a meeting of Owners may be taken without a meeting and without prior notice if one or more written consents, setting forth the action so taken, are signed by Owners having not less than the minimum voting power that would be necessary to authorize or take the action at a meeting at which all Owners entitled to vote on the action were present and voted. All such writings must be received by the Association within a sixty day period. Any such writing may be received by the Association electronically. Action taken pursuant to this section shall be effective when the last writing necessary to effect the action is received by the Association, unless the writings describing and consenting to the action set forth a different effective date. Any change in ownership of a Lot which occurs after consent has been obtained from the Owner having an interest therein shall not be considered or taken into account for any purpose.

3.13 Voting by Fiduciaries and Joint Owners. An executor, administrator, guardian, or trustee may vote in person or by proxy, at any meeting of the Association with respect to any Lot owned or held in such capacity, whether or not the same shall have been transferred to his or her name; provided, that the person shall satisfy the secretary that he or she is the executor, administrator, guardian, or trustee holding the Lot in such capacity. Whenever any Lot is owned

by two or more persons jointly, according to the records of the Association, the vote of the Lot may be exercised by any one of the Owners, in the absence of protest by a co-owner prior to the tallying of votes, so long as only one vote for such Lot is cast. In the event of a protest prior to the vote tally, no one co-owner shall be entitled to vote without the approval of all co-owners. In the event of disagreement among the co-owners prior to the vote tally, or the casting of more than one ballot or vote for the Lot and such ballots or vote conflict, the vote of the Lot shall be disregarded completely with respect to the matter.

3.14 Record Date – Determining Owners Entitled to Notice and Vote. Unless a different date is set by the Board, the following shall apply. The Owners entitled to notice of a meeting are the Owners reflected in the Association’s records at the close of business on the business day before the day on which notice is given. The Owners entitled to vote at an Association meeting are the Owners: (1) reflected in the Association’s records on the date and time of the start of the meeting, and (2) who are otherwise eligible to vote. The Owners entitled to vote in an action under 3.11 or 3.12 above are the Owners: (1) on the date the first written consent or written ballot is mailed or solicited, and (2) who are otherwise eligible to vote.

3.15 Resolution of Voting Disputes. In the event of any dispute as to the entitlement of any Owner to vote, the required procedures and process for a vote of the Owners, or as to the result of any vote of Owners, the Board shall act as arbitrator and the decision of a majority of the disinterested and independent directors present at a meeting of the Board (including the decision of a single disinterested and independent director, if only one), whether or not such independent directors constitute a quorum, shall, when rendered in writing, be final and binding as an arbitration award and may be acted upon as such in accordance with Utah law.

ARTICLE 4 – BOARD: SELECTION, ELECTION, TERM OF OFFICE

4.1 Number, Term and Qualifications.

4.1.1 The affairs of the Association shall be governed by a Board of Directors composed of at least three (3) and not more than seven (7) Board members, as determined from time to time by the Board except that no decrease in number shall have the effect of shortening the term of any incumbent Board member without that Board member’s consent, and any vacancies caused by an increase shall only be filled by a vote of the Owners at an annual meeting of the Association.

4.1.2 Members of the Board shall serve for terms of three years. Elections shall be staggered so all Board members are never elected in the same year. Despite the expiration of a Board member’s term, a Board member continues to serve until the Board member’s successor is elected.

4.1.3 A Board member must be an Owner, or the spouse of an Owner, of a Lot in Good Standing. A representative of an entity which owns a Lot in Good Standing may serve on the Board, such that a shareholder of a corporation, a member of an LLC, a partner of a partnership, a trustee or beneficiary of a trust, or a personal representative of an estate, may serve on the

Board if the corporation, LLC, partnership, trust or estate owns a Lot.

4.2 Nomination. Nomination for election to the Board shall be made in the manner determined by the Board. The Board shall make as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies. Self-nomination of candidates is not permitted.

4.3 Election. At the election, the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. Voting in an election shall be by show of hands or written ballot. The persons receiving the largest number of votes by show of hands or written ballot shall be elected. Cumulative voting is not permitted.

