

12/20

Brad Myler Assoc.
1441 S. 550 E
Orem Ut 84097

4 (3)

**DECLARATION OF
COVENANTS, CONDITIONS, & RESTRICTIONS
OF
SUNSET COURT
A PLANNED UNIT DEVELOPMENT**

98493:2002 Pg 1 of 2
RANDALL A. COVINGTON
UTAH COUNTY RECORDER
2002 Aug 27 9:10 am FEE 72.00 BY SS
RECORDED FOR BRAD MYLER ASSOCIATES

This Declaration is made by Sunset Group LLC, a Utah limited liability company, hereinafter referred to as "Declarant", this 8th day of ~~July~~ *August* 200~~0~~.2

We, the undersigned owners of that certain real property situated in the City of Provo, County of Utah, State of Utah, more particularly described on Exhibit "A" attached hereto, do hereby make the following declarations as limitations, restrictions and uses to which the buildings, units and common area land constituting the said addition may be put, hereby specifying that the said declaration shall constitute covenants to run with all of the land as provided by law and shall be binding upon all of the parties and all persons claiming under them, and for the benefit of and limitations upon all future owners in the said addition, this declaration of restrictions being designated for the purpose of keeping the said development desirable, uniform and suitable in architectural and landscape design and use as herein specified.

RECITALS

WHEREAS, Declarant is the sole owner of the following described real property located in Provo, County of Utah, State of Utah:

See Exhibit "A" attached hereto and made a part hereof: and

WHEREAS, Declarant desires to preserve the value of the property which is the subject of this Declaration: and

WHEREAS, the real property subject to this Declaration is undeveloped residential property which is being converted to a planned unit development to be known as Sunset Court Planned Unit Development, the Record of Survey Map thereof having been accepted by Provo City and the same to be recorded in the office of the County Recorder of Utah County concurrently therewith.

NOW THEREFORE, Declarant hereby declares that all the Units shown on the Record of Survey Map of Sunset Court Planned Unit Development shall be held, sold and conveyed subject to the following covenants, conditions and restrictions which are for the purpose of protecting the value and desirability of and which shall run with the real property described above and shall be binding on all parties having any right, title or interest in the described properties of any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE 1

DEFINITIONS

When used in this Declaration each of the following terms shall have the meaning indicated:

Architecture and Landscape Committee shall mean the owners who have been appointed by the Board of Trustees of the Association to oversee the continuing quality, beauty and desirability of all common area landscaping and open space.

Articles shall mean and refer to the Articles of Incorporation of the Association, which are or shall be filed in the Office of the Division of Corporations and Commercial Code, State of Utah, as they may be amended from time to time.

Assessment shall mean the amount, which is to be levied and assessed against each Unit and paid by each Owner to the Association for Association expenses.

Association shall mean SUNSET COURT HOMEOWNERS ASSOCIATION, a Utah nonprofit corporation, and its successors and assigns.

Board shall mean the Board of Trustees of the Association.

Bylaws shall mean the provisions set forth by which the Board of Trustees of the Association shall govern and operate its affairs and as embodied in this Declaration.

Common Areas shall mean all portions of the Development except the Units, and shall include all property owned by the Association for the common use and enjoyment of the Owners such as all recreation and picnic areas, R V parking, landscaping, special amenities, structural common areas, and the like, together with all easements appurtenant thereto, as reflected on the Plat.

Declaration shall mean this: "Covenants, Conditions and Restrictions of Sunset Court Planned Unit Development", as the same may be supplemented or amended from time to time.

Development shall mean the Planned Unit Development known as **Sunset Court** as it exists at any given time.

Limited Common Area shall mean any Common Areas designated for exclusive use by the Owner of a particular Unit. Limited Common Areas may not be identified on the Plat.

Managing Agent shall mean any person or entity appointed or employed as Managing Agent by the Association.

Mortgage shall mean any recorded first mortgage or first deed of trust encumbering a Unit; and **Mortgagee** shall mean any mortgagee or beneficiary under a mortgage.

Original Declaration shall mean the collective Declaration of Covenants, Condition and Restrictions or any so called Supplements thereto recorded in the office of the Utah County Recorder which purport to apply to the Property as described in any Plat.

Owner shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Unit which is a part of the Properties, and installment contract purchasers of any such Unit or Units, but excluding those having such fee interest merely as security for the performance of an obligation.

Plat shall mean and refer collectively to the subdivision plats covering the Property as set forth and described in Exhibit "A" to this Declaration.

Property shall mean and refer to all of the tracts of real property set forth and described in the Plat.

Reimbursement Assessment shall mean a charge against a particular Owner or his Unit for the purpose of reimbursing the Association for costs incurred in bringing the Owner or his Unit into compliance with the provisions of the Declaration, the Articles, Bylaws or rules and regulations of the Association, or any other charge designated as Reimbursement Assessment in this Declaration, together with costs, interest, attorney's fees and other charges payable by such Owner pursuant to the provisions of this Declaration.

Unit shall mean a structure which is designed, constructed and intended for use or occupancy as a single family residence, together with all improvements located in the same Unit and used in conjunction with such residence, including anything located within or without said Unit, but designated and designed to serve only that Unit, such as patios, decks, appliances, electrical receptacles and outlets, air conditioning compressors and other air conditioning apparatus, but specifically excluding roofs and exterior surfaces of Units and/or the buildings in which Units exist, and patio fences, all of which roofs, surfaces and fences shall be treated as Limited Common Areas designated for the exclusive use of the particular Units to which such surfaces appertain, even though not designated as Limited Common Areas on the Plat.

ARTICLE II

PROPERTY DESCRIPTION AND ANNEXATION

2.01 **Submission.** The Property, which initially is and shall be held, transferred, sold, conveyed, and occupied subject to the provisions of the Declaration consists of the real property in the City of Provo, Utah County, State of Utah as described in Exhibit "A" hereto:

TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the above-described real property, whether or not the same are reflected on the Plat.

