

WHEN RECORDED MAIL TO:  
R.H. ZIEGLER & ASSOCIATES, INC.  
P.O. BOX 2066  
PARK CITY, UTAH 84060

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
THE CREEK PLACE SUBDIVISION  
WASATCH COUNTY, UTAH**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE CREEK PLACE SUBDIVISION IN WASATCH COUNTY, UTAH, is made this 5<sup>th</sup> day of September, 1995, by R.H. ZIEGLER & ASSOCIATES, INC., A UTAH CORPORATION (the "Declarant") as set forth below.

**RECITALS**

A. The Declarant is the owner in fee simple of real property located in the City of Midway, County of Wasatch, State of Utah, more particularly described on attached Exhibit "A" (hereinafter referred to as the "Subdivision"). The Subdivision is known as the Creek Place Subdivision.

B. For the purpose of enhancing and protecting the value, attractiveness, and desirability of the lots located in the Subdivision, Declarant declares that all of the real property described on the official subdivision plat for the Creek Place Subdivision, and each part of such Subdivision, shall be held, sold, and conveyed subject to the terms and condition of this Declaration of Covenants, Conditions and Restrictions (the "Declaration") which shall constitute a covenant running with the land and shall be binding on all parties having any right, title, or interest in any lot in the Subdivision, and shall be binding upon the heirs, successors, and assigns of the respective owners of lots in the Subdivision.

C. Declarant desires that the Subdivision constitute a single residential community with reciprocal rights of access and use, and reciprocal rights of enforcement of the covenants, conditions, and restrictions contained herein.

**NOW THEREFORE:**

Declarant, as fee owner of the property described on Exhibit "A" and recorded as in Creek Place Subdivision in Book 300 at Page 541-550 as Entry number 180080, in the office of the Wasatch County Recorder, Wasatch County, State of Utah (hereinafter referred to as the "Subdivision Plat", for the designed purpose of developing and maintaining the Subdivision desirable, uniform, and suitable, hereby makes the following declaration of covenants, conditions, limitations, restrictions, and uses to which the lots within the Subdivision may be put, and specifies that such Declaration shall constitute covenants which shall run with all the land, as provided by law, and shall be binding on all parties and all persons claiming under them as follows:

00181489 Bk00305 Pg00237-0025:

WASATCH CO RECORDER-ELIZABETH M PARCELL  
1995 SEP 13 16:39 PM FEE: \$81.00 BY P:  
REQUEST: FIRST AMERICAN TITLE COMPANY

ARTICLE I.  
BUILDING RESTRICTIONS

1. The Subdivision shall be a single-family residential subdivision and shall be used solely for residential purposes. A "building site" shall consist of one or more residential lots or portions thereof, as hereinafter required, as shown on the Subdivision Plat and any subsequent modifications or adjustments thereto approved as provided by law. In spite of the preceding, no within the Subdivision shall be smaller than that shown on the Subdivision Plat.

2. No building or structure shall be erected, constructed, maintained, or permitted on such residential lots, except on a "building site" as defined in this Declaration.

3. No building, except a single-family residential buildings together with detached garage and/or such other accessory buildings as may be permitted by local land use or ordinances shall be permitted. Such accessory buildings shall not be used for or in connection with multi-family living, and each building site shall be used for no more than one family, together with attendants or domestic servants of that family.

4. Any home constructed on a building site shall have a minimum main floor area of the main structure, exclusive of one-story open porches and garages, of not less than 1,600 square feet for a one-story dwelling. In the case of a multiple-story or split-level dwelling, the lower or ground floor living level shall be not less than 1,200 square feet and the total finished square footage area of the second and/or split level, when added to the minimum 1,200 square feet main floor requirements, shall be not less than 600 square feet.

5. No trailer, tent, shack, garage, barn, or other outbuildings shall at any time be used as a residence, temporarily or permanently, on any building site.

6. Any construction commenced on any house as provided in this Declaration shall be substantially completed, including, but not limited to, all painting, within twelve (12) months from the date such constructed is commenced.

7. No sign of any kind shall be displayed to public view on any building site, except for a sign, limited to one, advertising the property for sale, which sign shall not be larger than six (6) square feet.

8. All lot owners shall provide and maintain proper facilities to control storm water run-off onto adjacent properties and to insure that sediments do not enter the natural drainage system.

9. All buildings and improvements shall be constructed in strict compliance with the pertinent zoning and building codes of the City of Midway, County of Wasatch, and any and all other governmental entities that have jurisdiction thereof at the time of undertaking such buildings and improvements. No dwelling house, garage, or other accessory building or part thereof (exclusive of fences and similar structures) shall be placed nearer to the front lot line than the minimum building setback lines, if any, imposed by any such governmental entity having control, or as shown on the Subdivision Plat, whichever is more restrictive.

