

WHEN RECORDED RETURN TO:  
SEB Legal, LLC  
PO Box 71565  
Salt Lake City, UT 84171

AMENDED AND RESTATED NEIGHBORHOOD DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS  
FOR PINEAE VILLAGE PATIO HOMES HOMEOWNERS ASSOCIATION

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This Amended and Restated Declaration is made on the date executed below by the Board of Directors after being approved by at least 67% of the Total Votes of the Association.

**RECITALS**

A. Pineae Village Patio Homes is a single family detached subdivision located in Centerville, Davis County, Utah, as part of the Pineae Village master planned residential development;

B. Pineae Village Patio Homes was created under and governed by the Utah Community Association Act (UTAH CODE §§ 57-8a-101 *et seq.*) as amended from time to time;

C. Pineae Village Patio Homes was created and governed by a Neighborhood Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Pineae Village Patio Homes recorded as Entry No. 2265493, in the Davis County Recorder’s Office and as amended from time to time (“Original Declaration”);

D. Pineae Village Patio Homes Homeowners Association, Inc. is incorporated as a Utah nonprofit corporation. If incorporated, it shall be entitled to the rights, obligations, and benefits of the Revised Nonprofit Corporation Act (UTAH CODE §§ 16-6a-101, *et seq.*) as

amended from time to time;

E. Pineae Village Patio Homes is subject to a Master Declaration of Covenants, Conditions, and Restrictions of the Pineae Village Master Homeowners Association, Inc., recorded in the Davis County Recorder's Office;

F. This Declaration replaces the Original Declaration and all its amendments in their entirety;

G. This Declaration shall be binding against all Lots within the Project as described in Exhibit "A;"

H. All Owners, guests, invitees, agents, and residents shall abide by the provisions of this Declaration;

I. Under the Original Declaration, declarant rights have expired;

J. These covenants, conditions, restrictions, easements, and limitations shall run with the land described in Exhibit "A" and shall be binding on and burden all parties having or acquiring any right, title, or interest to the land or any part thereof and shall create servient tenements on the land. The covenants, conditions, restrictions, easements, and limitations shall also benefit all parties having or acquiring any right, title, or interest to the land and shall create dominant tenements on the land. These covenants shall apply to the single family lots identified on the Map only;

K. Under the Original Declaration Article III, Section 16.1, the Board of Directors certifies that 67% of the Total Votes of the Association have approved this Amended and Restated Declaration;

L. Under Article IX of the Bylaws, the Board of Directors certifies that a majority of the members of the Board of Directors have approved the amended and restated Bylaws;

NOW THEREFORE, for the benefit of the Project and the Owners thereof, the following covenants, conditions, restrictions, and easements shall apply to and be binding on the Project:

## **1 DEFINITIONS**

Capitalized terms used in the Governing Documents (including recitals) have the following meanings:

### **1.1 Articles**

Articles mean the Articles of Incorporation for Pineae Village Patio Homes Homeowner's Association, Inc., as amended from time to time.

### **1.2 Association or PHHOA**

Association or PHHOA means Pineae Village Patio Homes Homeowners Association, Inc., which is a Neighborhood Association located within the Pineae Village Master Homeowners Association. It is intended that the Association be a Utah non-profit corporation. Failure of the Association to maintain its corporate status will not result in dissolution of the Association. The Association may renew its corporate status, reinstate its corporate status, or incorporate without Owner approval. Any actions taken during any period of un-incorporation shall be binding. All Owners are Members of the Association. Unless specifically reserved for a vote of the Members,

all acts taken by the Association shall be taken through its Board of Directors.

### **1.3 Board**

Board means the Board of Directors. The Board governs the Project, business, and affairs of the Association.

### **1.4 Bylaws**

Bylaws mean the bylaws of the Association, as amended or restated from time to time. The Bylaws are attached to this document as Exhibit "B."

### **1.5 Common Areas**

Common Areas mean:

1.5.1 That certain open space/detention basin (P.U.E. Area) shown on page 3 of the Map, it being located in the upper left hand (north west) corner thereof;

1.5.2 That certain open space/park shown on page 3 of the Map, it being located to the south of Lots 138, 149, 141, 142 and 144, and to the north of Lots 137, 149, 148, 147 and 145;

Aside from the above, the Association does not hold any Common Areas specific to this Neighborhood Association. All other open spaces identified on page three of the Map are held by the Master Association.

### **1.6 Common Expenses**

Common Expenses mean all sums spent to administer and enforce the Governing Documents; assessments owed by the Association to the Master Association; expenses agreed upon as common expenses by a majority of a quorum of Owners; expenses authorized by the Governing Documents or the Community Association Act as common expenses; any other expenses necessary for the common benefit of the Owners.

### **1.7 Community Association Act**

Community Association Act shall mean Utah Code §§ 57-8a-1, *et seq.*, as amended or replaced from time to time.

### **1.8 Declaration**

Declaration means this document, as amended, annexed, supplemented, or restated from time to time.

### **1.9 Director**

Director means a member of the Board.

### **1.10 Eligible Mortgagee**

Eligible Mortgagee means a Mortgagee that has made a written request for notice.

### **1.11 Governing Documents**

Governing Documents mean this PHHOA Declaration, PHHOA Bylaws, PHHOA Articles of Incorporation, PHHOA Map, PHHOA rules and regulations, and the MHOA Governing Documents.

**1.12 Living Unit**

Living Unit means a structure or portion of a structure which is designed and intended for use and occupancy as a single-family residence, together with all improvements located on the Lot, that are used in conjunction such residence.

**1.13 Lot**

Lot means a separately numbered parcel of property as shown on the PHHOA Map. Lots shall include the Living Unit and all utility lines and other installations exclusively serving the Lot. The legal description of a Lot shall be substantially stated as follows:

All of [Patio Home Lot No \_\_\_\_] contained within PINEAE VILLAGE PATIO HOMES, PHASE [ ], a Utah planned residential development, as the same is identified in the Final Plat recorded in Davis County, Utah as Entry No. \_\_\_\_\_ in Book \_\_\_\_\_ at Page \_\_\_\_\_ of the official records of the County Recorder of Davis County, Utah (as said Final Plat may have heretofore been amended or supplemented) and in the Declaration of Covenants, Conditions, and Restrictions of PINEAE VILLAGE PATIO HOMES, recorded in Davis County, Utah as Entry No. \_\_\_\_ in Book \_\_\_\_\_ at Page \_\_\_\_\_ of the official records of the County Recorder of Davis County, Utah (as said Declaration may have heretofore been supplemented), together with a non-exclusive right to use Pineae Village at Centerville, subject to provisions hereof and the Master Declaration recorded in Davis County, Utah as Entry No. \_\_\_\_ in Book \_\_\_\_\_ at Pages \_\_\_\_\_ of the Official Records.

**1.14 PHHOA Map**

PHHOA Map or “Map” means the plat map for PHHOA, on file with the Davis County Recorder as Pineae Village P.U.D., recorded as Entry No. 2265490, and any amendments or supplements thereto.

**1.15 Master Association or MHOA**

Master Association or MHOA means Pineae Village Master Homeowners Association.

**1.16 Master Declaration**

Master Declaration means the Amended and Restated Master Declaration of Covenants, Conditions, and Restrictions of the Pineae Village Master Homeowners Association, Inc., recorded as Entry No. ##### in the Davis County Recorder’s Office, as amended from time to time.