ALL OF THE FOREGOING IS SUBJECT TO all liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all instruments of record which affect the above-described real property or any portion thereof, including, without limitation, and Mortgage (and nothing in this paragraph shall be deemed to modify or amend such Mortgage); all visible easements and rights-of-way; all easements and rights-of-way, encroachments, or discrepancies shown on or revealed by the Plat or otherwise existing; an easement for each and every pipe, line, cable, wire, utility line, or similar facility which traverses or partially occupies the said real property at such time as construction of all Development improvements is complete; and all easements necessary for ingress to, egress from, maintenance of, and replacement of all such pipes, lines, cable, wire, utility lines, and similar facilities; **AND TO EACH OF THE COVENANTS, CONDITIONS AND RESTRICTIONS CONTAINED IN THIS DECLARATION.**

2.02 **Division into Units.** The Development is divided into 26 Units, as set forth and described on the Plat, with appurtenant and equal rights and easements of use and enjoyment in and to the Common Area, as well as appurtenant obligations pertaining to assessments, maintenance, etc., all as set forth in this Declaration.

ARTICLE III

DUTIES AND OBLIGATIONS OF OWNERS

3.01 **Maintenance and Repairs.** Each Owner, shall at his own cost, maintain his Unit and any improvements constructed therein in good repair at all times, except for Unit exteriors and roofs, which shall be maintained and repaired by the Association as provided in this Declaration. In the event of the damage or destruction of any Unit, the Owner of the Unit shall either rebuild the same within a reasonable time or shall raze the remains thereof so as to prevent the unsightly appearance and dangerous condition of a partially destroyed building in the Development. The painting or repainting, remodeling, rebuilding or modification of any Unit's exterior or parts thereof must be submitted to and approved by the Architectural and Landscape Committee pursuant to its procedures.

3.02 **Insurance.** Notwithstanding any insurance coverage required to be provided herein by the Association:

- (a) Each Owner shall pay to or reimburse the Association for his proportionate share of such insurance coverage pertaining to his Unit on a Pro-rata or other equitable basis as determined by the Board in consultation with the applicable insurance carrier or agent of such carrier; and
- (b) Each Owner shall procure and maintain in force hazard insurance on personal contents and liability coverage as is customary in projects such as the Development and which is consistent with each Owner's individual circumstances.

3.03 **Assessments and Rules Observance.** Each Owner shall be responsible for the prompt payment of any assessments and insurance costs allocated pursuant to Section 3.02 (a) and other charges as provided for in this Declaration and for the observance of the rules and regulations promulgated by the Association from time to time.

3.04 **Transfer of Interests.** Except for obligations already accrued, an Owner who, for other than purposes of security, transfers all of his interests in his Unit to another, either voluntarily or by operation of law, shall be relieved of all obligations under this Declaration, following such transfer.

ARTICLE IV PROPERTY RIGHTS AND CONVEYANCES

4.01 **Easement Concerning Common Areas.** Each Unit shall have appurtenant thereto a nonexclusive right and easement of use and enjoyment in and to the Common Areas for their intended purposes. Such right and easement shall be appurtenant to and shall pass with title to each Unit and shall in no event be separated therefrom.

4.02 **Form of Conveyancing; Leases.** Any deed, lease mortgage, deed of trust, purchase contract or other instrument conveying or encumbering title to a Unit shall describe the interest or estate involved substantially as follows:

Unit No. _____ as identified in the Plat recorded in the office of the Utah County Recorder as Entry No. _____, and Map Filing No. _____ contained within Plat _____ of Sunset Court Planned Unit Development, SUBJECT TO the Covenants, Conditions and Restrictions of Sunset Court Planned Unit Development recorded in the office of the Utah County Recorder in Book _____, at Page _____, as Entry No. _____, TOGETHER WITH a right and easement of use and enjoyment in and to the Common Areas described, and as provided for, in said Declaration of Covenants, Conditions and Restrictions as said Declarations may have been amended or supplemented.

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

4.03 **Title to Common Areas.** Title to the various Common Areas shall be in the name of the Association free and clear of all liens other than the lien of current general taxes and the lien of any nondelinquent assessments, charges, or taxes imposed by government or quasi-governmental authorities.

4.04 **Limitations on Easement.** Each Unit's appurtenant right and easement of use and enjoyment concerning the Common areas shall be subject to the following:

- (a) The right of the Association to govern by reasonable rules and regulations the use of the Common Areas so as to provide for the enjoyment of the Common Areas in a manner consistent with the collective rights of all of the Owners;
- (b) The right of the City of Provo, Utah, and any other governmental or quasi-governmental body having jurisdiction over the Property to enjoy access and rights of ingress and egress over and across any street or driveway, parking area, walkway or open area contained within the Common Areas for the purpose of providing police and fire protection and providing any other governmental or municipal service; and
- (c) The right of the Association to dedicate or transfer any part of the Common Areas to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association; provided that such dedication or transfer must first be assented to in writing by (i) the holder of each and every Mortgage that encumbers any Unit and (ii) the Owners of Units to which at least sixty percent (60%) of the total votes in the Association appertain.

4.05 **Public Utilities.** All utilities, including roads, sidewalks, waterlines, sewer lines, storm drain inlet boxes, electrical service and garbage removal, will be provided by Provo City as part of their city wide service program. Provo City will be responsible to maintain and service these utilities. Each individual Owner will be responsible to arrange for these services to be provided to their Unit. The cost of these services will be the responsibility of each Owner.

4.06 **Utility Easements.** Each Unit is subject to appurtenant easements for underground lines for utility purposes under and through such portions of the Common Areas as are comprised of roads, walkways and landscaped areas. If any Owner utilizes such easement rights with respect to his Unit, he shall be responsible for the restoration to its former state of any portion of the Common Areas, which may have been disturbed or damaged as a result.

4.07 **Fences.** In as much as all areas surrounding all buildings is deemed Common Area, no Owner will be allowed to erect a fence or any other type of enclosure on any portion of said Common Area. Fences will be required to enclose the Recreational

Vehicle Parking Area and certain other section of the Property boundaries. The maintenance and repair of all required fences will be the responsibility of the Association.

4.08 **Special Easements.** Sunset Court Planned Unit Development has entered into certain easement agreements with the Westbridge Planned Unit Development pertaining to the use of 1820 Street, a private street; and also the use of certain asphalt road surfaces to convey storm water in the event of a one hundred year storm. The responsibilities of each party relating to these agreements is outlined in Exhibit "B".

ARTICLE V

USE RESTRICTIONS

5.01 **Use of Common Area.** The Common Areas shall be used only in a manner consistent with their community nature and with the use restrictions applicable to Units set forth herein.