10. The height and location of any residence, garage, or accessory building shall be designed and located so as to assist in the preservation of views of others, and shall not violate any applicable building and/or zoning law(s).

11. All lines or wires for telephone, power, cable television, or otherwise shall be placed underground and no such wires shall be unnecessarily shown on the exterior of any building. No television or radio antenna or aerial shall be installed that has a height in excess of six (6) feet above the roof-line of such home.

12. All fences must be designed and constructed so as to be compatible with the neighborhood. All fences shall be designed and constructed so as to not constitute a nuisance, or to have an offensive effect on other persons residing within the Subdivision.

13. No noxious, illegal, or offensive use of property shall be carried on any lot, nor shall anything be done thereon that may be, or become, an annoyance or nuisance to the neighborhood. No grantee or grantees, under any conveyance, nor purchasers, shall at any time conduct or permit to be conducted on any residential lot, or the Common-Area, any trade or business of any description, either commercial or noncommercial, religious or otherwise, including any day schools, nurseries, or church schools, nor shall such premises be used for any other purpose whatsoever except for the purpose of providing a private, single-family dwelling or residence.

14. No trash, garbage, ashes, or other refuse, junk, vehicles in disrepair, underbrush, or other unsightly growths or objects, shall be maintained or allowed on any lot. All fences and buildings shall be kept in a state of repair.

15. Each owner, at such owner's sole cost and expense, shall repair such owner's residence, keeping the same in a condition comparable to the condition of such residence at the time of its initial construction, excepting only normal wear and tear. All residences, garages, and accessory buildings shall be painted or stained, from time to time, so as to maintain a reasonable state of repair.

16. If all or any portion of a residence is damaged or destroyed by fire or other casualty, it shall be the duty of the owner or owners, with all due diligence, to rebuild, repair, or reconstruct such residence in a manner that will substantially restore it to its appearance and condition immediately prior to the casualty. Reconstruction shall be undertaken within six (6) months after the damage occurs, and shall be completed within one (1) year after commencement.

17. No boat, boat trailer, snow-mobile, snow-mobile trailer, house trailer, horse trailer, automobile, recreational vehicle, truck, or other vehicle, or any part thereof shall be stored or permitted to remain on any residential lot unless the same is stored or placed in a garage or fully enclosed space, except for temporary storage for a period not to exceed fourteen (14) consecutive days in duration with such temporary occurrences no to exist more than four (4) times in any one calendar year.

18. No boat, boat trailer, snow-mobile, snow-mobile trailer, house trailer, horse trailer, automobile, recreational vehicle, truck, or other vehicle, or any part thereof shall be stored or permitted to remain on any portion of the Common-Area.

19. Each property owner shall exercise as much care as possible to retain natural vegetation, trees, shrubs, and other similar growth.

20. Each property owner, within ninety (90) days of the completion of the residence, shall landscape all yards fronting a street.

21. All mailboxes shall be located as directed by the U.S. Postal Service. Each lot owner shall be responsible for the maintenance and replacement of his or her mailbox so as to keep it in a state of repair at all times.

22. No animals, livestock, or poultry shall be raised, bred, or kept on any lot of the Subdivision for commercial purposes.

ARTICLE II  
COMMON-AREA

- 1. The Subdivision consists of six (6) building lots, and a Common Area (herein referred to as the Common-Area), as shown on the Subdivision Plat.
- 2. With respect to the Common-Area, each lot in the Subdivision shall receive a one sixth (1/6th) interest in the Common-Area.
- 3. The Creek Place Homeowners Association (as defined below) shall be responsible for maintenance of the Common-Area. The Association shall maintain the Common-Area in an attractive and clean condition.
- 4. No permanent structures of any kind may be constructed on or placed on the Common-Area.
- 5. No trees may be planted along the eastern and northern boundaries of the Common-Area so as to unreasonably obstruct the view of the owner of the property located to the north and immediately adjacent to the Common-Area.
- 6. Each owner of a lot in the Subdivision acknowledges that as of the date of this Declaration, there is a fence located on the approximate eastern boundary line of the Subdivision. No owner of a lot in the Subdivision shall have the right to require removal of that fence or to prohibit a replacement fence from being located in the same location.
- 7. Each owner of a lot in the Subdivision acknowledges that there is a lane adjacent to the eastern boundary of the Subdivision. Each owner further acknowledges that this lane is a private lane and there shall be no right of access to the Subdivision or any lot in the Subdivision by means of this private lane.

