

**AMENDED AND RESTATED
DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS OF
ENCHANTED COVE, P.U.D.**

A PLANNED UNIT DEVELOPMENT IN
SALT LAKE COUNTY, UTAH

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

RECITALS

A. The property subject to this Declaration is the Enchanted Cove PUD subdivision in Salt Lake 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 Lots and Common Areas are collectively referred to as the "Property." The Association is created as a planned unit development and contains certain Lots, Common Areas and easements for the benefit of the Owners.

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 Lots and Common Areas.

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 of Enchanted Cove, P.U.D., recorded December 30, 1996, as Entry No. 6538305, records of the Salt Lake County Recorder, State of Utah (the "Original Declaration"); and any supplements or amendments thereto.

D. Pursuant to Utah Code §57-8a-104 and Article X, Section 10.3 of the Original Declaration, at least two-thirds (2/3) of the total 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**

When used in this Declaration (including in the portion hereof headed "Recitals") the following terms shall have the meaning indicated.

1.1 "Act" shall mean the Utah Community Association Act, Title 57-8a-101, et seq., as may be amended from time to time.

1.2 "Association" shall mean the ENCHANTED COVE PUD HOMEOWNERS ASSOCIATION, a Utah nonprofit corporation.

1.3 "Board" or "Board of Trustees" shall mean and refer to the governing body of the Association.

1.4 "Bylaws" means the Bylaws of the Association (attached hereto as Exhibit B), as they may be amended from time to time.

1.5 "Common Areas" shall mean that part of the Property which is not included within the Lots, but including interior and incidental roadways, sidewalks, walkways, curbs, and landscaping within or adjacent to the Lots, together with all improvements other than utility lines which are now or hereafter constructed or located thereon except for utility lines.

1.6 "Declaration" shall mean this Amended and Restated Declaration of Covenants, Conditions and Restrictions of Enchanted Cove PUD.

1.7 "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 the Act, Articles of Incorporation, Bylaws, Plat, this Declaration, rules and regulations, approved landscaping, architectural or design guidelines as may be adopted from time to time.

1.8 "Improvement" means every structure or improvement of any kind, including but not limited to landscaping, sprinkler pipes, Residential Units (and all parts thereof), decks, porches, awnings, fences, garages, carports, driveways, storage compartments or other products of construction efforts on or in respect to the Property.

1.9 "Lot" shall mean any of the thirty-three (33) separately numbered and individually described parcels of land as shown on the Plat (and shall include the Residential Unit situated thereon whether expressly mentioned herein or not).

1.10 "Majority of Votes" or "Majority of Voting Interests" shall mean, unless the context requires otherwise, a majority of those members who affirmatively vote in favor of a measure at a duly called meeting of the Members.

1.11 “Member” shall mean every person who holds membership in the Association.

1.12 “Owner” shall mean the person who is the owner of record (in the office of the County Recorder of Salt Lake County, Utah) of a fee or an undivided fee interest in any Lot. Notwithstanding any applicable theory relating to a mortgage, deed, or trust, or like instrument, the term Owner shall not mean or include a mortgage or beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

1.13 “Plat” or “Plat Map” or “Map” shall mean the subdivision plat covering the Property,

1.14 “Property” shall mean all of the real property described in the Plats, including all of the real property described in attached Exhibit A and all Lots, Residential Units, Common Areas, easements and open space.

1.15 “Residential Unit” or “Unit” shall mean a structure or portion of a structure which is designated and intended for residential use, together with all improvements located on such Lot which are used in conjunction with such Residential Unit. “Unit” as may be used herein shall also mean Residential Unit.

1.16 “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.

ARTICLE II PROPERTY DESCRIPTION

2.1 Property Subject the Declaration and Bylaws. The real property described in Exhibit A 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. This Declaration 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 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. 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 Residential 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 Residential Units shall be capable of being independently owned, encumbered, and conveyed.

2.3 Use and Occupancy. Except as otherwise expressly provided in the Governing Documents, the Owner(s) of a Residential Unit shall be entitled to the exclusive use and benefits of ownership of such Unit. Each Residential 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.

2.4 Delegation of Use. An Owner is deemed to delegate his right of enjoyment to the Common Areas and facilities to the members of their family and their guests as may be further defined by Association Rule, or such delegation may be made to contract purchasers who reside on the Property. No one who is a non-resident shall have any such delegable right of enjoyment, except that a selling Owner of a Unit may be present, on the Property, with the contract purchaser.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS

3.1 Organization. The Association has been organized as a nonprofit corporation under the nonprofit corporation laws of the State of Utah (Utah Code Annotated Titled 16 Chapter 6a, as may be amended from time to time). In the event the Association is at any time administratively dissolved by the State of Utah, the Board may re-incorporate the Association without a vote of the Owners. The affairs of the Association shall be governed by a Board of Trustees as provided herein and in the Bylaws. The Association shall also register with the Utah Department of Commerce on its "HOA Registry" which is to contain the current name(s) and contact information of Board members as required by the Department.

3.2 Membership. Every Owner shall be a Member of the Association. Membership in the Association shall be mandatory, shall be appurtenant to the Lot in which the Owner has the necessary interest, and shall not be separated from the Lot to which it appertains. Neither the issuance nor the holding of shares of stock shall be necessary to evidence membership in the Association.

3.3 Rights of Owners. All member shall be equally privileged to attend all membership meetings and take part in all membership meetings, shall be eligible to hold any office, so long as they comply with the Governing Documents of the Association and are deemed to be in Good Standing by the Board of Trustees (as provided in this Declaration). No member under sentence of suspension, expulsion or not in good standing shall take part in any proceedings of the Association or be elected to any office of the Association.

3.4 Voting Rights. The method of voting shall be as provided in the Bylaws unless expressly stated otherwise in this Declaration. Each Owner shall have one (1) vote in matters of the Association for each Lot owned. An individual or entity may own no more than one (1) Lot within the Association at any given time.

3.5 Powers, Duties and Obligations. The Association shall have such powers and duties as may be granted to it or imposed by the Act, this Declaration, the Articles of Incorporation, the Bylaws and any applicable statutes, as such statutes may be amended to expand the scope of Association powers, together with its general powers as a corporation, and the power to do any and all things which may be authorized, required or permitted to be done by the Association under and by virtue of this Declaration. The Association shall have the exclusive authority and

right to provide for the management, use, maintenance, repair, operation or administration of the community and Common Area. Without in any way limiting the generality of the foregoing, the Association shall have the following powers:

(a) In fulfilling any of its duties under this Declaration, including its duties for the management, maintenance, repair, operation or administration of the Property or in exercising any of its rights to construct, maintain and repair the Common Areas, the Association shall have the power and authority:

(1) to pay and discharge any and all liens placed upon any Unit on account of any work done or performed by the Association in the fulfillment of any of its obligations and duties of maintenance, repair, operation or administration,

(2) to defend, bring, prosecute, and settle litigation for itself and the Property,

(3) to obtain, contract and pay for, or to otherwise provide for such utility services, including (without limitation) water, sewer, trash removal, snow removal, electrical, telephone and gas services, as the Board may from time to time deem desirable, and the services of architects, engineers, attorneys and certified public accountants and such other professional or nonprofessional services as the Board may deem desirable,

(4) to delegate by resolution or contract to a Managing Agent any of its powers under this Declaration,

(5) to repair or restore the Property following damage or destruction or a permanent taking by the power of eminent domain (or a power in the nature of eminent domain) or by an action or deed in lieu of condemnation by a municipality not resulting in the removal of the Property from the provisions of the Act,

(6) to grant easements and rights-of-way over the Common Area and to approve signage for the Property, and

(7) to borrow money and to pledge or assign current or future Assessments as security for any loan obtained by the Association, provided the assent of a majority of the voting interests is obtained prior to mortgaging, pledging or hypothecating any or all of the Association's real property as security.

(b) Except as limited in the Governing Documents or by the Act, the Board acts in all instances on behalf of the Association.

(c) Telecommunications and Related Contracts. Provided the Association already provides such service to the Residential Units, the Board shall have the power, in its discretion and subject to federal law, to enter into, accept an assignment of, or otherwise cause the Association to comply with contracts with telecommunication service providers, as well as the power to enter into or contract on behalf of the Association for similar bulk rate service contracts of any nature deemed in the Association's best interests. If such service(s) is not already

provided to the Residential Units, the prior approval of the Owners shall be obtained by a vote where a majority of the votes cast must be cast in favor of the service. To cease providing any such service to the Units, the prior approval of the Owners shall be obtained by a vote where a majority of the votes cast must be cast in favor of ceasing to provide the service by the Association.

ARTICLE IV PROPERTY RIGHTS IN COMMON AREAS

4.1 Easement of Enjoyment. Each Member shall have a right and easement of use and enjoyment in and to the Common Area. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no event shall be separated therefrom. Any Member may delegate the right and easement of use and enjoyment described herein to any contract purchaser.

