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MAY 21 2002

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS OF
CLEARWATER COVE
A PLANNED RESIDENTIAL UNIT DEVELOPMENT**

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**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS OF
CLEARWATER COVE
A PLANNED RESIDENTIAL UNIT DEVELOPMENT**

THIS DECLARATION is made and executed this 17 day of May, 2002, by TERRAVENTURE DEVELOPMENT, LTD. (the "Declarant").

R E C I T A L S:

A. Declarant is the record owner of that certain tract of land (the "Property") in the city of Layton, county of Davis, state of Utah, which is more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof. Declarant desires to create on said Property a residential development with landscaped Common Areas.

B. Declarant desires to provide for preservation of the values and amenities of the Property and for maintenance of the Common Areas and Limited Common Areas in the official records of Davis County, state of Utah.

C. Declarant has deemed it desirable, for the efficient preservation of the values and amenities of the Property, to create an entity which possesses the powers to maintain and administer the Common Areas and Limited Common Areas, collect and disburse the assessments and charges provided for in the Declaration and otherwise administer and enforce the provisions of the Declaration. For such purposes, Declarant has caused to be incorporated under the laws of the State of Utah, as a nonprofit corporation, Clearwater Cove Homeowners Association (the "Association").

NOW, THEREFORE, for the foregoing purposes, the Declarant declares that the Property shall be subject to this Declaration and that the Property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

ARTICLE I - DEFINITIONS

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

1.01 Association shall mean Clearwater Cove Homeowners Association, a Utah nonprofit corporation.

1.02 Board shall mean the Board of Trustees of the Association.

1.03 Common Areas shall mean all property, including streets, Roadways, rights-of-way and utilities, owned or designated on the recorded plat as being intended ultimately to be owned by the Association for the common use and enjoyment of the Owners, together with all improvements thereon and all easements appurtenant thereto. The Common Areas shall not include the Limited Common Areas.

1.04 Limited Common Areas shall mean or refer to those common areas designated on the recorded subdivision Plats as reserved for the use and benefit of each Residential Lot to the exclusion of all other Owners. The driveways, patios, and other areas designated on the subdivision Plat are deemed Limited Common Areas.

1.05 Declaration shall mean this Declaration of Covenants, Conditions and Restrictions of Clearwater Cove, a Planned Development.

1.06 Design Committee shall mean the Design Committee established by and referred to in Article VIII of this Declaration.

1.07 Living Unit shall mean a structure which is designed and intended for use and occupancy as a single-family residence, together with all improvements located on the same Residential Lot and used in conjunction with such residence.

1.08 Managing Agent shall mean any person or entity appointed or employed as Managing Agent pursuant to Section 4.01 of Article IV of this Declaration.

1.09 Mortgage shall mean any mortgage, deed of trust, or trust deed or the act of encumbering any property by a mortgage, deed of trust or trust deed; and mortgagee shall mean any mortgagee of a mortgage and any trustee or beneficiary of a deed of trust or trust deed.

1.10 Owner shall mean any person who is the owner of record (as reflected by the records in the office of the County Recorder of Davis County, Utah) of a fee or undivided fee interest in any Residential Lot, including contract sellers, but not including purchasers under contract until such contract is fully performed and legal title is conveyed of record. Notwithstanding any applicable theory relating to mortgages, no mortgagee shall be an Owner unless such party acquires fee title pursuant to foreclosure or sale or conveyance in lieu thereof. Declarant shall be an Owner with respect to each Residential Lot owned by it.

1.11 Property shall mean the Property described in Exhibit "A" attached hereto, which includes all land covered by this Declaration, including Common Areas and Limited Common Areas.

1.12 Residential Lot shall mean and refer to any one of the lots of land within the boundary of the Property as shown upon and designated on the Plat.

1.13 Plat shall mean and refer to the Plat of Clearwater Cove, a Planned Residential Unit Development, prepared and certified by O. Neil Smith, a registered land surveyor, executed and acknowledged by Declarant on MARCH 4, 2002, which is being recorded in the official records of Davis County, Utah, shortly before the recording of this Declaration.

1.14 Member shall mean and refer to every person who holds membership in the Association.

1.15 Declarant shall mean Terraventure Development, LTD, and its successors and assigns.

1.16 Roadways shall mean that portion of the Common Areas consisting of the streets and roads within the Property for the use and benefit of the Owners as such are identified and depicted on the Plat.

1.17 Undeveloped Land shall, at any point in time, mean all of the land more particularly described in Exhibit "C" attached hereto and made a part hereof, excluding any portion or portions of such land comprising the Property and any other portion or portions of such land improved with the completed above-ground residential structures and related on-site and off-site improvements ordinarily in existence when a tract of land is considered to be fully developed. So long as it is not arbitrary, Declarant's determination as to when any of the land described in Exhibit "C" ceases to be Undeveloped Land shall be conclusive.

ARTICLE II - SUBMISSION AND DIVISION OF PROJECT

2.01 Submission. The Property which is and shall be held, transferred, sold, conveyed, and occupied subject to the provisions of this Declaration consists of the real property situated in Davis county, state of Utah, described in Exhibit "A" attached hereto and by this reference made a part hereof. The Property is being subdivided into Lots 1 through 5, Clearwater Cove, a Planned Residential Unit Development, as identified in the Plat.

2.02 Annexation by Declarant. Declarant may from time to time and in its sole discretion expand the Property subject to this Declaration by the annexation of all or part of the lands initially constituting the Undeveloped Land. The annexation of any such land shall become effective upon the recordation in the office of the County Recorder of Davis County, Utah, of (a) a subdivision plat or map covering the land to be annexed and (b) a supplemental declaration which (i) describes the land to be annexed or incorporated by reference to the description contained in the subdivision plat, (ii) declares that the annexed land is to be held, sold, conveyed, encumbered, leased, occupied and improved as part of the Property subject to this Declaration, (iii) sets forth such additional limitations, restrictions, covenants and conditions as are applicable

to the annexed land, (iv) states which portions of the annexed land are Common Areas and Limited Common Areas, if any, and which portions are Residential Lots and which portions are within any new land classification, provided that the nature and incidents of any such new land classification shall be fully set forth in such supplemental declaration or in another supplemental declaration previously filed with respect to some portion of the Property, and (v) describes generally any improvements situated on the annexed land. When any such annexation becomes effective, the annexed land shall become part of the Property.

2.03 Limitation on Annexation. Declarant's right to annex land to the Property shall be subject to the following limitations:

(a) The annexed land must be part of the land which is Undeveloped Land as of the date of this Declaration.

(b) Declarant's right to annex land to the Property shall expire twenty (20) years after this Declaration was first filed for record in the office of the county recorder of Davis County, Utah.

2.04 Annexation by the Association. Notwithstanding the limitations on annexation set forth in Section 2.03 of this Article, the Association may annex land to the Property by satisfying the requirements set forth in Section 2.02 of this Article and by obtaining approval of such annexation from (a) the owner or owners of the land to be annexed and (b) 2/3 of the Members of each class of the Association's voting membership. Nothing in this paragraph shall be construed to require any prior approval for, or to limit or present, any annexation performed by Declarant pursuant to Section 2.02 of this Article so long as such annexation satisfies the limitations set forth in Section 2.03 of this Article.

2.05 No Obligation to Annex or Develop. Declarant has no obligation hereunder to annex any additional land to the Property or to develop or preserve any portion of the Undeveloped Land in any particular way or according to any particular time schedule. No land other than the Property as defined on the date hereof and land annexed thereto in accordance with the terms of this Article shall be deemed to be subject to this Declaration, whether or not shown on any subdivision plat or map filed by Declarant or described or referred to in any documents executed or recorded by Declarant.

2.06 Division into Lots and Common Areas. The Property is hereby divided into five (5) Lots, each consisting of a fee simple interest in a portion of the Property as set forth in the Plat. All portions of the Property not designated as Lots shall constitute the Common Area, which shall be owned by the Association for the benefit of all Owners in accordance with the provisions of this Declaration, or Limited Common Areas, which shall be owned by the Association for the benefit of the Owner of the Lot appurtenant to such Limited Common Area in accordance with the provisions of this Declaration.

ARTICLE III - MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

3.01 Membership. Every Owner upon acquiring title to a Residential Lot shall automatically become a member of the Association and shall remain a member thereof until such time as his/her ownership of such Residential Lot ceases for any reason, at which time his/her membership in the Association with respect to such Residential Lot shall automatically cease and the successor Owner shall become a Member. Membership in the Association shall be mandatory and shall be appurtenant to and may not be separated from the ownership of a Residential Lot.

3.02 Voting Rights. The Association shall have the following described two classes of Voting membership:

Class A. Class A members shall be all Owners, but excluding the Declarant until the Class B membership ceases. Class A members shall be entitled to one vote for each Residential Lot in which the interest required for membership in the Association is held.

Class B. Declarant shall be the sole Class B Member. The Class B Member shall be entitled to ten votes for each Residential Lot which it owns. The Class B membership shall automatically cease and be converted to Class A membership on the first to occur of the following events:

(a) When the total number of votes held by all Class A Members equals the total number of votes held by the Class B Member(s).

(b) December 31, 2010.

3.03 Multiple Ownership Interests. In the event there is more than one Owner of a particular Residential Lot, the vote relating to such Residential Lot shall be exercised as such Owners may determine among themselves, but in no event shall more than one Class A vote be cast with respect to any Residential Lot. A vote cast at any Association meeting by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the entire vote attributable to the Residential Lot concerned unless an objection is made at the meeting by another Owner of the same Residential Lot, in which event a majority in interest of the co-owners as shown on the record of ownership maintained by the Association shall be entitled to cast the vote.

3.04 Record of Ownership. Every Owner shall promptly cause to be duly filed of record the conveyance document to him/her of his/her Residential Lot and shall file a copy of such conveyance document with the secretary of the Association, who shall maintain a record of ownership of the Residential Lots. Any Owner who mortgages his Residential lot or any interest therein by a Mortgage which has priority over the lien of any assessment provided herein shall

notify the secretary of the Association of the name and address of the mortgagee and also of the release of such Mortgage; and the secretary of the Association shall maintain all such information in the record of ownership.

