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**DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR ARROWPOINT DEVELOPMENT  
DAVIS COUNTY, UTAH**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ARROWPOINT DEVELOPMENT is made this 28<sup>th</sup> of November, 2005, by R.C. Gardner Development Company INC, a Utah corporation referred to below as Declarant.

**RECITALS:**

A. Declarant is free title owner of the following described real property (the "Initial Property") located in Fruit Heights, Davis County, Utah, and more particularly described as Exhibit A (see attached).

B. Declarant intends to develop a residential subdivision on the Initial Property. Declarant will develop and convey all of the Lots within the subdivision subject to certain protective covenants, conditions and restrictions all as set forth in this Declaration, and which are deemed to be covenants running with the land mutually burdening and benefiting each of the Lots within the Subdivision.

C. Declarant desires to provide for a Homeowner's Association and an organization and forum for the enforcement of the covenants, conditions and restrictions set forth herein.

**DECLARATION:**

DECLARANT HEREBY DECLARES that all of the Lots within the Subdivision shall be held, sold, conveyed, encumbered, leased, used, occupied and improved subject to the protective covenants, conditions and restrictions, and equitable servitudes set forth in this Declaration, all of which are created for the mutual benefit of the owners. It is the intention of the Declarant in imposing these covenants, conditions and restrictions to protect and enhance the property values and aesthetic values of the Lots by eliminating inconsistent uses or improvements, all for the mutual protection and benefit of the Owners. The covenants, conditions and restrictions are intended to, and shall in all cases run with the title of the land, and be binding upon the successors, assigns, heirs, lien holders, and any other person holding any interest in the Lots, and shall inure to the benefit of all other Lots in the Subdivision to be located on the Property. The covenants, conditions and restrictions shall be binding upon the Declarant as well as its successors in interest, and may be enforced by the Declarant or by any Owner.

Notwithstanding the foregoing, no provisions of this Declaration shall prevent the Declarant from doing any of the following, which shall be deemed to be among Declarant's reserved rights in addition to such rights as may be described elsewhere in this Declaration: (1) installation and completion of the Subdivision improvements; (2) use of any Lot owned by the Declarant as a model home, or for the placement of a

temporary construction or sales office; (3) installation and maintenance of signs incidental to sales or construction which are in compliance with applicable City ordinances; (4) assignment of Declarant's rights under this Declaration, in whole or in part, to one or more persons intending to construct homes within the Subdivision; (5) construction of any improvements including homes by Declarant as approved by the City; (6) access over any lot for the installation of improvements; and (7) erection of permanent or temporary signs for use during the selling and marketing of the project.

**ARTICLE 1**

**DEFINITIONS**

Unless the context clearly requires the application of a more general meaning, the following terms, when used in this Declaration, shall have the following meanings.

1.1 "Additional Improvements" shall mean improvements other than those constructed by Declarant.

1.2 "Architectural Guidelines" shall have the meaning provided in the preamble of Article IV of this Declaration.

1.3 "Architectural Review Committee" shall mean the committee created under Article III of this Declaration.

1.4 "Association" shall mean the Arrowpoint Homeowners Association, whether incorporated or not, and as the context requires, the officers and directors of the Association.

1.5 "Bylaws" shall mean the bylaws of the Association as adopted and amended from time to time by the Association's Board of Trustees.

1.6 "City" shall mean Fruit Heights City, Utah and its appropriate departments, officials and boards.

1.7 "Declarant" shall mean and refer to R.C. Gardner Development Company Inc. and any successor to in the ownership of Lots where ownership is conveyed in connection with a total or limited assignment and assumption of Declarant's rights and obligations under this Declaration.

1.8 "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions, together with any subsequent amendments or additions.

1.9 "Dwelling" shall mean the single family residence built or to be built on any Lot, including the attached garage.

1.10 "Family" shall mean one household of persons related to each other by blood, adoption or marriage, or one group of not more than five people not so related living together as a unit who maintain a common household.

1.11 "Improvement" shall mean all structures and appurtenances of every type and kind, including but not limited to buildings, Dwellings, garages, storage buildings, walkways, retaining walls, sprinklers, pipes, driveways, fences, landscaping, pools, decks, stairs, poles, lighting, signs, satellite dishes or other antennas, and any mechanical equipment located on the exterior of any building.

1.12 "Initial Property" shall have the meaning set forth in the recitals.

1.13 "Lot" shall mean any numbered building Lot shown on any official plat of all or a portion of the Subdivision.

1.14 "Owner" shall mean the person or persons having title to any Lot. Owner shall mean the person holding fee simple title, including the Declarant, and buyers under any contract for deed, but shall exclude any person or entity holding title for purposes of securing performance of an obligation.

1.15 "Plat" shall mean an official ownership plat of the Subdivision as approved by the City and recorded in the office of the Davis County Recorder, as it may be amended from time to time.

1.16 "Project Common Area" means area that will be commonly owned and maintained by the Associations.

1.17 "Project Property" means all of the property included within the Plat.

1.18 "Residence" means a single building designed and constructed for residential occupancy to be occupied as a single family residence per Fruit Heights City ordinances.

1.19 "Subdivision" shall mean the Arrowpoint Development and all Lots, Common Areas, and other property within the Subdivision as shown on the Plat.

1.20 "Subdivision Improvements" shall mean all subdivision improvements to be installed outside of the boundaries of Lots or within easements as identified on the Plat that are necessary to provide public road access and utility service to the Lots, and including other construction work required to comply with any conditions of the City or other governmental agencies to the approval of the Subdivision or any Plat thereof.

1.21 "Trustees" shall mean the duly elected and acting Board of Trustees of the Association.

## **ARTICLE II**

### **HOMEOWNERS ASSOCIATION**

2. To effectively enforce the Covenants, the Declarant has created, or will create, a Utah non-profit corporation called the Arrowpoint Homeowners Association (the "Association"). The Association shall be comprised of the Owners within the Subdivision, and is established to perform the following functions and exercise the following rights and powers for the benefit of the Owners and the enforcement of these covenants. Membership in the Association is deemed an appurtenance to the Lot, and is transferable only in conjunction with the transfer of title to the Lot. The Association shall have and exercise, as necessary the following powers:

2.1 Enforcement Powers. The Association shall have the power to enforce these covenants by actions in law or equity brought in its own name, the power to retain professional services needed for the enforcement of these covenants and to incur expenses for that purpose. The officers of the Association shall have the authority to compromise claims and litigation on behalf of the Association resulting from the enforcement of these Covenants. The Trustees of the Association shall have the exclusive right to initiate enforcement actions in the name of the Association; however, this shall not limit the individual rights of Owners to personally enforce these Covenants in their own name. The Association may appear and represent the interests of the Subdivision at all public meetings concerning zoning, variances, or other matters of general application and interest to the Owners. Owners may appear individually.

