

1032201

WEBER COUNTY

DEPUTY CLERK *Sharon M. Magrath*

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FILED AND RECORDED FOR

Pole Patch Homeowners Assn.

When recorded mail to:
STEPHEN W. FARR
205 76th Street
Ogden, UT 84401

RECORDED
INDEXED

28.50

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
POLE PATCH SUBDIVISION

An Unrecorded Subdivision of Weber County, Utah

THIS DECLARATION, made this 30 day of OCTOBER, 1987 by the undersigned, hereinafter referred to as "Declarants".

R E C I T A L S:

A. Declarants are the record owner of certain real property in the County of Weber, State of Utah, which is more particularly described as follows (the "Property"):

A part of the East one-half of Section 18, Township 7 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey:

BEGINNING at a point which is 1013.0 feet North 89°09'30" West, 671.75 feet South 1°56'30" West 746.0 feet South 24°29' West and 440.80 feet South 2°10'20" West from the Northeast corner of said Section 13 to the true point of beginning; running thence South 2°10'20" West 215.00 feet; thence South 0°57'50" West 1436.9 feet; thence North 89°14'20" East 590.0 feet; thence North 20°05' 1503.0 feet 77°48'08" West 1098.56 feet to the point of beginning consisting of Lots , inclusive, Pole Patch No. 1, an unrecorded subdivision.

A part of the Northwest Quarter of Section 17 and the Northeast Quarter of Section 18, Township 7 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey: Beginning at the North Quarter corner of said Section 17 and running thence South 0°06'40" East 2260.10 feet, thence North 83°44'30" West 457.80 feet, thence North 59°47' West 504.50 feet; thence North 83°27' West 2018.00 feet; thence South 20°05' West 258.00 feet to a point on the existing corp. limits of Pleasant View thence North 77°48'08" West 1098.56 feet along said existing corp. limits; thence North 2°10'20" East 440.80 feet; thence North 24°29' East 746.0 feet, thence North 1°56'30" East 671.75 feet to the Section line; thence South 89°09'30" East 3705.67 feet along said Section line to the point of beginning, consisting of Lots , inclusive, Pole Patch No. 2, an unrecorded subdivision.

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B. It is anticipated that various improvements will be made to the Property so as to enable its use and operation as a residential development.

C. Declarants desire by filing this Declaration to impose upon the real property constituting the Subdivision and all the improvements now or hereafter constructed thereon mutually beneficial restrictions under a general plan of improvement and operation for the benefit of the Project and the Owner's thereof.

D. Declarants may sell and convey to various persons the fee title to the individual Lots, and improvements constructed thereon, subject to the covenants, conditions, restrictions and limitations herein set forth.

NOW, THEREFORE, Declarants hereby declare that all of the property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

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ARTICLE I

DEFINITIONS

Unless the context clearly indicates otherwise, certain terms used in this Declaration and the foregoing Recitals shall have the meanings set forth in this Article I.

1.01 "Assessments" shall have the meaning assigned to it in Article IX herein.

1.02 "Association" shall mean and refer to POLE PATCH LANDOWNERS ASSOCIATION, INC., a Utah non-profit corporation, its successors and assigns.

1.03 "Board of Trustees" or "Board" shall mean the governing board of the Association which is appointed or elected in accordance with this Declaration and the Articles of Incorporation and the Bylaws of the Association.

1.04 "Bylaws" shall mean the Bylaws of the Association.

1.05 "Common Area" shall mean all streets, roads, highways, rights-of-way, easements and utilities (including the improvements thereon) located on the property for the common use and enjoyment of Owners. The Common Area shall constitute all portions of the Project, except the Lots.

1.06 "Common Expense" shall have the meaning assigned to it in Article 9.04 herein.

1.07 "Common Facilities" shall mean all furniture, furnishings, equipment, facilities and other personal property within the Project for the use and benefit of all Owners and all furniture, furnishings, equipment facilities and other real or personal property acquired in accordance with this Declaration by the Association for the use and benefit of all Owners. Common Facilities shall deemed to be part of the Common Area except as otherwise expressly provided for in this Declaration.

1.08 "Declarants" shall mean the undersigned, who are the second owners of Lots 1-38 respectively at the time this Declaration is recorded.

1.09 "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions for Pole Patch Subdivision.

1.10 "Lien" shall have the meaning assigned to it in Section 10.03(b) herein.

1.11 "Lot" shall mean and refer to any one of the thirty eight (38) numbered plots of land within the boundary of the Property as such are shown upon and designated on the Plat for private ownership and individually numbered and are intended to be used and occupied by a single family.

1.12 "Lot Number" shall mean and refer to the number which designates a Lot on the Plat.

1.13 "Mortgage" shall mean any first mortgage, first deed of trust or other security instrument, which constitutes a first lien by which a Lot or any part thereof is encumbered.

1.14 "Mortgagee" shall mean (i) any person named as the mortgagee or beneficiary under any Mortgage by which the lot of any Owner is encumbered or (ii) any successor to the interest of such person under such Mortgage.

1.15 "Owner" shall mean any person or entity or combination thereof, including Declarants, who, according to the official records of the County Recorder, Weber County, State of Utah, which are maintained for such purpose, is the owner of fee simple title to any Lot. The term "Owner" shall not refer to any Mortgagee unless such Mortgagee has acquired title for other than security purposes.

1.16 "Property" shall mean the real property as more particularly described in Paragraph A of the Recitals above, which is the subject of this Declaration and the Plat.

1.17 "Plat" shall mean that certain subdivision plat entitled Pole Patch Subdivision which plat has been recorded in the official records of the County Recorder, Weber County, State of Utah, which

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are maintained for such purpose, which Plat shall identify and describe all easements which exist on the Property.

