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CAROL DEAN PAGE, DAVIS CNTY RECORDER
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REC'D FOR CENTERVILLE CITY

DECLARATION OF COVENANTS,

CONDITIONS AND RESTRICTIONS

AND RESERVATION OF EASEMENTS FOR

COUNTRY COTTAGES
PLATS A, B, C

A PLANNED UNIT DEVELOPMENT SUBDIVISION

Country Cottages A B C

Lots 1-5 in Bamberger area

THIS DECLARATION, made this 4th day of January, 1994, by
THE KIER CORPORATION, a Utah corporation, Declarant:

R E C I T A L S:

A. Declarant is the owner of certain property in the County
of Davis, State of Utah, which is more particularly described as
follows:

Beginning at the Southeast Corner of Lot 5
of Block 21, Big Creek Plat, Centerville
Townsite Survey, which point is South 0
degrees 09'48" East 1,020.43 feet along the
centerline of Utah State Highway 106 (a 66
foot wide road) and North 89 degrees 56'11"
West 33.0 feet from an existing brass
monument at the centerline intersection of
Highway 106 and Parrish Lane and running
thence North 89 degrees 56'11" West 826.35
actual feet (829.62 feet by deed) along an
existing wooden fence on the North line of
Cedar Springs Condominiums (said North line
of condominiums is also described as the
South line of said Lot 5); thence North 0
degrees 05'45" West 594.32 actual feet
(593.00 feet, more or less, by deed) along
an existing barbed wire fence on the East
boundary of the old Bamberger Right-of-Way;
thence South 89 degrees 15'16" East 457.29
feet along the South boundary L. Marlene
Villa Subdivision; thence South 0 degrees

*02-146-0001 to 0021
02-147-0021 to 0052
02-148-0052 to 0093*

09'48" East 313.88 feet; thence South 89 degrees 56'11" East 368.41 feet; thence South 0 degrees 09'48" East 275.0 feet along the West line of said Highway 106 to the point of beginning.

Together with all easements and rights-of-way appurtenant thereunto.

B. Declarant has deemed it desirable, for the efficient preservation of the values and amenities in the real property described above ("Properties"), to create a non-profit corporation under the Utah Non-Profit Corporation and Cooperative Association Act to which should be delegated and assigned the powers of owning, maintaining and administering the Common Area and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created, which said corporation is sometimes hereafter referred to as the Association.

C. Declarant has caused such corporation to be created, the members of which shall be the respective Owners of Lots and the Management Committee as referred to hereinafter.

D. Declarant will develop and convey all of the Properties, as hereinafter defined, pursuant to a general plan for all of the Properties and subject to certain protective covenants, conditions, restrictions, reservations, easements, equitable servitudes, liens and charges, all running with the Properties as hereinafter set forth.

The Properties shall be subdivided into ninety-two (92) lots.

Each Owner of the Lots shall be members of the Association. Upon the elimination of the Class B Membership as provided at Article IV of the Bylaws, each of the Lots shall have one (1) vote in the Association. The common obligations shall be distributed in like percentages.

E. Declarant hereby declares that all of the Properties shall be held, sold, conveyed, encumbered, hypothecated, leased,

used, occupied and improved, subject to the following easements, restrictions, covenants, conditions and equitable servitudes, all of which are for the purpose of uniformly enhancing and protecting the value, attractiveness and desirability of the Properties, in furtherance of a general plan for the protection, maintenance, subdivision, improvement and sale of the Properties, or any portion thereof. The covenants, conditions, restrictions, reservations, easements and equitable servitudes set forth herein shall run with the Properties and shall be binding upon all persons having any right, title or interest in the Properties or any part thereof, their heirs, successors and assigns and shall inure to the benefit of every portion of the Properties and any interest therein; and shall inure to the benefit of and be binding upon Declarant, its successors in interest and each Owner and his respective successors in interest; and may be enforced by any Owner and his successors in interest and by the Association.

Notwithstanding the foregoing, no provision of this Declaration shall be construed as to prevent or limit Declarant's rights to complete development of the Properties and construction of improvements therein, nor Declarant's rights to maintain model homes, construction, sales or leasing offices or similar facilities on any property in the Properties owned by Declarant or the Association, nor Declarant's right to post signs incidental to construction, sales or leasing.

ARTICLE I

Definitions

Unless otherwise expressly provided, the following words and phrases, when used herein, shall have the meaning hereinafter specified:

Section 1. "Architectural Committee" shall mean the committee created pursuant to Article VIII hereof.

Section 2. "Articles" shall mean the Articles of Incorporation of the Association which have been or shall be filed in the office of the Secretary of State of the State of Utah and as such Articles may be amended, from time to time.

Section 3. "Assessment" shall mean the charge against a particular Owner and his Lot, representing a portion of the total costs to the Association of maintaining, improving, repairing, replacing, managing and operating the Properties.

Section 4. "Special Assessments" shall mean a charge against a particular Owner and his Lot, directly attributable to the Owner for corrective action performed pursuant to the provisions of this Declaration, plus interest thereon as provided for in this Declaration.

Section 5. "Reconstructive Assessment" shall mean a charge against each Owner and his Lot representing a portion or portions of the improvements on the Common Area pursuant to the provisions of this Declaration.

Section 6. "Capital Improvement Assessment" shall mean a charge against each Owner and his Lot representing a portion of the costs to the Association for installation or construction of any improvements on any portion of the Common Area which the Association may, from time to time, authorize.

Section 7. "Association" shall mean COUNTRY COTTAGES OWNERS' ASSOCIATION, a corporation formed under the Utah Non-Profit Corporation and Cooperative Association Act, its successors and assigns.

Section 8. "Beneficiary" shall mean mortgagee under a mortgage or a beneficiary or holder under a Deed of Trust, as the case may be and the assignees of such mortgagee, beneficiary or holder.

Section 9. "Board of Directors" shall mean the Board of Directors of the Association, elected in accordance with the Bylaws of the Association.

Section 10. "Bylaws" shall mean the Bylaws of the Association which have been or shall be adopted by the Board of Directors, and as such Bylaws may be amended, from time to time.

Section 11. "Common Area" shall mean all the real property and improvements, including without limitation, any landscaped areas, private roadways, walkways, water and sanitary storm sewer

facilities, fences, two tot lots, one volley ball court and easements and rights-of-way appurtenant to the Properties which are owned by the Association for the common use and enjoyment of the Owners of Lots. The Common Area to be so owned by the Association at the time of the conveyance of the first Lot shall also include the following described property located in the County of Davis, State of Utah:

Beginning at the Southeast Corner of Lot 5 of Block 21, Big Creek Plat, Centerville Townsite Survey, which point is South 0 degrees 09'48" East 1,020.43 feet along the centerline of Utah State Highway 106 (a 66 foot wide road) and North 89 degrees 56'11" West 33.0 feet from an existing brass monument at the centerline intersection of Highway 106 and Parrish Lane and running thence North 89 degrees 56'11" West 826.35 actual feet (829.62 feet by deed) along an existing wooden fence on the North line of Cedar Springs Condominiums (said North line of condominiums is also described as the South line of said Lot 5); thence North 0 degrees 05'45" West 594.32 actual feet (593.00 feet, more or less, by deed) along an existing barbed wire fence on the East boundary of the old Bamberger Right-of-Way; thence South 89 degrees 15'16" East 457.29 feet along the South boundary L. Marlene Villa Subdivision; thence South 0 degrees 09'48" East 313.88 feet; thence South 89 degrees 56'11" East 368.41 feet; thence South 0 degrees 09'48" East 275.0 feet along the West line of said Highway 106 to the point of beginning.

Together with all easements and rights-of-way appurtenant thereunto.

Excluding, however, Lots 1 through 92, inclusive, COUNTRY COTTAGES, a Planned Unit Development Subdivision, together with a perpetual easement for encroachment of the eaves of the buildings. Provided, however,

the exclusive use of the driveways and front sidewalks is reserved for the Lot to which the same is appurtenant.

Section 12. "Common Expenses" shall mean the actual and estimated costs of: maintenance, management, operation, repair and replacement of the Common Area (including unpaid special assessments, reconstruction assessments and capital improvement assessments), including those costs not paid by the Owner responsible for payment, costs of management and administration of the Association, including, but not limited to, compensation paid by the Association to manager, accountants, attorneys and other employees, the costs of all utilities, gardening and other services benefiting the Common Area and all recreational facilities thereon; the costs of fire, casualty and liability insurance, workmen's compensation insurance and other insurance covering the Properties and the costs of bonding of the members of the management body; taxes paid by the Association; amounts paid by the Association for discharge of any lien or encumbrance levied against the Properties or portions thereof; and the costs of any other item or items designated by or in accordance with other expenses incurred by the Association for any reason whatsoever in connection with the Properties, for the benefit of all of the Owners of Lots.

Section 13. "Declarant" shall mean and refer to THE KIER CORPORATION, its successors and assigns, so long as Declarant assigns such rights of Declarant hereunder to any person by an express written assignment.

Section 14. "Declaration" shall mean and refer to this instrument as it may be amended from time to time.

Section 15. "Deed of Trust" shall mean and refer to a mortgage or a Deed of Trust, as the case may be.

Section 16. "Dwelling Unit" shall mean and refer to a building located on a Lot designed and intended for the use and occupancy as a residence by a single family.

Section 17. "Family" shall mean: (1) a group of natural persons related to each other by blood or legally related to each other by marriage or adoption, or (2) a group of not more than

three (3) persons not all so related, inclusive of their domestic servants, who maintain a common household in a residence on a Lot.

Section 18. "Improvement" shall mean all structures and appurtenances of every type and kind, including but not limited to buildings, out buildings, walk-ways, sprinkler pipes, carports, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, exterior air conditioning and water softener fixtures or equipment.

Section 19. "Properties" shall mean and refer to all of the real property described in paragraph A of the Recitals to this Declaration.

Section 20. "Maintenance Funds" shall mean the accounts created for the receipts and disbursements of the Association pursuant to Article VI hereof.

Section 21. "Lot" shall mean and refer to any residential Lot or parcel of land shown upon any recorded subdivision plat of COUNTRY COTTAGES, with the exception of the Common Area.

Section 22. "Manager" shall mean the person, firm or corporation appointed by the Association hereunder as its agents and delegated certain duties, powers or functions of the Association.

Section 23. "Member" shall mean any person or entity holding a membership in the Association as provided herein.

Section 24. "Mortgage", "Mortgagee" shall mean any mortgage or Deed of Trust or other conveyance of a Lot to secure the performance of an obligation, which will be void and reconveyed upon the completion of such performance. The term "Deed of Trust" or "Trust Deed" when used herein, shall be synonymous with the term "Mortgage". The term "Mortgagee" shall mean a person or entity to whom a mortgage is made and shall include the beneficiary of a Deed of Trust; "Mortgagor" shall mean a person or entity who mortgages his or its property to another (i.e., the maker of a mortgage) and shall include the Trustor of a Deed of

Trust. The term "Trustor" shall be synonymous with the term "Mortgagor" and the term "Beneficiary" shall be synonymous with the term "Mortgagee".

Section 25. "Notice and Hearing" shall mean written notice and a public hearing before a Tribunal appointed by the Board of Directors at which the Owner concerned shall have opportunity to be heard in person or by counsel at Owner's expense, in the manner further provided in the Bylaws.

Section 26. "Owner" shall mean and refer to a the person or persons or other legal entity or entities, including Declarant, holding fee simple interest of record to any Lot which is part of the Properties, including sellers under executory contract of sale, but excluding those having such interest merely as security for the performance of an obligation. For purposes of Article X only, unless the context otherwise requires, Owner shall also include the family, invitees, licensees and lessees of any Owner.

Section 27. "Person" shall mean a natural individual to any other entity with the legal right to hold title to real property.

Section 28. "Record, Recorded, Filed and Recordation" shall mean, with respect to any document, the recordation of such document in the office of the County Recorder of the County of Davis, State of Utah.

Section 29. "Subdivision" shall mean a parcel of real property which has been divided or separated into Lots, shown on a recorded subdivision map.

ARTICLE II

Owner's Property Rights

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of ingress and egress and of enjoyment in, to and over the Common Area which shall be appurtenant to and shall pass with title to every Lot and unit, subject to the following provisions:

(a) The right of Declarant to annex additional Common Area thereto pursuant to the terms of Article XV.

(b) The right of the Association to reasonably limit the number of guests of Owners using the Common Area facilities.

(c) The right of the Association to establish uniform rules and regulations pertaining to the use of the Common Area and the recreational facilities thereof, including but not limited to, the right and obligation of the Association to enforce all parking restrictions within the Common Area as set forth in Section 3 of Article II herein.

(d) The right of the Association to charge uniform and reasonable admission and other fees for the use of the recreational facilities, if any, situated upon a portion of the Common Area; provided, however, that none of the Common Area facilities, recreational facilities, parking spaces or other amenities in the Properties shall be leased to the Owners.

(e) The right of the Association, in accordance with its Articles of Incorporation, Bylaws, and this Declaration, with the vote of or written assent of two-thirds (2/3rds) of each class of members (excluding therefrom the voting power of the Declarant), to borrow money for the purpose of improving the Common Area and facilities and in aid thereof, and subject to the provisions of Article XIV of this Declaration, to mortgage, pledge, deed in trust or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, provided that the rights of such mortgagee shall be subordinated to the rights of the Owners.

(f) The right of the Association to suspend the voting rights and right to use the Common Area facilities by an owner for any period during which any assessment against his Lot remains unpaid and delinquent; and for a period not to exceed thirty (30) days for any single infraction of the published rules and regulations of the Association, provided that any suspension of such voting rights or right to use the Common Area facilities shall be made only by the Board of Directors of the Association, after notice and an opportunity for a hearing as provided in the Bylaws of the Association.

(g) Subject to the provisions of Article XIV of this Declaration, the Association shall have the right to dedicate,

release, alienate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication, release, alienation or transfer shall be effective unless an instrument signed by Members entitled to cast two-thirds (2/3rds) of the voting power of the Class A Members (excluding the voting power of the Declarant), agreeing to such dedication, release, alienation, or transfer has been recorded.

(h) The right of the Declarant (and its sales agents, customers, and representatives) to the non-exclusive use of the Common Area and the facilities thereof, without charge, for sales, display, access, ingress, egress and exhibit purposes, which right Declarant hereby reserves; provided, however, that such use shall not be for a period of more than five (5) years after the date of recording of this Declaration. Upon the request of Declarant and upon the vote of fifty-one percent (51%) of the Class A Members, this term may be extended for an additional period of time.

(i) The right of the Association (by action of the Board of Directors) to reconstruct, replace or refinish any improvement or portion thereof upon the Common Area, in accordance with the original design, finish or standard of construction of such improvements, or of the general improvements within the Properties, as the case may be; and not in accordance with such original design, finish or standard of construction only with the vote or written consent of the Owners holding seventy-five percent (75%) of the voting power of the Association.

(j) The right of the Association to replace destroyed trees or other vegetation and plant trees, shrubs and ground cover upon any portion of the Common Area.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants or contract purchasers who reside in his dwelling unit, subject to reasonable regulation by the Board of Directors.

Section 3. Easements for Parking. Temporary guest or recreational parking shall be permitted within the Common Area only within spaces and areas clearly marked for this purpose.

Spaces shall be shown by signs or markings on the paved area. The Association, through its officers, committees and agents, is hereby empowered to establish "parking" and "no parking" areas within the Common Area, as well as to enforce these parking limitations by all means lawful for such enforcement, including the removal of any violating vehicle by those so empowered.

Section 4. Easements for Vehicular Traffic. In addition to the general easements for use of the Common Area reserved herein, there shall be, and Declarant hereby reserves and covenants for itself and all future Owners within the Properties, that each and every owner shall have a non-exclusive easement appurtenant for vehicular traffic over all private streets within the Properties, subject to the parking provisions set forth in Section 3 of Article II hereof. Declarant reserves the right to grant similar easements to Owners of property in subdivisions annexed hereto pursuant to Article XV.

Section 5. Easements for City and County Use. In addition to the foregoing easements over the Common Area, there shall be, and Declarant hereby reserves and covenants for itself and all future Owners, easements for city, county and federal public services, including but not limited to, the right of the police to enter upon any part of the Common Area for the purpose of enforcing the laws and permanent easement in favor of Centerville City pursuant to the ordinances of the city of Centerville to guarantee that the open spaces remain perpetually in the uses for which intended.