5.02 **Residential Use.** The Property is zoned and is restricted to single family residential use pursuant to applicable provisions of Provo City Ordinances. Each Unit and Owner are subject to the uses and restrictions imposed by such zoning, including parking requirements, and no Unit shall be used, occupied, or altered in violation of such ordinances or so as create a nuisance or to interfere with the rights of any other Owner.

5.03 **Prohibited Uses and Nuisances.** The following uses and practices are specifically prohibited, in addition to any addition to any additional prohibitions, which may, from time to time, be adopted by the Board pursuant to this Declaration.

- (a) No Unit or any part thereof shall be used or occupied by any Persons not coming within the definition of "Family" as such term is defined and intended in the Provo City Ordinances as of the date hereof.
- (b) Notwithstanding, Sunset Planned Unit Development is intended to be an owner occupied community, if a lease of any Unit is required it shall not be for less than the whole thereof.
- (c) No animals, livestock, or poultry of any kind shall be permitted within any Unit except such domesticated household pets or birds as are allowed pursuant to the rules and regulations, including leash laws, adopted by the Board pursuant to Section --- of this Declaration.
- (d) No parking of Recreational Vehicles ^{or vehicles of any kind, including trailers} of any kind on the streets or Common Area within the Development shall be permitted except as set forth in rules and regulations adopted by the Board pursuant to Section --- of this Declaration.
- (e) No outside television or radio aerial antenna, or similar device for reception or transmission shall be permitted on the exterior of any Unit except pursuant to written approval of the Architectural and Landscape

Committee pursuant to rules and regulations adopted by it and/or as set forth in this Declaration.

- (f) No obnoxious or offensive activity shall be carried on upon any part of the Common Area or within any Unit, which may become an annoyance or nuisance to the neighborhood.
- (g) No signs, billboards nor advertising structures may be erected or displayed on any part of the Common Area, on any building or Unit. For sale signs, not more than 2x3 feet in size, may be placed directly in front of the Unit being advertised for sale.
- (h) No second kitchens allowed
- (i) Developer or his assigns may develop an assisted care center, at a future date, with 15-100 inhabitants, at his discretion.

ARTICLE VI

ARCHITECTURAL AND LANDSCAPE CONTROL

6.01 **Architectural and Landscape Control Committee.** The Board shall appoint a three-member Architectural and Landscape Control Committee (the "Committee"), the function of which shall be to ensure that all improvements and landscaping within the Development harmonize with existing surroundings and structures. The original members of the Committee shall be Brad Myler, Lisa Myler, Becca Myler. In the event of the death or resignation of any member, the surviving members of the Committee shall have full authority to appoint another person to fill the said vacancy. Except for the initial members of the Committee, all members of the Committee must be residents of the Development at the time of their appointment. Sale or transfer of all ownership interest in the Development shall constitute resignation from the Committee.

6.02 **Submission to Committee.** No Unit, accessory or addition to a Unit which is visible from the Common Areas shall be constructed or maintained, and no alteration, repainting, or refurbishing of the exterior of any Unit shall be performed, unless complete plans and specifications therefore have first been submitted to and approved by the Committee.

6.03 **Standard.** The Committee shall use its best judgment to insure that all improvements, construction, landscaping and alterations within the Development conform to and harmonize with existing surroundings and structures. If any building or Unit is damaged or destroyed for any reason, the building and or Unit will be reconstructed in substantially the same configuration, location and architectural style as the original structure.

6.04 **Construction.** The construction or installation of any improvements approved by the Committee shall be completed within a reasonable period of time and shall be diligently pursued to completion. If necessary to enable such improvements, construction, or landscaping to be completed with dispatch, the person or persons carrying out said improvements may use and occupy approved portions of the Common Area provided that they shall promptly restore such areas to their prior condition when the use thereof is no longer required.

6.05 **Liability for Damages.** Neither the Committee nor any member thereof shall be held liable for damages by reason of any action, inaction, approval, or disapproval taken or given without malice by such member or the Committee with respect to any request made pursuant to this Article VI.

ARTICLE XII

INSURANCE

7.01 **Hazard Insurance.** The Board shall procure and maintain from a company or companies holding a financial rating of Class VI or better from Best's Key Rating Guide, a policy of hazard insurance in an amount or amounts equal to or exceeding the full replacement value (exclusive of the value of land, foundations, excavation and other items normally excluded from coverage) of the Common Areas owned by the Association and of all the Units (and/or buildings in which such Units exist, including all building service equipment, if any, and the like) and all roofs, surfaces and structures comprising Units (regardless of any definition thereof in Article 10), but not the contents thereof, with an Agreed Amount Endorsement or its equivalent, if available, or an Inflation Guard Endorsement and such other endorsements as the Board may deem to be reasonable. The cost of such coverage shall be assessed to each Owner as provided in Section 3.02 (a) of this Declaration. Such insurance policy or policies shall name the Association as insured for the benefit of the Owners and shall afford protection, to the extent applicable, against at least the following:

(a) loss or damage by fire and other hazards covered by the standard extended coverage endorsement, and by vandalism, malicious mischief, windstorm, and water damage; and

(b) such other risks as shall customarily be covered with respect to facilities similar in construction, location and use.

7.02 **Liability Insurance.** The Board shall procure and maintain from a company or companies holding a financial rating of Class VI or better from Best's Key Rating Guide a policy or policies (herein called the "Policy") of Public Liability Insurance to insure the Association, the Board, any contract managers and employees of the Association and the Owners against claims for bodily injury and property damage arising out of the conditions of the Common Areas or activities thereon under a Comprehensive General Liability form. Such insurance shall be for such limits as the Board may decide, but not less than those limits customarily carried in connection with properties of comparable character and usage in the County of Utah nor less than \$1,000,000 for personal injury and property damage arising out of a single occurrence, such coverage to include protection against water damage liability, liability for non-owned and hired automobile, liability for the property of others and such other risks as shall customarily be covered with respect to property similar in construction, location and use. The policy shall contain a "Severability of Interest" endorsement, which shall preclude the insurer from denying the claim of any Owner because of negligent acts of

the Association or other Owners and a cross-liability endorsement pursuant to which the rights of the named insureds as between themselves are not prejudiced. The policy shall provide that the policy may not be canceled or substantially modified by the insurer unless it gives at least thirty (30) days' prior written notice thereof to each insured. Any such coverage procured by the Board shall be without prejudice to the right of the Owners to insure their personal liability for their own benefit at their own expense.