1.18 "Project" shall mean all areas within the Property, including the Lots and Common Area, and any and all improvements constructed thereon which are the subject of this Declaration and the Plat.

1.19 "Regular Assessment" shall have the meaning assigned to it in Section 9.04 herein.

1.20 "Residential Unit" shall mean each individual single family residence, including garages, carports, patios or other such similar facilities which are constructed or shall be constructed upon each respective Lot within the Project.

1.21 "Roadways" shall mean that portion of the Common Area consisting of the streets within the Parcel for the use and benefit of the Owners as such are identified and depicted on the Plat.

1.22 "Rules and Regulations" shall have the meaning assigned to it in Section 8.04 herein.

1.23 "Special Assessment" shall have the meaning assigned to it in Section 9.05 herein.

ARTICLE II

SUBMISSION AND DIVISION OF PROJECT

2.01 Submission. The Declaration hereby submits the Property, the Lots, the Common Area, the Limited Common Areas, the Residential Units and all other improvements now existing or hereafter made in or upon the Parcel to the provisions of this Declaration and the Plat. Each and every portion of the Project is and shall hereafter be held, conveyed, devised, mortgaged, encumbered, leased, rented, occupied, improved and otherwise used as a residential development to be known as POLE PATCH SURDIVISION. All of the Project is and shall hereafter be subject to the covenants, conditions, restrictions, uses, limitations and obligations set forth herein each and all of which are declared and agreed to be for the benefit of the Project and in furtherance of a plan for improvement for the Property. Further, each and all of the provisions hereof shall be deemed to run with the land and shall be a burden and benefit to the Declarants, its successors and assigns, and to any person or entity acquiring or owning an interest in the real property and improvements comprising the Project and the heirs, devisees, personal representatives, successors and assigns of any such person or entity. This submission is made subject to all patent reservations and exclusions, all easements and rights-of-way of sight or record, an easement for each and every pipe, line cable, wire, utility line or similar facility which presently does or in the future may traverse or partially occupy the Property and all

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easements necessary for ingress to, egress from, maintenance of and replacement of all such pipes, lines, cables, wires, utility lines, and similar facilities.

2.02 Division Into Lots, Limited Common Area and Common Area. The Project is hereby divided into thirty eight (38) Lots, each consisting of a fee simple interest in a portion of the real property comprising the Property as said portion is defined as set forth in the Plat. All portions of the Project not designated as Lots shall constitute the Common Area which shall be owned by the Association for the benefit of all Owners in accordance with the provisions of this Declaration.

ARTICLE III

NATURE AND INCIDENTS OF OWNERSHIP

3.01 Separate Ownership. Each Lot, together with the Residential Unit and any other improvements constructed thereon, is and shall hereafter be a property of real property which may be separately held, conveyed, devised, mortgaged, encumbered, leased, rented, occupied, improved and otherwise used in accordance with the provisions of this Declaration.

3.02 Use and Occupancy. Subject to the limitations contained in this Declaration, each Owner shall have the non-exclusive right to use and enjoy the Common Area and the exclusive right to use and enjoy said Owner's Lot.

ARTICLE IV

TITLE TO LOTS, LIMITED COMMON AREA AND COMMON AREA

4.01 Title to Lots. Title to a Lot within the project may be held or owned by any person or entity or any combination thereof and in any manner in which title to any other real property may be held or owned in the State of Utah, including without limitation, joint tenancy or tenancy in common.

4.02 Title to Common Area. Title to the Common Area within the project shall be held in the name of the Association and is subject to the rights of any Owner to the non-exclusive use of the Common Area in any manner that does not hinder or encroach upon the rights of others and is not contrary to the provisions of this Declaration and to any Rules and Regulations promulgated by the Association for the use thereof.

4.03 Inseparability. Every devise, encumbrance, conveyance or other disposition of a Lot shall be construed to be a devise, encumbrance, conveyance or other disposition, of the entire Lot together with all appurtenant rights created by law or by this Declaration, including appurtenant membership in the Association as hereinafter set forth.

4.04 No Partition. The Common Area shall be owned by the Association and no Owner may bring any action for partition thereof.

4.05 Separate Mortgages by Owners. Each Owner shall have the right to separately mortgage or otherwise encumber his Lot. No Owner shall attempt to or shall have the right to mortgage or otherwise encumber the Common Area or any part thereof. Any Mortgage or any encumbrance of any Lot within the Project shall be subordinate to all of the provisions of this Declaration and, in the event of foreclosure, the provisions of the Declaration shall be binding upon any Owner whose title is derived through foreclosure through private power of sale, judicial foreclosure or otherwise.

4.06 Separate Taxation. Each Lot in the Project shall be assessed separately for all taxes, assessments and other charges of the State of Utah or of any political subdivision or any special improvement district or of any other taxing or assessing authority. For the purposes of assessment the valuation of the Common Area shall be assessed separately from the Lots. No forfeiture or sale of any Lot or any Residential Unit constructed thereon for delinquent taxes, assessments, or other governmental charge shall divest or in any way affect title to any other Lot.

4.07 Mechanic's Liens. No labor performed or material furnished for use in connection with any Lot or Residential Unit constructed thereon with the consent or at the request of an Owner or his agent or subcontractor shall create any right to file a statement of mechanic's lien against a Lot of any other Owner not expressly consenting to or requesting the same or against any interest in the Common Area unless such work shall have been performed upon the express written consent of the Association and the labor performed or material furnished shall have been provided directly for the improvement, repair or construction of the Common Area.