4.2 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 shall only have those easements implied by law to access any Lot and for the limited purpose of maintaining, repairing or replacing any item which is a Common Expense, if any exist. No entry shall be made without at least twenty-four (24) hour notice to the Owner unless an emergency prevents timely notice. No entry is permitted to Residential Unit whatsoever.

(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) Overhang Easement. Each Owner shall have an easement over the Common Areas for any portion of any Unit which extends into the airspace over the Common Areas, provided the following conditions are met: (i) the "overhang" does not extend more than six (6) feet past the furthest extension of the boundary line between the Owner's Lot and the Common Areas and in no event interferes with use of the parking area of any interior roadway; and (ii) the "overhang" extends no lower than eight (8) feet above the ground.

(e) 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 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 their Residential Unit remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published Rules and Regulations unless the violation or infraction remains unresolved.

(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.

4.3 Limitation on Easement. A Member's right and easement of use and enjoyment concerning the Common Areas shall be subject to the following:

(a) The right of Salt Lake County and any other governmental or quasi-governmental body having jurisdiction over the Property to access and rights of ingress and egress over and across any parking area, walkway, or open area contained within the Property for purposes of providing police and fire protection, and providing any other governmental or municipal service; and

(b) The right of the Association to dedicate or transfer all or part of the Common Areas to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association. Any such dedication or transfer must, however, be assented to by two-thirds (2/3) of the vote of the total membership. Written or printed notice setting forth the purpose of the meeting and the action proposed shall be sent to all Members at least ten (10), but not more than thirty (30), days prior to the meeting date.

4.4 Form of Conveyancing. Any deed, lease, mortgage, deed of trust, or other instrument conveying or encumbering title to a Lot and Residential Unit shall describe the interest or estate involved substantially as follows:

Lot No. _____ contained within the ENCHANTED COVE, P.U.D., as the same is identified in the Plat recorded in the office of the County Recorder of Salt Lake County, Utah, in Book _____ at Page _____ and in the “Declaration of Covenants, Conditions and Restrictions of the ENCHANTED COVE, PUD”, recorded in the office of the County Recorder of Salt Lake County, Utah in Book _____ at Page _____. Together with a right and easement of use and enjoyment in and to the Common Areas described, and as for, in said Declaration of Covenants, Conditions, and Restrictions.

Whether or not the description employed in any such instrument is in the above-specified form, however, all provisions of this Declaration shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Lot.

ARTICLE V ASSESSMENTS

5.1 Personal Obligation and Lien. Each Owner shall, by acquiring or in any way becoming vested with his interest in a Lot, be deemed to covenant and agree to pay to the Association the monthly and the special assessments described in this Article, together with all other fines, penalties, interest and costs of collection as described in this agreement. All such amounts shall be, constitute, and remain: (i) a charge and continuing lien upon the Lot with respect to which such assessment is made; and (ii) the personal obligation of the person who is the Owner of such Lot at the time the assessment falls due. No Owner may exempt himself or his Lot for payment of assessments by waiver of his rights concerning the Common Areas or by abandonment of his Lot.

5.2 Purpose of Assessments. Assessments levied by the Association shall be used exclusively for the purpose of fulfilling the purposes of the Association and carrying out this Declaration, and including, but not limited to: (a) The improvement and maintenance, operation, care, and services related to the Common Areas; (b) The payment of insurance premiums; (c) The costs of utilities and other services which may be provided by the Association for the Community; (d) The cost of labor, equipment, insurance, materials, management, legal and administrative fees incurred or expended in performing the duties under this Declaration or the Bylaws; (e) The cost of funding all reserves established by the Association, including a general operating excess and a reserve for replacements as provided below; and (f) Any item properly chargeable as a Common Expense of the Association.

5.3 Apportionment of Assessments. Assessments shall be apportioned as follows:

(a) Monthly and Special Assessments. All Owners of Lots shall pay an equal share of the Monthly Assessment and Special Assessments commencing upon the date the Lots are made subject to this Declaration. The Board of Trustees of the Association may from time to time and in its discretion set the amount of the monthly assessment at any sum not in excess of

(b) Individual Assessments. Individual Assessments shall be apportioned exclusively against the Lots or Residential Units benefitted or to which the expenses are attributable as provided for below.

(c) Payment of Assessments. Assessments shall be levied and collected on a monthly basis. However, upon resolution of the Board of Trustees, installments of Annual Assessments may be levied and collected on a quarterly, semi-annual or annual basis.

5.4 Special Assessments. The Association may levy special assessments, in quarterly or yearly increments, in an amount up to \$150 per Unit, without a vote of the Owners, for the purpose of defraying, in whole or in part: (i) any expense or expenses not reasonably capable of being fully paid with funds generated by monthly assessments; or (ii) the cost of any construction, reconstruction, or unexpectedly required repair or replacement of any improvement or of personal property upon the Common Areas. A special assessment resulting in an amount over \$150 per Unit may only be levied if it is first voted upon by the Owners as stated herein. Nothing herein, however, prevents a budget from being amended at any time to cover costs of the Association and any increases in assessments due to an amended budget shall not be deemed a special assessment.

Any such special assessment may be levied if it is first voted upon by the Owners and: (i) a majority of the votes of the Owners present or by proxy approve the action at a meeting duly called for the purpose; and (ii) written notice is sent to all members at least ten (10), but not more than thirty (30) days prior to the meeting date.

5.5 Quorum Requirements. The quorum required for any action authorized by Section 5.4 above shall be members representing at least 50% of the total Association voting rights. If a quorum is not present at the first meeting, then a subsequent meeting shall be announced at the failed meeting to be held within 45 days of the failed meeting and the new quorum requirement at the subsequent meeting shall be 25% of the total Association voting rights.

5.6 Individual Assessments. Any expenses which are not common expenses, and which benefit or are attributable to fewer than all of the Lots, and any general expense defrayed by the efforts of some but not all Owners, may be assessed exclusively against the Lots and Owners affected or benefitted ("Individual Assessments"). Individual Assessments shall include, but are not limited to: (1) Assessments levied against any Lot or Owner to reimburse the Association for costs incurred in bringing the Lot or its Owner into compliance with, or to otherwise defend or uphold, or carry out, the provisions of the Governing Documents, and for fines or other charges, including attorney fees, imposed pursuant to this Declaration for violation of the Governing Documents; (2) Expenses relating to the cost of maintenance, repair and replacement of a Lot to the extent incurred by the Association, other than Common Expenses incurred in fulfilling its ordinary maintenance, repair and replacement responsibilities to Lots and Units hereunder; and (3) a fine assessed to an Owner subject to any statutory requirements related to the levying and collection of fines.

5.7 Uniform Rate of Assessment. Both monthly and special assessments shall be fixed at an equal rate.

5.8 Nonpayment of Assessments. The Annual Assessments 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 15th of the month or within such other period established by the Board from time to time. The due date of any Special Assessment or other Assessment shall be fixed in the resolution authorizing the Assessment.

(a) Late Charge. Delinquent payments shall be subject to a late charge of no more than 33% on the unpaid monthly assessment installment, but not on the accumulated total unpaid balance.

(b) Acceleration. If paid by installments, may, in the discretion of the Board, be accelerated and the entire balance declared due and payable upon not less than ten (10) days written notice to the Owner. If, however, the assessment is accelerated and an Owner subsequently files bankruptcy or the Board otherwise decides acceleration is not in its best interest, the Board, at its option and in its sole discretion, may elect to decelerate the obligation.

(c) Remedies, Including Suspension of Membership Rights and Services. All membership rights, including the right of a member to vote, shall be automatically suspended during any period of assessment delinquency, unless otherwise determined by the Board. A delinquent Owner may not run for the Board or hold office until their delinquency is resolved. Board members shall become immediately ineligible to serve on the Board and automatically dismissed from such position if delinquent more than 60 days in the payment of any Assessment. Any service provided by the Association to the Owners may also be terminated as to the delinquent Owner at the discretion of the Board. The Association shall have each and every remedy for collection of assessments provided in the Utah Community Association Act, Utah Code Title 57, Chapter 8a, as amended from time to time, and the provisions of the Act shall be deemed to be fully set forth herein when required by such Act in order to exercise any such remedy Monthly Assessment Due Dates. The monthly and special assessments provided herein shall commence as to all Lots on the first.

5.9 Lien. The Annual Assessment and all other Assessments imposed together with damages, fines, interest, costs of collection, late charges, and attorneys' fees provided for in this Declaration (whether or not a legal proceeding is initiated) or by law or awarded by a court for enforcement of the Governing Documents shall be a charge and continuing lien upon each of the Units against which the assessment or charge is made in accordance with the terms and provisions of this Article and shall be construed as a real covenant running with the land. If an assessment is payable in installments, the lien is for the amount of each installment as such becomes due and this provision shall be deemed a notice of assessment. In a voluntary conveyance, the purchaser of a Residential Unit shall be jointly and severally liable with the seller for all unpaid assessments against the latter for their share of the unpaid assessments up to the time of the grant or conveyance, without prejudice to the purchaser's rights to recover from the seller the amounts paid by the purchaser.

