

Amended Restrictive Covenants Page 1 of 44
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09/29/2020 09:32:04 AM Fee \$40.00 By RICHARDS
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**AMENDED AND RESTATED DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
STONECREEK MEADOWS PLANNED UNIT DEVELOPMENT
(INCLUDING BYLAWS)**

A Planned Unit Development

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THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (hereafter "Declaration") is made on the date evidenced below by StoneCreek Meadows Homeowners Association, Inc. (hereafter "Association").

RECITALS

A. The property subject to this Declaration is the StoneCreek Meadows subdivision in Washington County, State of Utah. Exhibit "A" of this Declaration further defines the property subject to this Declaration. All Lots therein are part of the Association and each Owner of a Lot is a member thereof. The Association is created as a planned unit development and contains certain Common Area, Limited Common Area and easements for the benefit of the Owners of Lots therein.

B. The Association desires to continue to provide for the preservation and enhancement of the property values and improvements of the Property and for maintenance of the Common Area.

C. This Amended and Restated Declaration of Covenants, Conditions and Restrictions supersedes and replaces all prior declarations and amendments or supplements thereto, recorded against the subdivision, specifically the Declaration of Covenants, Conditions and Restriction for StoneCreek Meadows Planned Unit Development recorded May 14, 2004, as Entry No. 00879606, records of the Washington County Recorder, State of Utah (the "Original Declaration");

D. Pursuant to Utah Code § 57-8a-104 and Article XV of the Original Declaration, 67% of the voting interests of the Association have voted affirmatively to adopt this Declaration.

NOW, THEREFORE, the Association declares that the Property is and shall be held transferred, sold, conveyed and occupied subject to the covenants, conditions restrictions easements, charges and liens hereinafter set forth:

ARTICLE I - DEFINITIONS

The following words when used in this Declaration (unless the context otherwise requires) shall have the following meanings:

1.1 "Act" shall mean the Utah Community Association Act, Utah Code, Title 57, Chapter 8a, as the same shall be amended from time to time.

1.2 "Assessment" means any charge imposed or levied by the Association on or against an Owner or Unit pursuant to the terms of the Governing Documents or applicable law, including (1) annual/regular assessments; (2) special assessments; and (3) individual assessments as set forth below

1.3 “Association” means and refers to the StoneCreek Meadows Homeowners Association, Inc. or such successor association of the Unit Owners acting under this Declaration.

1.4 “Board” or “Board of Directors” shall mean and refer to the governing body of the Association.

1.5 “Bylaws” means the Bylaws of the Association (attached hereto as **Exhibit B**), as they may be amended from time to time.

1.6 “Common Area” means and refers to all real property (including the improvements thereto) owned by the Association or hereafter acquired for the common use and enjoyment of the Members and not dedicated to the general public.

1.7 “Common Expenses” means and refers to all sums which are required by the Association and the Board to perform or exercise its functions, duties, or rights under the Act or the Governing Documents.

1.8 “Community” means all of the land described in the Plats, including any property annexed into the Project.

1.9 “Community Wide Standard” means the standard of conduct, maintenance, or other activity generally prevailing in the community, as set forth in this Declaration, the Bylaws, and as defined or dictated by the Board from time to time pursuant to a duly adopted Resolution of the Board.

1.10 “Conveyance” means and refers to an actual conveyance of fee title to any Lot to any Owner by warranty deed or other document of title.

1.11 “Declaration” means and refers to this Amended and Restated Declaration of Covenants, Conditions and Restrictions applicable to the Property recorded in the Office of the Recorder of Washington County, State of Utah, and any amendments thereto.

1.12 “Family” means persons related by blood or marriage, by legal adoption, or by operation of law.

1.13 “Governing Documents” shall mean and refer to a written instrument by which the Association may exercise powers or manage, maintain, or otherwise affect the property under the jurisdiction of the Association, including Articles of Incorporation, Bylaws, Plat, this Declaration, rules and regulations, Approved Plants Lists, and architectural or design guidelines.

1.14 “Home,” “Living Unit” or “Unit” means and refers to a structure which is designed and intended for use and occupancy as a single-family residence, together with all improvements located on the Lot concerned which are used in conjunction with such residence. Multiple family dwellings are not included in this definition and are not allowed in the Project.

1.15 “Improvement” means every structure or improvement of any kind, including but not limited to landscaping, sprinkler pipes, Living Units, decks, porches, awnings, fences, garages, carports, driveways, storage compartments or other products of construction efforts on or in

respect to the Property (but does not include any exterior antenna or satellite dish, authorized in accordance with the Declaration).

1.16 “Limited Common Areas” means and refers to those Common Areas as referred to herein and designated on the plat as reserved for use of a certain Lot to the exclusion of the other Lot owners within the Development. Limited Common Areas shall include the areas designated as Limited Common Areas on the official plat and pertaining to a specific Lot or which lead to or are associated with a certain Lot or both, subject to the provisions of this Declaration. Limited Common Areas are a subcategory of and are included in Common Areas.

1.17 “Lot” means and refers to any plot of land shown upon any recorded subdivision map of the Property, and specifically excepting the Common Areas and areas dedicated to the use of the general public.

1.18 “Manager” or “Managing Agent” shall mean and refer to the person or entity retained to manage the Property and the Association according to the direction of the Board.

1.19 “Member” or “Members” means and refers to every person or entity holding membership in the Association.

1.20 “Mortgagee” or “Eligible Mortgagee” means and refers to any person named as the first mortgagee or beneficiary, owner or holder of a first deed of trust and who has requested, in writing, to be notified of any issues requiring Mortgagee approval herein.

1.21 “Owner” or “Lot Owner” means and refers to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract purchasers, but excluding those having an interest merely as security for the performance of an obligation.

1.22 “Plat” or “Plat Map” or “Record of Survey Map” (these terms may be used interchangeably herein) means the Record of Survey Maps entitled STONECREEK MEADOWS PLANNED UNIT DEVELOPMENT PHASE 1, 2, 3 in the Recorder’s Office of Washington County, as the same may be amended or substituted.

1.23 “Property” or “Project” means all of the real property described in the Plats, including all of the real property described in attached Exhibit A and all Units, Common Area, easements and open space.

1.24 “Rules and Regulations” means and refers to those rules and regulations adopted by the Board from time to time that are deemed necessary by the Board for the enjoyment of, or furthering the purposes of, the Property and Association. The Board shall adopt a Schedule of Fines to give further effect to the Rules and Regulations.

1.25 “Utilities” means and refers to public utilities, including, but not limited to, sewer, water, drainage, natural gas, telephone, electricity, and cable television.

ARTICLE II - PROPERTY DESCRIPTION & RIGHTS

2.1 Property Subject the Declaration and Bylaws. The real property which is, and shall be, transferred, held, sold, conveyed, used, occupied and improved subject to the Act and to this Declaration, the Governing Documents, and all agreements, decisions and determinations made by the Board or Association is all of the real property and interests described in the Plats, including any property annexed into the Project, and including the Units described on **Exhibit A** attached hereto, which Declaration and covenants, conditions and restrictions therein shall run with the land and shall be binding upon each and every party which shall at any time have any right, title or interest in or to the Property or any part thereof, their heirs, successors and assigns, and to any other person who may in any manner use the Property or any part thereof submitted to the provisions of this Declaration, and shall inure to the benefit of each Owner thereof. To the extent that the Governing Documents are or become inconsistent with the provisions of any future amendments to the Act, the Act, as amended, shall control.

2.2 Description and Legal Status of Units. The Map shows the Units and building designations, their locations, Dimensions from which its areas may be determined together with the Definitions above, and the Common Areas. All Units are residential Units. All Units shall be capable of being independently owned, encumbered, and conveyed.

2.4 Use and Occupancy. Except as otherwise expressly provided in the Governing Documents, the Owner(s) of a Unit shall be entitled to the exclusive use and benefits of ownership of such Unit. Each Unit, however, shall be bound by, and the Owner shall comply with, the restrictions contained below and all other provisions of the Governing Documents of the Association for the mutual benefit of the Owners.

2.5 Easements Reserved. In addition to the easements shown on the Plat or provided for under this Declaration, the Bylaws or law, the following easements are hereby reserved for the benefit of the Owners and the Association:

(a) **Right of Entry.** The Association and any person authorized by the Association may at any reasonable time, and from time to time at reasonable intervals, enter upon any Lot for the purpose of performing maintenance referred to herein and determining whether or not the Lot is in compliance with the Governing Documents or whether the use of the Lot or Unit is causing damage or harm to the Common Areas or Limited Common Areas. Requests for entry shall be made in advance and at a time convenient to the Owner, except in the case of an emergency, when such right shall be immediate. No such entry shall be deemed to constitute a trespass or otherwise create any right of action in the Owner of such Lot or Unit.

(b) **Utility Easements.** The Association and any public utility provider shall have an easement through all Units and the Common Areas for the installation, maintenance and development of utilities and drainage facilities, as may be necessary. Within these easements, no structure, planting or other material shall be placed or permitted to

remain which may reasonably interfere with or damage utilities or drainage facilities. The easement area within each Unit and all improvements therein shall be maintained continuously by the Owner of the Unit in accordance with the terms herein, except for those improvements for which a public authority or utility provider is responsible. Each Unit Owner shall have an easement in common with all Owners to use all pipes, wires, ducts, cables, conduits, public utility lines and other common facilities located in any of the other Units and serving his or her Unit.

(c) Police, Fire and Ambulance. An easement is hereby granted to all police, fire protection, ambulance services and all similar persons to enter upon the streets and Common and Limited Common Areas in the performance of their duties.

(d) Common Areas. All Owners are hereby granted a non-exclusive right and easement of enjoyment to the Common Areas. This easement is appurtenant to and passes with the title to every Unit, subject to Plat Note 5 saying that the Common Area and Limited Common Area is Master Planned open space and, also, subject to the following:

- (1) The right of the Association to limit the number of guests of members using the Common Area.
- (2) The right of the Association to suspend the voting rights of a member for any period during which any assessment or portion thereof against his Unit remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published Rules and Regulations.
- (3) The right of the Association to enter into agreements or leases which provide for use of Common Areas and facilities by a similar Association for use of the Common Areas and facilities of the other Association, or for cash consideration.
- (4) The right of the Association to grant easements for public utilities or other public purposes consistent with the intended use of the Common Area by the Association.
- (5) The right of the Association to take such steps as are reasonably necessary or desirable to protect the Common Area against foreclosure.
- (6) The terms and conditions of the Governing Documents.
- (7) The right of the Association, through its Board, to adopt Rules and Regulations concerning the use of Common Areas.
- (8) Any other rights and obligations related to Common Areas as set forth in the Act.