Section 6. Waiver of Use. No Owner may exempt himself from personal liability for assessments duly levied by the Association nor release the Lot or other property owned by him from the liens and charges hereof, by waiver of the use and enjoyment of the Common Area and the facilities thereon, or by abandonment of his Lot or any other property in the Properties.

Section 7. Title to the Common Area. The Declarant hereby covenants, for itself, its successors and assigns, that it will convey fee simple title to the Common Area described in Article I, Section 11 of this Declaration to the Association, free and clear of all encumbrances and liens, except easements, conditions and reservations set forth in this Declaration. Said conveyance shall be made prior to the conveyance of the first Lot to a

purchaser from Declarant. Declarant shall similarly convey the Common Area of any property annexed hereto.

Section 8. Taxes. Each Owner shall execute such instruments and take such action as may be reasonably specified by the Association to obtain separate real estate tax assessments on each Lot. If any taxes or assessments may, in the opinion of the Association, nevertheless be a lien on more than one Lot not under common ownership or any part thereof, they may be paid by the Association and each owner shall be obligated to pay or to reimburse the Association for, as the case may be, the taxes and assessments assessed by the County Assessor or other taxing authority against his own Lot and interest, if any, in the Common Area.

Section 9. Real Property Taxes. The payment of real property taxes assessed against the Common Area is the responsibility of the Association. Provided, however, if for any reason the same are not timely paid, the payment of the taxes shall be the responsibility of and assessed against the Owners of the Lots, on a prorata basis.

ARTICLE III

Membership in the Association

Section 1. Membership. Every Owner of a Lot shall be a member of the Association. Memberships in the Association shall not be assignable, except to the successor in interest of the Member, and every membership in the Association shall be appurtenant to and may not be separated from the fee ownership of such Lot.

Section 2. Transfer. The Association membership held by any Owner of a Lot shall not be transferred, pledged, or alienated in any way, except upon the sale or encumbrance of such Lot and then only to the purchaser or mortgagee of such Lot. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. A Class A Member who has sold his Lot to a contract purchaser under an agreement to purchase shall be entitled to delegate to such contract purchaser his membership rights in the Association. Such delegation shall be in writing and shall be delivered to the Board of Directors

before such contract purchaser may vote. However, the contract seller shall remain liable for all charges and assessments attributable to his Lot until fee simple title to the Lot sold is transferred. In the event the Owner of any Lot shall fail or refuse to transfer the membership registered in his name to the purchaser of such Lot upon transfer of fee title thereto, the Board of Directors shall have the right to record the transfer upon the books of the Association. The Board of Directors shall have the right to charge a reasonable Special Assessment against any Owner and his Lot, equal to the cost to the Association of effectuating any such transfer of his membership upon the books of the Association.

ARTICLE IV

Voting Rights

Section 1. Classes of Voting Membership. The Association shall have two (2) classes of voting membership respecting the PRUD Lots, as follows:

Class A. Class A Members shall originally be all Owners, with the exception of the Declarant, for so long as there exists a Class B Membership. Class A Members shall be entitled to one (1) vote for such Lot owned. Declarant shall become a Class A Member with regard to Lots owned by Declarant upon conversion of Declarant's Class B Membership as provided below. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised in accordance with Article IV, Section 2 of this Declaration and in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. Class B Membership shall be the Declarant and it shall be entitled to three (3) votes for each Lot owned by it. The Class B Membership shall cease and be converted to Class A Membership on the happening of any of the following events, whichever occurs earliest:

(a) When the total votes outstanding in the Class A Membership, inclusive of votes attributable to any property annexed to the Properties, equals the total votes outstanding in the Class B Membership; or

(b) Three (3) years from the date of recording this Declaration; or

(c) On voluntary cancellation of the Class B Membership by Declarant.

Section 2. Vote Distribution. Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. When more than one person holds such interest or interests in any Lot ("co-owner"), all such co-owners shall be Members and may attend any meeting of the Association, but only one such co-owner shall be entitled to exercise the vote to which the Lot is entitled. Such co-owners may, from time to time, designate in writing one of their number to vote. Fractional votes shall not be allowed and the Class A vote for each Lot shall be exercised, if at all, as a unit. Where no voting co-owner is designated or if such designation has been revoked, the vote for such Lot shall be exercised as the majority of the co-owners of the Lot mutually agree. Unless the Board of Directors receives a written objection from a co-owner, it shall be presumed that the corresponding voting co-owner is acting with the consent of his or her co-owners. No vote shall be cast for any Lot where the majority of the co-owners present in person or by proxy and representing such Lot cannot agree to said vote or other action. The non-voting co-owner or co-owners shall be jointly and severally responsible for all of the obligations imposed upon the jointly owned Lot and shall be entitled to all other benefits of ownership. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established herein, or by the Bylaws of the Association, shall be deemed to be binding on all Owners, their successors and assigns. Said voting rights shall be subject to the restrictions and limitations provided in this Declaration and in the Articles of Incorporation and Bylaws of the Association.

ARTICLE V

Duties and Powers of the Association

The Association, acting through the Board of Directors, shall also have the power and duty to:

(a) Maintain, repair and otherwise manage the Common Area and all facilities, improvements and landscaping thereon in accordance with the provisions of Article VI of this Declaration.

(b) Maintain all private streets within the Properties, including cleaning and periodic resurfacing.

(c) Maintain all private sewer systems within the Common Area.

(d) Pick up and dispose of garbage, or arrange for the pick up and disposal of garbage by public agencies, or contract for the pick up and disposal of garbage by contract with private agencies.

(e) Grant easements, rights-of-way or strips of land, where necessary, for utilities and sewer facilities over the Common Area to serve the Common Area and the Lots.

(f) Maintain such policy or policies of liability and fire insurance with respect to the Common Area and personal property, if any, owned by the Association as provided herein in furthering the purposes of and protecting the interests of the Association and Members and as directed by this Declaration and the Bylaws of the Association.

(g) Employ or contract with a professional manager to perform all or any part of the duties and responsibilities of the Association and shall have the power to delegate its powers to committees, officers and employees. Any such agreement shall be for a term of not in excess of three (3) years, subject to cancellation by either party without cause or payment of a termination fee upon ninety (90) days or less written notice.

(h) After fifteen (15) days' written notice, without being liable to any Owner, enter upon any Lot for the purpose of enforcing, by peaceful means, the provisions of this Declaration or for the purpose of maintaining or repairing any such area if for any reason whatsoever the Owner thereof fails to maintain or repair any such area as required by this Declaration, all at the cost and expense of the Lot Owner, which said cost and expense shall be a lien upon said Owner's Lot.

(i) From time to time promulgate rules and regulations which shall be binding upon the Owners of the Lots.

(j) Do and perform any and all things as may be convenient or necessary in connection with the Properties.

ARTICLE VI

Covenants for Maintenance Assessments

Section 1. Creation of the Lien and Personal Obligations of Assessments. Declarant, for each Lot owned by it within the Properties, hereby covenants and each owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (1) annual assessments for common expenses; (2) capital improvement assessments; (3) special assessments; and (4) reconstruction assessments; such assessments to be established and collected as hereinafter provided. Such assessments, together with interest, costs and reasonable attorney's fees for the collection thereof, shall be a charge on the land and shall be a continuing lien upon the property against which such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. Subject to provisions of this Declaration protecting first mortgagees, the personal obligation for delinquent assessments shall pass to the successors in interest of such Owner. The Board of Directors shall establish no fewer than two (2) such separate accounts ("Country Cottages Maintenance Funds") into which shall be deposited all monies paid to the Association and from which disbursements shall be made, as provided herein, in the performance of functions by the Association under the provisions of this Declaration. Each of the Maintenance Funds shall include: (1) an Operating Fund for current expenses of the Association; and (2) a Common Area Reserve Fund for replacements, painting and repairs (which would not reasonably be expected to recur on an annual or less frequent basis) of the Common Area facilities to the extent necessary under the provisions of this Declaration. The Board of Directors shall not co-mingle any amounts deposited into any of the Country Cottages Maintenance Funds with one another.

(i) From time to time promulgate rules and regulations which shall be binding upon the Owners of the Lots.

(j) Do and perform any and all things as may be convenient or necessary in connection with the Properties.

ARTICLE VI

Covenants for Maintenance Assessments

Section 1. Creation of the Lien and Personal Obligations of Assessments. Declarant, for each Lot owned by it within the Properties, hereby covenants and each owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (1) annual assessments for common expenses; (2) capital improvement assessments; (3) special assessments; and (4) reconstruction assessments; such assessments to be established and collected as hereinafter provided. Such assessments, together with interest, costs and reasonable attorney's fees for the collection thereof, shall be a charge on the land and shall be a continuing lien upon the property against which such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. Subject to provisions of this Declaration protecting first mortgagees, the personal obligation for delinquent assessments shall pass to the successors in interest of such Owner. The Board of Directors shall establish no fewer than two (2) such separate accounts ("Country Cottages Maintenance Funds") into which shall be deposited all monies paid to the Association and from which disbursements shall be made, as provided herein, in the performance of functions by the Association under the provisions of this Declaration. Each of the Maintenance Funds shall include: (1) an Operating Fund for current expenses of the Association; and (2) a Common Area Reserve Fund for replacements, painting and repairs (which would not reasonably be expected to recur on an annual or less frequent basis) of the Common Area facilities to the extent necessary under the provisions of this Declaration. The Board of Directors shall not co-mingle any amounts deposited into any of the Country Cottages Maintenance Funds with one another.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used to promote the common health, safety, benefit, recreation and welfare of the Owners and for the improvements and maintenance of the Common Area, exterior maintenance, drainage system, storm drain system and of the dwelling units situated upon the Lots in the Properties as provided herein.

The Association shall be responsible for the exclusive management, control and maintenance of the sub-surface drainage system serving the Properties. The annual assessment shall include the amount sufficient to cover on-site and off-site maintenance of the sub-drain system and relocated parts thereof serving the Properties. The sub-surface drainage system assessments shall be assessed for those portions of the sub-surface drainage system serving the Properties which are located in public streets or dedicated public rights-of-way (provided, however, each Lot Owner shall be solely responsible for maintenance of the sub-surface drainage facilities or beneath said Lot Owner's Lot).

The assessments shall also be for an adequate reserve to be used as appropriate for maintenance, repairs and replacement of those elements of the common property and exterior maintenance that must be replaced on a periodic basis. However, disbursements from the Common Area Reserve Fund shall be made by the Board of Directors only for the specific purpose specified in this Article VI. Disbursements from the Operating Fund shall be made by the Board of Directors for such purposes as are necessary for the discharge of its responsibilities herein for the common benefit of all of the Owners, other than those purposes for which disbursements from the Common Area Reserve Fund are to be used. Nothing in this Declaration shall be construed in such a way as to permit the Association to use any assessments to abate any nuisance or annoyance emanating from outside the boundaries of the Properties. Nothing contained herein shall limit, preclude or impair the establishment of additional Country Cottages Maintenance Funds by the Association, so long as the amounts deposited into any such fund are earmarked for specified purposes authorized by this Declaration.

Section 3. Damage to Common Area by Owners. The foregoing maintenance, repairs or replacements within the Common Area

arising out of or caused by the wilful or negligent act of the Owner, his family, guests or invitees, shall be done at said Owner's expense or a Special Assessment therefor shall be made against his Lot; provided, however, that the liability of an individual Owner for such damage to the Common Area shall not be absolute, but shall only be that for which the Owner is legally responsible under state law.

Section 4. Maximum Annual Assessment. Until January 1st of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be THREE THOUSAND SIX HUNDRED (\$3,600.00) DOLLARS per Lot.

(a) From and after January 1st of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than five percent (5%) above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1st of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above five percent (5%) by a vote of a majority of members who are voting in person or by proxy at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 5. Capital Improvement and Reconstruction Assessments. In addition to the Assessments authorized above, the Board of Directors may levy, in any assessment year, a Capital improvement Assessment or Reconstruction Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a Capital Improvement or other such addition upon the Common Area, including fixtures and personal property related thereto; provided, however that any such total assessment in excess of TWO THOUSAND (\$2,000.00) DOLLARS shall have the vote or written assent of a majority of the votes of Members who are subject to such assessment, excluding the votes of Declarant.

Section 6. Notice of Quorum for any Authorizing under Sections 4 and 5. Written notice of any meeting called for the

purpose of taking any action by the Members authorized under Sections 4 and 5 shall be sent to all Members not less than thirty (30) days, nor more than sixty (60) days, in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast fifty-one percent (51%) of all votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notification requirement and the required quorum at the subsequent meeting shall be twenty-five percent (25%) of the voting power of the Association. No such subsequent meeting shall be held more than thirty (30) days following the preceding meeting.

Section 7. Uniform Rate of Assessment. Assessments, Capital Improvement Assessments and Reconstruction Assessments provided for in this Article VI must be fixed at a uniform rate for all Lots within the Properties; provided, however, that the Association may, subject to the provisions of Section 3 of this Article, levy Special Assessments against selected Owners who have caused the Association to incur special expenses due to wilful or negligent acts of said Owners, their guests or agents. All Assessments shall be collected on a regular basis by the Board of Directors, at such frequency as the Board of Directors shall determine.

Section 8. Date of Commencement of Assessments; Due Date. The annual assessment shall commence six (6) months after commencement of construction of the improvements as to the property of each plat. The first annual Assessment shall be adjusted according to the number of months remaining in the fiscal year as set forth in the Bylaws. The Board of Directors shall fix the amount of the annual Assessment against each Lot at least thirty (30) days in advance of each Assessment period. Written notice of any change in the amount of the annual Assessment shall be sent to every Owner subject thereto, at least thirty (30) days prior to the effective date of such change. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer or agent of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments against a Lot is binding upon the Association as of the date of its issuance.

The Board of Directors shall cause to be prepared an annual balance sheet and operating statement reflecting income and expenditures of the Association for each fiscal year, including deposits in and withdrawals from the Common Area Reserve Fund and the Operating Fund, and shall cause to be distributed a copy of each such statement to each Member, and to each first mortgagee who has filed a written request for copies of the same with the Board of Directors, in the manner provided in the Bylaws of the Association. At least sixty (60) days prior to the beginning of each fiscal year, the Board of Directors shall prepare and distribute to the Membership of the Association, a written, itemized estimate (budget) of the expenses to be incurred by the Association during such year in performing its functions under this Declaration (including a reasonable provision for contingencies and deposits into the Common Area Reserve Fund, less any expected income and accounting for any surplus from the prior year's respective Country Cottages Maintenance Fund).

Each annual Assessment shall constitute an aggregate of separate assessments for each of the maintenance Funds reflecting an itemization of the amounts assessed and attributable to prospective deposits into the Common Area Reserve Fund, the Operating Fund and any other maintenance fund established by the Association. If the estimated sums prove inadequate for any reason, including non-payment of any Owner's annual Assessment, the Board of Directors may, at any time, levy supplemental Assessments subject to provisions of Section 4 of this Article, for any of the Maintenance Funds which shall be assessed equally against the Owner of each Lot in the Properties.

Each annual Assessment may be paid by the Owner to the Association in one check or payment or in separate checks, as payments attributable to deposits into specified maintenance funds. In the event that any installment of an Assessment payment is less than the amount assessed and the payment does not specify the maintenance fund or funds into which it should be deposited, the receipt by the Association from that Owner shall be credited in order of priority, first to the Operating Fund, until that portion of the Assessment has been satisfied and second, to the Common Area Reserve Fund.

At the end of any fiscal year of the Association, the Owners may determine that all excess funds remaining in the Operating

Fund, over and above the amounts used for the operation of the Properties, may be returned to the Members proportionately, or may be retained by the Association and used to reduce the following year's Assessments. Notwithstanding anything contained in the Articles or Bylaws to the contrary, if prior to dissolution of the Association, the Association has not obtained tax exempt status from both the Federal and State governments, then upon such dissolution of the Association, any amounts remaining in the Common Area Reserve Fund shall be distributed to or for the benefit of the Members in a proportion equal to their individual, respective contributions.

Section 9. Exempt Property. The following property, subject to this Declaration, shall be exempt from the assessment herein:

- (a) All properties dedicated to and accepted by a local public authority; and
- (b) The Common Area.