ARTICLE III  
MISCELLANEOUS AND GENERAL PROVISIONS

- 1. Declarant agrees that, promptly following the recording of this Declaration, it will execute and file with the office of the Division of Corporations of the Utah Department of Commerce, Articles of Incorporation for The Creek Place Homeowners Association (hereinafter referred to as "Articles"), which Articles shall be substantially in the form of Exhibit "B" attached hereto and by this reference made a part hereof. Upon receipt by Declarant of the Certificate of Incorporation for The Creek Place Homeowners Association (hereinafter referred to as the "Association"), Declarant agrees that it will cause to be executed Bylaws for the Association in the form of Exhibit "C" attached hereto and by this reference made a part hereof.
- 2. Each owner of a Lot shall be deemed to be a member of the Association (hereinafter referred to as "Member"). Memberships in the Association shall not be assignable, except to the successor in interest of the Lots, and membership in the Association shall be appurtenant to and may not be separated from the fee ownership of the Lots. Ownership of a Lot shall be the sole qualification for membership in the Association. The Association membership held by any owner of a Lot shall not be transferred, pledged, or alienated in any way, except upon

the sale or encumbrance of said Lot, and then only to the purchaser or purchasers of said Lot. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. In the event an owner of a Lot shall fail or refuse to transfer the membership registered in his name to the purchaser of said Lot, upon the transfer of fee title thereto, the Board of Trustees of the Association shall have the right to record the transfer on the books of the Association.

3. The Association shall have one class of voting membership. Members shall be all those owners as defined in Section 2 above. Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership by Section 2. When more than one person holds such interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast for any one Lot. All voting rights shall be subject to the restrictions and limitations provided herein and in the Articles and Bylaws of the Association.

4. Each member, by acceptance of a real estate contract or deed therefor, covenants and agrees to pay to the Association, assessments or charges for maintenance of the Common Area. All such assessments shall be fixed, established and collected from time to time as hereinafter provided, and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment together with any interest, costs and reasonable attorney's fees, shall also be the personal obligation of the owner of such property at the time when the assessment fell due. In any conveyance, except to a mortgagee holding a first lien on the subject Lot, the grantee of a Lot shall be jointly and severally liable with the grantor for all unpaid assessments against the latter up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee. However, any such grantee shall be entitled to a statement from the Board of Trustees setting forth the amounts of the unpaid assessments against the grantor, and such grantee shall not be liable for, nor shall the Lot conveyed by subject to a lien for, any unpaid assessments against the grantor in the excess of the amount set forth. No membership may transferred to a subsequent purchaser until all assessments, interest, penalties and other charges that are due have been paid in full to the Association.

5. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the members of the Association and, in particular, the maintenance of the Common Area.

6. The amount and time of payment of assessments shall be determined by the Board of Trustees of the Association after giving due consideration to the current maintenance costs and future needs of the Association. Written notice of the amount of an assessment shall be sent to every owner, and the due date for the payment of same shall be set forth in said notice.

7. The assessments provided for herein shall commence as to all Lots on the first day of the month following the purchase of each Lot to an individual owner. Monthly or annual assessments will be payable at times designated by the Board of Trustees of the Association.

8. The Association shall, upon the written request of any Lot owner or any encumbrancer or prospective encumbrancer of a Lot, and upon payment of a reasonable fee not to exceed \$10, issue to the requesting person or persons, a written statement setting forth the unpaid assessments with respect to the Lot covered by the request. This written statement of indebtedness is conclusive upon the remaining Lot owners in favor of all persons who rely thereon in good faith. Unless the Association complies with the request for a statement of indebtedness within ten (10) day, all unpaid assessments which became due prior to the date of the making of such request are subordinate to the lien held by the person requesting the statement. Any encumbrancer holding a lien payable with respect to the Lot and upon payment the encumbrancer shall have a lien on such Lot for the amounts paid of the same rank as the lien of his Lot.

9. Any assessment provided for in this Declaration, which is not paid when due, shall be delinquent. With respect to each assessment, not paid within fifteen (15) days after its due date, the Association may, at its election require the Owner to pay a "late charge" in the sum to be determined by the Association, but not to exceed \$10 per each delinquent assessment. If any such assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum, and the Association may, at its option, bring an action at law against any person obligated to pay the same, or, foreclose the lien against the Lot, and there shall be added to the amount of such assessment any late charges, interest and all costs of collecting the same, including a reasonable attorney's fee, whether incurred by filing suit or not. Each Owner vests in the Association or its assigns, the right and power to bring all actions at law or in equity or lien foreclosure against all proper parties for the collection of such delinquent assessments.

10. No action shall be brought to foreclose said assessment lien or to proceed under the power of sale herein provided less than thirty (30) days after the date a notice of claim of lien is deposited in the United States mail, certified or registered, to the owner of said Lot.

11. Any such foreclosure and subsequent sale provided for above is to be conducted in accordance with the laws of the State of Utah relating to liens, mortgages, and deeds of trust. The Association, through its duly authorized agents, shall have the power to bid on the Lot at foreclosure sale, and to acquire and hold, lease, mortgage, and convey the same.

