

DECLARATION OF PROTECTIVE COVENANTS
ENTRY NO. 226868
ED 10-1-74 AT 3 P. M. BOOK 175 PAGE 428-432
OF Jay E. McGregor FOR
D. JACKSON WAINWRIGHT SANPETE COUNTY RECORDER THE HIGHLANDS
00 BY [Signature] GRANTOR'S u
GRANTEES n

THIS declaration is made by Utah Title and Abstract Company, as Trustee, hereafter referred to as Grantor, of the property known as "The Highlands" and to be recorded in the Sanpete County recorder's office. This Declaration is to cover all subsequent recorded plats under the name of "The Highlands". Grantor hereby makes and declares the following qualifications, limitations, restrictions, and uses upon and of such real property as restrictive and protective covenants running with the land, and binding upon all future owners of any part of such real property described as "The Highlands".

I. GENERAL PURPOSES: These covenants are made for the purpose of creating and keeping the subdivision, insofar as possible, desirable, attractive, beneficial and suitable in architectural design, materials and appearances; and guarding against fires and unnecessary interference with the natural beauty of the subdivision; all for the mutual benefit and protection of the Owners of lots in the subdivision.

II. NATURE AND INCIDENTS OF LOT OWNERSHIP

2.1 The development known as The Highlands is a division of land into lots of approximately ten (10) acres. Two (2) or more lots may be combined as if they were one (1) lot. However, there shall be no more than three (3) single family residences erected on any one lot. The title to any one lot may be held and owned by one (1) entity or in any manner to which title to any real property may be held or owned in the State of Utah, including without limitations, joint tenancy or tenancy in common.

2.2 Easement for Access to lot: Each lot shall have access to a road by an access easement shown on the recorded survey plat. Such easement will be a total of 60 feet, 30 feet from each lot. In the event Declarant of the Association provides a suitable easement at any time in the future, each Owner, by acceptance of a conveyance of a lot, agrees for himself and his successors in interest to reconvey to Declarant upon 30 days' notice by Declarant all of such Owner's right, title and interest in the original easement or easements. Each Mortgagee, by acceptance of a Mortgage on a lot, agrees for itself and its successors in interest to release the original easement or easements from such Mortgage upon like notice and subject to like proviso, upon receipt of proper instruments subjecting the suitable substitute easement to the lien of the Mortgage, provided that the Mortgage shall have the same priority with respect to the substitute easement as it had with respect to the original easement or easements.

2.3 Easements of Access for Repair, Maintenance and Emergencies: Some of the Common Areas are or may be located within the lot or may be conveniently accessible only through the lots. The Owners of other lots shall have the irrevocable right, to be exercised by the Association as their agent, to have access to each lot and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Areas located therein or accessible therefrom or for making emergency repairs at any time therein necessary to prevent damage to the Common Areas or to another lot or lots.

2.4 Easements Deemed Created: All conveyance of lots hereafter made, whether by the Declarant or otherwise, shall be construed to grant and reserve such reciprocal easements as are provided for herein, even though no specific reference to such easements appears in any such conveyance.

2.5 Grazing Rights: Developer retains grazing rights for a period of five (5) years after the first annual meeting of the Lot Owner's Association.

III. MECHANIC'S LIEN RIGHTS

3.1 Mechanic's Liens: No labor performed or material furnished for use in connection with any lot with the consent or at the request of an Owner or his agent or subcontractor shall create any right to file a statement of mechanic's lien against the lot of any other Owner not expressly consenting to or requesting the same.

IV. THE ASSOCIATION

4.1 Membership: Every Owner shall be entitled and required to be a member of the Association. If title to a lot is held by more than

one person, the membership related to that lot shall be shared by all such persons in the same proportionate interests and by the same type of tenancy in which the title to the lot is held. An Owner shall be entitled to one membership for each lot owned by him. Each such membership shall be appurtenant to the lot upon which it is based and shall be transferred automatically by conveyance of that lot. No person or entity other than an Owner may be a member of the Association and, a membership in the Association may not be transferred except in connection with the transfer of a lot; provided, however that the right of membership may be assigned to a Mortgagee as further security for a loan secured by a lien on a lot.

4.2 Amplification: The provisions of this Article are to be modified by the Articles of Incorporation of the Association and by the By-Laws of the Association; provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Owners set forth herein.

V. CERTAIN RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

5.1 The Common Areas: The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon, and shall keep the same good, clean, attractive and sanitary condition, order and repair. The Association shall be responsible for all improvements or materials located within or used in connection with the Common Areas; the maintenance and repair of parking spaces and structures constituting part of the General or Limited Common Areas; and the payment of repair costs involved in the operation and repair of roads or driveways serving the parking facilities and pathways, which form a part of this project, if any. The specification of duties of the Association with respect to particular Common Areas shall not be construed to limit its duties with respect to other Common Areas, as set forth in the first sentence in this Section.