ARTICLE IV - OPERATION AND MAINTENANCE

4.01 Duties of and Maintenance by the Association. Without limiting any other duties which may be imposed upon the Association by its Articles of Incorporation or this Declaration, the Association shall have the obligations and duties to do and perform each and every one of the following for the benefit of the Owners and the maintenance and improvement of the Property:

(a) The association shall accept all owners as Members of the Association.

(b) The Association shall accept title to all Common Areas and Limited Common Areas, if any, conveyed to it by the Declarant.

(c) The Association shall provide and be responsible for the management, control, operation, care, maintenance, repair, replacement, and upkeep of the Common Areas, including snow removal, and shall keep the same in good, clean, attractive, safe and sanitary condition, unless, until and except to the extent that such responsibility is transferred to and accepted by some other authority, public agency, or utility, and such transfer is agreed to by Members holding at least two-thirds (2/3) of the votes of each class of membership of the Association.

(d) In addition to maintenance of the Common Areas, the Association shall also provide and be responsible for snow removal from all driveways located within the Project and maintenance of the Limited Common Areas as follows: water, mow, cut, prune and replace as needed all lawns, trees, shrubbery, flowers and other landscaping features and repair and replace all patios and driveways, when needed. In addition, the Association shall also provide and be responsible for the maintenance of the exterior of the Living Units, from and including the studded walls to and including the exterior siding, including the maintenance, repair and replacement of the roof. In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, guests or invitees, the Owner shall be obligated to immediately reimburse the Association for the cost thereof. The Owner's obligation to reimburse the Association for the cost of such maintenance or repairs shall be secured by a lien against the Owner's Lot in the same manner as provided in Article V below with respect to Monthly Assessments and Special Assessments.

(e) To the extent not assessed to or paid by the Owners directly, the Association shall pay all real property taxes and assessments, levied upon any portion of

the Common Areas and Limited Common Areas, provided that the Association shall have the right to contest or compromise any such taxes or assessments.

(f) The Association shall obtain and maintain in force the policies of insurance required by Article IX of this Declaration.

(g) The Association may employ a responsible corporation, partnership, firm, person or other entity to serve as the Managing Agent to manage and control the Common Areas and Limited Common Areas subject at all times to direction by the Board, with such administrative functions and powers as shall be delegated to the Managing Agent by the Board. The compensation of the Managing Agent shall be such as shall be specified by the Board. Any agreement appointing a Managing Agent shall be terminable by the Board with cause upon thirty (30) days written notice thereof and at any time without cause or payment of a termination fee upon ninety (90) days written notice thereof, and the term of any such agreement may not exceed one (1) year, renewable by agreement of the parties for successive one-year periods. Any Managing Agent shall be an independent contractor and not an agent or employee of the Association.

4.02 Powers and Authority of the Association. The Association shall have all the powers set forth in its Articles of Incorporation, together with its general powers as a nonprofit 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, including the power to levy and collect assessments as hereinafter provided. Without in any way limiting the generality of the foregoing, the Association shall have the following powers:

(a) The Association shall have the power and authority at any time and from time to time and without liability to any Owner for trespass, damage or otherwise, to enter upon any Residential Lot for the purpose of maintaining and repairing such Residential Lot or any improvement thereon if for any reason the Owner fails to maintain and repair such Residential Lot or improvement, or for the purpose of removing any improvement constructed, reconstructed, refinished, altered or maintained upon such Residential Lot in violation of Articles VII or VIII of this Declaration. The Association shall also have the power and authority from time to time in its own name, on its own behalf, or in the name and behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration or any rules and regulations promulgated by the Board, or to enforce by mandatory injunction or otherwise all of the provisions of this Declaration and such rules and regulations.

(b) In fulfilling any of its duties under this Declaration, including its duties for the maintenance, repair, operation or administration of the Common Areas, Limited Common Areas, and Residential Lots (to the extent required herein or necessitated by the

failure of the Owners of such Residential Lots) or in exercising any of its rights to construct improvements or other work upon any of the Common Areas and Limited Common Areas, and provided that any contract for goods or services having a term of more than one (1) year shall state that it may be terminated by either party at the end of the first year or at any time thereafter upon not less than ninety (90) days' written notice, the Association shall have the power and authority (i) to pay and discharge any and all liens placed upon any Common Areas and Limited Common Areas 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 and (ii) to obtain, contract and pay for, or otherwise provide for:

(1) Maintenance, repair and replacement of all Roadways and appurtenant improvements, including the removal of snow thereon, on such terms and conditions as the Board shall deem appropriate;

(2) Construction, maintenance, repair and landscaping of the Common Areas, including all surface run-off, drainage and detention facilities, on such terms and conditions as the Board shall deem appropriate;

(3) Construction, maintenance, repair and replacement of landscaping and improvements upon the Limited Common Areas, including snow removal from driveways and sidewalks within the Limited Common Areas, on such terms and conditions as the Board shall deem appropriate;

(4) Such insurance policies or bonds as the Board may deem appropriate for the protection or benefit of Declarant, the Association, the members of the Board, the members of the Design Committee and the Owners;

(5) Such utility services, including (without limitation) culinary water, secondary water, sewer, trash removal, electrical, telephone and gas services, as the Board may from time to time deem desirable;

(6) The services of architects, engineers, attorneys and certified public accountants and such other professional or nonprofessional services as the Board may deem desirable;

(7) Fire, police and such other protection services as the Board may deem desirable for the benefit of the Owners or any of the Property;

(8) Such materials, supplies, furniture, equipment, services and labor as the Board may deem necessary; and

(9) Maintenance, repair and replacement of the exterior of the Living Units, from and including the studded walls to and including the exterior siding, including the maintenance, repair and replacement of the roof the Residential Units, on such terms and conditions as the Board shall deem appropriate.

(c) The Board may delegate to a Managing Agent any of its powers under this Declaration; provided, however, that the Board cannot delegate to such Managing Agent the power to execute any contract binding on the Association for a sum in excess of \$5,000 nor the power to sell, convey, mortgage or encumber any Common Areas.

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

4.03 Duties and Maintenance by the Owners. Each Owner shall keep and maintain the interior, including the sheetrock and floor coverings, of the Unit in good condition and repair in a manner consistent with good property management, and so as not to detract from the appearance of the Property or to affect adversely the value or use of any other Lot or Living Unit.

4.04 Association Rules. The Board from time to time and subject to the provisions of this Declaration may adopt, amend, repeal and enforce rules and regulations governing, among other things, (a) the use and maintenance the Common Areas; (b) the use and maintenance of Limited Common Areas; (c) the use of any Roadways or utility facilities owned by the Association; (d) the collection and disposal of refuse; (e) the maintenance of animals on the Property; and (f) other matters concerning the use and enjoyment of the Property and the conduct of residents.

4.05 Limitation of Liability. No member of the Board acting in good faith shall be personally liable to any Owner, guest, lessee or any other person for any error or omission of the Association, its representatives and employees, the Board, the Design Committee or the Managing Agent.

ARTICLE V - ASSESSMENTS

5.01 Personal Obligation and Lien. Each Owner shall by acquiring or in any way becoming vested with his/her interest in a Residential Lot, be deemed to covenant and agree to pay to the Association the monthly and special assessments described in this Article, together with late payment fees, interest and costs of collection, if and when applicable. All such amounts shall be, constitute and remain: (a) a charge and continuing lien upon the Residential Lot with respect to which such assessment is made until fully paid; and (b) the personal, joint and several

obligation of the Owner or Owners of such Lot at the time the assessment falls due. No Owner may exempt himself or his Residential Lot from liability for payment of assessments by waiver of his rights in the Common Areas or by abandonment of his Residential Lot. In a voluntary conveyance of a Residential lot, the grantee shall be jointly and severally liable with the grantor for all unpaid monthly and special assessments, late payment fees, interest and costs of collection which shall be a charge on the Residential Lot at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor.

5.02 Purpose of Assessments. Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the Property. The use made by the Association of funds obtained from assessments may include payment of the cost of: taxes and insurance on the Common Areas and Limited Common Areas; maintenance, repair, and improvements of the Common Areas and Limited Common Areas; management and supervision of the Common Areas and Limited Common Areas; establishing and funding of a reserve to cover major repair or replacement of improvements within the Common Areas and Limited Common Areas; and any expense necessary or desirable to enable the Association to perform or fulfill its obligations, functions or purposes under this Declaration or its Articles of Incorporation. The Association shall maintain an adequate reserve fund or funds for maintenance, repairs and replacement of those elements of the Common Areas and Limited Common Areas that must be maintained, repairs or replaced on a periodic basis.

5.03 Monthly Assessments. The Board shall from time to time and in its discretion set the amount of the monthly assessment in an amount reasonably estimated by the Board to be sufficient to meet the obligations imposed by this Declaration and on the basis specified in Section 5.07 below.

5.04 Special Assessments. From and after the date set under Section 5.08 of this Article, the Association may levy special assessments for the purpose of defraying, in whole or in part: (a) any expense or expenses not reasonably capable of being fully paid with funds generated by monthly assessments; or (b) the cost of any construction, reconstruction, or unexpectedly required repairs or replacement of the Common Areas and Limited Common Areas. Any such special assessment must be assented to by a majority of the votes of the membership which Owners present in person or represented by proxy are entitled to cast at a meeting duly called for that purpose. Written notice setting forth the purpose of such meeting shall be sent to all Owners at least ten (10) but not more than thirty (30) days prior to the meeting date.

5.05 Quorum Requirements. The quorum at any meeting required for any action authorized by Section 5.04 above shall be as follows: At the first meeting called, the presence of Owners or of proxies entitled to cast sixty percent (60%) of all of the votes of each class of membership shall constitute a quorum. If a quorum is not present at the first meeting or any subsequent meeting, another meeting may be called (subject to the notice requirements set forth in Section 5.04) at which a quorum shall be one-half of the quorum which was required at the

immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting.