**1.17 MHOA Governing Documents**

MHOA Governing Documents means the Master Declaration, MHOA Bylaws, MHOA Articles of Incorporation, the Project Maps, and MHOA rules and regulations.

**1.18 Member**

Member means an Owner. If an Owner is not a natural person, the Owner may designate an individual in writing to act as its representative. If no representative is designated, then an officer, trustee, director, manager, or member as shown in the entities formative documents shall be its representative.



### **1.19 Neighborhood Association**

Neighborhood Association means one of the three (3) sub-association located within the Master Association as follows:

- 1.19.1 Pineae Village Condominium Homeowners Association, Inc.
- 1.19.2 Pineae Village Patio Homes Homeowners Association, Inc.
- 1.19.3 Pineae Village Town Home Homeowners Association, Inc.

### **1.20 Nonprofit Act**

Nonprofit Act means Utah Code §§ 16-6a-101 *et seq.*, as amended or replaced from time to time.

### **1.21 Owner**

Owner means the owner of the fee in a Lot. If a Lot is subject to an executory purchase contract, the contract purchaser shall be considered the Owner. However, the seller and buyer may otherwise agree but must inform the Board in writing of the alternative arrangement.

### **1.22 Person**

Person means an individual, corporation, partnership, association, trustee, or other legal entity.

### **1.23 Project**

Project means Lots 101 through 149 as shown on the Map. The project includes the land, buildings, improvements and structures, easements, rights, appurtenances, and articles of personal property intended for use in connection therewith. Exhibit "A" contains the legal description for the Project.

### **1.24 Resident**

Resident means any Person living or staying at the Project. Residents include without limitation: Owners, tenants, family members of Owners and tenants, and guests staying more than a week.

## **2 SUBMISSION**

The Project is submitted to be, and all Owners shall take their Lots subject to, the Governing Documents, the Community Association Act, and the Nonprofit Act. All Residents and other users of the Project shall be subject to the Governing Documents, and the Community Association Act.

## **3 PROPERTY RIGHTS IN LOTS**

### **3.1 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 benefit of such Lot and Living Unit. Each Lot shall be bound by, and the Owner shall comply with the Governing Documents for the mutual benefit of the Owners.

### **3.2 Easements Reserved**

In addition to the easements shown on the Map 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:

3.2.1 **Right of Entry.** The Association and any person authorized by the Association may at any reasonable time, and from time to time at reasonable intervals, enter upon any Lot for the purpose of performing maintenance and determining whether or not the Lot is in compliance with the Governing Documents. Requests for entry shall be made in advance. Entry shall be made 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. The right of entry granted by this subsection is in addition to the Association's enforcement rights and applies only to Lots upon which the Association has maintenance responsibilities as provided for in the Governing Documents.

3.2.2 **Utility Easements.** The Association or any public utility provider shall have an easement over all Lots for the installation, maintenance, and development of utilities and drainage facilities. The easement area of each Lot and all Improvements therein shall be maintained continuously by the Owner of the Lot of the Association in accordance with the terms of the Governing Documents, except for those improvements for which a public authority or utility provider is responsible.

### **3.3 Easements Shown on the Map**

Lots shall be subject to the easements shown on the Map.

## **4 MAINTENANCE**

### **4.1 Association Responsibility**

The Association shall be responsible for the maintenance, repair, and replacement of the Common Areas. The Association shall be responsible for snow removal from driveways and sidewalks as well as salt and ice melt application (except for on Lots whose Owner opts out). The Association shall also be responsible for the following items of lawn care: mowing, trimming, aeration, fertilization, and weed control (except for on Lots whose Owner opts out). Owners shall be solely responsible for watering their lawn and for maintaining, repairing, and replacing any watering system. The Association shall not be liable to any person, including Owners, Residents, and guests, for negligence or for any actions it takes or fails to take in its maintenance, snow removal, or lawn care responsibilities, or for negligently hiring another party to perform these activities.

Owners that wish to opt their Lot out of the Association's snow removal and/or lawn care shall provide written notice of such election to the Board. The Owner shall then become solely responsible for such activities as required by Section 4.2. Should the Owner a Lot which has been opted out wish the Association to take over such maintenance, the Owner shall provide written notice to the Board. The Board may require the Owner to meet certain conditions before the Association assumes snow removal and lawn maintenance if the Owner's Lot has fallen into disrepair or other factors exist that the Board determines, in its sole discretion, must be remedied.

The Board, after notice and opportunity for hearing, or in the case of an emergency immediately, may assume the maintenance responsibility over a Lot if, in the opinion of the Board, the Owner is unwilling or unable to adequately provide such maintenance. Should the Board exercise its right under this provision, it shall not be liable for trespass or nuisance and shall have the right to levy an Individual Assessment to recover its maintenance costs.

#### **4.2 Owner Responsibility**

Except as otherwise provided in this Declaration, all maintenance, repair, and replacement of the Living Units, Lots, and improvements (including fences) shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in good repair and in accordance with the Governing Documents.

### **5 ASSESSMENTS**

#### **5.1 Covenant for Assessment**

By accepting a deed or other conveyance, each Owner covenants and agrees to pay the Association all regular assessments, special assessments, supplemental assessments, individual assessments, late penalties, and collection costs (including attorney's fees) whether or not a lawsuit is commenced. No Owner may exempt themselves from liability for assessments by abandonment of their Lot, failure of the Association or Master Association to maintain the Common Areas, or non-use of the Common Areas. Except for foreclosures, the personal obligation for unpaid assessments, late fees, interest, and collection costs, including attorney's fees, shall pass to the successor in title. A successor in title is entitled to a statement from the Association setting forth the amounts due by the prior owner. The amounts set forth in the statement shall be binding upon the Association. If an Owner loses their Lot to foreclosure or voluntarily conveys it, they shall remain personally liable for unpaid assessments, late fees, interest, and collection costs (including attorney's fees).

#### **5.2 Annual Budget**

The Board shall prepare an annual budget for the Association. The annual budget shall provide for: the maintenance, repair, and replacement of the Common Areas; maintenance of other areas required to be maintained by the Association; insurance; all other Common Expenses; and the administration, management, operation, and reserves of the Association. If the Board fails to adopt an annual budget, the last adopted budget shall continue in effect.

#### **5.3 Reserve Account**

The Association shall establish a reserve account to fund long-term maintenance and replacement items. The reserve account shall be maintained, managed, and accounted for in accordance with the Community Association Act. The Board shall use reasonable efforts, subject to the Owners rights under the Community Associations Act, to fund the reserve account. The Board shall not be personally liable for failure to fund the reserve unless gross negligence or intentional misconduct is proven in a court of law.

#### **5.4 Regular Assessment**

The Association may collect the regular assessment on an annual basis, semi-annual basis, quarterly basis, or monthly basis. Written notice of the regular assessment amount and payment schedule shall be sent to Owners at least 30 days in advance of the beginning of the fiscal year for which the regular assessment will be due. Apart from the initial notice of regular assessment, the Association is not obligated to send periodic invoices for regular assessments. If the Board fails to adjust a regular assessment, the amount of the last regular assessment and payment schedule will continue in effect, whether or not notice is sent.

#### **5.5 Special Assessment**

The Association may levy a special assessment for the purpose of defraying in whole or in part the cost of any construction, reconstruction, maintenance, repair, or replacement of the Common Areas or exteriors of Lots. The Association may levy a special assessment up to 50% of

the annual budget without approval from the Owners. If a special assessment exceeds 50% of the annual budget, it must be approved by a majority of a quorum of Owners.