5.2 Miscellaneous Services: The Association may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Project, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project or the enforcement of this Declaration. The Association may arrange with others to furnish lighting, heating, water, trash collection, sewer service and other common services to each lot.

5.3 Rules and Regulations: The Association may make reasonable rules and regulations governing the use of the lots and of the Common Areas, which rules and regulations shall be consistent with the rights and duties established in this Declaration. The Association may also take judicial action against any Owner to enforce compliance with such rules, regulations or other obligations or to obtain damages for non-compliance, all to the extent permitted by law.

5.4 Implied Rights: The Association may exercise any other right or privilege given to it expressly by this Declaration or by law, and every other right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

5.5 Road Maintenance: As plats are recorded, designating right-of-ways for roads and utilities, maintenance of these roads will be the responsibility of the Association. It will be maintained so as to provide access - weather permitting - to each individual lot owner's lot. The Association shall have the right to restrict traffic in the event that use would cause undue wear and tear due to conditions.

VI. ASSESSMENTS

6.1 Agreement to pay Assessment: Declarant, for each lot owned by it within the Project, and for and as the Owner of the Project and every part thereof, hereby covenants, and each Owner of any lot by the acceptance of a deed therefore, whether or not it be so expressed in the deed, shall be deemed to covenant and agree with each other and with the Association to pay to the Association annual assessments made by the Association for the purposes provided in this Declaration, and other matters as provided in this Declaration. Such assessments shall be fixed, established and collected from time to time in the manner provided in this Article.

6.2 Amount of Total Annual Assessments: The total annual

assessments against all lots shall be based upon advance estimates of cash requirement by the Association to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the roads and Common Areas which estimates may include, among other things, expenses of management, taxes and special assessments until the lots are separately assessed as provided herein, premiums for all insurance which the Association is required or permitted to maintain pursuant hereto, common electrical, common charges, trash collection, repairs and maintenance, wages for Association employees, legal and accounting fees, and any deficit remaining from a previous period, the creation of a reasonable contingency reserve, surplus and/or sinking fund, and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under or by reason of the Declaration.

6.3 Apportionment of Annual Assessments: Expenses attributable to the Roads and Common Areas and to the Project as a whole shall be apportioned among all Owners in proportion to their respective undivided interests in the Common Areas.

6.4 Notice of Annual Assessments and Time for Payment Thereof: Annual assessments shall be made on a May 1 through April 30 fiscal year basis. The Association shall give written notice to each Owner as to the amount of the annual assessment with respect to his lot on or before March 1 each year for the fiscal year commencing on May 1 following such date. Such assessment shall be due and payable in quarterly installments on or before May 1, August 1, November 1, and February 1 next succeeding the date of assessment; provided, however, that the first annual assessments shall be for the balance of the fiscal year remaining after the date thereof as the date of commencement of the project. Each annual assessment shall bear interest at the maximum legal interest rate from the date it becomes due and payable if not paid by such date. Failure of the Association to give timely notice of any assessment as provided herein shall not affect the liability of the Owner of any lot for such assessment, but the date when payment shall become due in such case shall be deferred to a date thirty days after such notice shall have been given, but not sooner than May 1 of the fiscal year to which such assessment relates.

6.5 Lien for Assessments: All sums assessed to the Owner of lot pursuant to this Article, together with interest thereon as provided herein, shall be secured by a lien on such lot in favor of the Association.

6.6 Personal Obligation of Owner: The amount of any annual or special assessment against any lot shall be the personal obligation of the Owner thereof to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of his lot.

VII. PROVISIONS APPLICABLE FOR ALL PROPERTY

7.1 The Covenants Committee: The Covenants Committee shall consist initially of three (3) individuals. This may be expanded to five (5). The initial three members shall be designated by the developers of The Highlands and shall serve until such time as 80 percent of the lots are sold. At such time, designation of the committee members will be turned over to the Association. No lot Owner shall make any changes in drainage or topography without prior approval of the Covenants Committee.

7.2 Residential Purpose: The Project shall be used exclusively for rural living purposes.

7.3 No Business or Commercial Activity: None of the Project shall be used at any time for business or commercial activity, provided however, that nothing shall prevent the Declarant from zoning certain parts of the Project for commercial use.

7.4 Maintenance of the Project: All of the Project shall be kept and maintained by the Owners thereof in a clean, safe and attractive condition, in good repair, and in all other respects in accordance with the provisions of this Declaration at the Owner's sole cost and expense.

7.5 No Noxious or Offensive Activity: No noxious or offensive activity shall be carried on upon any of the Project nor shall anything be done or placed on the Project which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others.

7.6 No Hazardous Activities: No activities shall be conducted

nor improvements constructed, upon the Project which are or might become unsafe or hazardous to any person or to the property.