5.06 Special Assessment on Specific Residential Lots. In addition to the monthly assessment and any special assessment authorized pursuant to Section 5.04 above, the Board may levy at any time special assessments (a) on every Residential Lot especially benefitted by any improvement to adjacent Roadways, sidewalks, driveways, planting areas or other portions of the Common Areas or Limited Common Areas made on the written request of the Owner of the Residential Lot to be charged, (b) on every Residential Lot the Owner or occupant of which shall cause any damage to the Common Areas and/or Limited Common Areas necessitating repairs, and (c) on every Residential Lot as to which the Association shall incur any expense for maintenance or repair work performed, or enforcement action taken, pursuant to Section 4.02(a) of Article IV or other provisions of this Declaration. The aggregate amount of any such special assessments shall be determined by the cost of such improvements, repairs, maintenance or enforcement action, including all overhead and administrative costs, and shall be allocated among the affected Residential Lots according to the special benefit or cause of damage or maintenance or repair work or enforcement action, as the case may be, and such assessment may be made in advance of the performance of work. If a special benefit arises from any improvement which is part of the general maintenance obligations of the Association, it shall not give rise to a special assessment against the Residential Lots benefitted.

5.07 Uniform Rate of Assessment. All monthly and special assessments authorized by Section 5.03 or 5.04 above shall be fixed at a uniform rate for all Residential Lots; provided, however, that until a Residential Lot has been both fully improved with a Living Unit and occupied for the first time for residential purposes, the monthly assessment applicable to such Residential Lot shall be ten percent (10%) of the monthly assessment which would otherwise apply to such Residential Lot. No amendment of this Declaration changing the allocation ratio of such assessments shall be valid without the consent of the Owners of all Residential Lots adversely affected.

5.08 Monthly Assessment Due Dates. The monthly assessments provided for herein shall commence as to all Residential Lots as of the second month following conveyance to the Association of the Common Areas shown on the Plat. At least fifteen (15) days prior to such commencement date and at least fifteen (15) days prior to the effective date of any change in the amount of monthly assessments, the Association shall give each Owner written notice of the amount and first due date of the assessment concerned.

5.09 Certificate Regarding Payment. Upon the request of any Owner or prospective purchaser or encumbrancer of a Residential Lot and upon the payment of a reasonable fee to the Association to cover administrative costs, the Association shall issue a certificate stating whether or not payments of all assessments respecting such Residential Lot are current and, if not, the

amount of the delinquency. Such certificate shall be conclusive in favor of all persons who rely thereon in good faith.

5.10 Effect of Nonpayment - Remedies. Any assessment not paid when due shall, together with interest and costs of collection, be, constitute, and remain a continuing lien on the affected Residential Lot. If any assessment is not paid within thirty (30) days after the date on which it becomes due, the amount thereof shall bear interest from the due date at the rate of one and one-half percent (1 1/2%) per month; and the Association may bring an action against the Owner who is personally liable or may foreclose its lien against the Residential Lot, or both. Any judgment obtained by the Association in connection with the collection of delinquent assessments and related charges shall include reasonable attorney's fees, court costs and every other expense incurred by the Association in enforcing its rights.

5.11 Subordination of Lien to Mortgages. The lien of the assessments provided herein shall be subordinate to the lien of any first Mortgage to a bank, savings and loan association, insurance company or other institutional lender; and the holder of any such first Mortgage or purchaser who comes into possession of a Residential Lot by virtue of the foreclosure of such Mortgage or the exercise of a power of sale under such mortgage, or by deed in lieu of foreclosure, shall take free of such assessment lien as to any assessment which accrues or becomes due prior to the time such holder or purchaser takes possession of such Residential Lot; provided, that to the extent there are any proceeds of the sale on foreclosure of such Mortgage or by exercise of such power of sale in excess of all amounts necessary to satisfy all indebtedness secured by and owed to the holder of such Mortgage, the lien shall apply to such excess. No sale or transfer shall relieve any Resident Lot from the lien of any assessment thereafter becoming due.

ARTICLE VI - PROPERTY RIGHTS AND CONVEYANCES

6.01 Easement Concerning Common Areas. Each Owner shall have a nonexclusive right and easement of use and enjoyment in and to the Common Areas. Such right and easement shall be appurtenant to and shall pass with title to each Residential Lot and in no event shall be separated therefrom. Any Owner may delegate the right and easement of use and enjoyment described herein to any family member, household guest, tenant, lessee, contract purchaser, or other person who resides on such owner's Residential Lot. Notwithstanding the foregoing, no Owner shall have any right or interest in any easements forming a portion of the Common Areas except for the necessary parking, access, communication, utility, drainage and sewer purposes for which such easements are intended for use in common with others.

6.02 Easement Concerning Limited Common Areas. The Association shall have a non-exclusive drainage and public utility easement and an easement for maintenance in and to the Limited Common Areas. With the exception of the rights and easements granted to the Association, the Owner(s) of a Residential Lot shall have the exclusive use of all Limited

Common Areas appurtenant to their Residential Lot. Namely, the driveway in front of each Unit shall be Limited Common Area to each such Unit.

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

Lot No. _____ of Clearwater Cove, A Planned Residential Unit Development, according to the Plat thereof recorded in Book _____, Page _____, of the Official Records of Davis County, which Lot is contained within Clearwater Cove, a Planned Residential Unit Development identified in the "Declaration of Covenants, Conditions, and Restrictions of Clearwater Cove, a Planned Residential Unit Development" recorded in Book _____ at Page _____. SUBJECT TO the covenants, conditions, restrictions, easements, charges and liens provided 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 Residential Lot. Any lease of a Residential Lot shall be in writing and shall provide that the terms of the Lease shall be subject in all respects to the provisions of this Declaration and the Articles of Incorporation and By-laws of the Association and that any failure by the lessee to comply with the terms of such documents shall be a default under the Lease.

6.04 Transfer of Title to Common Areas and Limited Common Areas. Declarant shall convey to the Association title to the various Common Areas and Limited Common Areas free and clear of all liens (other than the lien of current general taxes and the lien of any non delinquent assessments, charges, or taxes, imposed by governmental or quasi-governmental authorities), as each such Common Area and Limited Common Area is substantially completed.

6.05 Limitation on Easement. An Owner's right and easement of use and enjoyment concerning the Common Areas shall be subject to the following:

(a) The right of the Association to govern by rules and regulations the use of the Common Areas for the Owners so as to provide for the enjoyment of the Common Areas by every Owner in a manner consistent with the preservation of quiet enjoyment of the Residential Lots by every Owner, including the right of the Association to impose reasonable limitations on the number of guests per Owner who at any given time are permitted to use the Common Areas;

(b) The right of the Association to suspend an Owner's right to the use of any amenities included in the Common Areas for any period during which an assessment on such Owner's Residential Lot remains unpaid and for a period not exceeding ninety (90)

days for any infraction by such Owner of the provisions of this Declaration or of any rule or regulation promulgated by the Board;

(c) The right of Davis County and Layton City, and any other governmental or quasi-governmental body having jurisdiction over the Property, to enjoy access and rights of ingress and egress over and across any street, parking area, walkway, or open area contained within the Common Areas for the purpose of providing police and fire protection, transporting school children, and providing any other governmental or municipal service; and

(d) The right of the Association to dedicate or transfer any 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, provided that such dedication or transfer must first be assented to in writing by (1) all holders of first mortgages secured by Residential Lots and (2) the Owners of at least seventy-five percent (75%) of the Residential Lots (not including Residential Lots owned by Declarant). No such dedication or transfer, however, may take place without the Association first receiving written approval from Layton City pursuant to all applicable state and city laws, rules and ordinances in effect at the time of such proposed dedication or transfer.

6.06 Reservation of Access and Utility Easements. Declarant reserves easements for access, electrical, gas, communications, cable television and other utility purposes and for sewer, drainage and water facilities, (whether servicing the Property or other premises or both) over, under, along, across and through the Property, together with the right to grant to Layton City and Davis County, or any other appropriate governmental agency or to any public utility or other corporation or association, easements for such purposes over, under, across, along and through the Property upon the usual terms and conditions required by the grantee thereof for such easement rights, provided, however, that such easement rights must be exercised in such manner as not to interfere unreasonably with the use of the Property by the Owners and the Association and those claiming by, through or under the Owners or the Association; and in connection with the installation, maintenance or repair of any facilities as provided for in any of such easements, the Property shall be promptly restored by and at the expense of the person owning and exercising such easement rights to the approximate condition of the Property immediately prior to the exercise thereof.

6.07 Easements for Encroachments. If any part of the Common Areas or Limited Common Areas as improved by Declarant now or hereafter encroaches upon any Residential Lot or if any structure constructed by Declarant on any Residential Lot now or hereafter encroaches upon any other Residential Lot or upon any portion of the Common Areas or Limited Common Areas, a valid easement for such encroachment and the maintenance thereof, so long as it continues, shall exist. If any structure on any Residential Lot shall be partially or totally destroyed and then rebuilt in a manner intended to duplicate the structure so destroyed, minor encroachments of such structure upon any other Residential Lot or upon any portion of the

Common Areas or Limited Common Areas due to such reconstruction shall be permitted; and valid easements for such encroachments and the maintenance thereof, so long as they continue, shall exist.

6.08 Easements for Construction and Development Activities. Declarant reserves easements and rights of ingress and egress over, under, along, across and through the Property and the right to make such noise, dust and other disturbance as may be reasonably incident to or necessary for the (a) construction of Living Units on Residential Lots, (b) improvement of the Common Areas and Limited Common Areas and construction, installation and maintenance thereon or Roadways, walkways, buildings, structures, landscaping, and other facilities designed for the use and enjoyment of some or all of the Owners, and (c) construction, installation and maintenance on lands within, adjacent to, or serving the Property of Roadways, walkways, and other facilities, planned for dedication to appropriate governmental authorities. The reservations contained in this paragraph shall expire twenty (20) years after the date on which this Declaration was first filed for record in the Office of the County Recorder of Davis County, Utah.

ARTICLE VII - LAND USE RESTRICTIONS AND OBLIGATIONS

7.01 General Restrictions and Requirements.

(a) No improvement, excavation, fill or other work (including the installation of any wall or fence) which in any way alters any Residential Lot from its natural or improved state existing on the date such Residential Lot is first conveyed by Declarant to a purchaser shall be made or done except upon strict compliance with the provisions of this Article VII and the provisions of Article VIII.

(b) Residential Lots shall be used only for single-family residential purposes, and no more than one Living Unit shall be constructed on any Residential Lot. The facilities and improvements constituting part of the Common Areas shall be used only for the purposes and uses for which they are designed. Common Areas shall be used only for natural recreational uses which do not injure or scar the Common Areas or the vegetation thereof, increase the cost of maintenance thereof or cause unreasonable embarrassment, disturbance or annoyance to Owners in their enjoyment of their Residential Lots and Living Units or the Common Areas.

