

BOOK 1183

RECORDED AT REQUEST OF Meadside Corp

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DECLARATION OF BUILDING AND USE RESTRICTIONS
CAROL DEAN PAGE
DAVIS COUNTY RECORDER
DEPUTY [Signature] FEE 37.00

PART A. PREAMBLE

KNOW ALL MEN BY THESE PRESENTS:

THAT, WHEREAS, the undersigned, being the owners of the following described real property located in the City of KAYSVILLE, DAVIS County, State of Utah, to-wit:

Lots 1 to 17 inclusive, CREEKSIDE,^{Phase #2} according to the plat thereof, as recorded in the office of the County Recorder of said County.

do hereby establish the nature of the use and enjoyment of all lots in said subdivision and do declare that all conveyances of said lots shall be made subject to the following conditions, restrictions and stipulations:

PART B. RESIDENTIAL AREA COVENANTS

1. Land Use and Building Type. No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling not to exceed two stories in height and private garages and/or carports for not more than three vehicles. All construction to be of new materials, except that used brick may be used with prior written approval of the Architectural Control Committee.

2. Architectural Control. No building shall be erected, placed, or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony to external design with existing structures, and as to location with respect to topography and finish grade elevation. No fence or wall shall be erected, placed or altered on any lot nearer to any street than the front building setback line unless similarly approved. Approval shall be as provided in Part C.

3... Dwelling Cost, Quality and Size. No dwelling shall be permitted on any lot at a cost of less than \$ 35,000.00 exclusive of lot, based upon cost levels prevailing on the date these covenants are recorded, it being the intention and purpose of the covenants to assure that all dwellings shall be of a quality of workmanship and materials substantially the same or better than that which can be produced on the date these covenants are recorded at the minimum cost stated herein for the minimum permitted dwelling size. The floor area of the main structure, exclusive of one-story open porches and garages, shall be not less than 1,100 square feet. Each dwelling constructed shall have a garage with the capacity to fit two cars.

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4. Building Location.

(a) No building shall be located on any lot nearer than 25 feet to the front lot line, or nearer than 20 feet to any side street line.

(b) No dwelling shall be located nearer than 8 feet to any interior lot line, except that a three-foot minimum side yard shall be permitted for a garage or other permitted accessory building located 45 feet or more from the front building setback line. No dwelling shall be located on any interior lot nearer than 15 feet to the rear lot line. Detached garages or other permitted accessory buildings may be located seven feet or more from the rear lot line, so long as such buildings do not encroach upon any easements.

(c) For the purpose of this covenant, eaves, steps, and open porches shall not be considered as a part of a building, provided, however, that this shall not be construed to permit any portion of any building on a lot to encroach upon any easements.

5. Lot Area and Width. No dwelling shall be erected or placed on any lot having a width of less than 60 feet at the front building setback line nor shall any dwelling be erected or placed on any lot having an area of less than 6,000 square feet, except that a dwelling may be erected or placed on all corner and cul-de-sac lots as shown on the recorded plat, provided that the above yard clearances are maintained.

6. Easement. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and over the rear 10 feet of each lot. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

7. Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No clothes drying or storage of any articles which are unsightly in the opinion of the Architectural Control Committee will be permitted in carports, unless in enclosed areas designed for such purpose. No automobiles, trailers, boats, or other vehicles are to be stored on streets or front or side lots unless they are in running condition, properly licensed and are being regularly used.

8. Temporary Structures. No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuildings shall be used on any lot at any time as a residence either temporarily or permanently. No Mobile Homes are permitted Except as used by the builder or developer as a temporary sales or construction office.

9. Signs. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

10. Livestock and Poultry. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that of dogs, cats or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose and are restricted to the owner's premises or on leash under handler's control.

11. Garbage and Refuse Disposal. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. Each lot and its abutting street are to be kept free of trash, weeds and other refuse by the lot owner. No unsightly materials or other objects are to be stored on any lot in view of the general public.