2.2. Assessments. Except as provided in 2.1, the Association has the power to levy assessments against each Lot as necessary to carry out these functions. All assessments will be equal on all Lots, whether vacant or improved. Assessments will be made annually but shall be paid in equal monthly installments and shall be made to meet the anticipated and recurring costs, expenses and other expenditures of the Association including, but not limited to, the costs of reimbursement of expenses incurred by the Trustees in performance of their obligations, the costs of complying with the enforcing rights under these covenants, acquisition of liability insurance, working capital, and contingency reserves. Notice of the assessment and the proposed amount of the annual assessment will be given in advance along with the notice of the annual meeting of the Association, provided that the amount of the proposed assessment may be increased or decreased at the meeting in which it is approved by the Owners. The Association may also levy special assessments to cover unanticipated expenses or shortfalls. No special assessment will be levied without approval of a majority of the votes held by a quorum of the Owners (as define din 2.7) in attendance in person or by proxy at a meeting called for that purpose.

2.2.1 Assessments on Lots Owned by Declarant. No assessments shall be levied against Lots owned by Declarant that do not have a completed dwelling. Assessments levied against Lots owned by Declarant that have a completed Dwelling shall not include any portion of costs incurred for management and administration of the Association or for reserves for capital repairs, replacements, or improvements.

2.3 Assessments Constitute Lien, Mortgagee Protection. Any validly imposed assessment by the Association shall constitute a lien against the Lot in the Subdivision. The Association shall have the right to foreclose on that lien under the procedures available for the foreclosure of mortgages in the state of Utah when any

assessment remains unpaid for a period of more than 90 days from the date the assessment was levied. Alternatively, if the lien is not foreclosed upon, it may be renewed from year to year by recording a new notice of the lien, together with accumulated interest. The lien of the Association against any Lot shall have priority from the date that the first Notice of Lien on a specific Lot is recorded in the office of the Davis County Recorder, and is subordinate to any previously recorded liens or encumbrances filed against that Lot, specifically including any purchase money mortgage or trust deed. Notwithstanding the lien rights of the Association, the obligation to pay any assessments is a personal obligation of the Owner of each Lot, and the Association may proceed to collect against the Owner, or the prior Owner of any Lot (in the event of a sale) without any obligation to first take recourse against the Lot and Improvements to which the Lien has been attached. The legal and administrative cost of any foreclosure or non-judicial proceeding, interest on all amounts due and owing, and all late fees shall be added to the assessment amount past due and shall constitute part of the assessment. Interest shall be charged on all assessments at a rate of 1.5% per month, beginning 15 days after such amount is due. In addition, a late fee of 5% shall be charged on each assessment installment paid 15 days or more after the installment is due. No Mortgagee or Beneficiary under a Trust Deed who takes title by foreclosure or non-judicial sale, or accepts a deed in lieu of foreclosure or non-judicial sale, shall be held liable for the unpaid assessments of the Owner whose Lot was acquired by the Mortgagee or Beneficiary under a Trust Deed. However, all other successor Owners shall be deemed to assume the obligation to pay unpaid assessments on the Lot.

2.4 Statement of Account. Any Owner may request the Association to provide a statement of his account to any lender or prospective buyer of that Lot showing the assessments to be paid in full, or the amounts of any past due assessments. The buyer or lender for whom such a statement was prepared will be entitled to rely on its accuracy, and will not be held liable for any amounts not shown on the statement.

2.5 Indemnity of Association Trustees and Officers. The Association will indemnify the officers, agents and trustees of the Association against any and all claims arising against them personally, which are a result of the good faith exercise of powers, duties and responsibilities of their office under this Declaration.

2.6 Election. The Association shall have two classes of membership. Declarant shall be the only Class A member and shall be entitled to cast 3 votes for each Lot it owns in the election of Trustees and for any other matter that is presented to the Association. All other Owners shall be Class B members and shall be entitled to cast one vote for each Lot he or she owns in the election of Trustees and for any other matter that is presented to the Association. In the case of a Lot with multiple Owners, the Owners will agree among themselves how the vote applicable to that Lot will be cast, and if no agreement can be reached, no vote will be received from that Lot. Any of the multiple Owners appearing at the meeting in person or by proxy is deemed to be acting with proper authority for all of the other Owners of that Lot unless the other Owners are also present or have filed written objections to that Owner's representation of the other Owners of the Lot in question.

2.7 Notice of Election, Notice of Meeting. Unless otherwise provided in the Bylaws of the Association, notice of any meeting for the election of members to the Board of Trustees or for any other purpose shall be sent to the Owners at their last known address (which may be determined from the most recent property tax assessment if no other address is known). Notice will be mailed not less than 30 days, nor more than 60 days in advance of the meeting. Any notice will state the purpose of the meeting, and the time, date and place of meeting. At any such meeting a quorum will exist of Owners holding 51% of the total voting power within the Association that are present, and notice was properly given. Those present at the meeting may vote to continue the meeting to any date within 30 days. Notice of the continued meeting will be given by mail, and at the subsequent continued meeting, a quorum will consist of those members present. The Chairman of the Board of Trustees will give notice of any meetings, and will chair meetings of the Owners.

2.8 Special Meeting. When circumstances warrant, a special meeting of the Owners may be called as provided in the Bylaws. No business may be conducted at a special meeting without a full quorum of the Owners (as defined in 2.7) being present in person or by written proxy.

2.9 Number of Trustees, Term of Office. Unless otherwise provided in the Bylaws of the Association, there shall be three (3) members of the Board of Trustees, who will serve for terms of three years, or until their successors have been elected. At such time as the first Board of Trustees is named, whether by appointment by the Declarant or by election from among the Owners, the Trustees will draw lots to divide themselves into terms of one, two and three years. Members of the Board of Trustees may serve consecutive terms.

### **ARTICLE III**

#### **ARCHITECTURAL REVIEW COMMITTEE**

3. It is the intention and purpose of these covenants, conditions and restrictions to allow the Architectural Review Committee (the "Committee") to: (1) enforce the architectural requirements of any conditional use permit and Plat approved by the City; and (2) impose construction rules of construction other than that performed by Declarant. To accomplish this goal, the Declarant hereby establishes the Committee, which is empowered to develop and enforce the Architectural Guidelines. However, Declarant shall not be subject to any review and/or approval by the Committee as long as it complies with all requirements of any conditional use permit and Plat requirements approved by the City.

3.1 Architectural Review Committee Created. The committee will consist of three people appointed by the Declarant, who do not need to be Owners. Declarant shall have the right and power to veto any action undertaken by the Committee. The Association shall use its enforcement powers to ensure that the Committee's actions result in buildings which are consistent with the Architectural Guidelines.

3.2 Approval by Committee Required. No Owner other than Declarant shall construct, erect or install Additional Improvements of any kind, including without limitation the construction of any Dwelling, garage, out-building, parking area, driveway, or other hard surfaced area in excess of 200 square feet, swimming pools, outdoor hot tubs or spas, walls, patio structures, gazebos, poles, satellite dishes or antenna, solar panels, or any other permanent structure in the Subdivision without the prior consent of the Committee. Approval of the Committee will be sought in the following manner.