#### **5.6 Supplemental Assessment**

If the regular assessments are inadequate to pay the Common Expenses, the Board shall determine the amount of the shortfall. Once the amount of the shortfall is determined, the Board shall adopt a supplemental budget. The Association may levy a supplemental assessment to fund the supplemental budget. The Association may levy a supplemental assessment up to 50% of the original annual budget without approval from the Owners. If a supplemental assessment exceeds 50% of the original annual budget, it must be approved by a majority of a quorum of Owners.

#### **5.7 Individual Assessment**

Any expenses attributable to less than all the Lots may be assessed exclusively against the affected Lots. Individual assessments include, without limitation:

5.7.1 Assessments levied against a Lot to reimburse the Association for costs incurred in correcting a violation of the Governing Documents;

5.7.2 Fines, late fees, interest, collection costs (including attorney's fees);

5.7.3 Reinvestment fees due at the time a Lot transfers to a new Owner. The amount of the reinvestment fee shall be set by the board and shall not exceed 1/2% of the purchase price of the Lot.

5.7.4 Services provided to a Lot due to an Owner's failure to maintain, for emergency repairs, or to protect the health, safety, and welfare of adjoining Lots and Common Areas; and

5.7.5 Any charge described as an individual assessment by the Governing Documents.

#### **5.8 Apportionment of Assessments**

Regular, special, and supplemental assessments will be apportioned equally among the Lots. Individual assessments shall be apportioned exclusively to the Lots benefitted or affected.

#### **5.9 Nonpayment of Assessment**

Assessments not paid within 10 days after the due date established by the Board will be late and subject to interest at 18% per annum on any delinquent balance and a late fee established by rule. Late fees may only be charged once per missed payment.

#### **5.10 Application of Payments**

Payments shall be credited first to collection costs (including attorney's fees), then to interest and late fees, then to the oldest assessments, then the most recent assessments.

#### **5.11 Acceleration**

If an Owner fails to pay their assessments for 61 days or more, the Board may elect to accelerate the remainder of the Assessments due that year.

#### **5.12 Suspension of Voting Rights**

If an Owner has a delinquent assessment balance, the Association may suspend their right to vote.

#### **5.13 Lien for Assessment**

All assessments, late fees, interest, and collection costs (including attorney's fees) not timely paid shall be a charge and continuing lien upon each Lot against which the assessment is made. The Association shall file a notice of lien with the county recorder as evidence of nonpayment.

#### **5.14 Enforcement of Lien**

Without waiving its right to personally pursue an Owner for unpaid assessments, the Association may foreclose its lien in the same manner as deeds of trust, mortgages, or any other manner permitted by Utah law.

#### **5.15 Appointment of Trustee**

The Owners hereby convey and warrant pursuant to Utah Code sections 57-1-20 and 57-8a-402 to a member of the Utah State Bar, with power of sale, the Lot and all improvements to the Lot for the purpose of securing payment of assessments under the terms of the Declaration.

#### **5.16 Subordination of Lien**

A lien for assessments shall be subordinate to a first Mortgage now or hereafter placed upon a Lot. The sale of a Lot pursuant to foreclosure of a first Mortgage shall extinguish the lien for assessments which became due prior to the foreclosure sale. A foreclosure will not relieve the purchaser's obligation to pay six months of assessments, late fees, and penalties.

### **6 RESTRICTIONS ON USE**

#### **6.1 Use of Lots - Residential Use**

Each of the Lots in the Project is limited to single-family, residential use only. The use is further defined by Centerville City zoning code and the MHOA Governing Documents. Each Lot and Owner is subject to the uses and restrictions imposed by such restrictions (including any parking restrictions). The Project is subject to design guidelines and all dwellings and landscaping need to comply with those guidelines.

#### **6.2 Cancellation of Insurance, Illegal Activity**

Nothing shall be done or kept in any Lot or in any part of the Project which would result in the cancellation of the insurance on the Project or any part thereof or increase of the rate of the insurance on the Project or any part thereof or increase of the rate of the insurance on the Project or any part thereof over what the Board, but for such activity, would pay, without the prior written consent of the Board.

Nothing shall be done or kept in any Lot or in any part of the Project which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the Project or any part thereof shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Board and the Owners harmless against all loss resulting from any such damage or waste caused by him or his invitees.

#### **6.3 Nuisances**

No Resident shall create, maintain or permit a nuisance in, on, or about the Project. For purposes of this section a "nuisance" includes behavior which annoys, disturbs, or interferes with other Residents and interferes with their right to the quiet and peaceful enjoyment of their property. A nuisance includes but is not limited to the following:

6.3.1 The development of any unclean, unhealthy, unsightly, or unkempt condition on, in, or about a Lot or the anywhere in the Project;

6.3.2 The storage of any item, property or thing that will cause any Lot or the Project to appear to be in an unclean or untidy condition or that will be noxious to the senses.

6.3.3 The accumulation of rubbish, unsightly debris, garbage, equipment, or other things or materials so as to constitute an eyesore as reasonably determined by the Board or the Association;

6.3.4 The storage of any substance, thing, or material upon any Lot or in the Project that will emit any foul, unpleasant, or noxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the other residents at the Project;

6.3.5 The creation or maintenance of any noxious or offensive condition or activity in or about any Lot or the Project;

6.3.6 Actions or activities tending to cause embarrassment, discomfort, annoyance, distress, or a disturbance to any other residents, their guests, or invites, particularly if the police or sheriff must be called to restore order;

6.3.7 Maintaining any plants, animals, or devices or items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature that diminishes or destroys the enjoyment of the Community by other residents, their guests, or invites;

6.3.8 Excessive noise in, on, or about any Lot or the Project, especially after 10:00 p.m. and before 7:00 a.m.;

6.3.9 Excessive traffic in, on, or about any Lot or the Project, especially after 10:00 p.m. and before 7:00 a.m.;

6.3.10 Allowing a pet to be unleashed while outside of a Lot;

6.3.11 Continuous barking, meowing, or other animal noises.

#### **6.4 Rules and Regulations**

No Owner or Resident shall violate the rules and regulations for the use of the Lots and of the Project as adopted from time to time by the Board or the MHOA Governing Documents. An Owner shall be responsible to advise their guests and invitees about the rules and shall be responsible for their guests and invitees compliance with the rules and regulations.

#### **6.5 Structural/Exterior Alterations**

No improvements, alterations, repairs, maintenance, excavation, or other work that in any way alters the exterior appearance of a Lot or the improvements located thereon shall be made without the prior approval of the Board. No exterior alterations to a Living Unit may be performed without the prior approval of the Board and the appropriate governmental entity. No building, fence, wall, or other structure shall be erected, maintained, improved, altered, made or done (including choice of exterior color scheme and building materials) without the prior written approval of the Board.

#### **6.6 Window Coverings**

The Board, by rule, may require that certain colors and types of window covering be used.

Under no circumstances shall any cardboard or tinfoil be used as window coverings in the Project. Additionally, no stickers or non-holiday decorations will be permitted in windows.

#### **6.7 Animals**

No animals, livestock, birds, insects, or poultry of any kind shall be raised, bred, or kept on any Lot, except that not more than two domesticated dogs or cats shall be allowed as long as said

animals do not unreasonably bother or constitute a nuisance to others, and provided such animals are kept in compliance with the rules and regulations of the Association.