ARTICLE VII

Effect of Non-Payment of Assessments: Remedies of The Association

Section 1. Effect of Non-Payment of Assessments; Remedies of The Association. Any installment of an Assessment, Capital Improvement Assessment, Special Assessment or Reconstruction Assessment not paid within thirty (30) days after the due date shall bear interest from the due date of such installment at the rate of eighteen percent (18%) per annum. If any installment of an assessment is not paid within thirty (30) days after it is due, the Owner responsible therefor may be required further by the Board of Directors to pay a late charge of FIFTEEN (\$15.00) DOLLARS or ten percent (10%) of the amount of the delinquent installment, whichever is greater. The Association may bring an action at law against the Owner, personally obligated to pay the same, or foreclose the lien against the Lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot. If any installment of an Assessment is not paid within thirty (30) days after its due date, the Board of Directors shall mail an acceleration notice to the Owner and to each first mortgagee

of a Lot which has requested a copy of the notice. The notice shall specify: (1) the fact that the installment is delinquent; (2) the action required to cure the default; (3) a date, not less than thirty (30) days from the date the notice is mailed to the Owner by which such default must be cured; and (4) that failure to cure the default on or before the date specified in the notice may result in acceleration of the balance of the installments of the Assessment for the then current fiscal year and sale of his Lot. The notice shall further inform the Owner of his right to cure after acceleration and to bring a court action to assert the non-existence of a default or any other defense of the Owner to acceleration and sale. If the delinquent installments of Assessments and any charges thereon are not paid in full on or before the date specified in the notice, the Board of Directors, at its option, may declare all of the unpaid balance payable without further demand and may enforce the collection of the full Assessment and all charges thereon in any manner authorized by law and this Declaration.

Section 2. Notice of Assessment. No action shall be brought to enforce any assessment lien herein, unless at least thirty (30) days has expired following the date a Notice of Assessment is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of the Lot and a copy thereof has been recorded by the Association in the office of the County Recorder in which the Properties are located; said Notice of Assessment must recite a good and sufficient legal description of any such Lot, the record Owner or reputed Owner thereof, the amount claimed (which may, at the Association's option, include interest on the unpaid assessment at eighteen percent (18%) per annum plus reasonable attorney's fees and expenses of collection in connection with the debt secured by said lien) and the name and address of the claimant. Such Notice of Assessment shall be signed and acknowledged by an officer of the Association and said lien shall be prior to any Declaration of Homestead recorded after the date on which this Declaration is recorded. The lien shall continue until fully paid or otherwise satisfied.

Section 3. Foreclosure Sale. Any such sale provided for above may be conducted by the Board of Directors, its attorneys or other persons authorized by the Board of Directors in accordance with the provisions of the Utah Code Annotated, 1953 as amended, applicable to the exercise of powers of sale in

mortgages and deeds of trust, or in any other manner permitted by law. The Association, through duly authorized agents, shall have the power to bid on the Lot at foreclosure sale and to acquire and hold, lease, mortgage and convey the same.

Section 4. Curing of Default. Upon the timely curing of any default for which a Notice of Assessment was filed by the Association, the officers thereof shall record an appropriate Release of Lien, upon payment by the defaulting Owner of a fee, to be determined by the Association, but not to exceed SEVENTY FIVE (\$75.00) DOLLARS to cover the cost of preparing and recording such release. A certificate executed and acknowledged by any two (2) members of the Board of Directors stating the indebtedness secured by the liens upon any Lot created hereunder shall be conclusive upon the Association and the Owners as to the amount of such indebtedness as of the date of the certificate, in favor of all persons who rely thereon in good faith. Such certificate shall be furnished to any Owner upon request at a reasonable fee, not to exceed FIFTEEN (\$15.00) DOLLARS.

Section 5. Cumulative Remedies. The assessment liens and the rights to foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may have hereunder and by law, including a suit to recover a money judgment for unpaid assessments, as above provided.

Section 6. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage (meaning any recorded mortgage with first priority or seniority over mortgages) made in good faith and for value and recorded prior to the date on which the assessment came due. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or deed in lieu thereof, shall extinguish the lien of such assessments as to installments which became due prior to such sale or transfer. However, no sale or transfer shall relieve such Lot from liability for any installments of assessments thereafter becoming due or from the lien thereof.

Architectural Control

Section 1. Members of Committee. The Architectural Committee, sometimes referred to in this Declaration as the "Committee" shall consist of three (3) members. The initial members of the Committee shall consist of representatives of Declarant. Each of said persons shall hold office until the election of the first Board of Directors by the membership of the Association. Thereafter, new members of the Committee shall be appointed by the Board of Directors and shall hold office until such time as he has resigned or has been removed or his successor has been appointed, as provided herein. Members of the Committee may be removed at any time without cause. The Board of Directors shall have the right to appoint and remove all members of the Committee.

Section 2. Review of Proposed Construction. Subject to Article X, Section 12 of this Declaration and the Development Guide, no building, fence, wall, patio cover or other structure shall be commenced, painted, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and color and location in relation to surrounding structures and topography by the Architectural Committee. The Committee shall approve proposals of plans and specifications submitted for its approval only if it deems that the construction, alterations or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding area of the Properties as a whole; that the appearance of any structure affected thereby will be in harmony with the surrounding structures, and that the upkeep and maintenance thereof will not become a burden on the Association. The Committee may condition its approval of proposals of plans and specifications upon such changes therein as it deems appropriate, upon the agreement by the Owner submitting the same to grant appropriate easements to the Association or the cost of maintenance, or all three, and may require submission of additional plans and specifications or other information prior to approving or disapproving material

submitted. The Committee may also issue rules or guide lines setting forth procedures for the submission of plans for approval, requiring a fee payable to the Association to accompany each application for approval, or additional factors which it will take into consideration in reviewing submissions. The Committee may provide that the amount of such fee shall be uniform, or that it be determined in any other reasonable manner, such as by the reasonable cost of the construction, alterations or additions contemplated, provided that in no event shall such fee exceed FIVE HUNDRED (\$500.00) DOLLARS. The Committee may require such detail in plans and specifications submitted for its review as it deems necessary and proper, including, without limitation, floor plans, site plans, drainage plans, elevation drawings and description or samples of exterior materials and colors. Until receipt by the Committee of any required plans and specifications, the Committee may postpone review of any plans submitted for approval.

Section 3. Meetings of the Committee. The Committee shall meet, from time to time, as necessary to perform its duties hereunder and shall complete its review and report of proposed construction within thirty (30) days after submittal of a request. The Committee may, from time to time, by resolution, unanimously adopted in writing, designate a Committee Representative (who may, but need not, be one of its members) to take any action or perform any duties for and on behalf of the Committee, except the granting of variances pursuant to Section 8 hereof. In the absence of such designation, the vote of any two (2) members of the Committee taken without a meeting shall constitute an act of the Committee.

Section 4. No Waiver of Future Approvals. The approval of the Committee to any proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring the approval and consent of the Committee shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matter whatever subsequently or additionally submitted for approval or consent.

Section 5. Compensation of Members. The architect and landscape architect members of the Committee shall be paid for their services and necessary expenses. The other members of the

Committee shall receive no compensation for services rendered, but shall be reimbursed for expenses incurred by them in the performance of their duties hereunder.

Section 6. Inspection of Work. Inspection of work and correcting of defects therein shall proceed as follows:

(a) Upon the completion of any work for which approved plans are required under this Article VIII, the Owner shall give written notice of completion to the Committee.

(b) Within sixty (60) days thereafter, the Committee, or its duly authorized representative, may inspect such improvement. If the Committee finds that such work was not done in substantial compliance with the approved plans, it shall notify the Owner, in writing, of such non-compliance within such sixty (60) day period, specifying the particulars of non-compliance and shall require the Owner to remedy the same.

(c) If, upon the expiration of thirty (30) days from the date of such notification the Owner shall have failed to remedy such non-compliance, the Committee shall notify the Board of Directors, in writing, of such failure. Upon notice and hearing, the Board of Directors shall determine whether there is a non-compliance and if so, the nature thereof and the estimated cost of correcting or removing the same. If a non-compliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days from the date of announcement of the Board of Directors ruling within such period. The Board of Directors, at its option, may either remove the non-complying improvement or remedy the non-compliance and the Owner shall reimburse the Association, upon demand, for all expenses incurred in connection therewith. If such expenses are not promptly repaid by the Owner to the Association, the Board of Directors shall levy a Special Assessment against such Owner for reimbursement.

(d) If, for any reason the Committee fails to notify the Owner of any non-compliance within sixty (60) days after receipt of the said written notice of completion from the Owner, the improvement shall be deemed to be in accordance with said approved plans.

Section 7. Non-Liability of Committee Members. Neither the Committee nor any member thereof, nor its duly authorized Committee representative shall be liable to the Association, or to any Owner for any loss, damage or injury arising out of or in any way connected with the performance of the Committee's duties hereunder, unless due to the wilful misconduct or bad faith of the Committee. The Committee shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration or addition, solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity and the Properties generally. The Committee shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features, but shall not be responsible for reviewing nor shall its approval of any plans or designs be deemed approval of any plans or designs from the standpoint of structural safety or conformance with buildings or other codes.

Section 8. Variance. The Committee may authorize variances from compliance with any of the architectural provisions of this Declaration or any Supplemental Declaration, including restrictions upon height, size, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental consideration may require. Such variances must be evidenced in writing and must be signed by at least two (2) members of the Board of Adjustment of Davis County. If such variances are granted, no violation of the covenants, conditions and restrictions contained in this Declaration or any Supplemental Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration or of any Supplemental Declaration for any purpose except as to the particular property and particular provisions hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting his use of the premises, including but not limited to, zoning ordinances and lot set back lines or requirements imposed by any governmental or municipal authority.

Maintenance and Repair Obligations

Section 1. Structural Maintenance Areas. No improvement, excavation or work which in any way alters the Structural Maintenance Areas from their natural or existing state on the date any such area is conveyed by Declarant to a purchaser of a Lot shall be made or done by any person other than the Association or its authorized agents. The Association shall maintain or provide for the maintenance in good order and repair and shall reconstruct, replace or refinish the improvements within the Structural Maintenance Areas.

Section 2. Exterior Maintenance. In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder as follows: paint, repair, replacement and care of roofs, gutters, down-spouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements. Such exterior maintenance shall not include glass surfaces.

In the event that the need for maintenance or repair of a Lot or the improvements thereon is caused through the wilful or negligent acts of its Owner; or through the wilful or negligent acts of the family, guests or invitees of the Owner of the Lot needing such maintenance or repair, the cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

Section 3. Maintenance Obligation of Association. Subject to the provisions of Section 2 of this Article, the Association shall maintain or provide for the maintenance, of all Common Areas and all improvements thereon, including fences, entrance gates, streets, sidewalks, Common Area landscaping, landscaping equipment and lighting and utility mains, and any and all utility laterals to the lot lines.

Section 4. Damage and Destruction Affecting Residences -- Duty to Rebuild. If all of or any portion of any Lot or dwelling unit is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner of said Lot or dwelling unit to rebuild, repair or reconstruct said residence in a manner which will

restore it substantially to its appearance and condition immediately prior to the casualty.

Section 5. Variance in Exterior Appearance and Design. Any Owner who has suffered damage may apply for approval to the Architectural Committee for reconstruction, rebuilding or repair of his residence in a manner which will provide for an exterior appearance and design different from that which existed prior to the date of the casualty. Application for such approval shall be made in writing, together with full and complete plans and specifications, working drawings and elevations showing the proposed reconstructions and the end result thereof. The Architectural Committee shall grant such approval only if the design proposed by the Owner should result in a finished residence as in harmony with exterior design of other residences on the Properties. Failure of the Architectural Committee to act within thirty (30) days after receipt of such a request in writing coupled with the drawings and plot plans showing the full and complete nature of the proposed changes, shall constitute approval thereof. If the obligation for repair falls upon the Association, Architectural Committee approval will not be required prior to the commencement of such work.

Section 6. Time Limitation. The Owner or Owners of any damaged residence, the Association and the Architectural Committee shall be obligated to proceed with all due diligence hereunder and the responsible party shall commence reconstruction within six (6) months after the damage occurs, unless prevented by causes beyond their reasonable control.

ARTICLE X

Use Restrictions

All real property within the Properties shall be held, used and enjoyed subject to the following limitations and restrictions, subject to the exemption of Declarant in Section 12 hereof:

Section 1. Single Family Residence. Subject to Section 3 of this Article X, each Lot shall be used as a residence for a single family residence and for no other purpose.

Section 2. Business or Commercial Activity. Subject to Section 3 of this Article X, no part of the Properties shall ever be used or caused to be used or allowed or authorized, in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending or other such non-residential purposes; except Declarant, its successors or assigns, may use any portion of the Properties for a model home and sales period in accordance with Article II, Section 1(h) of this Declaration, and excepting professional and administrative occupations without external evidence thereof, for so long as such occupations are in conformance with Centerville City ordinances and are merely incidental to the use of the dwelling unit as a residential home.

Section 3. Real Estate Business. No dwelling unit, Lot, improvement or portion of the Common Area shall be used in the conduct of any real estate business, gainful occupation, profession, trade office or other non-residential activity; provided, however, that Declarant, or its designees, shall have the non-exclusive right, subject to the provisions of Article II, Section 1(h) of this Declaration, to use, without additional cost, the portions of any recreational building constructed on the Common Area for purposes of sales of lots within the Properties, provided that such use does not unreasonably interfere with the use of any recreational facilities by members of the Association. Furthermore, as to any Lots owned by Declarant, Declarant shall have the unrestricted right to maintain model homes thereon for sales purposes.

Section 4. Nuisances. No noxious or offensive activity (including but not limited to the repair of motor vehicles) shall be carried on, in or upon any Lot or the Common Area nor shall anything be done therein which may be or become an unreasonable annoyance or a nuisance to any other Owner. No loud noises or noxious odors shall be permitted on the Properties and the Board of Directors shall have the right to determine, in accordance with the Bylaws, if any noise, odor or activity producing such noise, odor or interference constitutes a nuisance. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devises (other than security devises used exclusively for security purposes), noisy or smokey vehicles, large power equipment or large power tools, unlicensed off-road motor vehicles or other

items which may unreasonably interfere with television or radio reception of any Owner in the Properties, or exposed to the view of other Owners without the prior written approval of the Architectural Committee.

Section 5. Signs. No sign, poster, display, billboard, or other advertising device of any kind shall be displayed to the public view on any portion of the Properties or any Lot, without the prior written consent of the Architectural Committee, except for one sign for each dwelling unit of not more than three (3) feet by two (2) feet, plain white or black block letters, advertising the property for sale or rent, or except signs, regardless of size, used by Declarant, its successors or assigns, to advertise the Properties during construction and sales periods. All signs or billboards and the condition promulgated for the regulation thereof shall conform to the requirements of the Centerville City Ordinances.

Section 6. Parking and Vehicular Restrictions. No Owner of any Lot shall park, store or keep any vehicle except wholly within the parking area designated therefor and any inoperable vehicle shall be stored only in garages. No Owner shall park, store or keep on any property or street (public or private) within the Properties, any camper type or small truck, large commercial type vehicle (dump truck, cement mixer truck, delivery truck and any other vehicular equipment, mobile or otherwise, deemed to be a nuisance by the Board of Directors), any recreational vehicle (camper unit, motor home, truck, trailer, boat, mobile home or other similar vehicle) upon any uncovered parking space, so as to be visible from anywhere in the Properties, except as otherwise provided by the Board of Directors. The above excludes campers or small trucks up to and including three quarter ton (3/4) when used for every day type transportation, which may be parked in a driveway or garage. No Owner of a Lot shall conduct major repairs or major restoration of any motor vehicle, boat, trailer, aircraft or other vehicle upon any portion of any Lot or upon the Common Area. Provided, however, recreational vehicles may be temporarily parked, from time to time, for periods not to exceed forty-eight (48) hours for purposes of loading, unloading and cleaning.

