

99-26

11901804
08/22/2014 01:26 PM \$132.00
Book - 10254 Pg - 8464-8512
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
VIAL-FOTHERINGHAM LLP
602 E 300 S
SLC UT 84102
BY: KRP, DEPUTY - MI 49 P.

When Recorded, Return to:
Vial Fotheringham LLP
602 East 300 South
Salt Lake City, UT 84102

AMENDED AND RESTATED
DECLARATION OF CONDOMINIUM
OF
CAPITOL GARDENS
A Utah Condominium Project

TABLE OF CONTENTS

RECITALS 1

DECLARATION 2

 I. Definitions 2

 II. Submission 6

 III. Covenants, Conditions, and Restrictions 6

 (1) The Building and Facilities 6

 (2) Contents of Exhibits 7

 (3) Common Areas and Facilities, and Limited Common Area 7

 (4) Nature of Ownership 7

 (5) Permissible Use of Units and Common Areas 8

 (6) Maintenance 8

 (7) Rentals 9

 (a) Rental Limitation 9

 (8) Status and General Authority of Management Committee 10

 (9) Composition of Management Committee 11

 (10) Committee Officers and Agents 12

 (11) Nonliability of Association Officials 12

 (12) Owners Meeting 12

 (13) Voting – Multiple Ownership 12

 (14) List of Unit Owners 12

 (15) Capital Improvements 12

 (16) Payment of Expenses 13

 (17) Failure to Pay Assessments 16

 (18) Remedies for Nonpayment 16

 (19) Insurance 18

 (20) Damage to Project 21

 (21) Consent Equivalent to Vote 22

 (22) Fines 22

 (23) Enforcement and Right to Recover Attorneys Fees 22

 (24) Use Restrictions 23

 (25) Duty of Owner to Pay Taxes on Unit Owned 26

 (26) Reinvestment Fee 26

 (27) Delegation of Management Responsibilities 26

(28)	Consent of Eligible Mortgagee	27
(29)	Mortgagee’s Right of Notification of Default.....	27
(30)	Amendment	27
(31)	Consent of Eligible Mortgagees to Add or Amend Any Material Provision	27
(32)	Effect of Invalidity	28
(33)	Interpretation	28
(34)	Covenants to Run with Land.....	28
(35)	Agent for Service of Process.....	28
(36)	Percentages of Ownership Interest.....	29
(37)	Notices.....	29
(38)	Effective Date.....	29
	EXHIBIT A – Capitol Gardens Property Description	30
	EXHIBIT B – Undivided Ownership Interest in Common Areas and Facilities.....	31
	EXHIBIT C – Parking Spaces	32
	EXHIBIT D - Unit Parcel Numbers (27 Condominium Units)	33

RECITALS

1. Capitalized terms in this Declaration are defined in Article I.
2. The real property situated in Salt Lake County, Utah, described in Exhibit A, attached to and incorporated in this Declaration by reference (the "Parcel"), was previously submitted, together with all buildings and improvements previously, now, or hereafter constructed on the Parcel, and all easements and rights appurtenant thereto (collectively, the "Property"), to a condominium project now consisting of residential Units and related Common Area pursuant to Utah Code Ann. § 57-8-1 et seq. (the "Condominium Project").
3. The "Declaration of Capitol Gardens" was recorded in 1973 as Entry No. 2581959 at the office of the Recorder of Salt Lake County.
4. The Association, consistent with the prior recorded Declaration, adopts this Amended and Restated Declaration, which (along with any future amendments) shall be the sole Declaration for Capitol Gardens and which shall amend and completely replace all prior recorded Declarations and amendments thereto recorded prior to the date of this Declaration. This Declaration is adopted consistent with the procedures for amending the prior Declaration. The Management Committee certifies that this Declaration is made upon the approval of at least two-thirds of the undivided interest in the Common Areas. It is adopted to update the Declaration, to eliminate ambiguity, to further define the rights of the Association and the Unit Owners, to provide specifically for the ability to more easily amend, change, and correct the Plat under various circumstances and for various purposes, and in furtherance of the Association's efforts to safely, efficiently, and economically provide a quality living environment.
5. The Association hereby desires to establish, for its own benefit and for the mutual benefit of all future Owners and Occupants of the Condominium Project, certain covenants, conditions, restrictions, easements, rights, privileges, assessments and liens as set forth herein (collectively, the "Restrictions"), which shall run with and be a burden upon the Property.
6. The Association intends that the Owners, Occupants, Lenders and all other persons hereafter acquiring any interest in the Property shall at all times enjoy the benefits of, and shall hold their interest subject to this Declaration, which is recorded in furtherance of establishing a general plan of condominium ownership for the Property, and for establishing rules for the use, occupancy, management and enjoyment thereof.