If a pet owner violates any of the Governing Documents addressing pets, the Board shall have the express authority to issue citations or levy assessments and collect these by judgment, lien, or foreclosure. In extreme cases, the Board may require the Owner or Resident to remove their pet from the Project.

## **6.8 Storage and Parking of Vehicles**

The driving, parking, standing and storing of motor vehicles in, on, or about the Project shall be subject to the following:

6.8.1 The parking rules and regulations adopted by the Board from time to time.

6.8.2 No recreational, commercial, or oversized vehicles or trailers shall be allowed within the Project unless said vehicle or trailer is kept at all times within the garage and the garage door is closed, behind a fence or the home, or for purposes of loading or unloading passengers or supplies (for a period of time up to 24 hours).

6.8.3 No motor vehicle or trailer, including but not limited to any car, automobile, truck, van, or any other transportation device of any kind may be parked or stationed in such a manner so as to block access to any Lot or parking space or to create an obstacle.

6.8.4 No resident shall repair or restore any vehicle of any kind in or on a Lot (outside the garage), except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility.

6.8.5 No garage may be altered in such a manner that the number of motor vehicles, that may reasonably be parked therein after the alteration, is less than the number of motor vehicles that could have been reasonably parked in the garage as originally designed and constructed.

Vehicles parked in violation of this Declaration may be impounded or towed without further notice, and at the Owner's sole expense.

## **6.9 Aerials, Antennas, and Satellite Dishes**

Aerials, antennas, and satellite dishes larger than one meter in diameter are prohibited. One antenna or satellite dish smaller than one meter in diameter may be installed within the Lot. The Association may create policies to create a hierarchy of preferred installation locations to protect the aesthetics of the Project. The hierarchy of preferred installation locations may not interfere with reception.

## **6.10 Timeshares**

Timeshares and time-sharing of Living Units within the Project is prohibited, and under no circumstances shall any Lot be owned or used for time sharing, including but not limited to a "Timeshare Interest" as that term is defined in Utah Code section 57-19-2(27), as amended.

## **6.11 Leases**

The leasing of Lots shall comply with this Section. "Leasing" means granting the right to use or occupy a Lot to a non-owner while no Owner occupies the Living Unit as their primary residence. Lots owned by business entities shall be considered leased regardless of who occupies the Living Unit. No Lot may be rented or leased if the rental or lease results in more than 16.34% (8 Living Units) of the Lots within the Project being rented or leased, except as provided in this Section (the "Rental-Lease Limit"). In addition, all leases terms shall be for a minimum term of twelve (12) months, except as provided in Subsections 6.11.2 and 6.11.3 (the "Rental-Lease Term"). Prior to being qualified to rent or lease a Lot, an Owner must own their Lot for a

minimum of 12 months (“Minimum Ownership Period”). The rental and leasing of Lots shall be restricted as follows:

6.11.1 Prior to renting or leasing any Lot, an Owner shall apply to the Board. The Board shall review the application and make a determination of whether the rental or lease will exceed the Rental-Lease Limit and/or the Rental-Lease Term. The Board shall:

6.11.1.1 approve the application if it determines that the rental or lease will not exceed the Rental-Lease Limit, complies with the Rental-Lease Term, and the Owner has fulfilled the Minimum Ownership Period; or

6.11.1.2 deny the application if it determines that the rental or lease will exceed the Rental-Lease Limit, violates the Rental-Lease Term, or the Owner has not fulfilled the Minimum Ownership Period.

6.11.2 Any Owner who has a rental in the Association prior to this Amendment being recorded with the Davis County Recorder may rent their Lot without being subject to the Rental-Lease Limit or Minimum Ownership Period until such time as Owner:

6.11.2.1 occupies the Lot or an officer, owner, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the lot, occupies the Lot; or

6.11.2.2 conveys, sells, or otherwise transfers the Lot by deed; or

6.11.2.3 grants of a life estate in the Lot, or

6.11.2.4 if the Owner is a business entity or partnership, the sale or transfer of more than 75% of the business entity’s share, stock, membership interest, or partnership interests in a 12-month period if the Lot is owned by a limited liability company, corporation, partnership, or other business entity.

6.11.3 Owners demonstrating the following situations to the Board shall be exempt from the Rental-Lease Limit, Rental-Lease Term, and Minimum Ownership Period:

6.11.3.1 an Owner is in the military for the period of Owner’s deployment;

6.11.3.2 a Lot is occupied by an Owner’s parent, child or sibling;

6.11.3.3 an Owner whose employer has relocated the Owner for two (2) years or less;

6.11.3.4 a Unit is owned by an entity that is occupied by an individual who has voting rights under the entity’s organizing documents and has a 25% or greater share of ownership, control, and right to profits and losses of the entity; or

6.11.3.5 a Lot is owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was created for the estate of:

6.11.3.5.1 a current resident of the Lot; or

6.11.3.5.2 the parent, child, or sibling of the current resident of the



Lot.

6.11.4 Notwithstanding the exemptions listed above, it is the intent and desire of the Association to consist solely of owner-occupied Lots with a maximum of 16.34% of the Lot being rented. Consequently, all decisions of the Board with respect to the implementation of this Section shall be made, to the extent reasonable, to fulfill this intent and desire.

6.11.5 In the event that a rental is permitted, the Owner of the Lot is responsible for the full cost of any damages to the property maintained by the Association that was caused by the tenant/lessee.

6.11.6 All lease agreements shall be in writing and shall provide the Board with a copy of the written lease agreement. All lease agreements shall contain terms subjecting the occupant to the terms, conditions, and restrictions of the Governing Documents, as amended from time to time. The Owner shall provide the tenant with a copy of the Governing Documents. In the event the Governing Documents are amended, revised, changed, or supplemented by the Association, the Owner shall provide the tenant with a copy of the amendments, revisions, changes, or supplements within 10 calendar days of adoption by the Association, its Board, or its membership.

6.11.7 The Association shall create procedures by rule to determine and track the number of rentals and Lots in the Association subject to the provisions described in Subsections 6.11.2 and 6.11.3 and to ensure the consistent administration and enforcement of these rental restrictions.

6.11.8 In the event that a Lot is leased, and the absentee Owner fails to pay their assessments, the Board may demand that the tenant pay his or her rental payment to the Association until such time as the delinquent assessments are cured.

6.11.9 Living Units may be rented only to a single Family. Dormitory, hostel, hotel, or nightly rentals are strictly prohibited.

6.11.10 Failure to Take Legal Action. Failure by an Owner to take legal action against their occupant who is in violation of the Governing Documents within 10 days after delivery of written demand to so do from the Board shall entitle the Association to take any and all action for and in behalf of said Owner, including the institution of legal proceedings on behalf of such Owner against his or her occupant for eviction, injunctive relief, or damages. Neither the Association nor its agents shall be liable to the Owner or occupant for any legal action commenced under this paragraph that is made in good faith. The Owner hereby appoints the Board as his or her attorney in fact to take any action authorized by this provision as if the Owner was performing it.

6.11.11 Recovery of Costs and Attorney Fees; Owner Liable. The Association shall be entitled to recover from the offending Owner its costs and attorney fees incurred for enforcement of this Section, regardless of whether any lawsuit or other action is commenced. The Association may assess such costs and attorney fees against the Owner and the Lot as an assessment pursuant to the Governing Documents. Additionally, the Owner shall be liable for all fines, assessments, or other penalties levied due to violation(s) of their tenant. The Owner shall be personally liable for any violations caused by their tenant(s). Any assessments, fines, or penalties levied under this Section shall be collectible as an assessment.