4.4 Vacancies. Vacancies on the Board, caused by any reason other than the removal of a Board member by a vote of the Association, shall be filled for the balance of the term by vote of a majority of the remaining Board members even though they may constitute less than a quorum. Each person so elected shall be a Board member until a successor is elected upon expiration of the term for which the person was elected by the other Board members to serve.

4.5 Compensation. No Board member shall receive compensation for any service he or she may render to the Association as a Board member. However, any Board member may be reimbursed for actual expenses incurred in the performance of his or her duties. Nothing herein shall preclude a Board member from receiving compensation for any other service performed for the Association other than as a Board member or officer.

4.6 Removal of Board Members.

4.6.1 At any annual or special meeting, any one or more of the Board members may be removed, with or without cause, by a majority of the total voting interests of all Owners of the Association. A successor may be elected at that meeting to fill the vacancy thus created. The notice of the meeting must state that the removal is to be considered and any Board member whose removal has been proposed by the Owners may be given an opportunity to be heard at the meeting.

4.6.2 A Board member who is delinquent in the payment of an Assessment for longer than three months, is absent from three consecutive regular meetings of the Board, or is absent from more than 25% of the regular Board meetings held in any 12 month period, shall be deemed to have tendered his or her resignation, and upon acceptance by the Board his or her position shall be vacant. The vacancy shall be filled as provided in Section 4.4 above.

4.7 Water Company. The Board and officers may also serve in their same or other positions on the separately incorporated Red Hawk Ranch Water Company which operates under its own Bylaws.

ARTICLE 5 - BOARD MEETINGS

5.1 Organizational Meeting.

5.1.1 Location, Date and Time. The first meeting of a newly-elected Board shall be at such place, date and time as shall be fixed by the Board members and no other notice shall be necessary to the newly elected Board members in order to legally hold the meeting provided a majority of the elected Board members are present.

5.1.2 Procedure and Business. Until the election of new officers, those existing officers that continue to serve on the Board shall remain in their positions, and the organizational meeting shall be chaired by the president, or in the absence of such person, the vice president, or in the absence of such person, the secretary. At the organizational meeting, the Board shall elect officers in accordance with Section 7.2 below and may conduct any other Association business.

5.2 **Regular Meetings.** Regular meetings of the Board shall be held at such place and hour as may be fixed from time to time by the Board, and if so fixed, no notice thereof need be given. Should the meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday, or at another date and time agreed upon by the Board with notice to all members of the Board.

5.3 **Special Meetings.** Special meetings of the Board shall be held when called by the president, or by any two Board members, after not less than forty-eight hours' notice to each Board member by mail, electronic mail, telephone, or facsimile, unless waived pursuant to 5.8 below. The notice must state the time, place, and purpose of the meeting.

5.4 **Meeting Procedure.** Formal rules of order shall only apply to any Board or Association meeting inasmuch as one or more such rules of order are adopted by the Board by resolution. Meetings of the Board shall be conducted by the president. In any event, a decision of the Board may not be challenged because appropriate rules of order were not used.

5.5 Open Board Meetings; Executive Sessions.

5.5.1 Open Board Meetings. Except as provided in subsection 5.5.3, all meetings of the Board shall be open to Owners. At each meeting, the Board shall provide each Owner a reasonable opportunity to offer comments. The Board may limit the comments to one specific time period during the meeting and may limit the time allotted to each Owner so long as the time allotted is determined by a majority of the Board members present. Beyond such comment period, no Owner shall have a right to participate in the Board meeting unless the Owner is also a member of the Board. The president or Board shall have the authority to exclude an Owner who disrupts the proceedings at a Board meeting. The Board may adopt policies governing meetings of the Board from time to time, including policies to reflect current Utah law (which Utah law may change more frequently than these Bylaws). If such Utah law supersedes any provision of these Bylaws, the policy adopted by the Board shall also supersede these Bylaws to the extent the policy restates then current Utah law. "Meeting" means a gathering of a Board, whether in

person or by means of electronic communication in real time under Section 5.6, at which the Board can take binding action.