(c) Businesses, professions or trades may be operated or maintained in a Residential Lot subject to the prior written approval of the Board, which approval shall not be unreasonably withheld, subject to the following limitations: (i) any such business, profession or trade may not require heavy equipment or create a nuisance within the Project, (ii) may not noticeably increase the traffic flow to the project, (iii) may not be observable from outside the Residential Lot, and (iv) may only be carried on following approval from the Layton City pursuant to all applicable state and city laws, rules and ordinances in effect at the time any such use is requested. Specifically, it is contemplated

that certain businesses, professions or trade which rely heavily on the Internet and other similar type of technological advances may be operated or maintained within a Residential Lot, subject to the foregoing limitations and all other limitations of this Declaration.

(d) No noxious or offensive activity shall be carried on upon any Residential Lot, nor shall anything be done or placed thereon which may be or become a nuisance, or cause unreasonable embarrassment, disturbance, or annoyance to other Owners in the enjoyment of their Residential Lots and Living Units or the Common Areas and Limited Common Areas. Without limiting the foregoing, no exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively to protect the security of the Residential Lot and Living Unit thereon, shall be placed or used upon any Residential Lot without the prior written approval of the Design Committee.

(e) No furniture, fixtures, appliances or other goods and chattels shall be stored in such a manner as to be visible from neighboring Residential Lots, Roadways or Common Areas and Limited Common Areas.

(g) Declarant intends to construct a common party wall or fence between some of the connected Living Units, commencing at the back of the connected Living Units and extending away from the Living Units. All such walls and fences on the Common Areas or Limited Common Areas shall be maintained jointly in equal shares by the Owners of the Residential Lots abutting such fence or wall. No Owner shall completely enclose a portion of the Limited Common Area in the rear or side of a Living Unit without the prior written approval of the Design Committee. All land between walls or fences shall be Limited Common Area appurtenant to the adjoining Unit and shall be maintained by the Association.

(h) Each Owner shall be responsible to maintain the Owner's side of the common wall adjacent and connected to Owner's Living Unit, all at Owner's expense. No Owner shall make any modifications to a Living Unit which would in any way impair or affect the structural soundness of the attached Living Unit.

(i) All garbage, rubbish, and trash shall be kept in covered containers. In no event shall such containers be maintained so as to be visible for neighboring Residential Lots, Roadways, Common Areas, or Limited Common Areas. The storage, collection and disposal of garbage, rubbish and trash shall be in strict compliance with applicable laws and the rules and regulations of the Board.

(j) No Residential Lot shall be resubdivided.

(k) All improvements shall be constructed in accordance with applicable building line and setback provisions of zoning ordinances.

(l) All structures constructed on any Residential Lot shall be constructed with new materials unless otherwise permitted by the Design Committee; and no used structures shall be relocated or placed on any Residential Lot.

(m) No structure or improvement having a height of more than two (2) stories shall be constructed on any Residential Lot; provided, however, that the height of a structure or improvement may exceed two (2) stories if permitted by law and if the Design Committee determines that the proposed height is compatible with the physical site involved and adjoining properties.

(n) No dwelling shall be permitted on Residential Lots with the ground floor area of the main structure, exclusive of open porches and garages, of less than 500 square feet.

(o) Living Units on all Residential Lots shall have a minimum of a one (1) car attached garage.

(p) Roof and materials shall be architectural grade asphalt shingles as approved by the Design Committee or other high quality roofing materials. All replacement of shingles shall be made by the Association at the expense of the Association so as to maintain uniformity throughout the project.

(q) All window treatments in the Living Units shall be horizontal, white, wood or aluminum 2 inch slats, or as otherwise approved by the Board from time to time as an Association Rule pursuant to Paragraph 4.04 of this Declaration. Aluminum, vinyl and/or steel siding shall only be used in soffit and fascia areas of Living Units constructed upon Residential Lots

(r) The exterior covering of all Living Units, shall be of, brick, native or cultured stone, stucco, siding (aluminum, vinyl and/or steel), or any combination thereof, or as otherwise determined by the Declarant. Once a Residential Unit is constructed, no Owner shall change or alter the exterior covering of the Unit unless prior written approval is obtained from the Design Committee.

(s) No Living Unit shall be permitted to remain incomplete for a period in excess of one (1) year from the date of commencement of construction unless any delays are approved by the Design Committee.

(t) No accessory building shall be constructed upon any Residential Lot unless specifically allowed by architectural standards prior approved by the Design Committee. In the absence of any architectural standards, no such accessory building shall be allowed.

(u) No exterior lighting of any sort shall be installed or maintained on a Residential Lot if the light source shines directly into a neighboring residence.

(v) No Living Unit shall be occupied until the same is substantially completed in accordance with the plans of the Unit type.

(w) No Owner of any Residential Lot, except Declarant, shall build or permit the building thereon of any structure that is to be used as a model or exhibit unless a permit to do so is first granted by the Design Committee.

(x) No improvement which suffers partial or total destruction shall be allowed to remain on any Residential Lot in such a state for more than three (3) months after the date of such destruction.

(y) No outside toilet, other than self-contained portable toilet units used during construction, shall be placed or constructed on any Residential Lot or the Common Areas. All plumbing fixtures, dishwashers, garbage disposals, toilets and sewage disposal systems shall be connected to a sewage system.

(z) No fuel tanks or similar storage facilities shall be constructed or used on any Residential Lot or in the Common Areas.

(aa) No exterior antenna or satellite dish of any sort shall be installed or maintained on any Residential Lot except of a height, size and type approved by the Design Committee. No activity shall be conducted within the Property which interferes with television or radio reception.

(bb) No Outside clotheslines and other outside clothes drying or airing facilities shall be maintained on any Residential Lot unless the same is maintained within a fenced enclosure and not visible from the Roadways.

(cc) No drilling (except for a water well expressly permitted), refining, quarrying or mining operations of any kind shall be permitted upon any Residential Lot or the Common or Limited Common Areas, and no derrick, structure, pump or equipment designed for use in any such activity shall be erected, maintained or permitted on any Residential Lot or the Common Areas or Limited Common Areas. There shall be no water well developed on any Residential Lot by the Owner thereof unless (i) a permit is first obtained from the Board and (ii) the Board first approves the location and facilities used in connection with such well.

(dd) There shall be no blasting or discharge of explosives upon any Residential Lot or the Common and Limited Common Areas except as permitted by the Board;

provided that this provision shall in no way limit or restrict Declarant in its activities in connection with and during the development and sale of Residential Lots.

(ee) No signs whatsoever shall be erected or maintained upon any Residential Lot, except:

- (i) Such signs as may be required by legal proceedings,
- (ii) Such signs as Declarant may erect or maintain on a Residential Lot prior to sale and conveyance,
- (iii) One "For Sale" or "For Rent" sign having a maximum face area of fifteen (15) square feet and referring only to the premises on which it is situated.

(ff) Except to the extent used by Declarant in connection with and during the development and sale of Residential Lots, no mobile home or similar facility shall be placed upon any Residential Lot, the Common or Limited Common Areas or adjoining public streets except for temporary storage in strict accordance with the rules and regulations of the Board. No stripped down, wrecked or junk motor vehicles shall be kept, parked, stored or maintained on any Residential Lot, Common Areas or Roadways, or Limited Common Areas. No large commercial vehicle, motor home, camping trailer, snowmobile trailer, or the like, shall be parked on any Residential Lot, Roadways, Common Areas, or Limited Common Areas except as prior approved by the Board.

(gg) Maintenance of any animals on any Residential Lot shall be subject to the following restrictions and limitations:

- (i) No livestock of any kind, including, but not limited to, pigs, cows, goats, sheep, horses, etc. may be kept or maintained on any Residential Lot.
- (ii) No dangerous or nuisance animals, as defined by the Board, may be maintained or kept on any Residential Lot.
- (iii) The area of any Residential Lot occupied by an animal shall be properly maintained so as not to create any noxious or offensive odors or conditions which is or may become a nuisance or may cause disturbance or annoyance to other Owners in the Project.
- (iv) No animals shall be permitted on the Common Areas or Limited Common Areas except when accompanied by and under the control of the persons to whom they belong.

(v) The use and control of any animals shall be subject to further control by rules and regulations promulgated by the Board.

(hh) Subject to further control by rules and regulations promulgated by the Board, only a reasonable number of generally recognized house pets shall be kept on any Residential Lot. House pets shall be permitted on the Common Areas when accompanied by and under the control of the person to whom they belong. No animals of any kind shall be raised for commercial purposes unless prior written approval is obtained from the Board.

(ii) There shall be no exterior fires, except fires started and controlled by the Association incidental to the maintenance and preservation of any portion of the Property and barbecue and incinerator fires contained within facilities or receptacles designed for such purposes. No Owner shall cause or permit any condition which creates a fire hazard, creates a nuisance, or is in violation of any fire prevention regulations.

(jj) There shall be no camping upon any Residential Lot, Common Areas, or Limited Common Areas, except as permitted by the Board by written license.

(kk) No Owner or guest shall park any vehicle or cause any obstruction in front of a driveway.

7.02 Exemption of Declarant. Notwithstanding the provisions of Section 7.01, the Declarant shall have the right to use any Residential Lot or Living Unit owned by it, and any part of the Common Areas and Limited Common Areas reasonably necessary or appropriate, in furtherance of any construction, marketing, sales, management, promotional or other activities designed to accomplish or facilitate improvement of the Common Areas and Limited Common Areas or improvement and sale of all Residential Lots owned by Declarant.

7.03 Enforcement of Land Use Restrictions. The following persons shall have the right to exercise or seek any remedy at law or in equity to enforce strict compliance with this Declaration:

(a) Declarant, so long as it has any interest in any of the Property or Residential Lots;

(b) Any Owner; or

(c) The Association.

The prevailing party in an action for the enforcement of any provisions of this Declaration shall be entitled to collect court costs and reasonable attorney's fees.

7.04 Conditional Notes on Plat. Neither the Association nor any Owner of a Residential Lot shall have the authority to waive or alter the conditions or requirements set out as notes on the Plat.

