

WHEN RECORDED, RETURN TO:

Moab Area Community Land Trust
P.O. Box 1383
Moab, UT 84532
Attn: Audrey Graham

Ent 541292 Bk 918 Pg 719 - 728
Date: 01-JUL-2021 4:15:50PM
Fee: \$168.00 Check Filed By: JAC
JOHN ALAN CORTES, Recorder
GRAND COUNTY CORPORATION
For: MOAB AREA COMMUNITY LAND TRUST

**DECLARATION OF
NEIGHBORHOOD COVENANTS, CONDITIONS, AND RESTRICTIONS**

THIS DECLARATION OF NEIGHBORHOOD COVENANTS, CONDITIONS, AND RESTRICTIONS (this "**Declaration**") is made as of June 25, 2021, by MOAB AREA LAND COMMUNITY TRUST, a Utah nonprofit corporation ("**Declarant**").

RECITALS

- A. Declarant is the owner of that certain land described on Exhibit A attached hereto, commonly known as Arroyo Crossing Phase I (together with all improvements now or hereafter constructed on such land, the "**Neighborhood**"). The Neighborhood is a portion of the Arroyo Crossing Phase I subdivision as reflected in that certain plat recorded on February 26, 2021 in Book 912 at Page 4242 as Entry No. 540059 and re-recorded as Arroyo Crossing Phase I Corrected Plat on July 1, 2021 in Book 918 at Page 718 as Entry No. 541291 (the "**Subdivision**").
- B. Declarant's vision for the Neighborhood is of a diverse neighborhood of environmentally sustainable buildings that foster neighborly interactions.
- C. To protect the character and value of the property within the Neighborhood and to provide for the harmonious development and use of such property, Declarant desires to impose certain covenants, conditions, and restrictions on the use of the property included within the Neighborhood.

NOW, THEREFORE, Declarant declares that all the property within the Neighborhood, and each person living in, leasing any portion of, or otherwise using any portion of the Neighborhood, shall be subject to the following covenants, conditions and restrictions (collectively, the "**Neighborhood Covenants**").

1. AMENDMENT / WAIVER.

1.1 Declarant's Right to Amend. Each person leasing or owning any interest in the Neighborhood (each, an "**Owner**") acknowledges and agrees that circumstances may change over time and that Declarant reserves the unilateral right to modify and update the Neighborhood

Covenants from time to time, as Declarant determines appropriate in its sole discretion, to promote the harmonious development and use of the Neighborhood. There is no limitation on the scope of changes that may be made by Declarant to the Neighborhood Covenants and such changes may eliminate restrictions previously imposed, add new restrictions, or otherwise make the Neighborhood Covenants more or less restrictive.

1.2 **Declarant's Right to Grant Waivers.** Declarant may grant a waiver from the Neighborhood Covenants when, in the sole judgment of Declarant, circumstances warrant such a waiver. Such circumstances may include, but will not be limited to, changes in applicable laws, market or economic conditions, advances or developments in technology or community or environmental considerations render a waiver necessary or appropriate. Each Owner acknowledges that each parcel in the Neighborhood is different from every other parcel in the Neighborhood and that Declarant shall not be found to have acted unreasonably or arbitrarily solely because it has acted differently with respect to different parcels. The granting of a waiver from any term or provision of the Neighborhood Covenants shall not operate to waive any other of the terms or provisions of the Neighborhood Covenants or to waive the same term or provision for any purpose other than the specific purpose for which the waiver is sought. Granting a waiver shall not obligate Declarant to grant the same waiver in the future.

2. **COMPLIANCE WITH LAW.** Each Owner, the occupants of all homes constructed in the Neighborhood (the "**Homes**"), and their guests must comply with all applicable laws, ordinances and codes in their use and enjoyment of the Neighborhood and Homes. In the event of any conflict between the restrictions imposed by Grand County ordinances, including the zoning ordinance and these Neighborhood Covenants, the most restrictive provisions shall apply to the extent allowed by law.

3. **USE RESTRICTIONS.**

3.1 **General Provisions.**

(a) Fencing and Walls. The material of any perimeter lot fencing may be treated or painted wood, corrugated metal, or framed wire mesh. No perimeter chain link, untreated wood, plastic or vinyl fencing materials are allowed. Fencing along the sidewalk and along the side yard from the street to the setback line of the building shall have a maximum height of four (4) feet. Declarant may approve a retaining wall higher than three (3) feet if the wall is tiered and/or landscaping is installed to hide the retaining wall. No Fence shall be over six (6) feet high without approval from Declarant.

(b) External Illumination. To support Grand County Dark Sky initiatives, all exterior lighting shall be minimized and designed at minimum in accordance with any current Grand County dark skies outdoor lighting ordinances. Overnight outdoor lighting shall be avoided.