7.7 No Unsightliness: No unsightliness shall be permitted upon any of the Project. No lumber, grass, shrubs or tree clippings, waste, metals, bulk materials, refuse, garbage and trash shall be kept, stored, or allowed to accumulate on the property. No vehicles, boats or equipment shall be constructed, reconstructed, repaired or abandoned on the Project.

7.8 No Annoying Lights, Sounds or Odors: No light shall be emitted from the Project which is unreasonably bright; no sound shall be emitted from the Project which is unreasonably loud or annoying except for security and fire alarm devices used exclusively to protect the Project; no odors shall be emitted from any of the Project which are noxious or offensive to others.

7.9 Restrictions on Animals: There shall be no restrictions on animals except in the event that a majority of the lot Owners should sign a petition registered with the Covenant Committee. Such animal shall be removed from the area at the Owner's expense.

7.10 Restrictions on Signs: No signs or advertising devices of any nature shall be erected or maintained on any of the Project, except signs approved by Declarant.

7.11 No Subdivision: No unit or portion thereof may be divided or subdivided by the lot Owner.

7.12 Rules and Regulations: No Owner shall violate any rules, regulations, or ordinances for the use of said lots adopted from time to time by the Association.

7.13 No Temporary Structures: No tent, shack, trailer, camper, or other temporary building or improvement shall be allowed to remain on the Project as a permanent dwelling unless approved by the Covenant Committee.

7.14 Construction: All building exteriors must be completed within 12 months from the commencement of construction.

7.15 Sewage Disposal: All sewage disposal shall be water flush type toilet connected to a total contained sealed storage tank approved by the State of Utah or Sanpete County. No pit privy shall be erected, maintained or used upon any part of said property. Approved disposable units which burn sewage are acceptable and preferred.

7.16 No Changes to Property: Except as provided or contemplated by the Declaration, no change in the existing state of the property shall be made or permitted, without approval of the Covenant Committee.

7.17 Garbage: Garbage must be kept in covered metal containers. Trash, tin cans, paper, etc., must be kept in wire or metal containers. Lot owner is responsible for removal of all garbage as no service is anticipated.

VIII. MISCELLANEOUS

8.1 Compliance with Provisions of Declaration and By-Laws of the Association: Each Owner shall comply with the provisions of this Declaration, the Articles of Incorporation and the By-Laws of the Association, and the decisions and resolutions of the Association adopted pursuant thereto and lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action for damages or injunctive relief.

8.2 Registration of Mailing Address: Each Owner shall register his current mailing address with the Association so that all notices or demands may be sent to the Owner by either Registered or Certified mail.

8.3 Owner's Obligation to Continue: All obligations of the Owner under and by the virtue of this Declaration shall continue, notwithstanding that he may have leased or rented said lot, but the Owner shall have no obligation for expenses or other obligations accruing after the sale or conveyance of said lot.

8.4 The provisions of this Declaration shall be in addition and supplemented by the laws of the State of Utah and all other provisions of the law of Sanpete County.

8.5 No Waiver: Failure to enforce any provisions or restrictions or covenants by the Declarant shall not operate as a waiver of any such provisions, restrictions or covenants.

IX. FIRES AND TREE CUTTING

9.1 No open fires shall be permitted on any part of the property. All chimneys must be covered with spark screens. No cutting of trees shall be permitted without the written consent of the Covenant Committee, except for road building.

X. OIL, WATER AND MINERAL, AND ROAD RESERVATIONS:

10.1 All oil and mineral rights are reserved by prior owners.

Water rights as owned by the developers will be conveyed to the Lot Owner's Association in increments as the property is developed. Development as such will be the responsibility of the Lot Owners Association, and in accordance with state laws as pertaining to conversion of rights from stock watering to culinary. All rights to springs developed or undeveloped are retained by developers to be conveyed to the Association. All access rights will be conveyed to the Lot Owners Association. Maintenance of roads within the Project will be the responsibility of the Association. All roads within the Project are for the exclusive rights of the Owners and their guests.

IN WITNESS WHEREOF Utah Title and Abstract Company, as Trustee, has executed this Declaration the day and year first above written.

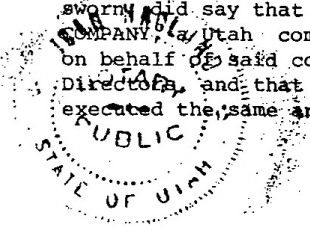
JAY C. MCGREGOR COMPANY
BY *Jay C. McGregor*

UTAH TITLE AND ABSTRACT COMPANY,
as Trustee

BY: *Alfred Newman*
Alfred Newman

STATE OF UTAH)
:ss
COUNTY OF SALT LAKE)

On the 29th day of AUGUST, 1974, personally appeared before me, ALFRED J. NEWMAN, who, being by me duly sworn, did say that he is the Vice President of UTAH TITLE AND ABSTRACT COMPANY, a Utah company, and that the foregoing Declaration was signed on behalf of said company by authority of a Resolution of its Board of Directors, and that said ALFRED NEWMAN duly acknowledges to me that he executed the same and the seal affixed is the seal of said company.