4.08 Description of Lot. Each respective Lot shall be legally described for all purposes by using the applicable Lot number as established and described on the Plat. Every contract for the sale of a Lot and every other instrument affecting title to the Lot within the Project may describe the Lot by its identifying number or symbol as indicated on the Plat. Such description will be construed to describe the Lot and incorporate all the rights incident to ownership of a Lot within the Project and all of the limitations on such ownership as such ownership is described in this Declaration and/or the Articles of Incorporation and Bylaws of the Association whether or not such rights are expressly set forth within such instruments.

ARTICLE V

EASEMENTS

5.01 Right to Ingress, Egress and Enjoyment. Each Owner shall have the right to ingress and egress over, upon and across the Common Area and shall have the right of easement and enjoyment in and to the Common Area which shall be appurtenant to and pass with the title to every Lot subject to the terms and conditions of said easements as herein set forth.

5.02 Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and any recreational facilities located thereon to the members of his family and his tenants and shall be deemed to have delegated said rights to contract purchasers who reside on said Owner's Lot.

5.03 Easements Deemed Created. All conveyances of a Lot within the Project hereafter made, whether by Declarants or otherwise, shall be construed to grant and reserve such reciprocal easements as are provided for herein even though no specific reference to such easements appears in any such conveyance.

5.04 Easement for Maintenance of Lots. The Association, its agents, employees or subcontractors shall have right of easement over and across each Lot, but not to any portion of the interior of any Residential Unit, for the purpose of maintaining the Lot in accordance with the provisions of Section 3.05 hereof.

ARTICLE VI

RESTRICTIONS ON USE

6.01 Residential Uses. All Lots are intended to be used for single family residential housing and are restricted to such use. No Residential Unit shall be used for business or commercial activities; provided, however, that nothing herein shall be deemed to prevent (i) Declarants, the Association or their duly authorized agents from using any Units owned by the Declarants or the Association as sales models; or (ii) any Owner or his duly authorized Agent from renting or leasing his Residential Unit from time to time.

6.02 No Noxious or Offensive Activity. No noxious, offensive or illegal activity shall be carried on in or upon any part of the Project nor shall anything be done or placed in or upon any part of the Project which is or may become a nuisance or may cause embarrassment, disturbance or annoyance to Owners. No activity shall be conducted or improvements constructed, in or upon any part of the Project which are or may become unsafe or hazardous to any person or property. No automobile or other vehicle shall be parked on a street within the Project or at any other location within the

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Project which impairs or tends to impair vehicular or pedestrian access within the Project or to and from its various parts.

6.03 Rules and Regulations. Each Owner and any person or persons occupying a Lot or using any facility within the Project shall comply with each and every provision of the Rules and Regulations governing use of the Project as such Rules and Regulations may from time to time be adopted, amended or revised by the Association pursuant to Section 8.04 herein.

6.04 Construction Exemption. During the construction of any permitted structures or improvements, the provisions, covenants, conditions and restrictions contained in this Declaration shall be deemed waived to the extent necessary or convenient to permit such construction; provided, however, that during the course of such construction, nothing shall be done which will result in a violation of said provisions, covenants, conditions or restrictions upon completion of the construction.

ARTICLE VII

THE ASSOCIATION

7.01 The Association. The administration of this Project shall be through the POLE PATCH LANDOWNERS ASSOCIATION, INC., a Utah non-profit organization, which has been organized and will be operated to perform the functions and provide the services contemplated in this Declaration. Said Association shall operate in accordance with the laws of the State of Utah, and with the Articles of Incorporation of the Association and the Bylaws of the Association which have been adopted in accordance therewith. A true copy of the duly adopted Bylaws of the Association shall be available for inspection and copying by any Owner during regular business hours at the offices of the Association.

7.02 Membership. Each Owner shall be entitled and required to be a member of the Association. Membership shall begin immediately and automatically upon becoming an Owner and it shall terminate immediately and automatically upon ceasing to be an Owner. If title to a Lot is held by more than one person, the membership appurtenant to that Lot shall be shared by all such persons in the same proportionate interest and by the same type of tenancy in which title to the Lot is held. An Owner shall be entitled to one membership for each Lot owned by said Owner. Each membership shall be appurtenant to the Lot to which it relates and shall be transferred automatically by conveyance of that Lot. Ownership of a Lot within the Project cannot be separated from membership in the Association and any devise, conveyance or disposition of a Lot shall be construed to be a devise, conveyance or other disposition, respectively, of that Owner's membership in the Association and all rights appurtenant thereto. No person or entity other than an Owner may be a member of the Association and membership in the Association

may not be transferred, except in connection with the transfer of a Lot.

7.03 Board of Trustees. The Association shall be governed by a Board of Trustees as the same shall be established and defined in the Bylaws of the Association. The Board of Trustees shall initially consist of persons appointed by Declarants. At the time of the first annual meeting of the Members, the Members (including Declarants) shall elect, in accordance with the Bylaws, a Board of Trustees replacing the initial Board of Trustees as defined in the preceding sentence. From and after the first election of the Board of Trustees by the Members, not less than one of the trustees shall be elected solely by the votes of the Members other than Declarants pursuant to the election procedure set forth in the Bylaws.

7.04 Votes. Each Owner shall be entitled to one vote for each Lot owned. If a membership is jointly held, all or any holders of the joint membership may attend any and all meetings of the Members of the Association, but such holders of any joint membership must act unanimously to cast the one (1) vote relating to their joint membership.

7.05 Classes of Membership. The Association shall have one class of voting membership.

7.06 Amplification. The provisions of this Article VII may be amplified by the Articles of Incorporation and Bylaws of the Association; provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Owners set forth in this Declaration.