12. Upon the timely curing of any default for which a notice of claim of lien was filed by the Association, the officers of the Association are hereby authorized to file or record, as the case may be, an appropriate release of such notice, upon payment by the defaulting owner of a fee, to be determined by the Association, but not to exceed \$25.00, to cover the costs of preparing and filing or recording such release, together with payment of such other costs, interest or fees as shall have been incurred.

13. The assessment lien and the rights to foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may have hereunder and by law, including a suit to recover a money judgement for unpaid assessments, as above provided.

14. If any Lot subject to a monetary lien created by any provision hereof shall be subject to the lien of a deed of trust: (1) the foreclosure of any lien created by anything set forth in this Declaration shall not operate to affect or impair the lien of such deed of trust; and (2) the foreclosure of the lien of deed of trust or the acceptance of a deed in lieu of foreclosure of the deed of trust shall not operate to affect or impair the lien hereof, except that the lien hereof for said charges as shall have accrued to the foreclosure or the acceptance of the deed in lieu of foreclosure shall be subordinate to the lien of the deed of trust, with the foreclosure-purchaser or deed-in-lieu grantee taking title free of the lien hereof for all said charges that have accrued up to the time of the foreclosure of deed given in lieu of foreclosure, but subject to the lien hereof for all said charges that shall accrue subsequent to the foreclosure or deed given in lieu of foreclosure.

15. This Declaration may be enforced as follows: (a) Breach of any of the covenants contained in this Declaration and the continuation of any such breach may be enjoined, by the Declarant, any Owner, or the Association. Any judgment rendered in any action or proceeding pursuant hereto shall include a sum for attorneys' fees in an amount as the court may deem reasonable, in favor of the prevailing party, as well as the amount of any delinquent payment, interest thereon, costs of collection and court costs; (b) The result of every act or omission whereby any of the covenants contained in this Declaration are violated in whole or in part is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance either public or private shall be applicable against



every such result and may be exercised by Declarant, any Owner, or the Association; (c) The remedies hereby provided for breach of the covenants contained in this Declaration shall be deemed cumulative, and none of such remedies shall be deemed exclusive; (d) The failure to enforce any of the covenants contained in this Declaration shall not constitute a waiver of the right to enforce the same thereafter; and (e) A breach of the covenants, conditions or restrictions contained in this Declaration shall not affect or impair the lien or charge of any bona fide first Mortgage made in good faith and for value on any residential Lot or the improvements thereon, provided, however, that any subsequent Owner of such property shall be bound by said covenants, whether such Owner's title was acquired by foreclosure in a trustee's sale or otherwise, but shall not be liable for prior breach.

16. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

17. Neither Declarant, the Association, nor any member, agent or employee of Declarant or the Association shall be liable to any party for any action or for failure to act with respect to any matter if the action taken or failure to act was in good faith and without malice.

18. Any provision, covenant, condition or restriction contained in this Declaration or any Supplemental or Amended Declaration which is subject to the common law rule sometimes referred to as the "rule against perpetuities", shall continue and remain in full force and effect for the period of twenty years or until this Declaration is terminated as hereinafter provided, whichever first occurs. All other provisions, covenants, conditions and restrictions contained in this Declaration or in any Supplemental or Amended Declaration shall continue and remain in full force and effect until January 1, 2020 A.D., provided however, that unless at least one year prior to said time of expiration, there is recorded an instrument directing the termination of this Declaration, executed by Declarant and by the Owners of not less than 90% of the Lots then subject to this Declaration, said other provisions, covenants, conditions and restrictions shall continue automatically for an additional ten years and thereafter for successive periods of ten years unless, at least one year prior to the expiration of any such extended period of duration, this Declaration is terminated by recorded instrument directing termination signed by the Declarant and by the Owners of not less than 90% of the Lots then subject to this Declaration as aforesaid.

19. At any time while any provision, covenant, condition or restriction contained in this Declaration or any Supplemental or Amended Declaration is in force and effect, it may be amended or repealed by the recording of a written instrument specifying the amendment or the repeal, executed by Declarant and by the Owners of not less than 90% of the Lots then subject to this Declaration. No such amendment or repeal shall be effective with respect to the holder or successor or assign of the holder of a Mortgage recorded prior to recording of the instrument specifying the amendment or repeal unless such holder executes the said instrument.

20. Every person who owns, occupies or acquires any right, title, estate or interest in any Lot in the Subdivision does and shall be conclusively deemed to have consented and agreed to every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in the properties, or any portion hereof.

21. No Owner of a Lot shall interfere with the established points at which drainage enters and leaves his Lot.

22. Declarant expressly reserves (for a period not to exceed five (5) years after conveyance of the first Lot), for itself and its agents and employees, easements of access, ingress and egress, over the Lots, for the purpose of maintaining, repairing and installing water and other utility lines, drainage structures, sewer pipelines and laterals if necessary, in accordance with the provisions of this Declaration, and as otherwise provided by law.