DECLARATION

NOW, THEREFORE, for the reasons recited above and subject to the covenants, conditions and restrictions set forth below, the Association hereby amends and replaces all prior Declarations for Capitol Gardens (which shall be referred to herein as the "Project") with the following Declaration:

I. Definitions

When used in this Declaration (including in that portion hereof headed "Recitals") the following terms shall have the meaning indicated. Any term used herein which is defined by the Act shall, to the extent permitted by the context hereof, have the meaning ascribed by the Act.

- (1) **"Act"** means the Utah Condominium Ownership Act (beginning at § 57-8-1 et seq, Utah Code Annotated and any amendments and supplements to the Act).
- (2) **"Addition"** means a new capital asset or an addition to an existing capital asset intended to better, add to, enhance or upgrade the nature, scope, utility, value, or beauty of the Project.
- (3) **"Allocated Interest"** means the undivided interest (expressed as a percentage in this Declaration) in the Common Area, the Common Expense liability, and votes in the Association allocated to each Unit.
- (4) **"Articles of Incorporation"** means the Articles of Incorporation of the Association on file or to be filed with the Utah Department of Commerce.
- (5) **"Assessments"** means any charge imposed or levied by the Association against Owners including but not limited to those related to Common Expenses as well as miscellaneous special assessments, special assessments for capital improvements, special assessments for the purpose of restoring and reconstructing the Condominium Project in the event of casualty, late fees, and fines, all as provided in this Declaration.
- (6) **"Assessment Lien"** means a liens for all Assessments, fees, charges, and costs associated with collecting unpaid assessments, including court costs and reasonable attorney fees, late charges, interest, and any other amount that the Association is entitled to recover under this Declaration, the Act, or an administrative or judicial decision, and a fine that the Association imposes against the Unit Owner.
- (7) **"Association"** means Capitol Gardens Condominiums, Inc. whose membership shall include each Owner of a Unit in the Condominium Project, as required by the Act. The Management Committee is authorized to incorporate the Association with Articles of Incorporation consistent with the Declaration and Bylaws. If the Association becomes invalidated for any reason, it may be reincorporated at the discretion of the Management Committee and may utilize such name that the Management Committee shall select in any such reincorporation or reorganization. In case of the formation of any such entity, "Association" as used in this Declaration shall refer to that entity.
- (8) **"Building"** means any of the structures constructed in the Project.