7.03 Additional Insurance; Further General Requirements. The Board may also procure insurance which shall insure the Common Areas and the Association or the Owners and others against such additional risks as the Board may deem advisable. Insurance procured and maintained by the Board shall not require contribution from insurance held by any of the Owners or their Mortgagees. Each policy of insurance obtained by the Board shall, if reasonably possible, provide:

- (a) a waiver of the insurer's right of subrogation against the Association, the Owners and their respective directors, officers, agents, employees, invitees and tenants;
- (b) that it cannot be canceled, suspended or invalidated due to the conduct of any particular Owner or Owners;
- (c) that it cannot be canceled, suspended or invalidated due to the conduct of the Association without a prior written demand that the defect be cured; and
- (d) that any "no other insurance" clause therein shall not apply with respect to insurance maintained individually by any of the Owners.

7.04 Fidelity Coverage. The Association may elect to maintain fidelity coverage to protect against dishonest acts on the part of officers, trustees, managing agents, directors and employees of the Association and all others (including volunteers) who handle, or are responsible for handling, funds of the Association. In that event, such fidelity bonds shall:

- (a) name the Association as an obligee;
- (b) be written in an amount based upon the best business judgment of the Association and shall not be less than the estimated maximum of funds (including reserve funds) in the custody of the Association at any given time during the term of each bond, but in no event be less than a sum equal to three months' assessment on all Units plus reserve funds;
- (c) contain waivers of any defense based upon the exclusion of volunteers or persons who serve without compensation from any definition of "employee" or similar expression; and
- (d) provide that they may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days' prior written notice to the insured.

7.05 **Review of Insurance.** The Board shall periodically, and whenever requested by Owners entitled to exercise at least twenty percent (20%) of the outstanding votes in the Association, review the adequacy of the Association's insurance program and shall report in writing the conclusions and action taken on such review to the Owner of each Unit and to the holder of any Mortgage on any Unit who shall have requested a copy of such report. Copies of every policy of insurance procured by the Board shall be available for inspection by any Owner and any Mortgagee.

7.06 **Unit Owners Contents Policies.** Each Unit Owner shall be responsible to purchase and maintain in force a condominium/townhome unit Owner contents policy (State Farm H06 or equivalent) (the contents policy"). All claims for damage to an individual Unit must first be submitted by the Owner of his contents policy. The Committee will not be required to file claims on its master policy for any damage that would have been covered under an Owner's contents policy.

7.07 **Other Insurance Provisions.** All insurance required pursuant to this Article VII shall be written by insurers licensed in the State of Utah. Notwithstanding anything in this Article VII to the contrary, any insurance required to be obtained by the Association pursuant to Sections 7.03 or 7.04 of this Article shall be required only to the extent that such coverage is reasonably obtainable at reasonable rates and is customarily obtained with respect to improvements or facilities having the same or similar characteristics of the Common Areas and Units or risks being insured.

ARTICLE VIII

RIGHTS OF MORTGAGEES

8.01 **Title and Mortgage Protection.** A breach of any of the covenants, provisions, or requirements of this Declaration shall not result in any forfeiture or reversion of title or of any other interest in a Unit or any other portion of the Property. A breach of any of the covenants, provisions, or requirements of this Declaration shall not defeat, impair, or render invalid the lien of or other rights under any Mortgage. Unless and until it enters into possession or acquires title pursuant to foreclosure or any arrangement or proceeding in lieu thereof, any Mortgagee interested under any Mortgage affecting a Unit or any other portion of the Property shall have no obligation to take any action to comply with, and may not be compelled to take any action to comply with, any of the covenants, provisions, or requirements of this Declaration (other than those, if any, concerning a consent or approval to be given by a Mortgagee, in the event a Mortgagee's failure to give same is wrongful). No amendment to this Declaration shall in any way affect the rights of any Mortgagee interested under a Mortgage which is in effect at the time of the amendment concerned or the rights of any successor in interest or title to such Mortgagee, either before or after such Mortgagee or its successor enters into possession or acquires title pursuant to foreclosure or any arrangement or proceeding in lieu thereof, unless such Mortgagee has consented in writing to such amendment.

8.02 **Preservation of Common Area.** The Common Areas shall remain substantially of the same character, type and configuration as when such Common Areas became part of the Development or as they have been modified and exist currently upon the recordation of this Declaration. Unless the Association shall receive the prior written approval of (a) all first Mortgagees of Lots and (b) the Owners of all Units, the Association shall not be entitled by act or omission to abandon, partition, subdivide, encumber, sell, transfer or materially modify the Common Areas, except to grant reasonable easements for utilities and similar or related purposes.

8.03 **Notice of Matters Affecting Security.** The Association shall give written notice to any Mortgagee of a Unit requesting such notice whenever:

- (a) there is any material default by the Owner of the Unit subject to the Mortgage in performance of any obligation under this Declaration or the Articles of the Association which is not cured within sixty (60) days after default occurs; or
- (b) damage to the Common Areas from any one occurrence exceeds \$10,000.00; or
- (c) there is any condemnation or taking by eminent domain of any material portion of the Common Areas.

8.04 **Notice of Meetings.** The Board shall give to any Mortgagee of a Lot requesting the same, notice of all meetings of the Association; and such Mortgagee shall have the right to designate in writing a representative to attend all such meetings.

8.05 **Right to Examine Association Records.** Any Mortgagee shall, upon request, have the same right to inspect the books and records of the Association and receive financial statements as the Owner of the Lot securing the Mortgage.

8.06 **Right to Pay Taxes and Charges.** Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any portion of the Common Areas and may pay overdue premiums on insurance policies pertaining to the Common Areas, or secure new insurance coverage pertaining to the Common Areas on the lapse of a policy; and Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

8.07 **No Priority Accorded.** No provision of this Declaration gives or may give a Unit Owner or any other party priority over any rights of Mortgagees pursuant to their respective Mortgages in the case of a distribution to Unit Owners of insurance proceeds or condemnation awards for loss to or taking of Units and/or the Common Areas.

8.08 **Construction.** In the event another provision or clause of this Declaration deals with the same subject matter as is dealt with in any provision or clause of this Article VIII, the provision or clause which results in the greatest protection and security for a

Mortgagee shall control the rights, obligations, or limits of authority, as the case may be, applicable to the Association with respect to the subject concerned.