12. Sight Distance at Intersection. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between 2 and 10 feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 30 feet from the intersection of the street property lines extended. The same sight-line limitations shall apply on a driveway or alley pavement. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

13. Oil and Mining Operations. 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, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon any lot.

14. Landscaping. Trees, lawns, shrubs, or other planting provided by the developer shall be properly nurtured and maintained or replaced at the property owner's expense upon request of the Architectural Control Committee.

15. Slope and Drainage Control. No structure, planting or other material shall be placed or permitted to remain or other activities undertaken which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of flow of drainage channels or obstruct or retard the flow of water through drainage channels. The slope control areas of each lot and all improvements in them shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

16. Except to the extent used by developer in connection with and during the development sale and the construction of dwellings thereof, no mobile home or similar facility, shall be placed upon any Residential Lot, the Common Areas or adjoining public streets. No stripped down, wrecked or junk motor vehicles shall be kept, parked, stored or maintained on any Residential Lot, the Common Areas or adjoining public streets. No large commercial vehicle, motor home, or recreational vehicle including boats, and trailers, campers etc. shall be parked on any Residential Lot, public streets or the Common Areas except within an enclosed structure or a screened area which prevents view thereof from adjoining Residential Lots, roads and Common Areas unless such vehicle is temporarily parked for the purpose or serving such Residential Lot or Common Areas.

17. No furniture, fixtures, appliances or other goods and chattels shall be stored in such a manner as to be visible from neighboring Residential Lots, roads or Common Areas.

18. No exterior antenna or satellite dish of any sort shall be installed or maintained on any Residential Lot except of a height, size and type approved by the Architectural Control Committee. No activity shall be conducted within the Property which interferes with television or radio reception.

PART C. ARCHITECTURAL CONTROL COMMITTEE

1. Membership. A majority of the committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, the remaining members of the committee shall have full authority to select a successor. Neither the members of the committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. At any time, the then record owners of a majority of the lots shall have the power through a duly recorded written instrument to change the membership of the committee or to withdraw from the committee or restore to it any of its powers and duties. The Architectural Control Committee is composed of

Ezra K. Nilson
Leonard K. Arave
J. Bradley Simons

2. Procedure. The Committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee, or its designated representative, fails to approve or disapprove within 30 days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required, and the related covenants shall be deemed to have been fully complied with.

PART D. GENERAL PROVISIONS

1. Term. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of forty years from the date these covenants are recorded, after which time, said covenants shall be automatically extended for successive periods of ten years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.


2. Enforcement. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

3. Severability. Invalidation of any one of these covenants by judgement or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

4. Amendment. These covenants are to run with the Land and shall be binding on all parties and all persons claiming under them unless an instrument signed by seventy-five percent of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

PLEASANT VALLEY DEVELOPMENT INC.

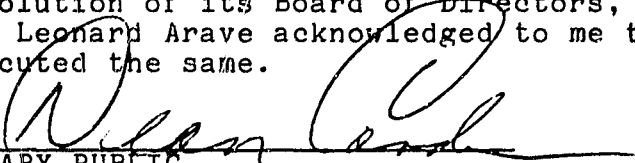
BY  President

BY  Sec. Treas.

J. Bradley Simons

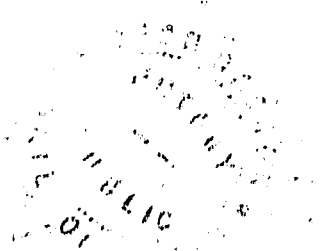
STATE OF UTAH)
 :SS
 COUNTY OF WEBER)

On the 16th day of June, A.D., 1987, personally appeared before me Ezra K. Nilson and Leonard Arave, who, being first duly sworn, did say that they are the President and the Secretary-Treasurer, respectively, of Pleasant Valley Development, Inc., a Utah corporation, and that the within and foregoing instrument was signed by them in behalf of said corporation by authority of a resolution of its Board of Directors, and the said Ezra K. Nilson and Leonard Arave acknowledged to me that the said corporation executed the same.