- (9) **“Bylaws”** mean the Bylaws adopted by the Association pursuant to Section 57-8-15 of the Act for the purpose of regulating the affairs of the Association, as the same may be amended from time to time.
- (10) **“Capital Improvement”** means all new additions intended to add to, enhance or upgrade the nature, scope, utility, value, or beauty of the Project, as opposed to ordinary repair and maintenance.
- (11) **“Committee Member”** means a duly qualified and elected or appointed member of the Management Committee
- (12) **“Common Area and Facilities”** or **“Common Areas”**
- (a) All land of the Property as described in Exhibit A;
 - (b) Those Common Areas and Facilities specifically set forth and designated as such in the Map;
 - (c) That part of the Condominium Project not specifically included in the respective Units as defined in this Declaration or within the Limited Common Areas, including, but not by way of limitation, all foundations, columns, girder, beams, supports, main walls, retaining walls, floor, halls, corridors, lobbies, stairs, stairways, fire escapes, pipes, air vents, ducts, flues, chutes, wires and other utility installations to the outlets, entrances and exits of the Building, exterior walkways, yards, gardens, fences, swimming pool, installations of central services such as power, light, gas, all apparatuses and installations existing for common use, such community facilities as may be provided for, all recreational areas and facilities which may hereafter be contained within the Property, and all other parts of the Real Property necessary or convenient to its existence, maintenance and safety of the areas normally in common use; and
 - (d) All Common Areas and Facilities as defined in the Act, whether or not expressly listed in this Declaration.
- (13) **“Common Expenses”** means the actual and estimated costs for:
- (a) maintenance, management, operation, repair and replacement of the Common Area and Facilities which is maintained by the Association;
 - (b) deficiencies arising by reason of unpaid Assessments;
 - (c) management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and employees;
 - (d) utilities (other than separately metered utilities for the Units), extermination, security, gardening, fences, and other related services;
 - (e) insurance and bonds required by this Declaration or any additional insurance and bonds obtained by the Management Committee if allowed in this Declaration;
 - (f) the establishment of reasonable reserves as may be required in this Declaration or, if left

to the discretion of the Management Committee, as the Management Committee shall deem appropriate in its discretion;

- (g) expenses agreed upon as Common Expenses by the Association; and
 - (h) other miscellaneous charges incurred by the Association or the Management Committee pursuant to the Act or the Governing Documents.
- (14) **“Condominium Plat”** means the Record of Survey Map.
 - (15) **“Condominium Project”** means this real estate condominium project wherein fee simple title to single units in a multi-unit project, together with an undivided interest in the Common Area of the Property, are owned separately.
 - (16) **“County Recorder”** means the Salt Lake County Recorder in the State of Utah.
 - (17) **“Declaration”** means this Declaration, including all attached exhibits, which are incorporated by reference, and any and all amendments and supplements to this Declaration.
 - (18) **“Eligible Insurer”** means an insurer or governmental guarantor of a mortgage or trust deed who has requested notice in writing of certain matters from the Association in accordance with this Declaration.
 - (19) **“Eligible Mortgagee”** means a First Mortgagee which has requested notice of certain matters from the Association in accordance with this Declaration.
 - (20) **“Eligible Votes”** means those votes available to be cast on any issue before the Association or the Management Committee. A vote which is for any reason suspended is not an “eligible vote”.
 - (21) **“Governing Documents”** means the Declaration, Bylaws, Rules and Regulations, Articles of Incorporation, and other determinations and agreements pertaining to the Project as the Management Committee may from time to time adopt.
 - (22) **“Guest”** means a guest, visitor or invitee.
 - (23) **“Individual Charges”** means a charge levied by the Management Committee against an Owner or Resident for all expenses resulting from the act or omission of such Owner or Resident, excepting the Owner’s failure to pay any Assessment. Individual Charges shall include, by way of illustration but not limitation:
 - (a) The cost to repair any damage to any portion of the Project on account of loss or damage caused by such Owner or Resident;
 - (b) The cost to satisfy any expense to any other Owner or Owners or to the Association due to any intentional or negligent act or omission of such Owner or Resident resulting from the breach by such Owner or Resident of any provisions of the Governing Documents;
 - (c) Administrative costs and expenses incurred by the Management Committee in enforcing the Governing Documents;