## **6.12 Sex Offenders**

No person required to register as a sex offender or kidnap offender for life pursuant to Utah Code §§ 77-41-105(3)(c)(i) ("Lifetime Offender"), may permanently or temporarily reside in a

Lot. This section will not apply to Lifetime Offenders who reside in the Association prior to the date this amendment is recorded. If a Lifetime Offender occupies a Lot or an Owner becomes a Lifetime Offender after this amendment is recorded, they shall be subject to the provisions of this Section.

6.12.1 Owners. Any Owner in violation of this section must vacate the Unit within 180 days of receipt of notice from the Association. If the Owner fails to vacate within 180 days, the Association shall be entitled to a mandatory injunction requiring the Lifetime Offender to immediately vacate.

6.12.2 Tenants/Guests/Family Members. If, subsequent to the effective date of this Amendment, a Lifetime Offender occupies a Unit as a tenant, guest, resident, or family member, the Owner who owns the Lot must immediately cause the person to vacate the Lot and, if the person does not vacate within 30 days of the date the Owner was notified by the Association of the presence of a Lifetime Offender, then the Owner will immediately commence eviction proceedings. If the Owner fails to commence eviction proceedings within 30 days following the date the Owner is required to do so, and/or if the Owner fails to diligently prosecute the eviction to its conclusion, then the Association may act as attorney-in-fact for the Owner and pursue the eviction action. The Owner shall reimburse the Association for any costs and attorney's fees incurred. Cost and attorney's fees shall be collectable as an assessment. Each Owner, upon adoption of this amendment to the Declaration, hereby appoints the Association as the Owner's attorney-in-fact for the purpose of commencing eviction proceedings, executing any and all documents pertaining to the proceedings, or performing any or all responsibilities as may be required or necessary to be performed pursuant to this section. This power of attorney is expressly declared and acknowledged to run with the title of any and all Lots and will be binding upon the heirs, personal representatives, successors, and assigns of the Owner.

6.12.3 Association not Liable. The Association will not be liable to any Owner or anyone occupying a Lot or visiting the Association as a result of the Association's failure to dispossess a Lifetime Offender.

6.12.4 Board Membership. From the effective date of this amendment forward, any person who has to register as a sex or kidnap offender under Utah Code § 77-41-105, whether or not for life, may not serve on the Board.

### **6.13 Temporary Structures, etc.**

No structure of a temporary character, or trailer, camper, tent, shack, garage, or other outbuilding shall be used on any Lot at any time as a residence either temporarily or permanently, unless first approved in writing by the Board.

### **6.14 Repair of Buildings**

No improvement upon any Lot shall be permitted to fall into disrepair, and each such improvement shall be at all times be kept in good condition and repair and adequately painted or otherwise finished.

### **6.15 Subdivision of Lots**

No Lot shall be further subdivided or separated into smaller Lots or parcels by any Owner, and no portion less than all of any such Lot shall be conveyed or transferred by any Owner without the prior written approval of the Board. No Lot may be converted into a condominium or cooperative or other similar type of entity without the prior written approval of the Board. No further covenants, conditions, restrictions, or easements shall be recorded against any Lot

without the written consent of the Board being evidenced on the recorded instrument containing such restrictions and without such approval such restrictions shall be null and void. No applications for rezoning, variances, or use permits shall be filed without the written approval of the Board, and then only if such proposed use is in compliance with this Declaration.

#### **6.16 Lot Fronts**

Lot fronts are required to be maintained in a clean and tidy fashion. Any outdoor furniture kept in the front of a Lot shall be well maintained and in good condition. The Association may require worn furniture or furniture that detracts from the aesthetic of the Project to be removed from the front of a Lot.

Front porches shall not be used for storage. Examples of items prohibited from being kept on front porches include, without limitation, bicycles, toys, barbecues, trash receptacles, ash trays, and anything else which appears unkempt, dirty, or detracts from the appearance of the Project.

#### **6.17 Alternative Energy Solutions**

After receiving approval from the Association as to the type, appearance, and location, Owners may install alternative energy solutions on their Lot.

#### **6.18 Trash Cans**

Trash cans shall be stored in the garage or hidden from view behind a fence. Trash cans may be set out on the curb for trash pick-up the evening prior to trash pick-up until the evening after trash pick-up.

### **7 MEMBERSHIP AND ASSOCIATION**

#### **7.1 Membership**

Every Owner is a Member of the Association. Membership in the Association is mandatory, is appurtenant to the Lot, and shall not be separated from the Lot.

#### **7.2 Voting Rights**

Voting is governed by the Bylaws.

#### **7.3 Status and Authority of Board**

The Board is the governing body of the Association. It is obligated to manage, operate, and maintain the Project and to enforce the Governing Documents. The Board has exclusive authority to act in the Association's name. Any action taken by the Board on behalf of the Association will be deemed to be done in the Association's name. The rights and powers of the Board are governed by the Bylaws.

#### **7.4 Composition and Selection of Board**

The Bylaws govern how the Board is established and selected.

#### **7.5 Adoption of Bylaws**

The Association has adopted Bylaws which are being recorded simultaneously with this Amended and Restated Declaration.

## **8 COMPLIANCE AND ENFORCEMENT**

### **8.1 Compliance**

Each Owner or Resident of a Lot shall comply with the provisions of the Governing Documents and the rules and regulations adopted pursuant thereto and any applicable statute. Failure to comply therewith shall be grounds for an action or suit maintainable by the Association or an aggrieved Owner.

### **8.2 Remedies**

Violation of any provision of the Governing Documents, or of any decision of the Association made pursuant to such documents, shall give the Board acting on behalf of the Association the right, 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 and an opportunity to be heard:

8.2.1 To enter the Lot where such violation exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing, or condition that may exist contrary to the intent and meaning of such provisions, and the Board shall not thereby be deemed guilty of any manner of trespass, provided that judicial proceedings shall be instituted before any items of construction may be altered or demolished;

8.2.2 To enjoin, abate, or remedy such thing or condition by appropriate legal proceeding;

8.2.3 To levy reasonable fines pursuant to a schedule of fines adopted by resolution of the Board;

8.2.4 To terminate the right to receive utility services paid for out of assessments, if any, or to terminate the right of access to and use of recreational and service facilities of the Association, except for the right to an assigned parking space, until the correction of the violation has occurred; or

8.2.5 The right of the Association to suspend the voting rights and the rights to use of the Common Area after notice and a hearing for any period not to exceed sixty (60) days for any infraction of any of the Governing Documents; or

8.2.6 To bring suit or action against the Owner on behalf of the Association and other Owners to enforce the Governing Documents or any decision of the Association adopted pursuant thereto.

### **8.3 Action by Owners**

Subject to any limitation imposed under the Governing Documents or Utah law, an aggrieved Owner may bring an action against such other Owner or the Association to recover damages or to enjoin, abate, or remedy such thing or condition by appropriate legal proceedings.

### **8.4 Injunctive Relief**

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

### **8.5 Hearing**

The Board shall, by resolution, promulgate procedures for hearings. When a hearing is

requested or required, the hearing shall be conducted in accordance with the Board's resolution on hearings.

### **8.6 Costs and Attorney Fees**

Costs and attorney fees incurred by the Association in taking any action under this Article to enforce the Governing Documents, or any decision of the Association made pursuant thereto, shall be charged to the Owner as an Individual Assessment.