5.5.2 Notice of Board Meeting. At least 48 hours before a Board meeting, the Association shall give written notice of the meeting via email to each Owner who requests notice of a Board meeting (“Meeting Notice”), unless notice of the meeting is included in a meeting schedule that was previously provided to the Owner or the meeting is to address an emergency and each Board member receives notice of the meeting less than 48 hours before the meeting. A Meeting Notice shall: (1) be delivered to the Owner by email, to the email address that the Owner provides to the Association; (2) state the time and date of the meeting; (3) state the location of the meeting; and (4) if a Board member may participate by means of electronic communication under Section 5.6 below, provide the information necessary to allow the Owner to participate by the available means of electronic communication.

5.5.3 Executive Sessions. In the discretion of the Board, the Board may close a Board meeting and adjourn to executive session to: (1) consult with an attorney for the purpose of obtaining legal advice; (2) discuss ongoing or potential litigation, mediation, arbitration, or administrative proceedings; (3) discuss a personnel matter; (4) discuss a matter relating to contract negotiations, including review of a bid or proposal; (5) discuss a matter that involves an individual if the discussion is likely to cause the individual undue embarrassment or violate the individual's reasonable expectation of privacy; or (6) discuss a delinquent assessment or fine.

5.5.4 Executive Session Procedure. Except in the case of an emergency, the Board shall vote in an open meeting whether to meet in executive session. If the Board votes to meet in executive session, the president or other presiding officer shall state the general nature of the action to be considered and, as precisely as possible, when and under what circumstances the deliberations can be disclosed to Owners. The statement, motion or decision to meet in executive session must be included in the minutes of the meeting.

5.6 Meetings by Electronic Communication in Real Time. In the event of an emergency, or by decision of the Board, and to the fullest extent allowed by law, meetings of the Board may be conducted by means of electronic communication that allows all members of the Board participating to be able to communicate orally in real time.

5.7 Action Taken by Board without a Meeting.

5.7.1 Notice, Response. The Board shall have the right to take any action in the absence of a meeting which they could take at a meeting if notice is transmitted in writing to each member of the Board and each member of the Board, by the time stated in the notice:

- (1) (A) signs a writing in favor of such action; or (B) signs a writing against such action, abstains in writing from voting, or fails to respond or vote; and
- (2) fails to demand in writing that action not be taken without a meeting.

5.7.2 Content of Notice. The notice required by Subsection 5.7.1 (the “Notice”) shall state: (1) the action to be taken; (2) the time by which a Board member must respond to the Notice; (3) that failure to respond by the time stated in the Notice will have the same effect as abstaining in writing by the time stated in the Notice, and failing to demand in writing by the time stated in the Notice that action not be taken without a meeting; and (4) any other matters the Association determines to include.

5.7.3 Approval of Action/Decision. Action is taken under this Section 5.7 only if, at the end of the time stated in the Notice:

- (1) the affirmative votes in writing for the action received by the Association equal or exceed the minimum number of votes that would be necessary to take such action at a meeting at which all of the Board members then in office were present and voted; and
- (2) the Association has not received a written demand by a Board member that the action not be taken without a meeting (other than a demand that has been revoked pursuant to Subsection 5.7.5).

5.7.4 Waiver of Meeting. A Board member’s right to demand that action not be taken without a meeting shall be considered to have been waived unless the Association receives such demand from the Board member in writing by the time stated in the Notice.

5.7.5 Revocation. A Board member who in writing has voted, abstained, or demanded action not be taken without a meeting may, in writing, revoke the vote, abstention, or demand at any time before the time stated in the Notice.

5.7.6 Electronic Transmission. A communication under this Article may be delivered by an electronic transmission. An electronic transmission communicating a vote, abstention, demand, or revocation is considered to be written, signed, and dated for purposes of this Article if the electronic transmission is delivered with information from which the Association can determine that the electronic transmission is transmitted by the person (e.g., from a sender’s known email account), and the date on which the electronic transmission is transmitted. The date on which an electronic transmission is transmitted is considered the date on which the vote, abstention, demand, or revocation is signed. For purposes of this Section 5.7, communications to the Association are not effective until received.