Section 7. Animal Restrictions. No animals, livestock, reptiles or poultry of any kind shall be raised, bred or kept on

any Lot or the Common Area, except usual and ordinary dogs, cats, fish, birds and other household pets may be kept on Lots, subject to rules and regulations adopted by the Association, provided that they are not kept, bred or maintained for commercial purposes or in unreasonable quantities. As used in this Declaration, "unreasonable quantities" shall ordinarily mean more than three (3) pets per household, provided, however, that the Association (or the Architectural Committee or such other person or entity as the Association may, from time to time designate) may determine that a reasonable number in any instance may be more or less. The Association, acting through the Board of Directors, shall have the right to prohibit maintenance of any animal which constitutes, in the opinion of the Board of Directors, a nuisance to any other Owner. Animals belonging to Owners, occupants or their licensees, tenants or invitees within the Properties must be either kept within an enclosure, an enclosed patio or on a leash being held by a person capable of controlling the animal. The enclosure must be so maintained that the animal cannot escape therefrom and shall be subject to the approval of the Architectural Committee. Should any animal belonging to an Owner be found unattended out of the enclosure and not being held on a leash by a person capable of controlling the animal, such animal may be removed by Declarant (for so long as it owns any interest in the Properties) or a person designated by the Declarant to do so, to a shelter under the jurisdiction of the local municipality in which the Properties are situated and subject to the laws and rules governing said shelter, or to a comparable animal shelter. Furthermore, any Owner shall be absolutely liable to each and all remaining Owners, their families, guests, tenants and invitees, for any unreasonable noise or damage to person or property caused by any animal brought or kept upon the Properties by an Owner or by members of his family, his tenants or his guests; and it shall be the absolute duty and responsibility of each such Owner to clean up after such animal which have used any portion of the Common Area.

Section 8. Trash. No rubbish, trash, garbage or other waste material shall be kept or permitted upon any Lot or Common Area, except in sanitary containers located in appropriate areas screened and concealed from view, and no odor shall be permitted to arise therefrom so as to render the Properties, or any portion thereof, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. There

shall be no exterior fires whatsoever except barbecue fires contained within receptacles therefor and fire pits in the patios designed in such a manner that they do not create a fire hazard. No clothing or household fabrics shall be hung, dried or aired in such a way in the Properties as to be visible to other property and no lumber, grass, shrub or tree clippings or plant waste, metals, bulk material or scrap or refuse or trash shall be kept, stored or allowed to accumulate on any portion of the Properties except within an enclosed structure or appropriately screened from view.

Section 9. View Obstructions. No fence, hedge, wall or other dividing instrumentality over six (6) feet in height measured from the ground on which it stands shall be constructed or maintained on any Lot, except that Declarant may vary or exceed said height or location of any fence in accordance with its architectural plans. Each Owner, by accepting a deed to a Lot, hereby acknowledges that any construction by Declarant may impair the view of such Owner and hereby consents to such impairment.

Section 10. Temporary Buildings. No outbuilding, basement, tent, shack, shed or other temporary building or improvement of any kind shall be placed upon any portion of the Properties, either temporarily or permanently. No garage, trailer, camper, motor home or recreational vehicle shall be used as a residence in the Properties, either temporarily or permanently.

Section 11. Common Area Facilities. Nothing shall be altered or constructed in or removed from the Common Area except upon written consent of the Association.

Section 12. Declarant Exemption. Declarant or its successors or assigns will undertake the work of constructing dwelling units and developing all of the Lots included within the Properties and any annexation thereto. The completion of that work and sale, rental and other disposal of dwelling units is essential to the establishment and welfare of said property as a residential community. As used in this Section and its subparagraphs, the words "its successors or assigns" specifically do not include purchasers of Lots improved with completed dwelling units. In order that said work may be completed and the Properties established as a fully occupied residential community as rapidly as possible, no Owner nor the Association shall do anything to

interfere with and nothing in this Declaration shall be understood or construed to:

(a) Prevent Declarant, its successors or assigns, or its or their contractors or subcontractors, from doing, on any Lot owned by them, whatever they determine to be necessary or advisable in connection with the completion of said work, including, without limitation, the alteration of its construction plans and designs as Declarant deems advisable in the course of development; or

(b) Prevent Declarant, its successors or assigns, or its or their representatives, from erecting, constructing and maintaining, on any Lot or portion thereof, owned or controlled by Declarant or its successors or assigns or its or their representatives or their contractors or subcontractors, such structures as may be reasonable necessary for the conduct of its or their business of completing said work and establishing the Properties as a residential community and disposing of the same in Lots by sale, lease or otherwise; or

(c) Prevent Declarant, its successor or assigns, or its or their contractors or subcontractors, from constructing on any Lot or any portion thereof, owned or controlled by Declarant, or its successors or assigns, its or their business of developing, subdividing, grading and constructing dwelling units and other improvements on the Properties as a residential community and of disposing of dwelling units thereon by sale, lease or otherwise; or

(d) Prevent Declarant, its successors or assigns, or its or their contractors or subcontractors, from maintaining such sign or signs on any Lot owned or controlled by any of them as may be necessary in connection with the sale, lease or other marketing of Lots and dwelling units in the Properties; or

(e) Prevent Declarant, at any time prior to acquisition of title to a Lot in a subdivision by a purchaser from Declarant, to establish on that subdivision additional licenses, reservations and rights-of-way to itself, to utility companies or to others as may, from time to time, be reasonably necessary to the proper development and disposal of the Properties.

Section 13. Outside Installation. No radio station or shortwave operators of any kind shall operate from any Lot or dwelling unit unless approved by the Board of Directors. Exterior radio antenna, television antenna or other antenna may be erected or maintained in the Properties, subject to the approval of the Architectural Committee.

Section 14. Insurance Rates. Nothing shall be done or kept in the Properties which will increase the rate of insurance on any property insured by the Association without the approval of the Board of Directors nor shall anything be done or kept in the Properties which would result in the cancellation of insurance on any property insured by the Association or which would be in violation of any laws.

Section 15. Drilling. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot nor shall oil wells, tanks, tunnels or mineral excavations or shafts be permitted upon the surface of any Lot or within five hundred (500') feet below the surface of the Properties. No derrick or other structure designed for use in boring for water, oil or natural gas shall be erected, maintained or permitted upon any Lot.

Section 16. Further Subdivision. No Owner shall further partition or subdivide his Lot; provided, however, that this provision shall not be construed to limit the right of an Owner to: (a) rent or lease all or any portion of his Lot by means of a written lease or rental agreement subject to the restrictions of this Declaration, so long as the Lot is not leased for transient or hotel purposes; (2) sell his Lot; or (3) transfer or sell any Lot to more than one person to be held by them as tenants in common, joint tenants, tenants by the entirety or as community property. The terms of any such lease or rental agreement shall be subject, in all respects, to the provisions of this Declaration and Bylaws of the Association and any failure by the Lessee of such Lot to comply with the terms of this Declaration or the Bylaws of the Association shall constitute a default under the lease.

Section 17. Drainage. There shall be no interference with the established drainage pattern over any subdivision within the Properties, unless an adequate alternative provision is made for

proper drainage and is first approved in writing by the Architectural Committee. For purposes thereof, "established" drainage is defined as the drainage which exists at the time the overall grading of any subdivision is completed by Declarant or that which is shown on any plans approved by the Architectural Committee which may include drainage from the Common Area over any Lot or Lots in the Properties.

Section 18. Water Supply Systems. No individual water supply, sewage disposal system or water softener system shall be permitted on any Lot in the Properties unless such system is designed, located, constructed and equipped in accordance with the requirements, standards and recommendations of the Centerville City Water Department, the Architectural Committee and all other applicable governmental authorities.

Section 19. Lease by Declarant. The Declarant is authorized to lease to tenants, not more than thirty percent (30%) of the Lots upon which residential units have been constructed thereon owned by it.

ARTICLE XI

Fences

There shall be no fences or walls within or on the Properties except the fence and/or wall around the perimeter of the Properties and except party walls, except as approved by the Architectural Committee.

ARTICLE XII

Damage or Destruction to Common Area

Damage to or destruction of all or any portion of the Common Area shall be handled in the following manner, notwithstanding any provision in this Declaration to the contrary:

(a) In the event of damage or destruction to the Common Area, and the insurance proceeds are sufficient to effect total restoration, then the Association shall cause such Common Area to be repaired and reconstructed substantially as it previously existed.

(b) If the insurance proceeds are within TEN THOUSAND (\$10,000.00) DOLLARS or less of being sufficient to effect total restoration, then the Association shall cause such Common Area to be repaired and reconstructed substantially as it previously existed and the difference between the insurance proceeds and the actual cost shall be levied as a Reconstruction Assessment equally against each of the Lot Owners, in accordance with the provisions of Article VI, Section 5 of this Declaration.

(c) If the insurance proceeds are insufficient by more than TEN THOUSAND (\$10,000.00) DOLLARS to effect total restoration to the Common Area, then by written consent or vote of a majority of the Owners, they shall determine whether: (1) to rebuild and restore in substantially the same manner as the improvements existed prior to the damage and to raise the necessary funds over the insurance proceeds by levying equal Reconstruction Assessments against all Lots; (2) to rebuild and restore in a way which utilizes all available insurance proceeds and an additional amount not in excess of TEN THOUSAND (\$10,000.00) DOLLARS and which is assessable equally to all Owners but which is less expensive than replacing these improvements in substantially the same manner as they existed prior to being damaged; or (3) subject to the provisions of Article XIV, to not rebuild and to distribute the available insurance proceeds equally to the Owners and mortgagees of the Lots as their respective interests may appear.

(d) Each Owner shall be liable to the Association for any damage to the Common Area not fully covered by insurance which may be sustained by reason of the negligence or wilful misconduct of said Owner or of his family and guests, both minor and adult. Notwithstanding the foregoing, the Association reserves the right to charge a Special Assessment equal to the increase, if any, in the insurance premium directly attributable to the damage caused by such Owner. In the case of joint ownership of a Lot, the liability of such Owners shall be joint and several, except to the extent that the Association has previously contracted in writing with such joint Owners to the contrary. The cost of correcting such damage shall be a Special Assessment against the Lot and may be collected as provided herein for the collection of Assessments.

Insurance

Section 1. Common Area. The Association shall keep all buildings, improvements and all fixtures of the Common Area insured against loss or damage by fire for the full insurance replacement cost thereof and may obtain insurance against such other hazards and casualties as the Association may deem desirable. The Association may also insure any other property, whether real or personal, owned by the Association, against loss or damage by fire and such other hazards as the Association may deem desirable, with the Association and the Owner as beneficiary of such insurance. The insurance coverage with respect to the Common Area shall be written in the name of and proceeds shall be payable to the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried. Premiums for all insurance carried by the Association are Common Expenses included in the Assessments made by the Association.

Section 2. Insurance Obligations of the Association. The Association shall insure each entire dwelling unit, including the structural portions of the dwelling unit, against loss or damage by fire or by any other casualty, under the standard form of extended endorsement and broad form now in use in the State of Utah or under such other insurance as may be required by any mortgagee of the residence. All such insurance shall be for the full replacement value of the dwelling unit and for the benefit of the Owner.

Section 3. Replacement or Repair of Property. In the event of damage to or destruction of any part of the Common Area facilities or other improvements in the Properties insured by the Association, the Association shall repair or replace the same from the insurance proceeds available, subject to the provisions of Article XII of this Declaration. If such insurance proceeds are insufficient to cover the costs of such repair or replacement of the property damages or destroyed, the Association may make a Reconstruction Assessment against all Lot Owners to cover the additional cost of repair or replacement not covered by the insurance proceeds, in addition to any other Assessments made against such Lot Owner in accordance with the provisions of

Article VI, Section 5 of this Declaration. In the event of total destruction of all of the improvements in the Properties, the proceeds of the insurance carried by the Association shall be divided proportionately among the Lot Owners, such proportion based upon the original base sales price of each improved Lot at the time it was initially sold by the Declarant, provided that the balance then due on any valid encumbrance of record shall be first paid in order of priority, before the distribution of any proceeds to an Owner whose Lot is so encumbered.

Section 4. Waiver of Subrogation. As to each policy of insurance maintained by the Association which will not be voided or impaired thereby, the Association hereby waives and releases all claims against the Board of Directors, the owner, the manager, Declarant and the agents and employees of each of the foregoing with respect to any loss covered by such insurance, whether or not caused by negligence or of breach of any agreement by said persons, but only to the extent that insurance proceeds are received in compensation for such loss.

Section 5. Liability Insurance. The Association shall obtain comprehensive public liability insurance, including medical payments, liquor liability insurance and malicious mischief, in the amount of \$1,000,000.00 per occurrence for personal injury and/or property damage arising from the activities of the Association or with respect to property under its jurisdiction, including, if obtainable, a cross-liability endorsement insuring each insured against liability to each other. Such insurance shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of a Lot Owner because of negligent acts of the Association or other Lot Owners.

The Association shall obtain liability coverage on members of the Board of Directors for negligent conduct.

Section 6. Fidelity Coverage. The Association shall obtain fidelity coverage against dishonest acts on the part of directors, managers, trustees, employees or volunteers responsible for handling funds collected and held for the benefit of the Lot Owners. The fidelity bond or insurance must name the Association as the named insured and shall be written in an amount sufficient to provide protection which is in no event less

than one and one-half (1/2) times the insured's estimated annual operating expenses and reserves. In connection with such coverage, an appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers.

Section 7. Other Insurance and General. The Association may also obtain, through the Board of Directors, Workman's Compensation Insurance and other liability insurance as it deems desirable, insuring each Lot Owner and the Association, Board of Directors and Manager from liability in connection with the Common Area and the premiums for which are Common Expenses included in the Assessments made against the Owners. Such insurance policies shall have severability of interest clauses or endorsements which shall preclude the insurer from denying the claim of a Lot Owner because of the negligent acts of the Association or other dwelling Lot Owners.

All policies shall be reviewed at least annually by the Board of Directors and the limits increased at its discretion.

Notwithstanding any other provision herein, the Association shall continuously maintain in effect such casualty, flood and liability and bonds and other insurance meeting the requirements for planned unit developments established by the Federal Home Loan Mortgage Corporation (FHLMC), the Government National Mortgage Association (GNMA), the Federal National Mortgage Association (FNMA), Housing and Urban Development (HUD), Federal Housing Administration (FHA), Veterans Administration (VA), State of Utah Finance Agency and conventional lending institutions, so long as there are any mortgages on any of the Properties.

Section 8. Hazard Insurance. Each Owner shall be responsible for hazard insurance on the contents of his property.

ARTICLE XIV

Mortgage Protection Clause

Notwithstanding any and all provisions hereof to the contrary, in order to induce the Federal Home Loan Mortgage Corporation (FHLMC), the Government National Mortgage Association (GNMA), Federal National Mortgage Association (FNMA), Housing and

Urban Development (HUD), Federal Housing Administration (FHA), Veterans Administration (VA), State of Utah Finance Agency and conventional lending institutions, and to participate in the financing of the sale of Lots within the Properties, the following provisions are added hereto (and to the extent these added provisions conflict with any other provision of the Declaration, these added provisions shall control):

(a) Each first mortgagee of a mortgage encumbering any Lot, at written request, is entitled to written notification from the Association of any default by the mortgagor of such Lot in the performance of such mortgagor's obligations under this Declaration, the Articles of Incorporation of the Association or the Bylaws of the Association, which default is not cured within thirty (30) days after the Association learns of such default.

(b) Each Owner, including every first mortgagee of a mortgage encumbering any Lot which obtains title to such Lot pursuant to the remedies provided in such mortgage, or by foreclosure of such mortgage or by deed (or assignment) in lieu of foreclosure, shall be exempt from any "right of first refusal".

(c) Each first mortgagee of a mortgage encumbering any Lot which obtains a title to such Lot pursuant to the remedies provided in such mortgage or by foreclosure of such mortgage, shall take title to such Lot free and clear of any claims of unpaid assessments or charges against such Lot which accrued prior to the acquisition of title to such Lot by the mortgagee.