NOTARY PUBLIC

RESIDING AT OGDEN, UTAH
 COMMISSION EXPIRES 11-11-89.



DECLARATION of Covenants, Conditions and Restriction and By Law of Creekside Subdivision recorded.

This Declaration, made on this date hereinafter set forth by Woodside Homes, a Utah corporation, hereinafter referred to as "Declarant",

WITNESSETH:

Whereas, Delcarant is the owner of certain property in Kaysville, County of Davis, State of Utah, which is more particularly described as follows:

A part of the N.W. 1/4 of Section 34, T4N, R1W, S.L.B.&M., U.S. Survey: Beginning at a point which is 1307.70 ft. N.89°34'54"W., 1008.33 ft. S.47°13'36"W., 93.07 ft. S.48°17'E. and 108.66 ft. S.43°09'E. from the North 1/4 corner of said Section 34; and running thence N.46°27'37"E. 155.74 ft.; thence S.43°32'23"E. 78.94 ft.; thence N.46°32'13"E. 366.38 ft.; thence S.43°16'34"E. 178.96 ft.; thence S.44°53'26"W. 88.74 ft.; thence S.45°06'40"E. 75.30 ft.; thence S.13°10'04"E. 112.29 ft.; thence S.18°10'25"W 114.13 ft.; thence S.39°43'59"E. 130.33 ft.; thence S.75°10'E. 4.81 ft.; thence S.18°45'W. 8.35 ft.; thence S.66°45'W. 141.73 ft.; thence N.47°10'W. 179.49 ft.; thence S.49°40'W. 230.94 ft.; thence N.40°00'W. 149.36 ft.; thence S.53°08'W. 227.70 ft. to the centerline of Kaysville Main Street; thence N.48°58'44"W. 67.50 ft. along said centerline; thence N.53°08'E. 337.46 ft.; thence N.43 58'W. 137.90 ft.; thence N. 43°09'W. 42.45 ft. to the Point of Beginning.

Lots Contain 2.723 acres
Roads Contain 1.743 acres
Common Area 1.030 acres
Contain 5.496 acres total

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protection the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described property or any part thereof, their heirs, successors and assigns, and shall insure to the benefit of each owner thereof.

ARTICLE 1
Definitions

Section 1. "Association" shall mean and refer to Creek Side Owner Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner whether one or more persons or entities, of a fee simple title to any lot which is a part of the properties, including contract sellers, but excluding those having such interest merely as a security for the performance of an obligation.

Section 3 "Properties" shall mean and refer to that certain real property hereinabove described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is all the property described as follows:

CREEKSIDE PHASE NO. 1
DESCRIPTION FOR COMMON AREA

A part of the Northwest Quarter of Section 34, Township 4 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey: Beginning at the Northwest Corner of Lot 1, Creekside Phase No. 1, Kaysville City, Davis County, Utah; said point being 1990.81 feet South $60^{\circ}10'40''$ West from the North Quarter Corner of said Section 34; running thence South $36^{\circ}52'$ East 62.50 feet; thence South $87^{\circ}03'40''$ East 58.58 feet; thence North $53^{\circ}08'$ East 94.51 feet; thence South $65^{\circ}37'19''$ East 84.88 feet; thence North $68^{\circ}47'09''$ East 118.85 feet; thence South $39^{\circ}43'59''$ East 130.33 feet; thence South $75^{\circ}10'$ East 4.81 feet; thence South $18^{\circ}45'$ West 8.35 feet; thence South $66^{\circ}45'$ West 141.73 feet; thence North $47^{\circ}10'$ West 179.49 feet; thence South $49^{\circ}40'$ West 230.94 feet; thence North $40^{\circ}00'$ West 149.36 feet; thence North $53^{\circ}08'$ East 111.14 feet to the point of beginning.