23. Owners shall take title to their respective Lots subject to all easements as shown on the Subdivision Plat.

24. There shall be and Declarant hereby reserves and covenants for itself and all future Owners within the Subdivision, easements for city, county, state and federal public services, and for public utilities, including but not limited to, the right of the police to enter for the purpose of enforcing the law.

25. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered in the United States mail, postage prepaid, at the mailing address of such person, as listed on the tax roles or other records of the Summit County Assessor's or Treasurer's Office.

26. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community. The articles have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine and neuter shall each include the masculine, feminine and neuter.

27. Invalidity or unenforceability of any provision of this Declaration or of any Supplemental or Amended Declaration in whole or in part shall not affect the validity or enforceability of any other provision or valid and enforceable part of a provision of this Declaration.

IN WITNESS WHEREOF, the undersigned Declarant has caused this Declaration to be executed as of the date first above written, in Summit County, Utah.

R.H. ZIEGLER & ASSOCIATES, INC.,  
A UTAH CORPORATION

BY: Robert N. Ziegler  
ITS: PRESIDENT



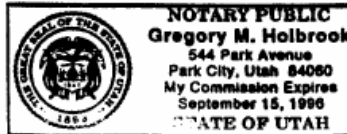
STATE OF UTAH )  
: ss.  
COUNTY OF Summit

On this 5<sup>th</sup> day of Sept., 1995 personally appeared before me Robert H. Ziegler, who being by me duly sworn, did say that he is the President of R.H. ZIEGLER & ASSOCIATES, INC. A UTAH CORPORATION, and that the foregoing instrument was signed in behalf of said corporation by authorization of a resolution of its Board of Directors, and said President acknowledged to me that said corporation executed the same.

  
NOTARY PUBLIC

Residing at: Park City, UT

My Commission Expires: 9-15-96



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EXHIBIT "A"

LEGAL DESCRIPTION OF THE CREEK PLACE SUBDIVISION

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EXHIBIT "B"  
ARTICLES OF INCORPORATION

OF

THE CREEK PLACE HOMEOWNERS ASSOCIATION

A NON-PROFIT CORPORATION

The undersigned natural person over the age of twenty-one (21) years, acting as the incorporator of a non-profit corporation under the Utah Non-Profit Corporation Cooperative Association Act, hereby adopts the following Articles of Incorporation for said corporation:

ARTICLE I

NAME

The name of the corporation hereby created shall be:

**THE CREEK PLACE HOMEOWNERS ASSOCIATION**

ARTICLE II

DURATION

The corporation shall continue in existence perpetually unless dissolved according to law.

ARTICLE III

PURPOSES

The purposes for which the corporation is organized are:

a. To engage in such business activities and pursuits as may be reasonably related to maintenance and operation of an association of property owners within The Creek Place Subdivision.

b. To engage in any and all other lawful pursuits, whether similar or dissimilar to the foregoing.

ARTICLE IV

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MEMBERSHIP

The corporation shall have members consisting of persons owning Lots in the Creek Place Subdivision situated in Wasatch County, State of Utah (herein designated the "Lots").

No person who has conveyed or otherwise disposed of his ownership interest in Lot shall thereafter be entitled to hold or retain the membership in the corporation which is appurtenant to said Lot. The conveyance or other disposition by a person entitled to a membership in the corporation of all such person's ownership interest in the Lot shall be deemed to constitute, and may be treated by the corporation as, a transfer and conveyance by

such person to such person's successor in interest in ownership of said Lot of the membership appurtenant to said Lot, and the corporation shall be entitled to cancel the membership certificate with relation to such membership, whether or not said certificate is surrendered, and reissue the same to the new owner or owners upon such terms and conditions as the Board of Trustees shall direct.

**ARTICLE V**

**MEMBERSHIP CERTIFICATES**

The corporation shall issue a membership certificate to each person entitled to membership in the corporation, as above provided, to evidence such person's membership interest therein.

**ARTICLE VI**

**TRUSTEES**

The corporation shall have a Board of Trustees, which shall consist of a variable number of trustees of from three (3) to five (5) as prescribed by the By-Laws. Election or removal of Trustees may be accomplished by cumulative voting of the members. The initial Board shall consist of three (3) trustees. The names and addresses of the persons who are to serve as trustees until their successors are duly elected and qualify are:

<u>Name</u>	<u>Address</u>
Robert H. Ziegler	1415 Lowell Avenue Park City, Utah 84060
Irene Ziegler	1415 Lowell Avenue Park City, Utah 84060
David W. Johnson	1912 Sidewinder Dr. Park City, Utah 84060

**ARTICLE VII**

**INCORPORATOR**

The name and address of the incorporator of the corporation is:

<u>Name</u>	<u>Address</u>
Robert H. Ziegler	1415 Lowell Avenue Park City, Utah 84060

**ARTICLE VIII**

**INITIAL PRINCIPAL OFFICE**

The location and street address of the initial principal office of the corporation is: P.O. Box 2066, 1415 Lowell Avenue, Park City, Utah 84060, which office may be changed at any time by the Board of Trustees without amendment of these Articles of Incorporation. The name of the initial registered agent at such address is David W. Johnson.