2.6 No Encroachment. No Home shall encroach upon an adjoining Unit or Common Area without the express written consent of the Board. If, however, an encroachment occurs due to the settlement or shifting of a structure/building or any other reason whatsoever beyond the control of the Board or any Owner, there shall forthwith arise, without the necessity of any further or additional act or instrument, a good and valid easement for the maintenance of such encroachment, for the benefit of the Owner, its heirs, personal representatives and assigns, to provide for the encroachment and non-disturbance of the structure. Such easement shall remain in full force and effect so long as the encroachment shall continue.

2.7 Limited Common Area. A Lot Owner is entitled to the exclusive use of the Limited Common Area adjacent and appurtenant thereto, if any. The Association, through its Board, may adopt rules and regulations concerning use of the Limited Common Areas. Limited Common Area is subject to the rights of the Association as set forth herein.

2.8 Delegation of Use. An Owner is deemed to delegate his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the Property. No one who is a non-resident shall have any such delegable right of enjoyment. All such use by family members, tenants, contract purchasers or guests shall be subject to this Declaration, including all supplements and amendments thereto, the Bylaws, and the Rules and Regulations. Any damage caused to the Common Area or property owned by the Association by a Member or by a person who has been delegated the right to use and enjoy such Common Area by an Owner shall create a debt to the Association. Debts owed to the Association as a result of damage to the Common Area shall be an assessment charged to the Lot Owner as provided in Article IV.

2.9 Limitation of Homeowners Association. Except as otherwise expressly provided in the Governing Documents, the Owner(s) of a Unit shall be entitled to the exclusive use and benefits of ownership of such Unit. Each Unit, however, shall be bound by, and the Owner shall comply with, the restrictions contained below and all other provisions of the Governing Documents of the Association for the mutual benefit of the Owners.

The Association shall not be entitled to take any of the following actions unless at least two-thirds (2/3) of the first Eligible Mortgagees (based on one vote for each Lot mortgaged) or two-thirds (2/3) of the Members shall have first given their prior written approval:

- (a) To act, or by omitting to act, to seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Area owned, directly or indirectly, by the Association for the benefit of the Lots. The granting of easements for public utilities or other public purposes consistent with the intended use of the Common Area is not a transfer within the meaning of this clause.
- (b) To act, or by omitting to act, to change, waive, or abandon any scheme of regulations or their enforcement pertaining to the architectural design or the exterior appearance of Lots or Homes, the exterior maintenance of the Lots or Homes, the maintenance of the Common Area, or the upkeep of the Common Area.

- (c) To fail to maintain fire and extended coverage on insurable Common Area on a current replacement cost basis in an amount equal to at least one hundred percent (100%) of the insurable value (based on current replacement cost).
- (d) To use hazard insurance proceeds for losses to any Common Area for other than the repair, replacement, or reconstruction of the Common Area.
- (e) Except that nothing contained herein shall be construed to limit or prohibit the right of the Board of Directors from entering into joint use agreements with neighboring associations for the purpose of enhancing and promoting the property rights of Owners consistent with the spirit and intent of this Declaration.
- (f) Borrow money in excess of \$20,000 in the aggregate in any given calendar year.

ARTICLE III – MEMBERSHIP AND VOTING RIGHTS

3.1 Membership. Every Owner of a Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

3.2 Board of Directors. The affairs of the Association shall be managed by a Board of three (3) Directors, who need not be Members of the Association. The affairs of the Association shall be governed by a Board of Directors as provided herein and, in the Bylaws, attached hereto as Exhibit B.

3.3 Multiple Ownership Interest. In the event there is more than one (1) Owner of a particular Lot, the vote relating to such Lot shall be exercised as such Owners may determine among themselves. A vote cast at any Association meeting by any such Owner, whether in person or by proxy, shall be conclusively presumed to be the vote attributable to the Lot concerned unless an objection is immediately made by another Owner of the same Lot. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.

3.4 Voting Rights. The method of voting shall be as provided in the Bylaws. Each Owner shall have one (1) vote in matters of the Association for each Unit owned as set forth in the Bylaws.

ARTICLE IV - ASSESSMENTS

4.1 Creation of Lien and Personal Obligation of Assessment. For each Lot owned within the Property, hereby covenant, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such Deed, is deemed to covenant and agree to pay to the Association (i) annual assessments, (ii) special assessments, and (iii) additional assessments as set forth in this Declaration. Assessments shall be levied, fixed, established and collected from time to time as provided below. The assessments, together with interest, costs and

reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment became due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

4.2 Purpose of Assessments. Assessments levied by the Association shall be used exclusively for the purpose of promoting the maintenance, health, safety, and welfare of residents of the Property. The use made by the Association of funds obtained from assessments may include payment of the cost of taxes and insurance on the Common Area; management and supervision of the Common Area; repair and maintenance of the Common Area; establishing and funding a reserve to cover the repair or replacement of improvements within the Common Area; and any expenses necessary or desirable to enable the Association to perform or fulfill its obligations, functions, or purposes under this Declaration or its Articles of Incorporation.

4.3 Basis and Maximum of Annual Assessments. Each Lot on which a Living Unit has been constructed and which is certified for occupancy shall be assessed according to the schedule set forth below. The annual assessment for each Lot shall be determined by the Board of Directors setting an annual base assessment.

The Board of Directors shall fix the base annual assessment at an amount not in excess of the maximum allowed.

(a) The maximum annual assessment may be increased each year not more than fifteen percent (15%) above the maximum assessment for the previous year without approval of the Members as required in section 4.6.

(b) The limitations hereof shall not apply to change in the maximum and basis of the assessments undertaken incident to (i) a merger or consolidation which the Association is authorized to participate in under its Articles of Incorporation, or (ii) an expansion of the Project in phases.

(c) All Units shall pay an equal share of the Annual Assessment and Special Assessments commencing upon the date the Units are made subject to this Declaration.

4.4 Special Assessments. In addition to the annual assessments authorized above, the Association may levy a special assessment for the purpose of (i) defraying, in whole or in part, the cost of any construction (including new construction), reconstruction, repair or replacement of any capital improvement upon the Common Area, including fixtures and personal property related thereto; and (ii) such other purpose the Members approve in accordance with section 4.6.

4.5 Reserve Fund. The Association shall establish and maintain a reserve fund for the purpose of funding repair, replacement and restoration of the Common Areas and other items for which it is responsible to repair or replace, any emergency, unforeseen, unusual, or unanticipated expenditures, and for any other purpose determined from time to time by the Board, by the

allocation and payment to such reserve fund of an amount to be designated from time to time by the Board in its sole discretion and best business judgment or of an amount and in the manner as may be required by law. The fund shall be conclusively deemed to be a Common Expense of the Association and may be deposited with any banking institution, the accounts of which are insured by an agency of the United States of America or may, in the discretion of the Board, be invested in obligations of, or fully guaranteed as to principal by, the United States of America. The reserve funds shall be maintained separately from other Association funds.

The Board's reasonable determination with respect to the amount of the reserve fund contribution shall be conclusively deemed appropriate absent intentional misconduct or gross mismanagement of Association funds. Except in such instances, individual Board members shall not be held liable for any potential or alleged under funding of the reserve account. Unless approved by a majority of Association members for daily maintenance purposes, reserve funds may not be used for any purpose other than the purpose for which the reserve fund was established.

4.6 Notice and Quorum for any Action Authorized under Article IV, Sections 3 and 4

Written notice of any meeting called for the purpose of taking any action authorized under Article IV, Sections 3 and 4, shall be sent to all Members not less than fifteen (15) days in advance of the meeting. At least twenty percent (20%) of the members present in person, by proxy or any by any means permitted under the Bylaws, shall constitute a quorum for these purposes. Upon the establishment of a quorum, the approval of a majority of those who vote in person, by proxy or any means permitted under the Bylaws, shall be sufficient to take any action authorized under Article IV, Sections 3 and 4.

4.7 Rate of Assessment. Annual and special assessments shall be fixed at uniform rates for all Lots and may be collected on a monthly basis.

4.8 Date of Commencement of Annual Assessments; Regular Assessments; Due Dates.

The assessment provided for herein shall commence to accrue on the first day of the month following conveyance to an Owner. The first assessment shall be adjusted according to the number of months remaining in the calendar year. In the absence of a determination by the Board of Directors as to the amount of said assessment, the assessment shall be an amount equal to ninety percent (90%) of the maximum assessment provided above.

The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates for payment of said assessment shall be established by the Board of Directors.

The Association shall, upon demand at any time, furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. Furthermore, a first mortgage holder, upon request, is entitled to a written certificate from the Association advising of any default by the Lot Owner of any obligation not cured within sixty (60) days. A reasonable charge may be made by the Board for the issuance of these

certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

4.9 Non-Payment of Assessments; Remedies of the Association. The annual assessment shall be due and payable on a monthly basis on the first (1st) calendar day of each month, unless otherwise provided by the Board, and shall be delinquent if not paid by the 10th of the month or within such other period established by the Board from time to time. The due date of any Special Assessment shall be fixed in the resolution authorizing the Assessment.

(a) **Non-Payment.** Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the Association shall have the remedies provided by law and in this Declaration.

(b) **Remedies.** For any delinquent payment as provided in subsection (a) above, the Association shall be entitled to all or any combination of the following remedies against a Member whose assessment is delinquent:

- (1) File a notice of lien on the Lot.
- (2) Bring an action at law against the Owner personally obligated to pay for the following:
 - a. The principal amount of the unpaid assessment;
 - b. Interest from the date of delinquency at a rate of eighteen percent (18%) per annum, or such other rate as the Board of Directors may establish from time to time, and
 - c. All court costs and attorney fees.
- (3) Foreclose the lien against the Lot to satisfy judgment rendered for the full amount of the delinquent assessment, including interest, costs and attorney fees as specified above.
- (4) Levy, as an additional sum to such delinquent assessment, all expenses for preparation of the notice of lien (whether or not prepared by an attorney), court costs, interest and reasonable attorney fees.
- (5) Withhold and interrupt any or all membership rights or services performed by the Association in behalf of the delinquent Member.
- (6) Demand that a delinquent Owner who is leasing their Lot pay all future lease payments due to the Owner, to the Association, until all amounts due to the Association are paid.