Contains 1.03 Acre

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision plat of the Properties with the exception of the Common Areas.

Section 6 "Declarant" shall mean and refer to Woodside Homes a Utah corporation, its successors and assigns, if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.

ARTICLE II

Section 1. Owner's Easement of Enjoyment:

Every owner and the general public shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

- (a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common area;

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against the lot remains unpaid; and for a period not to exceed 60 days for any infraction of the published rules and regulations;

Section 2 . Delegation of Use:

Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III
Membership and Voting Rights

Section 1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from Ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A: Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. 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 as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot.

Class B: The Class B member shall be the Declarant and shall be entitled to three (3) votes for each lot owned. The Class B Membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on December 31, 1989

ARTICLE IV
Covenant for Maintenance Assessments

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each lot owned 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 or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each 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. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the properties and for the improvement and maintenance of the Common Area.

Section 3 Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first lot to an owner, the maximum annual assessment shall be Two Hundred Forty Dollars (240.00) per lot.

(a) From and after January 1 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 3% above the maximum assessment for the previous year or an amount equal to meet any increase in property tax and or amounts necessary to cover the expense of the minimum maintenance of the common area as required by Kaysville City without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first lot to an owner, the maximum annual assessment may be increased 3% above or an amount equal to meet any increase in property tax and or amounts necessary to cover the minimum maintenance of the common area as required by Kaysville City, by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at 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 4 Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special 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 upon the Common Area, including fixtures and personal property related thereto; provided that any such assessments shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 and 4 shall be sent to all members not less than 30 (thirty) days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the 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 notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No subsequent meeting shall be held more than 60 (sixty) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be a fixed uniform rate for all lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments Due Dates: The annual assessments provided for herein shall commence as to all lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each lot at least (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. 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 of the Association setting forth whether the assessments on a specified lot have been paid.

Section 8. Effect of Non-payment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 6 per cent (6%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. 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.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot to mortgage foreclosure or any proceedings in lieu thereof, shall extinguish the lien of such assessments as to payments which are due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE VII
Architectural Control of Common Area

No building, fence, wall, dam or other structure shall be commenced, erected or maintained upon Common Area property 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 by the Board of Directors of the Association, or by an Architectural Control Committee Board, or it's designated Committee, must also be approved by Kaysville City and Davis County Flood Control. Also any significant removal of trees or shrubs or other vegetation in the Common Area other than that removal of growth required to maintain the flow of the creek shall require approval in writing of one of the aforementioned entities. In the event said Board shall fail to approve or disapprove such actions or requests within (30) days after said plans and specifications or requests of removal of vegetation have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VIII
General Provisions

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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

Section 3 Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) years period by an instrument signed by not less than ninety per cent (90%) of the Lot owners, and thereafter by an instrument signed by not less than seventy-five per cent (75%) of the Lot owners. Any amendment must be recorded. All amendments to this Declaration shall be consistent with the ordinances of Kaysville City applicable thereto in effect at the time the amendment is made.

Section 4. Annexation. Additional land may be annexed by Declarant without the consent of member's within five years of the date of this instrument. Otherwise, additional residential property and common area may be annexed to the properties with the consent of two-thirds (2/3) of each class of members.

ARTICLE IX
Administration
Meetings

Section 1 "Place of Meetings of Owners". Meetings of the Association of Home Owners shall be held at the properties or such other suitable place as close thereto as practicable in Davis County, Utah, convenient to the Owners as may be designated by the Management Committee.

Section 2 "Annual Meeting of Owners". The first annual meeting of Owners shall be held within thirty (30) days after fifty percent 50% of the sale of all of the units have closed or December 31, 1989, which occurs first.

Thereafter, the annual meetings of the Association of Home Owners 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 Owners shall be held the next day thereafter which is not a legal holiday. At such annual meeting, there shall be elected by ballot of the Owners, a Board of Directors. At the first annual meeting, the members of 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 member shall hold his office until his successor has been elected and the first meeting involving such successor is held. The term of office of any member elected to fill a vacancy created by the resignation of his predecessor shall be the balance of the unserved term of his predecessor. The unit Owners may also transact such other businesses of the Association as may properly come before them. Each first Mortgage of a unit may designate a representative to attend all annual meetings of the Owners.