(a) **Plans Submitted:** Plans for the construction of any Additional Improvements submitted to the Committee for review. It is recommended that a preliminary plan be submitted before the expense of final drawings is incurred. The plan must be in sufficient detail to show the location on the Lot of the exterior walls of a Dwelling (where applicable) and all other structures to be built with it; detailed drawings of all elevations of all proposed buildings showing locations of windows, doors, roof pitches, decks and other exterior elements; a list of exterior siding and roofing materials and/or a sample, including color samples; and a landscape plan showing the location of landscaped areas, driveways, walkways, patios, decks and other hard surfaced or irrigated areas and the areas to be disturbed by construction and the means of restoring those areas. In the case of an addition or modification of an existing Dwelling, the Committee may waive any of the foregoing it feels are unnecessary to its review of the remodel or addition.

(b) **Review Fee.** The applicant will pay a review fee to the Committee in an amount necessary to cover the costs of review and the administration of the program in an amount to be established from time to time by the Committee. The initial review fee shall be \$300 for each new Dwelling, \$50 for each addition or remodel, or \$25 for construction that makes no structural changes. In addition, the Committee may assess a fee for the professional review of the plans in accordance with the provisions of 4.4 below. The primary purpose of the fee is to document the date of submission, but the Committee may also use the proceeds to pay for its expenses in reviewing the plans and giving notice of meetings. No fee will be accepted until the Chairman of the Committee considers the submission complete.

(c) **Review.** Within 30 days from receipt of a complete submission, the Committee will review plans and make an initial determination whether or not the plans comply with the conditions imposed by the Declaration and the standards developed by the Committee. If they do not, the plans will be rejected. If they are in compliance, the Committee will approve the plans. Owners may desire to submit preliminary plans for review. The committee will review preliminary plans, without fee, and make its comments known to the Owner, provided, however, that no preliminary approval is to be considered a final approval, and no final approval will be granted on less than a complete submission. Upon approval, the Committee and the Owner will each sign a copy of the plans, which shall be left with the Committee. No construction that is not in strict compliance with the plans approved will be permitted.

(d) **Written Record.** The Committee will maintain a written record of its actions, and maintain in its files a copy of all plans approved or rejected for a period of five years. The committee will also provide evidence of this approval for the City if

requested by the Owners.

(e) **Failure to Act.** If the Committee has not approved or rejected any submission within 30 days after payment of the review fee and submission of complete plans, the submission is deemed to have been approved.

**3.3 Variances.** Variances to the design standards contained in this Declaration may be granted by the Trustees when strict application would create an unforeseen or unreasonable hardship to the Owner of any Lot. Each such variance must be approved by a majority of the Trustees. The granting of a variance shall not operate to waive or to render unenforceable any of the terms and provisions of this Declaration for any purpose except as to the particular Lot and the provisions and circumstances covered by the variance, nor shall granting of a variance be deemed to set a precedent with respect to any subsequent requests for variances. The Trustees shall not delegate to any single member or group of members or to any other person the power to grant variances pursuant to this Section 3.3. No variance shall be granted if that variance has the effect of modifying applicable City zoning or building code regulations or the Architectural Guidelines. Any request for variance must be in writing and specify the variance requested and the reasons for such variance. A request for variance shall be reviewed by the Trustees within 30 business days after the Association's receipt of a written request for same. The Trustees shall provide written notification of approval or disapproval. Notification of disapproval shall include a reasonably detailed explanation of the reason for such disapproval. In the event that the Trustees shall fail to act within the 30-day period, the requested variance shall be deemed disapproved, and within 15 days from said date the Trustees shall provide written notification of the reasons for such disapproval.

**3.4 Costs of Professional Review.** The Committee may engage the services of an architect, or civil or structural engineer to assist in its review of any proposed Additional Improvements on a case-by-case basis or may elect to require the review of a design professional for every application. All costs of such additional review will be paid by the Applicant, provided, however, that no architect or engineer will be hired without advance notice to the Applicant of the intention to hire a review architect or engineer and the estimated cost of that review. The costs of such review must be paid by the applicant prior to the commencement of any review. If the applicant does not withdraw the proposal within five days after receipt of that notice, he is deemed to have consented to the Committee retaining such professional assistance. Whenever the Committee retains outside professional services in its review, the reviewing architect or engineer is acting only in an advisory capacity, and all Owners and the applicant, for himself and his successors and assigns, waive any and all claims against the Committee in the event that advise from, or conditions imposed by, the reviewing professional prove ineffective, unnecessary, or inappropriate to the circumstances.

**3.5 General Design Review.** The Committee will use its best efforts to provide a consistent pattern of development, and consistent application of the Architectural Guidelines and this Declaration. These standards are, of necessity, general in nature, and it is the Committee's responsibility to apply them in a manner that results in a high quality, attractive and well designed community.



3.6 Declarant, Trustees and Committee not Liable. The Declarant, the Trustees, and the Committee and its members shall not be liable to the applicant for any damages, or to the Owners of any Lots within the Subdivision for their actions, inactions, or approval or disapproval of any set of plans submitted to the committee for review. In the absence of bad faith or malicious actions, the Owners shall have no claim against the Declarant or committee as a result of the performance or failure to perform the duties created by this Declaration. Each Owner has the right to enforce these covenants against every other Owner, and may seek independent redress against any other Owner for violation of any covenant.

3.7 Limitations on Review. The Committee's review is limited to those matters expressly granted in this Declaration. The Committee shall have no authority over any Improvements by Declarant, the enforcement of building codes, zoning ordinances, the Architectural Guidelines or other statutes, laws, or ordinances affecting the development or improvement of real property and shall have no liability to any Owner whose plans were approved in a manner that included any such violation. Corrections or changes in plans to bring them into conformity with applicable codes must be approved by the Committee prior to construction.

3.8 Construction Rules. Other than construction performed by the Declarant, with regard to any construction project affecting the exterior of any Dwelling and any construction of Dwellings, the Committee may impose reasonable rules and regulations to minimize the inconvenience to adjoining Owners during the period of construction. The Committee may impose rules requiring pre-construction conferences and regulations regarding portable offices and trailers, construction debris removal, construction area appearance, sanitary facilities, construction parking and vehicles, construction signs, hours of work, soil conservation and dust, removal of mud, and duration of construction.

3.9 Construction Schedule. It is highly desirable that construction begin within 18 months of closing on the Lot. During that time, the owner is required to control weeds and appearance of Lot until construction begins. However, if this time frame is not possible, the lot owner is required to plant grass and maintain lot appearance until construction begins.

#### **ARTICLE IV**

#### **ARCHITECTURAL GUIDELINES**

4. The following architectural guidelines ("Architectural Guidelines") shall apply to all units constructed on the property in addition to any requirements of Fruit Heights City, and shall be reviewed for compliance by the Committee.

4.1 Minimum Square Footages. No single story Dwelling shall be constructed, altered, placed or permitted to remain on any Lot unless the main floor area, exclusive of basement, open porches and garages is 2,000 square foot or

and, where possible, situated so as to utilize a side facing entrance unless otherwise approved by the Committee.

