

**Pinebrook Homeowners Association**

**CONSTRUCTION PLAN APPROVAL AGREEMENT  
FOR  
CONSTRUCTION OF HOME, STRUCTURAL ALTERATION OR  
ARCHITECTURAL CHANGE APPLICATION.**

This agreement is made by and between the Pinebrook Homeowners' Association Architectural Committee, of 7950 Pinebrook Road, Park City, Utah 84098 (the "AC"), \_\_\_\_\_, of \_\_\_\_\_, as well as his successors and assigns (collectively "Owner") and \_\_\_\_\_, of \_\_\_\_\_, as well as his agents, representatives, employees, successors and assigns (collectively "Contractor") in connection with and in consideration of the AC's review and approval of the plans for the construction or remodel or structural alteration of a home or other improvements by Contractor for Owner on Lot No. \_\_\_\_\_ in the \_\_\_\_\_ subdivision and for the primary purpose of preventing or minimizing nuisances and disturbances in this residential neighborhood attendant to construction.

For the reasons recited above and for other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. If the AC finds that the entire construction plan, including by way of illustration but not limitation the application, agreement, plans and specifications, color board and samples (collectively "the plans"), comply with the required standards and that the plans may be approved, such plans will be approved on the express condition that the Owner and the Contractor execute this Agreement and covenant to comply with the terms hereof. The approved plans shall contain a (i) commencement date and (ii) completion date for the construction work (the "work"). Unless otherwise agreed in writing, the construction of a new home must be completed in no less than two years and a remodel must be completed in no less one year.
2. Owner shall pay the Pinebrook Homeowners Association the following amounts:
  - a. a non-refundable processing fee of \$25.00;

b. a non-refundable administration and review fee of up to \$1,500.00, intended to cover the costs and expenses of up to and including 3 meetings, consultations or reviews;

c. additional fees may be charged for additional meetings, consultations, or reviews; and

d. The AC also expressly reserves the right to require, at Owner's sole expense, that the plans be prepared by a licensed architect, engineer or other professional, and that he attend the review meetings.

3. Owner shall provide the AC with a security deposit of (the "Deposit"):

a. On new construction the sum of \$10,000.00; or

b. On a remodel up to the sum of \$10,000.00.

c.

The Deposit shall be held in trust in a non-interest bearing account (the "Deposit Account"). The AC is hereby authorized to unilaterally make payments out of the Deposit, including by way of illustration but not limitation payments to vendors and suppliers, cover fines and other charges incurred by the AC, repair damages or complete the work. The AC may assess the amount necessary to restore the Deposit Account balance to \$10,000.00. The Owner shall pay the assessment within thirty days after delivery of written notice in order to maintain the balance of the Deposit Account at \$10,000.00. The assessment levied against the Owner is a debt of the Owner at the time the assessment is made and is collectible as such. If the Owner fails or refuses to pay the assessment when due, the amount constitutes a lien on the interest of the Owner in the property, and upon the recording of a notice of lien by the AC it is a lien upon the Owner's interest in the property prior to all other liens and encumbrances, recorded or unrecorded, except: (a) tax and special assessment liens on the property in favor of any assessing unit or special improvement district; and (b) encumbrances on the interest of the Owner recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

4. Owner shall provide a contract with Gorgoza Mutual Water Co.

5. Owner shall provide dumpsters, portable toilet facilities, or any other services, supplies or equipment deemed necessary by the AC, in its sole discretion. In the event of

default by Owner, the AC may elect to provide such services, supplies or equipment at Owner's expense, and may deduct the cost thereof from the Deposit Account.

6. The Owner shall provide at his expense a boundary survey by a licensed engineer or surveyor designating and locating the lot boundaries and lot corners. Based upon this survey, the Owner shall erect on his property a suitable barrier fence along or about the lot line, so that (a) neither the excavation nor the dirt, debris or other materials and equipment encroach or threaten to encroach upon another lot or the common area and (b) the lot lines, boundary of the property and excavation are clearly visible by the AC from the street and adjoining property. The lot lines must be clearly drawn or designated on the site plan provided to the AC.