John England
Notary Public

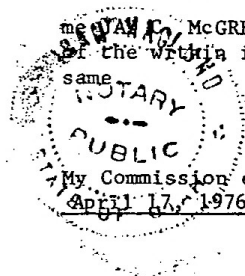
Residing at Salt Lake City, Utah

My Commission expires:

April 17, 1976

STATE OF UTAH)
:ss
COUNTY OF SALT LAKE)

On the 29th day of AUGUST, 1974, personally appeared before me JAY C. MCGREGOR, doing business as JAY C. MCGREGOR COMPANY, the signer of the within instrument, who duly acknowledged to me that he executed the same.



John England
Notary Public

Residing at: Salt Lake City, Utah

My Commission expires:

April 17, 1976

DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS

Whereas, Indian Ridge Incorporated is the owner of that certain real property, hereinafter referred to as "the property", situated in Sanpete County, State of Utah, more particularly described in exhibit "A" attached hereto and known as Indian Ridge Ranch, and by this reference made a part hereof; and

Whereas, Indian Ridge Inc. has developed a portion of the property and intends to develop the remainder by subdividing and restricting the use of the said property in a manner intended to provide for well-planned residential, recreational, institutional, and open space uses, building, facilities, and areas; and

Whereas, Indian Ridge Inc., the declarant of this D.C.C.R. which will be been recorded and to which the property shall be subject desires to establish these Covenants to govern the implementation of the purposes set forth herein; and

Whereas, Indian Ridge Inc. is about to cause Indian Ridge Property Owners Association, a non-profit corporation, to be formed for the purpose of providing an organization to serve as the representative of the owners and tenants of the property with respect to: the assessment, collection, and application of all covenants, easements, restrictions, and conditions set forth herein and of all liens and charges created hereby; the construction, operation, maintenance, and management of the facilities and services herein described; and the promotion of the health, safety, and welfare of the Owners and tenants of the Property.

Now Therefore, Indian Ridge Inc., for itself, its heirs successors-in-interest, and assigns, hereby establishes these Covenants for the purposes described above.

ARTICLE 1

DEFINITIONS

1.1 "Assessable Property" shall mean and refer to the entire Property except such parts thereof as may from time to time constitute "Exempt Property" as herein defined.

1.2 "Class A lots" shall mean and refer to any lot upon which a building has been completed and is habitable or usable as intended as determined by the architectural committee or an official of an applicable public agency.

1.3 "Class B lots" shall mean and refer to any vacant lot, or lots, upon which a building has not been completed.

1.4 "Declarant" shall mean and refer to Indian Ridge Inc., a Utah corporation, its successors-in-interest, and assigns.

1.5 "Developer" shall mean and refer to the Declarant.

1.6 "Development Period" shall mean and refer to the period of time during which the Declarant shall control the Association and before the first to occur of the following:

(1) The sale of sixty percent of the total lots within the property and additions thereto made by annexation as provided herein; or

(2) The filing by the Declarant with the Association of a statement to the effect that it is relinquishing control of the Association.

1.7 "Declaration" shall mean and refer to this Declaration of Covenants Conditions, and Restrictions as recorded in the office of the Sanpete County Recorder, Sanpete, County, Utah.

1.8 "Exempt Property" shall mean and refer to the following portions or parts of the property, together with all improvements constructed there on; notwithstanding any provisions to the contrary herein contained, no lands or improvements devoted to residential uses shall be considered as Exempt Property:

(1) All real property owned and maintained by the United States, the State of Utah, or any agency or instrumentality of such an entity, for so long as such entity, agency, or instrumentality shall be the owner thereof;

(2) All real property owned and maintained by the Association for so long as the Association shall be the owner thereof;

(3) All real property exempted from taxation by both the laws of the State of Utah and the laws of Sanpete County.

1.9 "Lot" shall mean and refer to the following portions or parts of the Assessable Property, together with all improvements constructed thereon; notwithstanding any provisions to the contrary therein contained, Lot shall not be defined to mean or include the Exempt Property, the Common Areas, or any of the improvements constructed thereon:

(1) Any plot of land shown upon any recorded subdivision map of tracts within the property:

(2) Any share, membership or other interest in any cooperative or other entity organized and operated for the purpose of making residential dwelling units available to its shareholders, members, or other beneficiaries, which share, membership, or other interest entitled the owner thereof to possession of any residential dwelling unit within the property.

1.10 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee or undivided fee interest in any lot, or other portion of the Assessable Property, which is subject to assessment excluding Mortgages or others having such interest merely as security for the performance of an obligation unless and until said Mortgagee or other security interest holder has acquired title to any lot or portion of the Assessable Property pursuant to a foreclosure or any proceeding equivalent to or in lieu of a foreclosure.