4.2 Setbacks. No Additional Improvements shall be located on a Lot closer to the respective Lot line than as follows: thirty-five (35) feet from the front Lot line for the garage and thirty (30) feet for the balance of the Additional Improvement, unless a side facing garage entry is utilized, in which case the thirty (30) foot standard shall apply; ten (10) feet from each side Lot line, unless the Lot is a corner Lot, in which case the thirty (30) feet front yard standard shall apply to the applicable side yard; and thirty (30) feet from the rear Lot line. In respect to the four flag lots, the Fruit Heights zoning ordinances states- "The front yard shall be considered to be the side of the flag portion that adjoins the staff. The minimum front yard set back shall be twenty five (25) feet. The side and rear yard setback for buildings in the flag portion shall conform to the regulations of the zone district in which the lot is located." The garage setback shall be thirty (30) feet from front Lot line, unless a side facing garage entry is utilized, in which case the twenty five (25) feet standard shall apply. All driveways must be 20' in width. The Committee may take into account unique aspects of a particular Lot and grant variances to the foregoing standards; provided, however, that no such variance shall be granted in contravention of applicable city zoning ordinances and any purported variance in violation of such ordinances shall be deemed void to the extent it is inconsistent with such zoning ordinances. A site plan shall be submitted to the Committee for review prior to any improvements being made on the Lot.

4.3 Height. No Additional Improvements shall be located on Lots with a height in excess of thirty five (35) feet, measured from the natural grade of the Lot prior to the commencement of construction of the Additional Improvements. Declarant reserves the right to modify the grade of any Lot prior to commencement of construction of Additional Improvements in an amount not to exceed four (4) feet.

4.4 Architectural Style and Compatibility of Improvements. The exterior of all Dwellings must be constructed of brick, stone, stucco, and/or hardboard siding. Log homes and log veneer siding are prohibited. Every Residence shall have a minimum of 85% brick or stone on the front façade and 75% brick or stone on each the remaining façades. Street facing side and back facades on corner Lots shall have the minimums set forth above for front facades. Aluminum soffits and fascia trim is allowed, provided, however, that a minimum width of 10 inches shall be required on the fascia. No aluminum or vinyl exterior siding is permitted in the Project. Roof surfaces shall slope a minimum of 6:12 pitch and be at least 25-year asphalt architectural shingles or equivalent, or wood shingles, tile or slate shingles, unless specific, written approval of the Committee is received for the use of other roofing materials. Flat roofs, A-frame, geodesic dome and other irregular roof forms are prohibited. Colors of exterior materials shall be earth tones and grays while allowing accents of white, beige, rust, black or green. Care should be given that each Dwelling complements those around it, and not detract in design, quality or appearance. All exterior materials and colors must be approved in writing by the Committee. All final decisions with respect to these enumerated standards and their application to a particular proposed structure in the subdivision shall be made by the Committee. All exposed metal flues (as design permits), vents, ventilators, or other metallic rooftop protrusions shall be positioned on the back slope of the roof and shall be coated or painted with tones which complement

Committee. All final decisions with respect to these enumerated standards and their application to a particular proposed structure in the subdivision shall be made by the Committee. All exposed metal flues (as design permits), vents, ventilators, or other metallic rooftop protrusions shall be positioned on the back slope of the roof and shall be coated or painted with tones which complement surrounding structures. Street facing facades on corner Lots shall have the minimums set forth above for front facades.

4.5 Maintenance Responsibility. The Association shall have the responsibility to maintain the Project Common Areas, including the Improvements thereon, in a clean and attractive condition, in good repair. In addition, the Association and respective Owners, as applicable, shall keep all shrubs, trees, grass, and plants of every kind in manicured areas of the Project Common Areas and on the Lots neatly trimmed, properly cultivated and free of trash, weeds, and other unsightly material.

4.6 Maintenance Responsibility of Improvements. The Owner of each Lot shall have the responsibility to maintain the Additional Improvements on the Lots, in a clean and attractive condition, in good repair and in such fashion as not to create a fire hazard. Such maintenance shall include, without limitation, painting, repair, replacement and care for roofs, gutters, down spout, exterior building surfaces, walks and other exterior improvements and glass surfaces. Damage caused by fire, flood, storm, earthquake, riot, vandalism, or other causes shall likewise be the responsibility of the Owner and shall be restored within a reasonable period of time.

4.7 Animals. No horses, cows, pigs, sheep, fowl, livestock or animals, other than ordinary household pets (not to exceed two) that do not constitute a nuisance, shall be allowed within the Project Property. Dogs and cats belonging to Owners, occupants or their licensees or invitees within the Project Property must be kept within an enclosure (or on a leash being held by a person capable of controlling the animal). The enclosure must be maintained such that the animal cannot escape therefrom. Any such contained enclosure areas must be cleaned on a regular basis to minimize odors and maintain a clean appearance. No kennel or dog run may be placed closer than 20 feet to any swelling other than that of the Owner of the kennel. No kennel may be placed closer than 4 feet from neighboring property line. In no case may any household pet or other animal kept at or around the Residence be allowed to create a nuisance for neighboring Lot owners due to noise, odors or otherwise.

4.8 Fencing. Submit all fencing requests to committee. It is the preference of the committee to use black or earth tone colors. Fences must be set back a minimum of 4 feet from front of home.

4.9 Mail/Paper box Mail and paper box will be masonry construction, and installed by the Developer.

4.10 Landscaping. Front yards must be landscaped within (90) days following an Owner's occupation of completed home. If the Owner occupies between Oct 15 and March 30, the Owner has until July 1<sup>st</sup> to complete landscaping. Minimum landscaping is grass and sprinklers. In its real estate purchase contracts for the sale of Lots, Declarant shall require the purchasers of such lots to deposit the sum of Five Hundred

Dollars (\$500) into escrow (the "Landscape Deposit"). Said real estate purchase contracts shall permit the return of the Landscape Deposit to Owner of such Lot upon the delivery of a letter from the Association certifying that the Owner has complied with the landscaping provisions set forth above. In the event the Owner has not installed the landscaping as required by this section within the specified time frames, the deposit shall be forfeited by the Owner to the Association and the Association may, in addition to any other remedies the Association may have, fine the Owner \$200 per month until the required landscaping has been installed. All front, side and rear yards shall be landscaped. The use of sodded landscaping berms and trees is encouraged in front yard landscaping. However, those portions of rear or side yards which are located on or within natural or wooded hillsides may be maintained with the natural vegetation and trees, consistent with the stated spirit and intent of this Declaration. The parking strip between curb and sidewalk, where applicable, shall be maintained by each Lot Owner in a uniform manner with other parking strips in the Project Property. Only sod and approved trees shall be permitted in park strips. In the event that the Committee shall elect to allow trees to be planted in the park strips, the Committee shall specify the type, number, size and placement of trees in the park strips and may, in its sole discretion, require the Owners of the applicable Lot to plant such trees at the time or times specified by the Committee. No street tree installed by Declarant shall be altered or removed, and Owners are required to maintain all street trees on their Lots in good condition and replace any dead or diseased trees installed by Declarant. All new planting of any such tree, shall be at least two inches (2") caliper. All trees shall be planted and maintained at the Owners' expense. The Committee may also, in its sole discretion, elect not to allow the planting of trees in the park strips. Each Lot shall be landscaped and maintained in such a manner so as to prevent any erosion thereof or drainage upon adjacent streets or adjoining property.