5.10 Personal Obligation and Costs of Collection. Assessments imposed under this Declaration, together with late charges and interest at a rate to be established by the Board, not to exceed the maximum permitted by Utah Code Ann, Title 57, §8a, and costs and reasonable attorneys' fees incurred or expended by the Association in the collection thereof (whether or not a lawsuit is initiated), shall also be the personal obligation of the Owner holding title to any Residential Unit at the time when the assessment became due.

5.11 Appointment of Trustee. By acceptance of a deed for a Residential 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.

5.12 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 Residential 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 Residential Unit, and the defaulting Owner shall be required to pay the reasonable rental value of such Residential 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.

5.13 Subordination of Lien to Mortgages. The lien of the Assessments provided for in this Article shall be subordinate to the lien of any first mortgagees or deeds of trust now or hereafter placed upon the Residential Unit subject to assessment, except as follows: the sale or transfer of any Residential Unit pursuant to mortgage or deed of trust foreclosure shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. Such sale or transfer shall not relieve the Unit from liability or lien for any Assessments thereafter becoming due.

5.14 Reserve Analysis.

(a) Reserve Analysis Required. The Board shall cause a reserve analysis to be conducted no less frequently than every six years, and shall review and, if necessary, update a previously conducted reserve analysis no less frequently than every three years. However, the Board may decrease the frequency of conducting and updating a reserve analysis in a formal resolution of the Board delivered to all Owners. The Board may conduct a reserve analysis itself

or may engage a reliable person or organization, as determined by the Board, to conduct the reserve analysis.

(b) Reserve Analysis Defined. “Reserve analysis” means an analysis to determine the need for a reserve fund to accumulate reserve funds, and the appropriate amount of any reserve fund. A reserve analysis shall include:

(a) a list of the components identified in the reserve analysis that will reasonably require reserve funds namely, those that have a remaining useful life between three (3) and thirty (30) years;

(b) a statement of the probable remaining useful life, as of the date of the reserve analysis, of each component identified in the reserve analysis;

(c) an estimate of the cost to repair, replace, or restore each component identified in the reserve analysis;

(d) an estimate of the total annual contribution to a reserve fund necessary to meet the cost to repair, replace, or restore each component identified in the reserve analysis during the component's useful life and at the end of the component's useful life; and,

(e) a reserve funding plan that recommends how the Association may fund the annual contribution described in subsection (4) above.

(c) Reserve Analysis Summary Provided to Owners. The Association shall: (i) annually provide Owners a summary of the most recent reserve analysis or update; and (ii) provide a copy of the complete reserve analysis or update to an Owner who requests a copy.

5.15 Reserve Funds.

(a) The Association shall establish and maintain a reserve fund for repairs and replacement of the Common Areas and areas of Association responsibility hereunder, for 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.

(b) The Association may establish such other reserves for such other purposes as the Board may from time to time consider necessary or appropriate.

(c) 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.

(d) 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.

5.16 Duty to Pay Independent. No reduction or abatement of Assessments shall be claimed or allowed by reason of non-use of the Common Areas, any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or Board under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, order or directive of any municipal or other governmental authority, the obligation to pay Assessments being a separate and independent covenant on the part of the each Owner.

5.17 Statement of Unpaid Assessment & Payoff Information. The Association shall, upon demand at any time, furnish to any Owner liable for assessment a certificate in writing signed by an officer of the Association setting forth whether Assessments has been paid. The certificate shall be conclusive evidence of payment of any assessment therein stated as having been paid. A reasonable charge may be levied in advance by the Association for each certificate so delivered. The Association may charge a fee for providing Association payoff information needed in connection with the financing, refinancing, or closing of an Owner's sale of the Owner's Lot up the maximum amount allowed by law.

5.18 Reinvestment Fee Due on Transfer of Unit. Each time legal title to a Lot passes from one person to another, within thirty (30) days after the effective date of such title transaction, the new Lot Owner shall pay to the Association, in addition to any other required amounts, a reinvestment fee, in the amount of two (2) times the current monthly assessment. The following are not subject to the fee: (i) an involuntary transfer; (ii) a transfer that results from a court order; (iii) a bona fide transfer to a family member of the seller within three degrees of consanguinity who, before the transfer, provides adequate proof of consanguinity, or to a legal entity, such as a trust, in which the owner or the owner's spouse, son, daughter, father or mother hold a beneficial interest of at least fifty percent (50%) for estate planning purposes; (iv) a transfer or change of interest due to death, whether provided in a will, trust, or decree of distribution; or (v) the transfer of a Lot owned by a financial institution, except to the extent required for the payment of the Association's costs directly related to the transfer of the property, not to exceed \$250.

**ARTICLE VI
OPERATION AND MAINTENANCE**

6.1 Responsibility to Rebuild or Repair. Because the physical condition of each Residential Unit affects the value of every other Residential Unit, the Owner of each Unit shall maintain its Residential Unit in such a manner that it shall have the continued capacity to be used as a Residential Unit, and thus benefit the other Residential Units. The Owner shall not cause or permit to occur any damage, loss or injury to the Owners of the benefitted Residential Units or their lessees or guests by or as a result of any act of negligence or any willful, wanton or reckless act on its part or on the part of its lessees or guests with respect to the flood, wind, snow or any other cause of whatever nature, the Owner shall cause the Residential Unit upon the Lot owned by him to be repaired or rebuilt. Such repair or rebuilding shall commence not later than sixty (60) days after the occurrence of the damage or destruction and shall be completed not later than six (6) months after such occurrence.

6.2 Liability for Physical Damage. Notwithstanding anything to the contrary contained in this Article VI, the Owner in the course of building, rebuilding, repairing, maintaining or otherwise working or causing work to be done upon his Lot shall be liable to the Owners of any adjacent Lots or to the Association with respect to the Common Areas for any physical damage to any other Lot or Residential Unit and for any physical damage to any Common Area. The Owner shall cause any such damage to be repaired and the Lot, Residential Unit or Common Area affected to be placed in the same state or condition that it was in prior to said damage. All such repairs shall be subjected to the approval of the Board of Trustees of the Association

6.3 Maintenance of Residential Units. Each Residential Unit shall be maintained by the Owner thereof at his own cost and expenses so as not to detract from the appearance of the Property and so as not to affect adversely the value or use of any other Residential Units. The Association shall have no obligation regarding maintenance or care of interiors or exteriors of Residential Units.

6.4 Operation and Maintenance by Association. The Association shall provide for such maintenance and operation of the Common Areas as may be necessary or desirable to make them appropriately usable in conjunction with the Lots and to keep them clean, functional, attractive, and generally in good condition and repair. In addition, the Association shall provide for maintenance and upkeep of any portion of any Lot which lies between the extremities of the Residential Unit situated thereon and the boundaries of the Lot.

The Association shall provide for, as a common expense, such care, maintenance, repair and replacement of the following as deemed necessary or desirable by the Board to keep them attractive and generally in good condition and repair:

(a) Lawn mowing of all front, back and side yards. In the event that a gate providing access to a yard is present and locked, the Association shall have no responsibility for the mowing of inaccessible lawns.

(b) Snow removal from roads, sidewalks, driveways, sidewalks leading to front porches, and the Common Area.

Additional maintenance of Lots may be assumed by the Association pursuant to Section 5.6.

ARTICLE VII INSURANCE

7.1 Types of Insurance Maintained by the Association.

(a) The Board shall at all times purchase, maintain in force, and pay the premiums for, (as well as such other insurance as it deems reasonable) if reasonably available, and consistent with that of similarly situated first-class subdivisions in the county and with the Act:

(1) Property Insurance. Property insurance for the Common Areas, if required by law or deemed necessary by the Board; and

(2) Liability Insurance. Liability Insurance for the Common Areas with adequate limits of liability for bodily injury and property damage, but in no event less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.

(b) The Board may purchase and maintain in force, if and as deems reasonable, the following types of insurance:

(1) Director's and Officer's Insurance. Trustees and officers (D & O) liability insurance coverage.

(2) Fidelity. Fidelity insurance or bond covering all Board members, officers, employees and other persons handling or responsible for the funds of, or administered by, the Association. Where a Managing Agent has the responsibility for handling or administering funds of the Association, fidelity coverage shall include coverage for its officers, employees, and agents handling or responsible for funds of, or administered on behalf of, the Association. Such fidelity bond or insurance shall name the Association as an obligee and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or Managing Agent, as the case may be, at any given time during the term of each bond or policy, and in no event, no less than a sum equal to three months' aggregate assessments on all Lots plus reserve funds. The bonds or policies shall contain waivers by the issuers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees," or similar terms or expressions. The bonds or policies shall provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least 10 days' prior written notice to the Association or insurance trustee.

(c) Miscellaneous Items. The following provisions shall apply to all insurance coverage of the Association:

(1) Certificate of Insurance. Evidence of insurance shall be issued to each Owner and Mortgagee upon request.

(2) 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.

(3) Waiver of Subrogation; Individual Neglect. All policies shall include a waiver of the right of subrogation against Owners individually. All policies shall include a provision that the insurance is not prejudiced by any act or neglect of an individual Owner.