ARTICLE VIII - ARCHITECTURAL CONTROL

8.01 Organization of the Design Committee. There shall be a Design Committee consisting of not fewer than three (3) members. The members of the Design Committee need not be Owners. Declarant shall have the right to appoint, remove and increase the number of members of the Design Committee; provided that such right shall vest in the Board upon the expiration of any continuous period of eighteen (18) months during which Declarant at all times owns less than ten percent (10%) of the Residential Lots then covered by this Declaration. Declarant may voluntarily relinquish control of the Design Committee to the Board at any time. Whenever the Design Committee consists of more than three (3) members, it may designate subcommittees, each consisting of at least three (3) members. Unless authorized by the Board, the members of the Design Committee shall not receive any compensation, but all members shall be entitled to reimbursement from the Association for reasonable expenses incurred in the performance of any Design Committee function.

8.02 Actions Requiring Approval. No fence, wall, Living Unit, accessory or addition to a Living Unit, or landscaping or other improvement of a Residential Lot shall be constructed or performed, nor shall any alteration of any structure on any Residential Lot, including a change in exterior color, be made, unless complete plans and specifications showing the nature, color, kind, shape, height, materials and location of the same shall first be submitted to and approved by the Design Committee.

8.03 Standard of Design Review. Before granting any approval of plans and specifications, the Design Committee shall determine to its reasonable satisfaction that such plans and specifications (a) conform to all architectural standards contained in this Declaration and all further architectural standards promulgated from time to time by the Board and (b) provide for a structure, alteration, landscaping or other improvements in harmony as to external design and location with surrounding structures and topography.

8.04 Design Committee Rules and Architectural Standards. The Board may, upon recommendation from the Design Committee, adopt and file as a matter of public record reasonable rules related to the efficient review of plans and specifications including requirements as to the number of sets of plans and specifications to be submitted, the fixing of a review or variance request fee not exceeding Fifty Dollars (\$50.00) per review or variance request, the details to be shown on plans and specifications, and design guidelines consistent with this Declaration and covering such matters as setbacks, height limitations, restrictions on minimum or maximum size and quality of structures.

8.05 Approval Procedure. The Design Committee and any subcommittees thereof shall meet from time to time as necessary to perform the duties of the Design Committee. The vote or written consent of a majority of the Design Committee or any authorized subcommittee shall constitute the act of the Design Committee. Any plans and specifications submitted to the Design Committee shall be approved or disapproved within thirty (30) days after receipt by the Design Committee. If the Design Committee fails to take action within such period, the plans and specifications shall be deemed to be approved as submitted.

8.06 Variance Procedure. If plans and specifications submitted to the Design Committee are disapproved because such plans and specifications are not in conformity with applicable architectural standards, the party or parties making such submission may submit a request for variance to the Design Committee, which shall make a written recommendation of approval or disapproval of the requested variance to the Board. The Board shall approve or disapprove the request for variance in writing. If the Board fails to approve or disapprove a request for variance within sixty (60) days after such request is submitted to the Design Committee, such request shall be deemed to be denied.

8.07 Nonwaiver. The approval by the Design Committee of any plans and specifications for any work done or proposed shall not constitute a waiver of any right of the Design Committee to disapprove any similar plans and specifications.

8.08 Completion of Construction. Once begun, any improvements, construction, landscaping or alterations approved by the Design Committee shall be diligently prosecuted to completion in strict accordance with the plans and specifications approved by the Design Committee.

8.09 Exemption of Declarant. The provisions of this Article shall not apply to any improvement, construction, landscaping or alteration made or performed by Declarant on any Residential Lot or portions of the Common Areas or Limited Common Areas at any time during the twenty-year period following the date on which this Declaration is filed for record in the office of the County Recorder of Davis County, Utah.

8.10 Estoppel Certificate. Within thirty (30) days after written demand therefor is delivered to the Design Committee by any Owner and upon payment therewith to the Association of a reasonable fee from time to time to be fixed by the Board, the Design Committee shall issue an estoppel certificate in recordable form executed by any two of its members, certifying with respect to any Residential Lot of such Owner that as of the date thereof either (a) all improvements and other work made or done upon or within such Residential Lot by the Owner, or otherwise, comply with this Declaration, or (b) such improvements or work do not so comply, in which event the certificate shall also (i) identify the nonconforming improvements or work, and (ii) set forth the nature of such noncompliance. Any mortgagee or purchaser from the Owner shall be entitled to rely on such certificate with respect to the matters therein set forth.

8.11 Disclaimer of Liability. neither the Design Committee, nor any member thereof acting in good faith shall be liable to the Association or to any Owner for any damage, loss, or prejudice suffered or claimed on account of (a) the approval or rejection of, or the failure to approve or reject, any plans, drawings and specifications, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications, (c) the development or manner of development of any of the Property, or (d) any engineering or other defect in approved plans and specifications.

ARTICLE IX - INSURANCE

9.01 Liability Insurance. The Board shall procure and maintain from a company or companies holding a rating of "A-" or better from Best's Insurance Reports a policy or policies (hereinafter called "the Policy") of Public Liability Insurance to insure the Association, the Board and the Managing Agent and employees of the Association against claims for bodily injury and property damage arising out of the conditions of the Common Areas or activities thereon under a Comprehensive General Liability form. Such insurance shall be for such limits as the Board may decide, but not less than \$1,000,000.00 for personal injury and property damage arising out of a single occurrence. Any such coverage procured by the Board shall be without prejudice to the right of the Owners to insure their personal liability for their own benefit at their own expense. The obligation to procure and maintain liability insurance required herein is subject to and contingent upon availability of the same. The Board may procure and maintain other policies or coverages as it desires from time to time.

9.02 Additional Insurance; Further General Requirements. The Board may also procure insurance which shall insure the Common Areas and Limited Common Areas and the Association, the Board, the Managing Agent or the Owners and others against such additional risks as the Board may deem advisable. Insurance procured and maintained by the Board shall not require contribution from insurance held by any of the Owners or their mortgagees. Each policy of insurance obtained by the Board shall, if reasonably possible, provide: (a) a waiver of the insurer's rights of subrogation against the Association, the Owners and their respective directors, officers, agents, employees, invitees and tenants; (b) that it cannot be cancelled, suspended or invalidated, due to the conduct of any particular Owner or Owners; (c) that it cannot be cancelled, suspended, or invalidated due to the conduct of the Association or any directors, officer, agent, or employee of the Association without a prior written demand that the defect can be cured and (d) that any "no other insurance" clause therein shall not apply with respect to insurance maintained individually by any of the Owners.

9.03 Review of Insurance. The Board shall periodically, and whenever requested by twenty percent (20%) or more of the Owners, review the adequacy of the Association's insurance program and shall report in writing the conclusions and action taken on such review to the Owner of each Residential Lot and to the holder of any mortgage on any Residential Lot

who shall have requested a copy of such report. Copies of every policy of insurance procured by the Board shall be available for inspection by any Owner.

9.04 Residential Lots Not Insured by Association. The Association shall have no duty or responsibility to procure or maintain any fire, liability, extended coverage or other insurance covering any Residential Lot and Acts and events thereon.

9.05 Owners Insurance. Each Owner of a Lot, except the Declarant, shall be required at his own cost and expense to obtain and at all times maintain in full force and effect a policy or policies of fire and casualty insurance, with extended coverage endorsement, insuring the portion of the Living Unit the Owner is obligated to maintain in an amount equal to its full insurable replacement value. Each Owner shall provide the Association with a copy of each policy of insurance or a certificate issued by the insurance company to evidence such insurance and each such policy shall provide that it will not be canceled or terminated by the insurance company without giving the Association at least ten (10) days advance written notice of such cancellation or termination. Such policy or policies shall waive the insurance company's right of subrogation against the Association, the Owners, the Manager, if any, and the servants, agents and guests of any of them, if such insurance can be obtained in the normal practice without additional premium charge for waiver of subrogation rights. Such policy may include a standard, non-contributory mortgagee clause or endorsement in favor of any Mortgagee who holds a Mortgage covering all or any part of the Lot. Except as otherwise required by an applicable Mortgage, the proceeds of any such insurance shall be applied to the extent necessary to repair or replace any damage or destruction by fire or other casualty. In the event that any Owner fails to obtain and maintain the insurance required by this Section, or to provide the Association with suitable evidence of such insurance, the Association shall have the right, but without any obligation, to obtain such insurance on behalf of such Owner, and the Owner shall be obligated to immediately reimburse the Association for the costs thereof. The Owner's obligation to reimburse the Association for the cost of any such insurance shall be secured by a lien upon the Owner's Lot as provide in this Declaration with respect to Monthly and Special Assessments.

ARTICLE X - CONDEMNATION

10.01 If at any time or times the Common Areas or Limited Common Areas or any part thereof shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages shall be payable to the Board and shall be used promptly by the Board to the extent necessary for restoring or replacing any improvements on the remainder of the Common Areas or Limited Common Areas. Upon completion of such work and payment in full therefor, any proceeds of condemnation then or thereafter in the hands of the Board which are proceeds for the taking of any portion of the Common Areas or Limited Common Areas shall be disposed of in such manner as the Board shall reasonably determine; provided, however, that in the event of a taking in which any Residential Lot is eliminated, the Board shall disburse the portion of the proceeds of the condemnation award allocable to the interest of the Owner of such

Residential Lot in the Association and the Common Areas and Limited Common Areas to such Owner and any first mortgagee of such Residential Lot, as their interests shall appear, after deducting the proportionate share of said Residential Lot in the cost of debris removal.

ARTICLE XI - RIGHTS OF FIRST MORTGAGEES

Notwithstanding any other provisions of this Declaration, the following provisions concerning the rights of first mortgagees shall be in effect:

11.01 Preservation of Regulatory Structure and Insurance. Unless the Owners of at least seventy-five percent (75%) of the Residential Lots (not including Residential Lots owned by Declarant) and such Owners' first mortgagees, if any, shall have given their prior written approval, the Association shall not be entitled:

(a) by act or omission to change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of Living Units, the exterior maintenance of Living Units, the maintenance of party walls or common fences and driveways, or the upkeep of lawns and plantings on the Property.