## **ARTICLE V**

### **RESTRICTIONS ON ALL LOTS**

5. The following restrictions on use apply to all Lots within the Subdivision:

5.1 **Zoning Regulations.** The lawfully enacted zoning regulations of the City, and any building, fire, and health codes are in full force and effect in the Subdivision, and no Lot may be occupied in a manner that is in violation of any such statute or law, or ordinance.

5.2 **No Mining Uses.** The property within the Subdivision shall be used for residential purposes only, and no mining, drilling, prospecting, mineral exploration or quarrying activity will be permitted at any time.

5.3 **No Business or Commercial Uses.** No portion of the Subdivision may be used for any commercial business use provided however that nothing in this provision is intended to prevent (a) the Declarant from using one or more Lots for purposes of a construction office or sales office during the actual period of construction of any Improvements, including the Subdivision Improvements, or (b) the use by any Owner of

his Lot for a home occupation. No home occupation will be permitted, however, which requires the Owner's clients, customers, patients or others to come to the Lot to conduct business or which requires any employees outside of the Owner's immediate family or household or is inconsistent with City ordinances. No retail sales of any kind may be made in the Subdivision.

5.4 Restrictions on Signs. No signs will be permitted on any Lot or within the Subdivision, except for traffic control signs placed by the City or temporary signs warning of some immediate danger. Signs indicating the Lot is for sale may be placed in accordance with City sign regulations, and no such sign may exceed three feet square. The Declarant may erect signs within the Subdivision in accordance with City sign regulations during the marketing of the Subdivision announcing the availability of homes or Lots and giving sales information.

5.5 Additional Improvements. No Additional Improvements shall be constructed on any Lot unless such Additional Improvement conforms to all applicable building requirements and other requirements of the City.

5.6 Antennas. All antennas must be enclosed within the Dwelling. Any satellite dishes must be located and screened in a manner so that they are not directly visible from adjoining Lots. Solar panels will be permitted only with the consent of the Trustees, and if permitted at all, must lie flat against the roof and may not differ in pitch or color from the roof surface on which they are mounted.

5.7 No Used or Temporary Structures. No previously erected, used, or temporary structure, mobile home, trailer house, or any other non-permanent structure may be installed or maintained on the Lot.

5.8 Number of Dwellings. Only one Dwelling may be constructed on any Lot. All Dwellings shall have an attached garage for at least three cars (see 4.1).

5.9 Completion Required Before Occupancy. No Dwelling may be occupied prior to its completion and the issuance of a certificate of occupancy by the City.

5.10 No Other Construction. No additional improvements within the Project, including but not limited to garages, storage units, or other outbuildings, may be made to any Lot without the prior approval of the Project Architectural Review Committee. The building materials must be harmonious with the dwelling and the roof materials must be the same as the roof materials of the dwelling. The location of outbuildings must not detract from the dwelling. The viewing of the primary dwelling should always be the focus. The Project Architectural Review Committee will approve the height and size of each outbuilding based on its location and proportion to the primary dwelling.

5.11 Underground Utilities. All new gas, electrical, telephone, television, and any other new utility lines installed by the Declarant or its assigns in the Subdivision are to be underground, including lines within any Lot which service installations entirely within the Lot. No propane tanks or oil tanks may be installed on any Lot except for temporary heat during construction.

5.12 Service Yards. There shall be no clothes lines, service yards, or storage yards. Exterior mechanical equipment must be screened in a manner so that is not visible from adjoining Lots.

5.13 Maintenance of Property. All Lots and the Improvements on them shall be maintained in a clean, sanitary, attractive and marketable condition at all times. No Owner shall permit his Lot or the Improvements on it to fall into disrepair.

5.14 No Noxious or Offensive Activity. No noxious or offensive activity shall be carried out on any Lot, including the creation of loud or offensive noises or odors that detract from the reasonable enjoyment of nearby Lots.

5.15 No Hazardous Activity. No activity may be conducted on any Lot that is, or would be considered by a reasonable person to be unreasonably dangerous or hazardous, or which would cause the cancellation of a conventional homeowner's insurance policy. This includes, without limitation, the storage of caustic, toxic, flammable, explosive or hazardous material in excess of those reasonable and customary for household uses, the discharge of firearms or fireworks, and setting open fires (other than properly supervised and contained barbecues).

5.16 No Unsightliness. No unsightliness is permitted on any Lot. This shall include, without limitation, the open storage of any building materials (except during the construction of any Dwelling unit or addition); open storage or parking of farm or construction equipment, boats, campers, camper shells, trailers, trucks larger than pick-up trucks (except during periods of actual loading and unloading) or inoperable motor vehicles; accumulations of lawn or tree clippings or trimmings; accumulations of construction debris or waste; household refuse or garbage except as stored in tight containers in an enclosure such as a garage; and the storage or accumulation of any other material, vehicle, or equipment on the Lot in a manner that is visible from any other Lot or any public street.

5.17 No Annoying Lights. No outdoor lighting shall be permitted except for lighting that is designed to aim downward and limit the field of light to the confines of the Lot on which it is installed. This shall not apply to street lighting maintained by the City.

5.18 No Annoying Sounds. No speakers or other noise making devices may be used or maintained on any Lot which create noise that might reasonably be expected to be unreasonably or annoyingly loud from adjacent Lots, except for security or fire alarms.

5.19 Sewer Connection Required. All Lots are served by sanitary sewer service, and no cesspools, septic tanks, or other types of waste disposal systems are permitted on any Lot. All Dwelling units must be connected to the sanitary sewer system.

5.20 No Fuel Storage. No fuel, oil, gasoline, propane, or other fuel storage tanks may be installed or maintained on the property. Dwellings shall be heated with natural gas, solar or electric heat. Propane or other such containerized fuels may be used only during construction of the Dwelling until the permanent heating system is installed and operational. Notwithstanding the foregoing, propane tanks for outdoor barbecues shall be permitted.

5.21 Drainage. No Owner shall alter the direction of natural drainage from his Lot, nor shall any Owner permit accelerated storm run-off to leave his Lot without first using reasonable means to dissipate the flow energy.

5.22 Vehicles Restricted to Roadways. No motor vehicle will be operated on the Subdivision except on improved roads and driveways.

5.23 No Transient Lodging Uses. The Lots are to be used for residential housing purposes only, and shall not be rented in whole or in part for transient lodging purposes, boarding house, "bed and breakfast", or other uses for providing accommodations to travelers. No lease of any Dwelling on a Lot shall be for a period of less than 30 days. No Dwelling on a Lot shall be subjected to time interval ownership.

5.24 No Re-Subdivision. No Lot may be re-subdivided without the consent of the Committee, and no re-subdivision of any Lot may result in the construction of any additional Dwelling units within the Subdivision. All re-subdivision activity shall comply with state code.

## **ARTICLE VI**

### **OWNERS' MAINTENANCE OBLIGATIONS**

6. It is the obligation of each Owner to maintain his Lot at all times in order to preserve and enhance the enjoyment of the Subdivision:

6.1 Duty to Maintain. It is the obligation of the Owner of each Lot to maintain his Lot and the Improvements to the Lot in a good state of repair and an attractive, safe, and healthy condition.