7.07 Power of Attorney and Amendments. Each Owner makes, constitutes and appoints the Association the true and lawful attorney in said Owner's name, place and stead to make, execute, sign, acknowledge and file with respect to the Project such amendments to this Declaration and the Plat as may be required by law or by vote taken pursuant to the provisions of this Declaration.

ARTICLE VIII

CERTAIN RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

8.01 The Common Area. The Association, subject to the rights and duties of the Owners as set forth in this Declaration, shall be responsible for the exclusive management, control, operation, and maintenance of the Common Area including all improvements thereon (including the Common Facilities) and shall keep the same in a good, clean, attractive, safe, and sanitary order and repair. All goods and services procured by the Association in performing its responsibilities under this Section shall be paid for with the funds from the Common Expense Fund.

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8.02 Miscellaneous Goods and Services. The Association may obtain and pay for out of the Common Expense Fund the services of such personnel as the Association shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association may also obtain or pay for out of the Common Expense Fund legal and accounting services necessary or desirable in connection with the operation of the Project or the enforcement of this Declaration. In addition to the foregoing, the Association may acquire and pay for out of the Common Expense Fund water, sewer, garbage collection, electrical, gas and other necessary or desirable utility services for the Common Area and insurance, bonds and other goods and services common to the Lots and necessary to implement the intent of this Declaration.

8.03 Rules and Regulations. The Association may make reasonable Rules and Regulations governing the use of the Common Area, Common Facilities and Roadways provided, however, that such Rules and Regulations shall be consistent with the rights and obligations established by this Declaration. The Association shall send by first class U.S. mail, postage prepaid, to each Owner, at the address set forth in the Register of Owners established in the Bylaws, a copy of all such Rules and Regulations, all amendments thereto and any rescissions thereof. Such Rules and Regulations shall take effect fifteen (15) days after adoption by the Association. The Association or any aggrieved Owner may initiate and prosecute appropriate legal proceedings against an offending Owner to enforce compliance with such Rules and Regulations or to recover damages caused by non-compliance therewith as may be permitted by law. In the event the Association shall initiate any such legal proceedings, the Association shall be entitled to recover from the offending Owner costs and expenses incurred by the Association in connection with such proceedings including court costs and reasonable attorneys fees both before and after judgment.

8.04 Creation of Easements. The Association may, without vote or consent of the Owners or of any other person(s), grant or create, on such terms as it deems advisable, reasonable utility and similar easements over, under, across and through the Common Area which may be determined by the Association to be reasonably necessary.

8.05 Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration or by law, and every other right or privilege reasonably implied from the existence of any right, privilege or duty given to it herein or reasonably necessary to effectuate any such right, privilege or duty.

8.06 Financial Statements. The Association shall cause financial statements for the Association to be prepared at least annually or at more frequent intervals if required by a vote of the Owners and cause copies thereof to be made available to all Owners. Such statements shall be prepared in accordance with normally

accepted accounting procedures and presented in such a manner as to fairly and accurately reflect the financial condition of the Association. The financial books of the Association shall be available for inspection by any Owner or his duly authorized representative at any time during the normal business hours of the Association at such place as the books shall be normally maintained.

ARTICLE IX

ASSESSMENTS

ASSOCIATION 0331

9.01 Assessments. The Association shall have the right to charge to and collect from each Owner of a Lot within the Project said Owner's pro rata share of all sums which are expended on behalf of all Owners and all sums which are required by the Association to perform or exercise the functions, duties, rights and powers of the Association under this Declaration, the Articles of Incorporation of the Association or the Bylaws adopted in accordance with the provisions thereof. All such sums which are charged and collected for such purposes shall be collectively referred to herein as "Assessments". The term "Assessments" shall also include each and every annual Regular Assessment and each and every Special Assessment levied in accordance with the provisions hereof.

9.02 Agreement to Pay Assessments. Declarants, for each Lot owned by it, and each Owner for each Lot owned, by the acceptance of instruments of conveyance and transfer therefor, whether or not it be so expressed in said instruments, shall be deemed to covenant and agree with each other and with the Association to pay to the Association all Assessments made for the purposes provided for in this Declaration. Such Assessments shall be fixed, established and collected from time to time as provided in this Article.

9.03 Commencement of Assessments. Regular Assessments shall commence against all Lots on the first day of the first calendar month following recordation of a conveyance instrument transferring the first Lot within the Project to an Owner. Until the first day of January of the year immediately following such conveyance of the first Lot to an Owner, the maximum monthly assessment shall be _____ (\$ _____) per Lot.

9.04 Regular Assessments. A Regular Assessment shall consist of each Owner's pro rata share of the estimated annual total of: (1) the amount which is reasonably anticipated to be expended on behalf of all Owners; and (2) the sum of all amounts which are required to perform or exercise the rights, powers and duties of the Association during each fiscal year. A Regular Assessment shall be computed and levied annually against each Lot in accordance with the provisions hereof as follows:

(a) Common Expense. Each Regular Assessment shall be based upon an advance estimate of the Association's cash

requirements to provide for payment of all estimated expenses arising out of or connected with maintenance and operation of the Common Area as set forth in Section 8.01 hereof and for the provision of utility services (to the extent not separately metered or billed) and all other common items to the Project for the fiscal year for which the Regular Assessment is being made. Such estimated expenses may include, among other things, and without limitation, the following: special assessments attributable to the Common Area; repairs and maintenance of the Common Area; cost of capital improvements to Common Areas; wages for Association employees, including fees for a manager, if any; utility charges for utility services provided to the Common Area; legal and accounting fees; any deficit remaining from a previous period; creation of a reasonable contingency reserve, surplus and/or sinking fund; and any other expenses and liabilities which may be incurred by the Association for the benefit of all the Owners or by reason of this Declaration. Such shall constitute the estimated Common Expense, and all funds received from assessments under this Section 9.04 shall be part of the Common Expense Fund.