IN WITNESS WHEREOF the undersigned has set his hand as of this 5<sup>th</sup> day of SEPT. 1995.

Robert H. Ziegler

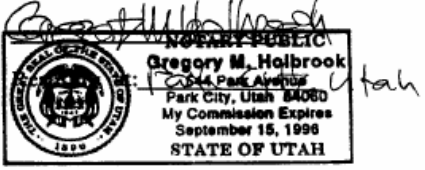
STATE OF UTAH )  
                          ) : ss.  
COUNTY OF Summit )

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of Sept. 1995, by Robert H. Ziegler.

NOTARY PUBLIC

My Commission Expires:

9-15-96



**ACKNOWLEDGMENT**

The undersigned, David Johnson, hereby acknowledges that he has been named as registered agent of The Creek Place Homeowners Association, a Utah corporation to be formed pursuant to Articles of Incorporation to which this Acknowledgment is attached, and hereby agrees to act as registered agent of said corporation.

David Johnson

STATE OF UTAH )  
                          ) : ss.  
COUNTY OF Summit )

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of Sept. 1995, by David W. Johnson.

NOTARY PUBLIC

My Commission Expires:

9-15-96

Gregory M. Holbrook  
Residing at: Park City, Utah

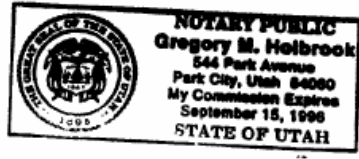


EXHIBIT "C"

BY-LAWS

OF

THE CREEK PLACE HOMEOWNERS ASSOCIATION

A NON-PROFIT CORPORATION

ARTICLE I

OFFICE

The principal office of The Creek Place Homeowners Association (herein designated the "Association") shall be situated in Wasatch County, State of Utah.

ARTICLE II

MEETINGS OF MEMBERS

Section 2.1 -- Annual Meeting. The annual meeting of the members shall be held at 7:00 p.m. on the second Monday in August of each year at the principal office of this Association, or at such other place as shall be stated in the notice of meeting or in a duly executed waiver of notice; provided, however, that, whenever such date falls upon a legal holiday, the meeting shall be held on the next succeeding business day, and further provided that the Board of Trustees may by resolution fix the date of the annual meeting at such other date as the Board may deem appropriate. At such meeting the members shall elect trustees for one (1) year terms to serve until their successors shall be elected and shall qualify. Only members of the Association shall be elected trustees; provided however, that officers and/or duly authorized agents of corporate members or members which are condominium associations may also be elected trustees of the Association.

Section 2.2 -- Special Meetings. Special meetings of the members may be called by the President, by a majority of the Board of Trustees or by any number of members whose holdings shall not be less than one-third (1/3) of the membership of the Association.

Section 2.3 -- Notice of Meetings. Notice of all annual and special meetings of the members shall be given in accordance with the statutes of the State of Utah. Whenever all of the members shall meet in person or by proxy, such meetings shall be valid for all purposes without call or notice, or waiver of call and notice. No notice of any meeting of members shall be necessary if waiver of notice be signed by all of the members, whether before or after the time of the meeting.

Section 2.4 -- Presiding Officer. The President, and in his absence a Vice President, shall preside at all such meetings.

Section 2.5 -- Voting Requirements. When a quorum is present in person or represented by proxy at any meeting, the vote of a majority of the votes entitled to be cast shall decide any question brought before such meeting, including the election of trustees, unless the question is one upon which, by express provision of the statutes of the State of Utah or of the Articles of Incorporation or of these By-Laws, a different vote is required, in which case such express provision shall govern and control the decision of such question. All votes may be cast by the members either in person or by proxy. All proxies shall be in writing, and, in the case of proxies for the annual meeting, they shall be delivered to a credentials committee consisting

of the President, a Vice President and Secretary of the Association at least ten (10) days prior to said annual meeting. Proxies for special members meetings must be of record with the credentials committee at least five (5) days prior to the holding of such special members meetings. If instructed, the Secretary shall enter a record of such proxies in the minutes of the meeting. All matters to be voted upon by the members shall be presented to and voted upon by the members holding membership. Each member shall be entitled to one vote per lot, regardless of the number of owners of the lot.