6.2 Repair Following Damage. In the event of casualty loss or damage to the Improvements, the Owner will be entitled to reconstruct the Improvements as they existed prior to the damage or loss. Nothing in this Declaration is intended to prevent an Owner who has suffered property damage or loss from taking temporary measures to secure the property and prevent further damage, or to prevent injury or dangerous conditions following loss or damage, before reconstruction begins. No damaged structure will be permitted to remain on any Lot for more than 90 days without repairs commencing, and any damaged structure which does remain un-repaired after 90 days following the occurrence of damage is deemed a nuisance.

**ARTICLE VII**  
**GENERAL PROVISIONS**

7. The covenants, conditions and restrictions contained in this Declaration may be enforced as follows:

7.1 Violation Deemed a Nuisance. Any violation of these covenants which is permitted to remain on the property is deemed a nuisance and is subject to abatement by any other Owner.

7.2 Remedies.

(a) Any single or continuing violation of the covenants contained in this Declaration may be enjoined in an action brought by the Declarant (for so long as the Declarant is the owner of any Lot) or by any other Owner. In any action brought to enforce these covenants, the prevailing party shall be entitled to recover as part of its judgment the reasonable costs of enforcement, including attorney's fees and costs of court.

(b) Nothing in this Declaration shall be construed as limiting the rights and remedies that may exist at common law or under applicable federal, state or local laws and ordinances for the abatement of nuisances, health and safety, or other matters. These covenants are to be construed as being in addition to those remedies available at law.

(c) The remedies available under this Declaration and at law or equity generally are not to be considered as exclusive, but rather as cumulative.

(d) The failure to take enforcement action shall not be construed as a waiver of the covenants contained in this Declaration in the future or against other similar violations.

7.3 Severability. Each of the covenants contained in this Declaration shall be independent of the others, and in the event that any one is found to be invalid, unenforceable, or illegal by a court of competent jurisdiction, the remaining covenants shall remain in full force and effect.

7.4 Limited Liability. Neither the Declarant nor the committee or its individual members, nor any other Owner shall have personal liability to any other Owner for actions or inactions taken under these covenants, provided that any such actions or inactions are the result of the good faith exercise of their judgment or authority, under these covenants, and without malice.

7.5 Amendment. At any time while this Declaration is in effect the provisions of this Declaration may be amended only upon approval of seventy-five percent (75%) of the Owners of the Lots, the Declarant (so long as Declarant remains an Owner of any Lot) and the City of Fruit Heights. Any amendment must be in writing. No such amendment will be binding upon the holder of any mortgage or trust deed holder unless such person joins in the amendment. No amendment which limits the rights of the



Declarant or its successors in interest to expand the Subdivision or otherwise affects the Additional Land shall be effective without written consent of the Declarant and other owner of the Additional Land.

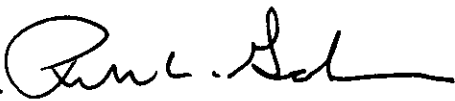
7.6 Constructive Notice. Every person who owns, occupies, or acquires any right, title or interest in any Lot in the Subdivision is conclusively deemed to have notice of this Declaration and its contents, and to have consented to the application and enforcement of each of the covenants, conditions and restrictions against his Lot, whether or not there is any reference to this Declaration in the instrument by which he acquires his interest in any Lot.

7.7 Notices. All notices under this Declaration are deemed effective 72 hours after mailing, whether delivery is proved or not, provided that any mailed notice must have postage per-paid and be sent to the last known address of the party to receive notice. Notices delivered by and are effective upon delivery.

7.8 Liberal Interpretation. The provisions of this Declaration shall be interpreted liberally to further the goal of creating a uniform development within the Subdivision. Paragraph headings are inserted for convenience only and shall not be considered in interpretation of the provisions. Singular will include plural, and gender is intended to include masculine, feminine and neuter as well.

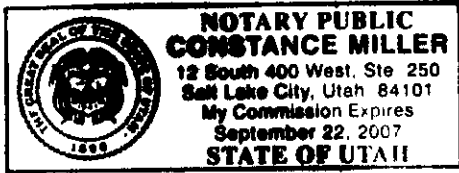
IN WITNESS WHEREOF, Declarant has executed this Declaration as of the day and year first set forth above.

**R. C. GARDNER DEVELOPMENT COMPANY, INC**

By:   
\_\_\_\_\_  
Rulon C. Gardner, President

STATE OF UTAH )  
 ) ss:  
COUNTY OF SALT LAKE )

The foregoing Declaration of Covenants, Conditions and Restrictions for the Arrowpoint Development, was acknowledged before me this 28<sup>th</sup> of November, 2005, by Rulon C. Gardner, who duly acknowledged to me that he executed the same as a President of **R. C. Gardner Development Company INC**, a Utah corporation.



My Commission Expires:  
September 22, 2007

*Constance Miller*

Notary Public  
Residing at Salt Lake County

*Arrowpoint Sub  
Lots 1-10*

## Exhibit A

A parcel of land located in the Northeast Quarter of Section 2, Township 3 North, Range 1 West, and the Southeast Quarter of Section 35, Township 4 North, Range 1 West, Salt Lake Base and Meridian, being more particularly described as follows

Beginning at a point which is North 89°52'31" West 30.41 feet along the section line from the Northeast corner of Section 2, Township 3 North, Range 1 West, Salt Lake Base and Meridian, (basis of bearing being South 89°52'31" East 2655.80 feet between the North Quarter Corner and the Northeast Corner of said Section 2) and running thence South 00°32'05" West 70.00 feet to a point on a 20.50 foot radius non-tangent curve to the right; thence 32.29 feet along the arc of said curve through a central angle of 90°15'31" (chord bears South 44°44'46" East 29.06 feet); thence South 00°23'00" West 200.00 feet; thence South 77°11'54" West 203.09 feet; thence South 62°14'00" West 195.00 feet, thence North 27°46'00" West 215.52 feet; thence South 62°14'00" West 321.14 feet to a point on a 285.13 foot radius curve to the left; thence 86.94 feet along the arc of said curve through a central angle of 17°28'12" (chord bears South 53°29'55" West 86.60 feet) to a point on a 1465.00 foot radius compound curve to the left, thence 112.47 feet along the arc of said curve through a central angle of 04°23'56" (chord bears South 42°33'52" West 112.45 feet) to a point on the Southwest line of the Rulon C Gardner property (Tax 10# 07-095-0045 as recorded in the Davis County Recorder's Office), thence along said property line North 49°38'07" West 35.00 feet to a point on the South line of the Park Heights Plat A & B Subdivision as recorded in the Davis County Recorder's Office, and the centerline of Laurelwood Drive; said point also being a point on a 1500.00 foot radius curve to the right, thence along said centerline the following (3) courses: 1) 115.16 feet along the arc of said curve through a central angle of 04°23'56" (chord bears North 42°33'52" East 115.13 feet) to a point on a 320.13 foot radius compound curve to the right, 2) thence 97.61 feet along the arc of said curve through a central angle of 17°28'12" (chord bears North 53°29'55" East 97.23 feet), 3) North 62°14'00" East 231.21 feet to the Southeast corner of Greenfield Estates Subdivision as recorded in the Davis County Recorder's Office, Thence along said Subdivision North 38°46'00" West 259.75 feet to a point on the Southwest corner of the Mansell Property (Tax 10# 11-116-0036 as recorded in the Davis County Recorder's Office), thence along said property the following two (2) calls: 1) North 70°31'00" East 69.57 feet, 2) North 19°29'00" West 63.90 feet, thence leaving said property North 70°31'00" East 512.04 feet to the Northwest corner of the Taylor Subdivision as recorded in the Davis County Recorder's Office, thence South 27°46'00" East 236.95 feet to the Southwest Corner of the U.D.O.T property (Tax 10# 11-116-0093), thence along said property South 89°52'31" East 73.45 feet to the point of beginning.