- (d) Any other fine, charge, fee, due, expense, or cost designated as an Individual Charge in the Governing Documents or by the Management Committee;
 - (e) Attorney fees, interest, and other charges relating thereto as provided in this Declaration; or
 - (f) Additional individual labor, services, materials or equipment, otherwise an Owner's responsibility, provided at the request of an Owner.
- (24) **"Limited Common Area"** means those Common Areas and Facilities designated herein or in the Survey Map as reserved for the use of a certain Units to the exclusion of the other Units.
- (25) **"Management Committee"** means the governing board of the Association.
- (26) **"Manager"** means the person or entity appointed or hired by the Association to manage and operate the Project and/or assist in the administration of the Association.
- (27) **"Mortgage"** means both a mortgage or deed of trust on any Unit, but shall not mean or refer to an executory contract of sale.
- (28) **"Mortgagee"** means a mortgagee under a mortgage or a beneficiary under a deed of trust on any Unit, but shall not mean or refer to a seller under an executory contract of sale.
- (29) **"Owner-occupied"** means a Unit occupied by one of the following:
- (a) The owner of record, as shown in the Office of the County Recorder of Salt Lake County, Utah; or
 - (b) The spouse, children, or parents of the owner of record; or
 - (c) The shareholder, partner, member, trustee, beneficiary or other legal representative of an institutional owner (provided, such person holds a beneficial interest in such legal entity of at least 50%) and/or spouse, children or parents.
- (30) **"Project"** means this Capitol Gardens Project.
- (31) **"Property"** means the entire tract as described in Exhibit A, including the Building, all other improvements and structures, all easements, rights and appurtenances belonging to the land, and all articles or personal property intended for use in connection with the land.
- (32) **"Record of Survey Map" or "Map"** means the Record of Survey Map on file in the office of the County Recorder of Salt Lake County, Utah.
- (33) **"Renter"** means any Resident of a Unit who is not a Unit Owner.
- (34) **"Resident"** means any natural person who occupies a Unit in the Project.
- (35) **"Unit"** means one or more rooms or spaces located in a Building and intended for independent use and which is designated as a Unit on the Record of Survey Map and Exhibit "A" attached hereto (and incorporated herein by this reference). A Unit shall include any

walls, partitions, floors, ceilings, and stairs which are wholly contained within its vertical and horizontal perimeters and the surfaces of any floors, ceilings, walls, or coverings which bound it provided, however, that a Unit shall not include pipes, wires, conduits, or other utility lines running through it which are utilized for or which serve more than one Unit and shall not include any load bearing walls or floors comprising a part of the Building in which the Unit is contained. A Unit shall also include all appurtenances, HVAC elements, utility lines, and fixtures contained within its vertical and horizontal perimeters that are intended for the sole use of such Unit, and serve only such Unit.

- (36) **“Unit Number”** means the number letter or combination thereof which designates a Unit in the attached Exhibit “A” and on the Record of Survey Map.
- (37) **“Unit Owner” or “Owner”** means the person(s) who is/are the owner(s) of record (in the office of the County Recorder in Salt Lake County, state of Utah) of a fee or an undivided fee interest in a Condominium Unit. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term Unit Owner or Owner shall not mean or include a mortgagee or a beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

II. Submission

The Property described with particularity on Exhibit A attached hereto and incorporated herein by this reference, along with the Building and other improvements constructed, is re-submitted to the Act.

The Property is hereby again made subject to, and shall be governed by the Act, this Declaration, and the covenants, conditions and restrictions set forth herein. The Property is also subject to the right of the City to access the roads within the Project for emergency vehicles, service vehicles, and to all of the utility installations up to the residential meters.

The Property is subject to described easements and rights of way. Easements and rights-of-way in favor of the City include any dedicated roadways and public utility easements and are depicted on the Record of Survey Map.

TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the above-described parcel or real property.

III. Covenants, Conditions, and Restrictions

The foregoing submission is made upon and under the following covenants, conditions, and restrictions:

(1) **The Building and Facilities**

- (a) **The Building.** The Building has been constructed as shown in the Map. The Building is a U-shaped apartment building containing a total of 27 units, as follows:

<u>Floor</u>	<u>No. of Units</u>
1st	5
2nd	9

3rd	8
4th	5

- (b) **Description.** The Building is of frame construction. The part facing the Center Street is three stories and the East and the Southeast portion are four stories. The exterior is of "marble-crete" material as to a portion thereof and the remainder of the exterior consists of four inch vertical cedar siding. There are five (5) one-bedroom Units, one (1) three-bedroom Unit and twenty-one (21) two-bedroom Units in the Project. Every contract for the sale of a Unit and every other instrument affecting title to a Unit may describe that Unit by the number shown on the Map with the appropriate reference to the Map and to this Declaration, as each appears on the records of the County Recorder of Salt Lake County, Utah, in substantially the following fashion:

Unit _____ as shown in the Record of Survey Map for CAPITOL GARDENS appearing in the records of the County Recorder of Salt Lake County, Utah, in Book _____, Page _____, of Plats, and as defined and described in the Declaration of Condominium for CAPITOL GARDENS, appearing in such records in Book _____, Page _____, of records.