(c) **Right to Bring Action.** Each Owner, by his acceptance of a deed to a Lot, hereby expressly grants to the Association, its successors, assigns or agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien on real property, and such Owner hereby expressly grants to the Association a power of sale in connection with said lien. The lien provided for in this Section shall be in favor of the Association and shall be for the benefit of all other Lot Owners. The Association, acting on behalf of the Lot Owners, shall have the power to bid in an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same.

4.10 Non-use and Abandonment. No Owner may waive or escape personal liability for the assessments provided for herein, nor release the Lot owned by him from the liens and charges hereof, by non-use of any Common Area or abandonment of his Lot.

4.11 Appointment of Trustee. By acceptance of a deed for a Unit, each Owner as Trustor conveys and warrants to Trustee in trust for the Association, as Beneficiary, with power of sale, the Owner's Unit and appurtenant Limited Common Area, and all improvements thereon for the purpose of securing payment of all Assessments (including basis of collection) provided for in this Declaration. For purposes of this Section and Utah Code Ann. §§57-1-19, et seq., as amended from time to time, the Trustee shall mean the attorney for the Association, and the Association may provide notice and disclosure of the Trustee by recording an "Appointment of Trustee" on the records of the local County Recorder. Each Owner hereby also grants to the Association and Trustee all powers and rights of non-judicial trust deed foreclosure provided for in Utah Code Ann. §§57-1-19, et seq.

4.12 Enforcement of Lien. The lien for nonpayment of assessments may be foreclosed by the Board judicially or non-judicially consistent with the laws of the state of Utah for the non-judicial foreclosure of deeds of trusts. The Association, through duly authorized agents, shall have the power to bid on the Unit at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Upon completion of the foreclosure sale, an action may be brought by the Association or the purchaser at the sale in order to secure occupancy of the defaulting Owner's Unit, and the defaulting Owner shall be required to pay the reasonable rental value of such Unit during any period of continued occupancy by the defaulting Owner or any persons claiming under the defaulting Owner. The Association shall be entitled to the appointment of a receiver to collect the rental income or the reasonable rental value without regard to the value of the security.

4.13 Subordination of Lien to Mortgages. The lien created hereunder upon any Lot shall be subject and subordinate to and shall not affect the rights of the holder of the indebtedness secured by any first mortgage (meaning a mortgage with first priority over other mortgages) or equivalent security interest on any Lot, made in good faith and for value, recorded prior to the date any such assessment becomes due. Any holder of a first mortgage lien or equivalent security

interest on a Lot who comes into possession by virtue of foreclosure of a mortgage, or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale will take said Lot and the improvements appurtenant thereto free of any claims for unpaid assessment charges against said Lot which accrue prior to the time such holder comes into possession of the Lot, except for the claims for a share of such expenses or charge resulting from a reallocation of such assessment or charges to all Lots including the mortgaged Lot. Any first mortgagee, who obtains title to a Lot in the development pursuant to the remedies in the mortgage deed of trust or through foreclosure of the mortgage/deed of trust or any other security instrument, shall not be liable for more than six (6) months of the Lot's unpaid dues or charges which have accrued before the acquisition of title to the Lot by the mortgagee through foreclosure. However, no such sale or transfer shall relieve such Lot from liability for any assessments which thereafter become due or from the lien thereof.

4.14 Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created herein:

- (a) All Properties dedicated to and accepted by any local public authority; and
- (b) The Common Area.

4.15 Additional Assessments. In addition to the annual assessments and special assessments for capital improvements authorized herein, the Association shall levy such assessments as may be necessary from time to time for the purpose of repairing and restoring the damage or disruption resulting to the streets or other Common Areas from the activities of the City of Washington in maintaining, repairing or replacing utility lines and facilities thereon, it being acknowledged that the ownership of utility lines, underground or otherwise, is in the City up to and including the meters for individual Units, and that they are installed and shall be maintained to City specifications.

4.16 Reinvestment Fee. Each time legal title to a Lot passes from one Owner to another, within thirty days after the effective date of such title transaction, the new Owner shall pay to the Association, in addition to any other required amounts a reinvestment fee in the amount of determined by the Board from time to time.

ARTICLE V – SEPARATION WALL

5.1 Separation Wall. A block landscaping wall borders the Project along 2000 South Street which separates the Project from other developments and public rights-of-way; said wall shall be deemed a separation wall and shall be a part of the Common Area and is owned and maintained by the Association. Any other walls, or walls constructed by the Declarant, Developers, Lot Owners for the purpose of separating the Common Area from Lots, or for separating one Lot from another Lot, shall be considered the responsibility of the Lot Owner(s) of the adjoining Lot(s) to construct, repair and maintain, and shall not be considered separation walls under this Declaration. The Association shall have the right, at any time the separation wall is not being

maintained in good condition, to make repairs to or reconstruct the wall and assess the costs of repairs or reconstruction to the responsible Lot Owner(s).

5.2 General Rules of Law to Apply. To the extent not inconsistent with the provisions of this Article, general rules of law regarding separation walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

5.3 Repair and Maintenance. The Association shall be responsible for the cost of reasonable repair and maintenance of the separation wall as defined in Section 1 above. The Association shall have the right to enter upon any Owner's Lot for the purpose of repairing and maintaining the separation wall. No changes or alterations to the separation wall shall be made by Lot Owners without approval of the Architectural Control Committee. The cost of repair for damage caused to the separation walls by the willful or negligent acts of Lot Owners or their guests and assigns shall be a lien upon such Owner's Lot and shall be added to the annual assessment as provided in Article IV.

5.4 Destruction by Fire or Other Casualty. If the separation wall is destroyed or damaged by fire or other casualty, the Association may restore it, and if other Owners or the Association thereafter makes use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use, except as to the right of any such Owner or the Association to call for a larger contribution from the Owners under any rule of law regarding liability for negligent or willful acts or omissions.

5.5 Weatherproofing. Notwithstanding any other provision of this Article, an Owner or the Association who by negligent or willful act causes the separation wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

5.6 Right to Contribution Runs with Land. The right of any Owner or the Association to contribution from any other Owner and/or the Association under this Article shall be appurtenant to the land and shall pass to such successors in title or assignees of the Association.

5.7 Arbitration. In the event of any dispute arising concerning the separation wall, each party shall choose one (1) arbitrator, and such arbitrators shall choose one (1) additional arbitrator, and the decision shall be by a majority of all the arbitrators.

5.8 Applicability. This Article shall be applicable only to the wall defined as a separation wall in the provisions of Section 1 above.

ARTICLE VI - ARCHITECTURAL CONTROL

6.1 Architectural Control Committee. The Board of Directors of the Association shall appoint a three (3) member committee (hereinafter sometimes referred to as "ACC"), the function of which shall be to ensure that all exteriors of Homes and landscaping within the Property harmonize with existing surroundings and structures. The initial ACC members shall be

elected for terms of one, two and three years each, and thereafter ACC members shall be elected for terms of three years. The ACC need not be composed of Owners. If such ACC is not appointed, the Board itself shall perform the duties required of the ACC. No member of the ACC shall receive any compensation or make any charge for services rendered. The ACC shall adopt reasonable rules and regulations for the conduct of its proceedings and to carry out its duties and may fix the time and place for its regular meetings and such extraordinary meetings as may be necessary, and shall keep written minutes of its meetings, which shall be open for inspection upon request. The ACC shall establish procedures for the submission of plans for approval, provided said procedures do not conflict with the provisions contained herein. The ACC shall also establish, from time to time, a fee to accompany said application for approval, made payable to the ACC. At no time shall said fee exceed \$100.00 per application for approval.

6.2 Submission to ACC. No Home, accessory or addition to a Home, landscaping, or other improvement of a Lot shall be constructed, maintained, or accomplished, and no alteration, repainting or refurbishing of the exterior of any Home shall be performed, unless complete plans and specifications therefor have first been submitted to and approved by the ACC. The ACC may require that such plans and specifications be submitted for its review as it deems necessary, including but not limited to, floor plans, site plans, drainage plans, elevation drawings, landscape drawings, and descriptions or samples of exterior materials and colors. For any construction requiring a building permit, approval must be obtained from the ACC before plans are submitted to Washington City for the approval of said building permit.

6.3 In deciding whether to approve or disapprove plans and specifications submitted to it, the ACC shall use its best judgment to ensure that all improvements, construction, landscaping, and alterations on Lots within the Property conform to and harmonize with existing surroundings and structures. The ACC may, by majority vote, promulgate rules and regulations to guide it in its activities. Sixty percent (60%) of the Lot Owners, by one (1) vote for each Lot, may amend, adopt or repeal any rule or regulation adopted by the ACC.

6.4 Approval Procedure. Any plans and specifications submitted to the ACC shall be approved or disapproved by it in writing within thirty (30) days after submission. In the event the ACC fails to take any action within such period, it shall be deemed to have approved the material submitted.

6.5 Construction. Once begun, any improvements, construction, landscaping, or alterations approved by the ACC shall be diligently pursued to completion. If reasonably necessary to enable such improvement, construction, landscaping or alteration, the person or persons carrying out the same shall be entitled to temporary use and occupancy of unimproved portions of the Common Area in the vicinity of the activity.

6.6 Disclaimer of Liability. Neither the ACC nor any member thereof acting in good faith shall be liable to the Association or any Owner for any damage, loss, or prejudice suffered or claimed on account of:

- (a) The approval or rejection of, or the failure to approve or reject, any plans, drawings or specifications;
- (b) The development or manner of development of any of the Property; or
- (c) Any engineering or other defect in approved plans and specifications.

6.7 Non-Waiver. The approval of the ACC of any plans and specifications for any work done or proposed shall not constitute a waiver of any right of the ACC to disapprove any similar plans and specifications subsequently submitted.

ARTICLE VII – DEVELOPMENT STANDARDS

7.1 Intent. The intent of the STONECREEK MEADOWS PLANNED UNIT DEVELOPMENT STANDARDS is to respect the climatic conditions and environment of the region and to maintain and enhance Project property values. Also, within this intent, it is important to allow individual ideas to flourish and enrich the Project, provided that standards are maintained.