(d) Unless at least sixty seven percent (67%) of first mortgagees (based upon one vote for each mortgage owned), and Owners (other than the Declarant) have given their prior written approval, neither the Association or the Owners shall:

(1) by act or omission seek to abandon, partition, alienate, subdivide, release, hypothecate, encumber, sell or transfer the Common Area and the improvements thereon, directly or indirectly which are owned by the Association. (The granting of easements for public utilities or for other public purposes consistent with the intended use of such property by the Association or the transfer of the Common Area or improvements to an unincorporated association of the Owners in accordance with

the Articles of Incorporate of the Association shall not be deemed a transfer within the meaning of this clause);

(2) change the method of determining the obligations, assessments due or other charges which may be levied against a Lot Owner;

(3) by act or omission change, waive or abandon any scheme of regulations or enforcement thereof, pertaining to the architectural design of the exterior appearance of the dwelling units, the maintenance of common property party walks, party walls or common fences and driveways or the up-keep of lawns and plantings in the Properties;

(4) fail to maintain fire and extended coverage insurance on Common Area property on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurance value (based on current replacement costs);

(5) use hazard insurance proceeds for losses to any Common Areal property for other than the repair, replacement or reconstruction of such improvement;

(e) First mortgagees shall have the right to examine the books and records of the Association during normal business hours.

(f) All first mortgagees shall be given: (1) thirty (30) days written notice prior to the effective date of any proposed material amendment to this Declaration or the Articles of Incorporation or Bylaws of the Association and prior to the effective date of any termination of an agreement for professional management of the Properties following a decision of the Owners to assume self-management of the Properties; and (2) immediate notice following any damage to the Common Area whenever the cost of reconstruction exceeds TEN THOUSAND (\$10,000.00) DOLLARS and as soon as the Board of Directors learns of any threatened condemnation proceedings or proposed acquisition of any portion of the Properties;

(g) First mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Area property and may pay any overdue

premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for such property, and the first mortgagee making such payments shall be owed immediate reimbursement therefor from the Association;

(h) First mortgagees, pursuant to their mortgage, shall have priority over Unit Owners in case of a distribution of insurance proceeds or condemnation awards for losses to or taking of the Common Area property.

In addition to the foregoing, the Board of Directors may enter into such contracts or agreements on behalf of the Association as are required in order to satisfy the guidelines of the VA, the FHA, the FHLMC, the FNMA or the GNMA or any similar entity so as to allow for the purchase, insurance or guaranty, as the case may be, by such entities of first mortgages encumbering Lots with dwelling units thereon. Each Owner hereby agrees that it will benefit the Association and the membership of the Association, as a class of potential mortgage borrowers and potential sellers of their dwelling units, if such agencies approve the Properties as a qualifying subdivision under their respective policies, rules and regulations, as adopted from time to time.

Neither this Declaration nor the Articles of Incorporation nor the Bylaws of the Association will be amended in such a manner that the rights of any first mortgagee will be adversely affected.

ARTICLE XV

General Provisions

Section 1. Enforcement. This Declaration, the Articles of Incorporation and the Bylaws may be enforced by the Association as follows:

(a) Breach of any of the covenants contained in the Declaration or the Bylaws and the continuation of any such breach may be enjoined, abated or remedied by appropriate legal proceedings by an Owner, by the Association or the successor in interest of the Association. Any judgment rendered in any action or proceeding pursuant hereto shall include a sum for attorney's

fees in an amount as the Court may deem reasonable, in favor of the prevailing party, as well as the amount of any delinquent payment, interest thereon, costs of collection and Court costs.

(b) The result of every act or omission whereby any of the covenants contained in this Declaration or the Bylaws are violated in whole or in part is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such result and may be exercised by any Owner, by the Association or its successors in interest.

(c) The remedies herein provided for breach of the covenants contained in this Declaration or in the Bylaws shall be deemed cumulative and none of such remedies shall be deemed exclusive.

(d) The failure of the Association to enforce any of the covenants contained in this Declaration or in the Bylaws shall not constitute a waiver of the right to enforce the same thereafter.

(e) A breach of the covenants, conditions or restrictions contained in this Declaration or in the Bylaws shall not affect or impair the lien or charge of any bona fide first mortgage or Deed of Trust made in good faith and for value on any residential Lot or the improvements thereon, provided, however, that any subsequent Owner of such property shall be bound by said covenants, whether such Owner's title was acquired by foreclosure in a Trustee's Sale or otherwise.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or Court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Term. The covenants and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and be enforceable by the Association or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, perpetually, unless otherwise provided by an appropriate amendment.

Section 4. Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community and for the maintenance of community recreational facilities and the Common Area. The article and section headings have been inserted for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine and neuter shall each include the masculine, feminine and neuter.

Section 5. Amendments. Except as provided and subject to any rights of the VA or the FHA hereunder, this Declaration may be amended only by the affirmative vote or written consent of the Owners holding not less than seventy-five percent (75%) of the voting power of each class of members; provided, however, that the prior written approval of at least seventy-five percent (75%) of all first mortgagees must be obtained also, before Article XIV may be amended. Notwithstanding the foregoing, prior to the sale of the first Lot in the Properties, Declarant shall have the right to terminate or modify this Declaration by recordation of a supplement hereto setting forth such termination or modification in accordance with the laws of the State of Utah and subject to Article XV, Section 6 of this Declaration. For purposes of this Declaration, the sale shall be deemed to be the date upon which a Deed conveying a Lot is recorded in the office of the Davis County Recorder.

Provided, further however, this Declaration shall not be amended in such a manner that the rights of any first mortgagee will be adversely affected.

Section 6. No Public Right or Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Properties to the public or for any public use. (Except as shown on the recorded Plat).

Section 7. Constructive Notice and Acceptance. Every person who owns, occupies or acquires any right, title, estate or interest in or to any Lot or other portion of the Properties does and shall be conclusively deemed to have consented and agreed to every limitation, restriction, easement, reservation, condition

and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in the Properties, or any portion thereof.

Section 8. Reservation of Easements. Reciprocal easements are hereby reserved for the benefit of adjoining Lot Owners for the control, maintenance and repair of the utilities of adjoining Lot Owners. Declarant expressly reserves, for the benefit of all of the real property in the Properties and the Owners, reciprocal easements of access, ingress and egress over all Lots and over the Common Area, for the use and enjoyment of the Lots in accordance with this Declaration, including without limitation, for installation and repair of utility services, for drainage over, across and upon adjacent Lots for water resulting from the normal use of adjoining Lots, for maintenance and repair of any dwelling. Such easements may be used by Declarant, its successors, purchasers and all Owners, their guests, tenants and invitees, residing on or temporarily visiting the Properties, for pedestrian walkways, vehicular access and such other purposes reasonably necessary for the use and enjoyment of a Lot and the Common Area. No Owner of a Lot shall interfere with the established drainage pattern over his Lot from adjoining or other Lots. Each Owner of a Lot shall make adequate provisions for drainage in the event he changes the established drainage over his Lot. For purposes of this Declaration, "established drainage" on any Lot is defined as the drainage pattern and facilities in existence at the time that such Lot is conveyed to a purchaser from Declarant. In the event that any dwelling unit encroaches upon the Common Area and facilities as a result of construction, reconstruction, repair, shifting, settlement or movement of any portion of the Properties, a valid easement for encroachment and for the maintenance of the same shall exist so long as the encroachment exists. Declarant and the Lot Owners of each Lot on which there is constructed a dwelling unit along or adjacent to said Lot shall have an easement appurtenant to said Lot over the Lot line to and over the adjacent Lot, for the purposes of accommodating any natural movement or settling of any dwelling unit located on said Lot, any encroachment of any dwelling unit due to minor engineering or construction variances and any encroachment of eaves, roof overhangs and architectural features as part of the original construction of any dwelling unit located on said Lot. Declarant reserves the right to grant exclusive

easements over certain limited portions of the Common Area, if necessary, to certain Lot Owners for yard purposes, as required by the Federal Housing Administration. Declarant further expressly reserves, for the benefit of the Association, its agents and employees, easements of access, ingress and egress over the Lots and Common Area, for the purpose of maintaining, repairing and installing sewer pipelines and laterals in accordance with the provisions of this Declaration and as otherwise provided by law.

Section 9. Notices. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered as provided either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice or to the residence of such person if no address has been given to the Association. Such address may be changed, from time to time, by notice in writing to the Association.

Section 10. No Representations or Warranties. No representations or warranties of any kind, express or implied, have been given or made by Declarant or his agents or employees in connection with the Properties or any portion of the Properties, or any improvements thereon, its physical condition, zoning, compliance with applicable laws, fitness for intended use or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulations thereof as a planned development, except as specifically and expressly set forth in this Declaration and except as may be filed by Declarant from time to time with the Utah Land Sales Practices Administration or Centerville City.

ARTICLE XVI

Party Walls

There exists party walls between structures on the Lots. The general common law rules with respect thereto apply. Neither Owner of a party wall may interfere with it to the detriment of the other, or do anything to its structure that will weaken it.

The common party walls shall not be removed, remodeled, damaged or changed in any manner whatsoever by either Owner.

Damages to or destruction of the party walls shall be repaired or replaced at the common, equal expense of each Owner.

Declarant has executed this Declaration on the day and year first above written.

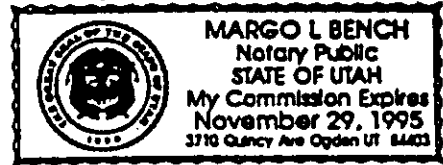
THE KIER CORPORATION, a
Utah Corporation

By: *[Signature]*
Declarant

STATE OF UTAH)
) :SS.
COUNTY OF WEBER)

On the 7th day of January, 1994, personally appeared before me JAMES E. KIER, President of THE KIER CORPORATION, a Utah corporation, signer of the foregoing instrument, who duly acknowledged to me that he executed the same.

[Signature]
NOTARY PUBLIC



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State of Utah
Department of Commerce
Division of Corporations and Commercial Code

I hereby certify that the foregoing has been filed
and approved on the 14th day of Jan 1994
in the office of this Division and hereby issue
this Certificate thereof.

Executed by *[Signature]* Date *[Signature]*



[Signature]
KORLA T. WOODS
Division Director

ARTICLES OF INCORPORATION

OF E 1093228 B 1717 P 335

COUNTRY COTTAGES OWNERS' ASSOCIATION

PLAT A, PLAT B, PLAT C

KNOW ALL PERSONS BY THESE PRESENTS:

That we, the undersigned, have this day voluntarily associated ourselves together for the purpose of forming a corporation under the laws of the State of Utah and to that end, do hereby adopt Articles of Incorporation as follows:

1. NAME. The name of this corporation ("Association" herein) is COUNTRY COTTAGES OWNERS' ASSOCIATION.

2. DURATION. The period of duration of this corporation is perpetual.

3. PURPOSES. The purposes for which the Association is formed are:

(a) The specific and primary purposes are to bring about civic betterment and social improvements by providing for the preservation of the architecture and appearance of a planned unit development known as COUNTRY COTTAGES ("Properties") and by owning, operating and maintaining common area properties and facilities for the use of all residents and the entire Properties, located in Centerville, Davis County, State of Utah.

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(b) The general purposes and powers are:

(i) To promote the common good, health, safety and general welfare of all of the residents within the Properties.

(ii) To exercise all of the powers and privileges, and to perform all of the duties and obligations of the Association arising from the Declaration of Covenants, Conditions, Restrictions and Reservations of Easements (the "Declaration") applicable to the Properties, as amended, from time to time, and recorded or to be recorded in the office of the Davis County Recorder.

(iii) To enforce applicable provisions of COUNTRY COTTAGES' Declaration, Bylaws and Rules and Regulations, and any other instruments, for the management and control of the Properties; to fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to contract for and pay all expenses in connection with the maintenance, gardening, utilities, materials, supplies and services relating to the Common Area (as defined in the Declaration) and facilities; to employ personnel reasonably necessary for administration and control of the Common Area for architectural control of all of the Properties, including lawyers and accountants where appropriate; and to pay all office and other expenses incident to the conduct of the business of the

Association, including all licenses, taxes and special assessments which are or would become a lien on any portion of the Properties.

(iv) To have and to exercise any and all powers, rights and privileges, including delegation of powers as permitted by law, which a corporation organized under the Utah Non-Profit Corporation and Cooperative Association Act by law may now or hereafter have or exercise; and

(v) To act in the capacity of principal, agent, joint venturer or partner, or otherwise.

The foregoing statement of purposes shall be constructed as a statement of both powers and purposes, and powers and purposes in each clause shall not be limited or restricted by reference to or interference from the terms or provisions of any other clause, but shall be broadly construed as independent powers and purposes. The Association shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the primary purposes of the Association.

4. NON-PROFIT. The Association is organized pursuant to the Utah Non-Profit Corporation and Cooperative Association Act as a non-profit corporation.

5. PRINCIPAL OFFICE. The initial principal office for the transaction of the business of the Association is located in the

City of Ogden, County of Weber, State of Utah, at the following street address: 3710 Quincy Avenue, Ogden, UT 84403.

6. MEMBERSHIP IN THE CORPORATION AND VOTING RIGHTS.

Section 1. Membership. Every Owner of a Lot shall be a member of the Association and no Owner shall have more than one membership in the Association. Membership in the Association shall not be assignable, except to the successor in interest of the Owner (including a Mortgagee) and every membership in the Association shall be appurtenant to and may not be separated from the fee ownership of such Lot. Ownership of such Lot shall be the sole qualification for membership in the Association.

Each member shall be issued a Certificate of Membership in the Association. The Certificate of Membership shall include the following:

CERTIFICATE NUMBER
 CLASS OF MEMBERSHIP
 THE NAME OF THE ASSOCIATION
 THE NAME OF THE MEMBER
 RESTRICTIONS ON TRANSFER
 DATE OF ISSUANCE
 THE LOT(S) TO WHICH THE MEMBERSHIP IS APPURTENANT

There shall be as many Members as there are Owners of Lots in the Properties.

Section 2. Transfer. The Association Membership held by any Owner of a Lot shall not be transferred, pledged or alienated in any way, except upon the sale or encumbrance of such Lot, and

then only to the purchaser or mortgagee of such Lot. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. A Class A Member who has sold his Lot to a contract purchaser under an agreement to purchase shall be entitled to delegate to such contract purchaser his membership rights in the Association. Such delegation shall be in writing and shall be delivered to the Board of Directors before such contract purchaser may vote. However, the contract seller shall remain liable for all charges and assessments attributable to his Lot until fee title to the Lot sold is transferred. In the event the Owner of any Lot should fail or refuse to transfer the membership registered in his name to the purchaser of such Lot upon transfer of fee title thereto, the Board of Directors shall have the right to record the transfer upon the books of the Association. The Board of Directors shall have the right to charge a reasonable Special Assessment against any Owner and his Lot equal to the cost of the Association of effectuating any such transfer of his membership upon the books of the Association.

Section 3. Classes of Voting Membership. The Association shall have two (2) classes of voting membership respecting the Lots, as follows:

Class A. Class A Members shall originally be all Owners,

with the exception of the Declarant, for so long as there exists a Class B Membership. Class A Members shall be entitled to one (1) vote for each Lot owned. Declarant shall become a Class A Member with regard to Lots owned by Declarant upon conversion of Declarant's Class B Membership as provided below. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised in accordance with Article IV, Section 2 of the Declaration, and in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. The Class B Membership shall be the Declarant, and it shall be entitled to three (3) votes for each Lot owned by Declarant. The Class B Membership shall cease and be converted to Class A Membership on the happening of any of the following events, whichever occurs earliest:

(a) When the total votes outstanding in the Class A Membership, inclusive of votes attributable to any property annexed to the Properties, equals the total votes outstanding in the Class B Membership; or

(b) Three (3) years from the date of recording the Declaration; or

(c) On the voluntary cancellation of the Class B Membership by Declarant.

Section 4. Vote Distribution. Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. When more than one person holds such interest or interests in any Lot, ("co-owner"), all such co-owners shall be Members and may attend any meetings of the Association, but only one such co-owner shall be entitled to exercise the vote to which the Lot is entitled. Such co-owners may, from time to time, all designate in writing one of their number to vote. Fractional votes shall not be allowed and the Class A vote for each Lot shall be exercised, if at all, as a unit. Where no voting co-owner is designated or if such designation has been revoked, the vote for such Lot shall be exercised as the majority of the co-owners of the Lot mutually agree. Unless the Board of Directors receives a written objection from a co-owner, it shall be presumed that the corresponding voting co-owner is acting with the consent of his or her co-owners. No vote shall be cast for any Lot where the majority of co-owners present, in person or by proxy and representing such Lot, cannot agree to vote or other action. The non-voting co-owner or co-owners shall be jointly and severally responsible for all of the obligations imposed upon the jointly held Lot and shall be entitled to all other benefits of ownership. All agreements and determinations lawfully made by the Association in

accordance with the voting percentages established herein, or by the Bylaws of the Association, shall be deemed to be binding on all Owners, their successors and assigns. Said voting rights shall be subject to the restrictions and limitations provided in the Declaration and the Articles of Incorporation and Bylaws of the Association.