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(b) Notice and Payment of Regular Assessment. Each Regular Assessment shall be made on a January 1 through December 31 fiscal year basis. On or before December 1 each year the Association shall give written notice to each Owner as to the amount of the Regular Assessment with respect to his Lot for the fiscal year commencing on January 1 immediately following such date. Failure of the Association to give timely notice of any Regular Assessment as provided herein shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, nor shall such failure affect the liability of the Owner of any Lot for payment of such Regular Assessment. Each Regular Assessment shall be payable in one of two options as follows:

(i) The full Regular Assessment may be paid in full prior to the 25th day of January of each respective fiscal year; or

(ii) The Regular Assessment may be paid in twelve (12) equal monthly installments due on the first day of each month, commencing January 1, and shall be subject to a late charge of five percent (5%) of the billing for payments received after the 15th day of the month. All unpaid portions of any Regular Assessments being paid in accordance with the second option as set forth in this paragraph shall bear interest at the rate of one and one-half percent (1.5%) per month from January 1 of each respective year until paid.

(c) Inadequate Funds. In the event that the Common Expense Fund proves inadequate during any fiscal year for whatever reason, including non-payment of Owner's Assessments, the Association may either borrow funds and/or levy additional Assessments in accordance with the procedures set forth in Section 9.05, except that the vote therein specified shall not be necessary. If the Association elects to levy such an additional assessment then no such assessment or assessments levied in any fiscal year may, in

the aggregate, exceed five percent (5%) of the Common Expense Fund for that fiscal year without the vote or written consent of a majority of voters other than the Declarants.

(d) Increases in Regular Assessments. The amount of Regular Assessment shall not exceed twenty percent (20%) of the Regular Assessment amount for the immediately preceding fiscal year unless a majority of Owners other than Declarants shall consent to a greater increase by vote or written consent.

SECTION 9.05

9.05 Special Assessments. In addition to the Regular Assessments authorized by this Article, the Association may levy at any time and from time to time, upon the affirmative vote of at least fifty percent (50%) of the total votes of the Association, other than Declarants, Special Assessments payable over such periods as the Association may determine, for the purpose of deferring, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Project or any part thereof, or for any other expenses incurred or to be incurred as provided in this Declaration. This Section shall not be construed as an independent source of authority for the Association to incur expenses, but shall be construed to prescribe the manner of assessing expenses authorized by other Sections or Articles hereof. Any amounts assessed pursuant hereto shall be assessed to Owners in the same manner as other assessments. Notice in writing of the amount of such Special Assessments and the time for payment thereof shall be given promptly to the Owners provided that no payment shall be due less than thirty (30) days after such notice shall have been given. All unpaid portions of any Special Assessments shall bear interest at the rate of one and one-half percent (1.5%) per month from the date such portion comes due in accordance with the above-mentioned notice until paid. All funds received from assessments under this Section 9.05 shall be part of the Common Expense Fund.

9.06 Maintenance and Reserves. The Association shall be responsible to maintain an adequate reserve for the maintenance, repairs and replacement of those elements of the Common Area, including Common Furnishings, that must be repaired or replaced on a periodic basis including the inspection, maintenance, repair and replacement of all storm drains, catch basins, piping, culverts, curbs and gutters, roadways and any and all such improvements. Said reserve funds shall be separately maintained in an interest-bearing account for the benefit of the Association.

9.07 Lien for Assessments. All sums assessed to the Owner of any Lot within the Project pursuant to the provisions of this Article IX, together with interest and penalties thereon as provided herein, shall be secured by a Lien on such Lot in favor of the Association as more particularly set forth in Section 10.03(b).

9.08 Personal Obligation of Owner. The amount of each and every Regular Assessment and Special Assessment against any Lot within the Project shall be the personal obligation of the Owner of

such Lot to the Association. Suit to recover money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any such personal obligation by waiving the use and enjoyment of any of the Common Area or by abandonment of his Lot or by waiving any services or amenities provided for in this Declaration. In the event of any suit to recover a money judgment for unpaid Assessments hereunder, the involved Owner shall pay the costs and expenses incurred by the Association in connection therewith, including court costs and reasonable attorneys fees both before and after judgment.

9.09 Statement of Account. Upon payment of a reasonable fee not to exceed Twenty-Five dollars (\$25.00) and upon written request of any Owner, Mortgagee, prospective Mortgagee or prospective purchaser of a Lot, the Association shall issue a written statement setting forth the following: (i) the amount of the unpaid Assessments, if any, with respect to such Lot; (ii) the amount of the current Regular Assessment and Special Assessment, if any, and the date each such Assessment such shall become or became due; and (iii) any credit for advance payments or prepaid items, including without limitation, the Owner's share of prepaid insurance premiums. Such written statement shall be conclusive upon the Association in favor of persons who rely thereon in good faith.

9.10 Personal Liability of Purchaser. Subject to the provisions of 9.08, a purchaser of a Lot shall be jointly and severally liable with the seller thereof for all unpaid Assessments against such Lot; provided, however, that the provisions of this Section shall not prejudice the purchaser's right to recover from the seller the amount paid by the purchaser for such Assessments which were due and payable up to the date of the grant or conveyance.

