

Hardware Park Mountain Estates



2015
2012

Bylaws

Restrictive Covenants

Table of Contents

BYLAWS	2
Article I - Definitions	4
Article II - Identity	8
Article III – Governing Instruments	8
Article IV - Security	9
Article V – Membership and Membership Rights	10
Article VI – Meetings of General Membership and Board	11
Article VII – Nomination of Officers	13
Article VIII – Selection and Removal of Association Officers	13
Article IX – Board Members, Adjunctive Staff and Their Duties	15
Article X – Parliamentary Procedure within the Board of Trustees	17
Article XI – Association Books and Records	18
Article XII - Assessments	18
Article XIII – Claims of Nuisances or Failure to Comply with Association Bylaws and Restrictive Covenants	19
Article XIV – Penalties for Failure to Adhere to Association Bylaws, Restrictive Covenants and/or Causing Nuisance	20
Article XV – Water Resources	21
Article XVI – Reserved	21
Article XVII - Amendments	21
Article XVIII – Endorsement	22
RESTRICTIVE COVENANTS	23
Section I - Identity	24
Section II - Roadways	24
Section III – Roadways [New Construction	25
Section IV - Land Use	25
Section V – Right of Enforcement	28
Section VI - Invalidation	29
Section VII - Amendment	29
Section VIII - Reserved	29
Section IX - Endorsement	30
INDEX	31

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ARTICLE I - DEFINITIONS

1.1 Definitions:

<u>Adjunctive Staff</u>	Staff appointed by and serving the president of the Association including but not limited to: <ul style="list-style-type: none"> • The secretary • The treasurer • The water system manager
<u>Assessment</u>	The fee charged each member lot owner annually for the first lot owned and any subsequent additional improved lot.
<u>Association Managed Property</u>	Lots, roads, water systems with the Association boundary.
<u>Association Road or Roadway</u>	Any road or roadway constructed by the developer at the time of incorporation to provide lot owner access to each lot.
<u>Association Website</u>	A website maintained by the Association facilitating communication between its membership and its governing officers. [Currently: www.hpme.org]
<u>Association, the</u>	Unless otherwise defined, all references to Association refer to the Hardware Park Mountain Estates Landowners' Association.
<u>Board, the</u>	The Board of Trustees of the Association consisting of: <ul style="list-style-type: none"> • The president • Seven (7) elected trustees
<u>Buyer, the</u>	Any individual seeking to purchase property managed by the Association.
<u>Bylaws, the</u>	That set of regulations that establishes and defines membership, government, the right to assess and other operating protocols of the Association.
<u>County, the</u>	Unless otherwise stated, this term refers to Cache County in the State of Utah.
<u>Culinary Water Use</u>	The use of water for household uses only. No irrigation.
<u>Defensible Space [fire]</u>	A thirty (30) foot clearing of burnable materials and the establishment of low-growing green vegetation acting as a buffer to fire.
<u>Governing Documents</u>	The Articles of Incorporation, the Bylaws, the

<u>of the Association</u>	Restrictive Covenants, and the Water Site Plan of the Association
<u>Guest</u>	All individuals not identified as immediate family.
<u>HPME</u>	Hardware Park Mountain Estates
<u>Hue</u>	The basis of a color, e.g. whether it is a red or green.
<u>Immediate Family</u>	These relations to the member landowner(s): Spouse Sons and daughters and their spouses Grandchildren and their spouses Parent of the member landowner(s) and his/her spouse's parents.
<u>Improved Lot</u>	A lot which has been improved with any permanent structure or infrastructure.
<u>Laws of Incorporation</u>	The Nonprofit Mutual Benefit Corporation Law of the State of Utah
<u>Lot</u>	One lot equals ten acres.
<u>Meetings, general</u>	Any and all gatherings of the general membership of the Association.
<u>Member Lot Owner</u>	Any and all individuals who can make legal claim to at least one lot of landownership within the boundaries of the Association.
<u>Member Lot Owner in Good Standing</u>	Any member lot owner current with all dues, fees and assessments and no unresolved disciplinary actions or penalties outstanding within the Association.
<u>Member Mailing Address of Record</u>	The last surface mail address recorded for any member lot owner for use in communication with the Association.
<u>Nonmember Lot Owner</u>	Any and all individuals who can make legal claim to landownership outside of Association boundaries.
<u>Nuisance</u>	Any personal or collective misuse of property, inappropriate conduct and/or act of any member or nonmember lot owner, his/her immediate family or guests that damages, annoys vexes or harms others or their property.
<u>Off-Road Travel</u>	Any vehicular or ATV travel on unimproved land other than on Association established roadways.
<u>Private Road or Roadway</u>	Roads constructed by lot owners on their lot and/or a right-of-way across a lot given to another lot owner to access his lot.
<u>Proxy</u>	An agent or substitute authorized to act for another person certified by document which authorizes the agent so to act, in behalf of the member lot

	owner. Assignment of proxy shall be limited to immediate family members and other member landowners and must be recorded on the proxy form available on the Association website: www.hpme.org .
<u>Quiet Time Hours</u>	That period of time daily between 11:00 p.m. in the evening until 7:00 a.m. in the morning.
<u>Quorum, Board of Trustees</u>	Four (4) members of the Board present, excluding the president of the Association.
<u>Quorum, General Membership</u>	Fifteen percent (15%) of lot owner membership either present or with written proxy representation.
<u>Recreational Travel</u>	Any vehicular or ATV travel across Association or private roadways or trails for enjoyment.
<u>Restricted Right of Passage</u>	The right of conveyance upon Association developed and maintained roadways through and beyond Association developed and maintained security gates including a prescribed route to gain access to nonmember properties.
<u>Restrictive Covenants, the</u>	The set of regulations that establishes and defines permitted as well as non-permitted land use within the Association.
<u>Right of Passage</u>	The right of conveyance upon Association developed and maintained roadways through and beyond Association developed and maintained security gates without limitation or restriction in route.
<u>Security Gate Keys</u>	Keys owned and maintained by the Association that are issued to member and nonmember lot owners.
<u>Seller, the</u>	Any member landowner of the Association offering his property for sale to another.
<u>State, the</u>	Unless otherwise stated, this term refers to the State of Utah.
<u>Temporary Housing</u>	Any mode of housing restricted to less than a single year before it must be removed from Association managed properties.
<u>Unimproved Lot</u>	Any and all lots that contain only the improvements made to the lot in the form of Association maintained rights- of-way.
<u>Value [color]</u>	Refers to how dark or light [bright] a color is.
<u>Work Credit Program</u>	Adopted in March 2014 allowing members to voluntarily perform a task benefiting all for credit against the following year's assessments; credits and tasks to be determined yearly by resolution of the Board.

NOTES

ARTICLE II - IDENTITY

2.1 Restatement and Amended Bylaws: These are the Bylaws of the Hardware Park Mountain Estates Landowners' Association to be hereafter referred to as "the Association". It is hereby determined that all articles of the Association have been amended and restated to read as of this date:

Wednesday, March 25, 2015

2.2 Nonprofit Status: The Association is a nonprofit, mutual benefit organization, which is established under the Nonprofit Mutual Benefit Corporation Law of the State of Utah.