ARTICLE IX

PARTY WALLS

9.01 **General Rules of Law to Apply.** Each wall to be built as a part of the original construction of the Units and placed substantially on a dividing line between Units shall constitute a party wall and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for damage due-to negligence or willful acts or omissions shall apply thereto.

9.02 **Sharing of Repair and Maintenance.** The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

9.03 **Destruction by Fire or Other Casualty.** If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the Owner of another Unit thereafter makes use of the wall, such other Owner shall contribute to the cost of restoration thereof in proportion to such use; the foregoing provision shall not prejudice, however, the right of any Owner to call for a larger contribution from another Owner under any rule of law regarding liability for negligent or willful acts or omissions.

9.04 **Weatherproofing.** Notwithstanding any other provision of this Article IX, an Owner who by his negligent or willful act causes a party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

19.05 **Right to Contribution Runs with Land.** The right of any Owner to contribution from any other Owner under this Article IX shall be appurtenant to the land and shall pass to such Owner's successors in title.

ASSOCIATION BYLAWS

THE ASSOCIATION'S BYLAWS ARE HEREBY EMBODIED IN THIS DECLARATION AS ARTICLES X, XI AND XII. THE MISCELLANEOUS PROVISIONS OF ARTICLE XIII OF THIS DECLARATION SHALL BE APPLICABLE TO BOTH THE DECLARATION AND BYLAWS PROVISIONS, AS THE CASE MAY BE.

ARTICLE X

BYLAWS

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

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

10.02 **Voting Rights.** There shall be one vote for each Unit in the Development, a total of 26 votes; provided that those who own Lots are in good standing in the Association and are current in all their obligations, including the payment of all assessments or other charges as set forth in this Declaration.

10.03 **Multiple Ownership Interests.** In the event there is more than one Owner of a particular Unit, the vote relating to such Unit shall be exercised as such Owners may determine between or among themselves, but in no event shall more than the total number of votes appurtenant to such Unit be cast with respect to any issue. A vote cast at any Association meeting or by written consent by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the entire vote attributable to the Unit concerned unless an objection is made at the meeting or in writing by another Owner of the same Unit, in which event no vote will be counted with respect to such Unit except to determine the presence or absence of a quorum.

10.04 **Records of Ownership.** Every Owner shall promptly cause to be duly filed of record the conveyance document (or in the case of contract buyer, a copy of the sales contract or notice of interest) to him of his Unit and shall file a copy of such conveyance document with the Secretary of the Association, who shall maintain a record of ownership of the Units. Any Owner who mortgages his Unit or any interest therein shall notify the Secretary of the Association of the name and address of the Mortgagee and also of the release of such Mortgage; and the Secretary of the Association shall maintain all such information in the records of ownership. The Association may at any time obtain and rely on information from the Utah County Recorder regarding the Owners and Mortgagees of Units.

10.05 Place of Meeting. Meetings of the Association shall be held at such suitable place convenient to the Owners as may be designated by the Secretary of the Association in the notice thereof.

10.06 Annual Meetings. Annual meetings of the membership of the Association shall be held in the month of February of each year beginning in the year 2001 on such day and time as is set forth in the notice therefor; provided, that after the first such annual meeting, a month other than August may be chosen if it is deemed by the membership to be more convenient. At such meetings there shall be elected trustees of the Board, as needed, pursuant to the provisions of the Declaration. Financial and budget reports shall also be presented at such meetings as well as other business of the Association properly placed before each meeting.

10.07 Special Meetings. The President shall call a special meeting of the Owners as directed by a resolution of the Board or on a petition signed by Owners holding at least thirty percent (30%) of the total votes of the Association and having been presented to the Secretary. No business shall be transacted at a special meeting except as stated in the notice therefor unless consented to by fifty percent (50%) or more of the Owners present, either in person or by proxy.

10.08 Notice of Meetings. The Secretary shall mail a notice of each annual or special meeting stating the purpose thereof as well as the time and place of the meeting to each Owner of record at least 10, but not more than 20, days prior to such meeting. The mailing of notice by prepaid U.S. Mail or by delivery in person shall be considered notice served.

10.09 Quorum. Owners present in person or by proxy at any membership meeting duly called pursuant to notice shall constitute a quorum at all meetings, both annual and special; provided, however, that such Owners collectively be entitled to cast at least forty percent (40%) of the total Association votes eligible to vote.

10.10 Adjourned Meetings. If any meeting of Owners cannot be organized because a quorum is not present, the Owners who are present either in person or by proxy may adjourn the meeting to a time not less than 48 hours from the time the original meeting was called at which time the requirements for a quorum shall be reduced by one-half that required in Section 11.09.

10.11 Officers. The Association shall have a President, a Vice President and a Secretary/Treasurer all of whom shall be elected by and from the Board. The Board may appoint an Assistant Secretary and Assistant Treasurer. Only the offices of Secretary and Treasurer may be filled by the same person. The officers shall be elected by the Board in an organizational meeting of the Committee immediately following each annual meeting of Owners at which the new Board has been elected.

(a) **President.** The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board. The

President shall have all of the general powers and duties that are usually vested in the office of President of a similar type association.

(b) **Vice President.** The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor Vice President is able to act, the Board shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed on him by the Board.

(c) **Secretary.** The Secretary shall keep the minutes of all meetings of the Board and the minutes of all meetings of the Association. He shall have charge of such books and records as the Board may direct and he shall, in general, perform all duties incident to the office of secretary of a similar type association.

(d) **Treasurer.** The Treasurer shall have responsibility for Association funds and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all money and any other valuable effects in, the name and to the credit of the Association in such depositories as may from time to time be designated by the Board.

10.12 Board of Trustees: Composition, Election, Vacancies. The Association, through its Board of Trustees, is responsible for the maintenance of Common Areas, the determination, imposition and collection of Assessments, the enforcement of the provisions of this Declaration and, in general, the preservation of the residential quality and character of the Development to the benefit and general welfare of the Owners. The Board shall be composed of nine Trustees, each of whom shall be an Owner (or an officer, director, or agent of a non-individual Owner). As Trustees' terms expire, new Trustees shall be elected for three-year terms and shall serve on the Board until their successors are elected. Vacancies on the Board shall be filled by the remaining Trustees from among the Owners and such appointees shall serve until the next annual meeting of Owners when their successors shall be elected for the unexpired term of the Trustee they were appointed to replace. Developer and his assigns shall constitute the Board of Trustees for the first 3-year term.