(4) Special Endorsements. Each policy shall contain or provide those endorsements commonly purchased by other community associations in the county.

(5) Intent. The foregoing provisions shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Board or Association may deem necessary or appropriate from time to time.

7.2 Owner's Insurance. Each Owner and resident shall purchase and maintain adequate liability and property insurance on his or her Lot and Residential Unit.

(a) Primary Coverage. The insurance coverage of an Owner shall be primary. The Association shall not maintain insurance on an Owner's Lot, Residential Unit, personal property, or contents.

(b) Prompt Repair. Each Owner further covenants and agrees that in the event of any partial loss, damage or destruction of its Lot or Residential Unit, the Owner shall reasonably proceed to repair or to reconstruct the damaged structure in a manner consistent with the original construction.

(c) 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 Lot or Residential Unit, then the Association may, but is not obligated to, provide such repair or reconstruction at the Owner's sole cost and expense.

ARTICLE VIII USE RESTRICTIONS

8.1 General Use. The Common Areas shall be used only in a manner consistent with the planned unit residential concept and with the use restrictions applicable to Lots and Residential Units, and subject to the Governing Documents. No trade, craft, business, profession, commercial or similar activities that cause additional pedestrian or vehicular traffic, creates a sight or noise nuisance, shall be conducted on any Unit or in any other portion of the Project.

8.2 Use of Lots and Residential Units. All Lots are improved with Residential Units and are restricted to such use. Units shall be used for single-family, residential purposes (as Defined by Sandy City Code) in accordance with, and subject to, the other provisions of this Declaration and the Bylaws and rules and regulations adopted pursuant thereto. No Lot or Residential Unit shall be used, occupied, or altered in violation of law, so as to jeopardize the support of any other Residential, so as to create a nuisance or interfere with the rights of any Owner, or in a way which would result in an increase in the cost of any insurance covering the Common Areas.

8.3 Non-harmonious Use. No use or operation will be made, conducted or permitted on any Lot, or any portion of a Lot, which is obnoxious to or out of harmony with the residential use of all property within the Association. Prohibited activities include, but are not limited to, the following: any public or private nuisance, any noise or sound that is objectionable due to its intermittent character, beat, frequency, shrillness or loudness; any obnoxious odor; any noxious, toxic, caustic or corrosive fuel or gas; any dust, dirt or fly ash in excessive quantities; any unusual fire explosion or other damaging or dangerous hazards; any assembly, manufacturing or distillation operation.

8.4 Ownership. An Owner is prohibited from owning more than one (1) property within the Association at any given time.

8.5 Animals. No animals of any kind may be raised, bred, kept or permitted within any Lot except for two (2) inside dogs or cats, (no more than 35 pounds each), or other household pets provided that they are not kept, bred, or maintained for any commercial purpose. The Owner of any dog must keep such dog on a leash when outside of the Lot or keep it confined within the Lot. Livestock birds such as chickens, peacocks, peasanets, etc. are not permitted. Those animals which are permitted shall not cause any noise or disturbance that would be deemed a nuisance to other Owners or residents within the Community. Any inconvenience, damage or unpleasantness caused by such pets shall be the responsibility of the respective Owners thereof and Owners shall be responsible for removal of waste of their animals. Failure of Owner to immediately remove pet waste on Association maintained lawns or Common Area may result in fines. The Association may, by rule, further restrict or regulate the keeping of pets. An Owner may be required to remove a pet that is in violation of the Governing Documents.

8.6 Lease Restrictions. Lot Owners shall **NOT** be permitted to lease their Residential Units. Consequently, all Residential Units shall be Owner-occupied except as herein or as otherwise required by Utah law:

(a) **Required Exemptions.** Consistent with Utah law, the following Owners and Residential Units are exempt from the restrictions on the number and term of rentals contained in this Declaration, but not from the requirement to apply to the Association, if required (which application may be granted upon a determination by the Board that the Owner or Unit qualifies as one of the following): (a) an Owner in the military for the period of the Owner's deployment; (b) a Residential Unit occupied by an Owner's parent, child, or sibling; (c) an Owner whose employer has relocated the Owner for two years or less; (d) a Residential Unit owned by a trust or other entity created for estate planning purposes if the trust or other estate planning entity was

created for: (1) the estate of a current resident of the Unit; or (2) for the parent, child, or sibling of the current resident of the Residential Unit; (e) a Unit owned by an entity that is occupied by an individual who: (1) has voting rights under the entity's governing documents; and (2) has a 25% or greater share of ownership, control and right to profits and losses of the entity. The Board may require an Owner to provide relevant proof in writing that the Owner qualifies under an above exemption.

(b) **Hardship Exemptions.** An Owner may apply to the Board for a medical hardship or charitable service hardship exemption to the general prohibition on leasing, renting or occupying their Residential Unit if, the Owner must vacate the residence and lease, rent or allow a non-Owner to occupy the Residential Unit. The application for medical hardship or charitable service hardship will be presented to the Board, and such application will only be granted upon a majority vote of the Board in favor of the application. The Board reserves the right to require the applicant to produce documentation supporting the applicant's medical condition.

8.7 Signs. Unless written approval is first obtained from the Board of Trustees no advertisement or poster of any kind may be posted in or upon the properties except that a for sale sign may be placed inside a Unit's street facing window only. No realtor or other such lawn signs are allowed within the Association, except one (1) sign may be permitted to be placed on Common Area if prior written permission is granted by the Board of Trustees.

8.8 Recreational Vehicles. No snowmobiles, recreational equipment, trailer, camper, boat or truck larger than three-quarter (3/4) ton or any other similar equipment shall be permitted to remain upon any Lot, or any portion of a Lot, for more than a 24-hour period unless written approval is granted by the Association.

8.9 On-Street Parking. On-street parking shall only be used for temporary visitor parking. Residents shall not park their vehicles on the streets or sidewalks. However, motor vehicles, boats, recreational equipment, or any similar item may be parked, stored or left on or next to the streets in and around the Property for no more than a six (6) hour period unless written approval is granted by the Board. The intent of this provision is to allow temporary loading and unloading as set forth above. Overnight parking is not permitted.

8.10 Visitor Parking. Visitor parking spaces are provided in the community near the mailboxes and near the pool for licensed and operable vehicles only. Visitors parking for more than two (2) consecutive nights must notify the Board of Trustees. Neither Owners nor residents may not utilize the visitor parking spaces. Violators may be towed.

8.11 Garages. Each Lot shall have at a minimum, one, two-car garage. Any garage constructed on a Lot is intended for the parking of motor vehicles. Although incidental storage in a garage used for the parking of motor vehicles is permitted, no garage may be used for storage to such an extent or in such a manner that the storage prohibits or otherwise interferes with its primary use in the parking of motor vehicles. The Association may from time to time adopt further rules regarding the use of garage space for storage.

8.12 Height. No dwelling shall exceed the height limitation for the R-1-8 Zone of Sandy City as specified at the time of recordation of the Enchanted Cove final plat.

8.13 Dwelling Size. The minimum dwelling sizes shall be as follows: 1,000 sq. ft. of finished floor area for ramblers and 1,500 sq. ft. of finished floor area for multi-level and two-story homes.

8.14 Fencing. Fencing of individual lots shall be restricted to the rear yard only. Fencing within side yard space as defined by Sandy City Zoning Regulations shall be prohibited. Fencing material shall be white vinyl, 20-year no maintenance fencing. Fencing on the outer-edge of the property shall be solid white with lattice atop, six-feet in total height.

8.15 Temporary Structures and Equipment. No structure of a temporary type, character, trailer, basement, tent, shack, garage, barn or other out building shall be used on any Lot at any time as a Residential Unit, either temporarily or permanently unless approved in writing by the Association. No trailer, camper, boat truck larger than three-quarter (3/4) ton, or similar equipment shall be permitted to remain upon any Lot, unless written approval is given by the Association.

8.16 Antennas. Owners are encouraged to use cable service for television and internet when available. Satellite dishes and antennas not regulated by the FCC are prohibited. Satellite antennas, such as Direct Broadcast Satellite (“DBS”) antennas/dishes one meter in diameter or less, and designed to receive direct broadcast satellite service, including direct-to-home satellite service, or receive or transmit fixed wireless signals via satellite, may be installed; provided the dish and any wires are installed so as to not be visible from the streets. If locating the dish so that it is not visible from the streets precludes reception of an acceptable quality signal, the dish shall be installed with the least visibility from the streets possible. Location of an FCC approved dish may not be restricted by the Association so as to cause unreasonable delay in installation; unreasonably increase the cost of the equipment or its installation, maintenance, or use; or preclude reception of an acceptable quality signal. No dish may encroach upon the Common Area or the property of another Owner.

No television, radio, or other electronic antenna shall be erected, constructed, placed or permitted to remain on any part of the Lots unless and until the same shall have been approved in writing by the Association; provided, however, that the approval shall not be withheld unreasonably.

8.17 Association Rules and Regulations and Fines. In addition to the restrictions and requirements above, the Board of Trustees from time to time may, by resolution, adopt, modify, or revoke such rules and regulations governing the conduct of persons and the operation and use of the Lots, Units and Common Areas as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Property.