1.11 "Referendum" shall mean and refer to a matter to be voted upon by the membership at other than a meeting of the members.

1.12 "Tenant" shall mean and refer to any person occupying any lot within the property which person is other than the owner of that lot.

Article 2 Association

2.1 Purpose. The purpose of the Indian Ridge Ranch property Owners Association, hereinafter referred to as the "Association", shall be to own and manage the common Areas and to perform other functions in behalf of the Owners and Tenants of the Property and for general welfare of the community as specified in the Declaration, or the Articles of Incorporation.

2.2 Board of Directors. The Association shall be governed, as prescribed in the Articles of Incorporation, by a Board of Directors, hereinafter referred to as the "Board", appointed and elected as provided in the Articles of Incorporation. All Directors shall be elected by the Owners and Tenants after the Development Period.

2.3 Membership. Every Owner of a lot or other portion of the Property subject to assessment by the Association under the terms of this Declaration shall automatically be a member of the Association; provided that any Mortgagee or others having such interest merely as security for performance of an obligation shall not be a member of the Association unless and until said Mortgagee or other security interest holder has acquired title to any lot or portion of the Assessable Property pursuant to a foreclosure or any proceeding equivalent to or in lieu of a foreclosure. Membership shall be appurtenant to, shall be an incident of, and shall not be separated from ownership of any such lot or other portion of the Assessable Property, and such ownership shall be the sole qualifications for membership. Also, every Tenant, as defined herein shall automatically be a member of the Association provided such Tenant furnishes satisfactory evidence of tenancy to the Association, as prescribed in the Association's By-Laws.

2.4 Voting Rights. The Association shall have five (5) classes of voting membership:

(1) Class A-1 Members shall be all the Owners of Class A lots and which Owners are also occupants of said lots. Class A-1 Members shall be entitled to four (4) votes for each lot which they hold the interests required for memberships herein and which they occupy. When more than one (1) person holds such interest or interests in any such lot, all such persons shall be members and the votes for such lot shall be exercised as they among themselves determine, but in no event shall more than four (4) votes be cast with respect to any such lot by such Class A-1 members.

(2) Class A-2 Members shall be the Owners of Class A lots which lots such owners do not occupy. Class A-2 Members shall be entitled to two (2) votes for each lot in which they hold the interest required for membership herein, but which they do not occupy. When more than one (1) person holds such interest or interests in any such lot, all such persons shall be members and the votes for such lot shall be exercised as they among themselves determine, but in no event shall more than two (2) votes be cast with respect to any such lot by such Class A-2 members.

(3) Class A-3 Members shall be the Tenants of Class A lots not occupied by the Owners of such lots. Class A-3 Members shall be entitled to two (2) votes for each lot which they occupy. When more than one (1) person is a tenant of any one lot, all such persons shall be members and the vote for such lot shall be exercised as they among themselves determine, but in no event shall more than two (2) votes be cast with respect to any such lot by such Class A-3 Members.

(4) Class B Members shall be Owners of Class B Lots and shall be entitled to one (1) vote for each lot in which they hold the interests required for membership herein. When more than one (1) person holds such interest or interests in any lot, all such persons shall be members and 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 with respect to any such lot.

(5) Class C Members shall be the declarant and shall be entitled to three votes for each lot or membership to which they have retained ownership.

2.5 Suspension of Voting Rights. Any Member who is in violation of this Declaration or of the Association's Articles of Incorporation, By-Laws, Rules, or Regulations, as determined by the Board, shall not be entitled to vote during any period in which such violation continues. Any Member who fails or refuses to pay any Dues, Assessments, or other charges prescribed herein, in the Articles of Incorporation, the By-Laws, or by the Board shall not be entitled to vote during any period in which any such Dues, Assessments, or other charges remain due and unpaid.

2.6 Proxy and Absentee Voting. Except as specifically authorized herein, no Member shall be entitled to assign his or its right to vote, by Power of Attorney, by Proxy, or otherwise, and no vote or votes shall be valid unless cast in person by the Member; provided, however:

(1) That in the case of a corporate or other business entity membership, the vote or votes may be cast by an authorized officer of such corporation or business entity;

(2) That in the case of a joint or common ownership, any one such Member shall be entitled to cast the vote or votes with respect to any such lot held in joint or common ownership;

(3) That in the case of members absent from meetings the filing of a proxy may be allowed by the Board and in accordance with these Covenants; and

(4) That in the case of members absent from referendums, the filing of an absentee ballot may be allowed by the Board and in accordance with the By-Laws.

(5) That the Declarant shall have the right to cast proxy vote for members so authorizing them by affidavit

2.7 Membership List. The Board shall adopt a method by which it will be apprised of the names, addresses, and phone numbers of all members and the number of votes to which each is entitled under the provisions herein.