2.2.1 Profit/Loss of the Association: No part of the net earnings of the Association shall benefit any private member lot owner or individual, other than by acquiring, constructing, or providing management, maintenance, and care of property held by the Association, or by a rebate of excess membership dues, fees or assessments.

2.2.2 Compensation of Association Officers and Other Staff: Officers and staff members serve voluntarily as an expression of good will. No officer or staff member of the Association shall be compensated for service other than the simple reimbursement for expenses incurred by any such officer or staff member for and on behalf of the Association. Officers and staff may participate in the Work Credit Program.

2.3 Fiscal Year: The fiscal year of the Association shall begin on the first day of April and end on the 31st day of March each succeeding year.

2.4 Specific and Primary Purpose of the Association: The specific and primary purpose for the formation of the Association is to secure and manage, in a cooperative manner the real properties of its member lot owners, and any real or other properties owned collectively within the Association.

2.5 Reserved:

ARTICLE III – GOVERNING INSTRUMENTS

3.1 Subjectivity to State and County Laws and Ordinances: Except where Association rules are more restrictive than State and County laws and ordinances, all State and County regulations shall be in full force on Association properties.

3.1.1 Law Enforcement: All member lot owners, their immediate family and guests shall be subject to lawful actions of State and County officials within Association boundaries.

3.2 Governing Documents: The Association shall provide for its member lot owners copies of these bylaws, restrictive covenants, and all and any

other governing documents. These documents shall be made available upon request of the secretary of the Association, or may be obtained at a website maintained by the Association. [Currently: www.hpme.org]

3.2.1 Conveyance of Governing Documents at the Time of Land Ownership Change: Prior to the time of sale, the seller shall be responsible to provide any and all potential buyers with copies of these bylaws and restrictive covenants. The Association shall be held harmless for any miscommunication between buyer and seller concerning the content of all governing instruments.

3.3 Recording of Bylaws and Restrictive Covenants with the County:

These bylaws and restrictive covenants and any amendments to these documents shall be recorded with the County and shall be in effect immediately and into futurity upon endorsement of the Board and ratification of a quorum of the general membership.

3.4 Reserved:

ARTICLE IV – SECURITY

4.1 Security Gate Keys: All security gate keys are to be numbered, registered and remain the property of the Association and are issued based on assessment.

4.2 Issuance of Security Keys to Member Lot Owner(s): A member lot owner in good standing shall be issued two (2) keys for the first lot owned, improved or unimproved, at no charge.

4.2.1 Additional Security Gate Keys Issued per Improved Lot: Each additional improved lot owned by a member lot owner(s) shall receive two (2) keys at no charge.

4.2.2 Additional Security Gate Keys Issued per Unimproved Lot: Each additional unimproved lot owned by a member lot owner(s) shall receive no additional keys based on assessment levied.

4.2.3 Charges and Limits for Additional Security Gate Keys per Lot: Charges for and a limitation in the number of additional security keys per lot shall be established by resolution of the Board.

4.2.4 Loaning of Security Gate Keys by Member Lot Owners: Member lot owners will be held liable and penalties imposed for the actions of immediate family and guests involved in misuse of security gate keys. [See Restrictive Covenants Section 4.5.4 restricting the loaning of security gate keys to guests for the purpose of hunting.]

4.2.5 Failure to Secure Security Gates: Failure to secure any security gate by a member, his immediate family or any and all guests after gaining ingress or egress is a breach of Association bylaw. A penalty shall be assessed the member lot owner following discovery of the first offense. Such penalty shall be established by resolution of the Board. [see Article XIV]

- 4.2.6 Conveyance of Security Gate Keys at the Time of Ownership Change: Any and all keys issued to a prior member lot owner(s), shall be returned by the seller to the Association treasurer for redistribution to the buyer by the treasurer.
- 4.3** Issuance of Security Gate Keys to Nonmember Lot Owners: Nonmember lot owner(s) are to be issued one (1) key. There is to be no charge for this key.
- 4.3.1 Restricted Right of Passage Granted to Nonmember Lot Owners: With the issuance of any security key to a nonmember lot owner(s), a restricted right of passage is granted. No other rights are offered or implied.
- 4.4** Reserved:

ARTICLE V – MEMBERSHIP and MEMBERSHIP RIGHTS

- 5.1** Membership: Membership in the Association requires ownership of at least one lot within HPME. All lot owners are members of the Association, without exception.
- 5.1.1 Joint Membership: When more than one person holds interest in any lot, all such persons shall be considered members. The voting rights for such a lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any one lot assessment.
- 5.2** Voting Rights: Each member lot owner is entitled to voting rights based on the following assessment schedule:

Lot Description	Assessments Levied	Voting Rights
First lot, improved or unimproved.	One annual membership dues assessment. One annual road maintenance assessment. One, special assessment, if levied by the Board.	One vote.
Additional lots, improved	One annual membership dues assessment. One annual road maintenance assessment. One, special assessment, if levied by the Board.	One additional vote per lot.
Additional lots,	No additional dues.	No additional

unimproved	No additional road maintenance assessment. No participation in any special assessment, if levied by the Board.	votes.
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- 5.3 **Unrestricted Right of Passage:** All member lot owners in good standing are granted unrestricted access to all Association roadways.
- 5.4 **Common Ownership in Shared Water Rights:** All member lot owners in good standing are granted access to all Association owned and operated water resources for culinary use only.
- 5.5 **Reserved:**

ARTICLE VI – MEETINGS OF GENERAL MEMBERSHIP AND THE BOARD

- 6.1 **General Business Meetings:** The general business meetings of Association members are open to all who have interest. The business meetings of Association members for the election of Association officers and for the transaction of such other business that may properly come before the membership, shall be held within thirty (30) days of the third Thursday of March each year at such time and place as reasonably determined by the Board. Representation at this gathering of member lot owners is a requirement of the Work Credit Program. Representation may be by proxy as described in 6.5 of these Bylaws. If deemed necessary, the Board also has the option of holding a second business meeting within thirty (30) days of the third Thursday of September each year at such time and place as reasonably determined by the Board.
- 6.2 **Notice of General Meetings:** Written notice of each meeting of the members shall be given, by the secretary, by mailing a copy of such notice, postage paid, at least thirty (30) days before such meeting to each member entitled to vote thereat, addressed to the member’s mailing address of record, or to such address supplied by such person to the Association for the purpose of notice. Such notice shall specify the date, place and hour of the meeting and its agenda.
- 6.3 **Special General Meetings:** Special meetings of the members for any lawful purpose and at any time shall be scheduled in response to a call by the president, by the board of trustees, the majority of the members of any one administrative committee, or upon receipt of a written request signed by members holding five percent (5%) of the voting power of the Association. Such meetings must be dully noticed and held not less than thirty-five (35) days nor more than forty-five (45) days after the request is

received by the president or secretary of the Association. The secretary is to give timely notice of such meeting. If notice is not given by the secretary within twenty (20) days of the receipt of such request, then the requesting body or person(s) may give notice to the president of the Association.