Consistent with Article X below, reasonable fines may be levied and collected as an assessment for violations of said rules and regulations and for violations of any restrictions contained in this Declaration. A schedule of fines shall be adopted by the Board of Trustees

specifying the amounts of such fines, and any other provisions or procedures related to the levying of such fines as required by the Act.

ARTICLE IX ARCHITECTURAL CONTROL

9.1 Architectural Control Committee. The Board of Trustees shall serve as the Architectural Control Committee, the function of which shall be to ensure that all improvements and landscaping within the Property harmonize with existing surroundings and structures.

9.2 Submission to the Committee. No Residential Unit, accessory structure or addition to a Residential Unit, landscaping, sign or other improvement of a Lot shall be constructed or maintained, and no alteration, repairing, or refurbishing of the exterior of any Residential Unit shall be performed, unless complete plans and specifications thereof have first been submitted to and approved by the Architectural Control Committee, whose judgment shall be final in all cases.

9.3 Standard. In deciding whether to approve or disapprove plans and specifications submitted to it, the Committee shall use its best judgment to ensure that all improvements, construction, landscaping, and alterations of Lots within the Property conform to and harmonize with existing surroundings and structures.

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

9.5 Building Materials. All Residential Units shall have masonry front elevations. Masonry shall consist of brick, stone, or stucco in any combination so as to comprise the building material for the complete front elevation. Side and rear elevations shall be masonry or vinyl siding.

9.6 No Liability for Damages. The Committee shall not be held liable for damages by reason of any action, inaction, approval, or disapproval by it with respect to any request made pursuant to this Article IX.

ARTICLE X RULES, ENFORCEMENT, APPEAL

10.1 Rules and Regulations.

(a) The Board may adopt, amend, modify, cancel, limit, create exceptions to, expand, or enforce the Rules and Regulations, subject to limitation and requirements of the law, including the right of the Owners to disapprove a rule pursuant to law, and subject to the Board's duty to exercise business judgment on behalf of the Association and the Owners.

(b) Before adopting, amending, modifying, canceling, limiting, creating exceptions to, or expanding the Rules and Regulations, the Board shall:

(1) at least 15 days before the Board will meet to consider a change to the Rules and Regulations, deliver notice to the Owners that the Board is considering a change to the Rules and Regulations;

(2) provide an open forum at the Board meeting giving Owners an opportunity to be heard at the Board meeting before the Board takes action; and,

(3) deliver to the Owners a copy of the change in the Rules and Regulations approved by the Board within fifteen (15) days after the date of the Board meeting.

(c) The Board may adopt a rule without first giving notice to the Owners if there is an imminent risk of harm to the Common Area, an Owner, an occupant of a Unit, a Unit, or a single-family home (Unit). The Board shall provide notice to the Owners of such a rule within fifteen (15) days of adoption by the Board.

10.2 Compliance. Each Owner or occupant of a Unit shall comply with the provisions of this Declaration, the Bylaws and the rules and regulations adopted pursuant thereto and any applicable statute. Failure to comply therewith shall be grounds for levying of a fine and an action or suit maintainable by the Association or an aggrieved Owner.

10.3 Remedies. Violation of any provisions of the Governing Documents, or of any decision of the Association made pursuant to such documents, shall give the Board, the right, but not the obligation, in addition to any other rights set forth in this Declaration or the Bylaws, or under law, to do any or all of the following after giving notice:

(a) Subject to the provisions of this Declaration, to enter the Lot as to which such violation exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing, or condition that may exist contrary to the intent and meaning of such provisions, and the Board of Trustees shall not thereby be deemed guilty of any manner of trespass, provided that judicial proceedings shall be instituted before any items of construction may be altered or demolished;

(b) To enjoin, abate, or remedy such thing or condition by appropriate legal proceeding;

(c) To levy fines, and a violation of any specific and express rule, regulation, covenant, restriction, or term of any Governing Document of the Association (a "violation"), and any subsequent occurrence of such violation, shall be subject to a fine in the amount determined by the Board from time to time. A subsequent occurrence of the same or substantially similar violation shall be subject to an immediate fine without further warning or notice consistent with the Act;

(d) To suspend the right to receive access or use any services or facilities provided by or through the Association until the violation is corrected;

(e) To suspend the voting rights of an Owner, but not for longer than 60 days except in the case of a continuous violation; or

(f) Bring suit or action against the Owner on behalf of the Association and other Owners to enforce this Declaration, the Bylaws and any rules or regulations adopted pursuant thereto. The Association shall be entitled to an award of its attorneys' fees and costs in any action taken for the purpose of enforcing or otherwise implementing the terms of the Governing Documents, or for any action taken pursuant to the Governing Documents, if it prevails in such action, regardless of who instituted the action.

10.4 Fines. The Board may assess a fine against an Owner for a violation of the Governing Documents in accordance with the following provisions.

(a) Warning. A written warning ("Warning") shall be sent to the Owner of the lot. The Warning shall:

- (1) describe the violation,
- (2) state the rule or provision of the Governing Documents that the Owner has violated,
- (3) state that the Board may, in accordance with the provisions of the law, assess fines against the Owner and suspend membership rights if a continuing violation is not cured or if the Owner commits similar violations within one year after the day on which the Board gives the Owner the Warning or assesses a fine against the Owner,
- (4) if the violation is a continuous violation, state a time by which the Owner must cure the violation (which time must be at least 48 hours after the day the Owner is given the Warning), and
- (5) state the amount of the fine that will be assessed if a continuous violation is not cured within 48 hours or if the Owner commits similar violations within one year after the day on which the Board gives the Owner the Warning.

(b) Initial Fine. The Board may assess a fine against an Owner if: (i) within one year after the day on which the Board gives the Owner a Warning, the Owner commits another violation of the same rule or provision identified in the Warning; or (ii) for a continuing violation, the Owner does not cure the violation within 48 hours after the day the Owner is given the Warning.

(c) Subsequent Fines for Same Violation. After a fine is assessed against an Owner, the Board may, without further warning, assess an additional fine against the Owner each time the Owner: (i) commits a violation of the same rule or provision within one year after the day on which the Board assesses a fine for a violation of the same rule or provision; or (ii) allows a violation to continue for 10 days or longer after the day on which the Board assesses the fine.

(d) Notice of Fine. Each time a fine is assessed, notice of the fine shall be sent to the Owner describing the violation, stating the rule or provision of the Governing Documents that

the Owner has violated, and stating that the Owner may request an informal hearing before the Board to dispute the fine within 33 days after the date of the notice.

(e) Membership Rights. An Owner shall not be deemed an Owner in Good Standing for 60 days after a fine is assessed against the Owner. Failure of Owner to remain in Good Standing may result in a revocation of the right to vote, removal for Board or Officer positions, additional fines, the right to speak at Board meetings and any other such sanctions as adopted by a resolution of the Board.

10.5 Dispute Resolution.

(a) Agreement to Avoid Costs of Litigation and to Limit Right to Litigate Disputes. The Association, Owners and all persons subject to this Declaration (collectively the "Bound Parties") agree to encourage the amicable resolution of disputes between the Bound Parties or involving enforcement, interpretation, application of the Governing Documents, or the rights, obligations, and duties of any Bound Party under the Governing Documents. Accordingly, each Bound Party covenants and agrees that all claims, grievances or disputes between such Bound Party and any other Bound Party ("Claims"), except Exempt Claims, shall be subject to the procedures set forth in this Article.

(b) Exempt Claims. The requirements of this Article shall not apply to the following Claims ("Exempt Claims"): (1) any lien, claim or action wherein the Association alleges against an Owner the nonpayment of funds owed to the Association, including fines levied by the Association, or any other failure of an Owner to comply with the provisions of Articles V or VI herein; (2) any suit by the Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of the Governing Documents; (3) any suit between Owners and/or against the Board seeking redress on the basis of a claim which would constitute a cause of action under Utah law in the absence of a claim based on the Governing Documents, if the amount in controversy exceeds \$5,000.00; and (4) enforcement of any resolution of a Claim obtained pursuant this Declaration.

(c) Mandatory Procedures for All Other Claims. Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent"), other than an Exempt Claim, shall not file suit in any court or initiate any proceeding before any administrative tribunal seeking redress or resolution of such Claim until it has complied with the following procedures:

(1) Notice. Claimant shall set forth his or her grievance or complaint in writing (the "Notice") and shall deliver the same to the Respondent, stating plainly and concisely: the nature of the Claim, including date, time, location, persons involved, Respondent's role in the Claim; the basis of the Claim, including the provisions of the Governing Documents triggered by the Claim; what Claimant wants Respondent to do or not do to resolve the Claim; and that Claimant wishes to resolve the Claim by mutual agreement with Respondent, and is willing to meet in person with Respondent at a mutually agreeable time and place to discuss in good faith ways to resolve the Claim.