## **9 INSURANCE**

### **9.1 Types of Insurance Maintained by the Association**

9.1.1 Property and liability insurance for the Common Areas (should any be acquired) in an amount determined by the Board;

9.1.2 Directors' and officers' insurance for at least \$1,000,000.00; and

9.1.3 Fidelity bond or dishonest acts insurance for at least the value of the reserves and operating capital of the Association.

The Board may adopt insurance rules and policies to maintain the insurability of the Project, keep the premiums reasonable, and enforce responsibilities of the Owners.

### **9.2 Insurance Company**

The Association shall use an insurance company knowledgeable with community association insurance, which is licensed in Utah.

### **9.3 Premium as Common Expense**

The premiums for the Association's insurance policies shall be a Common Expense.

### **9.4 Insurance by Owner**

Owners shall be solely responsible for maintaining insurance on their Living Unit and Lot.

### **9.5 Right to Adjust Claims**

The Association has the right and authority to adjust claims.

## **10 AMENDMENT AND DURATION**

### **10.1 Amendments**

10.1.1 Approval Required. Except as otherwise provided in this Declaration, this Declaration may be amended by approval of Owners holding sixty-seven percent (67%) of the voting rights of the Association.

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

10.1.3 Termination of Declaration. This Declaration may be terminated by approval of Owners holding seventy-five percent (75%) of the voting rights of the Association. If terminating

for any reason other than destruction or condemnation, 75% or more of Eligible Mortgagees must approve termination of the Declaration.

## **11 MISCELLANEOUS PROVISIONS**

### **11.1 Professional Management**

The Association may be managed by a professional management company. The Master Association may select a professional management company that the Association is required to use. If the Master Association has not made such a selection, the Board may select the professional management company using criteria set by the Board and complying with Utah law.

### **11.2 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.

### **11.3 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, 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.

### **11.4 Lessees and Other Invitees**

Lessees, invitees, contractors, family members and other persons entering the Property under rights derived from an Owner shall comply with all of the provisions of this Declaration, the Bylaws and rules and regulations adopted by the Association restricting or regulating the Owner's use, improvement or enjoyment of such Owner's Lot and other areas within the Property. The Owner shall be responsible for obtaining such compliance and shall be liable for any failure of compliance by such persons in the same manner and to the same extent as if the failure had been committed by the Owner.

### **11.5 Covenants Run with the Land**

The Declaration contains covenants which run with the land and create equitable servitudes. The Declaration shall be binding upon and inure to the benefit of the Association, all parties who hereafter acquire any interest in or occupy a Lot or any part of the Project, their heirs, successors, assigns, grantees, devisees, personal representatives, guests, and invitees. Each Owner or Resident shall comply with the Governing Documents. All interests in the Lots shall be subject to the Governing Documents. Failure to comply shall be grounds for an action for damages or injunctive relief by the Association or an Owner. By acquiring any interest in a Lot, each Owner or Resident agrees to be bound by the Governing Documents.

**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 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 or Owner as to any similar matter.

**11.7 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 manager of the name and address of said grantee, vendee, mortgagee, lessee, or tenants.

**11.8 Taxes on Lots**

Each Owner will pay all taxes which may be assessed against him or his Lot.

**11.9 Service of Process**

The registered agent of the Association will be the Person named in the corporate records on file with the Utah State Department of Commerce. If the corporate status of the Association expires, the president shall be the successor agent. The name and address of the president shall be kept with the Association's records at its principal place of business.

**11.10 Liberal Construction**

The Governing Documents shall be liberally construed to effect all of their intended purposes.

**11.11 Conflicts**

If the Declaration conflicts with the Community Association Act, the Community Association Act shall control. If the Declaration conflicts with the Map, the Map shall control. If the Declaration conflicts with the Master Governing Documents, the MHOA Governing Documents shall control. If the Declaration conflicts with the Bylaws, Articles, or rules, the Declaration shall control.

\*\*\*SIGNATURES AND ACKNOWLEDGEMENT TO FOLLOW\*\*\*

IN WITNESS WHEREOF, the Association has caused this Declaration to be executed by its duly authorized agent.

DATED: 6-6-19.

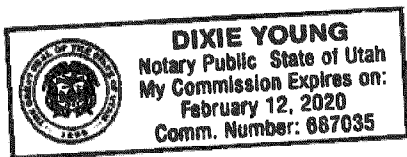
**Pineae Village Patio Homes Homeowners Association, Inc.**

By: [Signature]  
Its: HOA Board member

STATE OF UTAH )  
County of Davis )  
:ss.

On this 6th day of June, 2019, personally appeared before me Terry Turner who being by me duly sworn, did say that they are the authorized agent of the Association authorized to execute this Declaration and did certify that this Declaration was approved by Association's members.

[Signature]  
NOTARY PUBLIC





## **Exhibit A**

### **Legal Description**

All of lots 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148 and 149, PINEAE VILLAGE, a Planned Unit Development, according to the official plat thereof as recorded in the office of the County Recorder of Davis County, Utah, together with all public utility easements ("PUE") appurtenant thereto.

Tax ID No. 02-217-0101 through 02-217-0149

## **Exhibit B**

### **Bylaws of Pineae Village Patio Homes Homeowners Association, Inc.**

## **1 BYLAW APPLICABILITY/DEFINITIONS**

### **1.1 Definitions**

The capitalized terms used in the Bylaws shall have the same meaning given to them in the Declaration, unless otherwise specifically stated.

### **1.2 Bylaw Applicability**

The provisions of these Bylaws are binding upon the Association and the Owners. All present and future Owners shall be subject to these Bylaws, as amended from time to time. Acquisition of any Lot constitutes an acknowledgment that the Owner has agreed to and ratified these Bylaws and will comply with them.

## **2 ASSOCIATION**

### **2.1 Composition**

All of the Owners acting as a group in accordance with the Governing Documents shall constitute the Association. Except for matters specifically reserved for a vote of the Owners, the Board, on behalf of the Owners, shall administer the Association's affairs.

### **2.2 Annual Meeting**

Annual meetings shall be held once a year. The Board shall determine the date, time, and place of the annual meeting. The Association shall send notice of annual meetings at least 10 days but not more than 60 days in advance of the meeting. At the annual meeting the Association shall conduct the following business in any order the Board sees fit:

- 2.2.1 Roll call and verification of quorum;
- 2.2.2 Approval of minutes from preceding annual meeting;
- 2.2.3 Reports of officers;
- 2.2.4 Special committee reports;
- 2.2.5 Election of Directors;
- 2.2.6 Unfinished business from preceding annual meeting; and
- 2.2.7 New business.

### **2.3 Special Meeting**

Special meetings may be held at any time for any purpose. A special meeting may be called by a majority of the Directors or upon petition of at least 20% of the Owners in good standing. The Association shall schedule and send notice of a special meeting within 30 days of request. The notice of a special meeting shall state the date, time, place, and purpose of the meeting. The Association shall send notice of a special meeting at least 10 days in advance of the meeting. No business may be transacted at a special meeting except as stated in the notice.

### **2.4 Place of Meeting**

Meetings shall be held at a place designated by the Board and stated in the notice of meeting. Meetings shall be held in Davis County.

## **2.5 Conduct of Meeting**

The President shall preside over all meeting of the Association. The Secretary shall keep the minutes of the meeting and take record of all resolutions adopted at the meeting.

## **2.6 Quorum**

A quorum shall be the Owners present in person or by proxy at a meeting.