- 6.4 Establishment of a Quorum for General Meetings:** The presence at any general meeting of the members entitled to cast, or of proxies entitled to cast, fifteen percent (15%) of the voting power of said membership shall constitute a quorum for any action, except as otherwise provided in the Articles of Incorporation for these bylaws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have the power to adjourn the meeting. The meeting shall be reconvened within 45 days with no less than 30 days written notice to the membership.
- 6.5 Representation by Proxy:** At all meetings of members, each member in good standing may vote or be represented by proxy. All proxy shall be in writing and filed with the secretary or president prior to the meeting being called to order. Every proxy shall be revocable and shall automatically cease upon conveyance of the member lot owner's property to another owner.
- 6.6 Minutes of General Meetings:** The secretary shall keep an accurate written record of general meetings, making such minutes available to the general membership on the Association website.
- 6.7 Meetings of the Board of Trustees:** Meetings of the Board shall be scheduled, established and held within the odd numbered months of each year under the direction of the president of the Association. (January, March, May, July, September and November)
- 6.8 Special Meetings of the Board of Trustees:** Special meetings of the Board may be held when called by the president of the Association, or by any three Board members, after not less than three (3) days notice to each Board member by the secretary of the Association.
- 6.9 Establishment of a Quorum for Board Meetings:** A majority of the members of the Board (4) shall constitute a quorum for the transaction of business. Every act or decision made by a quorum of the Board shall be regarded as an act of the Board of the Association.
- 6.10 Reserved:**

ARTICLE VII – NOMINATION OF OFFICERS

- 7.1 Nomination of Officers at the Annual March General Meeting of Member Lot Owners:** Nomination for office of member lot owners in good standing may be made from the floor at the annual March general

meeting of member lot owners. Any such nomination shall be added to the ballot at that time, and prior to any election.

7.2 Nomination of Officers Prior to the March General Meeting From Member Lot Owners at Large: Nomination to any office may be made by any member lot owner in good standing. Notice of such nomination is to be filed in writing with the secretary of the Association, forty-five [45] days prior to the March general meeting of member lot owners.

7.3 Establishment of a Nominating Committee To insure a viable pool of nominees to fill necessary vacancies, a nominating committee may be established each year in January prior to the March general meeting of member lot owners and serve until the conclusion of said meeting. This committee is to be chaired by a current officer of the Association appointed by the Association president. Additional members of this committee shall also be appointed by the president. The number of appointments to said committee shall be equal to that number deemed necessary by the Board and established by resolution. These appointments may be officers or come from the general membership of lot owners of the Association.

7.4 Reserved:

ARTICLE VIII – SELECTION AND REMOVAL OF ASSOCIATION OFFICERS

8.1 Voting by Proxy: A vote cast by proxy may only be certified when an immediate family member or another member lot owner in good standing holds the official written proxy declaration signed by the absentee property owner. Such proxy notice shall be available for download at: www.hpme.org.

8.1.1 Certification of Proxy: Only those proxy notices received and recorded by the secretary of the Association prior to a call to order of the president of the Association at any meeting of member lot owners, shall be declared certified. Any challenge to the legitimacy of any proxy related to timeliness or qualification shall be granted due process by the Board under Article XIII of these Bylaws.

8.2 Election of Association Officers: Election of officers shall be an agenda item of the annual March general meeting of member lot owners, and be conducted by secret ballot administered by the secretary of the Association. At such 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 these bylaws. [see Article 5.2]

8.2.1 Election Voter Credentialing: Any challenge of election voter credentials shall be reviewed by the secretary of the Association and presented to the sitting Board for action.

8.2.2 Confirmation of Election Results: The member lot owner receiving the highest number of votes from the general membership present or by proxy, for each vacancy, shall be declared elected.

8.3 Length of Term of Service of Officers: The officers of the Association shall be elected for the following length of term:

- President: three (3) years
- Board member: two (2) years

8.3.1 Reelection Following Any Term of Service: If the president, or any board member is a member lot owner or immediate family member in good standing, , he/she may be reelected for another term of office without restriction.

8.3.2 Removal of Any Elected Officer from Office: Any Association officer may be removed from office, without cause, by a majority vote of the general membership forming a membership quorum. Any officer of the Association or administrative committee member having not attended three (3) consecutive meetings of the Board or administrative committee may be removed from office by vote of the Board.

8.3.3 Vacancy Appointment of Officers: In the event of death, resignation or removal from office of any Association officer, the remaining Board shall have power to appoint a successor to fulfill the unexpired term of his/her predecessor with the exception of the president. If the president is unable to fulfill his term of office, the Chairman of the Board shall assume those responsibilities until an election can be held at the next March general meeting of the membership.

8.4 Reserved:

ARTICLE IX – BOARD MEMBERS, ADJUNCTIVE STAFF AND THEIR DUTIES

9.1 Association Officers: Officers shall be elected and consist of a president and seven (7) trustees who shall at all times be member lot owners in good standing or a member of the immediate family as defined within these bylaws and assigned by the member lot owner. Written power of proxy must be on file with the secretary of the Association at all times that the proxy family member is serving as an officer.

9.1 Other Adjunctive Offices: The president shall have power, after consultation with the Board, to create and appoint a secretary, treasurer, water system manager and any other position as may from time to time be deemed necessary to assist the president and the Board in the fulfillment of their duties. Such positions and appointments serve at the pleasure of the president and are established and dissolved by resolution of the board. Such appointed positions shall at all times be member lot owners in good standing within the Association

9.2 The President of the Association: The president is the chief executive officer of the Association and is responsible to see that the purposes of the Association are fulfilled. [see Article 2:4] He/she convenes and chairs all meetings of the general membership and Board. It is the duty of the president to see that the orders and resolutions of the Board are fulfilled. The president is authorized to sign all leases, mortgages, deeds and other written instruments on behalf of the Association. The president appoints all non-elected staff after consultation with the Board. The president has general oversight responsibilities for the administrative committees of the Association, appointing one member of the Board to supervise the actions of each committee. The president is responsible, after consultation with the Board, for the appointment of others from the general membership of the Association to these committees.

9.2.1 Standing Administrative Committees of the Association: The following are standing administrative committees of the Association:

- Activities
- Health and Water
- Communication
- Planning and Development
- Roads and Maintenance
- Security and Fire
- Any and all committees established by the Board by resolution.