(b) to fail to maintain insurance as required by Article IX. This Section 11.01 may be amended as provided in Section 13.02 of Article XIII hereof, except that such amendment must be approved by a vote otherwise sufficient to authorize action under this subsection prior to such amendment.

11.02 Preservation of Common and Limited Common Area: Change in Method of Assessment. Unless the Association shall receive the prior written approval of (1) all first mortgagees of Residential Lots and (2) the Owners of at least seventy-five percent (75%) of the Residential Lots (not including Residential Lots owned by Declarant) the Association shall not be entitled:

(a) by act or omission to seek to abandon, partition, subdivide, encumber, sell or transfer the Common or Limited Common Areas, except to grant easements for utilities and similar or related purposes, as reserved in Section 6.05 of Article XI hereof; or

(b) to change the ratio or method of determining the obligations, assessments, dues or other charges which may be levied against a Residential Lot or the Owner thereof.

This Section 11.02 may be amended as provided in Section 13.02 of Article XIII hereof, except that such amendment must be approved by a vote otherwise sufficient to authorize action under this subsection prior to such amendment.

11.03 Written Consent Deemed Approved. If an Owner or a mortgagee fails to approve or disapprove a request made pursuant to this Article XI, or any other Article in this Declaration, within sixty (60) days after such request is mailed, by certified mail, return receipt requested, the request shall be deemed to be approved from such Owner or mortgagee.

11.04 Notice of Matters Affecting Security. The Board shall give written notice to any first mortgagee of a Residential Lot requesting such notice whenever:

(a) there is any default by the Owner of the Residential Lot subject to the first mortgage in performance of any obligation under this Declaration or the Articles or Bylaws of the Association which is not cured within sixty (60) days after default occurs; or

(b) damage to the Common Areas from any one occurrence exceeds \$10,000.00; or

(c) there is any condemnation or taking by eminent domain of the Residential Lot subject to the first mortgage or of the Common Areas; or

(d) any of the following matters come up for consideration or effectuation by the Association;

(i) abandonment or termination of the Planned Development established by this Declaration;

(ii) material amendment of the Declaration or the Articles or Bylaws of the Association; or

(iii) any decision to terminate professional management of the Common Areas and assume self-management by the Owners.

11.05 Notice of Meetings. The Board shall give to any first mortgagee of a Residential Lot requesting the same, notice of all meetings of the Association; and such first mortgagees shall have the right to designate in writing a representative to attend all such meetings.

11.06 Right to Examine Association Records. Any first mortgagee shall have the same right to inspect the books and records of the Association and receive financial statements as the Owner of the Residential Lot securing the mortgage; provided, that the foregoing shall not be deemed to impose upon the Association any obligation to cause its financial statements to be audited.

11.07 Right to Pay Taxes and Charges. First mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any portion of the Common Areas and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the Common Areas; and first mortgagees making such payments shall be owed immediate reimbursement therefor from the Association. Declarant, for the Association as owner of the Common Area, hereby covenants and the Association by acceptance of the conveyance of the Common Areas, whether or not it shall be so expressed in such conveyance, is deemed to covenant and agree to make such reimbursement.

11.08 Exemption from Any First Right of Refusal. Any first mortgagee who obtains title to the Residential Lot subject to the first mortgage pursuant to the remedies provided in the first mortgage, or by foreclosure of the first mortgage, or by deed or assignment in lieu of foreclosure, or by sale pursuant to any power of sale shall be exempt from any "right of first refusal" which would otherwise affect the Residential Lot.

ARTICLE XII - PARTY WALLS

12.01 General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Living Units upon the Property and placed on the dividing line between two Residential Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

12.02 Repair and Maintenance. Each Residential Unit shall share one or two party wall(s), a common roof, a common exterior back wall, and a common exterior front wall, with adjacent Residential Units. The Owners acknowledge that certain repairs or maintenance to the roof or exterior walls of the Residential Units may become necessary, which repairs or maintenance cannot be performed on one Unit only, but may necessarily involve the other attached Units. Therefore, all repairs to the roof and exterior walls of all Units will be made by the Association out of Association funds.

12.03 Destruction of Party Wall, Common Roof or Exterior. If a party wall or common improvement is damaged or destroyed by the fault or negligence of one of the Owners, such damage shall be repaired by the Association to a condition equal to or better than immediately prior to the damage and the negligent Owner or Owner at fault shall reimburse the Association for any and all costs incurred by the Association to cure the damage. Should a party wall be damaged or destroyed by any cause other than by default or by an act of negligence of an Owner of the adjacent Residential Unit, the damage shall be rebuilt or repaired to a condition equal to or better than immediately prior to the damage, at the joint expense of the Owners of the two affected Residential Units, provided that any amount received from insurance companies for such damage shall first be applied to the restoration of the affected Units. Should a common roof or any part of the exterior wall(s) be damaged or destroyed by any cause other than by

default or by an act of negligence of an Owner of the adjacent Residential Unit, the damage shall be rebuilt or repaired by the Association to a condition equal to or better than immediately prior to the damage, at the expense of the Association, provided that any amount received from insurance companies for such damage shall first be applied to the restoration of the affected Units.

ARTICLE XIII - MISCELLANEOUS

13.01 Notices. Any notice required or permitted to be given to any Owner under the provisions of this Declaration shall be deemed to have been properly furnished if delivered or mailed, postage prepaid, to the person named as the Owner, at the latest address for such person as reflected in the records of the Association at the time of delivery or mailing. Any notice required or permitted to be given to the Association may be given by delivering or mailing the same to the managing Agent or the President of the Association. Any notice required or permitted to be given to the Design Committee may be given by delivering or mailing the same to the Managing Agent or any member of the Design Committee.

13.02 Amendment. Except as provided in Section 5.07 of Article V and Article XI, this Declaration may be amended by:

(a) the affirmative vote of a majority of the Owners, and

(b) the written consent of Declarant, if such amendment is adopted by any time when Declarant holds Class B membership in the Association, and

(c) the written consent of Layton City, and

(d) the filing of an instrument for record in the office of the County recorder of Davis County, Utah, executed by any two officers of the Association and certifying that such amendment has been duly adopted by the affirmative vote of a majority of the Owners, has the written consent of Layton City, and, if required, has the written consent of Declarant.

13.03 Consent in Lieu of Vote. In any case in which this Declaration requires for authorization or approval of a transaction the assent or affirmative vote of a stated percentage of the Owners, whether 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 Owners entitled to cast at least the stated percentage of all membership votes outstanding in connection with the class of membership concerned. The following additional provisions shall govern any application of this Section 13.03:

(a) All necessary consents must be obtained prior to the expiration of ninety (90) days after the first consent is given by any Owner.

(b) The total number of votes required for the applicable authorization or approval shall be determined as of the date on which the last consent is signed.

(c) Except as provided in the following sentence any change in ownership of a Residential Lot which occurs after a consent has been obtained from the Owner thereof shall not be considered or taken into account for any purpose. A change in ownership which would increase the total number of Class A votes outstanding shall, however, be effective in that regard and shall entitle the new Owner to give or withhold his consent.

(d) Unless the consent of all Owners whose memberships are appurtenant to the same Residential Lot are secured, the consent of none of such Owners shall be effective.

13.04 Declarant's Rights Assignable. All or any portion of the rights of Declarant under this Declaration or in any way relating to the Property may be assigned.

13.05 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 herein construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, 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, which shall remain in full force and effect. The laws of the State of Utah shall govern the validity, construction and enforcement of this Declaration.

13.06 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 and all inure to the benefit of Declarant, the Owners, all parties who hereafter acquire any interest in a Residential Lot, and their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner or occupant of a Residential Lot or Living Unit shall comply with, and all interests in all Residential Lots or in the Common Areas shall be subject to, the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration. By acquiring any interest in a Residential 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.

13.07 Duration. The covenants and restrictions of this Declaration shall remain in effect until twenty (20) years from the date this Declaration was first filed in the office of the County Recorder of Davis County, Utah, after which time they shall be automatically extended for successive periods of ten (10) years each unless terminated by an instrument filed in the office of the County Recorder, executed by any two (2) officers of the Association, certifying that the Owners of at least seventy-five percent (75 %) of the Residential Lots and their first mortgagees, if any, voted in favor of such termination. If any of the privileges, covenants, or rights created by this Declaration would otherwise be unlawful or void for violation of (1) the rule against

perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then the provision herein creating such privilege, covenant or right shall, in any event, terminate upon the expiration of twenty-one (21) years after the death of the last survivor of the now living lawful descendants of George W. Bush, the current President of the United States at the time this Declaration was recorded.

12.08 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 Davis County, Utah.

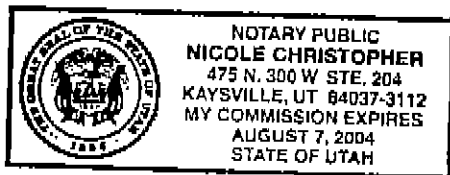
"Declarant"

TERRAVENTURE DEVELOPMENT, LTD.

by. David E. Adams II

STATE OF UTAH)
 : SS
COUNTY OF Davis)

On the 17th day May, 2002, personally appeared before me David E. Adams II who being by me duly sworn did say that he/they are partner(s) of TERRAVENTURE DEVELOPMENT, LTD., and that the within and foregoing instrument was signed in behalf of said Partnership and David E. Adams II acknowledged to me that ~~he~~ they executed the same.



Nicole Christopher
NOTARY PUBLIC

EXHIBIT "A"

PROPERTY

The following real property located in Davis County, State of Utah, to-wit:

PART OF THE SOUTHEAST QUARTER OF SECTION 28, T. 4 N., R. 1 W.,
S. L. B. 8 M.