This description will be construed to describe the Unit, together with the appurtenant undivided interest in the Common Areas and Facilities, and to incorporate all the rights incident to ownership of a Unit and all the limitations on such ownership as described in this Declaration.

- (c) **Other Facilities.** There is a swimming pool in the Project. Carports are provided as mentioned in this Declaration.
- (2) **Contents of Exhibits.** Exhibits to this Declaration furnish the following information with respect to each Unit in the Project: (a) Legal metes and bounds description for the Project; (b) The Units' appurtenant percentage of undivided ownership interest in the Common Areas and Facilities; (c) Legal descriptions and parcel numbers for each Unit; (d) Those Limited Common Areas and Facilities having a numerical or letter designation which are reserved for use by the Unit.
- (3) **Common Areas and Facilities, and Limited Common Area.** The Common Areas and Facilities contained in the Project are described and identified in Article I of this Declaration. The Common Areas and Facilities are owned in common by all the Unit Owners as set forth on Exhibit B, and no Unit Owner may bring any action for partition of any Common Areas and Facilities. Neither the percentage of undivided interest in the Common Areas and Facilities nor the right of exclusive use of a Limited Common Area shall be separated from the Unit to which it appertains; and, even though not specifically mentioned in the instrument of transfer, such percentage of undivided interest and such right of exclusive use shall automatically accompany the transfer of the Unit to which they relate. One (1) single-car parking space is provided for each of the 27 Units. Twenty-six of those parking spaces are carports, and one space is an open parking space #19. All parking spaces are Limited Common Areas assigned to the Units as set forth in Exhibit C.
- (4) **Nature of Ownership.** The Project is divided into Condominium Units, each consisting of a fee simple interest in a Unit and an undivided fee simple interest in the Common Areas and Facilities in accordance with the attached Exhibit B setting forth the respective undivided

ownership interest in the Common Areas and Facilities appurtenant to each Unit. Such undivided ownership interest in the Common Areas and Facilities are appurtenant to the respective Units.

(5) **Permissible Use of Units and Common Areas.**

- (a) **Single Family Use.** Units are intended to be used for single family residential housing and are restricted to such use.
- (b) **Car Stalls.** Car stalls are intended to be used only as vehicle parking spaces and are restricted to such use.
- (c) **Nuisance.** No Unit shall be used, occupied, or altered in violation of law, so as to detract from the appearance or value of any other Unit, so as to jeopardize the support of any other Unit, so as to create a nuisance or interfere with the rights of any Unit Owner, or in a way which would result in an increase in the cost of any insurance covering the Project as a whole.
- (d) **Use of Common Areas and Facilities.** The Common Areas and Facilities shall be used only in a manner consistent with their community nature. There may be no obstruction of the Common Areas and Facilities by the Owners or their guests without the prior written consent of the Management Committee. The Management Committee may by rules and regulations prohibit or limit the use of the Common Areas and Facilities as may be reasonably necessary for protecting the interests of all the Owners or protecting the Units or the Common Areas and Facilities. Nothing may be kept or stored on any part of the Common Areas and Facilities without the prior written consent of the Management Committee, except as specifically provided in this Declaration. Unit Owners may not alter, construct, or remove anything from the Common Areas and Facilities except upon the prior written consent of the Management Committee.
- (e) **Right of Access.** Each Unit Owner has the right to ingress and egress over, upon, and across the Common Areas and Facilities necessary for access to the Unit Owner's Unit, and to the Limited Common Areas designated for use in connection with that Unit, and each Unit Owner has the right to the horizontal and lateral support of a Unit, and such rights pass with the title to each Unit.