These Development Standards provide an overall framework and comprehensive set of guidelines to allow the Project to develop and progress in an orderly and cohesive manner. They also establish a process for judicious review of proposed new developments and changes within the Project. These Development Standards additionally set forth the means by which the standards and guidelines contained herein may be changed and amended to better serve the needs of an evolving Project.

Additional Development Standards may be set forth in separately adopted design guidelines and requirements by the Board which are not contained herein.

These standards have been adopted by the Board of Directors of the STONECREEK MEADOWS HOMEOWNERS ASSOCIATION, INC. and the Architectural Control Committee pursuant to this Declaration.

To the extent that any local government ordinance, building code or regulation requires a more restrictive standard than that found in these Development Standards, the local government standard shall prevail. To the extent that the local ordinance is less restrictive than these Development Standards or this Declaration, the Development Standards and this Declaration shall prevail.

7.2 Development Standards.

- (a) **Building Type.** All Lots shall be used only for single family residential purposes, and no professional or commercial use shall be made of the same, or any portion thereof, nor shall any resident's use of a Lot endanger the health or disturb the reasonable

enjoyment of any other owner or resident. The building or structure permitted to be erected, placed or permitted to be located on any Lot within the project shall be a detached single-family dwelling, with an enclosed private garage for not less than two (2) nor more than four (4) vehicles. The height of the garage door header shall be limited to the height of the roofline of the house and shall not in any event exceed ten (10) feet. No carport or other outdoor or partially enclosed parking facility shall be permitted. All construction shall be of new materials, except that used brick may be used as long as it conforms with the building and subdivision ordinances of the City of Washington. All structures shall be constructed in accordance with the zoning and building ordinances of City of Washington. "Family" is defined to mean persons related by blood or marriage, by legal adoption, or by operation of law.

(b) **Building Location – City Ordinance.** The setbacks required by the City of Washington with respect to Planned Unit Development shall govern. Side yards are to conform to existing City of Washington building ordinances related to Planned Unit Developments.

(c) **Driveways.** Driveways shall be constructed out of concrete or other hard materials approved by the Architectural Control Committee. Driveways consisting of cinders, sand, gravel, asphalt, or dirt shall not be permitted on any Lot. There shall be sufficient driveway parking of not less than two (2) vehicles per Lot.

(d) **Basements.** No basements of any kind shall be permitted in any building constructed on the Property.

(e) **Easements.** Easements for installation and maintenance of utilities, drainage facilities, and ingress and egress are reserved as shown upon the recorded Plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow or drainage channels in the easements, or which may impede ingress and egress. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

(f) **Yard Walls and Fences.** Yard walls and/or fences shall be of brick, block or stone, and shall conform to this Declaration and any standards defined by the Architectural Control Committee. Block walls shall be Geneva Brown in color. No chain link, wire, wood or vinyl fences or gates will be permitted. Gates shall be of wrought iron or metal which is visually compatible in color and design with walls and fences on the Lot and surrounding Lots. Owners shall be entitled to place wood privacy backing on gates which are otherwise in conformity with the Declaration. Walls or fences are intended to enhance the privacy of the residents of a Lot and should not unreasonably interfere with the view from any neighboring Lot. No fence or wall shall be erected,

placed or altered on any Lot or extend closer to the street than any portion of the home on such Lot. No fence, wall or gate shall exceed six (6) feet in height.

General rules of law and written agreements shall apply to yard walls and fences in relation to maintenance, repair, and liability for negligent acts and omissions, where not specifically addressed by this Declaration.

(g) Temporary and Other Structures. No structure of a temporary nature; trailer, bus, house, tent, shack, garage, or other outbuilding shall be used at any time as a residence either temporarily or permanently. No old or second-hand structures shall be moved onto any of said Lots. It being the intention hereof that all dwellings and other buildings to be erected on said Lots, or within the Project, shall be new construction of good quality workmanship and materials.

1. Sheds. All sheds must be approved by the Architectural Control Committee. Sheds must be an earth tone in color and made of similar construction materials to the main home or of vinyl. The height, square footage, etc. of the shed must conform to and harmonize with existing surrounding structures.
2. Sheds must be properly maintained so as not to create an eyesore in the community.

(h) Site Review and Plan Approval. Prior to the commencement of construction of any dwelling, garage, storage building, wall, pool, or improvements on any Lot of this Project, plot plans and/or construction drawing shall be submitted and approved by the Architectural Control Committee. The ACC may charge a reasonable fee for the review of submitted plans and drawings.

(i) Landscaping. Landscaping of the front yard of any Home must be completed prior to final building inspection by the City of Washington. All rear yard landscaping must be completed within one hundred twenty (120) days of issuance of the Certificate of Occupancy from the City of Washington. All property shall be landscaped appropriately with lawn, trees, shrubs, etc., and all landscaping shall be maintained at a reasonable standard compatible with other Homes in the Project. Shrub and tree planting on corner Lots shall be located so as not to create a hazard for the movement of vehicles along streets. No trees or shrubs shall be planted on any corner. All front yard landscaping must be approved by the Architectural Control Committee prior to installation. Rear yard landscaping shall not require approval by the Architectural Control Committee prior to installation provided such landscaping is in compliance with the provisions of this Declaration and any applicable standards defined by the Committee.

(j) Site Distance at Intersections. No fence, wall, or hedge which obstructs sight lines at elevations between two (2) and six (6) feet above the roadway shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street

property lines and a line connecting them at points thirty (30) feet from the intersection of the street property lines extended. The same sight line limitation shall apply on a driveway or alley. No tree shall be permitted to remain within such distance of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of sight lines.

(k) **Architectural Controls.** No building shall be erected, placed, or altered on any Lot until the construction plans and specifications and plans showing the location of the structure have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation.

(l) **Residence/Minimum Square Footage and Building Height.** The minimum total square footage of living area on the first level above ground and located within the area of a foundation for any residential dwelling constructed on any Lot within the Project, exclusive of porches, balconies, patios, decks and garages, shall be not less than one thousand four hundred (1,400) square feet. Where the Home is two (2) story, then ground level of Home must be a minimum of one thousand two hundred (1,200) square feet exclusive of garage space and the entire Home must be at least one thousand eight hundred (1,800) square feet exclusive of porches, balconies, patios, decks and garages. No Home shall consist of more than two (2) stories.

Building height shall be measured from the elevation of the Lot to the highest point of the roofline of a Home. Single-story Homes shall not exceed twenty-five (25) feet in height. Two-story Homes shall not exceed thirty-five (35) feet in height.

(m) **Construction Materials.** In order to promote a harmonious community development and protect the character of the neighborhood, the following guidelines are applicable to the Property:

1. Home style, design, alterations and additions will conform to standards established by the Architectural Control Committee.
2. Stucco, rock, and brick are acceptable for exterior walls and wall coverings. All homes must include a minimum coverage of fifteen percent (15%) stone or brick on the front elevation. Other materials may be used as approved by the Architectural Control Committee and shall be of materials indigenous to the area. Colors of all exterior materials, including window frames or boxes visible from the exterior of the home, must be earth tones and approved by the Architectural Control Committee. "Earth tones" does not include white or gray.
3. Roofing materials will be limited to tile. No asphalt shingles, built-up roofs, or wood shakes will be allowed. No mansard roofs will be allowed. Dome structures of any type will not be allowed.

4. All air conditioning equipment, utility pipes, antennas and utility equipment shall be placed discreetly as possible and covered with landscaping or fence materials. Roof mount air conditioning equipment will not be allowed.
- (n) Onsite Construction Required. In order to promote a harmonious community development and to protect the character of the neighborhood, all homes must be constructed onsite. Pre-fabricated, modular, or mobile homes are not allowed.
- (o) Exterior Lighting. Exterior lighting should be maintained for purposes of security and visual harmony. Exterior lighting should be directed away from adjacent residences and away from the vision of passing motorists.
- (p) Electronic or Broadcast Reception Hardware. Television antennas and satellite dishes must be placed on the back or side of the Home so as not to be obvious or obtrusive from the street. Antennas for any purpose other than for television reception are prohibited.
- (q) Time of Construction Completion. All living unit construction shall be completed within one (1) year of the date such construction is commenced. Owners must commence construction of a living unit on a Lot within two (2) years of acquiring title to the Lot.
- (r) Maintenance of Lot During Construction/Fine. Contractors or sub-contractors as owner/builders must provide on-site dumpsters during construction and are required to clean up the site daily to maintain a clean work site during construction. On-site dumpsters must be located off public streets and placed in the front yard of the Home. Dirt or mud from the construction site or elsewhere, dispersed, directly or indirectly, on the public streets within the Project must be cleaned up within twenty-four (24) hours by the contractor or subcontractor as owner/builder. Contractors or subcontractors as owner/builders shall be responsible for any concrete cracked as a result of construction activities. The Association may levy a Five Hundred Dollar (\$500) fine against a violator of this provision. The fine shall be a charge on the Land and shall be a continuing lien on the Lot as provided in Article IV and consistent with Utah law.
- (s) Lateral and Subjacent Support and Drainage. An Owner's activities which effect the lateral or subjacent support, or both, of adjacent Landowners shall be responsible for damages proximately caused by such activities. Owners shall be responsible for all damage proximately caused by drainage from their Lot(s) to adjacent Landowners
- (t) Preferred Builder. Approval of the general contractor by the ACC shall be required previous to any work being commenced within the Project. Owner/builders are not permitted unless the Owner is a licensed contractor approved by the ACC.

7.3 Re-Subdivision of Lots. No Lot in this Project shall be divided, subdivided, partitioned, parceled or broken up into smaller lots or units.

7.4 Damages. Any damage inflicted on existing improvements such as curbs, gutters, streets, or concrete sidewalks by the Owner or their guests, assigns, agents or independent contractors of any particular Lot must be repaired as soon as possible after such damage is discovered, and expense of such repair shall be borne by the Owner. Damages repaired by the Association shall be an assessment to the Lot as provided in Article IV. An Owner may be required by the Association to sign a statement acknowledging the condition of curbs and sidewalks adjacent to the Owner's Lot prior to commencement of construction.

ARTICLE VIII – OPERATION AND MAINTENANCE

8.1 Maintenance by the Association. All areas maintained by the Association shall be maintained so as not to detract from the appearance of the Property and so as not to affect adversely the value or use of any Lot.