BEGINNING AT A POINT ON THE NORTHWESTERLY LINE OF THE GORDON LEE PETERSON PROPERTY AND THE SOUTHEASTERLY LINE OF THE TERRAVENTURE DEVELOPMENT L.T.D. PROPERTY WHICH IS LOCATED N 00° 02' 50" W 926.09 FEET ALONG THE SECTION LINE AND N 90° 00' 00" W 1209.42 FEET FROM THE SOUTHEAST CORNER OF SECTION 28, T. 4 N., R. 1 W., S. L. B. 8 M., RUNNING THENCE ALONG SAID SOUTHEASTERLY LINE THE FOLLOWING FOUR COURSES: (1) S 08° 07' 50" E 53.29 FEET, (2) S 15° 15' 10" W 161.70 FEET TO A CORNER OF SAID TERRAVENTURE DEVELOPMENT L.T.D. PROPERTY WHICH IS LOCATED S 15° 15' 10" W 79.03 FEET FROM AN ANGLE CORNER IN SAID PETERSON PROPERTY, (3) S 14° 34' 10" W 42.24 FEET, (4) S 73° 49' 10" W 57.80 TO THE EASTERLY LINE OF STATE HIGHWAY 106, THENCE RIGHT ALONG THE ARC OF A 5353.50 FOOT RADIUS CURVE A DISTANCE OF 190.77 FEET (CHORD BEARS N 42° 52' 57" W 190.76 FEET) ALONG SAID EASTERLY LINE OF STATE HIGHWAY 106 TO THE SOUTHEASTERLY LINE OF THE WAYNE L. HUBER PROPERTY, THENCE N 48° 35' 47" E 198.82 FEET ALONG SAID HUBER PROPERTY, THENCE S 86° 08' 17" E 82.01 FEET TO THE POINT OF BEGINNING.

CONTAINS 0.893 ACRES.

BASIS OF BEARING IS THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 28, T. 4 N., R. 1 W., S. L. B. 8 M. AS N 00° 02' 50" W (D.C.S.)

ALSO TO BE KNOWN AS, TO WIT: CLEARWATER COVE, A PLANNED RESIDENTIAL UNIT DEVELOPMENT, PHASE I, LOTS 11-15, INCLUSIVE.

EXHIBIT "B"

COMMON AREAS

The Common Areas within Clearwater Cove, a Planned Residential Unit Development shall include the road to be known as Clearwater Drive and all other Common Area as shown and described on the Plat.

EXHIBIT "C"

UNDEVELOPED LAND

PART OF THE SOUTHEAST QUARTER OF SECTION 28, T.4N., R.1W., S.L.B. & M.

BEGINNING AT THE SOUTHWEST CORNER OF COUNTRY CREEK ESTATES SUBDIVISION - PHASE 4 WHICH IS LOCATED $N00^{\circ}02'50''W$ 1324.16 FEET ALONG THE SECTION LINE AND $N90^{\circ}00'00''W$ 432.61 FEET FROM THE SOUTHEAST CORNER OF SECTION 28, T.4N., R.1W., S.L.B. & M., RUNNING THENCE $S65^{\circ}10'05''W$ 837.29 FEET ALONG AN EXISTING FENCE LINE TO THE NORTHEASTERLY CORNER OF THE GORDON LEE PETERSON PROPERTY, THENCE ALONG THE NORTHWESTERLY LINE OF SAID PETERSON PROPERTY AND THE SOUTHEASTERLY LINE OF THE DOUGLAS G. BENNETT PROPERTY THE FOLLOWING FOUR COURSES: (1) $S65^{\circ}10'05''W$ 10.01 FEET, (2) $S14^{\circ}37'10''W$ 34.70 FEET, (3) $S08^{\circ}07'50''E$ 62.04 FEET, (4) $S15^{\circ}15'10''W$ 161.70 FEET TO A CORNER OF THE SAID BENNETT PROPERTY, SAID CORNER BEING LOCATED $S15^{\circ}15'10''W$ 79.03 FEET FROM AN ANGLE CORNER IN THE SAID PETERSON PROPERTY, THENCE ALONG SAID BENNETT PROPERTY THE FOLLOWING SIX COURSES: (1) $S14^{\circ}34'10''W$ 42.24 FEET, (2) $S73^{\circ}49'10''W$ 57.80 FEET TO THE STATE ROAD, (3) RIGHT ALONG THE ARC OF A 5353.50 FOOT RADIUS CURVE A DISTANCE OF 190.77 FEET (CHORD BEARS $N42^{\circ}52'57''W$ 190.76 FEET) ALONG STATE ROAD, (4) $N48^{\circ}35'47''E$ 198.82 FEET, (5) $N41^{\circ}01'19''W$ 205.00 FEET TO AN EXISTING FENCE LINE, (6) $N49^{\circ}10'10''E$ 100.00 FEET ALONG SAID FENCE LINE, THENCE $N50^{\circ}42'43''W$ 7.73 FEET TO A BOUNDARY AGREEMENT BETWEEN THE DOUGLAS G. BENNETT PROPERTY AND THE THOMAS W. MATTHEWS PROPERTY ON FILE IN THE OFFICE OF THE DAVIS COUNTY RECORDER IN BOOK 2541 PAGES 1324 THRU 1328, THENCE ALONG SAID BOUNDARY AGREEMENT LINE THE FOLLOWING FOUR COURSES: (1) $N44^{\circ}58'56''E$ 303.11 FEET, (2) $N13^{\circ}10'10''E$ 400.00 FEET, (3) $N69^{\circ}10'10''E$ 136.00 FEET (4) $N29^{\circ}29'20''W$ 31.91 FEET, THENCE $N64^{\circ}55'55''E$ 237.82 FEET ALONG AN EXISTING FENCE LINE TO THE WESTERLY LINE OF COUNTRY CREEK ESTATES SUBDIVISION - PHASE 2B, THENCE $S25^{\circ}23'05''E$ 678.70 FEET ALONG THE WESTERLY LINE OF COUNTRY CREEK ESTATES SUBDIVISION - PHASE 2B AND PHASE 4 TO THE POINT OF BEGINNING.

CONTAINS 11.683 ACRES

BASIS OF BEARING IS THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 2S, T.4N., R.1W., S.L.B. & M. AS $N00^{\circ}02'50''W$ (D.C.S.)

EXHIBIT "D"

ARTICLES OF INCORPORATION
OF
CLEARWATER COVE
HOMEOWNERS ASSOCIATION

David E. Adams II, the undersigned natural person over the age of twenty-one years, acting as incorporator of a non-profit corporation pursuant to the Utah Nonprofit Corporation and Co-operative Association Act, hereby adopts the following Articles of Incorporation for said corporation:

ARTICLE I - NAME

1.01 The name of the nonprofit corporation is Clearwater Cove Homeowners Association, Inc., hereinafter "the Association".

ARTICLE II - DURATION

2.01 The duration of the Association shall be perpetual unless earlier dissolved pursuant to law.

ARTICLE III - DEFINITIONS

When used in these Articles the following terms shall have the meaning indicated:

3.01 Articles shall mean and refer to these Articles of Incorporation of Clearwater Cove Homeowners Association.

3.02 Association shall mean and refer to Clearwater Cove Homeowners Association, the Utah nonprofit corporation which is created by the filing of these Articles.

3.03 Member shall mean and refer to every person who holds membership in the Association.

3.04 Declarant shall mean and refer to Terraventure Development, LTD. and to its successors and assigns.

3.05 Property shall mean and refer to the real property situated in Davis County, Utah, described in the Plat and in the Declaration.

3.06 Board shall mean the Board of Trustees of the Association.

3.07 Plat shall mean and refer to the subdivision plat covering the Property, entitled "Clearwater Cove, a Planned Residential Unit Development" executed and acknowledged by Declarant, prepared and certified to by O. Neil Smith, a registered land surveyor, and filed for record in the office of the County Recorder of Davis County, Utah, on May 21, 2002, 2002, in Book 3048 of Plats, Pages 693, as Entry No. 1755340, and other amended Plats which may be filed from time to time.

3.08 Declaration shall mean and refer to the instrument entitled "Declaration of Covenants, Conditions and Restrictions of Clearwater Cove, a Planned Residential Unit Development" executed by the Declarant under date of May 21, 2002, 2002, and filed for record in the office of the County Recorder of Davis County, Utah, as Entry No. 1755341, Book 3048, at Pages 694, et seq., together with any subsequent amendment of said Declaration of any supplemental Declarations which may be recorded from time to time.

3.09 Lot or Residential Lot shall mean and refer to any of the separately numbered and individually described parcels of land shown on the Plat designed and intended for improvements with a Living Unit.

3.10 Common Areas shall mean all property owned or intended to eventually be owned by the Association for the common use and enjoyment of the Owners, together with all improvements thereon and all easements appurtenant thereto. The initial Common Areas shall consist of all Property described in Exhibit "B" of the Declaration.

3.11 Limited Common Areas shall mean or refer to those common areas designated on the recorded subdivision Plats as reserved for the use and benefit of each Residential Lot to the exclusion of all other Owners. The driveways and other areas designated on the subdivision Plat are deemed Limited Common Areas

3.12 Owner shall mean and refer to the person who is the owner of record (in the office of the County Recorder of Davis County, Utah) of a fee or an undivided fee interest in any Lot, including contract sellers, but not including purchasers under contract until such contract is fully performed and legal title is conveyed of record. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term Owner shall not mean or include a mortgagee, or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure on any arrangement or proceeding in lieu thereof.

3.12 Living Unit shall mean and refer to a structure which is designed and intended for use and occupancy as a single-family residence, together with all improvements located on the Lot concerned which are used in conjunction with such residence.

ARTICLE IV - POWERS AND PURPOSES

4.01 Purpose. The Association is organized and shall be operated as a nonprofit corporation for the sole purpose of maintaining and administering the Common Areas, collecting and disbursing the assessments and charges provided for in the Declaration, otherwise administering, enforcing, and carrying out the terms of the Declaration, and generally providing for and promoting the recreation, health, safety, and welfare of residents of the Property.

4.02 Powers. The Association shall have all of the powers conferred upon it by the Declaration and all powers allowed by law necessary or convenient for accomplishment of any of its purposes, including all powers referred to or described in Section 16-6-22, Utah Code Annotated (1953), as amended, or in other similar laws in the State of Utah.

4.03 Limitation. The Association is not organized for pecuniary profit. Notwithstanding the breadth of the foregoing portion of this Article II, no dividend shall be paid to, no part of the Association's funds shall be distributed to, and no part of the net income of the Association shall inure to the benefit of, any of its Members, Trustees, or Officers or any other person, except in payment of the costs contemplated by Section 4.02 of Article IV of the Declaration.

ARTICLE V - MEMBERSHIP AND VOTING RIGHTS

5.01 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.