(6) **Maintenance.** The Property shall be maintained in a state of good condition and repair, so as not to detract from the appearance of the Project and so as not to affect adversely the value or use of any Unit.

- (a) **Common Areas and Facilities.** The Association shall maintain the Common Areas and Facilities in good, clean, attractive and sanitary condition, order and repair. The Management Committee has an easement in order to access Common Areas and Facilities as provided in Paragraph 8.a of this Declaration and to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration. To the extent that damage is inflicted on any part of the Project by any person or persons utilizing the easement reserved in this Declaration, the Association, together with the person or persons causing the same, shall be jointly and severally liable for the prompt repair of the damage and for the restoration of the same to a condition compatible with the remainder of the Project. However, if such damage is

the result of negligence of a Unit Owner, then that Unit Owner is financially responsible for all damage.

- (b) **Unit.** Each Owner shall, at his or her own expense, maintain his Unit and make all necessary repairs and replacements, including by way of illustration but not limitation his glass, windows, window units, doors, door units, and cooling unit subject to prior written approval of the Management Committee in order to maintain quality of construction and uniformity of appearance throughout the Project.
 - (c) **Limited Common Areas.** Each Unit Owner must keep the Limited Common Areas designated for use in connection with his or her Unit in a good, clean, sanitary, and attractive condition.
- (7) **Rentals.** The renting of any Unit within the Project shall be governed by this Section 7. For purposes of this Section only, the term “rent” in any grammatical form includes, lease, sublet, or otherwise permit or allow others to reside in a Unit for legal consideration payable to the Owner or to others at the Owner’s request or direction, or allow others to reside therein for charitable purposes all without the Owner in residence.
- (a) **Rental Limitation.** Except as provided below, eleven (11) Units may be rented at any given time (“Rental Limitation”). This Rental Limitation will allow the Association to: (a) protect the equity of the individual Unit Owners at the Project; (b) carry-out the purpose for which the Project was formed by preserving the character of the Project as a homogeneous residential community of predominantly Owner-occupied Units and thus preventing the Project from assuming the character of an apartment, renter-occupied complex; and (c) comply with eligibility requirements for financing in the secondary mortgage market insofar as such criteria include the Project being substantially Owner-occupied. Once the Rental Limitation has been reached the renting of a Unit(s) shall be prohibited, except in the case of an approved hardship exemption as provided in Subsection (c) below.
 - (b) **Application to Rent Unit.** Any Owner who intends to rent his Unit shall submit a written application to the Management Committee requesting permission to do so, which consent shall not be unreasonably withheld so long as the Rental Limitation has not been met and the rental agreement complies with the other requirements of this Section.
 - (c) **Hardship Exemption and Application.**
 - (i) The Management Committee may allow up to two (2) additional Units to be rented at any given time upon a showing of hardship or practical difficulties arising from events such as the death of a spouse or life partner of the Owner, job relocation, military deployment, charitable service, public service, disability, difficulty selling the Unit due to market conditions in the area, and other similar circumstances. The Management Committee has discretion to approve a hardship exemption, but no obligation to do so. However, the Management Committee may not approve a hardship exemption to rent a Unit under this Section if such approval would result in more than thirteen (13) units being non-Owner occupied. Furthermore, the Management Committee may not approve a hardship exemption for a time period longer than two (2) years.