10.13 Indemnification of Board. Each of the Trustees shall be indemnified and held harmless by the Lot Owners against all costs, expenses, and liabilities whatsoever (excluding fraudulent and/or criminal actions) including, without limitation, attorneys fees reasonably incurred in connection with any proceeding in which such Trustee may become involved by reason of being or having been a member of said Board.

10.14 Board Meetings, Quorum, Board Action. The Board of Trustees may establish its rules for meetings, whether regular or special. A majority of current Board members shall constitute a quorum. The action of a majority or those Trustees attending a meeting at which a quorum is present shall be sufficient to constitute the action of the Board. Action by consent shall require the unanimous consent of all current Trustees.

ARTICLE XI**BYLAWS****DUTIES AND POWERS OF THE ASSOCIATION**

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

- (a) The Association shall accept all Owners as members of the Association.
- (b) The Association shall accept title to all Common Areas conveyed to it, whether by Declarant or by others, provided the same is free and clear of liens and encumbrances.
- (c) The Association shall maintain, repair, replace and landscape the Common Areas.
- (d) In connection with its duties to maintain and repair Common Areas, the Association will provide maintenance and repair upon the exterior surfaces and roofs of the Units (and/or the buildings in which such Units exist), including, but not limited to, painting, replacing, and caring for roofs, gutters, downspouts, exterior surfaces, window casings and trim and other exterior improvements except glass surfaces.
- (e) To the extent not assessed to or paid by the Owners directly, the Association shall pay all real property taxes and assessments levied upon any portion of the Common Areas, provided that the Association shall have the right to contest or compromise any such taxes or assessments.
- (f) The Association shall obtain and maintain in force the policies of insurance required of it by the provisions of the Declaration.
- (g) The Association may employ a responsible corporation, partnership, firm, person or other entity as the Maintenance Contractor to maintain the Common Areas, subject at all times to direction by the Board, with such responsibilities, functions and compensation as shall be outlined in a maintenance contract prepared by the Board. Any agreement appointing a Maintenance Contractor shall be terminable by either party, with or without cause and without payment of any termination fee, upon 30 days' written notice thereof.

11.02 Powers and Authority of the Association. The Association shall have all the powers set forth in its Articles of Incorporation and Bylaws, together with its general powers as a nonprofit corporation, and the power to do any and all things which may be authorized,

required or permitted to be done by the Association under and by virtue of the Declaration or the Bylaws, including the power to levy and collect assessments as hereinafter provided. Without in any way limiting the generality of the foregoing, the Association shall have the following powers:

(a) At any time and from time to time and without liability to any Owner for trespass, damage or otherwise, to enter upon the exterior of any Building for the purpose of maintaining and repairing such Building or any improvement thereon. The Association shall also have the power and authority from time to time in its own name, on its own behalf, or in the name and behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of the Declaration, the Bylaws or any rules and regulations promulgated by the Board, or to enforce by mandatory injunction or otherwise all of the provisions of the Declaration, the Bylaws and such rules and regulations.

(b) In fulfilling any of its duties under the Declaration, including its duties for the maintenance, repair, operation or administration of the Common Areas and buildings or in exercising any of its rights to construct improvements or other work upon any of the Common Areas, the Association shall have the power and authority to obtain, contract and pay for, or otherwise provide for:

(i) Construction, maintenance, repair and landscaping of the Common Areas on such terms and conditions as the Board shall deem appropriate;

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

(iii) Such Common Area related utility services as the Board may from time to time deem necessary or desirable;

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

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

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

11.03 Association Rules. The Board from time to time, subject to and not inconsistent with the provisions of the Declaration or the Bylaws, may adopt, amend, repeal and enforce reasonable rules and regulations governing, among other things: (a) the use of the Common Areas; (b) the use of the RV parking area or utility facilities owned by the Association; (c) the

collection and disposal of refuse in the Common Area; (d) uses and nuisances pertaining to the Property; and (e) all other matters concerning the use and enjoyment of the Property and the conduct of Owners and their invitees within the Development.

11.04 **Limitation of Liability.** No member of the Board acting in good faith shall be personally liable to any Owner, guest, lessee or any other person for any error or omission of the Association, its representatives and employees, the Board, any committee of the Board, or any contract agent of the Board .

ARTICLE XII

BYLAWS

ASSESSMENTS

12.01 **Personal Obligation and Lien.** Each Owner shall, by acquiring or in any way becoming vested with his interest in a Unit, be deemed to covenant and agree to pay to the Association the annual, special assessments and Reimbursement Assessments described in this Article, together with late payment fees, interest and costs of collection, if and when applicable. All such amounts shall be, constitute, and remain: (a) a charge and continuing lien upon the Unit with respect to which such assessment is made until fully paid; and (b) the personal, joint and several obligation of the Owner or Owners of such Unit at the time the assessment falls due. No Owner may exempt himself or his Unit from liability for payment of assessments by waiver of his rights in the Common Areas or by abandonment of his Unit. In a voluntary conveyance of a Unit, the grantee shall be jointly and severally liable with the grantor for all such unpaid assessments, late payment fees, interest and costs of collection, including reasonable attorney's fees, which shall be a charge on the Unit at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor.

12.02 **Purpose of Assessments.** Assessments levied by the Association shall be used exclusively for the purpose of promoting the Development, the interests of the Owners therein, paying costs properly incurred by the Association, and the maintenance, operation and carrying of the Common Areas. The use made by the Association of funds obtained from assessments may include, but shall not be limited to, payment of the cost of taxes and insurance on the Common Areas; insurance on Units under any approved blanket coverage pending reimbursement by Owners; maintenance, repair, and improvement of the Common Areas; payment of basic coverage cable TV pursuant to an approved plan providing coverage availability to each Unit in the Development; establishment and funding of a reserve to cover major repair or replacement of improvements within the Common Areas; and any expense necessary or desirable to enable the Association to perform or fulfill its obligations, functions or purposes under the Declaration or its Articles of Incorporation, Bylaws or rules and regulations.

12.03 Annual Assessments. Annual assessments shall be computed and assessed against all Units in the Development based upon advance estimates of the Association's cash requirements to provide for payment of the cost of those items set forth in Section 12.02, above. The initial maximum monthly assessment shall not exceed \$100.00.