5.8 Waiver of Notice. Any Board member may, at any time, waive notice of any meeting of the Board in writing, and the waiver shall be deemed equivalent to the giving of the notice. Attendance by a Board member at any meeting of the Board shall constitute a waiver of notice by the Board member, except where the Board member attends the meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. If all Board members are present at any meeting of the Board, no notice to Board members shall be required and any business may be transacted at the meeting.

5.9 Quorum and Acts. At all meetings of the Board, a majority of the existing Board

members shall constitute a quorum for the transaction of business and the acts of the majority of the Board members present shall be the acts of the Board. If, at any meeting of the Board, there is less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting any business which might have been transacted at the meeting as originally called may be transacted without further notice.

For purposes of determining a quorum with respect to a particular proposal, and for purposes of casting a vote for or against a particular proposal, a Board member may be considered to be present at a meeting and to vote if the Board member has granted a signed written proxy: (1) to another Board member, or other person, who is present at the meeting; and (2) authorizing the other Board member or person to cast the vote that is directed to be cast by the written proxy with respect to the particular proposal that is described with reasonable specificity in the proxy (a directed proxy).

ARTICLE 6 - POWERS, RIGHTS, AND DUTIES OF THE BOARD

6.1 General Powers and Duties. The Board shall have the powers and duties necessary for the administration of the affairs of the Association. All corporate powers shall be exercised by or under the authority of, and the business and affairs of the Association managed under the direction of, the Board.

6.2 Best Interest of Association. A Board member or officer shall discharge the Board member or officer's duties (1) in good faith, (2) with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and (3) in a manner the Board member or officer reasonably believes to be in the best interests of the Association. The Board members shall, at all times, keep themselves reasonably informed and take such steps and necessary actions as a reasonable, prudent person would do to serve the best interest of the Association. No Board member shall engage in the unauthorized practice of law as to, for, or on behalf of the Association or request or allow a Manager to do so, or rely on the product of any unauthorized practice of law by another Board member or Manager.

6.3 Reliance on Information. In discharging duties, a Board member or officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by: (1) one or more officers or employees of the Association whom the Board member or officer reasonably believes to be reliable and competent in the matters presented, (2) legal counsel, a public accountant, or another person as to matters the Board member or officer reasonably believes are within the person's professional or expert competence, or (3) in the case of a Board member, a sub-committee of the Association or Board of which the Board member is not a member if the Board member reasonably believes the sub-committee merits confidence.

6.4 Conflicts of Interest.

6.4.1 A conflict of interest or conflicting interest transaction includes a contract,

transaction, or other financial relationship between the Association and (1) a Board member, (2) a party related to a Board member, or (3) an entity in which a Board member is a director or officer or has a financial interest.

6.4.2 A Board member shall avoid conflicts of interest or conflicting interest transactions, unless: (1) the material facts as to the Board member's relationship or interest and as to the conflicting interest transaction are disclosed or are known to the Board, (2) the Board in good faith authorizes, approves, or ratifies the conflicting interest transaction by the affirmative vote of a majority of the disinterested Board members (even if the disinterested Board members are less than a quorum), and (3) the conflicting interest transaction is fair as to the Association.

ARTICLE 7 - OFFICERS AND THEIR DUTIES; COMMITTEES

7.1 Designation and Qualification.

7.1.1 Designation. The principal officers of the Association shall be a president, a vice-president, a secretary and a treasurer. The Board may designate the office of assistant treasurer and assistant secretary. Officers shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

7.1.2 Qualifications. The principal officers must be Board members (and shall cease to be an officer upon ceasing to be on the Board). Any Board member may be an officer of the Association.

7.1.3 Multiple Offices. A person may simultaneously hold more than one office.

7.1.4 Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

7.2 Election and Vacancies. The officers of the Association may be elected by the Board at the organizational meeting of each new Board or any Board meeting thereafter to serve until their respective successors are elected at the next organizational meeting. If any office becomes vacant by reason of death, resignation, removal, disqualification or any other cause, the Board shall elect a successor to fill the unexpired term.

7.3 Resignation. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. The resignation shall take effect on the date of receipt of the notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of the resignation shall not be necessary to make it effective.

7.4 Removal of Officers. Officers shall hold office at the pleasure of the Board. Upon an affirmative vote of a majority of the members of the Board any officer may be removed, either with or without cause.