The Association shall maintain all exterior landscaping, including all grass, shrubs, plants and trees, on and associated with the Common Area and Limited Common Area, except that the Association shall have no responsibility to maintain or pay for maintenance of any area described herein as Conservation Area. The Association may elect to make improvements or maintenance to the Conservation Area, consistent with any conservation restrictions in place, and upon agreement with any third-party holding title to the Conservation Area. Maintenance of all private area landscaping on each Lot, including front, rear, and side yards, shall be the sole responsibility of the Owner of such Lot.

8.2 Maintenance by the Owner. Each owner shall be solely responsible for maintenance of his Lot and the exterior of his home. In the event any owner shall fail to perform this maintenance in a manner consistent with the terms of this Declaration, the Directors shall have the right to enter upon such Lot to have maintenance performed on the Lot and exterior of the Home. The cost of such maintenance shall be added to and become part of the assessment to which such Lot is subject under Article IV above.

No Lot Owner shall be permitted to allow the accumulation of rubbish or other unsightly items on or around his Lot. In the event any Owner shall allow such an accumulation in a manner inconsistent with the terms of this Declaration as determined by the ACC, the Board of Directors shall have the right to enter upon such Lot to clean up the Lot and exterior of the Living Unit. The cost of such clean up shall be added to and become part of the assessment to which such Lot is subject under Article IV above.

All front and back yards shall be fully landscaped and maintained, watered, mowed and edge by the Owner. Each Owner shall, to the extent reasonably feasible, control the growth and proliferation of noxious weeds and other flammable materials on his Lot so as to minimize the fire and other hazards to surrounding Lots, living units, the Common Areas, and surrounding properties, and shall otherwise comply with any applicable ordinances, laws, rules, or regulations

pertaining to the removal and/or control of noxious weeds. Noxious weeds shall mean and refer to those plants which are injurious to crops, livestock, land, or public health.

Any changes to the exterior of the home or yard must be approved in writing by the Architectural Control Committee.

8.3 Utilities. Each Lot Owner shall pay for all utility services which are separately billed or metered to individual Lots, including water, sewer, garbage, electrical, cable television and telephone service as the same may be provided by the CITY OF WASHINGTON or other party furnishing such service.

8.4 Repair of Damage Caused by an Owner, His Tenants, Guests, Invitees and Pets.

Any damage caused to the Common Area and facilities, including personal property owned by the Association, by an Owner, his tenant, guest, invitee, minor child or any animal or pet under the control of or owned by any one or a combination of the foregoing shall create an assessable debt owed by such Owner to the Association. If the Owner does not adequately repair the damage, the Association, after approval of a majority vote of the Board of Directors, shall have the right, through its agents, employees, or through an independent contractor, to repair the damage. The costs incurred by the Association in repairing the damage shall be added to and become an assessment against the Lot as described in Article IV of this Declaration, and the same may be enforced and collected as provided in said Article. Any repair work of damage undertaken by the Owner or agent of Owner pursuant to this Section must first submit plans to the ACC and obtain its approval.

8.5 Access at Reasonable Hours. For the purpose solely of performing the maintenance required by this Article, the Association, its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot at reasonable hours.

8.6 Management Agreements. The Board may employ a Manager or other persons who may contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association. Any contract with a person or firm appointed as a manager or managing agent shall be terminable by the Association for cause upon thirty (30) days written notice thereof. Any such contract, and any other contract with a third person wherein the third person is to furnish goods or services for any Common Area or the Association, shall be limited to a duration of one (1) year, provided, however, that such contracts may be renewable for successive one (1) year periods with the approval, for each such period, by a vote or written consent of a majority of the Board of Directors.

8.7 Rules and Regulations. The Association shall have authority to promulgate and enforce such reasonable rules, regulations and procedures as may be necessary or desirable to aid the Association in carrying out any of its functions or to ensure that the Property and the Common Area are maintained and used in a manner consistent with the interests of the Owners.

The Association also has authority to adopt a schedule of monetary fines that may be imposed on Owners for the willful violation of rules that have been duly adopted and published by the

Association, provided that such fines in all cases shall be reasonable and shall be subject to review and hearing by the Board if contested. Any such fine imposed and not contested, or any such fine upheld after review and hearing by the Board shall be payable within thirty (30) days. Unpaid fines may be assessed against a Lot and collected as provided in Article IV. Reasonable rules may include, but shall not be limited to, rules to allocate the fair use of all Common Area.

ARTICLE IX – INSURANCE

9.1 Insurance on Lots and Homes. THE ASSOCIATION SHALL HAVE NO DUTY OR RESPONSIBILITY TO PROCURE OR MAINTAIN ANY FIRE, LIABILITY, FLOOD, EARTHQUAKE OR SIMILAR CASUALTY COVERAGE FOR A LOT OR HOME, OR FOR THE CONTENTS OF ANY HOME. THE ASSOCIATION ALSO SHALL HAVE NO DUTY TO INSURE AGAINST ANY NEGLIGENT ACTS OR EVENTS OCCURRING AT OR ON A LOT OR IN A HOME.

9.2 Assessments. Funds for insurance to be maintained by the Association shall be provided for from annual assessments as allowed in Article IV.

9.3 Required Insurances. The Association shall secure and at all times maintain the following insurance coverages:

- a. **Multi-Peril Coverage.** A multi-peril type policy (Casualty Insurance) covering the Common Area and facilities, if any, in such form and amount as determined necessary and prudent by the Board.
- b. **Broad-Form Public Liability Coverage.** A comprehensive policy insuring the Owners, the Association, its Directors, officers, agents and employees against all damage or injury caused by their negligence to the public, invitees, tenants or Owners on the Common Area. Limits of the liability under such coverage shall not be less than \$1,000,000 for all claims for personal injury or property damage, or both, arising out of a single occurrence. Such policy or policies shall be issued on a comprehensive liability basis, shall provide that cross-insurers as between themselves are not prejudiced, and shall contain "a severability of interest" clause or endorsement to preclude the insurer from denying the claim of an Owner in the development because of negligent acts of the Association or others.
- c. **Fidelity Coverage.** In its discretion, the Board may obtain a fidelity policy or policies to protect against dishonest acts on the part of a Director(s), officer(s), manager, employee(s) of the Association and all others, including volunteers, who handle or are responsible for handling funds of the Association. The fidelity coverage shall name the Association as the obligee or insured and shall be written in an amount sufficient to offer the protection reasonably required, but in no event less than 100% of the reserves. The fidelity bond or insurance shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of employee or similar expression. Said policy shall also provide that it may not be

canceled or substantially modified (including cancellation for non-payment of premiums) without at least thirty (30) days prior written notice to all first mortgagees of Lots.

9.4 Additional Provisions. The following additional provisions shall apply with respect to insurance:

- a. Approval of Policies. All policies shall be written by a reputable company approved by the Board of Directors.
- b. Contribution. Insurance secured and maintained by the Association shall not be brought into contribution with insurance held by the individual Owners or their mortgagees.
- c. Flood Insurance. In the event that some part of the Project is now or may in the future be classified by the Housing and Urban Development as an area having special flood hazards, a blanket policy of flood insurance on the flood areas shall be maintained in an amount customarily required in projects of this type to ensure against flood damage.
- d. Premiums Maintained in the Name of the Association as Director. Premiums for all insurance coverage obtained by the Association shall be written in the name of the Association as Director for each of the Home Owners.
- e. Review of Insurance Policies. The Board of Directors shall periodically, and whenever demand is made by twenty percent (20%) or more of the Owners, review the adequacy of the Association's insurance program and shall report in writing the conclusions and actions of any mortgagee or any Lot who shall have requested a copy of such report. Copies of every policy of insurance procured by the Board of Directors shall be available for inspection by the Owners.
- f. Rebuilding After Damage or Destruction. In the event of damage or destruction by fire or other casualty to any Properties covered by insurance written in the name of the Association as trustee for the Owners, the Board of Directors shall, with concurrence of the Mortgagee, if any, and upon receipt of insurance proceeds, contract to rebuild or repair such damage or destroyed portions of the Properties to as good a condition as formerly. All such insurance proceeds shall be deposited in a bank or other financial institution, whose accounts are insured by a federal governmental agency, with the proviso agreed to by said bank or institution that such funds may be withdrawn only by the signatures of at least two (2) members of the Board of Directors. The Board of Directors shall advertise for sealed bids with any licensed contractors. The contractors shall be required to provide a full performance and payment bond for the repair, construction, or rebuilding of destroyed property. In the event the insurance proceeds are insufficient to pay all of the costs of repairing or rebuilding, or both, to the same condition as formerly, the Board of Directors shall

levy a special assessment against all Owners in such proportions as the Board of Directors deems fair and equitable in light of the damage sustained.

g. Deductible. The Association shall pay for the deductible on any claim made against the Association's property insurance policy, except where the claim is made because of the negligence or willful acts of an Owner or occupant, including a guest, invitee, or visitor, as determined by the Board. In such cases the corresponding Owner shall pay the deductible amount.

9.5 Owner's Insurance. All Owners shall obtain and keep in force and effect adequate property and liability insurance for their Lot, Home and all Improvement thereon. The Association shall not maintain insurance on an Owner's Lot, Home, personal property, or contents.

- a. Prompt Repair. Each Owner further covenants and agrees that in the event of any partial loss, damage or destruction of its Lot or Home the Owner shall promptly proceed to repair or to reconstruct the damaged structure in a manner consistent with the original construction;
- b. Failure to Repair. If the Board determines that any Owner has failed to properly discharge its obligation with regard to the repair or reconstruction of the damaged structure, then the Association may, but is not obligated to, provide such repair or reconstruction at the Owner's sole cost and expense.