Section 3 Special Meetings of Owners. Special meetings of the Owners. Special meetings of the Owners may be called at any time by a majority of a quorum of the Board of Directors, or upon a petition signed by Owners holding at least fifteen percent (15%) of the voting power 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 Owners holding at least four-fifths (4/5ths) of the voting power of the Association, either in person or by proxy. Each first Mortgage of a unit may designate a representative to attend all special meetings of the Owners.

Section 4 Notice of Meetings of Owners. It shall be the duty of the secretary to mail a notice of each annual or special meeting of Owners, 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 Mortgage of a unit which has filed a written request for notice with the secretary, at least ten (10) but not more than sixty (60) days prior to such meeting. The notice may set forth time limits for 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 an Owner if posted in a conspicuous place at the Common Area.

Section 5 Adjourned Meetings. If any meeting of Owners cannot be organized because a quorum has not attended, the Owners who are present, either in 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 Owners holding at least twenty-five percent (25%) of the voting power of the Association.

Such adjourned meetings may be held without thereof, 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 6 Order of Business. The order of business at all meetings of the Owners 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 election; (g) election of Board of Directors; (h) unfinished business; and (i) new business. Meetings of Owners shall be conducted by the officers of the Association, in order of their priority.

Section 7 Consent of Absentees. The transaction of any meeting of Owners, 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, and a quorum be present either in person or by proxy, and if, either before or after the meeting, each of the Owners 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 approval of the minutes thereof. All such waivers, consents or approval shall be filed with the corporate records or made a part of the minutes of the meeting.

Section 8 Minutes, Presumption of Notice. Minutes or a similar record of the proceedings of meetings of Owners, when signed by the chairman or secretary, shall be presumed truthfully to evidence the matters set forth therein. A recitation in the minutes of any such meeting that notice of the meeting was properly given shall be prima facie evidence that such notice was given.

B

Board of Directors

Section 1 Number and Qualifications. The property, business and affairs of the Association of Home Owners shall be governed and managed by Board of Directors composed of five (5) persons, each of whom, except for those appointed and serving as first members, must either be an Owner or an agent of Declarant for so long as Declarant owns home. The Board of Directors may increase, by resolution, the authorized number of members of the committee; provided that the Owners shall sole right to elect the new committee members. Board of Directors members shall not receive any stated salary for their service as members; provided, however, that: (1) Nothing herein contained shall be construed to preclude any member from serving the Association in some other capacity and receiving compensation thereof, and (2) any member may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 2 Powers and Duties. The Management Committee 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 not by law or by this Declaration directed to be exercised and done exclusively by the Owners.

Section 3 Special Powers and Duties. Without prejudice to such foregoing general powers and duties and such other powers and duties as are set forth in this 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 this Declaration; 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 consistent with law, with this Declaration, as the Board of Directors may deem necessary or advisable.
- (C) To change the principal office for the transaction of the business of the Association from one location to another within the County of Davis, and designate any place within said within county for the holding of any annual or special meeting or meetings of Owners consistent with the provisions hereof.
- (D) To borrow money and to incur indebtedness for the purposes of the Association, and to cause to be executed and delivered thereof, in the Association's name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations, or other evidences of debt and securities thereof.
- (E) To fix and levy from time to time Assessments, upon the Owners, 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 provided for the payment of the expenses for labor rendered or materials or supplies used and consumed, or equipment and appliances furnished for the maintenance, improvement or development of common areas 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 the Owners in accordance with the provisions of this Declaration. The Board of Directors is hereby authorized to incur any and all such expenditures for any of the foregoing purposes and to provide, or cause to be provided adequate reserves.