(c) Satellite Dishes, External Antennas. All satellite dishes or external antennas of any kind must be located in the attic or interior space of the dwelling or otherwise screened from view by a material or structure whose materials and colors shall complement the building. Roof mount satellite dishes are discouraged unless screened from view in a manner acceptable to Declarant.

(d) Solar Panels. The use of solar panels is encouraged as part of CLT's commitment to sustainable development. Solar panels which are not located on roofs must be approved by Declarant to ensure they do not block neighboring lots/roofs/panels.

(e) HVAC and Other Equipment. Where possible, air conditioning, heating, or any other type of external equipment shall be screened or sunk from view so as not to be visible from other lots. Declarant may grant exceptions to this rule to accommodate energy-saving or environmentally sustainable external equipment.

(f) Accessory Structures. All accessory structures larger than 3x3 feet must be approved by Declarant and shall be consistent with or complimentary to the design of the primary structure. Approved accessory structures shall be limited to 20 feet in height, and included in the maximum possible lot coverage of 35%. All accessory structures, including accessory dwelling units, shall follow county code and use limitations.

(g) Plans and Approval. Prior to any construction or alterations in the Neighborhood, plans and specifications showing the nature, kind, shape, color, size, materials, and location of any proposed construction, change or alteration shall be submitted to Declarant for approval as to quality of workmanship, design and harmony of external design with existing structures. See the full design criteria and approval procedures, which may be obtained from Declarant, the provisions of which are incorporated in these Neighborhood Covenants as if fully set forth herein, for further information regarding approval procedures. Notwithstanding the foregoing, no permission or approval shall be required to build or rebuild in accordance with plans and specifications previously approved by Declarant.

(h) Nuisances. No noxious, illegal, or offensive activities shall be carried on in any Home or on any part of the Subdivision, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to, or which may in any way interfere with the quiet enjoyment of any other Owner or occupant in the Subdivision, or which may in any way increase the rate of insurance for any portion of the Subdivision, or cause any insurance policy to be canceled or to cause a refusal to renew the same, or which will impair the structural integrity of any building in the Subdivision.

3.2 **Landscaping.**

(a) Landscaping; Water Conservation. Each Owner will be responsible for the landscaping of the Owner's lot, including weed and dust control. Each Owner shall comply with any and all provisions for water conservancy as set forth by the Grand County Water Conservancy District.

(b) Plants and Vegetation. Except for gardens used for food production, landscape shall be predominantly xeriscape with native or adaptive but non-invasive plant species (see Exhibit B attached hereto for a non-exhaustive list). Turf or grass shall only be allowed if the building has an operating greywater system in place, and no more than 25% of the landscaped area may be turf or other water-intensive ground covers. Artificial turf or grass is allowed subject to the approval of Declarant. Each lot's front or side yard landscape plan shall include at least one shade tree of an adaptive, non-invasive species.

(c) Weed Control. Control of noxious and nuisance weeds on each lot is the responsibility of the Owner of the Home on the lot. Timely hand or machine removal of these plants, or mowing to prevent seed production, is encouraged in order to avoid the need for chemical weed control.

3.3 Sustainability and Livability.

(a) Use of a properly maintained greywater system is highly encouraged.

(b) The use of solar dryers (clotheslines) is encouraged. These are limited to the back or side yards of single family dwellings, and to established areas for multifamily dwellings.

(c) In no case shall water be routinely allowed to run onto sidewalks or streets from any irrigation or other system.

(d) Idling of vehicles shall be discouraged and will be limited to a maximum of 2 minutes except for official vehicles such as police, fire, school bus, mail, or garbage collection.

(e) All open burning will be limited to that allowed by applicable state and county codes, and will be conducted so as to prevent lingering smoke or escaping embers.

(f) All waste and garbage shall be disposed of in appropriate waste or recycling bins which are spill proof and lidded to prevent wind-blown debris. Garbage containers shall be stored in spaces designed for them, and returned from the street within 24 hours of garbage disposal.

(g) All pets/domestic animals residing at Arroyo Crossing shall be kept in compliance with applicable county ordinances, including but not limited to vaccination and licensing requirements. No animal, livestock, poultry or fowl of any kind other than a reasonable number (as determined by Declarant) of generally recognized house pets (as determined by Declarant) and then only if they are kept and raised solely as domestic pets and not for commercial purposes. No structure for the care, housing or confinement of any permitted pet shall be located within 10 feet from an adjacent property. Pets must be walked on a leash and Owners must carry bags or other means to remove pet waste.