7. The Owner shall provide at his expense a foundation survey by a licensed engineer or surveyor designating and locating the foundation, footprint for the home (other structures)

8. The Owner shall not encroach upon or cause any damage to another lot or the common area.

9. Adherence to the following rules by the Owner and Contractor during the period of construction is a condition for approval of a structural alteration or architectural change application. Owner and Contractor hereby agree:

a. Construction hours, including but not limited to work involving the use of heavy equipment, impact tools and any other construction activity which creates noise, are:

1) On Monday through Thursday construction is allowed from 7:00 AM to 7:00 PM;

2) On Friday and Saturday construction is allowed from 7:00 AM to 6:00 PM;

3) On Sunday indoor construction is allowed from 12:00 PM (noon) to 6:00 PM, although outdoor construction on Sunday is strictly prohibited; and

4) On national holidays construction work is not allowed

b. To complete the work in a professional, workmanlike and timely manner, and in accordance with (1) industry standards and (2) the approved plans.

c. No construction materials will be stored outside the Lot over night.

d. The Owner shall provide at a location identified with particularity on the his plans: (1) a secure dumpster or container for construction debris, trash, rubbish and the like; and (2) a portable toilet facility. The Owner shall clean up all work materials, supplies and debris from common areas daily, and leave the construction area attractive, clean and safe. A collection of trash may be maintained on the Lot and store provided such trash is stored in a secure container, the container is emptied promptly when full, and any trash which escapes from the Lot is picked-up and properly disposed of immediately.

e. Construction debris outside the Lot will be cleaned up daily. No exceptions. This includes but is not limited to the cleaning-up of all significant accumulations of mud, rocks, gravel or concrete spillage from the streets, rights of way, easements, driving lanes, sidewalks and so forth caused by construction on the Lot each day.

f. No construction waste shall be placed in any dumpsters belonging to or controlled by the Pinebrook Homeowners Association (the "PHOA") for common or private use.

g. To allow the AC to inspect the work.

h. To provide the AC with a copy of all required building permits prior to commencement of the work.

i. No structure, trailer or the like may be temporarily or permanently placed in the limited common area or common area or on a Lot without prior express written approval of the AC.

j. Dumpster locations will require AC approval

k. Not to do any work or make any alterations or changes that would jeopardize the soundness or safety of the property, reduce its value or impair any easement or hereditament.

l. To repair any damage to the common areas or facilities, or any other Lot, home or structure, or remove any nonconforming or unauthorized improvements and restore the property to its original condition.

m. Neither construction work nor construction materials, vehicles or equipment shall be allowed to obstruct the free flow of traffic throughout the development, including by way of illustration but not limitation the roadways and driveways.

n. The Owner shall provide traffic mitigation so that the passage of motor vehicles and pedestrians is safe and secure during all loading, unloading and other operations during the course of construction, including by way of illustration but not limitation providing all necessary warning or regulatory signs and flag personnel, and complying with all applicable local, state and federal laws, ordinances, rules and regulations in order to safely control and regulate traffic.

o. Not to park or allow the parking of motor vehicles, trailers, equipment, materials or supplies on any other lot or the common area, including the grass and sidewalk during construction. Motor vehicles and trailers may only be parked in the common areas with the express prior written consent of the AC. No motor vehicles or trailers may be parked in common areas over night.

p. Parking in the roadways creates a safe site problem and is strictly prohibited.

q. Motor vehicles parked in violation of these construction rules may be immobilized, towed and/or impounded without further notice and at the owner's sole risk and expense.

r. To provide licensed, competent and qualified contractors; to complete the work in a professional manner with good workmanship up to industry standards, and to maintain the uniformity of original design scheme for the properties and quality of construction.

s. Not to create or allow an attractive nuisance as that term has been defined and interpreted under Utah law.

t. No loud music is allowed inside or outside a lot.. Noise must be controlled in accordance with the applicable county noise ordinances.