9.3 The Chairman of the Board: The Chairman shall act in the place and stead of the president in the event of his/her absence, inability or refusal

- to act. The Chair is a voting member of the Board and is appointed and serves at the pleasure of the entire Board of Trustees.
- 9.4 Member of the Board of Trustees:** Each member of the Board shall be assigned by the president a supervisory role to one of the administrative committees of the Association and report on the progress being made by this committee at each bimonthly meeting of the Board. Each board member shall present a committee report that includes a recital of completed projects for the year, as well as a plan and budget for the upcoming year. This report is presented to the body membership at the annual March meeting of the member lot owners of the Association.
- 9.4.1 Regularity of Administrative Committee Meetings: Each member of the Board is to convene meetings of the various committees in harmony with the requirements of the Work Credit Program.
- 9.5 The Secretary of the Association:** The secretary of the Association is appointed by the president after consultation with the Board and serves the president without term. The secretary shall record and keep accurate minutes of all general meetings as well as the proceedings of the Board; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of all meetings of the Board and of the general membership; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.
- 9.6 The Treasurer of the Association:** The treasurer is appointed by the president after consultation with the Board and serves the president without term. The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association; shall disburse such funds as directed by resolution of the Board; sign checks; keep proper records documenting the reconciliation of accounts; prepare an annual budget and financial statement to be presented at the annual March meeting of the general membership, and issue all keys to security gates to member and nonmember lot owners keeping an accurate record of the same.
- 9.7 The Water System Manager:** The water system manager is appointed by the president, after consultation with the Board, and serves the president without term. The water system manager fills a standing position within the Health and Safety Committee. The water system manager is charged with the supervision of regular testing of all water resources belonging to the Association according the current water site plan. He/she is also charged with the operation of all Association owned water resources according to the current water site plan in consultation with the Bear River Health Department.
- 9.8 Reserved:**

ARTICLE X – PARLIAMENTARY PROCEDURE WITHIN THE BOARD OF TRUSTEES

10.1 The Role of the President: The President of the Association is the chief executive officer, fully participating in all matters. The president, however, does not vote, except in the case of a tie vote among a quorum of the Board. The president's presence cannot create a quorum of the Board.

10.2 Voting Members of the Board: All seven (7) members of the Board shall be entitled to cast one vote regarding any action or decision of the body including the chairman of the Board.

10.2.1 Voting Rights of Adjunctive Staff Members: Any staff position appointed by the president of the Association has no voting right on the Board.

10.2.2 Abstentions or Absences from any Vote: Abstentions or absences, deliberate or not, shall not impact the vote. In the case of a tie, with a quorum of the board present, the president may break any tie.

10.3 Decisions of the Board: All actions of the Board require a quorum of the Board to be present. All decisions and actions of the Board are to be initiated by motion from within the Board. A seconding of this motion is required. Once a second has been obtained, the president shall immediately call for any final discussion and a final vote. If in the opinion of the president any action or decision of the Board appears to have unanimous support or objection, the president may call for a vote of common consent without motion.

10.3.1 Recording of Decisions of the Board at Regular Board Meetings: The decisions and actions of the Board shall be recorded in the minutes of that body, kept and maintained by the secretary of the Association. Such minutes shall be shared with all members of the Board within a week following any such meeting of the Board, and posted on the Association website for review by the general membership of HPME.

10.3.2 Emergency Decisions: The president of the Association has authority to act in an emergency, life or limb decision for which time is of the essence. Such decision must involve the immediate security, health and safety, or other issue for which there is not time to convene a quorum of the Board. In any case, the president of the Association shall make his decision known to the other officers of the Association within 48 hours.

10.4 Decisions of the Board Outside of a Regularly Scheduled Board Meeting: A quorum of the Board shall have the right to take any actions outside of a regularly scheduled meeting of the Board, which they could take at any such meeting, by obtaining the written approval of each member constituting the quorum. Any action so approved shall have the same effect as though taken at a regularly scheduled meeting of the Board. Written approval, coming from members of such a quorum, shall be deposited and recorded by the secretary of the Association, and

become part of the regular minutes of the decisions and actions of the Board.

10.5 Reserved:

ARTICLE XI – ASSOCIATION BOOKS AND RECORDS

11.1 The Role of Adjunctive Staff in Creating Association Records and Books: All adjunctive staff serve at the request of president of the Association and are charged with the maintenance of the following records:

11.1.1 The Secretary of the Association: The secretary of the Association shall record and maintain the most current directory of the member lot owners, minutes of all general membership and board meetings, and maintain and update copies of the governing documents of the Association.

11.1.2 The Treasurer of the Association: The treasurer of the Association shall record and maintain the most current financial data of the Association including bank accounts, financial statements, and records of member lot owner payment of dues, fees and assessments. The treasurer shall also maintain a log of security key assignment to member and nonmember lot owners.

11.1.3 The Water System Manager: The water system manager of the Association shall keep, or cause to be kept, a log of testing and maintenance procedures performed on all Association owned and improved water resources.

11.2 Inspection of Records and Books: All governing documents, records and books of the Association shall at all times, during reasonable business hours, be subject to inspection by any member lot owner.

11.3 Reserved:

ARTICLE XII – ASSESSMENTS

12.1 Power of Assessment: The power of financial assessment of member lot owners is granted to the Board.

12.1.1 Fees, Dues and Assessments Established by Resolution of the Board: All fees, dues and assessments, either special or otherwise, are to be reviewed and established by resolution of the Board annually at the January meeting.

12.2 Member Lot Owner Obligation for Fees, Dues and Assessments: Association member lot owners are obligated to pay annual Association dues as well as a road maintenance assessment or any other special assessment levied by the Board.

12.2.1 Due Date of Annual Fees and Assessments: All fees and assessments are due and payable on April 1st each year.

12.2.2 Past Due Status: Any fee or assessment not paid and recorded by the treasurer of the Association by September 1st each year shall be considered past due.

12.2.3 Default Status: Any fee or assessment not paid and recorded by the treasurer of the Association by March 31st of the next year shall be considered in default.

12.2.3.1 Penalties Levied for Fees and Assessments in Default:

- A ten percent (10%) penalty for all fees and assessments remaining unpaid from previous years shall be assessed each member lot owner each year such monies remain in default.
- All costs associated with the collection of any and all default fees and assessments, including but not limited to penalties, interest, reasonable attorney fees, court costs and liens, shall be the responsibility of the member lot owner.
- No new or additional security keys shall be issued to any member lot owner having fees and assessments in default.

12.3 Nonmember Lot Owner Obligation for Road Maintenance Assessment: Nonmember lot owners possessing property beyond Association boundaries are obligated to the annual road maintenance assessment levied member lot owner properties and gain the following rights:

- Restricted Right of Passage
- One Security Key

12.4 Reserved:

ARTICLE XIII – CLAIMS OF NUISANCES OR FAILURE TO COMPLY WITH ASSOCIATION BYLAWS AND RESTRICTIVE COVENANTS

13.1 Registering Nuisance and Other Claims: All claims of nuisance or failure to comply shall be noticed in writing to any officer of the Association not more than fifteen (15) days from any incident or the discovery of such incident of nuisance.

13.2 Establishment of Due Process: The Board shall assign two of its members to investigate any and all claims of nuisance or failure to comply once notice has been given.

13.2.1 Owner Lot Owner to Know Accuser: A member lot owner noticed for failure to comply or for nuisance has a right to know his/her accuser.

13.2.2 Owner Lot Owner Right to be Heard by a Quorum of the Board: A member lot owner noticed for failure to comply or for nuisance has a right to be heard by a quorum of the Board prior to any disciplinary action is levied.