7. DIRECTORS. The number of directors of the Association shall be three (3) and said number may be changed by a duly adopted amendment to the Bylaws of the Association, except that in no event may the number of directors be less than three (3).

The names and addresses of the persons who are appointed to act as the first directors of this corporation and to continue to act as such directors until the election and qualification of their successors are as follows:

<u>NAME</u>	<u>ADDRESS</u>
STEPHEN J. KIER	6303 Highland Drive Mountain Green, UT 84050
BENJAMIN P. BISHOP	425 Park Boulevard #1032 Ogden, UT 84401
DEBBI TAYLOR	2015 North 1975 East Layton, UT 84041

8. INCORPORATORS. The names and street address of each incorporator^{and Trustee} are as follows:

<u>NAME</u>	<u>ADDRESS</u>
STEPHEN J. KIER	6303 Highland Drive Mountain Green, UT 84050
BENJAMIN P. BISHOP	425 Park Boulevard #1032 Ogden, UT 84401
DEBBI TAYLOR	2015 North 1975 East Layton, UT 84041

9. REGISTERED AGENT. The name and street address of the Registered Agent is as follows:

<u>NAME</u>	<u>ADDRESS</u>
BENJAMIN P. BISHOP	425 Park Boulevard #1032 Ogden, UT 84401

The above are the incorporators of this corporation.

10. AMENDMENT. Amendment to these Articles of Incorporation shall require the vote or written consent of the Owners representing at least a majority of the voting power of the Association, and shall be subject to the requirements of the Declaration.

11. DISSOLUTION. The Association may be dissolved with the vote or written consent of the membership representing at least a majority of the voting power of the Association, subject to the requirements of the Declaration.

The Association is one which does not contemplate pecuniary gain or profit to the Members thereof, and it is organized solely

for non-profit purposes. Upon the winding up and dissolution of the Association, after paying or adequately providing for the debts and obligations of the Association, the remaining assets shall be distributed to an appropriate public agency to be used for purposes similar to those for which the Association was created. In the event such dedication is refused acceptance, such assets shall be disposed of in such manner as may be directed by decree of the Court of Davis County, State of Utah, upon petition therefor by any person concerned in the liquidation.

IN WITNESS WHEREOF, the undersigned, constituting the incorporators and registered agent of this Association, have executed these Articles of Incorporation this 18TH day of January, 1994.

INCORPORATORS:

Stephen J. Kier
STEPHEN J. KIER

Benjamin P. Bishop
BENJAMIN P. BISHOP

Debbi Taylor
DEBBI TAYLOR

REGISTERED AGENT:

Benjamin P. Bishop
BENJAMIN P. BISHOP

STATE OF UTAH)
) :SS.
COUNTY OF WEBER)

E 1093228 S 1717 P 345

On the 18th day of January, 1994, personally appeared before me STEPHEN J. KIER, BENJAMIN P. BISHOP, and DEBBI TAYLOR, the signers of the foregoing instrument, who duly acknowledged to me that they executed the same.



Margo L. Bench
NOTARY PUBLIC

COUNTRY COTTAGES

OWNERS' ASSOCIATION

PLAT A, PLAT B, PLAT C

ARTICLE I

General Plan of Ownership

Section 1. Name. The name of the corporation is COUNTRY COTTAGES OWNERS' ASSOCIATION, hereinafter referred to as "Association". The principal office of the Association shall be located in Centerville City, Davis County, State of Utah.

Section 2. Bylaws Applicability. The provisions of these Bylaws are applicable to the planned residential unit development known as COUNTRY COTTAGES located in Centerville City, Davis County, State of Utah ("the Properties").

Section 3. Personal Application. All present and future Owners and their tenants, future tenants, employees and any other person that might use the facilities of the Properties in any manner, are subject to the regulations set forth in these Bylaws and in the Declaration of Covenants, Conditions, Restrictions and Reservation of Easements ("the Declaration") recorded or to be recorded in the Office of the Davis County Recorder and applicable to the Properties.

The mere acquisition or rental of any Lot or Unit in the Properties or the mere act of occupancy of any Lot in the Properties will signify that these Bylaws are accepted, ratified and will be complied with.

ARTICLE II

Voting Rights, Majority of Quorum, Quorum, Proxies

Section 1. Voting Rights. Membership and voting rights of the Association shall be as provided in the Declaration and Articles of Incorporation.

Section 2. Majority of Quorum. Unless otherwise provided in these Bylaws or the Declaration, any action which may be taken by the Association may be taken by a majority of a quorum of the Members of the Association.

Section 3. Quorum. Except as otherwise provided in these Bylaws, the presence in person or by proxy of at least fifty-one percent (51%) of the total Membership of the Association shall constitute a quorum of the Membership. Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum.

Section 4. Proxies. Votes may be cast in person or by proxy. Proxies must be in writing and filed with the Secretary at least 24 hours before the appointed time of each meeting. Every proxy shall be revocable and shall automatically cease after completion of the meeting for which the proxy was filed and upon conveyance by the Member of his Lot.

ARTICLE III

Administration

Section 1. Association Responsibilities. The Association shall have the responsibility of administering the Properties, approving the annual budget, establishing and collecting all assessments and arranging for the management of the Properties pursuant to an agreement containing provisions relating to the duties, obligations, removal and compensation of the Manager.

Section 2. Place of Meetings of Members. Meetings of the Members shall be held on the Properties or such other suitable place as close thereto as practicable in Centerville City, Davis County, State of Utah, convenient to the Owners as may be designated by the Board of Directors.

Section 3. Annual Meeting of Members. The first annual meeting of the Members shall be held within thirty (30) days after fifty-one percent (51%) of the escrows for the sale of all of the Lots in the Properties have closed, or within six (6) months after the close of escrow for the sale of the first Lot in the Properties, whichever occurs first. Thereafter, the annual

meetings of the Association shall be held on the anniversary date of the first annual meeting; provided, however, that should the anniversary date fall on a legal holiday, then such annual meeting of the Members shall be held on the next day thereafter which is not a legal holiday. At each annual meeting there shall be elected, by ballot of the Members, a Board of Directors in accordance with the requirements of Section 5 of Article IV of these Bylaws. At the first annual meeting, the Board of Directors shall be elected to serve until the second annual meeting and at the second annual meeting, a Board of Directors shall be elected for a term of one (1) year beginning with the second annual meeting. Unless a member of the Board of Directors resigns before the expiration of his term of office, each director shall hold his office until his successor has been elected and the first annual meeting involving such successor is held. The term of office of any director elected to fill a vacancy created by the resignation of his predecessor shall be the balance of the unserved term of his predecessor. The Members may also transact such other business of the Association as may properly come before them. Each first mortgagee of a Lot in the Properties may designate a representative to attend all annual meetings of the Members.

Section 4. Special Meetings of Members. Special meetings of the Members may be called at any time by a majority of a quorum of the Board of Directors or upon a petition signed by Members holding at least fifteen percent (15%) of the voting power of each class of the Members, having been presented to the Secretary. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice, unless by consent of those Members holding at least four-fifths (4/5ths) of the voting powers of the Association, either in person or by proxy. Each first mortgagee of a Lot in the Properties may designate a representative to attend all special meetings of the Members.

Section 5. Notice of Meetings of Members. It shall be the duty of the Secretary to mail a notice of each annual or special meeting of Members, stating the purpose thereof as well as the day, hour and place where it is to be held, to each Owner of record and to each first mortgagee of a Lot which has filed a written request for notice with the Secretary, at least ten (10)

days but not more than sixty (60) days prior to such meeting. The notice may set forth time limits or speakers and nominating procedures for the meeting. The mailing of a notice, postage prepaid, in the manner provided in this Section shall be considered notice served, after said notice has been deposited in a regular depository of the United States mail. If no address has been furnished to the Secretary, notice shall be deemed to have been given to a Member if posted in a conspicuous place on the Association property.

Section 6. Adjourned Meetings. If any meeting of Members cannot be organized because a quorum has not attended, the Members who are present, either by person or by proxy, may adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days from the time the original meeting was called, at which meeting the quorum requirement shall be the presence, in person or by proxy, of the Members holding at least twenty-five percent (25%) of the voting power of the Association. Such adjourned meetings may be held without notice thereof as provided in this Article III except that notice shall be given by announcement at the meeting at which such adjournment is taken. If a meeting is adjourned for more than thirty (30) days, notice of the adjourned meeting shall be given as in the case of an original meeting.

Section 7. Order of Business. The order of business at all meetings of the Members shall be as follows: (a) roll call to determine the voting power represented at the meeting; (b) proof of notice of meeting or waiver of notice; (c) reading of minutes of preceding meeting; (d) reports of officers; (e) reports of committees; (f) election of inspector of elections; (g) election of directors; (h) unfinished business; and (i) new business. Meetings of Members shall be conducted by the officers of the Association in order of their priority.

Section 8. Action Without Meeting. Any action, which under the provision of the Utah Corporation Code, may be taken at a meeting of the Members, may be taken without a meeting if authorized by a writing signed by all of the Members who would be entitled to vote at a meeting for such purpose and filed with the Secretary.

Section 9. Consent of Absentees. The transactions of any meeting of Members, either annual or special, however called and noticed, shall be as valid as though had at a meeting duly held after regular call and notice, if a quorum be present, either in person or by proxy and if, either before or after the meeting, each of the Members not present in person or by proxy, signs a written waiver of notice or a consent to the holding of such meeting or an approval of the minutes thereof. All such waivers, consents, or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

Section 10. Minutes, Presumption of Notice. Minutes or a similar record of the proceedings of meetings of Members, when signed by the President or Secretary, shall be presumed truthfully to evidence the matters set forth therein. A recitation of the minutes of any such meeting that notice of the meeting was properly given shall be prima facia evidence that such notice was given.

ARTICLE IV

Board of Directors

Section 1. Number and Qualifications. The property, business and affairs of the Association shall be governed and managed by a Board of Directors composed of at least three (3) persons, each of whom, except for those appointed and serving as first directors, must either be an Owner of a Lot in the Properties or an agent of Declarant, for so long as Declarant owns a Lot in the Properties. The Board of Directors may increase, by resolution, the authorized number of members of the Board of Directors; provided, however, that the Owners shall have the sole right to elect the new Board members. Directors shall not receive any stated salary for their services as Directors; provided, however, that: (1) nothing herein contained shall be construed to preclude any Director from serving the Association in some other capacity and receiving compensation thereof; and (2) any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 2. Powers and Duties. The Board of Directors has the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are

now, by law or by these Bylaws, directed to be exercised and done exclusively by the Owners. Except as provided at Section 4 of this Article relating to Management Agent, the Board of Directors shall not enter into any service contract for a term in excess of one (1) year without the approval of a majority of Owners.

Section 3. Special Powers and Duties. Without prejudice to such foregoing general powers and duties and such powers and duties as are set forth in the Declaration, the Board of Directors is vested with and responsible for the following powers and duties:

(a) To select, appoint and remove all officers, agents, and employees of the Association; to prescribe such powers and duties for them as may be consistent with law, with the Articles of Incorporation, the Declaration and these Bylaws; to fix their compensation and to require from them security for faithful service when deemed advisable by the Board of Directors.

(b) To conduct, manage, and control the affairs and business of the Association and to make and enforce such rules and regulations therefor as may be consistent with law, with the Articles of Incorporation and these Bylaws, as the Board of Directors may deem necessary or advisable.

(c) To change the principal office for the transaction of business of the Association from one location to another within the County of Davis as provided in Article I hereof; to designate any place within such county for the holding of any annual or special meeting or meetings of Members consistent with the provisions of Article III, Section 2 hereof; and to adopt and use a corporate seal and to alter the form of such seal from time to time as the Board of Directors, in its sole judgment, may deem best, provided that such seal shall, at all times, comply with the provision of Utah law.

(d) To borrow money and to incur indebtedness for the purposes of the Association and to cause to be executed and delivered therefor, in the Association's name, Promissory Notes, bonds, debentures, Deeds of Trust, Mortgages, pledges, hypothecations, or other evidences of debt and securities therefor.

(e) To fix and levy, from time to time, Assessments, Special Assessments and Reconstruction Assessments upon the Owners, as provided in the Declaration; to fix and levy, from time to time in any fiscal year, Capital Improvements; to determine and fix the due date for the payment of such assessments and the date upon which the same shall become delinquent; provided, however, that such assessments shall be fixed and levied only to provide for the payment of the expenses of the Association and of taxes and assessments upon real or personal property owned, leased, controlled, or occupied by the Association, or for the payment of expenses for labor rendered or materials or supplies used and consumed, or equipment and appliances furnished for the maintenance, improvement, or development of such property, or for the payment of any and all obligations in relation thereto, or in performing or causing to be performed any of the purposes of the Association, for the general benefit and welfare of its Members, in accordance with the provisions of the Declaration. The Board of Directors is hereby authorized to incur any and all expenses for any of the foregoing purposes and to provide, or cause to be provided, adequate reserves for replacements as it shall deem to be necessary or advisable in the interest of the Association or welfare of its Members. The funds collected by the Board of Directors from the Members, attributable for replacement reserves, for maintenance, recurring less frequently than annually and for capital improvements shall, at all times, be held in trust for the Owners and shall not be co-mingled with other assessments collected from the Owners. Disbursements from such trust reserve fund shall be made only in accordance with the provisions of the Declaration. Such Assessments, Reconstruction Assessments, Special Assessments and Capital Improvement Assessments shall be fixed in accordance with the provisions of the Declaration. Should any Owner fail to pay such assessments before the delinquency, the Board of Directors, in its discretion, is authorized to enforce the payment of such delinquent assessments as provided in the Declaration.

(f) To enforce the provisions of the Declaration covering the Properties, these Bylaws or other agreements of the Association.

(g) To contract for and pay fire, casualty, errors and omissions, liability, malicious mischief vandalism, liquor

liability and other insurance, insuring the Owners, the Association, the Board of Directors and other interested parties, in accordance with the provisions of the Declaration, the Board of Directors deems advisable, which may include, without limitation, medical expenses of persons injured on the Common Area and to bond the agents and employees of any management body, if deemed advisable by the Board of Directors. The Board of Directors shall review, not less frequently than annually, all insurance policies and bonds obtained by the Board of Directors on behalf of the Association.

(h) To contract for and pay maintenance, gardening, utilities, materials and supplies and services relating to the Common Area and to employ personnel necessary for the operation of the Properties, including legal and accounting services, and to contract for and pay for improvements and any recreational facilities on the Common Area. In case of damage by fire or other casualty to the Common Area, if insurance proceeds exceed TWENTY FIVE THOUSAND (\$25,000.00) DOLLARS, or the cost of repairing or rebuilding exceeds available insurance proceeds by more than FIVE THOUSAND (\$5,000.00) DOLLARS, then the Board of Directors shall obtain firm bids from two or more responsible contractors to rebuild any portions of the Common Area, in accordance with the original plans and specifications with respect thereto and shall, as soon as possible thereafter, call a special meeting of the Members to consider such bids.

(i) To delegate its powers according to law and subject to the approval of the Members, to adopt these Bylaws.

(j) To grant easements where necessary for utilities and sewer facilities over the Properties to serve the Properties.

(k) To fix, determine and name, from time to time, if necessary or advisable, the public agency, fund, foundation, or corporation which is then or thereafter organized or operated for charitable purposes, to which the assets of this Association shall be distributed upon liquidation or dissolution, according to the Articles of Incorporation of the Association. The assets so distributed shall be those remaining after satisfaction of all just debts and obligations of the Association and after distribution of all property held or acquired by the Association under the terms of a specific trust or trusts.

(1) To adopt such Rules and Regulations as the Board of Directors may deem necessary for the management of the Properties, which Rules and Regulations shall become effective and binding after: (1) they are adopted by a majority of the Board of Directors at a meeting called for that purpose, or by the written consent of such number of directors attached to a copy of the Rules and Regulations of the Association; and (2) they are posted in a conspicuous place in the Common Area. For so long as Declarant holds or directly controls at least twenty-five percent (25%) of the voting power of the Association, such Rules and Regulations shall not materially affect the rights, privileges, or preferences of any Owner as established by the Declaration, the Articles of Incorporation of the Association, and these Bylaws, without the prior written approval of the Utah Commissioner of Real Estate. Such Rules and Regulations may concern, without limitation, use of the Association property, signs, parking restrictions, minimum standards of property maintenance consistent with the Declaration, and the procedures of the Architectural Committee and any other matter within the jurisdiction of the Association as provided in the Declaration; provided, however, that such Rules and Regulations shall be enforceable only to the extent that they are consistent with the Declaration, the Articles of Incorporation, and these Bylaws.