(2) Response. Within ten (10) days of receiving the Notice from Claimant, the Respondent shall deliver a response in writing to the Claimant (the “Response”) stating plainly and concisely: those facts and/or allegations contained in Claimant’s Notice with which Respondent agrees and disagrees, and any other facts as understood and believed by Respondent; what Respondent is willing to do or not do to resolve the Claim; and that Respondent wishes to resolve the Claim by mutual agreement with Claimant and is willing to meet in person with Claimant at a mutually agreeable time and place to discuss in good faith ways to resolve the Claim.

(3) Negotiation and Meeting. Each Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. In the event that the cause of said grievance or complaint is not rectified by the parties within twenty days from the date of the receipt of Respondent’s response, within ten days from the date of expiration of said initial twenty-day period, a time and place mutually acceptable to the Claimant and the Respondent shall be established for a meeting between the Claimant and the Respondent. At such meeting, the Claimant and Respondent shall be entitled, but not required, to be represented by counsel. The parties (and/or counsel) shall attempt to reach an amicable solution to the grievance or complaint. In the event that the parties are not able to reach such a solution within thirty days from the date of the meeting between the Claimant and the Respondent, the Claimant shall then be entitled to proceed to have the matter judicially determined

10.6 Appeal by Owner. Any Owner who is assessed a fine or other penalty or who has rights suspended may request an informal hearing before the Board to dispute the fine, penalty or suspension within thirty (30) days after the date of the notice stating that the fine or penalty is assessed or that rights have been suspended. The hearing requested shall be conducted in accordance with procedures promulgated by resolution of the Board from time to time, or if none, in accordance with the standards determined by the Board at the hearing. Complaints against the Board shall be made in writing and submitted to the Board. In no event is a Member to call or contact a Board Member or other Association Member to provoke outrage concerning a grievance with the Board.

10.7 Action by Owners. Subject to any limitation imposed in this Article X or under the Governing Documents or Utah law, an aggrieved Owner may bring an action against such other Owner or the Association to recover damages or to enjoin, abate, or remedy such thing or condition by appropriate legal proceedings.

10.8 Injunctive Relief. Nothing in this section shall prevent an Owner, the Association, or other interested party from resorting to a court of competent jurisdiction in those instances where injunctive relief may be appropriate.

10.9 Mediation. In addition to the provisions of Section 10.5(c) above, the Board, upon the adoption of a written policy, may require disputes to be submitted to formal mediation prior to any lawsuit being commenced by any aggrieved party.

10.10 Purchase Subject to Violations. Buyers shall take ownership of Lots and Residential Units subject to any violations of the Governing Documents which may exist concerning the Unit, whether or not such violations were disclosed by the seller of the Lot and whether or not the Association knew of the violations at the time of sale. Such buyers shall be liable for correcting such violations upon demand by the Association.

ARTICLE XI MISCELLANEOUS

11.1 Notices. Any notice required or permitted to be given to any Owner or Member under the provisions of this Declaration or the Bylaws shall be deemed to have been properly furnished if mailed, postage prepaid, to the person who appears as a Member or Owner, at the latest address for such person appearing, in the records of the Association at the time of mailing.

Alternatively, notice may be provided by electronic means upon adopting of a Resolution for electronic communication, (email, website, text messages) consistent with the Bylaws and the Act.

11.2 Premises Liability. The Association and the Board are and shall remain wholly free and clear of any and all liability to, or claims by, all Unit Owners and all persons and entities, of whatever kind or character, whether sounding in contract or tort, deriving from the occurrence of any injury or damage to any person or property on, or in respect of the use and operation of, the Common Area or any of its improvements, fixtures, and facilities and a Unit Owner shall defend, indemnify and hold harmless the Association and Board against such claim, loss or liability asserted by such Unit Owner or his or her guest, invitee, licensee, or visitor. In this respect, it shall be the affirmative duty and responsibility of each Unit Owner and user of the Common Area facilities to continuously inspect the same for any defects or perils or other unsafe conditions or circumstances, prior to and during such use or enjoyment thereof; and all users of, and visitors to, the Common Area and its improvements and facilities shall use, enjoy, and visit, the same at their own risk and peril.

11.3 Joint Owners. In any case in which two or more persons share the ownership of any Residential Unit, regardless of the form of ownership, the responsibility of such persons to comply with this Declaration shall be a joint and several responsibility and the act or consent of any one or more of such persons shall constitute the act or consent of the entire ownership interest, subject to the provisions of the Bylaws regarding voting by joint Owners.

11.4 Rules and Regulations. Consistent with Article X, 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 is maintained and used in a manner consistent with the interests of the Owners.

11.5 Amendment. Any amendment to this Declaration shall require the affirmative vote of at least two-thirds (2/3) of the total votes of the Association.

11.6 Consent in Lieu of Vote. In any case in which this Declaration required for authorization or approval of a transaction, the assent or affirmative vote of a stated percentage of the votes present or represented at a meeting, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Members entitled to cast at least the stated percentage of all membership votes.

11.7 Mortgage Protection. In the event an Owner neglects for a period of thirty (30) or more days to cure any failure on his part to perform any of his obligations under this Declaration, the Association may give written notice of such fact to the holder of any first mortgage (or trust deed) covering such Owner's Lot.

The lien for unpaid assessments provided for under Article V shall be subordinate to any first mortgage (or trust deed) affecting a Lot, but only to the extent of assessments which become due prior to foreclosure of the mortgage, exercise of a power of sale available thereunder, or deed or assignment in lieu of foreclosure.

Unless all holders of first mortgages (or trust deeds) on the individual Lots have given their prior written approval, neither the Association nor any other party shall be entitled to:

- (a) Alter the provisions pertaining to uniform rate of assessment;
- (b) Partition or subdivide any Lot or the Common Area or dedicate or transfer all or any part of the Common Areas; or
- (c) By act or omission seek to abandon or materially alter the arrangement which is established by this Declaration.

11.8 Interpretation. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both other genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof. This Declaration shall be liberally constructed to effect all of its purposes.

11.9 Covenants to Run with Land. This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon all parties who hereafter acquire any interest in a Lot or in the Common Areas, and their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner or occupant of a Lot or Residential Unit shall comply with, and all interests in provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration. By acquiring any interest in a Lot or in the Common Areas, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

11.10 Effective Date. This Declaration and any amendment hereof shall take effect upon its being filed for record in the office of the County Recorder of Salt Lake County, Utah.

**[END OF DECLARATION – SIGNATURE PAGE CERTIFYING VOTE AND
ADOPTION OF THIS AMENDED DECLARATION AND BYLAWS CONTAINED AT
THE END OF THE BYLAWS]**

EXHIBIT A

(LEGAL DESCRIPTION)

All Lots and Common Area of ENCHANTED COVE P U D AMD according to the Plat on file office of the Salt Lake County Recorder.

Parcels: 28053260030000 through 28053260360000 and 28053260390000

EXHIBIT B

**AMENDED AND RESTATED
BYLAWS
OF
ENCHANTED COVE PUD HOMEOWNERS ASSOCIATION**

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, County of Salt Lake, as 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 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, and sufficiently in advance of the meeting to provide fair and reasonable notice of the meeting, as determined by the Board. Notice shall always be deemed fair and reasonable if given at least ten (10), but not more than sixty (60) days before the meeting, but shorter notice may also be fair and reasonable when all the circumstances are considered. 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 Residential Unit within the Association shall have one (1) vote in matters of the Association submitted to a vote of the members. The vote may be cast by any record owner of such Unit. In the event of a dispute among record owners of a Residential Unit, the vote assigned to such Unit will not be counted. The majority vote of members represented at the meeting entitled to vote on the subject matter shall be the act of the membership unless a greater number of votes is otherwise required by the laws of the state of Utah, or the Articles or Bylaws of the Association, and provided a quorum is present at the meeting.

2.6 Proxies and Absentee Ballots. A vote may be cast in person, by proxy or by absentee ballot. A proxy given by an Owner to any person who represents the Owner at meetings of the Association shall be in writing, dated and signed by such Owner and shall be filed with the secretary in accordance with procedures adopted by resolution of the Board. No proxy shall be valid after the meeting for which it was solicited, unless otherwise expressly stated in the proxy; however, no proxy may be valid for more than eleven (11) months after the date of execution. No proxy shall be valid if it purports to be revocable without notice. An Owner may not revoke a proxy given except by actual notice of revocation to the person presiding over a meeting of the Association, or to the Board if a vote is being conducted by written ballot in lieu of a meeting. Every proxy shall automatically cease upon sale of the Unit.

2.7 Fiduciaries and Joint Owners.

(a) Fiduciaries. An executor, administrator, guardian, or trustee may vote in person or by proxy, at any meeting of the Association with respect to any Unit owned or held in such capacity, whether or not the same shall have been transferred to his or her name; provided, that the person shall satisfy the secretary that he or she is the executor, administrator, guardian, or trustee holding the Unit in such capacity.

(b) Joint Owners. Whenever any Unit is owned by two or more persons jointly, according to the records of the Association, the vote of the Unit may be exercised by any one of the Owners then present, in the absence of protest by a co-owner. In the event of a protest, no one co-owner shall be entitled to vote without the approval of all co-owners. In the event of disagreement among the co-owners, the vote of the Unit shall be disregarded completely in determining the proportion of votes given with respect to the matter.