u. If there is a dispute between parties as to noise or other construction issues, the Parties agree that the decision of the AC shall be conclusive, final and binding.

v. No domesticated animals (including dogs) are allowed in the lots, common area or roadways unless the animal is secure, in a cage or on a leash and under the control of a responsible person.

w. To remove all construction materials, dumpsters, trash containers, vehicles, machinery, equipment and so forth from the Lot within thirty (30) days after the issuance of a certificate of occupancy or prior to occupancy, whichever first occurs.

x. To conduct any blasting operations only in compliance with all regulatory authority, including but not limited to, use of pads, adequate warnings (visual and audible) and closing adjacent roads when blasting; and

y. To comply and require compliance by all workers and subcontractors with all building codes and other applicable zoning, building and construction regulations of all applicable regulatory agencies, including Summit County, Utah, all rules, regulations of and agreements with the AC, the Pinebrook Declaration of Covenants, Conditions, and Restrictions, and the approved plans.

z. Exhaust engine brakes on big trucks and motor vehicles must be muffled, including but not limited to dump trucks and equipment transport trucks. No such unmuffled motor vehicles are allows. If there is a dispute between parties as to the nature of such motor vehicles, noise or other related issues, the Parties agree that the decision of the AC shall be conclusive, final and binding.

10. Because compensatory damages for violation of this agreement would be inadequate and impossible to determine with certainty, Owner agrees to pay liquidated damages in the amount of \$250.00 per day for each day of noncompliance with the terms, covenants or conditions of this agreement, commencing on the date the AC delivers to Owner or Contractor written notice of noncompliance or the violation. Owner may appeal the charge by filing with the AC a written "Notice of Appeal" and asking that the matter be scheduled on the next regular meeting of the AC or as soon thereafter as the parties may be heard. The charge shall be stayed until such time as a hearing is held.

11. The AC is acting under the auspices of the PHOA with the exception of High Meadows which is under the direction and control of the Master Homeowners Association.
12. In the event any dispute arises under this Agreement, the prevailing party shall recover its reasonable attorneys fees and costs incurred.
13. Neither this Agreement nor approval of the construction plans constitute any representation or undertaking by the AC or its members that the design or construction of the building to be built are safe, proper or adequate. Nor shall failure to enforce any terms of this Agreement give rise to any liability on the part of the AC or its members or agents, or constitute a waiver by the AC of the right to enforce any terms of this Agreement at any time for the same or similar acts of noncompliance.
14. Owner shall give the Association written notice if ownership of the lot changes during the term of this agreement and, if so, shall provide the Association with the name, address and contact information for the new owner.
15. Owner shall give the Association written notice if the Contractor changes during the term of this agreement and, if so, Owner shall provide the Association with the name, address, contact, insurance and license information for the new contractor.
16. The Association may levy and collect fines for violation of this agreement.
17. In the event of any conflict, inconsistency or incongruity between the provisions of the documents governing Pinebrook, including but not limited to the Master Declaration, Master Bylaws, Master Articles, Declaration, Bylaws and Articles, and the provisions of this Agreement, the Parties agree that latter shall in all respects govern and control.

18. The Parties intend this to be an integrated contract and that this writing (including the plans) contains the entire agreement between the Parties.

19. The parties agree that a written Notice of this agreement will be recorded against the Property in the office of the County Recorder of Summit County, Utah.

\_\_\_\_\_  
Owner  
Date  
Phone (day):  
Phone (evening)  
Cellphone:  
E-mail:  
Fax:

STATE OF UTAH                    )  
  ss:  
COUNTY OF \_\_\_\_\_)

Subscribed and sworn to before me by the Owner above-named this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC  
Residing at:  
My Commission expires:

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**Dated:**

**Owner:**

**Contractor:**

**Signature Page Continued:**

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Contractor

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Date

Phone (day):

Phone (evening)

Cellphone:

E-mail:

Fax:

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**Dated:**

**Owner:**

**Contractor:**

**Signature Page Continued:**

Architectural Committee

By: \_\_\_\_\_ Date \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_