Section 4. Management Agent. The Board of Directors may contract for the Association, a professional management agent at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize, including but not limited to, the duties listed in Section 3 of this Article IV, provided, however, any such contract shall not exceed three (3) years and may be terminated by either party, without payment of a termination fee, on ninety (90) days or less written notice.

Section 5. Election and Term of Office. At the first annual meeting of the Association, and thereafter at each annual meeting of the Members, new directors shall be elected, by secret written ballot, by a majority of the Owners as provided in these Bylaws. In the event that an annual meeting is not held or the Board of Directors is not elected thereat, the Board of Directors may be elected at a special meeting of the Members held for that purpose. Each director shall hold office until his successor has been elected or until his death, resignation, removal or judicial

adjudication of mental incompetence. Any person serving as a director may be re-elected and there shall be no limitation on the number of terms during which he shall serve. Each Member may accumulate his votes for the election and removal of directors as provided in this Article IV. At any election of the Board of Directors, each Member may give one or more candidate for director a number of votes equal to the share of the voting power as set forth in the Declaration, multiplied by the number of directors to be elected.

Notwithstanding the foregoing, whenever: (1) notice is given for an election of directors of the Board of Directors; and (2) upon such date, the Members other than Declarant, do not have a sufficient percentage of the voting power of the Association to elect at least one director through the foregoing cumulative voting procedure, such notice shall also provide for the following special election procedure. Election of one director shall be apportioned entirely to the Members other than Declarant. Any person shall be an eligible candidate for the special election upon receipt by the Secretary of a "Declaration of Candidacy", signed by the candidate, at any time prior to the election. Such election shall be by secret ballot unless a majority of the Members other than the Declarant determines otherwise. The person receiving a majority of the votes cast by the Members other than Declarant shall be elected a member of the Board of Directors in a co-equal capacity with all other directors. The remaining members of the Board of Directors shall be elected through the customary cumulative voting procedure outlined above.

Section 6. Books, Audit. The Board of Directors shall cause to be maintained a full set of books and records showing the financial condition of the affairs of the Association, in a manner consistent with generally accepted accounting principles, and at no greater than annual intervals shall obtain an independent certified audit of such books and records. A copy of each such audit shall be delivered to a Member within thirty (30) days after the completion of such audit, upon written request from said Member. A balance sheet and an audited operating (income) statement for the Association shall be distributed to each Member (and to any institutional holder of a first mortgage on a Lot in the Properties, upon request) within sixty (60) days of accounting dates as follows:

(a) An initial balance sheet and an initial operating statement as of an accounting date which shall be the last day of the month closest in time to six (6) months following the date of closing of the first sale of a Lot to a Member;

(b) Thereafter, an annual balance sheet and an annual operating statement as of the last day of the Association's fiscal year.

The operating statement for the first six (6) month accounting period referred to in (a) above shall include a schedule of assessments received or receivable itemized by Lot number and by the name of the person or entity assessed.

Section 7. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a director by a vote of the Members of the Association shall be filled by vote of the majority of the remaining directors, even though they may constitute less than a quorum; and each person so elected shall be a director until a successor is elected at the next annual meeting of the Members of the Association, or at a special meeting of the Members called for that purpose. A vacancy or vacancies shall be deemed to exist in case of death, resignation, removal or judicial adjudication of mental incompetence of any director, or in case the Members fail to elect the full number of authorized directors at any meeting at which such election is to take place.

Section 8. Removal of Directors. At any regular or special meeting of the Members duly called, any one or more of the directors may be removed, with or without cause, by a majority vote of the Members of the Association and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the Members shall be given an opportunity to be heard at the meeting. If more than one director is to be removed at any one time, each Member may accumulate his votes and vote for or against such removal of one or more of the directors in the number of votes equal to his share of the voting power as set forth in the Declaration, multiplied by the number of Directors sought to be removed. Where the entire Board of Directors is not removed at one time, no director shall be removed if the number of votes cast against his removal exceeds the quotient arrived at when the total number of

Members entitled to vote is divided by one plus the authorized number of directors. If any or all of the directors are so removed, new directors may be elected at the same meeting. Notwithstanding the foregoing, any director who has been elected to office solely by the votes of Members other than Declarant pursuant to Section 5 of this Article IV may be removed from office prior to the expiration of his term of office, only by the vote of at least a simple majority of the voting power residing in Members other than Declarant.

Section 9. Organization Meeting. The first regular ("organization") meeting of a newly elected Board of Directors shall be held within ten (10) days of election of the Board of Directors, at such place as shall be fixed and announced by the directors at the meeting at which such directors were elected, for the purpose of organization, election of officers and the transaction of other business. No notice shall be necessary to the newly elected directors in order to legally constitute such meeting, provided a majority of the whole Board of Directors shall be present.

Section 10. Other Regular Meetings. Other regular meetings of the Board of Directors shall be open to the Members and may be held at such time and place within the Properties as shall be determined, from time to time, by a resolution adopted by a majority of a quorum of the directors; provided, however, that such meeting shall be held not less frequently than quarterly.

Notice of regular meetings of the Board of Directors shall be given to each director, personally or by mail, telephone or telegraph, at least seventy-two (72) hours prior to the date named for such meeting and shall be posted at a prominent place or places within the Common Area.

Section 11. Special Meetings. Special meetings of the Board of Directors shall be open to all Members and may be called by the President (of, if he is absent or refuses to act, by the Vice President) or by any two (2) directors. At least seventy-two (72) hours notice shall be given to each director, personally or by mail, telephone or telegraph, which notice shall state the time, place (as hereinabove provided) and the purpose of the meeting and shall be posted at a prominent place or places within the Common Area. If served by mail, each such notice shall be sent,

postage prepaid to the address reflected on the records of the Association and shall be deemed given, if not actually received earlier, at 5:00 p.m. on the second day after it is deposited in a regular depository of the United States mail as provided herein. Whenever any director has been absent from any special meeting of the Board of Directors, an entry in the minutes to the effect that notice has been duly given shall be conclusive and incontrovertible evidence that due notice of such meeting was given to such director, as required by law and as provided herein.

Section 12. Waiver of Notice. Before or at any meeting of the Board of Directors, any director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board of Directors shall be a waiver of notice by him of the time and place thereof. If all directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting. The transactions of any meeting of the Board of Directors, however called and noticed or wherever held after regular call and notice, of a quorum be present, and if, either before or after the meeting each of the directors not present signs such a written waiver of the notice, a consent to holding such meeting or an approval of the minutes thereof. All such waivers, consents and approvals shall be filed with the records of the Association or made a part of the minutes of the meeting.

Section 13. Quorum and Adjournment. Except as otherwise expressly provided herein, at all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business and the acts of the majority of the directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors there is less than a quorum present, the majority of those present may adjourn the meeting, from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 14. Action without Meeting. The directors shall have the right to take any action, in the absence of a meeting, which they could take at a meeting by obtaining the vote or written

consent of all of the directors. Any action so approved shall have the same effect as though taken at a meeting of the Board of Directors.

Section 15. Fidelity Bonds. The Board of Directors may require that all officers and employees of the Association handling or responsible for Association funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

Section 16. Committees. The Board of Directors, by resolution may, from time to time, designate such committees as it shall desire and may establish the purposes and powers of each such committee created. The resolution designating and establishing the committee shall provide for the appointment of its members, as well as a chairman; shall state the purposes of the committee and shall provide for reports, termination and other administrative matters as deemed appropriate by the Board of Directors.

ARTICLE V

Officers

Section 1. Designation. The principal officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected by the Board of Directors. The Board of Directors may appoint an Assistant Treasurer and an Assistant Secretary, and such other officers as, in their judgment, may be necessary. Officers other than the President need not be directors. The office of the Secretary and the office of the Treasurer may be held by the same person, but the office of President and Secretary may not be held by the same person.

Section 2. Election of Officers. Upon an affirmative vote of a majority of the entire Board of Directors, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board of Directors called for such purpose. Any officer may resign at any time by giving written notice to the Board of Directors or the President or Secretary of the Association. Any such resignation shall take effect at the

date of receipt of such notice or at any later time specified therein; and unless otherwise specified in said notice, acceptance of such resignation by the Board of Directors shall not be necessary to make it effective.

Section 3. Removal of Officers. Upon an affirmative vote of a majority of the entire Board of Directors, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board of Directors or at any special meeting of the Board of Directors called for such purpose. Any officer may resign at any time by giving written notice to the Board of Directors or to the President or Secretary of the Association. Any such resignation shall take effect at the date of receipt of such notice or at any later time specified therein; and unless otherwise specified in said notice, acceptance of such resignation by the Board of Directors shall not be necessary to make it effective.

Section 4. Compensation. Officers, agents and employees shall receive such reasonable compensation for their services as may be authorized or ratified by the Board of Directors. Appointment of any officer, agent or employee shall not, of itself, create contractual rights of compensation for services performed by such officer, agent or employee, provided that no officer, employee or director of Declarant or any affiliate of Declarant may receive any compensation.

Section 5. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board of Directors. He shall have all of the general powers and duties which are usually vested in the office of the President of a corporation, including but not limited to the power, subject to the provisions of Article IV, Section 16, to appoint committees from among the Members from time to time as he may, in his discretion, decide is appropriate, to assist in the conduct of the affairs of the Association. The President shall, subject to the control of the Board of Directors, have general supervision, direction and control of the business of the Association. The President shall be, ex officio, a member of all standing committees and he shall have such other powers and duties as may be prescribed by the Board of Directors or these Bylaws.

Section 6. Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent, disabled, refuses or is unable to act. If neither the President nor the Vice President are able to act, the Board of Directors shall appoint some other member of the Board of Directors to do so on an interim basis. The Vice President shall also perform such other duties as shall, from time to time, be imposed upon him by the Board of Directors or these Bylaws or the Articles of Incorporation of the Association.

Section 7. Secretary. The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the Association at the principal office of the Association, or at such other place as the Board of Directors may order. The Secretary shall keep the seal of the Association in safe custody and shall have charge of such books and papers as the Board of Directors may direct; and the Secretary shall, in general, perform all of the duties incident to the office of Secretary. The Secretary shall give, or cause to be given, notices of meetings of the Members of the Association and of the Board of Directors required by these Bylaws or by law to be given. The Secretary shall maintain a book of record Owners listing the names and addresses of the Owners as furnished the Association, and such books shall be changed only at such time as satisfactory evidence of a change in ownership of a Lot is presented to the Secretary. The Secretary shall perform such other duties as may be prescribed by the Board of Directors.

Section 8. Treasurer. The Treasurer shall have responsibility for Association funds and securities and shall be responsible for keeping or causing to be kept full and accurate accounts, tax records and business transactions of the Association, including accounts of all assets, liabilities, receipts and disbursements in books belonging to the Association. The Treasurer shall be responsible for the deposit of all monies and 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 of Directors. The Treasurer shall co-sign all checks and promissory notes on behalf of the Association as may be ordered by the Board of Directors, in accordance with the Declaration; shall render to the President and Board of Directors, upon request, an account of all of his transactions as Treasurer and of the financial condition of the Association and

shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or by these Bylaws.

ARTICLE VI

Obligations of Owners

Section 1. Assessments. (a) All owners are obligated to pay, in accordance with the provisions of the Declaration, all assessments imposed by the Association, to meet all expenses of the Association, which may include, without limitation, a liability insurance policy premium and an insurance premium for a policy to cover repair and reconstruction work in case of hurricane, fire, earthquake or other hazard, as more fully provided in Article IV, Section 3 of these Bylaws. Except as otherwise provided in the Declaration with respect to the collection of Special Assessments, the assessments shall be made equally among the Lots owned.

(b) All delinquent assessments shall be enforced, collected or foreclosed in the manner provided in the Declaration.

(c) Assessments as to any Owner of a Lot shall commence to run when the residential structure thereon is substantially complete and ready for occupancy.

Section 2. Maintenance and Repair. (a) Every Owner must perform promptly, at his sole cost and expense, all maintenance and repair work on his Lot as required under the provisions of the Declaration. As further provided in the Declaration, all plans for alterations and repair of improvements on the Lots within the Properties must receive the prior written consent of the Architectural Committee. The Architectural Committee shall establish reasonable procedures for the granting of such approval, in accordance with the Declaration.

(b) As further provided in the Declaration, each owner shall reimburse the Association for any expenditures incurred in repairing or replacing any portion of the Common Area owned by the Association, which are damaged through the fault of such Owner. Such expenditures shall include all court costs and reasonable attorney's fees incurred in enforcing any provision of these Bylaws or the Declaration.

ARTICLE VII

Amendment to Bylaws

These Bylaws, the Articles of Incorporation and the Declaration, may be amended by the Association in a duly constituted meeting of the Members for such purpose. No amendment to these Bylaws shall take effect unless approved by at least a majority of a quorum of Members present, in person or by proxy, at a duly constituted regular or special meeting of the Members; provided, however, that these Bylaws may be amended by a majority of the entire Board of Directors at any time prior to the sale of the first Lot to a purchaser from Declarant. The prior written approval of each institutional holder of a first deed of trust or lien of record made in good faith and for value on a Lot in the Properties must be secured before any material amendment to these Bylaws may take effect, and this sentence may not be amended without such prior written approval. The term "institutional holder" as used herein shall mean a mortgagee which is a bank or savings and loan association or established mortgage company or other entity chartered under federal or state laws, any corporation or insurance company, or any federal or state agency. If any loan on a Lot in the Properties is insured or guaranteed by the Federal Housing Administration (FHA), or the Veterans Administration (VA) or if the FHA or VA has committed to insure or guarantee loans on Lots in the Properties, the FHA or the VA shall have the right to veto amendments for so long as there exists a Class B Membership, provided, however, that neither the Declaration, Articles of Incorporation nor Bylaws will be amended in such a manner that the rights of any first mortgagee will be adversely affected.

ARTICLE VIII

Mortgages

Section 1. Notice to the Association. An Owner who mortgages his Lot shall notify the Association, through the Manager or the Secretary of the Board of Directors in the event there is no Manager, of the name and address of his mortgagee; and the Association shall maintain such information in a book entitled "Mortgagees of Lots." Any such Owner shall likewise notify the Association as to the release or discharge of any such mortgage.

Section 2. Notice of Unpaid Assessments. The Board of Directors of the Association shall, at the request of a mortgagee of a Lot, report any unpaid assessments due from the Owner of such Lot, in accordance with the provisions of the Declaration.

ARTICLE IX

Meaning of Terms

All terms appearing herein initially capitalized shall have the same meanings as are applied to such terms in the Declaration, which terms include, without limitation, "Declarant," "the Properties," "Common Area," "Manager," "Owner," "Board of Directors," "Architectural Committee," "Subdivision," "Improvement," "Lot," "Articles of Incorporation," "Member," "Mortgage," "Mortgagee," "Assessments," "Special Assessments," "Capital Improvement Assessments," and "Reconstruction Assessments."

ARTICLE X

Conflicting Provisions

In case any of these Bylaws conflict with any provision of the laws of the State of Utah, such conflicting Bylaw shall be null and void upon final court determination to such effect, but all other Bylaws shall remain in full force and effect. In case of any conflict between the Articles of Incorporation and these Bylaws, the Articles of Incorporation shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

ARTICLE XI

Indemnification of Directors and Officers

Except to the extent that such liability or damage or injury is covered by insurance proceeds, the Board of Directors may authorize the Association to pay expenses incurred by or to satisfy a judgment or fine rendered or levied against, a present or former director, officer, committee member or employee of the Association in an action brought by a third party against such person, whether or not the Association is joined as a party

defendant, to impose a liability or penalty on such person for the act alleged to have been committed by such person while a director, officer, committee member or employee; provided, however, the Board of Directors determines, in good faith, that such director, officer, committee member or employee was acting in good faith within what he reasonably believed to be the scope of his employment or authority and for a purpose which he reasonably believed to be in the best interests of the Association or its Members. Payments authorized hereunder include amounts paid and expenses incurred in settling any such action or threatened action. The provisions of this section shall apply to the estate, executor, administrator, heirs, legatees or devisees of a director, officer, committee member or employee, and the term "person" where used in the foregoing section, shall include the estate, executor, administrator, heirs and legatees or devisees of such person.