Section 2.6 -- Registered Members. At annual meetings of the members only such persons shall be entitled to vote in person or by proxy as appear as members upon the transfer books of the Association on the 30th day before such annual members meeting. The Board of Trustees may, by resolution, fix a date in advance of the date of special members meetings upon which a member must appear as a member of record on the Association's transfer books in order to be entitled to vote at such special members meetings; provided, however, that said date shall in no event be fixed at less than ten (10) nor more than thirty (30) days prior to the date set for such meeting.

Section 2.7 -- Quorum. At any meeting of the members, the holders of a majority of the voting power of the Association present in person or by proxy shall constitute a quorum of the members for all purposes. In the absence of a quorum, a subsequent meeting may be called and holders of not less than 25% of the voting power of the Association shall constitute a quorum of the members for all purposes. No such subsequent meeting shall be held more than 30 days following the preceding meeting. At any such subsequent meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally notified.

Section 2.8 -- Waiver of Irregularities. All inaccuracies and/or irregularities in calls, notices of meeting, the manner of voting, form of proxies, credentials and method of ascertaining those present shall be deemed waived if no objection is made at the meeting.

### ARTICLE III

#### BOARD OF TRUSTEES

Section 3.1 -- Responsibilities. The business and property of the Association shall be managed by a Board of Trustees (herein designated and referred to as the "Board of Trustees"). The Board of Trustees may, however, enter into such management agreement or agreements with third persons as it may deem advisable.

Section 3.1 -- Number, Tenure, Qualifications and Vacancies. The number of Trustees of the Association shall be not less than three (3) and no more than five (5). Each Trustee shall hold office until the next annual meeting of the members and until his successor shall have been elected and qualified. Trustees need not be residents of the State of Utah. In case of any vacancy in the Board of Trustees, the remaining members of the Board may elect a successor trustee or trustees to hold office until the next meeting of the members.

Section 3.3 -- Regular Meetings. A regular annual meeting of the trustees shall be held immediately after the adjournment of each annual members meeting at the place at which such members meeting was held. Regular meetings, other than the annual meeting, shall be held at regular intervals at such places and at such times as the Board of Trustees may from time to time by resolution provide.

Section 3.4 -- Special Meetings. Special meetings of the Board of Trustees shall be held whenever called by the President, the Vice President or by a majority of the Board. By unanimous consent of the trustees, special meetings of the Board may be held without call or notice at any time or place.



Section 3.5 -- Quorum. A quorum for the transaction of business at any meeting of the trustees shall consist of a majority of the trustees then in office.

Section 3.6 -- Committees. The Board of Trustees may, by resolution passed by a majority of the whole Board, designate one or more committees, each committee to consist of two (2) or more of the members of the Association, which to the extent provided in said resolution, shall have and may exercise the powers in said resolution set forth. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board of Trustees. Such committees shall keep regular minutes of their proceedings and report the same to the Board of Trustees when required. The President may appoint persons to fill vacancies on each of said committees occasioned by death, resignation, removal or inability to act for any extended period of time.

Section 3.7 -- Compensation. Trustees shall not receive any stated salary for their service.

Section 3.8 -- Additional Facilities. The Board of Trustees shall have the authority to provide such facilities, in addition to those for which provision has already been made, as it may deem to be in the interest of the members.

**ARTICLE IV**

**OFFICERS**

Section 4.1 -- Selection of Officers. The Board of Trustees shall elect or appoint the officers of the Association. Such election or appointment shall regularly take place at the first meeting of the trustees immediately following the annual meeting of the members; provided, however, that election of officers may be held at any other meeting of the Board of Trustees.

Section 4.2 -- Additional Officers. The Board of Trustees may appoint such other officers, in addition to the officers hereinbelow expressly named, as they shall deem necessary, who shall have such authority to perform such duties as may be prescribed from time to time by the Board of Trustees or by the President.

Section 4.3 -- Removal. All officers and agents shall be subject to removal, with or without cause, at any time by the affirmative vote of the then members of the Board of Trustees.

Section 4.4 -- President. The President shall be the chief executive officer of the Association and shall exercise general supervision over its property and affairs. He shall sign on behalf of the Association all membership certificates, conveyances, mortgages and contracts and shall do and perform all acts and things which the Board of Trustees may require of him. The President shall be invited to attend meetings of each committee.

Section 4.5 -- Vice President. In the event of the President's absence or inability to act, the Vice President shall have the powers of the President. He shall perform such other duties as the Board of Trustees may impose upon him.

Section 4.6 -- Secretary. The Secretary shall keep the minutes of the Association, its membership books and such books and records as these By-Laws or any resolution of the trustees may require him to keep. He shall be the custodian of the seal of the Association and shall affix the seal to all papers and instruments requiring it. He shall perform such other services as the Board of Trustees may impose upon him. One or more Assistant Secretaries may be elected, who shall, in the event of the Secretary's absence or inability to act, perform

the duties and functions of the Secretary.