Contains 292,733 square feet, or 6.720 Acres.

**BYLAWS  
OF  
Arrowpoint Owners Association, INC**

**ARTICLE 1.  
DEFINITIONS**

1.01 Project Declaration.

As used herein, "Project Declaration" means the Declaration of Protective Covenants, Conditions and Restrictions for Arrowpoint Development at Fruit Heights, recorded in the Official Records of Davis County, Utah.

1.02 Declarant.

As used herein, "Declarant" means the Declarant under the Project Declaration.

1.03 Articles.

As used herein, "Articles" means the Articles of Incorporation of the Arrowpoint Owners Association, Inc.

1.04 Project Association.

As used herein, "Project Association" means the Arrowpoint Owners Association, Inc.

1.05 Other Definitions.

Unless otherwise defined herein, all capitalized terms used herein shall have the meanings given to them in the Project Declaration.

**ARTICLE 2.  
OFFICES**

The Project Association is a Utah nonprofit corporation, with its principal office located at 1030 East 400 South, Fruit Heights, Utah 84037.

**ARTICLE 3.  
VOTING, QUORUM, AND PROXIES**

3.01 Voting.

Votes shall be allocated as set forth in Article VII of the Articles.

3.02 Quorum.

Except as otherwise required by law or by the Articles, the presence in person or by proxy of Owners entitled to vote more than thirty-five percent (35%) of the total votes of the Owners shall constitute a quorum.

3.03 Proxies.

Votes may be cast in person or by proxy. Every proxy must be executed in writing by the Owner or such Owner's duly authorized attorney-in-fact. Such proxy shall be filed with the secretary of the Association before or at the time of the meeting. No proxy shall be valid after the expiration of eleven months from the date of its execution unless otherwise provided in the proxy.

3.04 Majority Vote.

At any meeting of the Owners, if a quorum is present, the affirmative vote of a majority of the votes represented at the meeting, in person or by proxy, shall be the act of the Owners, unless the vote of a greater number is required by law, the Project Declaration, the Articles, or these Bylaws.

**ARTICLE 4.**  
**ADMINISTRATION**

4.01 Annual Meeting.

The annual meeting of the Owners shall be held at a time designated by the Management Committee in the month of November in each year, or at such other date designated by the Management Committee, beginning with the year 2005, for the purpose of electing Directors and for the transaction of such other business as may come before the meeting.

4.02 Special Meetings.

Special meetings of the Owners, for any purpose, unless otherwise prescribed by statute, may be called by the president or by a majority of the Directors and shall be called by the president at the request of Owners entitled to vote twenty percent (20%) or more of the total votes of all Owners.

4.03 Place of Meeting.

The Management Committee may designate the Project Association's principal offices or any place within Davis County, Utah, as the place for any annual meeting or for any special meeting called by the Management Committee.

4.04 Notice of Meeting.

Written or printed notice of any meeting of the Owners, stating the place, day, and hour of the meeting and the purpose or purposes for which the meeting is called, shall be delivered personally or by mail to each Owner entitled to vote at such meeting not less than ten nor more than fifty days before the date of the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the Owner at such Owner's address as it appears in the office of the Association, with postage thereon prepaid. For the purpose of determining Owners entitled to notice of or to vote at any meeting of the Owners, the Management Committee may set a record date for such determination of Owners, in accordance with the laws of the State of Utah. If requested by the person or persons lawfully calling such meeting, the secretary shall give notice thereof at the expense of the Association.

4.05 Informal Action by Owners.

Any action required or permitted to be taken at a meeting of the Owners may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Owners entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as a unanimous vote of the Owners.

**ARTICLE 5.**  
**DECLARANT CONTROL**

Declarant shall be entitled to control the Project Association as set forth in Article VIII of the Articles.

**ARTICLE 6.**  
**MANAGEMENT COMMITTEE**

6.01 Number and Election of Directors.

Directors shall be appointed, elected, and removed as set forth in Article VIII of the Articles.

6.02 Resignations; Vacancies.

Any Director may resign at any time by giving written notice to the president or to the secretary of the Association. Such resignation shall take effect at the time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. Other than with respect to a Director appointed by the Declarant during the Declarant Control Period, any vacancy occurring on the Management Committee (by reason of resignation or death) may be filled by the affirmative vote of a majority of the Directors then in office though less than a quorum. A vacancy occurring on the Management Committee created by the resignation or death of a Director appointed by the Declarant during the Declarant Control Period shall be filled by

the Declarant appointing a new Director. A Director elected to fill a vacancy shall hold office until the next annual meeting of the Owners and until such Director's successor is duly elected and qualified.

6.03 Regular Meetings.

Regular meetings of the Management Committee may be held without call or formal notice at such places within or outside the State of Utah, and at such times as the Management Committee from time to time by vote may determine. Any business may be transacted at a regular meeting. The regular meeting of the Management Committee for the election of Officers and for such other business as may come before the meeting may be held without call or formal notice immediately after, and at the same place as, the annual meeting of Owners, or any special meeting of Owners at which a Management Committee is elected.

6.04 Special Meetings.

Special meetings of the Management Committee may be held at any place within the State of Utah or by telephone, provided that each Director can hear each other Director, at any time when called by the president, or by two or more Directors, upon the giving of at least three days' prior notice of the time and place thereof to each Director by leaving such notice with such Director or at such Director's residence or usual place of business, or by mailing it prepaid and addressed to such Director at such Director's address as it appears on the books of the Association, or by telephone. Notices need not state the purposes of the meeting. No notice of any adjourned meeting of the Directors shall be required.

6.05 Quorum.

A majority of the number of Directors fixed by the Articles, as amended from time to time, shall constitute a quorum for the transaction of business, but a lesser number may adjourn any meeting from time to time. When a quorum is present at any meeting, a majority of the Directors in attendance shall, except where a larger number is required by law, by the Articles, or by these Bylaws, decide any question brought before such meeting.

6.06 Waiver of Notice.

Before, at, or after any meeting of the Management Committee, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Management Committee shall be a waiver of notice by such Director except when such Director attends the meeting for the express purpose of objecting to the transaction of business because the meeting is not lawfully called or convened.

6.07 Informal Action by Directors.

Any action required or permitted to be taken at a meeting of the Directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Directors entitled to vote with respect to the subject matter thereof. Such consent shall have the same force and effect as a unanimous vote of the Directors.