## **2.7 Voting**

The Association shall have one class of votes. All Owners shall be entitled to one vote for each Lot in which the interest required for membership in the Association is held. In no event, however, shall more than one vote exist with respect to any Lot.

If a Lot is owned by more than one Person and multiple Owners are present at a meeting, the vote appertaining to that Lot shall be cast by agreement of a majority of the Owners. If a Lot is owned by more than one Person and a single Owner is present at a meeting, the vote appertaining to that Lot shall be cast by the Owner present. The Association may conclusively presume the consent of all a Lot's Owners when a vote is cast by a Lot with multiple Owners.

Except where a greater number is required by the Governing Documents or the Nonprofit Act and elections of Directors, any decision requiring Owner consent shall be passed by majority vote of a quorum.

## **2.8 Good Standing**

An Owner shall be in good standing if he has paid assessments levied against his Lot, including late fees, interest, fines, collection costs, and attorney fees. An Owner must have paid in full at least three days prior to the meeting or action.

## **2.9 Proxies**

An Owner in good standing may vote or otherwise act by proxy. An Owner may appoint a proxy by signing a proxy appointment form. The proxy appointment form may be submitted to the Association in person, by mail, or electronically. The proxy appointment form must name a proxy, be dated, and signed by the Owner. Any proxy appointment form that does not contain a proxy's name, date, or signature shall be void. A proxy appointment form is valid until revoked by the Owner's attendance at a meeting, a signed and dated revocation delivered to the Association, a subsequent proxy appointment, notice of death or incapacity of the Owner, or the passage of 11 months.

## **2.10 Mail-in Ballots**

Any action requiring a vote of the Owners, except election of Directors, may be taken by mail-in ballots. Action by mail-in ballot shall comply with the procedures set forth in Nonprofit Act Section 16-6a-709, as amended from time to time. A combination of mail-in ballots, ballots collected electronically, and ballots cast in person may be used.

## **2.11 Written Consent in Lieu of Vote**

Any action requiring a vote of the Owners, except election of Directors, may be taken by written consent. Action by written consent shall comply with the procedures set forth in Nonprofit Act Section 16-6a-707, as amended from time to time. Written consents may be collected electronically.

### **2.12 Record Date**

The record date for determining which people are entitled to vote shall be the date notice of the meeting or action is sent. The Board may change the record date prior to sending notice of the action. The Owners shown on the records of the Association on the record date shall be the people entitled to vote on an action.

## **3 BOARD OF DIRECTORS**

### **3.1 Number and Qualification of Directors**

There shall be three Directors. Directors must be Members in good standing.

### **3.2 Selection and Term of Directors**

Directors shall serve for a term of two years and shall serve until their successors have been elected. There is no limit on the number of terms an Owner may serve as a Director. Directors' terms shall be staggered as follows: (i) two Directors shall be elected in years ending with an even number; and (ii) one Director shall be elected in years ending with an odd number. If the terms ever become un-staggered, the Directors shall establish a plan to make their terms staggered again.

### **3.3 Vacancies**

Director vacancies, for any reason other than removal by vote of the Association, shall be filled by vote of a majority of the remaining Directors. The Board shall conduct a special meeting for the purpose of filling the vacancy. The meeting shall be valid even if a quorum is not present. Each replacement Director shall serve until the next annual Owners' meeting, then the vacancy shall be filled by vote of the Owners. The replacement Director elected by the Owners shall serve the remaining term of the replaced Director.

### **3.4 Removal of Directors**

A Director may be removed with or without cause by vote of a majority of a quorum of Owners. If the Owners propose to remove a Director, the Association shall give the Director and Owners at least 15 days' written notice of the meeting and the purpose of the meeting. The Director shall be given an opportunity to be heard at the meeting prior to the vote to remove him or her. At any meeting where a Director is removed by the Owners, the Owners must vote to replace the Director. The replacement will serve the remaining term of the removed Director.

Any Director who allows his or her assessments to become more than 90 days past due may be removed and replaced by vote of a majority of the Board. The Board shall give the Director 10 days' written notice to cure the default prior to voting to remove the Director.

### **3.5 Organization Meeting**

The Directors shall hold a meeting following the annual owners meeting for the purpose of electing officers. Notice of the organization meeting shall be given verbally at the annual meeting. The organization meeting shall be conducted at the next regular meeting of the Board or may be conducted at a special meeting.

### **3.6 Regular Meetings**

The Board shall hold regular meetings. The Board shall determine frequency, times, and locations of regular meetings. However, the Board shall conduct at least two regular meetings per year. Notice of regular meetings shall be given to each Director at least three days prior to the meeting.

### **3.7 Special Meetings**

A Director may call a special meeting of the Board. Notice shall be given at least three days prior to the meeting. Notice shall state the time, place, and purpose of the meeting.

### **3.8 Conduct of Meetings**

The President shall preside over all meetings of the Board. The Secretary shall take minutes of the Board meetings and shall make record of all resolutions.

### **3.9 Quorum**

A majority of the Board shall constitute a quorum. A quorum shall be required to conduct business at a meeting. If less than a quorum is present at a meeting, the majority of those present may adjourn the meeting until such time as a quorum is present. Once established, a quorum will be present even if Directors leave. Directors may attend a meeting telephonically, video calling, or through other real-time (or near real-time) electronic communication.

### **3.10 Notice and Waiver of Meeting Notice**

Notice to Directors may be personally delivered, mailed, or delivered by any available electronic means, including, without limitation: text, email, fax, or posting on the website. Directors may waive notice of meetings in writing. A waiver shall be deemed equivalent to notice. Attendance of a Director at a meeting will be considered a waiver of notice, unless the Director attends to dispute notice. If all Directors are present at a meeting, notice of the meeting is waived and any business may be conducted.

### **3.11 Action without Meeting**

Any action by the Board may be taken without a meeting if all the Directors submit a written vote either for, against, or abstaining from the action. Written votes may be given in person, by mail, or electronically. The Association shall file the written votes with its record of minutes.

### **3.12 Powers and Duties**

The Board shall manage the affairs and business of the Association. The Board is vested with all power and authority necessary to administer the affairs of the Association in accordance with the Governing Documents. The Board may do any act required or allowed by the Governing Documents, the Community Association Act, the Nonprofit Act, or any other rule of law.

Subject to the limitations contained in the Declaration, Bylaws, or Community Association Act, the Board shall have the following authority:

- 3.12.1 Prepare an annual budget and establish what constitutes a Common Expense;
- 3.12.2 Adopt and amend rules, regulations, policies, and procedures governing the Common Areas, administration of the Association, and to enforce and interpret the Governing Documents;
- 3.12.3 Delegate authority to a managing agent to act on behalf of the Association;
- 3.12.4 Provide for the maintenance, repair, and replacement of the Common Areas;
- 3.12.5 Hire, contract for, and terminate personnel or contractors necessary for the maintenance repair and replacement of the Common Areas and administration of Association

business. Provide for the compensation of personnel. Purchase supplies, equipment, and materials for use in the Association;

3.12.6 Open and maintain bank accounts on behalf of the Association. Designate authorized signers for the bank accounts;

3.12.7 File lawsuits or initiate other legal proceedings on behalf of the Association;

3.12.8 Defend lawsuits, administrative actions, and other legal proceedings against the Association;

3.12.9 Pay costs of any services rendered to the Project or multiple Owners, but not billed to the Owners individually;

3.12.10 Keep books with detailed accounts of the receipts and expenditures of the Association. Make the books available to the Owners as required by the Community Association Act and Nonprofit Act. The books shall be kept in accordance with generally accepted accounting practices. Upon resolution by the Board, retain an independent auditor to audit the books;

3.12.11 Grant easements, licenses, or permission over, under, and through the Common Areas;

3.12.12 Upon approval by 67% of the ownership interest in the Common Areas, to convey Common Areas;

3.12.13 Create committees;

3.12.14 Any other act allowed or required by the Governing Documents, the Community Association Act, or the Nonprofit Act;

3.12.15 Any act allowed or required to be done in the name of the Association.

### **3.13 Manager**

The Board shall employ the manager selected by the Master Association. The Board may delegate to the manager all powers granted to the Board and officers by the Governing Documents. However, the manager must obtain the Board's written consent to exercise the powers listed in Bylaw Sections 3.12.2, 3.12.6, 3.12.7, 3.12.8, 3.12.11, 3.12.12.