7.5 Compensation of Officers. No officer who is a member of the Board may receive any compensation from the Association for acting as an officer, unless the compensation is

authorized by a vote of the Owners. The Board may fix any compensation to be paid to any officers who are not also Board members.

7.6 Duties of Officers. Officers shall have such duties prescribed with respect to the office by the Declaration, Bylaws, and by the Board, to the extent not inconsistent with these Bylaws or the Declaration. The Board may delegate any powers or duties of officers to other persons or agents as the Board deems necessary or appropriate from time to time. Any principal officer may execute, certify, and record amendments to the Declaration on behalf of the Association in accordance with the amendment provisions of the Declaration. The general duties of the officers are as follows:

(a) President. The president shall be the chief executive officer of the Association and shall exercise general supervision over its property and affairs. He or she shall preside at all meetings of the Association and of the Board. The president shall have all of the general powers and duties which are usually vested in the office of president of an association. The president shall have the authority to sign all leases, mortgages, deeds and other written instruments, including amendments to the Governing Documents.

(b) Vice-president. The vice-president shall act in the place and stead of the president in the event of the president's absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by the Board. The vice-president shall likewise have the authority to sign all leases, mortgages, deeds and other written instruments.

(c) Secretary. The secretary shall prepare and maintain the minutes of all meetings of the Board and of the Association, have charge of such books, papers and records as the Board may direct, shall have the responsibility for preparation and maintenance other records and information required to be kept by the Association under the Act and under Section 16-6a-1601 of the Utah Revised Nonprofit Corporation Act; and for authenticating records of the nonprofit corporation, and in general, shall perform all of the duties incident to the office of secretary. The secretary shall send out proper notices of all meetings to Members who have provided the secretary with their proper mailing or e-mail address. The secretary shall manage all correspondence, notify committee members, delegates and officers of their election or appointment, and shall assist the president in preparation of the agenda and order of business to be conducted at each meeting and all other tasks as directed by the president. The secretary shall assist the treasurer as needed. The secretary shall retain voting ballots for two weeks unless they are challenged. The secretary shall keep all Association records and documentation in a safe and organized manner, with a method of backup of these files and of electronic data. The location, and backup location, of any and all data shall be made available to the Board. The secretary is an uncompensated elected position, unless the Board contracts with a paid Association Manager to undertake these tasks.

(d) Treasurer. The treasurer shall have responsibility for the Association's funds and securities not otherwise held by a managing agent and shall be responsible for causing full and accurate accounts of all receipts and disbursements to be kept in books belonging to the

Association. The treasurer shall be responsible for causing the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may, from time to time, be designated by the Board and disbursing funds as directed by resolution of the Board. The treasurer shall present an annual financial report at the annual Association meeting, and any interim Board meetings as necessary.

7.7 Committees.

7.7.1 Committees may be established from time to time by the Board. Each committee shall be composed of at least two Members in Good Standing and shall have a chair. The chair of the committee is responsible for the oversight of the committees and for calling meetings for discussion of pending issues. Each committee member is an unpaid volunteer appointed by the Board or president.

7.7.2 In addition to the Architectural Review Committee established pursuant to the Declaration, there shall be a Road Committee and a Water Committee, each with volunteer committee members appointed by the Board, as necessary.

The Road Committee shall oversee and determine the repairs, construction, and ongoing maintenance schedule of the road and gate. The Road Committee is assigned the task of determining and updating repair and replacements costs of all items related to the road including, but not limited to, patching, sealing, guard rails, signs, and the gate for the reserve analysis.

The Water Committee is assigned to the Red Hawk Ranch Water Company to oversee the items described in the bylaws of that entity. The Committee Chair presents a report at the annual Association meeting.