2.8 Dissolution. The Association (Corporation) may be dissolved only as provided in the Articles of Incorporation.

Article 3

Property Rights and Restrictions

3.1 Common Areas. It is intended that Declarant will convey to the Association, subsequent to the recording of the Declaration and prior to the end of the Development Period a certain tract of land within the Property, for Park, Recreational, and other Community purposes. Said tract, together with such other tracts or parcels of Association Property as the Board may, in its absolute discretion, from time to time by resolution designate for the common use and enjoyment of the Members of the Association, is hereafter collectively referred to as "Common Area".

3.2 Easements. Every Member of the Association shall, by reason of such membership, have a right and easement of enjoyment in and to all Common Areas, and such easement shall be appurtenant to and shall pass with every lot or other portion of the Assessable Property upon transfer thereof. A Member's right of enjoyment in the common Areas shall automatically extend to all members of his or her household and all Tenants residing on any part of the Property. The Member's rights and easements of enjoyment created hereby shall be subject to the following:

Assessable Property, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, with respect to each such lot or other portion of the Assessable Property owned by him, shall also be required to pay to the Association the monthly and special assessments to be fixed, assessed, and collected by the Board from time to time as provided herein. Each such monthly and special assessment, together with such interest thereon and cost of collection thereof as are hereinafter provided, shall be a charge upon the land and shall be a continuing lien upon the respective lots or other portions of the Assessable Property to the extent that any change in the ownership thereof may result in any portion of the same becoming Assessable Property. Each such monthly and special assessment, together with such interest thereon and cost of collection thereof as are hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to an Owner's successors-in-title unless expressly assumed by them. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Property, or any portion or by renting, leasing or otherwise permitting occupancy of his property to another party. However in the event an owner fails to pay maintenance fees and sells his lot or transfers ownership by any means or in any manner, the new lot owner shall also be obligated and the delinquent fees shall remain a lien against the property until paid.

4.2 Purpose. The Board shall apply all funds received by the Association pursuant to the terms of the Declaration to the following purposes:

- (1) To the payment of all principal and interest on all loans, bonds, promissory notes, mortgage, or other evidences of indebtedness of the Association;
- (2) To the Payment of all costs and expenses of the Association;
- (3) To the establishment of reserve accounts, sinking funds, and security deposits to accomplish any of the foregoing purposes;
- (4) To the acquisition of such insurance as may be necessary to protect the interest of the Association as they appear.

4.3 Monthly. The monthly assessment amount shall be determined by the Board, and may be changed by them as they deem it to be in the best interest of the Association.

4.4 Special for Capital Improvements. In addition to the monthly assessments authorized herein, the Board may levy, in any assessment year or series of assessment years, a special assessment or series of special assessments for the purpose of defraying, in whole or in part, the cost of acquiring, construction, reconstructing, altering, enlarging, laying, renewing, or replacing any of the facilities or amenities of the Association, including all necessary fixtures and personal property related thereto.

4.5 Special for Requested Additional Services. In addition to the monthly assessments and special assessments for capital improvements authorized herein, the Board may levy, in any assessment year, a special assessment on the Property of any members for any additional services requested by those Members; provided that:

- (1) The Members shall have filed a written request with the Board at least thirty (30) days in advance of the notice fixing of the amount of the next annual assessment of specifying the nature of the additional services desired the time during which said services are desired, and requesting the Association to provide said services;
- (2) The Association shall have the power to provide the requested additional services pursuant to the terms and the conditions of this Declaration and of the Association's Articles of Incorporation, the By-Laws, rules and regulations, and that the Board shall determine, in its sole discretion, that it is ready, willing, and able to provide said services to the requesting Members;
- (3) Requested additional services of the Association may be discontinued at any time by either the Board or the Members requesting the same upon the giving of thirty (30) days written notice of said discontinuance; and
- (4) Requested additional services of the Association shall be given pursuant to such rules and regulations pertaining thereto as the Board shall, in its discretion, adopt and promulgate.

4.6 Uniform Rate. Both annual and special assessments shall be fixed at a uniform rate for all Class A lots and for all Class B lots, by the Board.

4.7 Declarant limit on Number of Assessable lots. The Declarant shall not be assessed for any lots it may own, not withstanding any provision to the contrary herein.