(h) All animal waste shall be collected from public areas immediately by the animal owner, and from private lots per county code to prevent odor and sanitation issues.

(i) Vehicles parked on the roadways within the Subdivision shall be licensed and in regular use (driven at least weekly). Long term storage of any vehicle shall be limited to garages, carports, or private driveways. No commercial machinery or equipment of any kind shall be stored or operated outside in the Subdivision by an Owner except during periods of construction. No commercial motor vehicles may be stored or parked overnight in the Subdivision by an Owner except in a driveway or within a garage or carport. Inoperable vehicles shall not be stored or parked overnight for longer than 30 days. No recreational vehicle (e.g., mobile home, travel trailer, tent trailer, camper shell, boat trailer, or similar equipment) shall be used for living, sleeping or housekeeping purposes in the Subdivision. Up to one boat, boat trailer, horse trailer or any other trailer or recreational vehicle may be parked or stored overnight in a rear or side yard but not in front yards except that such

vehicles may be parked anywhere on Homeowner's Lot for a period not to exceed 24 hours during loading and unloading.

(j) Signs advertising Units for sale or rent may be displayed on a lot in the Neighborhood without prior specific approval provided that such signs shall be of reasonable and customary size, and shall comply with any and all local sign ordinances.

3.4 Use of Trails and Playgrounds.

(a) No motorized equipment or vehicles are allowed on trails or playground except for approved maintenance.

(b) Hours for the use of the playground are limited to no later than 1 hour after sunset and no earlier than dawn.

(c) Excessive noise, or any activity creating pollution or smoke will not be allowed at the playground or on the trails.

(d) The trails are designed only for walking and quiet enjoyment. Please use a bag or container for gathering pet waste or other litter. Pets must be leashed while on trails or in playground.

(e) Playground equipment is designed for children under age 12. Children under age 8 must be under adult supervision while using the playground. Families are responsible for the behavior and safety of all minors while using the playground or trails.

3.5 Use of Roads and Storm Water Facilities.

(a) All Owners, residents, and visitors shall obey speed limits, stop signs, and give right of way to bikes and pedestrians. Parking is allowed only on shoulders and along curbs, and must not block driveways.

(b) No disposal of liquids or chemicals, and no chains or wheels that can damage the asphalt are allowed to be used in the Subdivision.

(c) No disposal of any liquids other than water or any solids is allowed in storm water facilities or retention ponds. No obstructions shall occlude drainages and no planting of shrubs or trees or placement of structures is allowed in storm water easements. Any activities taking place in storm water easements must not alter the facility in any way, and are at the participant's own risk.

4. ENFORCEMENT.

4.1 Declarant's Discretion. The decision to pursue enforcement action or remedies by Declarant in any particular case, whether against an Owner or against any other tenant or occupant in the Neighborhood, shall be left to Declarant's discretion so long as Declarant does not act in an arbitrary or capricious fashion.

4.2 **Indemnification.** Each Owner shall indemnify, defend and hold harmless Declarant and its officers, directors, employees, agents and representatives from and against any and all losses, claims, actions, damages, liabilities, penalties, fines or expenses, of whatsoever nature, including, without limitation, reasonable attorneys' fees and costs arising from breach of the Neighborhood Covenants by Homeowner, any occupant of the Home, and any of their guests.

4.3 **Action to Abate or Enjoin.** In addition to any enforcement rights available to Declarant as the landlord under the lease to the Owner for the Owner's lot, Declarant may initiate legal action to abate or enjoin any violation of these Neighborhood Covenants. Declarant shall be entitled to an award of its reasonable attorney fees, expenses, and costs incurred in pursuing such legal action.

4.4 **Cumulative Nature of Remedies.** The remedies provided for herein shall be deemed cumulative and not exclusive. Enforcement under this provision shall be in addition to any mechanism of enforcement provided under any applicable lease or by applicable law.

4.5 **Attorney's Fees.** In the event any party initiates or defends any legal action or proceeding arising out of or related to these Neighborhood Covenants, the prevailing party in any such action or proceeding (in addition to any other relief which may be granted, whether legal or equitable), shall be entitled to recover from the losing party in any such action or proceeding its reasonable costs and attorney's fees (including, without limitation, its reasonable costs and attorney's fees on any appeal). All such costs and attorney's fees shall be deemed to have accrued on commencement of any legal action or proceeding and shall be enforceable whether or not such legal action or proceeding is prosecuted to judgment.

5. MISCELLANEOUS.

5.1 **Runs with the Land; Successors and Assigns.** The provisions of this Declaration shall run with the land and shall inure to the benefit of, and be binding upon, each Owner, occupant, guest, invitee, or other person entering on or using any portion of the Neighborhood.