ARTICLE X – RESTRICTIONS ON USE

10.1 Residential Use. No Owner shall occupy or use his Home or permit the same or any part thereof to be occupied or used for any purpose other than as a private residence for the Owner and the Owner's Family or the Owner's lessees or guests. Home occupations shall only be permitted as allowed in the Single-Family Residential Zoning ordinances of the City of Washington and shall without exception require the issuance of a conditional use permit and a business license by the City. "Home occupation" for the purposes of this section shall mean and refer to any use of a Lot which:

- a. Is conducted entirely within the Home upon the Lot;
- b. Is carried on only by persons residing in the Home upon the Lot as their principal residence;
- c. Is clearly incidental and secondary to the use of the Home for residential purposes and does not change the character of the Home as residential;
- d. Does not include or require any display, stock in trade, employees or the use of advertising on the Lot;

- e. Does not involve the use of any accessory building, yard or driveway space outside the main Home, for storage or otherwise;
- f. Does not involve the storage, handling or use of hazardous materials in the Home or upon the Lot;
- g. Does not significantly increase traffic to and from the Lot or require parking on the street or otherwise off the Lot; and
- h. Does not require the delivery or pick-up of items by heavy trucks or any other vehicles not customarily used for delivery or pick-up of parcels at residential dwellings.

No occupation or commercial use of a Lot or dwelling which does not comply with the provisions of this section shall be permitted as a "home occupation" on the Property.

10.2 Fee Conveyed. Each Lot shall be conveyed as a separately designated and legally described freehold estate, the Owner taking title in fee simple, subject to the terms, conditions, and provisions hereof.

10.3 Commercial Activities. Lots shall not be used for, or in connection with, the conduct of any trade, business, professional or commercial activity of any kind without applying for a Conditional Use Permit to the CITY OF WASHINGTON, subject to approval by the Board of Directors.

10.4 Household Pets Permitted. No animals, livestock or poultry of any kind may be raised, bred, or kept on any Lot or in the Common Area, except that dogs, cats or other household pets not to exceed two (2) dogs and/or two (2) cats with a total not to exceed three (3) animals, may be kept in Homes or upon any Lot, provided that they are not kept, bred or maintained for any commercial purpose and are restricted to the Owner's premises or on a leash under the handler's control. Animals shall not be allowed to run free off the Owner's Lot. Pets and animals shall not be kept if they create noise that, in the opinion of the Association, constitutes a nuisance. Chickens may be permitted in accordance with Washington City Code.

10.5 Signs. No signs of any kind shall be displayed to the public view on any Lot except one professional sign of not more than one (1) square foot in size or one sign advertising the property for sale or rent of not more than five (5) square feet in size. No sign is allowed on or inserted into any Common Area, including but not limited to walls, entry areas, grass, landscaping property, or structures (if any).

10.6 Obstruction of the Common Area. There shall be no obstruction of the Common Area. Nothing shall be stored in the Common Area without the prior consent of the Board of Directors.

10.7 Prohibited Uses. No noxious or offensive activities shall be carried on in any Lot or in the Common Area, nor shall anything be done therein which may be or become an annoyance or nuisance to the Owners.

10.8 Vehicles. All motorcycles, trail bikes, three-wheel powered devices, motor powered scooters, automobiles, and two- or four-wheel drive recreational type vehicles are to be operated only by individuals with driver's licenses and only on established streets and parking areas. Such vehicles are specifically prohibited from all other portions of the Common Areas and are to be used on said streets only for ingress and egress or access purposes and not for recreational purposes anywhere in the Project.

10.9 Recreational Vehicle Storage. Recreational Vehicles (RVs) should be stored to the side or back of the Home. The storage area must be screened from the street by fence AND GATE, or by other means allowed under this Declaration or by the Architectural Control Committee. No RV shall be parked in the street or in the driveway of a Home for more than two (2) days, for the purpose of loading and unloading in preparation for use. Currently registered, operable boats may be parked in the driveway during the months of May through September.

10.10 Oil and Mining Operations. No drilling, quarrying or mining operations of any kind shall be permitted upon or in any Lot or upon the Common Area.

10.11 Hazardous or Toxic Wastes. No bulk storage of hazardous materials, hazardous wastes, hazardous substances, or toxic substances or any toxin regulated by any federal or state statute or regulation may be stored upon the Property; specifically, but not by way of limitation, including garages of the Homes.

10.12 Alteration of Common Area. Nothing shall be altered or constructed, or removed from the Common Area, except with the written consent of the Board of Directors.

10.13 Time Sharing Prohibited. No Owner of any Lot shall allow or permit any form of time-sharing ownership.

10.14 Leases. Any lease agreement between an Owner and a lessee shall be required to provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, Articles of Incorporation of the Association, and the Bylaws of said Association, and all Rules and Regulations enacted and published by the Board of Directors, and that any failure by lessee to comply with the terms of such documents shall be a default under the lease. Furthermore, all leases shall be in writing and a copy of each signed lease shall be left in the office of the Association by the Owner. Any damage caused by the lessee, including guests of lessee, to the Common Area and exteriors of the buildings shall be an additional assessment upon the Lot as provided by Article IV. The Association shall be deemed an intended third-party beneficiary under any permitted lease and, therefore, shall have standing to evict a tenant should unreasonable problems arise with the tenant if the Owners failed to take corrective action after no less than three (3) notices to the Owner.

10.15 Commercial Vehicles. No commercial vehicle may be parked within the Common Area or upon the driveways of the Homes or at any location within Stone Creek Meadows for any length of time. The Board of Directors is specifically empowered to enforce this provision by having vehicles in violation towed and stored at the Owner's expense.

In addition, any trailers of any size, shape, or configuration that displays any lettering or numbers as to identify or advertise a business or trade; or that contains any supplies, tools of trade or equipment for business use will be classified as a Commercial Vehicle under this resolution and are not permitted within the Homeowners Association property or the public streets therein.

For purposes of this section "Commercial Vehicle" is defined as any self-propelled or towed motor vehicle used on a public street or highway to transport passengers or property when the vehicle-

- a. Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or
- b. Is designed or used to transport more than 8 passengers (including the driver) for compensation; or
- c. Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or
- d. Is used in transporting material found by the Secretary of Transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under 49 CFR, subtitle B, chapter I subchapter C.

10.16 Inoperable Vehicles and Vehicle Maintenance for Hire. No inoperable or unregistered motor vehicle shall be parked on the street or in the driveway of a Home nor in any way visible from the street. No person, Owner or otherwise, shall conduct repairs or restorations of any Vehicle or Recreational Vehicle for hire upon any portion of any property.

ARTICLE XI – INHERENT RISKS OF PONDS AND RIVERS

11.1 Assumption of Risks. By taking title to a Lot, every Owner will be deemed to be aware of and agreed to, and will be deemed to have explained and made known to said Owner's spouse, children, other relatives, visitors, invitees, guests and business associates who come into the Project to visit or at the invitation of said Owner (collectively the "Informed Persons"), the facts that (a) the project is surrounded by ponds and contains a river; (b) that said ponds and river pose inherent risks of danger, including drowning and suffering injury, including without limitation, death, physical or emotional injury, or damage to person, property or third parties, all of which injuries or damage may require costly emergency evacuation and/or emergency or continuing medical care; and (c) that eliminating the risks of living in an environment such as the

Project-for example, by entirely surrounding the Project with fences or walls, or by placing warning signs in every possible dangerous location-would be anathema to the Owner's decision to live in this particular environment, and would greatly reduce the beauty of and the views from the Project, which beauty and views the Owner is deemed to want more than removal of such risks. Therefore, every Owner and every Informed Person shall be deemed, by virtue of coming onto the Project, to have made the voluntary decision to confront the risks posed by the ponds and river, and to have accepted and assumed all of the risks posed by the ponds and river included in or surrounding the Project, whether or not such ponds or river are located within the Project, including Common Areas or outside the boundaries of the Project.

11.2 Release from Indemnification. Every Owner, by taking title to a Lot, shall be deemed (a) to have released and forever discharged, and to have agreed to indemnify and hold harmless, the Association from any and all claims, demands, losses, damages, or injuries or causes of action, which are in any way connected with or result from involvement or contact with the ponds and/or river within and surrounding the Project, including any such claims, demands, or causes of action which allege negligent acts or omissions of the Association; (b) to have released the Association from any duty that either may have to protect the Owner from these risks, which Owner by taking title to a Lot, has acknowledged he or she does not want eliminated because of the detrimental impact on the aesthetics and beauty of the Project that would result from eliminating such risks; and (c) to have agreed to indemnify and hold harmless the Association from any and all claims or causes of action which are brought by or on behalf of the Informed Persons with respect to any matters similar to those from which the Owner has released and indemnified the Association pursuant to the previous provisions of clauses (a) and (b) of this paragraph. The releases and indemnification contained in this paragraph shall include an indemnification by the Owner of the Association from any and all attorneys' fees and costs incurred by either of them in enforcing their rights under the provisions of this Article.

11.3 Execution of Release and Indemnification. In addition to any notwithstanding the provisions of paragraph 2 of this Article as set forth above, each and every Owner taking title to a Lot agrees, as a condition of being a member of the Association and as a condition to being entitled to use all of the Common Areas of the Project, to execute and deliver to the Association a "Residents" Agreement, Release and Acknowledgement of Risk in the form provided by the Association or which may be attached hereto as Exhibit "C".

Until said document has been executed and delivered to the Association, for the benefit of both the Association, by each and every person who becomes an Owner of a Lot in the Project, the Association shall have the right to disallow the use of all Common Areas, including the roads of the Project, by said Owner, it being understood that an inherent part of being an Owner in the Project is the obligation to execute and deliver said document.

11.4 Rules and Regulations. Notwithstanding the provisions of paragraphs 1, 2, and 3 of this Article, the Association, and its Board of Directors, shall have the right, in furtherance of their rights and duties set out in Article II of this Declaration, the Articles and Bylaws, and other law, to enact and adopt such rules and regulations governing the use of and access to the ponds and river in and around the Project, and to develop such signage, trails, look-out points, walls, fences

and other barriers (collectively "Signs and Barriers"), as they deem reasonable and prudent to control and maintain access to and the use of the ponds and river in and around the Project. The purpose of promulgating such rules and regulations and constructing and developing any such signs and barriers will not be to eliminate the risks, or even necessarily to ameliorate the risks associated with the ponds and river, it being understood that all Owners have assumed those risks pursuant to, and for the reasons stated in the provisions of paragraphs 1, 2, and 3 of this Article. Rather the reason for promulgating such rules and regulations and developing such Signs and Barriers, if any are so promulgated or developed, will be to meet the desires and needs of the Member of the Association. For example, the Members of Association may desire to minimize the risk in one particular area by building a wall, or the Members may desire to minimize the impact to native vegetation in another particular point by building a lookout area pavilion. Such rules and regulations, and Signs and barriers, will allow the Association and its Member to balance how much risk posed by the ponds and river they want to face or allow to exist with impact on the aesthetics, views and vegetation and environment of the Project that occurs when rules, regulations, signs and barriers are developed. The Members of the Association through the ordinary operations of the Association shall be entitled to establish this balance, as they deem desirable.