- (1) The right of the Association to charge reasonable admission and other fees for the use of any facility situated upon the Common Area or for any service performed by the Association;
- (2) The right of the Association to suspend the voting rights and right to use of the Common Areas and any facilities by a Member for any period during which any assessment against his lot remains unpaid and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations as determined by the Board after process;
- (3) The right of the Association to dedicate, sell or transfer all or part of the Common Area free and clear of all such rights, easements, privileges, and liens, to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members; provided, that any such action shall have the approval of the Declarant during the Development Period and the assenting vote of fifty-one percent (51%) of the votes cast at a meeting for which proper notice as prescribed herein is sent and at which a Quorum as prescribed herein is present; or, provided that any such action shall have the approval of the Declarant during the Development Period and the assenting vote of two-thirds (2/3rds) of the votes cast at a referendum as defined herein for which proper notice as prescribed herein is sent;
- (4) The right of the Association to reasonably limit the number of guests of a Member;
- (5) The right of the Association, in accordance with its Articles and these Covenants, to borrow money for the purpose of improving the Common Area and in aid thereof to mortgage said Common Area, provided that any such action shall have the approval of the Declarant during the Development Period. In the event of a default upon any such mortgage, the lender's rights hereunder shall be limited to a right, after taking possession of such Common Area, to charge admission and other fees as a condition to continue enjoyment by the Members and, if necessary, to open the enjoyment of such Common Area to a wider public until the mortgage debt is satisfied, whereupon the possession of such Common Area shall be returned to the Association and all rights of the members hereunder shall be fully restored; or in the alternative and at the discretion of the Board such mortgage may be secured by an assignment of the maintenance fees.
- (6) The right of the Association to take such steps as are reasonably necessary to protect the above described areas against foreclosure;
- (7) The right of the Association to grant easements or right-of-way for public utility purposes.
- (8) The right of the Association to adopt and promulgate reasonable rules and regulations, not inconsistent with this Declaration, the Association's Articles of Incorporation, or the By-Laws, pertaining to the use, enjoyment, and preservation of the Common Areas, or to the safety and convenience of the users thereof. In establishing admissions and other fees, and in adopting and promulgating rules and regulations, the Association Board may, in its discretion, establish reasonable classifications of users and may establish different fees, rules, and regulations for each such class;
- (9) The right of the Declarant during the Development Period, to annex additional lands to the Property at its sole discretion by executing an appropriate instrument, and by filing said instrument among the records of Washington County, State of Utah; and the right of the Association, after the Development Period, to annex additional lands to the property provided that the owners of said land agree to be bound by this Declaration and provided that such action has the assenting vote of fifty-one percent (51%) of the votes cast at a meeting for which proper notice as prescribed herein is present; or, provided that any such action shall have the assenting vote of two-thirds (2/3rds) of the votes cast at a referendum as defined herein for which proper notice as prescribed herein is sent;
- (10) The right of the Association to participate in mergers and consolidations with other non-profit corporations for the same purpose provided that any such action shall have the approval of the Declarant during the Development Period and the assenting vote of fifty-one percent (51%) of the votes cast at a meeting for which proper notice as prescribed herein is sent and at which a Quorum as prescribed herein is present; or, provided that any such action shall have the approval of the Declarant during the Development Period and the assenting vote of two-thirds (2/3rds) of the votes cast at a referendum as defined herein for which proper notice as prescribed herein is sent.
- (11) The right of the Declarant to appoint an Architectural Committee, during the Development Period, which Committee shall have the power to promulgate rules governing the form and content of plans and specifications to be submitted for approval or requiring improvements to be made upon the property, and may issue statements of policy with respect to approval or disapproval of the architectural styles or details, or other matters, which may be presented for approval, and may establish procedures for the conducting of the business of the Committee.

Article 4 Assessments

4.1 Covenants. The Declarant, for itself and for its heirs, successors-in-interest, and assigns, and with respect to the Assessable Property owned by it, shall be required, and each Owner of a lot or other portion of the

4.8 Date and Notice of Commencement. The assessments provided for herein shall commence on the date fixed by the Board to be the date of Commencement, provided that said commencement shall be the first day of the calendar month. Notice of the monthly assessment shall be sent to each owner subject thereto at least thirty (30) days in advance of each monthly assessment.

4.9 Due Dates. The due dates shall be established by the Board, upon which dates the assessments for any year shall become due and payable. The due date or dates of any special assessment or assessments, authorized as herein provided, shall be fixed by the Board in the resolution authorizing such assessment or assessments, subject to the same notice and payment requirements pertaining to monthly assessments.

4.10 Roster of Properties. The Board shall prepare a roster of the Properties and the assessments applicable thereto at the same time that it shall fix the amount of the monthly assessment, which roster shall be kept by the Treasurer of the Association, and shall record payments of assessments, and shall be open to inspection by any member of the Association at reasonable times.

4.11 Certification of Payment. The Board shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessment on a specified lot has been paid. Such certificates, when properly issued, shall be conclusive evidence of the payment of any assessment or fractional part thereof which is therein shown to have been paid.

4.12 Effect of non-payment. Any assessment not paid within thirty (30) days after the due date therefor shall be delinquent and shall bear interest from and after the due date at a rate per annum until paid, which rate shall be established by the Board not to exceed any interest rate prohibited by applicable usury laws.