Section 4.7 --Treasurer. The Treasurer shall have the custody and control of the funds of the Association, subject to the action of the Board of Trustees and shall, when requested by the President so to do, report the state of the finances of the Association at each annual meeting of the members and at any meeting of the trustees. He shall perform such other services as the Board of Trustees may require of him.

#### ARTICLE V

##### SEAL

The seal of the Association shall be impressed as follows:

#### ARTICLE VI

##### MEMBERSHIP CERTIFICATES

Section 6.1 --Form of Certificates. The Association shall issue certificates evidencing each membership.

Section 6.2 --Issuance. All membership certificates shall be signed by the President or Vice President and by the Secretary or an Assistant Secretary, and the seal of the Association shall be impressed thereon.

Section 6.3 --Transfer. Except as provided in Section 6.1 membership certificates shall be transferred on the books of the Association by assignment made by the member, his attorney-in-fact or legal representative, and by delivery of the certificate to the Secretary of the Association for transfer, together with such further supporting documents as the Association may reasonably require. Each certificate surrendered for transfer shall be marked "Cancelled" by the Secretary and the cancelled certificate shall be affixed to its stub.

Section 6.4 --Lost Certificates. Should the owner of any membership certificate make application to the Association for the issuance of a duplicate certificate by reason of the loss or destruction of his certificate, he shall accompany his application by an affidavit setting forth the time, place and circumstances of such loss or destruction, and agreeing to indemnify the Association against such loss as the Association may suffer by reason of the issuance of a duplicate certificate or the refusal to recognize the certificate that was allegedly lost or destroyed. Upon satisfaction of the foregoing, a duplicate certificate may be issued. The duplicate certificate shall be marked "Duplicate", and the stub of the certificate lost or destroyed shall indicate the issuance of the duplicate.

ARTICLE VII

DIVIDENDS

There shall be no dividends paid or payable by the Association. It is hereby acknowledged that the Association is organized as a non-profit corporation under the Utah Non-Profit Corporation Cooperative Association Act solely and strictly as an association of Lot owners to act as an agent for said owners in the management of the Project. It is not intended that the Association realize any profit on any transaction.

ARTICLE VIII

ANNUAL STATEMENT

The Board of Trustees shall present at each annual meeting, and when called for by a vote of the members at any special meeting of the members, a full and complete statement of the business and condition of the Association.

ARTICLE IX

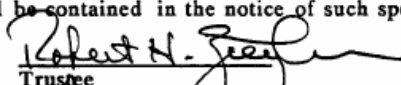
FISCAL YEAR

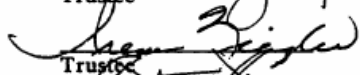
The fiscal year of the Association shall be the calendar year ending December 31.

ARTICLE X

AMENDMENTS

These By-Laws may be altered or repealed by the affirmative vote of a majority of the members at any regular meeting of the members or at any special meeting of the members if notice of the proposed alteration or repeal be contained in the notice of such special meeting.

  
 \_\_\_\_\_  
 Trustee

  
 \_\_\_\_\_  
 Trustee

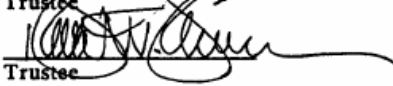
  
 \_\_\_\_\_  
 Trustee

Exhibit "A"

BEGINNING at a point 35 chains South and 465.66 feet West and North approximately 10 feet from the Northeast corner of the Northwest quarter of Section 34, Township 3 South, Range 4 East, of the Salt Lake Base and Meridian, on an existing fence line and running along said fence line on the following courses: West 267.6 feet to a fence corner; thence North 5°50' East 272 feet to a fence corner; thence North 87° West 59 feet to a fence corner; thence North 23°15' East 84 feet to a fence corner; thence East 101 feet; thence North 58°15' East 178 feet; thence North 25°50' East 195 feet, more or less, to a fence corner; thence South 87° East 60 feet to a fence corner; thence South 3° West 519.3 feet; more or less, thence North 86°15' West 92 feet; thence South 5°20' West 53.3 feet; thence South 51 feet, more or less, to the place of beginning.

EXCEPTING THEREFROM:

BEGINNING at a point in a fence line having Utah State Plane Coordinates, Central Zone of X= 2,004,988.01 and Y= 795,324.35, said point being located North 69°50'49" East 2441.37 feet from the Sandstone marking the West one-quarter corner of Section 34, Township 3 South, Range 4 East, Salt Lake Meridian; thence North 88°47'26" West 110.54 feet to a fence line; thence North 26°03'58" East 124.87 feet along said fence line; thence South 86°04'47" East 62.66 feet along a fence line to a fence corner; thence South 03°34'10" West 110.44 feet along a fence line to the point of beginning.

Above property also described as:

ALL of LOTS 1-6, CREEK PLACE SUBDIVISION, according to the Official Plat thereof, on file and of record in the Office of the Wasatch County Recorder.