5.2 **Severability.** If any term or provision of this Declaration or the application of it to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Declaration or the application of such term or provision to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Declaration shall be valid and shall be enforced to the extent permitted by law.

5.3 **Construction; Governing Law.** The captions and headings in this Declaration are for reference only and shall not be deemed to define or limit the scope or intent of any of the terms, covenants, conditions or agreements contained herein. This Declaration shall be governed by and constructed and enforced in accordance with the internal laws of the State of Utah.

5.4 **Exhibits.** All Exhibits attached hereto are considered an integral part of this Declaration and are hereby incorporated herein, and this Declaration shall not be considered executed and/or complete until and unless they shall be attached hereto.

[Signature page follows]

EXHIBIT A
Description of Neighborhood Property

Lots 1-48, A1, A2, A3, A4, A5, A6, ARROYO CROSSING, PHASE I, A PLANNED UNIT DEVELOPMENT, AMENDING A PORTION OF LOT 2, CLARK MINOR SUBDIVISION AND A PARCEL OF LAND LOCATED WITHIN THE SOUTHEAST QUARTER OF SECTION 17, 126 SOUTH, RANGE 22 EAST, SLB&M, ACCORDING TO THE OFFICIAL PLAT THEREOF, RECORDED FEBRUARY 26, 2021 IN BOOK 912 AT PAGE 424 AS ENTRY NO. 540059 AND RE-RECORDED AS ARROYO CROSSING PHASE I CORRECTED PLAT ON July 1, 2021, IN BOOK 918 AT PAGE 718 AS ENTRY NO. 541291 IN THE OFFICIAL RECORDS OF GRAND COUNTY, UTAH.

EXHIBIT B
Approved and Prohibited Plant Lists

Approved Plant List

Due to the desire to conserve water and prevent wind and water erosion, as well as produce shade for an attractive living environment, Declarant encourages the planting of the following trees, shrubs and forbs:

Desirable Trees

Acer negundo, Maple or Boxelder trees (the male tree will not attract Box Elder bugs)
Acer grandidetaum, Big tooth Maple, Wasatch Maple, Rocky Mountain Sugar
Celtis occidentalis, Hackberry Tree, large, fast growing, hardy, nice shade
Celtis reticulata, native Hackberry
Chilopsis lineris Desert Willow, long bloom time, beautiful flowers, small tree/large bush, tough, hardy
Gleditsia triacanthos, sunburst locust, sky line locust, other species of G. triacanthos
Ginko biloba, Ginko tree, fire retardant
Morus alba, Mulberry tree. Amazing shade and sturdy, tough, males are clean, fast growing, drought tolerant, females produce edible fruit which can be messy, stain carpets/cement.
Tilia species, Linden Tree, or Basswood tree.
Quarkus buckleyi, Texas Red Oak
Quarkus macrocarpa, Burr Oak, very large tree
Platanus wrightii, Arizona Sycamore,
Platanus occidentalis, Sycamore, huge shade tree, produces golf ball size fuzzy seeds, smooth bark, holds brown leaves through late fall and winter, so not good around solar panels.
Vitex, Chaste Tree, a small, low-branched tree which has beautiful purple flowers, heat and drought tolerant

Evergreens

Pinion edulis, Native Pinyon Pine
Cupressus arionica, Arizona Cypress, fast growing evergreen that is super tough and very pretty
Juniper utahensis Utah Juniper, Native, slow growing

Grasses and smaller plants

Fescues or natives
Alkali sacaton, is a very attractive native grass
Sporobolus giganteus or S. contractus, Giant dropseed, attractive and love sandy soil
Yucca
Big Sage, Old Man Sage, Russian sage, draw pollinators, many natives, drought tolerant
Maximillian sunflowers, great, spread fast through root systems
Helianthus annuus, native sunflower pretty prolific so could start to take over
Datura, beautiful native flower, poisonous
Machaeranthera canescens, Hoary tansyaster
Grindelia squarrosa, Curlycup Gumweed good native

Plants NOT allowed at Arroyo Crossing

The following plants must not be imported into Arroyo Crossing because they are non-native species which easily get out of control and invade neighboring properties and surrounding desert lands:

Ailanthus altissima, "Tree of Heaven," actually a wicked nightmare, invasive, impossible to eradicate, poor shade.

Tamarisk , Salt cedar, takes over natural waterways, millions of seeds and root sprouts easily

All Elms, including Chinese Elm, spread easily, impossible to eradicate, weedy trees

Russian Olive, spiky thorns, escapes easily

Saccharum ravennae, Ravenna, Pampas grass

Arundo Grass or Cane grass (Arundo donax)

Poa pratensis, Kentucky Blue grass, has a drinking problem