4.13 Remedies for non-payment. The Board may bring an action at law in the name of the Association against the Owner personally obligated to pay any delinquent assessment, or may foreclose the lien against the property, and may also seek a deficiency decree, in accordance with the laws of the State of Utah applicable to the exercise of powers of sale or foreclosure in deeds of trusts or mortgages, or may seek redress in any other manner permitted by law or equity, and there shall be added to the amount of such delinquent assessment the costs and expenses of such action, sale or foreclosure, and reasonable attorney's fees.

ARTICLE 5 GENERAL CONDITIONS

5.1 Amendment. These By-laws may be amended provided, that any such action shall have the approval of the Declarant during the development period and the assenting vote of fifty-one percent (51%) of the votes at a meeting for which proper notice as prescribed herein is sent and at which a Quorum as prescribed herein is present; or provided that any such action shall have the approval of the Declarant during the Development Period and the assenting vote of two-thirds (2/3rds) of the votes cast at a referendum as defined herein for which proper notice as prescribed herein is sent.

5.2 Interpretation. The Declarant shall have the right to construe and interpret the provisions of this Declaration during the Development Period, and in the absence of an adjudication by a court of competent jurisdiction to the contrary, its construction or interpretation shall be final and binding as to all persons or property benefitted or bound by the provisions hereof. After the Development Period such rights of interpretation shall pass to the Association.

5.3 Quorum. At the first meeting called for taking any action authorized herein the presence at the meeting of members or of proxies entitled to cast fifty-one percent (51%) of all the votes of the membership shall constitute a quorum. If the required quorum is not forth coming at any meeting, another meeting may be called, subject to the notice requirement set forth herein, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that no such meeting shall be held more than sixty (60) days following the preceding meeting.

5.4 Notice. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of the person who appears as a Member or Owner on the records of the Association at the time of such mailing, and which notice is so mailed no less than ten (10) days and no more than sixty (60) days prior to any proposed action provided for herein, and which notice sets forth the proposed action and date, time and place it is to be acted upon.

5.5 All Grantees Bound. Each grantee, by accepting a deed, lease, or any other instrument conveying any interest in any portion of the property or any lot, covenants and shall be conclusively deemed to have covenanted, for himself, his heirs, successors in interest, and assigns to observe, perform, and to be bound described, whether or not said deed, lease, or other instrument incorporates or refers to this Declaration in any deed, lease, or other conveyance of all or any portion of his ownership interest in any portion of the property subject thereto.

5.6 Assignment of Powers. Any and all rights and powers of the Declarant herein contained may be delegated, transferred, or assigned, wherever the term "Declarant" is used herein, it includes assigns or successors in interest of the Declarant.

5.7 Declarant's Use Rights. Notwithstanding anything to the contrary contained in this Declaration, it shall be expressly permissible for Declarant to construct and maintain upon the Property, at all times during the Development Period, such structures and facilities as in the sole opinion and discretion of the Declarant may be reasonably required, convenient, or incidental to the Development and marketing of the property. Declarant's rights under this section may be extended and continued beyond the Development Period upon written approval of the Board given from time to time.

5.8 Resubdivision Prohibited. No Lot or other portion of the Property shall be split, divided, or resubdivided by or for sale, resale, gift, or other transfer, except as may be necessary to resolve boundary disputes by Means of Correction.

5.9 Change of Conditions or Circumstances. No change of conditions or circumstances shall operate to extinguish, terminate, or modify any of the provisions of this Declaration or these By-Laws.

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

5.11 Power of Contract. The Board shall be entitled to contract with any firm, corporation, or other entity for the performance of the various obligations, duties, and discretionary services which the Association must or may perform pursuant to the terms of this Declaration, and the performance by any such entity shall be deemed performance by the Association hereunder.

5.12 Conflicts. This Declaration shall not be taken as permitting any action or thing prohibited by the applicable zoning laws, or other laws, rules, or regulations of any governmental authority, or by specific restrictions imposed by any deed or lease. In the event of any conflict, the most restrictive provisions of such laws, rules, regulations, deeds, leases, or this Declaration shall be taken to govern and control.

5.13 Headings and Titles. All headings and titles of articles, sections, and subsections are for convenience only, and shall not affect the meanings or interpretations of the contents thereof.

5.14 Creation of Successor to Association. If for any reason the Association shall cease to exist or shall have its corporate franchise terminated or suspended for any reason whatsoever without having first assigned its rights, powers, duties, and obligations to a successor non-profit corporation, the covenants, conditions, restrictions, easements, assessments, charges, and liens imposed hereunder shall nevertheless continue, and the Declarant or any Owner may petition a court of competent jurisdiction to have a trustee appointed for the purpose of organizing a non-profit membership corporation and assigning the rights, powers, duties, and obligations of the Association to said corporation, subject only to this provisions of the Declaration.