12.04 Annual Budget. Annual assessments shall be determined on the basis of a fiscal year beginning January 1 and ending December 31 next following. On or before December 15 of each fiscal year the Association shall prepare and furnish to each Owner an operating budget for the upcoming fiscal year. The budget shall itemize the estimated cash requirements for such fiscal year, anticipated receipts, reserves, and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the annual assessments for the upcoming fiscal year and as the major guideline under which the Development shall be operated during such annual period.

12.05 Notice and Payment of Annual Assessments. The Association shall notify each Owner as to the amount of the annual assessment against his Unit on or before December 15 of the year preceding the year for which such annual assessment is made. Each annual assessment shall be payable in twelve (12) equal monthly installments, one such installment due on the first day of each calendar month during the fiscal year to which the assessment relates. The failure of the Association to give timely notice of any annual assessment as provided herein shall not be deemed a waiver or modification in any respect of the provisions of the Declaration, or a release of any Owner from the obligation to pay such assessment or any other assessment; but the date when the payment shall become due in such case shall be deferred to a date fifteen (15) days after notice of such assessment shall have been given to the Owner in the manner provided in the Declaration.

12.06 Initial Fees. In addition, each Owner shall be required to prepay at the time of purchase of his Unit, whether as a first time or subsequent Owner, a sum equal to three times the then monthly installment of the annual assessment, which sum shall be in addition to any proration of assessment which may be due for the month in which such purchase takes place. Such fees shall become part of the Association's general fund to be utilized as necessary.

12.07 Maximum Annual Assessment. The maximum annual assessment may be increased each calendar year by not more than twenty percent (20%) above the maximum annual assessment for the previous year without the vote of Owners entitled to cast a majority of the Association votes.

12.08 Special Assessments. The Association may levy special assessments for the purpose of defraying, in whole or in part: (a) any expense or expenses not reasonably capable of being fully paid with funds generated by annual assessments; or (b) the cost of any construction, reconstruction, or unexpectedly required addition to or replacement of the Common Areas. Any such special assessment shall be apportioned among and assessed to all Units in the same manner as annual assessments. Such special assessments must be assented to by a majority of the votes of the membership, which Owners present in person or represented by proxy are entitled to cast at a meeting duly called for such purpose. Written

notice setting forth the purpose of such meeting shall be sent to all Owners at least 10 but not more than 30 days prior to the meeting date.

12.09 Uniform Rate of Assessment. All monthly and special assessments authorized by Sections 12.03 and 12.08, respectively, shall be fixed at a uniform rate for all Units.

12.10 Quorum Requirements. The quorum at any Association meeting required for any action authorized by Section 12.08, above, shall be as follows: At the first meeting called, the presence of Owners of or proxies entitled to cast sixty percent (60%) of the total votes of the Association shall constitute a quorum. If a quorum is not present at the first meeting or any subsequent meeting, another meeting may be called (subject to the notice requirements set forth in Section 12.08, above) at which a quorum shall be one-half (1/2) of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting.

12.11 Reimbursement Assessment on Specific Unit. In addition to the annual assessment and any special assessment authorized pursuant to Section 12.08, above, the Board may levy at any time Reimbursement Assessments (a) on every Unit especially benefitted (i.e., benefitted to a substantially greater degree than any other Unit) by any improvement to adjacent planting areas or other portions of the Common Areas made on the written request of the Owner of the Unit to be charged; (b) on every Unit the Owner or occupant of which shall cause any damage to the Common Areas necessitating repairs; and (c) on every Unit as to which the Association shall incur any expense for maintenance or repair work performed, or enforcement action taken, pursuant to any of the provisions of the Declaration. The aggregate amount of any such Reimbursement Assessment shall be determined by the cost of such improvements, repairs, maintenance or enforcement action, including all overhead and administrative costs, and all attorney's fees and costs, and shall be allocated among the affected Units according to the magnitude of special benefit or cause of damage or maintenance or repair work or enforcement action, as the case may be, and such assessment may be made in advance of the performance of work. If a special benefit arises from any improvement, which is part of the general maintenance or operation obligations of the Association, it shall not give rise to a Reimbursement Assessment against the Units benefitted.

12.12 Certificate Regarding Payment. Upon the request of any Owner or prospective purchaser or encumbrancer of a Unit and upon the payment of a reasonable fee to the Association to cover administrative costs, the Association shall issue a certificate stating whether or not payments of all assessments respecting such Unit are current and, if not, the amount of the delinquency. Such certificate shall be conclusive in favor of all persons who rely thereon in good faith.

12.13 Effect of Nonpayment; Remedies. Any assessment (whether annual, special or Reimbursement Assessment) not received within 10 days of the date on which it becomes due shall be subject to a late charge as set forth in the Association's rules and regulations from time to time promulgated, which together with interest and costs of collection shall be, constitute, and remain a continuing lien on the affected Unit. If any assessment is not received within ten (10) days after the date on which it becomes due, the amount thereof shall also bear

interest from the due date at the rate of one and one-half percent (1 1/2%) per month; and the Association may bring an action against the Owner who is personally liable therefor or may foreclose its lien against the Unit, or both. Any judgment obtained by the Association in connection with the collection of delinquent assessments and related charges shall include reasonable attorney's fees, court costs and every other expense incurred by the Association in enforcing its rights.

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

12.15 No Abatement. No diminution or abatement of any assessments under the Declaration shall be claimed or allowed for inconvenience, annoyance or discomfort arising from (a) any construction (or lack of construction) within the Development; (b) the making of (or failure to make) any repairs or improvements to or the maintenance of any Common Areas of the Development, or any part thereof; or (c) from any action taken to comply with the provision of the Declaration or with the laws, ordinances, regulations, rules, or orders of any governmental authority.

ARTICLE XIII

MISCELLANEOUS

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

delivering or mailing the same to the Association or any member of the Architectural and Landscape Control Committee.

13.02 Amendment. This Declaration may be amended (as opposed to terminated) by an instrument recorded in Utah County, Utah, which is executed either by Owners who collectively hold at least sixty percent (60%) of the total outstanding votes in the Association or by the Association which shall certify that the required sixty percent (60%) vote was obtained in a member meeting or by consent and is so documented in the records of the Association.