ARTICLE X

ENFORCEMENT OF RESTRICTIONS

10.01 General. Each Owner shall comply with the provisions of this Declaration, the Articles of Incorporation, Bylaws, Rules and Regulations and the decisions and resolutions of the Association adopted pursuant thereto as the same may be lawfully amended, modified or adopted from time to time. The Association shall have full power to enforce compliance with this Declaration, the Bylaws and Rules and Regulations in any manner provided for by law or in equity, including without limitation, the right to bring an action for damages, an action to recover sums due, an action to enjoin a violation or specifically enforce the provisions thereof. Said action or actions may be maintainable by the Association, or in a proper case, by an aggrieved Owner. In the event of any action by the Association to recover Assessments or other amounts due hereunder, or to enforce the provisions hereof, the Association shall be entitled to recover from the offending Owner all costs and

expenses incurred by the Association in connection with such action, including court costs and reasonable attorneys fees. The obligations, provisions, covenants, restrictions and conditions contained in this Declaration, as the same may be lawfully amended or supplemented, with respect to the Association and/or the Lots within the Project, shall be enforceable by the Declarants, by the Association or by an Owner through a proceeding for prohibitive or mandatory injunction. The rights and remedies herein provided shall be in addition to any and all other rights now or hereafter provided by law for enforcement of the provisions of this Declaration, the Articles of Incorporation, the Bylaws, the Rules and Regulations and decisions and resolutions of the Association adopted pursuant thereto.

10.02 Interest. Unless otherwise specifically set forth in this Declaration, all sums payable hereunder by an Owner shall bear interest at the rate of eighteen percent (18%) per annum from the due date, or if the amount due has been advanced or incurred by the Association or any other Owner pursuant to authorization contained in this Declaration, interest shall begin to accrue on such amounts ten (10) days after repayment is requested in writing by said Association or Owner.

10.03 Certain Specific Enforcement Powers. In amplification of, and not in limitation of, the general powers specified in Section 10.01 above, the Association shall have the following rights and powers:

(a) Suspension of Privileges. If any Owner shall be in breach of this Declaration, the Bylaws or Rules and Regulations, including, but not limited to, the failure of such Owner to pay any assessment on or before the due date thereof, subject to the limitations hereinafter set forth in this paragraph, the Association may suspend the Owner's right to occupy the Common Area and to use Common Facilities and the right of such Owner to participate in any vote or other determination provided for herein. The decision as to whether such privileges should be suspended shall be made by a majority of the members of the Board present at a special meeting of the Board duly called and held for such purpose. No suspension under this paragraph shall be effective until written notice has been given to the Owner of the suspension, the reasons therefor and the actions that must be taken by said Owner to have all suspended privileges reinstated. If such suspension of privileges is based on the failure of an Owner to pay Assessments when due, the suspended privileges of an Owner shall be reinstated automatically at such time as the Owner shall have paid to the Association, in cash or by cashier's or certified check, all amounts past due as of the date of such reinstatement. If such suspension of privileges is based on any act or omission other than the failure to pay Assessments or any other amounts due hereunder when due, no such suspension shall be made except after a meeting of the Board of Trustees of the Association at which a quorum of the Board is present, duly called and held for such purpose. Written notice of such meeting shall be given to the Owner whose privileges are being sought to be suspended

for any act or omission other than the failure to pay Assessments at least ten (10) days prior to the holding of such meeting. Such Owner shall be entitled to appear at such meeting and present his case or provide a written response to the Board no later than the time scheduled for such meeting as to why privileges should not be suspended.

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(b) Enforcement by Lien. If any Owner shall fail or shall refuse to make any payment of any Assessments when due, the amount thereof shall constitute an encumbrance on the entire interest of the said Owner's Lot against which the Assessment has been levied. All of the rights and powers associated with such encumbrance on an Owner's Lot shall be collectively referred to herein as a "Lien". To evidence a Lien for sums assessed pursuant to Article IX, the Association shall prepare a written Notice of Lien setting forth the amount of the Assessment or Assessments, the due date thereof, the amount or amounts remaining unpaid, the name of the Owner, a legal description of the Owner's Lot and a statement that the amount of the Lien shall also include all costs and expenses, including attorneys fees, incurred in preparation, perfection and enforcement of the Lien. Such Notice of Lien shall be signed and acknowledged by a duly authorized agent of the Association and shall be recorded in the office of the County Recorder for Weber County, State of Utah. No Notice of Lien shall be recorded until there is a delinquency in the payment of an Assessment. Such Lien may be enforced by sale or foreclosure of the Owner's interest in said Owner's Lot by the Association or its duly authorized agent. Such sale or foreclosure shall be conducted in accordance with the provisions of Utah law applicable to the exercise of the powers of sale or foreclosure in deeds of trust or mortgages or in any other manner permitted by the laws of the State of Utah. The Lien may be satisfied and released upon payment to the Association in cash or certified funds the amount set forth in the Lien, all of the Association's expenses and attorneys fees incurred in the preparation, perfection and enforcement of the Lien and any Assessments against the Lot which may have become due since the date of said Lien. The Association shall have the right and power to bid in at any foreclosure sale, and to hold, lease, mortgage or convey the subject Lot.

10.04 Priority of Lien. Upon recordation of the Notice of Lien, the Lien provided for herein shall be a charge or encumbrance upon the Owner's interest in the lot prior to all other liens and encumbrances, recorded or unrecorded, except only tax and special assessment liens on the Lot in favor of any municipal assessing or taxing district and any encumbrances on the interest of the Owner recorded prior to the date when such Notice of Lien is recorded which, by law, would be a lien prior to subsequently recorded encumbrances.