- 13.2.3 Right of Review by the Board: Any and all claims of nuisance or failure to comply shall be subject to an appellate review by the entire Board if requested by the member lot owner given notice.
- 13.2.4 HPME Held Harmless: The Association and its officers are to be held harmless in such review.
- 13.2.5 Communication of Review Results: The officers of the Association shall report the results of their review in writing by certified mail to all parties involved, not more than 90 days from the time of notice.

13.3 Reserved:

ARTICLE XIV – PENALTIES FOR FAILURE TO ADHERE TO ASSOCIATION BYLAWS, RESTRICTIVE COVENANTS AND/OR CAUSING NUISANCE

14.1 Penalties and Disciplinary Actions to be Uniform: The Board shall adopt the following procedure in levying judgment:

- 14.1.1 First Offense: A written notification and warning of misconduct from the Board shall be given within 15 days of final review of the Board. [see Article 13.2 and Article 13.3]
- 14.1.2 Second Offense or Violation: The Board shall determine by resolution any and all monetary penalties and written notification shall be sent within 15 days of the final review of the Board to the member lot owner noticed by certified mail. A property lien shall be prepared and recorded with the County. No new keys shall be issued to any member lot owner until the issue is resolved.
- 14.1.3 Failure to Respond: If after 90 days there is no response from the member lot owner, legal counsel will be sought by the Board. These costs, as well as all other collection costs, shall be borne by the member lot owner;

14.2 Reserved:

ARTICLE XV – WATER RESOURCES

15.1 Water Ownership: Water owned by deed and held “in common” by HPME is designated as a private water source for exclusive use of the Association.

- 15.1.1 No Claim to Water to be made by Nonmember Lot Owners: A nonmember lot owner has no claim to Association developed water resources. Any use of these resources without written permission of the Board constitutes theft and trespass.

15.2 Water Site Plan: The Board shall insure that all water resources are managed according to a water site plan developed by the officers of the

Association with consultation from time to time with the Bear River Health Department.

15.3 Reserved:

ARTICLE XVI – RESERVED

ARTICLE XVII – AMMENDMENTS

17.1 Proposition to Amend: Amendments to these bylaws may be proposed by any group representing five percent (5%) of the member landowners in good standing or by the Board.

17.1.1 Notice of Desire to Amend: Notice of a proposed change or amendment to these bylaws is to be submitted to the Board in writing listing the names and signatures of those from the memberships seeking that change.

17.1.2 Notice of Reason for Change: The request to amend shall contain a statement explaining the need for amendment.

17.1.3 Notice of Proposed Text Changes: As part of any submission for change, those proposing the change are charged with a first draft of any text to be altered, omitted or added to these bylaws.

17.2 Adoption of Amendments to These Bylaws: Adoption of any amendment to these bylaws shall require a majority vote of the entire Board at a previously held meeting of the Board of Trustees, followed by a majority of the vote cast at the March general meeting, either by proxy or by those being present at said meeting.

17.3 Reserved:

ARTICLE XVIII – ENDORSEMENT

IN WITNESS WHEREOF, we being the members of the Board of Trustees of the
HARDWARE PARK MOUNTAIN ESTATES, have hereunto set our hands this
the

25th Day of March 2015

President

Chairman of the Board

Board Member

Board Member

Board Member

Board Member

Board Member

Board Member



***Restrictive
Covenants***

RESTRICTIVE COVENANTS

SECTION I IDENTITY

- 1.1 Identity:** These are the restrictive covenants of the Hardware Park Mountain Estates landowners' association, hereafter referred to as the Association.
- 1.2 Compliance:** All covenants and restrictions herein stated and set forth shall run with the land and shall be binding on all member lot owners, co-owners, and immediate family and guests.
- 1.3 Reserved:**

SECTION II ROADWAYS

- 2.1 Easement:** An easement is hereby reserved over, on and through the Association for the construction, installation, and continued maintenance, repair, reconstruction, replacement and removal of such water pipeline and electrical distribution lines and circuits as may from time to time become necessary to serve water and electric installations located within the boundaries of Hardware Park Mountain Estates.
- 2.2 Association Roadways:** Original roads and rights-of-way having already been established within the Association are jointly owned and maintained by the Association.
- 2.2.1 Member Lot Owner Right of Unrestricted Right-of-Way:** Each member lot owner in good standing, his immediate family and guests, have a perpetual easement and right to travel all established Association roadways.
- 2.2.1.1 Ingress and Egress Rights:** Member lot owners, their immediate family and all guests, shall gain vehicular access to Association properties only through security gates owned and maintained by HPME.
- 2.2.1.2 Respect for Others:** All recreational vehicular travel is to remain on Association roadways. Travel on private roadways may be restricted by the member lot owners.
- 2.2.1.3 Recreational Off-Road Travel:** Recreational off-road travel is prohibited within Association boundaries.
- 2.2.1.4 Vehicular and ATV Travel:** Member lot owners, their immediate family and guests, shall cease all recreational travel on roadways during quiet time hours.
- 2.2.1.5 Vehicular and ATV Safety:** Member lot owners, their immediate family and guests, shall maintain prudent, safe, and controllable speeds on all

**Hardware Park Mountain Estates
Cache County, Utah
ByLaws & CCRs**

Association roadways, but at no time shall speeds exceed 15 miles per hour.

2.2.1.6 Altered Vehicles and ATVs: Vehicles and ATVs that have been modified with equipment that will damage Association roadways are prohibited from use.

2.2.1.7 Sound Levels: Vehicles and ATVs that generate sound levels greater than 85 decibels at the operator position are prohibited.

2.2.2 Roadway Maintenance and Cache County: The County does not own, nor is it obligated to improve or maintain, any Association owned right-of-way.

2.3 Reserved:

SECTION III ROADWAYS [NEW CONSTRUCTION]

3.1 Preconstruction Review and Approval: All changes or additions of roadways on properties contained within the Association shall be reviewed by the Planning and Development Committee and approved by a vote of a quorum of the Board.

3.1.1 Site Plan Requirement: A site plan for any additions to roadways shall be submitted to the Planning and Development Committee for review.

3.2 Post Construction Review: A post construction inspection by members of the Planning and Development Committee may be ordered by the Board as a construction requirement depending on the complexity of the changes and additions.

3.3 Reserved:

SECTION IV LAND USE

4.1 Lot Designation: Each and every lot shall be known and is hereby designated as a recreational cabin site.

4.1.1 Minimum Lot Size: Any recreational cabin site shall not be less than ten (10) acres.

4.1.2 Lot Fencing: No fences may be constructed around any lot perimeter. Corrals are permitted to contain animals, but must not exceed twelve hundred [1200] square feet in area.

4.2 Cabin Construction: No lot shall be improved, used or occupied for other than a private single family residence and shall be limited to two (2) stories above the natural grade.