ARTICLE XII - MISCELLANEOUS PROVISIONS

12.1 Enforcement. The Association, or agents, or any Owner shall have the right to sue for damages, or to enforce by any proceeding injunctive or otherwise, at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, Bylaws, or Articles of Incorporation. Specifically, the aggrieved party may seek to recover damages and for injunctive relief. Failure by the Association to enforce any covenant or restriction therein contained shall in no event be deemed a waiver of the right to do so thereafter. The prevailing party to any action brought to enforce the terms of this Declaration or any supplements or amendments thereto shall be entitled to costs and reasonable attorney fees.

12.2 Severability, Construction and Validity of Restrictions. All of the conditions, covenants and restrictions contained in this Declaration shall be construed together, but if it shall at any time be held that any one of said conditions, covenants or restrictions, or any part thereof, is invalid, or for any reason becomes unenforceable, no other condition, covenant or restriction, or any part thereof, shall be thereby affected or impaired; Lot Owners, their successors, heirs or assigns shall be bound by each article, section, subsection, paragraph, sentence, clause and phrase of this Declaration irrespective of the fact that any article, section, subsection, paragraph, sentence, clause or phrase be declared invalid or inoperative or for any reason become unenforceable.

12.3 Duration. The covenants, conditions and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representative, heirs, successors, and assigns for a term of thirty (30) years from the date this Declaration is

recorded, after which time said covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years.

12.4 Gender and Grammar. The singular wherever used in this Declaration shall be construed to mean the plural when applicable and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

12.5 Conflicts. In case of any conflict between this Declaration, as the same may be amended from time to time, and the Articles of Incorporation and the Bylaws of the Association, as they may be amended from time to time, the provisions of this Declaration shall be controlling.

ARTICLE XIII - AMENDMENT

13.1 Notice and Quorum Requirements for Amendment of Declaration. Notice of any meeting called for the purpose of amending the Declaration shall be sent to all members not less than fifteen (15) days in advance of the meeting. At least twenty percent (20%) of the members present in person, by proxy or any by any means permitted under the Bylaws, shall constitute a quorum for purposes of amending this Declaration.

13.2 Amendment by Vote of Members. Upon the establishment of a quorum, the approval of a majority of those who vote in person, by proxy or any means permitted under the Bylaws, shall be sufficient to amend the Declaration.

IN WITNESS WHEREOF, StoneCreek Meadows Homeowners Association, Inc. has executed this Declaration this 25 day of September, 2020.

**STONECREEK MEADOWS
HOMEOWNERS ASSOCIATION, INC.**

By: [Signature]
Its: President

STATE OF UTAH
County of Washington) ss.
)

The foregoing instrument was acknowledged before me on this 25 day of September, 2020 by Don Taylor

[Signature]
Notary Public for Utah



EXHIBIT A

(LEGAL DESCRIPTION)

All Lots and Common Area according to the official plats thereof recorded with the office of the Washington County Recorder, state of Utah for:

SKMW-1-STONECREEK MEADOWS (1) (W)

(52 Lots)

Parcels: W-SKMW-1-1 through W-SKMW-1-10
W-SKMW-1-36 through SKMW-1-80
W-SKMW-1-A

SKMW-2-STONECREEK MEADOWS (2) (W)

(38 Lots)

Parcels: W-SKMW-2-11 through W-SKMW-2-24
W-SKMW-2-47 through W-SKMW-2-50
W-SKMW-2-81 through W-SKMW-2-98
W-SKMW-2-AA
W-SKMW-2-A

SKMW-3-STONECREEK MEADOWS (3) (W)

(14 Lots)

Parcels: W-SKMW-3-25 through W-SKMW-3-35
W-SKMW-3-99 through W-SKMW-3-100
W-SKMW-3-A

EXHIBIT B

**BYLAWS
OF
STONECREEK MEADOWS HOMEOWNERS ASSOCIATION, INC.**

ARTICLE 1 - DEFINITIONS

The definitions contained in or adopted by the Declaration shall be applicable to these Bylaws.

ARTICLE 2 - MEETINGS OF ASSOCIATION

2.1 Place of Meeting. The Association shall hold meetings at such suitable place as may be designated by the Board from time to time.

2.2 Annual Meetings. Each regular annual meeting of the members shall be held each year on the day and at a time and place within the state of Utah selected by the Board.

2.3 Special Meetings. The Association, by and through the Board, shall notice, hold and conduct a special meeting of its members (1) on call of the President or two or a majority of the Board, or (2) if the Association receives one or more written demands for the meeting that state the purpose or purposes for which the meeting is to be held, and are signed and dated by members in good standing holding at least 25% of the voting rights of the Association. When a special meeting is demanded by the members, the Board shall set the time and date for the meeting so that the meeting occurs within 65 days of receipt of the demand and if notice of the meeting is not given by the Board within 30 days after the date the written demand is delivered to an Association officer, a person signing the demand may set the time and place of the meeting and give notice pursuant to the requirements herein. Business transacted at a special meeting shall be confined to the purposes stated in the notice of the meeting.

2.4 Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, in a fair and reasonable manner, including by delivering a copy of such notice to each member entitled to vote thereat, in accordance with the notice requirements specified in these Bylaws. Notice shall be given at least fifteen (15) days before the meeting. The notice shall specify the place, day and hour of the meeting, and must include a description of any matter that must be approved by the members and, in the case of a special meeting, the purpose of the meeting.

2.5 Voting. Each Lot shall have one (1) vote in matters of the Association for each Lot owned, or as otherwise set forth in the Declaration.

2.6 Proxies and Absentee Ballots. A vote may be cast in person, by proxy, by absentee ballot or any other means provided for in these Bylaws or the Declaration. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

2.7 Quorum. At least twenty percent (20%) of the members present in person, by proxy or any by any means permitted under these Bylaws, shall constitute a quorum for all purposes except as otherwise may be provided in the Articles of Incorporation, the Declaration or elsewhere in these Bylaws. If the required quorum is not present, another meeting shall be called subject to the same notice requirement, and the required quorum of the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

2.8 Action by Written Ballot in Lieu of a Meeting. Any action that may be taken at any annual, regular, or special meeting of members may be taken without a meeting if the Association causes to be delivered a written ballot to every member entitled to vote on the matter not less than fifteen (15) days prior to the date on which the ballots must be received by the Association in order to be counted. A written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Approval by written ballot pursuant to this section shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. All solicitations for votes by written ballot shall indicate the number of responses needed to meet the quorum requirements; state the percentage of approvals necessary to approve each matter other than election of directors; specify the time by which a ballot must be received by the Association in order to be counted; and be accompanied by written information sufficient to permit each person casting such ballot to reach an informed decision on the matter. In the event the action is for election of Board members, there shall be space on the ballot to write in nominations. Action taken under this section has the same effect as action taken at a meeting of members and may be described as such in any document. The Board may elect to conduct a vote pursuant to this section by a secrecy procedure whereby a written ballot is accompanied by: (1) a secrecy envelope; (2) a return identification envelope to be signed by the owner; and (3) instructions for marking and returning the ballot. Written ballots that are returned in secrecy envelopes may not be examined or counted before the deadline for returning ballots has passed.

2.9 Action without Notice and a Meeting. Any action required to be taken or which may be taken at a meeting of members may be taken without a meeting and without prior notice if one or more consents in writing, setting forth the action so taken, are signed by members having not less than the minimum voting power that would be necessary to authorize or take the action at a meeting at which all members entitled to vote on the action were present and voted. All such writings must be received by the Association within a sixty-day period. Any such writing may be received by the Association by electronically transmitted facsimile or other form of communication providing the Association with a complete copy thereof, including a copy of the signature thereto. Action taken pursuant to this section shall be effective when the last writing necessary to affect the action is received by the Association, unless the writings describing and

consenting to the action set forth a different effective date.

ARTICLE 3 – BOARD OF DIRECTORS – SELECTION, TERM OF OFFICE

3.1 Number. The affairs of the Association shall be managed by a Board of three (3) Directors, who need not be Members of the Association.

3.2 Term of Office. At the first annual meeting, the Members shall elect one (1) Director for a term of one year, one (1) Director for a term of two (2) years, and one (1) Director for a term of three (3) years, at each annual meeting thereafter, the Members shall elect one (1) Director for a term of three (3) years.

3.3 Removal. Any Director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation, or removal of a Director, his successor shall be selected by the remaining Members of the Board and shall serve for the unexpired term of his predecessor.

3.4 Compensation. No Director shall receive compensation for any service he may render to the Association. However, any Director may be reimbursed for his actual reasonable expenses incurred in the performance of his duties.

3.5 Action Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

ARTICLE 4 - NOMINATION AND ELECTION OF BOARD MEMBERS

4.1 Nomination. Nomination for election to the Board of Directors shall be made by a nominating committee. Nominations may also be made from the floor at the Annual Meeting. The Nominating Committee shall consist of a chairman, who shall be a Member of the Board of Directors, and two or more Members of the Association. The nominating committee shall be appointed by the Board of Directors prior to each Annual Meeting of the Members to serve from the close of such Annual Meeting until the close of the next Annual Meeting, and such appointment shall be announced at each Annual Meeting. The nominating committee shall make as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies. Such nominations may be made from among Members or nonmembers.

4.2 Election. Election to the Board of Directors shall be by secret written ballot. At the election, the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE 5 - MEETINGS OF THE BOARD OF DIRECTORS

5.1 **Regular Meetings.** Regular meetings of the Board shall be held at such place and hour as may be fixed from time to time by the Board, and if so fixed, no notice thereof need be given. Should the meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday, or at another date and time agreed upon by the Board with notice to all members of the Board.

5.2 **Special Meetings.** Special meetings of the Board shall be held when called by the president of the Association, or by any two (2) Board members, after not less than three (3) days' notice to each Board member by mail, electronic mail, telephone, or facsimile, unless waived pursuant to 5.7 below. The notice must state the time, place, and purpose of the meeting.