ARTICLE 8 - LIABILITY; INDEMNIFICATION OF OFFICERS AND DIRECTORS

Each officer and Board member of the Association, in consideration of his or her services, shall be indemnified by the Association to the fullest extent permitted by law, including the Utah Revised Nonprofit Corporation Act (regardless of the Association's corporate status or lack thereof) against expenses and liabilities incurred by him or her in connection with the defense of any actual or threatened action, suit or proceeding, civil or criminal, to which he or she may be a party by reason of being or having been a Board member or officer of the Association. The foregoing right to indemnification shall not be exclusive of any other rights to which the Board member or officer or person may be entitled by law or agreement or vote of the members or otherwise. No member of the Board or any committee of the Association, and no officer of the Association shall be personally liable to the Association or its Members or to any Owner for damages for breach of fiduciary duty, mistake of judgment, negligence, tortious acts or other conduct but this Article shall not eliminate or limit the liability of such for acts or omissions that involve intentional misconduct, fraud or a knowing violation of law. No member of the Board or any committee of the Association, and no officer of the Association shall be personally liable in contract under any agreement, instrument or transaction entered into by them on behalf of the

Association. Further, no member of the Board or any committee of the Association, and no officer of the Association shall have any personal liability arising out of the use, misuse or condition of the Project or any part thereof that might in any way be assessed against or imputed to them as a result of or by virtue of their capacity as Directors, officers or committee members. When an officer or member of the Board is sued for liability for actions undertaken in his or her role as such, the Association shall indemnify him or her for his or her losses or claims, and undertake all costs of defense and advancement of loss to the fullest extent permitted by law, until and unless it is proven that he or she acted with willful or wanton misfeasance or with gross negligence. After such proof, the Association is no longer liable for the cost of defense and may recover costs already expended from the officer or member of the Board who so acted. Members of the Board are not personally liable to the victims of crimes occurring at the Project. Punitive damages may not be recovered against the Association.

ARTICLE 9 - RECORDS AND AUDITS

The Association shall maintain within the state of Utah all documents, information and other records of the Association in accordance with the Governing Documents, the Community Association Act and the Utah Revised Nonprofit Corporation Act.

9.1 General Records.

9.1.1 Permanent Records. The Association shall keep (or cause to be kept) as permanent records: (1) The Declaration, Bylaws and Articles of Incorporation, (2) minutes of all meetings of the Association and of the Board; (3) a record of all actions taken without a meeting by the Association members or the Board; (4) a record of all actions taken by a committee of the Board in place of the Board on behalf of the Association; and (5) a record of all waivers of notices of meetings of members and of the Board or any committee of the Board.

9.1.2 Resolutions and Rules. The Association shall maintain (1) a record of the rules, regulations, and policies adopted by the Association, (2) appropriate accounting records, and (3) a record of its members in a form that permits preparation of a list of the name and address of all members in alphabetical order and showing the number of votes each member is entitled to vote.

9.1.3 Assessment Roll. The assessment roll shall be maintained in a set of accounting books in which there shall be an account for each Lot. The account shall designate the Lot number, the name and address of the Owner or Owners, the amount of each Assessment against the Owners, the dates and amounts in which the Assessment comes due, the amounts paid upon the account, and the balance due on the Assessments.

9.1.4 Certain Records.

(a) The Association shall keep and make available to Owners without charge, through the Association website, or, if the Association does not have an active website, then physical copies of the documents shall be made available to Owners during regular business

hours at the Association's address registered with the Department of Commerce's Utah HOA Registry, a copy of the Association's: (1) Declaration and Bylaws, (2) most recent approved minutes, and (3) most recent budget and financial statement.

(b) In addition, the Association shall keep a copy of each of the following records at its principal office (copies of such records kept electronically by an Association officer or manager shall satisfy this requirement regardless of where located as long as such electronic records are capable of being transmitted to, or viewed by, others, such as via email from an electronic storage medium or via website): (1) all Governing Documents; (2) the minutes of all Owners' meetings for a period of three years; (3) records of all action taken by Owners without a meeting, for a period of three years; (4) all written communications to Owners generally as Owners for a period of three years; (5) a list of the names and business or home addresses of the current Board members and officers; (6) a copy of its most recent annual report (annual renewal) delivered to the Division of Corporations under Utah Code Section 16-6a-1607; and (7) all financial statements prepared for periods ending during the last three years, if any, that show in reasonable detail the assets and liabilities and results of the operations of the Association.