5.02 Voting Rights. The Association shall have the following described two classes of voting membership:

Class A. Class A Members shall be all Owners, but excluding the Declarant until the Class B membership ceases. Class A Members shall be entitled to one (1) vote for each Lot in which the interest required for membership in the Association is held. In no event, however, shall more than one Class A vote exist with respect to any Lot.

Class B. Declarant shall be the sole Class B Member. The Class B Member shall be entitled to ten votes for each Residential Lot which he owns. The Class B

membership shall automatically cease and be converted to Class A membership on the first to occur of the following events:

(a) When the total number of votes held by all Class A Members equals the total number of votes held by the Class B Member.

(b) December 31, 2010.

5.03 Multiple Ownership Interests. In the event there is more than one (1) Owner of a particular Lot, the vote relating to such Lot shall be exercised as such Owners may determine among themselves. A vote cast at any Association meeting by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the entire vote attributable to the Lot concerned unless an objection is made at the meeting by another Owner of the same Lot, in which event a majority in interest of the co-owners as shown on the record of ownership maintained by the Association shall be entitled to cast the vote.

5.04 Membership List. The Association shall maintain up-to-date records showing the name of each person who is a Member, the address of such person, and the Lot to which the membership of such person is appurtenant. In the event of any transfer of fee or undivided interest in a Lot either the transferor or transferee shall furnish the Association with evidence establishing that the transfer has occurred and that the Deed or other instrument accomplishing the transfer is of record in the office of the County Recorder of Davis County, Utah. The Association may for all purposes act and rely on the information concerning Members and Lot ownership which is thus acquired by it or, at its option, the Association may act and rely on current ownership information respecting any Lot or Lots which is obtained from the office of the County Recorder of Davis County, Utah. The address of a Member shall be deemed to be the address of the Living Unit situated on such Member's Lot unless the Association is otherwise advised in writing.

ARTICLE VI - ASSESSMENTS

6.01 Members of the Association shall be subject to assessments by the Association from time to time in accordance with the provisions of the Declaration and shall be liable to the Association for payment of such assessments. Members shall not be individually or personally liable for the debts or obligations of the Association.

ARTICLE VII - PRINCIPAL OFFICE AND REGISTERED AGENT

7.01 The address of the initial principal office of the Association is, and the name of the initial registered agent of the Association at such address is:

The Adams Company
475 North 300 West
Kaysville, Utah 84037

and the name of the initial registered agent of the Association at such address is:

David E. Adams II
475 North 300 West
Kaysville, Utah 84037

ARTICLE VIII - APPOINTMENT OF BOARD OF TRUSTEES BY DECLARANT

8.01 Until the Class B membership ceases and is automatically converted to a Class A membership pursuant to the terms of the Declaration, the Declarant, or its successors in interest as Declarant under the Declaration, shall have the right and option to appoint, remove and replace all of the members of the Board of the Association. In the event the Declarant fails to exercise this option or in the event the Declarant by written notice to the Association voluntarily turns over to the Members the responsibility for electing the Board before the termination of said Class B membership, the Board shall be elected by the Members of the Association in accordance with the Declaration, these Articles of Incorporation and the Bylaws of the Association.

8.02 Until the Class B membership ceases and is automatically converted to Class A membership pursuant to the terms of the Declaration, the initial Board members appointed by Declarant need not be composed of Members. After the Class B membership ceases and is automatically converted to Class A membership pursuant to the terms of the Declaration, the Trustee selected by the Association must be Members unless or until there are insufficient Members who desire to serve on the Board, in which case Trustees need not be Members of the Association.

ARTICLE IX - BOARD OF TRUSTEES

9.01 Number, Tenure and Qualifications. Except for the initial Board selected by Declarant which consists of three members who (and their successors) may hold office so long as Class B membership specified in the Declaration exists, the affairs of the Association shall be

managed by a Board of Trustees composed of three (3) individuals. At the first meeting of the Members at which election of Trustees will take place, the candidate who receives the most votes shall serve as a Trustee for three (3) years. The candidate that receives the second highest number of votes shall serve as a Trustee for two (2) years, and the third candidate which receives the third highest number of votes shall serve as Trustee for one (1) year. At each annual election, the Successor to the Trustee whose term shall expire in that year shall be elected to hold office for the term of three (3) years. Any change in the number of Trustees may be made only by amendment of these Articles. Each Trustee shall hold office until his term expires and until his successor has been duly elected and qualified.

9.02 Initial Board. The persons who are to serve as the initial Board selected by the Declarant are as follows:

<u>Name</u>	<u>Address</u>
David E. Adams	475 North 300 West Kaysville, Utah 84037
David E. Adams II	475 North 300 West Kaysville, Utah 84037
J. Stuart Adams	475 North 300 West Kaysville, Utah 84037

ARTICLE X - DESIGN COMMITTEE

10.01 Number, Composition and Function. The Board shall appoint a three-member Design Committee the function of which shall be to enforce and administer the provisions of Article VIII of the Declaration. The Design Committee need not be composed of Members. Members of the Design Committee shall hold office at the pleasure of the Board. If such a Design Committee is not appointed the Board itself shall perform the duties required of the Design Committee.

ARTICLE XI - INCORPORATOR

11.01 The name and address of the incorporator of the Association is as follows:

<u>Name</u>	<u>Address</u>
David E. Adams II	475 North 300 West Kaysville, Utah 84037

ARTICLE XII - MISCELLANEOUS

12.01 Transfer of Common Areas and Dissolution. The Board may, in connection with dissolution of the Association or otherwise, dedicate or transfer any part of the Common Area to any public agency or authority for such purpose and subject to such conditions as may be agreed to by the Board. Any such dedication or transfer must, however, be assented to by two-thirds (2/3) of the votes of the membership which Members present in person or by proxy are entitled to cast at a meeting duly called for the purpose. No such dedication or transfer, however, may take place without the Association first receiving approval from the Layton City pursuant to all applicable state and city laws, rules and ordinances in effect at the time of such proposed dedication or transfer. 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) days but not more than thirty (30) days prior to the meeting date.

The Association may be dissolved by the affirmative vote of two-thirds (2/3) of the votes of the membership which Members present in person or by proxy are entitled to cast at a meeting duly called (as provided in the preceding Paragraph) for the purpose. Upon dissolution of the Association, all of its assets (including the Common Areas) shall be dedicated or transferred to an appropriate public agency or authority to be used for purposes similar to those provided for in these Articles and the Declaration. In the event such dedication or transfer is not accepted, the Association's assets shall be transferred to a nonprofit corporation, trust, or other entity to be used for such similar purpose.

12.02 Manager. The Association may carry out through a Managing Agent any of its functions which are properly authorized by the Declaration. Any Managing Agent shall be an independent contractor and not an agent or employee of the Association. The Managing Agent shall be responsible for managing the Property for the benefit of the Association and the Members and shall, to the extent permitted by law and the terms of the agreement with the Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Association itself.

12.03 Amendment. Any amendment to these articles shall require: (i) The affirmative vote of at least two-thirds (2/3) of the membership votes which Members present in person or represented by proxy are entitled to cast at a meeting duly called for such purpose; and, so long as the Class B membership exists, (ii) The written consent of the Declarant. Written notice setting forth the purpose of the meeting and the substance of the amendment proposed shall be sent to all Members at least ten (10) days but not more than thirty (30) days prior to the meeting date. The quorum required for any such meeting shall be as follows:

At the first meeting called the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of the membership shall constitute a quorum.

If a quorum is not present at the first meeting or any subsequent meeting, another meeting may be called (subject to the notice requirement set forth in the foregoing portion of this Section 12.03) at which a quorum shall be one-half (1/2) of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting. Any amendment authorized pursuant to this Section shall be accomplished through the filing with the office of the Secretary of State of Utah, of appropriate articles of amendment executed by the President or Vice-President of the Association (and by the Declarant if the Class B membership then exists). In such articles of amendment the President or Vice President shall certify that the vote required by this Section for amendment has occurred.

12.04 Consent in Lieu of Vote. In any case in which these Articles, the Declaration or the Bylaws of the Association require 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 transactions from Members entitled to cast at least the stated percentage of all membership votes outstanding in connection with the Class of membership concerned. The following additional provisions shall govern any application of this Section 12.04:

(a) All necessary consents must be obtained prior to the expiration of ninety (90) days after the first consent is given by any Member.

(b) The total number of votes required for authorization or approval under this Section 12.04 shall be determined as of the date on which the last consent is signed.

(c) Except as provided in the following sentence, any change in ownership of a Lot which occurs after consent has been obtained from the Member having an interest therein shall not be considered or taken into account for any purpose. A change in ownership which would otherwise result in an increase in the total number of Class A votes outstanding shall, however, be effective in that regard and shall entitle the new Member to give or withhold his consent.

(d) Unless the consent of all members whose memberships are appurtenant to the same Lot are secured, the consent of none of such Members shall be effective.

12.05 By-laws and Resolutions. The Board may adopt, amend and repeal By-laws or resolutions for regulation and management of the affairs of the Association not inconsistent with these Articles, the Declaration, or law.

12.06 Interpretation. The captions which precede the various portions of these Articles 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 provision contained in these Articles shall not affect the validity or enforceability of the remainder hereof. These Articles have been prepared in conjunction with the Declaration and should be read and construed in light of that fact and liberally so as to effect all of the purposes of both instruments. These Articles may not be amended in any manner inconsistent with the Declaration, and in the event of conflict between these Articles and the Declaration, the Declaration shall control. To the extent the provisions of the Utah Nonprofit Corporation and Cooperative Association Act and any modifications, amendments, and additions thereto are consistent with these Articles and the Declaration, such legislation shall supplement the terms hereof.

DATED this 17th day of May, 2002.

CLEARWATER COVE
HOMEOWNERS ASSOCIATION, INC.

by:



David E. Adams II

Its: President

Verification

STATE OF UTAH)
 : ss
COUNTY OF Davis)

On the 17th day of May, 2002, personally appeared before me DAVID E. ADAMS II, who, being by me duly sworn, declared that he is an incorporator of Clearwater Homeowners Association, that he signed the foregoing Articles of Incorporation of Clearwater Homeowners Association as an incorporator of such nonprofit corporation, and that the statements therein contained are true and correct.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of May, 2002.



NOTARY PUBLIC

Residing at: Kaysville UT

My Commission Expires: August 7, 2004