ARTICLE XI

ROADWAYS

11.01 Limited Use. Subject to the limitations herein set forth, the Roadways shall be and remain for the use and benefit of all Owners as Roadways for access, ingress and egress to and from the Lots and other improvements on the Project, unless and until the Owners unanimously agree to change such use. No change of use of the Roadways shall be effective unless and until there shall be recorded in the Office of the County Recorder of Weber County, State of Utah, a written instrument duly executed and acknowledged by all Owners agreeing to such change in use.

11.02 Easements and Rights. Every Owner shall have a non-exclusive right and easement to use and enjoy the Roadways for access, ingress and egress to and from the Lots and Common Area, except that this grant of easement shall not be construed to grant to any Owner any right of easement for any purpose across the Lot of any other Owner. The right and easement granted hereby shall be appurtenant to and shall pass with title to each and every Lot subject to:

(a) the right of the Association to levy and collect Regular Assessments and Special Assessments as provided herein;

(b) the right of the Association to make reasonable Rules and Regulations governing the use of the Roadways pursuant to the authority granted herein;

(c) the right of the Association to dedicate or transfer all or any part of the Roadways to any public agency, authority or utility subject to such conditions as may be agreed to by the Owners and subject to the Mortgagee's rights provided for herein.

11.03 Delegation of Use. Any Owner may delegate to the members of his family and to his guests, invitees or licensees, in accordance with the reasonable Rules and Regulations promulgated by the Association, such Owner's right to use and enjoy the Roadways in a manner consistent with the provisions hereof. Any Owner may also assign or delegate to his tenants and shall be deemed to have assigned to any contract purchaser who resides upon the Lot, also in accordance with the reasonable Rules and Regulations promulgated by the Association, such Owner's right and easement to use and enjoy the Roadways.

11.04 Management of Roadways. The Association, subject to the rights and duties of Owners as set forth in this Declaration, shall be responsible for the management, control, operation, care, maintenance, repair, replacement and upkeep of the Roadways, unless and until such responsibility is transferred to and accepted by a public agency, authority or utility in accordance with the provisions hereof.

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11.05 Dedication of Roadways. The Association shall have the right to dedicate or transfer all or any part of the Roadways to any public agency, authority or utility for continued use as access, ingress and egress to and from the Lots and Common Area and subject to such conditions as may be agreed to by the Association and subject to the approval of the Owners and to the rights of Mortgagees as provided for herein. Any such dedication shall be approved by a vote of not less than two-thirds (2/3) of all Lot Owners at a meeting called for such purpose and no such dedication or conveyance shall in any way limit any Owner's right to access to the Lots or Common Area or be effective unless and until there shall be recorded in the office of the County Recorder for Weber County, State of Utah, a written instrument duly executed and acknowledged by the Owners of not less than two-thirds (2/3) of all such Lots agreeing to such dedication or conveyance.

ARTICLE XII

MORTGAGEE PROTECTION

12.01 Mortgagee Protection. No breach of any of the covenants, conditions, restrictions, or limitations contained herein shall defeat or render invalid the lien of any Mortgage made in good faith and for value; provided, however, that all such covenants, conditions, restrictions or limitations contained herein shall be binding upon an Owner whose title is derived through foreclosure, trustee's sale or by deed or assignment in lieu of foreclosure.

12.02 Priority of Liens. No enforcement of any lien provision herein contained shall defeat or render invalid the lien of any Mortgage. All sums assessed in accordance with the provisions hereto shall constitute a lien on each respective Lot prior and superior to all other liens except: (1) all taxes, bonds, assessments and other levies which, by law, would be superior thereto; and (2) the lien or charge of any recorded Mortgage on such Lot in good faith and for value and recorded prior to the date on which any such assessment became due.

12.03 Prior Liens Relate Only to Individual Lots. All taxes, assessments and charges which may become liens prior to the first Mortgage under local law shall relate only to the individual Lot and not to the Project as a whole.

12.04 Mortgage Holder Rights in Event of Foreclosure. Whenever the Mortgagee of a Mortgage of record obtains title to a Lot by the foreclosure of the Mortgage on the Lot or by deed or assignment in lieu of foreclosure, then such Mortgagee or any purchaser at a foreclosure sale, shall take the Lot free of any claims for unpaid Assessments and charges against the Lot which accrued prior to the date of the acquisition of title to such Lot by such acquirer except for claims for pro rata share of such Assessments or charges resulting from a pro rata reallocation of such Assessments or charges to all Lots in the Project including the mortgaged Lot. Such unpaid share of Assessments shall be deemed to be Common

Expenses collectible prospectively pro rata from all of the Lots in the Project, including the Lot which has been acquired in accordance with the provisions of this Section.

12.05 Notice to First Mortgage Holders. The Association shall give the applicable first Mortgagee, if any, prompt notice of any default in the Lot Mortgagor's obligations under the Declaration not cured within thirty (30) days of default.

12.06 Matters Requiring Mortgagee Approval. Notwithstanding any other provision contained within this Declaration, at least two-thirds (2/3) (based upon one vote for each first Mortgage owned per Lot) of the first Mortgagees of any Lot as then appears on the official records of Weber County, Utah, shall have given their prior written approval before the Association shall be entitled to:

(a) By act or omission, seek to abandon or terminate the Project;

(b) Change the pro rata interest or obligations of any individual Lot for the purpose of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards; or

(c) By act or omission seek to abandon, encumber, sell or transfer the Common Area (the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area and Common Facilities by the Project shall not be deemed a transfer within the meaning of this clause);

(d) Use hazard insurance proceeds for losses to the Project (whether to Common Area or Common Facilities) for other than the repair, replacement or reconstruction of such property.