- (ii) Any Owner who believes that its Unit must be rented to avoid undue hardship shall submit a written application to the Management Committee setting forth the circumstances necessitating the renting, a copy of the proposed rental agreement, and such other information as the Management Committee may reasonably require.
 - (iii) Renting in the case of undue hardship is permitted only upon the Management Committee's written approval of the Owner's application and is only valid for the duration determined to be reasonable by the Management Committee, but no longer than two (2) years.
- (d) **Condition Precedent.** No Unit may be rented without the prior express written consent of the Management Committee.
- (e) **Copy of Signed Rental Agreement to be Provided to Management Committee.** When a rental agreement is approved, a copy of the rental agreement, signed by the Renter and Owner, shall be submitted to the Management Committee within ten (10) days after it has been signed by both parties.
- (f) **Renting.** No Owner shall be permitted to rent his Unit on a short-term basis, including for any transient, vacation, seasonal or corporate use purposes. The term "short-term basis" means any rental with an initial term of less than one (1) year. Daily or weekly rentals are prohibited. Unless the Unit is Owner-occupied, no Owner may rent individual rooms to separate persons or less than his entire Unit without the express written consent of the Management Committee. Within ten (10) days after delivery of written notice to the Owner of the creation of a nuisance or material violation of the restrictive covenants by a Renter, the Owner shall proceed promptly to abate the nuisance and/or cure the default, and notify the Management Committee in writing of his intentions. By virtue of taking possession of a Unit, each Renter or other non-Owner occupant agrees to be subject to and abide by the Act and Governing Documents, and that any covenant violation shall be considered a default under the rental agreement. Other than as expressly stated in this Declaration, there are no restrictions on the right of any Owner to rent or otherwise grant occupancy rights to his Unit.
- (g) **Grandfather.** Owners who are renting their Unit pursuant to a signed rental agreement at the time this Declaration is recorded shall have the right to continue to rent their Unit until the Owner occupies the Unit, or until the Unit is occupied by an officer, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the Unit.
- (h) **Rental Rules and Regulations.** The Management Committee may adopt additional rules and regulations concerning the renting of Units, including the application and approval process, creation of a waiting list, or requiring additional information from tenants, like specific Association-approved lease addendums, crime-free addendums, etc.
- (8) **Status and General Authority of Management Committee.** The Project shall be managed, operated, and maintained by the Association, as agent for the Unit Owners, through the direction of the Management Committee, as the governing board of the Association. The Management Committee shall, in connection with its exercise of any of the powers delineated

in subparagraphs (a) through (j) below, constitute a legal entity capable of dealing in its Management Committee name. The Management Committee shall have and is hereby granted, the following authority and powers:

- (a) **Right of Access.** The right to have access to each Condominium Unit and any Limited Common Area from time to time during reasonable hours and after reasonable notice to the occupant of the Unit being entered, as may be necessary for the maintenance, repair, or replacement of any of the Common Areas and Facilities or for making emergency repairs necessary to prevent damage to the Common Areas and Facilities or to another Unit or Units, provided that a reasonable effort is made to provide notice to the occupant of the Unit prior to entry;
 - (b) **Permits, Licenses, and Easements.** The authority, without the vote or consent of the Unit Owners, Mortgagees, insurers or guarantors of Mortgages, or of any other person(s), to grant or create, on such terms as it deems advisable, reasonable permits, licenses, and easements over, under, across, and through the Common Areas and Facilities for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance and operation of the Association;
 - (c) **Amendments.** The authority to execute and record, on behalf of all the Unit Owners, any amendment to the Declaration or Record of Survey Map which has been approved by the vote or consent necessary to authorize such amendment;
 - (d) **Legal Action.** The power to sue and be sued;
 - (e) **Contracts.** The authority to enter into contracts which in any way concern the Association, so long as any vote or consent necessitated by the subject matter of the agreement has been obtained;
 - (f) **Conveyances.** The power and authority to convey or transfer any interest in real property, so long as any vote or consent necessary under the circumstances has been obtained;
 - (g) **Rules and Regulations.** The authority to promulgate such reasonable rules, regulations, and procedures as may be necessary or desirable to aid the Committee in carrying out any of its functions or to insure that the Association is maintained and used in a manner consistent with the interest of the Unit Owners;
 - (h) **Residual Powers.** The power and authority to perform any other acts and to enter into any other transactions which may be reasonably necessary for the Management Committee to perform its functions on behalf of the Unit Owners.
 - (i) **Fines and Enforcement.** The setting and levying fines and taking other enforcement action on behalf of the Association for all infractions of conditions set forth in the Governing Documents;
 - (j) **Other Rights.** The rights given to it expressly by this Declaration, Bylaws, the Act, or the rights given to a board of directors under the Utah Revised Nonprofit Corporation Act.
- (9) **Composition of Management Committee.**