- 4.2.1 Site and Building Plan Approval: Prior to any new construction and county permitting, site and building plan approval shall be obtained from the Planning and Development Committee.
- 4.2.1.1 Plans to Call Out Building Materials and Color: Plans for all structures erected, must include a list of materials and colors to be used for roofing and siding. All building materials shall blend with the natural environment. All roof and siding material shall be nonreflective. All siding materials or paint shall be earth tones, subdued in hue and value [saturation].
- 4.2.1.2 Minimum Cabin Size: No dwelling shall be permitted on any lot in which the floor space of that level at grade is less than three hundred and fifty (350) square feet.
- 4.2.1.3 Set Back of Residence: No residence or any type of approved building shall be erected on any lot nearer than forty [40] feet to an Association roadway, or thirty [30] feet to any property line.
- 4.2.2 County Permitting: All construction shall be subject to County regulations and permitting practices, except where Association policies are more restrictive.
- 4.2.2.1 Sewage and Drainage: All sewage and drainage regulations of the County and the Bear River Health Department shall be requirements within the Association.
- 4.3 Temporary Housing**: House trailers, tent trailers, campers, motor homes, and other common mobile forms of housing are approved for seasonal use only.
- 4.3.1 Removal of Wheels and Tires: No house trailer, tent trailer or motor home shall have its wheels or tires removed.
- 4.3.2 Maintenance: No form of temporary housing shall be allowed to fall into disrepair or abandoned.
- 4.3.3 Temporary Housing to be removed annually: All temporary housing shall be removed from Association property during the months of December, January, February and March. Any temporary housing left through this part of the year shall be subject to removal by the Association at the owner's expense.
- 4.3.4 Temporary Housing Limited to Member Lot Owner Lot(s): All temporary housing shall be limited to lot(s) owned by the member lot owner.
- 4.3.5 Tents: Tents may be erected on member lot owner properties only. In each case such shelter shall serve for a single outing, and shall not serve as temporary or permanent shelter.
- 4.4 Fire Safety**: At each general March meeting of the general membership of the Association, the Fire and Security committee shall present a brief

overview on fire safety including instructions on creating and maintaining a fire defense zone.

4.4.1 Cabin Fireplaces and Stoves: All indoor fire is to be contained within an enclosed fireplace or stove that has met all code requirements of the County prescribe for dwellings at the time of the permitting process.

4.4.2 Outdoor Fire: Outdoor burning is prohibited except in pits constructed according to US Forest Service prescription for such activity.

4.4.2.1 No Burn Periods: The Association shall follow all directives of the US Forest Service in prescribing burn/no burn periods.

4.5 Hunting: Hunting of game is permitted by Association-issued permit only. [see www.hpme.org for application]

4.5.1 Title 23 - State Statute: The following acts, among others are unlawful [see Title 23 Utah State Code – <http://le.utah.gov>]:

- The discharge of any firearm 30 minutes after sundown or 30 minutes before sunrise.
- The discharge of any firearm within 600 feet of any cabin or out building without written permission of the owner.
- The discharge of any firearm over any roadway.
- The discharge of any firearm from a vehicle or ATV.
- Having a round chambered while traveling in any vehicle or ATV.

4.5.2 The Right to Restrict Hunting: Each member lot owner reserves the right to give notice and post his/her land to hunting.

4.5.3 The Right to Hunt on Association Property: Hunting on all Association managed properties is limited to:

- Member lot owner(s)
- Immediate family
- Two (2) guests. [At all times, the member lot owner or an immediate family member must be personally in the company of all guests for guests to be authorized to hunt. Security gate keys are to be lent to immediately family only for hunting purposes.]

4.5.4 Liability of Member Lot Owner during a hunt: The Association assumes no liability for personal injury or property damage as a result of hunting. Each member lot owner is liable for personal injury, property damage and actions stemming from trespass caused by immediate family or any and all guests during any legal hunt.

4.6 Recreational Shooting: The member lot owner or nonmember lot owner shall insure that any firearm or other weapon's projectile begins and end within the boundaries of his/her property with no chance of ricochet.

- 4.6.1 Quiet Time Hours Amended for Recreational Shooting: For recreational shooting, quiet time shall be extended to one hour before sundown in the evening until one hour after sunrise the next morning.
- 4.6.2 Liability of Member Lot Owner and Nonmember Lot Owner for Recreational Shooting: The Association assumes no liability for personal injury or property damage as a result of recreational shooting. The member lot owner or nonmember lot owner is liable for the actions of immediate family and all guests.
- 4.7 Water Wells**: Association properties are part of governmental designated watershed. No private wells are authorized in watershed areas.
- 4.8 Business, Trade or Other Commercial Activity**: No trade or business of any kind or nature shall be permitted upon any lot.
- 4.9 Animal Keeping**: No animals shall be kept or housed on any lot or lots except they shall be kept together, leashed, corralled and/or restricted to the member lot owner's lot(s).
- 4.9.1 No Animals to be Housed Year Round: Only on a temporary basis, with the member lot owner, his/her immediate family or guests present, shall animals be permitted on Association property.
- 4.10 Reserved**:

SECTION V RIGHT OF ENFORCEMENT

- 5.1 Right of Enforcement**: These covenants are binding on all member lot owners.
- 5.1.1 Variance Hearing: A variance from these covenants may be granted to any member lot owner(s), without precedent, by vote of the entire Board when the member lot owner(s) can demonstrate hardship.
- 5.1.2 Right of Prosecution: If the parties hereto, or any of them, or their heirs, or assigns, shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person or persons owning any real property situated in the Association to prosecute any proceedings at law or in equity against the persons violating or attempting to violate any such covenant, either to prevent him or them from doing or to recover damages or other dues from such violation.
- 5.2 Reserved**:

SECTION VI INVALIDATION

**Hardware Park Mountain Estates
Cache County, Utah
ByLaws & CCRs**

Current as of: 3/25/2015

6.1 Invalidation by Judgment or Court Order: Invalidation of any one of the covenants or restriction herein set forth by judgment or court order shall in no way affect the validity of any other provision hereof, which shall remain in full force and effect as herein provided.

SECTION VII AMENDMENT

7.1 Proposition to Amend Restrictive Covenants: Amendments to these covenants may be proposed by any group representing five percent (5%) of the member landowners in good standing or by the Board.

7.2 Notice of Desire to Amend Restrictive Covenants: Notice of a proposed change or amendment to these covenants is to be submitted to the Board in writing, listing the names and signatures of those from the memberships seeking that change.

7.2.1 Notice of Reason for Change in Restrictive Covenants: The request to amend shall contain a statement explaining the need for amendment.

7.2.2 Notice of Proposed Text Changes in Restrictive Covenants: As part of any submission for change, those proposing the change are charged with a first draft of any text to be altered, omitted or added to these covenants.

7.3 Adoption of Amendments to Restrictive Covenants: Adoption of any amendment to these covenants shall require a majority vote of the entire Board at a previously held meeting of the Board of Trustees, followed by a majority of the vote cast at the March general meeting, either by proxy or by those being present at said meeting.