2.8 Quorum of Owners.

(a) At any regular annual meeting of the Association, the members that are represented for any purpose at the annual meeting shall constitute a quorum, except for matters requiring a higher quorum as provided in the Declaration or these Bylaws. For any other meeting of the Association or action taken without a meeting, and except as otherwise provided in the Declaration or these Bylaws, members holding more than fifty percent (50%) of the voting rights, represented in person, by proxy, or by written ballot, shall constitute a quorum.

(b) The subsequent ratification of an Owner of the action taken at a meeting shall constitute the presence of the person for the purpose of determining a quorum. When a quorum is once present to organize a meeting, it cannot be broken by the subsequent withdrawal of an Owner or Owners.

(c) If any meeting or vote of members cannot be organized because of a lack of quorum, the members who are present may adjourn the meeting to a time at least 48 hours from the time of the meeting at which a quorum was not present and such members that are represented in person, by proxy, or by written ballot, shall constitute a quorum at such adjourned meeting or vote.

2.9 Binding Vote. Action on a matter other than the election of Trustees is approved and shall be binding upon all owners for all purposes if a quorum exists and the votes cast favoring the action exceed the votes cast opposing the action, unless a greater number of affirmative votes is required by law or the Governing Documents.

2.10 Order of Business. The order of business at annual meetings of the Association shall be according to the order established by the President, and by way of example, may include the following: (a) Calling of the roll and certifying of proxies; (b) Proof of notice of meeting or waiver of notice; (c) Reading of minutes of the preceding meeting; (d) Reports of officers; (e) Reports of committees, if any; (f) Election of Board members; (g) Unfinished business; (h) New business; and (i) Adjournment.

2.11 Meeting Procedure. Rules of order may be adopted by resolution of the Board, otherwise, the President shall conduct meetings according to the procedure he or she deems fit. A decision of the Association may not be challenged on the basis that appropriate rules of order were not used.

2.12 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 Trustees; 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.

2.13 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 effect 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 TRUSTEES – SELECTION, TERM OF OFFICE

3.1 Number, Term and Qualifications.

(a) The affairs of the Association shall be governed by a Board of Trustees composed of no less than five (5) Board members. In the event that fewer than five (5) individuals are willing to serve on the Board in a given year, the Board for that year may consist of no less than three (3) Board members. Any unfilled Board positions shall be opened for election at the following annual meeting, and such empty seat shall be filled for the remainder of the two-year term for that position. In the event that four (4) Board members are serving, and there is a tie vote, the President's vote shall break the tie.

(b) Members of the Board shall serve for a term of two (2) years. Board elections for President, Secretary and Trustee shall be held on odd-numbered years, and elections for Vice President and Treasurer shall be held on even-numbered years.

(c) All Board members must be an Owner, spouse, or significant other of an Owner of a Lot, except that only one unit may be represented on the Board at any one time. A representative of an entity which owns a Lot, and only one such representative, may serve on the Board, such that a shareholder of a corporation, a member of an LLC, a partner of a partnership, a trustee or beneficiary of a trust, or a personal representative of an estate, may serve on the Board if the corporation, LLC, partnership, trust or estate owns a Lot.

3.2 Vacancies. Vacancies on the Board, caused by any reason other than the removal of a Board member by a vote of the Association, shall be filled for the balance of the term by vote of a majority of the remaining Board members even though they may constitute less than a quorum. Each person so elected shall be a Board member until a successor is elected upon expiration of the term for which the person was elected by the other Board members to serve.

3.3 Removal of Board Members.

(a) At any annual meeting, special meeting or Board meeting, any one or more of the Board members, other than interim Board members, may be removed, with or without cause, by a majority of the current Board members. A successor may be elected at that meeting to fill the vacancy thus created. The notice of the meeting must state that the removal is to be considered and any Trustee whose removal has been proposed by the owners may be given an opportunity to be heard at the meeting.

(b) The Board may declare the office of a member of the Board to be vacant in the event such member is absent from three (3) consecutive regular meetings of the Board or from more than 25% of the regular meetings held in any 12 month period, or, within 24 hours of a request to take action without a meeting, more than twice in any 6 month period fails to respond in writing by (1) voting for the action, (2) voting against the action, or (3) abstaining from voting and waiving the right to demand that action not be taken without a meeting. The vacancy shall be filled as provided in Section 3.2 above.

3.4 Compensation. No Board member shall receive compensation for any service he or she may render to the Association as a Board member unless approved by a majority of the Board. However, any Board member shall be reimbursed for actual expenses incurred in the performance of his or her duties.

3.5 Action Taken Without a Meeting. The Board shall have the right to take any action in the absence of a meeting which they could take at a regular or special meeting if all the Board members agree in writing to take a vote or an action without a meeting. The action being taken shall not require unanimous consent of the Board. Any action so taken shall have the same effect as though taken at a meeting of the Board members.

ARTICLE 4 - NOMINATION AND ELECTION OF BOARD MEMBERS

4.1 Nomination.

(a) Method of Nomination. Nomination for election to the Board shall be made in the manner determined by the Board, which may include a Nominating Committee and shall allow for nominations from the floor at a meeting, including self-nominations. If one is established, 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.

(b) Nominating Committee. The Nominating Committee, if any, shall consist of a chairman, who shall be a member of the Board; and one or more members of the Association.

4.2 Election. 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 TRUSTEES

5.1 Organizational Meeting.

(a) **Location, Date and Time.** The first meeting of a newly-elected Board shall be held within fourteen (14) days of election at such place, date and time as shall be fixed by the Board members at the meeting at which the Board members were elected and no notice shall be necessary to owners or to the newly elected Board members in order to legally hold the meeting providing a majority of the elected Board members are present. Officers shall be elected at this meeting or within a reasonable time after the election.

(b) **Procedure and Business.** Until the election of new officers, the meeting shall be chaired by the outgoing president, or in the absence of such person, the outgoing secretary, regardless of whether the outgoing president or secretary is as member of the newly constituted Board. At the organizational meeting, the Board shall elect officers in accordance with Section 7.2 below and may conduct any other Association business.

5.2 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.

5.3 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.

5.4 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.

5.5 Open Meetings; Executive Sessions.

(a) **Open Meetings.** Except as provided in subsection 5.5(c), 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. As a courtesy, not requirement, to the Board of Trustees, please RSVP if you plan to attend a Board meeting so accommodations can be made.

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

(1) Consultation with legal counsel concerning the rights and duties of the Association regarding existing or potential litigation or criminal matters;

- (2) Personnel matters, including salary negotiations and employee discipline;
- (3) The negotiation of contracts with third parties;
- (4) Collection of unpaid assessments; and
- (5) Other matters of a sensitive, private, or privileged nature at the discretion of the Board.

(c) 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.

5.6 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.

5.7 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.

5.8 Quorum and Acts. At all meetings of the Board a majority of the existing Board members shall constitute a quorum for the transaction of business and the acts of the majority of the Board members present shall be the acts of the Board. If, at any meeting of the Board, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting any business which might have been transacted at the meeting as originally called may be transacted without further notice.

For purposes of determining a quorum with respect to a particular proposal, and for purposes of casting a vote for or against a particular proposal, a Board member may be considered to be present at a meeting and to vote if the Board member has granted a signed written proxy: (i) to another Board member, or other person, who is present at the meeting; and (ii) authorizing the other Board member or person to cast the vote that is directed to be cast by the written proxy with respect to the particular proposal that is described with reasonable specificity in the proxy (a directed proxy).

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) declare the office of a member of the Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board; (b) in the Board's discretion, appoint such committees as deemed appropriate in carrying out its purpose.

6.3 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 Designation and Qualification.

(a) Designation. The principal officers of the Association shall be a president, a vice president, a secretary and a treasurer. The Board may designate the office of assistant treasurer and assistant secretary and 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.

(b) Qualifications. All officers must be Board members (and shall cease to be an officer upon ceasing to be on the Board). Any Board member may be an officer of the Association.

(c) Multiple Offices. A person may simultaneously hold more than one office as may, or may not, be allowed by the Board.

(d) 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.

7.2 Election and Vacancies. The officers of the Association may be elected by the Board at the organizational meeting of each new Board or any Board meeting thereafter to serve until their respective successors are elected at the next organizational meeting. If any office becomes vacant by reason of death, resignation, removal, disqualification or any other cause, the Board shall elect a successor to fill the unexpired term.

7.3 Resignation. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. The resignation shall take effect on the date of receipt of the notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of the resignation shall not be necessary to make it effective.

7.4 Removal of Officers. Officers shall hold office at the pleasure of the Board. Upon an affirmative vote of a majority of the members of the Board any officer may be removed, either with or without cause.