### **3.14 Compensation**

Directors shall not be compensated for their work. However, Directors may seek reimbursement for actual costs and mileage incurred during their service.

### **3.15 Limitation of Liability**

The Directors shall not be liable to the Owners for any mistake of judgment, negligence, or other errors, unless it was by willful misconduct or criminal conduct. The Association shall indemnify and hold the Directors harmless against liability to third parties for actions taken on behalf of the Association, while acting in their capacity as Director, unless the action constitutes willful misconduct or criminal conduct.

## **4 OFFICERS**

### **4.1 Election and Term of Officers**

The Board shall elect the officers of the Association. Officers shall be elected from the Directors. Officers shall serve one-year terms and shall serve until their successor is elected.

### **4.2 Removal of Officers**

The Board may remove any officer with or without cause by affirmative vote of a majority of a quorum of the Board. If an officer is removed, the Board shall replace them.

### **4.3 Offices**

The Association officers shall be president, vice president, secretary, and treasurer. The Board may appoint assistant officers, who need not be Directors, as it may deem necessary. Except for the president, the same person may hold two offices.

#### **4.3.1 President**

The president shall be the chief executive officer. The president shall preside at meetings of the Association and the Board and shall be an unofficial member of all committees. The president shall have general and active management of Association business. He or she shall see that all resolutions and policies of the Association are executed. Additionally, the president shall serve on the Board of Directors of the Master Association unless the Board appoints a different officer to serve on the Board of Directors of the Master Association.

#### **4.3.2 Vice President**

The vice president shall perform the duties and exercise the powers of the president in the absence or disability of the president. If the president and vice president are unable to act, the Board shall appoint a Director to fulfill the duties on an interim basis.

#### **4.3.3 Secretary**

The secretary shall attend all meetings and take minutes thereof. He or she shall also make record of all resolutions, rule, policies, and procedures. He or she shall give or cause to be given notice of all meetings. He or she shall compile or cause to be compiled a complete list of the owners and their contact information.

#### **4.3.4 Treasurer**

The treasurer shall oversee the finances of the Association. He or she shall be responsible to ensure that the Association has full and accurate records of income and expenses. He or she shall give financial reports at regular Board meetings and the annual Owners' meeting.

### **4.4 Delegation of Duties**

The Association officers may delegate any of their duties to a manager or to committee. However, the officers shall be responsible to oversee and ensure that the duties so delegated are being properly discharged.

### **4.5 Compensation**

Officers shall not be compensated for their work. However, officers may seek reimbursement for actual costs and mileage incurred during their service.

## **5 NOTICE**

### **5.1 Manner of Notice**

All notices and other communications required under the Governing Documents shall be in writing.

- 5.1.1 Notices to Owners may be delivered using the following methods:
- 5.1.1.1 By professional courier service or First-class U.S. mail, postage prepaid, to the address of the Lot or to any other address designated by the Owner in writing to the Association;
  - 5.1.1.2 By hand to the address of the Lot or to any other address designated by the Owner in writing to the Association;
  - 5.1.1.3 By posting on the Association website; or
  - 5.1.1.4 By facsimile, electronic mail, or any other electronic means to an Owner's number or address as designated by the Owner in writing to the Association or used to communicate with the Association.
- 5.1.2 Notice to the Association may be delivered using the following methods:
- 5.1.2.1 By professional courier service or First-class U.S. mail, postage prepaid, to the principal office of the Association as designated in writing to the Owners; or
  - 5.1.2.2 By facsimile, electronic mail, or any other electronic means to the Association's official electronic contact as designated in writing to the Owners.
  - 5.1.2.3 Notices sent via courier or mail shall be deemed received 3 days after being sent. Notices hand delivered or sent via electronic means shall be deemed received upon delivery or being sent.

## **5.2 Waiver of Notice**

Whenever any notice is required under the Governing Documents, the Community Association Act, or the Nonprofit Act, an owner may waive notice in writing. The waiver may be signed before or after the time for notice. A waiver of notice shall be equivalent to notice.

## **6 FINANCES**

### **6.1 Fiscal Year**

The fiscal year of the Association shall be the calendar year.

### **6.2 Checks, Agreements, Contracts**

All checks, contracts deeds, leases, and other instruments used for expenditures or obligations over \$500.00 shall be executed by two officers, or by one officer and the manager. All instruments for expenditures of obligations less than \$500.00 may be executed by one officer and any other person authorized by the Board.

### **6.3 Availability of Records**

Association financial records shall be available as provided by the Community Association Act and Nonprofit Act.

## **7 AMENDMENT TO BYLAWS**

### **7.1 Amendments**

These Bylaws may be amended by the Board, unless it would result in changing the rights, privileges, preferences, restrictions, or conditions of a membership class as to voting, dissolution, redemption, or transfer by changing the rights, privileges, preferences, restrictions, or conditions of another class. These Bylaws may also be amended by a majority vote of a quorum of the Owners.

### **7.2 Recording**

Any amendment to these Bylaws shall become effective on the date it is recorded in the Davis County Recorder's Office.



## **8 MISCELLANEOUS**

### **8.1 Office**

The principal office of the Association shall be located at any place within the State of Utah which may be designated from time to time by the Board.

### **8.2 Conflicts**

The Bylaws are subordinate to any conflicting provisions in the Community Association Act, the Nonprofit Act, the Articles, the Map, or the Declaration. The Bylaws are superior to the rules, regulations, and policies of the Association.

### **8.3 Severability**

If any provision of these Bylaws is held by a court of law to be invalid, the validity of the remainder of these Bylaws shall not be affected.

### **8.4 Waiver**

No provision of these Bylaws shall be deemed to be waived because of a failure to enforce the provision.

### **8.5 Captions**

The captions contained in these Bylaws are for convenience only. The captions shall not be used to interpret, limit, or enlarge the provisions of these Bylaws.

### **8.6 Gender, etc.**

Whenever the context so requires, the singular shall include the plural and vice versa. The use of any gender shall include all genders.

IN WITNESS WHEREOF, the Association has caused these Bylaws to be executed by its duly authorized officers.

\*\*\*SIGNATURES AND ACKNOWLEDGEMENT TO FOLLOW\*\*\*

DATED: 6-6-19.

**Pineae Village Patio Homes Homeowners Association, Inc.**

By: [Signature]

Its: H2A Board Member

STATE OF UTAH )

County of Davis ) :ss.

On this 6th day of June, 2019, personally appeared before me Terry Turner who being by me duly sworn, did say that they are the authorized agent of the Association authorized to execute these Bylaws and did certify that these Bylaws were approved by the Association's members.

[Signature]  
NOTARY PUBLIC