13.03 Consent in Lieu of Vote. In any case in which this Declaration requires for authorization or approval of a transaction the assent or affirmative vote of a stated percentage or number of votes outstanding in the Association or of the Owners, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Owners entitled to cast at least the stated percentage or number of all membership votes then outstanding in the Association, unless a higher percentage or a greater number is required by law. The following additional provisions shall govern any application of this Section 13.03:

- (a) All necessary consents must be obtained prior to the expiration of ninety (90) days after the first consent is given by any Owner.
- (b) The total number of votes required for the applicable authorization or approval shall be determined as of the date on which the last consent is signed.
- (c) Any change in ownership of a Unit which occurs after a consent has been obtained from the Owner thereof shall not be considered or taken into account for any purpose.
- (d) Unless the consent of all Owners whose memberships are appurtenant to the same Unit are secured, the consent of none of such Owners shall be effective.

13.04 Interpretation. The captions which precede the Articles and Sections of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, and any gender shall include both other genders. The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof, which shall remain in full force and effect. The laws of the State of Utah shall govern the validity, construction and enforcement of this Declaration.

13.05 Condemnation. If at any time or times an insubstantial or minor part of the Common Areas or any part thereof shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages shall be payable to the Association and shall be used by the Association to the extent necessary for restoring or replacing any improvements on the remainder of the Common Areas. In the event of any other taking or

condemnation, the interests of the Association, the Owners and Mortgagees shall be as they may appear.

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

13.07 Enforcement of Restrictions. Any Owner, the Association or any Mortgagee shall have the right to exercise or seek any remedy at law or in equity to interpret, to enforce compliance with or to obtain redress for violation of this Declaration. The prevailing party in an action for the interpretation of, the enforcement of or to obtain redress for violation of any provisions of this Declaration shall be entitled to collect court costs and reasonable attorney's fees.

13.08 Duration. This Declaration shall remain in effect until such time as there is recorded in Utah County, Utah, an instrument of termination which is executed by all of the parties required by Section 13.02 hereof, plus the Mortgagee of each and every Unit.

13.09 Effective Date. This Declaration, any amendment or supplement hereto, shall take effect upon its being filed for record in the office of the County Recorder of Utah County, Utah.

13.10 Signature Pages and Counterparts. This Declaration shall be executed by Unit Owners upon multiple signature pages and in any number of counterparts, which, when taken together, shall constitute the equivalent of one set of signature pages.

EXECUTED on the day and year indicated on the following Signature Pages by Owners of Units who comprise at least seventy-five percent (75%) of the Owners of all Units within the Development as required pursuant to the Original Declaration.

EXHIBIT "A"

Plat "A" Property Description

PHASE 1:

A PARCEL OF LAND BEING IN THE SE 1/4 OF THE SW 1/4 OF SECTION 2, TOWNSHIP 7 SOUTH, RANGE 2 EAST, S.L.B.&M., UTAH COUNTY, UTAH, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION; THENCE S. 89°15'22" W. ALONG THE SECTION LINE, A DISTANCE OF 510.21 FEET; THENCE NORTH A DISTANCE OF 201.64 FEET TO THE REAL POINT OF BEGINNING; THENCE N. 01°00'00" E. A DISTANCE OF 267.70 FEET; THENCE S. 89°34'58" E. A DISTANCE OF 279.48 FEET; THENCE S. 40°28'51" E. A DISTANCE OF 337.08 FEET; THENCE N. 89°00'14" W. A DISTANCE OF 283.77 FEET; THENCE S. 00°59'46" W. A DISTANCE OF 17.99 FEET; THENCE N. 89°00'00" W. A DISTANCE OF 218.97 FEET TO THE REAL POINT OF BEGINNING, CONTAINING 2.35 ACRES OF LAND.

ORIGINAL NOT LEGIBLE

PHASE 2:

A PARCEL OF LAND BEING IN THE NE 1/4 OF THE NW 1/4 OF SECTION 11, TOWNSHIP 7 SOUTH, RANGE 2 EAST, S.L.B.&M., UTAH COUNTY, UTAH, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION; THENCE S. 89° 15'22" W. ALONG THE SECTION LINE, A DISTANCE OF 292.33 FEET; THENCE NORTH A DISTANCE OF 2.67 FEET TO THE REAL POINT OF BEGINNING; THENCE N. 00°11'57" E. A DISTANCE OF 169.21 FEET; THENCE N. 00°59'46" E. A DISTANCE OF 17.99 FEET; THENCE S. 89°00'14" E. A DISTANCE OF 283.77 FEET; THENCE S. 40°28'51" E. A DISTANCE OF 8.35 FEET; THENCE S. 00°27'18" E. A DISTANCE OF 355.39 FEET; THENCE N. 89°09'00" W. A DISTANCE OF 170.68 FEET; THENCE N. 01°00'03" E. A DISTANCE OF 172.67 FEET; THENCE N. 89°24'21" W. A DISTANCE OF 125.26 FEET; TO THE REAL POINT OF BEGINNING, CONTAINING 1.92 ACRES OF LAND.

ORIGINAL NOT LEGIBLE

PHASE 3:

A PARCEL OF LAND BEING IN THE NE 1/4 OF THE NW 1/4 OF SECTION 11, TOWNSHIP 7 SOUTH, RANGE 2 EAST, S.L.B.&M., UTAH COUNTY, UTAH, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION; THENCE S. 89°15'22" W. ALONG THE SECTION LINE, A DISTANCE OF 292.33 FEET;

THENCE NORTH A DISTANCE OF 2.67 FEET TO THE REAL POINT OF BEGINNING; THENCE S. 89°24'21" E.

A DISTANCE OF 125.26 FEET; THENCE N. 01°00'03" W. A DISTANCE OF 172.67 FEET; THENCE S. 88°

09'00" E. A DISTANCE OF 170.68

FEET; THENCE S. 00°27'18" E. A DISTANCE OF

106.56 FEET; THENCE N. 89°00'00" W. A DISTANCE OF 180.67 FEET; THENCE N. 01°00'00" E. A

DISTANCE OF 15.41 FEET; THENCE N. 88°38'30" W. A DISTANCE OF 116.75 FEET; THENCE N. 01°10'19" E. A

DISTANCE OF 111.37 FEET; THENCE N. 00°24'40" E.

A DISTANCE OF 153.35 FEET TO THE REAL POINT OF BEGINNING, CONTAINING 1.08 ACRES OF LAND.

ORIGINAL NOT LEGIBLE