**ARTICLE 7.**  
**OFFICERS AND AGENTS**

7.01 General.

The Officers of the Project Association shall be a president (who shall be chosen from among the Directors), one or more vice presidents, a secretary, and a treasurer. The Management Committee may appoint such other officers, assistant officers, committees, and agents, including assistant secretaries and assistant treasurers, as they may consider necessary or advisable, who shall be chosen in such manner and hold their offices for such terms and have such authority and duties as from time to time may be determined by the Management Committee. One person may hold any two offices, except that no person may simultaneously hold the offices of president and secretary. In all cases where the duties of any officer, agent, or employee are not prescribed by the Bylaws or by the Management Committee, such Officer, agent, or employee shall follow the orders and instructions of the president.

7.02 Removal of Officers.

The Management Committee may remove any Officer, either with or without cause, and elect a successor at any regular meeting of the Management Committee, or at any special meeting of the Management Committee called for such purpose.

7.03 Vacancies.

A vacancy in any office, however occurring, shall be filled by the Management Committee for the unexpired portion of the term.

7.04 President.

The president shall be the chief officer of the Project Association. The president shall preside at all meetings of the Project Association and of the Management Committee. The president shall have the general and active control of the affairs and business of the Project Association and general supervision of its officers, agents, and employees. The president of the Project Association is designated as the Officer with the power to prepare, execute, certify, and record amendments to the Project Declaration on behalf of the Project Association.



7.05 Vice Presidents.

The vice presidents shall assist the president and shall perform such duties as may be assigned to them by the president or by the Management Committee. In the absence of the president, the vice president designated by the Management Committee or (if there be no such designation) designated in writing by the president shall have the powers and perform the duties of the president. If no such designation shall be made, all vice presidents may exercise such powers and perform such duties.

7.06 Secretary.

The secretary shall:

- (a) keep the minutes of the proceedings of the Owners Meetings and of the Management Committee Meetings;
- (b) see that all notices are duly given in accordance with the provisions of these Bylaws, the Project Declaration, and as required by law;
- (c) be custodian of the corporate records and of the seal of the Project Association and affix the seal to all documents when authorized by the Management Committee;
- (d) maintain at the Project Association's principal offices a record containing the names and registered addresses of all Owners, the designation of the Lot owned by each Owner, and, if such Lot is mortgaged, the name and address of each mortgagee; and
- (e) in general, perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him by the president or by the Management Committee. Assistant secretaries, if any, shall have the same duties and powers, subject to supervision by the secretary.

7.07 Treasurer.

The treasurer shall be the principal financial officer of the Project Association and shall have the care and custody of all funds, securities, evidences of indebtedness, and other personal property of the Project Association and shall deposit the same in accordance with the instructions of the Management Committee. The treasurer shall receive and give receipts and acquittances for moneys paid in on account of the Project Association, and shall pay out of the funds on hand all bills, payrolls, and other just debts of the Project Association of whatever nature upon maturity. The treasurer shall perform all other duties incident to the office of the treasurer and, upon request of the Management Committee, shall make such reports to it as may be required at any time. The treasurer shall, if required by the Management Committee, give the Project Association a bond in such sums and with such sureties as shall be satisfactory to the Management Committee, conditioned upon the faithful performance of the treasurer's duties and for the restoration to the Project Association of all

books, papers, vouchers, money, and other property of whatever kind in his possession or under his control belonging to the Project Association. The treasurer shall have such other powers and perform such other duties as may be from time to time prescribed by the Management Committee or the president. The assistant treasurers, if any, shall have the same powers and duties, subject to the supervision of the treasurer.

**ARTICLE 8.**  
**EVIDENCE OF OWNERSHIP, REGISTRATION OF**  
**MAILING ADDRESS, AND LIEN HOLDERS**

8.01 Proof of Ownership.

Except for those Owners who initially contracted to purchase a Lot from the Declarant, any person on becoming an Owner shall furnish to the Project Association a photocopy or a certified copy of the recorded instrument vesting that person with an ownership interest in the Lot. Such copy shall remain in the files of the Project Association. An Owner shall not be deemed to be in good standing and shall not be entitled to vote at any annual or special meeting of Owners unless this requirement is first satisfied.

8.02 Registration of Mailing Address.

If a Lot is owned by two or more Owners, such Owners shall designate one address as the registered address required by these Bylaws. The registered address of an Owner or Owners shall be furnished to the secretary of the Project Association within ten days after transfer of title, or after a change of address. Such registration shall be in written form and signed by all of the Owners of the Lot or by such persons as are authorized to represent the interests of all Owners of the Lot. If no address is registered or if all of the Owners cannot agree, then the address of the Lot shall be deemed the registered address of the Owner(s), and any notice shall be deemed duly given if delivered to the Lot.

8.03 Liens.

Any Owner who mortgages or grants a deed of trust covering such Owner's Lot shall give the Association written notice of the name and address of the mortgagee and shall file true, correct, and complete copies of the note and security instrument with the Project Association.

8.04 Address of the Association.

The address of the Project Association shall be 1030 East 400 South, Fruit Heights, Utah 84037. Such address may be changed from time to time upon written notice to all Owners and all listed mortgagees.

**ARTICLE 9.**  
**SECURITY INTEREST IN MEMBERSHIP**

Owners shall have the right irrevocably to constitute and appoint a mortgagee their true and lawful attorney-in-fact to vote their membership in the Project Association at any and all meetings of the Project Association and to vest in the mortgagee any and all rights, privileges and powers that they have as Owners under the Articles and these Bylaws or by virtue of the Project Declaration. Unless otherwise expressly provided in such proxy, such proxy shall become effective upon the filing of notice by the mortgagee with the secretary of the Project Association. A release of the mortgage covering the subject Lot shall operate to revoke such proxy. Nothing herein contained shall be construed to relieve Owners, as mortgagors, of their duties and obligations as Owners or to impose upon the mortgagee the duties and obligations of an Owner.

**ARTICLE 10.**  
**AMENDMENTS**

10.01 By Directors.

Except as limited by law, the Articles, the Project Declaration, or these Bylaws, the Management Committee shall have power to make, amend, and repeal the Bylaws of the Project Association at any regular meeting of the Management Committee or at any special meeting called for that purpose at which a quorum is represented. If, however, the Owners shall make, amend, or repeal any Bylaw, the Management Committee shall not thereafter amend the same in such manner as to defeat or impair the object of the Owners in taking such action.

10.02 Owners.

Subject to any rights conferred upon first mortgagees in these Bylaws, the Owners may, by the vote of the holders of at least sixty-seven percent (67%) of the votes of the Owners, unless a greater percentage is expressly required by law, the Articles, the Project Declaration, or these Bylaws, make, alter, amend, or repeal the Bylaws of the Project Association at any annual meeting or at any special meeting called for that purpose at which a quorum shall be represented.

**ARTICLE 11.**  
**MISCELLANEOUS**

11.01 Fiscal Year.

The fiscal year of the Project Association shall be such as may from time to time be established by the Management Committee.

11.02 Other Provisions.

The Project Declaration contains certain other provisions relating to the administration of the Project, which provisions are hereby incorporated herein by reference.