5.3 **Meeting Procedure.** Unless other rules of order are adopted by resolution of the Board: (a) Meetings of the Board shall be conducted by the President; (b) A decision of the Board may not be challenged because the appropriate rules of order were not used; (c) A decision of the Board is deemed valid without regard to any procedural errors related to the rules of order unless the error appears on the face of a written instrument memorializing the decision.

5.4 **Open Meetings; Executive Sessions.**

5.4.1 **Open Meetings.** Except as provided in subsection 5.5.2, all meetings of the Board shall be open to Unit Owners. However, no Owner shall have a right to participate in the Board meeting unless the Owner is also a member of the Board. The president or Board shall have the authority to exclude an Owner who disrupts the proceedings at a Board meeting.

5.4.2 **Executive Sessions.** In the discretion of the Board, the following matters may be considered in executive session:

- (a) Consultation with legal counsel concerning the rights and duties of the Association regarding existing or potential litigation or criminal matters;
- (b) Personnel matters, including salary negotiations and employee discipline;
- (c) The negotiation of contracts with third parties;
- (d) Collection of unpaid assessments; and
- (e) Other matters of a sensitive, private, or privileged nature at the discretion of the Board.

5.4.3 **Executive Session Procedure.** Except in the case of an emergency, the Board shall vote in an open meeting whether to meet in executive session. If the Board votes to meet in executive session, the president or other presiding officer shall state the general nature of the action to be considered and, as precisely as possible, when and under what circumstances the deliberations can be disclosed to owners. The statement, motion or decision to meet in executive session must be included in the minutes of the meeting.

5.5 Meetings by Telephonic or Electronic Communication. In the event of an emergency, or by decision of the Board, meetings of the Board may be conducted by telephonic communication or by the use of a means of communication that allows all members of the Board participating to hear each other simultaneously or otherwise to be able to communicate during the meeting.

5.6 Waiver of Notice. Any Board member may, at any time, waive notice of any meeting of the Board in writing, and the waiver shall be deemed equivalent to the giving of the notice.

Attendance by a Board member at any meeting of the Board shall constitute a waiver of notice by the Board member, except where the Board member attends the meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. If all Board members are present at any meeting of the Board, no notice to Board members shall be required and any business may be transacted at the meeting.

5.7 Quorum and Acts. At all meetings of the Board a majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

ARTICLE 6 - POWERS, RIGHTS, AND DUTIES OF THE BOARD

6.1 General Powers and Duties. The Board shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law, the Declaration or by these Bylaws directed to be exercised and done by the Owners.

6.2 Specific Powers. In addition to powers granted by the Declaration, these Bylaws or by resolutions of the Association, the Utah Revised Nonprofit Corporation Act or other applicable law, the Board shall have the power to:

- (a) Adopt and publish rules and regulations governing the use of the Common Areas, and the personal conduct of the Members and their tenants, lessees, guests or invitees thereon, and to establish, impose, assess and collect fines and penalties for the infraction thereof;
- (b) Suspend the voting rights of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing for a period not to exceed sixty days for infraction of published rules and regulations.
- (c) Exercise for the Association all powers, duties, and authority vested in or delegated to the Association and not reserved to the Members by other provisions of these Bylaws, the Articles of Incorporation, or the Declaration.
- (d) Declare the office of a member of the Board of Directors to be vacant in the event such Member shall be absent from three (3) consecutive regular meetings of the Board of Directors.

- (e) Employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

6.3 Specific Duties. It shall be the duty of the Board of Directors to:

- (a) Adopt and publish rules and regulations governing the use of the Common Area, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;
- (b) Supervise all officers, agents, and employees of the Association, and to see that their duties are properly performed.
- (c) Pursuant to the Declaration, establish the annual assessment period and fix the amount of the annual base assessment against each Member for each Lot owned at least thirty (30) days in advance of each annual assessment.
- (d) In its discretion, to send written notice of each assessment to every Owner subject thereto.
- (e) Foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action of law against the Owner personally obligated to pay the same.
- (f) Issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment.
- (g) Procure and maintain liability and such other insurance on property owned by the Association.
- (h) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate.
- (i) Cause the Common Area to be maintained, preserved and kept in good repair.

6.4 Best Interest of Association and Reliance on Information. A Board member or officer shall discharge the Board member or officer's duties (a) in good faith, (b) with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and (c) in a manner the Board member or officer reasonably believes to be in the best interests of the Association. The Board members shall, at all times, keep themselves reasonably informed and take such steps and necessary actions as a reasonable, prudent person would do to serve the best interest of the Association.

In discharging duties, a Board member or officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if

prepared or presented by: (a) one or more officers or employees of the Association whom the Board member or officer reasonably believes to be reliable and competent in the matters presented, (b) legal counsel, a public accountant, or another person as to matters the Board member or officer reasonably believes are within the person's professional or expert competence, or (c) in the case of a Board member, a sub-committee of the Association or Board of which the Board member is not a member if the Board member reasonably believes the sub-committee merits confidence.

ARTICLE 7 - OFFICERS AND THEIR DUTIES

7.1 Enumeration of Officers. The officers of the Association shall be a president and vice president, who shall at all times be Members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create.

7.2 Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

7.3 Term. The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign or shall be removed or otherwise disqualified to serve.

7.4 Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

7.5 Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the president, or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

7.6 Vacancy. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

7.7 Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices, except in the case of special offices created pursuant to Section 4 of this Article.

7.8 Duties. The duties of the officers are as follows:

- (a) President. The president shall preside at all meetings of the Board of Directors; see that orders and resolutions of the Board are carried out; sign all leases, mortgages, deeds, and other written instruments; and co-sign all checks and promissory notes.

(b) Vice-President. The vice-president shall act in the place and stead of the president in the event of his absence, inability, or refusal to act; and exercise and discharge such other duties as may be required of him by the Board.

(c) Secretary. The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and its Members; keep appropriate current records, showing the Members of the Association, together with their addresses, and perform such other duties as required by the Board.

(e) Treasurer. The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the association books to be made by a public account at the completion of each fiscal year; and prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting and deliver a copy to each of the Members.

ARTICLE 8 – COMMITTEES

The Board of Directors shall appoint such committees as deemed appropriate in carrying out its purposes.

ARTICLE 9 – BOOKS AND RECORDS

The Association shall maintain within the state of Utah, all documents, information and other records of the Association in accordance with the Declaration, these Bylaws and the Utah Revised Nonprofit Corporation Act.

The books, records, and paper of the Association shall at all time during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation, and the Bylaws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at a reasonable cost.

ARTICLE 10 - ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the Lot against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum, or at such other rate as the Board of Directors shall establish from time to time, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorney fees

of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by the non-use of the Common Area or abandonment of his Lot. Notwithstanding the above, Declarant shall pay no assessment (annual, special or additional) unless a Home owned by Declarant is constructed on a Lot and is occupied as a residence.

ARTICLE 11 - INDEMNIFICATION

Each officer and Board member of the Association, in consideration of his or her services, shall be indemnified by the Association to the extent permitted by the Utah Revised Nonprofit Corporation Act (regardless of the Association's corporate status or lack thereof) against expenses and liabilities reasonably incurred by him or her in connection with the defense of any actual or threatened action, suit or proceeding, civil or criminal, to which he or she may be a party by reason of being or having been a Board member or officer of the Association. The foregoing right to indemnification shall not be exclusive of any other rights to which the Board member or officer or person may be entitled by law or agreement or vote of the members or otherwise.

ARTICLE 12 - AMENDMENTS

Upon the establishment of a quorum, the approval of a majority of those who vote in person, by proxy or any means permitted under the Bylaws, shall be sufficient to amend these Bylaws.

In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and on the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

ARTICLE 13 - MISCELLANEOUS

13.1 Notices.

13.1.1 Association. All notices to the Association or the Board shall be sent care of the managing agent or, if there is no managing agent, to the principal office of the Association or to such other address as the Board may hereafter designate from time to time.

13.1.2 Owners.

(a) Notice by Electronic Means. In any circumstance where notice is required to be given to the members, the Association may provide notice by electronic means, including text message, email, or an Association website, if the Board deems the notice to be fair and reasonable. A member may require the Association, by written demand, to provide notice to the member by mail. The Board is authorized to promulgate rules and procedures facilitating the implementation of this section as it deems fit from time to time, including requiring members to furnish the Association with a current email address.

(b) Except as otherwise provided in the Declaration, these Bylaws or law, all notices to any Owner shall be sent to such address as may have been designated by him or her, from time to time, in writing to the Board, or if no address has been designated, then to the Owner's Unit.

(c) If a Unit is jointly owned, notice shall be sent to a single address, of which the secretary has been notified in writing by such parties. If no address has been given to the secretary in writing, then mailing to the Unit shall be sufficient.

13.2 Affairs, Electronic Means. Any transaction or action involving the business or affairs of the Association, including but not limited to voting and providing notice or records, may be conducted by electronic means. The Association may accept a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation as the act of the member if the Board does so in good faith and has no reason to believe it is not the act of the member. A writing may be delivered in an electronic medium or by electronic transmission, and may be signed by photographic, electronic, or other means. An electronic record or electronic signature is attributable to a person if it was the act of the person. An electronic signature may consist of a mark, symbol, character, letter, or number or any combination thereof attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record and the same shall be considered the signature of such person. A writing includes any document, record, vote, ballot, proxy, or instrument required or permitted to be transmitted by a member or by the Association.


13.3 Waiver, Precedent and Estoppel. No restriction, condition, obligation, or provision contained in these Bylaws or rules and regulations adopted pursuant hereto shall be deemed to have been abrogated or waived by the Association by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur and any failure to enforce the same shall not be deemed to constitute precedent or estoppel impairing the right of the Association as to any similar matter.

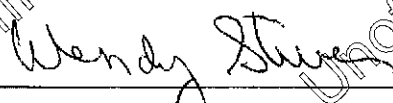
13.4 Invalidity, Number, Captions. The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws. As used herein, the singular shall include the plural and the plural the singular. The masculine and neuter shall each include the masculine, feminine, and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of these Bylaws.

13.5 Fiscal Year. The fiscal year of the Association shall begin on the 1st day of January and end of the 31st day of December every year.

13.6 Conflicts. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

IN WITNESS WHEREOF, the Association has caused these Bylaws to be executed by its duly authorized officers on this 25 day of September, 2020.

(Sign): 
(Print Name): Don Taylor, President

(Sign): 
(Print Name): Wendy Stuver, Secretary