9.1.5 Form of Records. The Association shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time. "Written form" does not mean exclusively paper form. The Association may maintain any of its records by retaining an electronic record of the information in the record that: (1) accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise, and (2) remains accessible for later reference.

9.2 Financial Reports and Audits. Upon written request by an Owner or mortgagee of a Lot, an annual report of the receipts and expenditures of the Association and a balance sheet showing assets and liabilities shall be rendered by the Board to the person(s) making the request within ninety days after the end of each fiscal year. From time to time, the Board, at the expense of the Association, may obtain an audit by a certified public accountant or other financial review of the books and records pertaining to the Association.

9.3 Availability of Records to Owners.

9.3.1 Owner May Elect Method. An Owner may elect whether to: (1) view and copy records in person, (2) receive hard copies of records, or (3) receive the records electronically.

(a) In Person. If an Owner elects to view and copy records in person, the Owner must bring imaging equipment to the inspection which shall be at a reasonable place, and during such hours specified by, the Association and the Association shall provide the necessary space, light, and power for the imaging equipment.

(b) Receive Hard or Electronic Copies. If an Owner elects to receive hard copies of records or to receive records electronically, the Owner may request a recognized third-party duplicating service to make the copies and any necessary electronic scans of documents, in which case, the Association shall arrange for the delivery and pick up of the original documents,

and the Owner shall pay the duplicating service directly. If the Association makes the copies or electronic scans, the Owner shall pay the Association the reasonable cost of the copies or of any necessary electronic scans of documents, which may not exceed: (1) the actual cost that the Association paid to a recognized third party duplicating service to make the copies or electronic scans; or (2) if an agent of the Association makes the copies or any electronic scans, 10 cents per page and \$15 per hour for the person's time making the copies or electronic scans. If the Owner requests a recognized third-party duplicating service, make the copies or electronic scans

9.3.2 Availability of Records Kept at Principal Office. An Owner shall give the Association written request at least 5 business days before the date on which the Owner wishes to inspect, copy or receive any of the records in Section 9.1.4(b) above.

9.3.3 Availability of Other Records - Proper Purpose Required. An Owner shall give the Association written request at least 5 business days before the date on which the Owner wishes to inspect, copy or receive any of the other records of the Association and: (1) the request must be made in good faith and for a proper purpose; (2) the Owner must describe with reasonable particularity the purpose and the records the Owner desires to inspect; and (3) the records must be directly connected with the described purpose.

9.3.4 Redaction; Records Not Subject to Inspection. The Association may redact a Social Security number, a bank account number, and any communication subject to attorney-client privilege from any document the Association produces for inspection or copying. The Board may withhold from inspection or copying any records: (1) considered by the Board in executive session and the minutes of any executive session, or (2) that in its reasonable business judgment would constitute an unwarranted invasion of privacy (including, if so determined by the Board, a list of phone numbers or email addresses of Owners) or involve pending or anticipated litigation or contract negotiations.

ARTICLE 10 - AMENDMENTS

These Bylaws may be amended in the same manner as the Declaration. An amendment shall not be effective until certified by the president of the Association as being adopted in accordance with these Bylaws, acknowledged, and recorded against the Lots in the records of the County Recorder.

ARTICLE 11 - MISCELLANEOUS

11.1 Waiver, Precedent and Estoppel. No restriction, condition, obligation, or provision contained in these Bylaws or rules and regulations adopted pursuant hereto shall be deemed to have been abrogated or waived by the Association by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur and any failure to enforce the same shall not be deemed to constitute precedent or estoppel impairing the right of the Association as to any similar matter.

11.2 Invalidity; Number; Captions. The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws. As used herein, the singular shall include the plural and the plural the singular. The masculine and neuter shall each include the masculine, feminine, and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of these Bylaws.

11.3 Fiscal Year. The fiscal year of the Association shall be determined by the Board.

11.4 Conflicts. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

IN WITNESS WHEREOF, the Association has caused these Bylaws to be executed by its duly authorized officer on this ____ day of _____, 20____.

**RED HAWK RANCH
OWNERS ASSOCIATION, INC.**
a Utah nonprofit corporation

Sign: _____

Print Name: _____

Title: _____