- (F) To enforce the provisions of the Declaration covering the common areas, this Declaration or other agreements of the Association.
- (G) To contract for and pay insurance, in accordance with the provisions of this Declaration.
- (H) To contract for and pay maintenance, gardening, utilities, materials and supplies, and services relating to the common areas and to employ personnel necessary for the operation of the common areas, including legal and accounting services, and to contract for and pay for improvements and facilities on the common area.
- (I) To delegate its powers according to law, and this Declaration.
- (J) To grant easements where necessary for utilities and sewer facilities over the common area.
- (K) To adopt such Rules and Regulations as the Board of Directors may deem necessary for the management of the common area, which Rules and Regulations shall become effective and binding after (1) they are adopted by a majority of the Committee at a meeting called for that purpose or by the written consent of such number of members 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 this Declaration, without the prior written approval of the Utah Commissioner of Real Estate, Such Rules and Regulations may concern, without limitations, use of the common area; signs, parking restrictions, minimum standards of property maintenance consistent with this Declaration; and any other matter within the consistent with this Declaration; and any other matter within the jurisdiction of the Association as provided in this Declaration; provided, however, that such Rules and Regulations shall be enforceable only the extent that they are consistent with this Declaration.
- (1) To make available to Home Owners, prospective purchasers, lenders and the holders and insurers of the first mortgage, on any home current copies of the declaration and buy laws and other rules governing the condominium, and other books, records and the most recent annual audited financial statements of the Owners Association. "Available" shall at least mean available for inspection upon request, during normal business hours or under other reasonable circumstances.

Further, upon written request from any HUD, VA and/or FNMA which has an interest or prospective interest in the Owners Associations, through the Board of Directors shall be required to prepare and furnish within a reasonable time an audited financial statement of the Owners Association for the immediately preceding fiscal year.

Section 4 Management Contract. The Board of Directors may contract with any person, firm or association for the management of the common area.

Section 5 Election and Term of Office. At the first annual meeting of the Association, and thereafter at each annual meeting of the Owners, new members of the Board of Directors shall be elected by secret written ballot by a majority of Owners as provided herein. In the event that an annual meeting is not held, or the Board of Directors is not elected thereat, the Committee may be elected at a special meeting of the Owners held for that purpose. Each member 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 member may be reelected, and there shall be no limitation on the number to terms during which he may serve.

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 an Owner within thirty (30) days after the completion of such audit upon written request from an Owner. A balance sheet and an audited operating (income) statement for the Association shall be distributed to each Owner (and to any institutional holder of a first mortgage) 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 on home to an Owner.
- (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) months accounting period referred to in (a) above shall include a schedule of assessments received or receivable itemized by Unit number and by the name of the person or entity assessed.

Section 7 Vacancies. Vacancies in the Management Committee caused by any reason other than the removal of a member by a vote of the Owners of the Association shall be filled by vote of the majority of the remaining members, even though they may constitute less than a quorum; and each person so elected shall be a member until a successor is elected at the next annual meeting of the Owners of the Association, or at a special meeting of the Owners 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 member, or in case the Owners fail to elect the full number of authorized members at any meeting at which such election is to take place.

Section 8 Removal of Members. At any regular or special meeting of the Owners duly called, any one or more of the members may be removed with or without cause by a majority vote of the Owners of the Association, and a successor may then and there be elected to fill the vacancy thus created. Any member whose removal has been proposed by the Owners shall be given an opportunity to be heard at the meeting. If any or all of the members are so removed, new members may be elected at the same meeting.

Section 9 Organization Meeting. The first regular Committee ("organization") meeting of a newly-elected Board of Directors shall be held not less than ten (10) days nor more than fifteen (15) days of election of the Directors at such place as shall be fixed and announced by the members at the meeting at which such members were elected, for the purpose of organization, election of officers and the transaction of other business. In addition, notice of such meeting shall be mailed or delivered to such members, at least five (5) days prior thereto.