7.4 Reserved

SECTION VIII RESERVED

SECTION IX – ENDORSEMENT

IN WITNESS WHEREOF, we being the members of the Board of Trustees of the
HARDWARE PARK MOUNTAIN ESTATES, have hereunto set our hands this
the

25th Day of March 2015

**Hardware Park Mountain Estates
Cache County, Utah
ByLaws & CCRs**

Current as of: 3/25/2015

President

Chairman of the Board

Board Member

Board Member

Board Member

Board Member

Board Member

Board Member

Abstentions or Absences from any Vote of the Board, 17

Activities Committee, 15

Additional Security Gate Keys Issued per Improved Lot, 9

Additional Security Gate Keys Issued per Unimproved Lot, 9

adjunctive staff
 role in creating Association books and records, 18

Adjunctive Staff, 4

administrative committee meetings
 regularity of, 16

Adoption of Amendments to Restrictive Covenants, 29

Adoption of Amendments to These Bylaws, 21

Altered Vehicles and ATVs
 prohibited from use if they lead to road damage, 25

amendments to restrictive covenants
 requires a majority vote of a membership quorum, 29

animal keeping, 28
 only on a temporary basis, not year around, 28

appointed staff offices, 15

ARTICLE I - DEFINITIONS, 4

ARTICLE II - IDENTITY, 8

ARTICLE III – GOVERNING INSTRUMENTS, 8

ARTICLE IV – SECURITY, 9

ARTICLE IX – BOARD MEMBERS, ADJUNCTIVE STAFF AND THEIR DUTIES, 15

ARTICLE V – MEMBERSHIP and MEMBERSHIP RIGHTS, 10

ARTICLE VI – MEETINGS OF GENERAL MEMBERSHIP AND THE BOARD, 11

ARTICLE VII – NOMINATION OF OFFICERS, 12

ARTICLE VIII – SELECTION AND REMOVAL OF ASSOCIATION OFFICERS, 13

ARTICLE X – PARLIAMENTARY PROCEDURE WITHIN THE BOARD OF TRUSTEES, 17

ARTICLE XI – ASSOCIATION BOOKS AND RECORDS, 18

ARTICLE XII – ASSESSMENTS, 18

ARTICLE XIII – CLAIMS OF NUISANCES OR FAILURE TO COMPLY WITH ASSOCIATION BYLAWS AND RESTRICTIVE COVENANTS, 19

ARTICLE XIV – PENALTIES FOR FAILURE TO ADHERE TO ASSOCIATION BYLAWS,

RESTRICTIVE COVENANTS OR NUISANCE, 20

ARTICLE XV – WATER RESOURCES, 20

ARTICLE XVII – AMMENDMENTS, 21

ARTICLE XVIII – ENDORSEMENT, 22

Association Managed Property, 4

Association Roadways, 24

Association Website, 4

Association, the, 4

Board, the, 4
 decisions of, 17
 decisions of outside of regulary scheduled board meetings, 17
 granted the power of assessment, 18
 members of, 16

Business, Trade or Other Commercial Activity, 28

Buyer, the, 4

bylaws
 notice to amend, 21
 proposition to amend, 21

Bylaws
 adoption of any amendment to, 21
 notice of proposed text changes, 21
 notice of reason for change, 21

Bylaws and Restrictive Covenants
 recorded with the County, 9

Bylaws, the, 4

Bylaws:
 Restatement and Amended, 8

Cabin construction
 county permitting, 26
 limited to single family residence, 25
 limited to two stories above grade, 25
 plans to call out building materials and color, 26
 sewage and drainage, 26
 site and building plan approval, 26

Cabin Fireplaces and Stoves, 27

Certification of Proxy, 13

Chairman of the Board, 14

Charges and Limits for Additional Security Gate Keys per Lot, 9

claims of nuisance, 19

Common Ownership in Shared Water Rights, 11

Communication Committee, 15

Compensation of Association Officers and Other Staff, 8

Confirmation of Election Results, 14

Conveyance of Governing Documents at the Time of Land Ownership Change, 9

Conveyance of Security Gate Keys at the Time of Ownership Change, 10

**Hardware Park Mountain Estates
 Cache County, Utah
 ByLaws & CCRs**

Corrals, 25
 County Permitting, 26
 County, the, 4
 Culinary Water Use, 4
Decisions of the Board Outside of a Regularly Scheduled Board Meeting, 17
Decisions of the Board, 17
 Default Status in the payment of fees, 19
Definitions, 4
 Due Date of Annual Fees and Assessments, 19
Easement, 24
Election of Association Officers, 13
 Election Voter Credentialing, 13
 Emergency Decisions, 17
Establishment of a Nominating Committee, 13
Establishment of a Quorum for Board Meetings, 12
Establishment of a Quorum for General Meetings, 12
Establishment of Due Process
 in claims of nuisance or failure to comply, 19
Failure to Secure Gates, 9
Fees, Dues and Assessments Established by Resolution of the Board, 18
 Fencing, 25
Fire Safety
 annual March general meeting, 26
 cabin fireplaces and stoves, 27
 no burn periods, 27
 outdoor fire pits, 27
Fiscal Year, 8
 General Business Meeting, March
 election of officers, 13
General Business Meetings, 11
Governing Documents, 8
 seller's responsibility in conveyance at the time of land ownership change, 9
Governing Documents of the Association, 4
 Guest, 5
Health and Water Committee, 15
 HPME, 5
Hunting, 27
 each member lot owner reserves the right to restrict hunting on his property, 27
 liability of member lot owner during a legal hunt, 27
 those who may hunt, 27
 Hunting permit
 may be obtained online [www.hpme.org], 27
Identity::, 24
 Immediate Family, 5
 Improved Lot, 5
Ingress and Egress Rights, 24
Inspection of Records and Books, 18
Invalidation by Judgment or Court Order, 29
Issuance of Security Gate Keys to Nonmember Lot Owners, 10
Issuance of Security Keys to Member Lot Owner(s), 9
 Joint Membership, 10
 Keys. *See* Security Gate Keys
Law Enforcement, 8
Laws of Incorporation, 5
Length of Term of Service of Officers, 14
Liability of Member Lot Owner and Nonmember Lot Owner for Recreational Shooting, 28
Liability of Member Lot Owner During a Hunt, 27
Loaning of Security Gate Keys by Member Lot Owners, 9
Lot, 5
 minimum size, 25
Lot Designation, 25
Lot Fencing, 25
 meetings
 general business meetings, 11
 minutes of general meetings, 12
 notice of general meetings, 11
 of the Board, 12
 proxy representation at general meetings, 12
 special general meetings, 11
 special meetings of the Board, 12
Meetings of the Board of Trustees, 12
Meetings, general, 5
 nomination of officers at the March general meeting, 12
 member lot owner
 ingress and egress rights, 24
 unrestricted right of way, 24
 Member Lot Owner, 5
Member Lot Owner in Good Standing, 5
Member Lot Owner Obligation for Fees, Dues and Assessments, 18
Member Lot Owner Right of Unrestricted Right-of-Way, 24
Member Mailing Address of Record, 5
Member of the Board
 duties of, 16
membership
 all lot owners are members of the Association without exception, 10
 granted unrestricted right of passage, 11
 joint, 10
 share common water rights, 11
 voting rights based on assessment, 10
Minimum Lot Size, 25
Minutes of General Meetings, 12
 new roadways
 post construction review, 25
 preconstruction review and approval, 25