7.5 Duties of Officers. Officers shall have such duties prescribed with respect to the office by the Declaration, Bylaws, and by the Board, to the extent not inconsistent with these Bylaws or the Declaration. The Board may delegate any powers or duties of officers to other persons or agents as the Board deems necessary or appropriate from time to time. Any principal officer may prepare, execute, certify, and record amendments to the Declaration on behalf of the Association in accordance with the amendment provisions of the Declaration. The general duties of the officers are as follows:

(a) President. The president shall be the chief executive officer of the Association. He or she shall preside at all meetings of the Association and of the Board. The president shall have all of the general powers and duties which are usually vested in the office of president of an association. The president shall have the authority to sign all leases, mortgages, deeds and other written instruments, including amendments to the Governing Documents.

(b) Vice-President. The vice president shall act in the place and stead of the president in the event of the president's absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by the Board. The vice president shall likewise have the authority to sign all leases, mortgages, deeds and other written instruments.

(c) Secretary. The secretary shall prepare and maintain the minutes of all meetings of the Board and the minutes of all meetings of the Association, have charge of such books, papers and records as the Board may direct, shall have the responsibility for preparation and maintenance other records and information required to be kept by the Association under the Act and under Section 16-6a-1601 of the Utah Revised Nonprofit Corporation Act; and for authenticating records of the nonprofit corporation, and in general, shall perform all of the duties incident to the office of secretary,

(d) Treasurer. The treasurer shall have responsibility for the Association's funds and securities not otherwise held by a managing agent and shall be responsible for causing full and accurate accounts of all receipts and disbursements to be kept in books belonging to the Association. The treasurer shall be responsible for causing the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may, from time to time, be designated by the Board and disbursing funds as directed by resolution of the Board.

ARTICLE 8 - INDEMNIFICATION OF OFFICERS AND COMMITTEE MEMBERS

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 9 - RECORDS AND AUDITS

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.

9.1 General Records.

(a) The Board and managing agent or manager, if any, shall keep records of the actions of the Board and managing agent or manager; minutes of the meetings of the Board; and minutes of the meeting of the Association.

(b) The Board shall maintain a Book of Governing Documents containing the Declaration, Bylaws, Amendments and rules, regulations, and policies adopted by the Association and Board. It is intended that this Book shall be kept current and passed down from Board to Board.

(c) The Board shall maintain a list of Owners comprising of names and addresses. E-mail addresses, unless offered by a Member to be included on any such list, shall not be used by the Members but may be used by the Board to announce, notify or conduct Association business. The list of Owners may specify whether the Owner is an Owner in Good Standing or a Suspended Owner.

(d) The Association shall retain within the State of Utah, all records of the Association for not less than the period specified in applicable law.

9.2 Assessment Roll. The assessment roll shall be maintained in a set of accounting books in which there shall be an account for each Unit. The account shall designate the Unit number, the name and address of the Owner or Owners, the amount of each Assessment against the Owners, the dates and amounts in which the Assessment comes due, the amounts paid upon the account, and the balance due on the Assessments.

9.3 Financial Reports and Audits. An annual report of the receipts and expenditures of the Association and a balance sheet showing assets and liabilities shall be rendered by the Board to all Owners and to all mortgagees of Units who have requested the same in writing within ninety (90) days after the end of each fiscal year.

9.4 Inspection of Records by Owners.

(a) Except as otherwise provided in Section 9.5 below, all records of the Association shall be reasonably available for examination by an Owner and any mortgagee of a Unit pursuant to rules adopted by resolution of the Board or if no such resolution has been adopted, pursuant to the Utah Revised Nonprofit Corporation Act.

(b) The Board shall maintain a copy, suitable for the purposes of duplication, of the following: (1) The Declaration, Bylaws and any amendments in effect or supplements thereto, and rules and regulations of the Association; (2) The most recent financial statement prepared pursuant to Section 9.3 above; and (3) The current operating budget of the Association.

(c) The Association, within five (5) business days after receipt of a written request by an owner, unless additional time is required by statute, shall furnish the requested information required to be maintained under Subsection (b) of this section, subject to a reasonable fee for furnishing copies of any documents, information or records described in this section. The fee may include reasonable personnel costs incurred to furnish the information.

(d) The Board, by resolution, may adopt reasonable rules governing the frequency, time, location, notice and manner of examination and duplication of Association records and the imposition of a reasonable fee for furnishing copies of any documents, information or records described in this section. The fee may include reasonable personnel costs incurred to furnish the information.

9.5 Records Not Subject to Inspection. Records kept by or on behalf of the Association may be withheld from examination and duplication to the extent the records concern:

(a) Personnel matters relating to a specific identified person or a person's medical records.

(b) Contracts, leases and other business transactions that are currently under negotiation to purchase or provide goods or services.

(c) Communications with legal counsel that relate to matters specified in this section, and any other communications with legal counsel that are protected by any privilege, including the attorney client privilege.

- (d) Disclosure of information in violation of law.
- (e) Documents, correspondence or management or Board reports compiled for or on behalf of the Association or the Board by its agents or committees for consideration by the Board in executive session held in accordance with these Bylaws.
- (f) Documents, correspondence or other matters considered by the Board in executive session held in accordance with these Bylaws and the minutes of any executive session.
- (g) Files of individual Owners, other than those of a requesting Owner or requesting mortgagee of an individual Owner, including any individual Owner's file kept by or on behalf of the Association.
- (h) Email addresses of Members unless provided to the Association for general Membership use. Email addresses of Members are considered private records and shall not be requested, provided or used by Owners. Failure of any Member to comply with this provision shall be subject to violation, fine and any other remedy available to the Board.

ARTICLE 10 - AMENDMENTS

Approval of a majority of the total voting rights of the Association is required for approval of any amendment to these Bylaws, except that the approval of members representing at least 60% of the total voting rights of the Association shall be required for any material change to the Bylaws pertaining to voting rights. An amendment shall not be effective until certified by the president of the Association as being adopted in accordance with these Bylaws, acknowledged, and recorded with the County Recorder's Office. No action to challenge the validity of an adopted amendment may be brought more than two (2) years after the amendment is recorded.

ARTICLE 11 - MISCELLANEOUS

11.1 Notices.

(a) 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.

(b) Owners.

(1) 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.

(2) 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.

11.2 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.

11.3 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.

11.4 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.

11.5 Fiscal Year. The fiscal year of the Association shall be January 1 to December 31.

11.6 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.

[END OF BYLAWS]

IN WITNESS WHEREOF, the Association has caused this Amended Declaration and Bylaws to be executed by its duly authorized officers on this 8th day September, 2019.

(Sign): Mark R. Houberg-Layton RN
Mark R. Houberg-Layton R.N., President

(Sign): David L. Kime
David L. Kime, Vice President

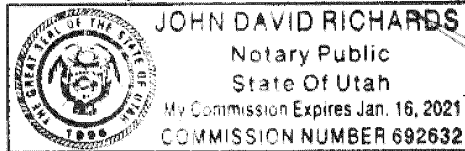
(Sign): Carol Kathy Stark
Carol Kathy Stark, Treasurer

(Sign): Carol Wilcox
Carol Wilcox LCSW, Secretary

(Sign): Patrick David Beaty
Patrick David Beaty, Trustee

STATE OF UTAH)
) ss:
County of Salt Lake)

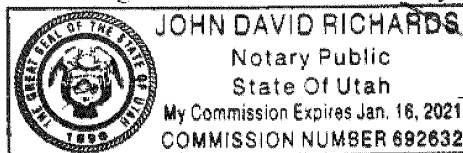
The foregoing instrument was acknowledged before me on this 8th day of September, 2019, by Mark R. Hoberg-Lawton, President.



Notary Public

STATE OF UTAH)
) ss:
County of Salt Lake)

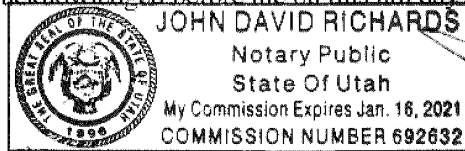
The foregoing instrument was acknowledged before me on this 8th day of September, 2019, by David L. Kime, Vice President.



Notary Public

STATE OF UTAH)
) ss:
County of Salt Lake)

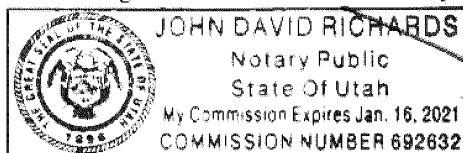
The foregoing instrument was acknowledged before me on this 8th day of September, 2019, by Carol Kathy Stark, Treasurer.



Notary Public

STATE OF UTAH)
) ss:
County of Salt Lake)

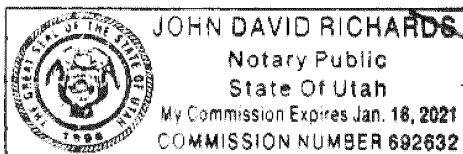
The foregoing instrument was acknowledged before me on this 8th day of September, 2019, by Carol Wilcox, Secretary.



Notary Public

STATE OF UTAH)
) ss:
County of Salt Lake)

The foregoing instrument was acknowledged before me on this 8th day of September, 2019, by Patrick David Beaty, Trustee.



Notary Public