Section 10 Other Regular Meetings. Other regular meetings of the Board of Directors shall be open to the Owners and may be held at such time and place within the common areas as shall be determined, from time to time, by a resolution adopted by a majority of a quorum of the members; provided, however, that such meeting shall be held not less frequently than quarterly. Notice of regular meetings of the Management Committee shall be given to each member, personally or by mail, telephone or telegraph, at least seventy-two (72) hours prior to the date named for such a 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 Owners and may be called by the Chairman (or, if he is absent or refuses to act, by the vice-chairman). At least seventy-two (72) hours notice shall be given to each member, 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 o'clock P.M. on the second day after it is deposited in a regular depository of the United States Mail as provided herein.

Whenever any member has been absent from any special meeting of the Committee, 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 member; as required by law and as provided herein.

Section 12 Waiver of Notice. Before or at any meeting of the Board of Directors any member may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member at any meeting of the Directors shall be a waiver of notice by him of the time and place thereof. If all the members are present at any meeting of the Directors, no notice shall be required and any business may be transacted at such meeting. The transactions of any meeting of the Directors, however called and noticed or wherever held, shall be as valid as though had a meeting duly held after regular call and notice, if a quorum be present and if, either before or after the meeting, each of the members not present signs such a written waiver of 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 simple majority of the members shall constitute a quorum from the transaction of business, and the acts of the majority of the members present at a meeting at which a quorum is present shall be the acts of the Board of Directors Committee. 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 members 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 the members. Any action so approved shall have the same effect as though taken at a meeting of the members.

Section 15 Committees. The Management Committee 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 provided 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 Management Committee.

C Officers

Section 1 Designation. The principal officers of the Association shall be a chairman, a vice chairman, and a secretary-treasurer, all of whom shall be elected by the Board of Directors.

Section 2 Election of Officers. The officers of the Association shall be elected annually by the Board of Directors, and each officer shall hold his office at the pleasure of the Board of Directors, until he shall resign or be removed or otherwise disqualified to serve.

Section 3 Removal of Officers. Upon an affirmative vote of a majority of the entire Board of Directors Committee, 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 Committee called for such purpose. Any officer may resign at any time by giving written notice to the Directors or to the Chairman or Secretary-Treasurer. 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 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 Directors Appointment of any officer, agent, or employee, provided that employee of Declarant or any affiliate of Declarant may receive any compensation.

Section 5 Chairman. The Chairman shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and 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 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 Chairman shall, subject to the control of the Board of Directors, have general supervision, direction and control of the business of the Association. The chairman 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.

Section 6 Vice Chairman. The Vice Chairman shall take the place of the Chairman and perform his duties whenever the Chairman shall be absent, disabled, refuses or is unable to act. If neither the Chairman nor the Vice Chairman is 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 Chairman shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors.

Section 7 Secretary-Treasurer. The Secretary-Treasurer 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 Director may order. The Secretary-Treasurer shall have charge of such books and papers the Board of Directors may direct; and the Secretary-Treasurer shall, in general, perform all of the duties incident to the office of Secretary-Treasurer.

The Secretary-Treasurer shall give, or cause to be given, notices of meetings of the Owners and of the Board of Directors required by this Declaration or by law to be given. The Secretary-Treasurer 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 is presented to the Secretary-Treasurer.

The Secretary-Treasurer shall have responsibility for Association funds 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 Secretary-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 Secretary-Treasurer shall sign all checks and promissory notes on behalf of the Association as may be ordered by the Board of Directors, in accordance with this Declaration, shall render to the Chairman and members, upon request, an account of all of his transactions as Secretary-Treasurer and of the financial conditions of the Association, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors.

Section 8 The Board of Directors shall be known by such name or designation as it, or the Home Owners, at any meeting may assign.

Whenever there is a change of ownership of a home and its appurtenant rights, for whatever reason, the Board of Directors may require as condition to recognizing the new Home Owner as such, that the new Home Owner furnish evidence substantiating the new Ownership.