ARTICLE XII

Miscellaneous

Section 1. Execution of Documents. The Board of Directors, except as in these Bylaws otherwise provided, may authorize any officer or officers, agent or agents, to enter into any contract or execute any instrument in the name and on behalf of the Association and such authority may be general or confined to specific instances; and unless so authorized by the Board of Directors, no officer, agent, committee member or employee shall have any power or authority to bind the Association by any contract or engagement or pledge its credit or to render it liable for any purpose or in any amount.

Section 2. Inspection of Bylaws. The Association shall keep, in its office for the transaction of business, the original or a copy of these Bylaws as amended or otherwise altered to date, certified by the Secretary, which shall be open to inspection by the Owners and all first mortgagees at all reasonable times during business hours.

Section 3. Fiscal Year. The fiscal year of the Association shall be determined by the Board of Directors and having been so determined, is subject to change from time to time as the Board of Directors shall determine.

Section 4. Membership Book. The Association shall keep and maintain, in its office for the transaction of business, a book containing the name and address of each Member. Termination or transfer of ownership of any Lot and certificate of membership by an Owner shall be recorded in the book, together with the date on which such ownership was transferred, in accordance with the provisions of the Declaration.

ARTICLE XIII

Notice and Hearing Procedure

Section 1. Suspension of Privileges. In the event of an alleged violation of the Declaration, these Bylaws or the Rules and Regulations of the Properties adopted hereunder, and after written notice of such alleged violation is given to the Owner or to anyone in his family alleged to be in default in the manner herein provided, the Board of Directors shall have the right, after the alleged violator has been given an opportunity for an appropriate hearing as hereinafter provided, and upon an affirmative vote of a majority of all members of the Board of Directors, to suspend or condition said Owner and his family's right to the use of the Common Area facilities. Any such suspension shall be for a period of not more than thirty (30) days for any non-continuing infraction, but in the case of a continuing infraction (including non-payment of any assessment after the same has become delinquent), suspension may be imposed for so long as the violation continues. The failure of the Board of Directors to enforce the Rules and Regulations of the Properties, these Bylaws or the Declaration, shall not constitute a waiver of the right to enforce the same thereafter. The remedies set forth above and otherwise provided by these Bylaws or by law shall be cumulative and none shall be exclusive. However, any individual Member must exhaust all available internal remedies of the Association prescribed by these Bylaws, or by the Rules and Regulations adopted by the Association, before the Owner may resort to a court of law for relief with respect to any alleged violation by another Member of any provision of the Declaration, these Bylaws or the Rules and Regulations. The foregoing limitation pertaining to exhausting administrative remedies shall not necessarily apply to the Board of Directors or to any Member where the complaint alleges non-

payment of Assessments, Capital Improvement Assessments or Reconstructive Assessments.

Section 2. Written Complaint. A hearing to determine whether a right or privilege of an Owner or any of his family ("Respondent") under the Declaration or these Bylaws should be suspended or conditioned, shall be initiated by the filing of a written complaint by any Owner or by any officer or member of the Board of Directors with the President of the Association or other presiding member of the Board of Directors. The complaint shall constitute a written statement of charges which shall set forth, in ordinary and concise language, the acts or omissions with which the Respondent is charged, to the end that the Respondent will be able to prepare his defense. The complaint shall specify the specific provisions of the Declaration, these Bylaws or the Rules and Regulations of the Properties which the Respondent is alleged to have violated, but shall not consist merely of charges phrased in the language of such provision without supporting facts.

Section 3. Service of Complaint. Upon the filing of a complaint, the President shall serve a copy thereof on the Respondent by any of the following means: Service shall be by: (a) given personally; (b) sent by registered or certified mail, return receipt requested and addressed to the Respondent at the address appearing on the books of the Association; or (c) posted on the Lot and in a conspicuous place on the Common Area and in the office of the Association. Service by mailing or posting shall be deemed delivered and effective two (2) days after such posting and mailing in a regular depository of the United States mail. The complaint shall be accompanied with a postcard or other written form entitled "Notice of Defense" which, when signed by the Respondent or on behalf of the Respondent, will constitute a notice of defense hereunder. The copy of the complaint shall be accompanied by: (a) a statement that the Respondent may request a hearing before a Tribunal, in a form substantially as provided in Article XIII, Section 4; and (b) a copy of Article XIII of these Bylaws. No order adversely affecting the rights of the Respondent shall be made in any case, unless the Respondent shall have been served as provided herein.

Section 4. Statement to Respondent. The statement accompanying the complaint to the Respondent shall be substantially in the following form:

"Unless a written request for a hearing signed by or on behalf of the person named as Respondent in the accompanying complaint is delivered or mailed to the Board of Directors within fifteen (15) days after the complaint was served upon you, the Board of Directors may proceed upon the complaint without a hearing and you will have thus waived your right to a hearing. The request for a hearing may be made by delivering or mailing the enclosed form entitled "Notice of Defense" to the Board of Directors at the following address: _____

You may, but need not, be represented by counsel at any or all stages of these proceedings. If you desire the names and addresses of witnesses or an opportunity to inspect any relevant writing or item on file in connection with this matter in the possession, custody or control of the Board of Directors, you may contact the Chairman of the Board of Directors."

Section 5. Notice of Defense. The Notice of Defense shall state that the Respondent may:

- (a) Request a hearing before a Tribunal as hereinafter provided;
- (b) Object to a complaint upon the grounds that it does not state acts or omissions upon which the Board of Directors may proceed;
- (c) Object to the form of the complaint on the grounds that it is so indefinite or uncertain that the Respondent cannot identify the violating behavior or prepare his defense; or

(d) Admit to the complaint in whole or in part.

The Respondent shall be entitled to a hearing on the merits of the matter if the Notice of Defense is timely filed with the Board of Directors. The Respondent may file a separate statement by way of mitigation, even if he does not file a Notice of Defense. Any objection to the form or substance of the complaint shall be considered by the Tribunal within ten (10) days after receipt. The Tribunal shall make its determination and notify all parties within said ten (10) day period. If the complaint is insufficient, the complaining party shall have seven (7) days within which to amend the complaint to make it sufficient. The same procedure as set forth above shall be followed with respect to any amended or supplemental complaint. If it is determined by the Tribunal that the complaint is still insufficient, then the matter shall be dismissed by the Tribunal.

Section 6. Amended or Supplemental Complaint before Submission to Tribunal. At any time before the matter is submitted to the Tribunal for its findings of fact and recommendations, the Board of Directors may file or permit the filing of an amended or supplemental complaint. All parties shall be notified thereof in the manner herein provided. If the amended or supplemental complaint presents new charges, the Board of Directors shall afford the Respondent a reasonable opportunity to prepare his defense thereto. All new charges shall be deemed controverted and any objection to the amended or supplemental complaint may be made orally and shall be noted in the record of proceedings.

Section 7. Discovery. After initiation of a proceeding in which the Respondent is entitled to a hearing on the merits, the Respondent and the individual filing the complaint or supplemental complaint, upon written request made to the other party, prior to the hearing and within fifteen (15) days after service by the Board of Directors of the complaint or within ten (10) days after service of any amended or supplemental complaint, is entitled to: (1) obtain the names and addresses of witnesses to the extent known to the other party; and (2) inspect and make a copy of any statements, writings and/or investigative reports relevant to the subject matter of the hearing. Nothing in this section, however, shall authorize the inspection or disclosure by law or otherwise made confidential or protected as the attorney's

work product. Any party claiming his request for discovery has not been complied with shall submit a petition to compel discovery with the Tribunal appointed by the President. The Tribunal shall make a determination and issue a written order setting forth the matters or parts thereof which the petitioner is entitled to discover.

Section 8. Tribunal. The President shall appoint a Tribunal of three (3) Owners upon receipt of a written complaint as provided in Section 2 of this Article. No member of the Tribunal shall be a director of the Association nor shall any member of the Tribunal be involved in any prior investigation of the matter on behalf of the Board of Directors nor related by blood or marriage to either the complaining party or the Respondent. In appointing the members of the Tribunal, the President should make a good faith effort to avoid appointing next door neighbors of the Respondent or any Owner who are witnesses to the alleged violation giving rise to the complaint. The decision of the President shall be final, except that the Respondent may challenge any member of the Tribunal for cause, where a fair and impartial hearing cannot be afforded, at any time prior to the taking of evidence at the hearing. In the event of such a challenge, the Board of Directors shall meet to determine the sufficiency of the challenge, without the President voting. If such challenge is sustained, the President shall appoint another Owner to replace the challenged member of the Tribunal. All decisions of the Board of Directors in this regard shall be final. The Tribunal shall elect a chairman, appoint a hearing officer who shall be legally trained, and appoint a recorder to present evidence and to ensure that a proper record of all proceedings is maintained by the qualified reporter. The chairman shall preside at the meeting but the hearing officer shall rule on the admission and exclusion of evidence and shall advise the agency on matters of law. The Tribunal shall exercise all other powers relating to the conduct of the hearing.

Section 9. Notice of Hearing. The Tribunal shall serve a Notice of Hearing, as provided herein, on all parties at least ten (10) days prior to the hearing, if such hearing is requested by the Respondent. The hearing shall be held no sooner than thirty (30) days after the service of the complaint as provided in Section 3 of this Article XIII. The notice to the Respondent

shall be substantially in the following form but may include other information:

"You are hereby notified that a hearing will be held before a Tribunal appointed by the President of the Association at _____, on the _____ day of _____, 19____, at the hour of _____, upon the charges made in the complaint served upon you. You may be present at the hearing; may, but need not be represented by counsel; may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to compel the attendance of witnesses and the production of books, documents or other items by applying to the Board of Directors of the Association."

Section 10. Depositions and Written Interrogatories. On verified petition of any party, the Board of Directors, upon recommendation by the Tribunal, may order that the testimony of any material witness residing within the Properties be taken by deposition in the manner prescribed by law for depositions and written interrogatories in civil actions. The petition shall set forth the nature of the pending proceeding, the name and address of the witness whose testimony is desired, a showing of the materiality of his testimony, a showing that the witness will be unable to attend and shall request an order requiring the witness to appear and testify before the Secretary of the Association.

Section 11. Affidavits. (a) At any time ten (10) days, or more prior to a hearing or a continued hearing, any party may mail or deliver to the opposing party a copy of any affidavit which he proposes to introduce in evidence, together with a notice as provided in subsection (b). Unless the opposing party, within seven (7) days after such mailing or delivery, mails or delivers to the proponent a request to cross-examine an affiant, his right to cross-examine such affiant is waived and the affidavit, if introduced in evidence, shall be given the same effect as if the affiant had testified orally. If an opportunity to cross-examine an affiant is not afforded after request

therefor is made as herein provided, the affidavit may be introduced in evidence but shall be given only the same effect as other hearsay evidence.

(b) The notice referred to in subsection (a) above shall be substantially the form as follows:

"The accompanying Affidavit of _____ will be introduced as evidence at the hearing in the matter of _____ before a Tribunal of the Association. _____ will not be called to testify orally and you will not be entitled to question him/her unless you notify _____ that you wish to cross-examine him/her. To be effective, your request must be mailed or delivered to _____ on or before _____, 19____."

Section 12. Hearing. (a) Whenever the Tribunal has commenced to hear the matter and a member of the Tribunal is forced to withdraw prior to a final determination by the Tribunal, the remaining members shall continue to hear the case and the hearing officer shall replace the withdrawing member. Oral evidence will be taken only on oath or affirmation administered by an officer of the Association. The use of affidavits and written interrogatories in lieu of oral testimony shall be encouraged by the Tribunal.

(b) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but shall not be sufficient in itself to support a finding, unless it would be admissible over objection in civil matters. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at

the hearing and irrelevant and unduly repetitious evidence shall be excluded.

(c) Each party shall have these rights: (1) to call and examine witnesses; (2) to introduce exhibits; (3) to cross-examine opposing witnesses on any matter relevant to the issues even though the matter was not covered in the direct examination; (4) to impeach and to rebut the evidence against him. If Respondent does not testify in his own behalf, he may be called and examined as if under cross-examination.

(d) Neither the accusing Owner nor the allegedly defaulting Owner must be in attendance at the hearing. The hearing shall be open to attendance by all Owners. In rendering a decision, official notice may be taken at any time of any generally accepted matter within the Declaration, these Bylaws, the Rules and Regulations of the Properties, or the workings of the Association. Parties present at the hearing shall be informed of the matters to be noticed by the Tribunal and these matters shall be made a part of the record of proceedings. The Tribunal may grant continuances on a showing of good cause.

Section 13. Decision. The hearing officer who was in attendance at the hearing, if any, shall assist and advise the Tribunal in making its decision. If the Respondent fails to file a Notice of Defense as provided in Section 5 of Article XIII, or fails to appear at a hearing, the Tribunal may take action based on the evidence presented to it without notice to the Respondent. However, the Respondent may make any showing by way of mitigation. The Tribunal shall make its determination, only in accordance with the evidence presented to it and in accordance with these Bylaws. After all testimony and documentary evidence has been presented to the Tribunal committee, the Tribunal committee shall vote, by secret written ballot, upon the matter, with a majority of the entire Tribunal committee controlling. A copy of the findings and recommendations of the Tribunal shall be posted by the Board of Directors at a conspicuous place on the Common Area and a copy shall be served by the President on each party in the matter and his attorney, if any. Disciplinary action under the Declaration, these Bylaws or the Rules and Regulations of the Properties shall be imposed only by the Board of Directors and in accordance with the findings and recommendations of the Tribunal in their entirety, or the Board of Directors may reduce

the proposed penalty and adopt the balance of the recommendations. In no event shall the Board of Directors impose more stringent disciplinary action than recommended by the Tribunal. The decision of the Board of Directors shall be in writing and shall be served and posted in the same manner as the findings and recommendations of the Tribunal. The decision of the Board of Directors shall become effective ten (10) days after it is served upon the Respondent, unless otherwise ordered in writing by the Board of Directors. The Board of Directors may order a reconsideration, at any time within fifteen (15) days following service of its decision on the parties, on its own motion or on petition by any party.

ARTICLE XIV

Membership in the Association

Section 1. Membership. Every Owner of a Lot shall be a member of the Association and no Owner shall have more than one membership in the Association. Membership in the Association shall not be assignable, except to the successor in interest of the Owner (including a Mortgagee) and every membership in the Association shall be appurtenant to and may not be separated from the fee ownership of such Lot. Ownership of such Lot shall be the sole qualification for membership in the Association.

Each member shall be issued a Certificate of Membership in the Association. The Certificate of Membership shall include the following:

CERTIFICATE NUMBER
 CLASS OF MEMBERSHIP
 THE NAME OF THE ASSOCIATION
 THE NAME OF THE MEMBER
 RESTRICTIONS ON TRANSFER
 DATE OF ISSUANCE
 THE LOT(S) TO WHICH THE MEMBERSHIP IS APPURTENANT

There shall be as many Members as there are Owners of Lots in the Properties.

Section 2. Transfer. The Association Membership held by any Owner of a Lot shall not be transferred, pledged or alienated in

any way, except upon the sale or encumbrance of such Lot, and then only to the purchaser or mortgagee of such Lot. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. A Class A Member who has sold his Lot to a contract purchaser under an agreement to purchase shall be entitled to delegate to such contract purchaser his membership rights in the Association. Such delegation shall be in writing and shall be delivered to the Board of Directors before such contract purchaser may vote. However, the contract seller shall remain liable for all charges and assessments attributable to his Lot until fee title to the Lot sold is transferred. In the event the Owner of any Lot should fail or refuse to transfer the membership registered in his name to the purchaser of such Lot upon transfer of fee title thereto, the Board of Directors shall have the right to record the transfer upon the books of the Association. The Board of Directors shall have the right to charge a reasonable Special Assessment against any Owner and his Lot equal to the cost of the Association of effectuating any such transfer of his membership upon the books of the Association.

ADOPTED this _____ day of _____, 19____.

SECRETARY

(SEAL)