12.07 Amendment. No provision of this Article XVI shall be amended without the prior written consent of at least two-thirds (2/3) (based on one vote for each Mortgage) of all first Mortgagees as appear on the official records of Weber County, State of Utah, as of the date of the vote regarding such amendment.

ARTICLE XIII

GENERAL PROVISIONS

13.01 Intent and Purpose. The provisions of this Declaration and any supplemental or subsequent Declaration or amendments thereto, shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of this Planned Residential Unit Development. Failure to enforce any provision, restriction, covenant, or condition in this Declaration, or in any supplemental or subsequent Declaration or amendments hereto, shall not operate as a waiver of any such provision,

restriction, covenant, or condition or of any other provisions, restrictions, covenants, or conditions.

13.02 Interpretation. Wherever used herein, unless the context shall otherwise provide, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include all other genders. The article and section headings set forth herein are for convenience and reference only and are not intended to describe, interpret, define, or otherwise limit or affect the content, meaning, or intent of this Declaration or any article, section, or provision hereof. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof.

13.03 Registration of Mailing Addresses. Each Owner shall register from time to time with the Association his current mailing address. All notices or demands intended to be served upon any Owner may be sent by first class U.S. Mail, postage prepaid, addressed to the Owner at his last registered mailing address or, if no address has been registered, to the mailing address of the Lot of such Owner. All notices or demands intended to be served upon the Association may be sent by first class U.S. Mail, postage prepaid, addressed to the Association at its offices at 205 26th Street Ogden, Utah 84401 or to such other address as the Association may hereafter furnish to the Owners in writing. Any notice or demand referred to in this Declaration shall be deemed given when deposited in the U.S. Mail, postage prepaid, and in the form provided for in this Section.

13.04 Audit. Any Owner may at any reasonable time, upon appointment and at his own expense, cause an audit or inspection to be made of the books and records maintained by the Association.

13.05 Amendment. Except as otherwise provided herein, this Declaration may be amended if Owners holding at least fifty-one percent (51%) of the total votes of the Association consent and agree to such amendment by instruments duly recorded in the Office of the County Recorder for Weber County, State of Utah.

13.06 Owner's Obligations. All obligations of an Owner under and by virtue of the provisions contained in this Declaration shall continue, notwithstanding that said Owner may be leasing, renting, or selling under contract his Lot. The Owner of a Lot within the Project shall have no obligation for expenses or other obligations

(except interest on prior obligations) accruing after the conveyance of such Lot to a subsequent Owner.

13.07 Effective Date. This Declaration and every provision thereof shall take effect upon recording.

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300-1530 REC-1607

A. Declarants are the record owner of certain real property in the County of Weber, State of Utah, which is more particularly described as follows (the "Property"):

A part of the East one-half of Section 18, Township 7 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey:

BEGINNING at a point which is 1013.0 feet North 89°09'30" West, 671.75 feet South 1°56'30" West 746.0 feet South 24°29' West and 440.80 feet South 2°10'20" West from the Northeast corner of said Section 18 to the true point of beginning; running thence South 2°10'20" West 215.00 feet; thence South 0°57'50" West 1436.9 feet; thence North 89°14'20" East 590.0 feet; thence North 20°05' 1503.0 feet 77°48'08" West 1098.56 feet to the point of beginning consisting of Lots , inclusive, Pole Patch No. 1, an unrecorded subdivision.

A part of the Northwest Quarter of Section 17 and the Northeast Quarter of Section 18, Township 7 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey: Beginning at the North Quarter corner of said Section 17 and running thence South 0°06'40" East 2260.10 feet, thence North 83°44'30" West 457.80 feet, thence North 59°47' West 504.50 feet; thence North 83°27' West 2018.00 feet; thence South 20°05' West 258.00 feet to a point on the existing corp. limits of Pleasant View thence North 77°48'08" West 1098.56 feet along said existing corp. limits; thence North 2°10'20" East 440.80 feet; thence North 24°29' East 746.0 feet, thence North 1°56'30" East 671.75 feet to the Section line; thence South 89°09'30" East 3705.67 feet along said Section line to the point of beginning, consisting of Lots , inclusive, Pole Patch No. 2, an unrecorded subdivision.

5-1530-11508

RECORDER'S MEMO
Legibility of Writing, Typing
or printing in this document
unsatisfactory for reproduction
when received.

IN WITNESS WHEREOF, the undersigned Trustees
hereby certify and declare that these
Bylaws of POLE PATCH TARBOPPERS ASSOCIATION, INC., were duly
presented to and adopted by the Board of Trustees of POLE PATCH
TARBOPPERS ASSOCIATION, INC. at a meeting of said Board duly called,
convened and held on the 30 day of October, 1987 and
that the undersigned, being duly authorized by a resolution of the
Board of Trustees, hereby execute these Bylaws this 25 day of
Nov, 19 87.

POLE PATCH TARBOPPERS
ASSOCIATION, INC.,
a Utah nonprofit corporation

By Stephen W. Farr
Trustee

By Michael W. Wimmer
Trustee

By Donald H. Scott
Trustee

BOOK 1530 PAGE 1669

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STATE OF UTAH)
) SS
COUNTY OF WEBER)

On this 25th day of November, 1987, personally appeared before
me, MICHAEL W. WIMMER, DONALD H. SCOTT and STEPHEN W. FARR, the signers
of the foregoing instrument, who duly acknowledged to me that they
executed the same.

My Commission Expires:
6 27 91

- 14 -
William A. Kelly
NOTARY PUBLIC
Residence 46 Gordon, Utah