**Hardware Park Mountain Estates
 Cache County, Utah
 ByLaws & CCRs**

site plan approval, 25
Nominating committee, 13
Nomination of Officers at the Annual March General Meeting of Member Lot Owners. 12
Nomination of Officers Prior to the March General Meeting From Member Lot Owners at Large. 13
Nonmember lot owner
granted restricted right of passage, 10
Nonmember Lot Owner, 5
Nonmember Lot Owner Obligation for Road Maintenance Assessment. 19
Nonmember lot owners
granted restricted right of passage, 19
obligated to road maintenance fee, 19
Nonmember Lot Owners
no claim to water share, 20
Nonprofit Status. 8
Notice of Desire to Amend Restrictive Covenants. 29
Notice of Desire to Amend the Bylaws, 21
Notice of General Meetings. 11
Notice of Proposed Text Changes in Restrictive Covenants. 29
Notice of Proposed Text Changes in the Bylaws. 21
Notice of Reason for Change in Restrictive Covenants. 29
Notice of Reason for Change in the Bylaws. 21
Nuisance. 5, 19
nuisance or failure to comply
accused to know his accuser, 19
communication of hearing results, 20
HPME to be held harmless, 20
owner lot owner's right to be heard by a quorum of the Board, 19
right of review by the Board, 20
officers of the Association
announcement of election results, 14
election, 13
length of term of service, 14
reelection following any term of service, 14
removal from office, 14
vacancy appointment of officers, 14
Off-Road Travel. 5
Other Adjunctive Staff Offices. 15
Outdoor Fire. 27
Past Due Status in the payment of fees. 19
Penalties and Disciplinary Actions to be Uniform. 20
Penalties Levied for Fees and Assessments in Default. 19
penalty and/or disciplinary action
failure to respond, 20
first offense, 20
second offense, 20
Planning and Development Committee. 15
Plans to Call Out Building Materials and Color. 26
Power of Assessment. 18
president of the Association
emergency decisions, 17
role of in board meetings, 17
President of the Association
duties of, 15
Private Road or Roadway. 5
Profit/Loss of the Association. 8
Proposition to Amend
bylaws, 21
Proposition to Amend Restrictive Covenants. 29
Proxy. 13
proxy notices, 13
Quiet Time Hours. 6
recreational vehicular and ATV travel, 24
Quiet Time Hours Amended
recreational shooting, 28
Quiet Time Hours Amended for Recreational Shooting. 28
quorum
establishment of at general meetings, 12
establishment of for Board meetings, 12
Quorum, board of trustees, 6
Quorum, general membership, 6
Recording of Bylaws and Restrictive Covenants with the County. 9
Recording of Decisions of the Board at Regular Board Meetings. 17
Recreational Off-Road Travel. 24
prohibited on Association properties, 24
recreational shooting
owner liability, 28
recreational shooting
projectile must begin and end on member lot owner's property, 27
Recreational Shooting. 27
recreational travel
on private road or trails require written permission, 24
to remain on Association roadways, 24
Recreational Travel. 6
Reelection Following Any Term of Service. 14
Registering Nuisance and Other Claims. 19
Regularity of Administrative Committee Meetings. 16
Removal of Any Elected Officer from Office. 14
Removal of Wheels and Tires on Mobile/Temporary Housing. 26
Representation by Proxy. 12
Respect for Others

**Hardware Park Mountain Estates
Cache County, Utah
ByLaws & CCRs**

Current as of: 3/25/2015

recreational travel to remain on Association roadways, 24

Restricted Right of Passage, 6, 19

Restricted Right of Passage Granted to Nonmember Lot Owners, 10

restrictive covenants

- Association roadways, 24
- binding on all member lot owners, 28
- compliance, 24
- easement, 24
- identity, 24
- notice of desire to amend, 29
- notice of proposed text changes, 29
- notice of reason to amend, 29
- proposition to amend, 29
- variance hearing, 28

RESTRICTIVE COVENANTS, 24

Restrictive Covenants, the, 6

Right of Enforcement

- restrictive covenants, 28

Right of Passage, 6

Right of Prosecution, 28

Right to Hunt on Association Property

- those who may hunt, 27

Right to Restrict Hunting, 27

Roads and Maintenance Committee, 15

Roadway Maintenance and Cache County, 25

Role of Adjunctive Staff in Creating Association Records and Books, 18

Secretary of the Association

- duties of, 16
- recording of actions of the Board, 17
- role in credentials of voters, 13
- role in record keeping, 18

SECTION I IDENTITY, 24

SECTION II ROADWAYS, 24

SECTION III ROADWAYS [NEW CONSTRUCTION]

- restrictive covenants, 25

SECTION IV LAND USE, 25

SECTION V RIGHT OF ENFORCEMENT, 28

SECTION VI INVALIDATION, 28

SECTION VII AMENDMENT, 29

SECTION VIII – ENDORSEMENT, 29

Security and Fire Committee, 15

Security Gate Keys, 9

Security Gates

- failure to secure, 9

security keys

- not to be issued to any member lot owner in default of fees, 19

Security Keys, 6

- Additional keys issued per improved lot, 9
- additional keys issued per unimproved lot, 9

- conveyance at the time of change in property ownership, 10
- Issuance to member lot owner, 9
- issuance to nonmember lot owners, 10
- issued based on assessment, 9
- Loaning, 9
- regulation by resolution of the Board, 9

Seller, the, 6

Set Back of Residence, 26

Sewage and Drainage, 26

Site and Building Plan Approval, 26

Special General Meetings, 11

Special Meetings of the Board of Trustees, 12

Specific and Primary Purpose of the Association, 8

Standing Administrative Committees of the Association, 15

State and County Laws and Ordinances, 8

State, the, 6

Subjectivity to State and County Laws and Ordinances, 8

temporary housing

- house trailers, tent trailers, campers, motor homes, and other forms of mobile housing, 26
- maintenance, 26
- permitted on lot owner's lot(s) only, 26
- to be removed from Association property during selective months, 26

Temporary Housing, 6, 26

Temporary Housing Limited to Member Lot Owner Lot(s), 26

Temporary Housing to be Removed Annually, 26

Tents, 26

The Chairman of the Board, 15

Title 23 - State Statute

- governing hunting and firearm usage, 27

Treasurer of the Association

- duties of, 16
- role in record keeping, 18

Unimproved Lot, 6

Unrestricted Right of Passage, 11

Vacancy Appointment of Officers, 14

Value [color], 6

Variance Hearing, 28

Vehicles and ATVs

- sound level restriction, 25

Vehicular and ATV Safety, 24

- speed limit, 24

Vehicular and ATV Travel, 24

Voting by Proxy, 13

Voting Members of the Board, 17

Voting Rights, 10

Voting Rights of Adjunctive Staff Members, 17

**Hardware Park Mountain Estates
Cache County, Utah
ByLaws & CCRs**

Water Ownership, 20
Water Site Plan, 20
Water System Manager
duties of, 16
role in record keeping, 18
Water Wells, 28
watershed

Association properties are designated as part
of, 28
Work Credit Program, 6
attendance at March General Mtg.
Requirement, 11
www.HPME.org, 9