- (a) **Number and Term.** The Committee shall be composed of five (5) members. Each member shall serve a three (3) year term as further outlined in the Bylaws.
 - (b) **Eligibility.** Only Unit Owners, and officers and agents of Unit Owners with regard to a Unit owned by a business entity, trust, etc. shall be eligible for Committee membership.
 - (c) **Voting.** At each annual meeting voting shall be as follows: each Unit Owner may vote his percentage of undivided ownership interest in favor of as many candidates for Committee membership as there are seats on the Committee to be filled in person or by proxy. Only Unit Owners are eligible to vote. Unit Owners who are delinquent in their assessments may be counted towards the Quorum, but are ineligible to vote.
- (10) **Committee Officers and Agents.** The Management Committee shall perform its functions through those members who are elected as officers by the Management Committee as further outlined in the Bylaws and through such agents or employees as the Committee may appoint. Any officer, agent, or employee may at any time be removed with just cause by a vote of the majority of the Committee Members. The Management Committee may contract with a Manager to assist it in carrying out its functions.
- (11) **Nonliability of Association Officials.** To the fullest extent permitted by law, neither the Management Committee nor any officer of the Association shall be liable to any Owner or the Association for any damage, loss, or prejudice suffered or claimed on account of any decision, approval, or disapproval, course of action, act, omission, error, or negligence if such Committee Member or officer acted in good faith within the scope of such person's duties.
- (12) **Owners Meeting**
- (a) **Annual Meeting.** An annual meeting of the Unit Owners shall be held each year as provided in the Bylaws.
 - (b) **Special Meeting.** Special meetings of the Owners may be called as provided in the Bylaws.
- (13) **Voting – Multiple Ownership.** The vote attributable to and exercisable in connection with a Unit shall be the percent of undivided ownership interest. The vote relating to such Unit shall be exercised as the Owners of that Unit may determine among themselves. A vote cast at any meeting by any of such Owners shall be conclusively presumed to be the vote attributable to the Unit concerned unless an objection is made. If an objection is made or if there are conflict votes for one Unit, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.
- (14) **List of Unit Owners.** The Committee shall maintain up-to-date records showing the name of each person who is an Owner, the address of such person, and the Unit which is owned by such Owner;
- (15) **Capital Improvements.**
- (a) **Generally.** All expenses for Capital Improvements shall be governed by and subject to the following conditions, limitations, and restrictions:

- (i) **Management Committee Expenditure Limit.** Any Capital Improvements to the Project that cost twenty-percent (20%) or less of the Association's total annual budget ("Capital Improvement Ceiling") may be authorized by the Management Committee alone. Such improvements may not materially alter the nature of the Project (e.g. adding a second swimming pool, installing volleyball courts, etc.). Landscaping alterations and regular maintenance of Common Areas or Limited Common Areas are deemed not to be material for purposes of this Declaration.
- (ii) **Owner Approval/Expenditure Limit.** Any Capital Improvement the cost of which is expected to exceed the Capital Improvement Ceiling must, prior to the commencement of construction, be authorized by at least fifty-percent (50%) of the Units.
- (iii) **Owner Approval/Changing the Nature of the Project.** Any Capital Improvement that would materially alter the nature of the Project must, regardless of its cost and prior to being constructed, be authorized by at least sixty-seven percent (67%) of the Units;
- (iv) **Emergencies and Livability of the Project.** Notwithstanding anything to the contrary, in case of emergencies or Capital Improvements necessary to preserve the ability of people to comfortably live in the Units, the Management Committee may authorize any necessary Capital Improvement without Owner approval.
- (v) **Common Area Repairs and Replacement.** The Association has the responsibility to maintain, repair, and replace the Common Areas whether by reason of normal wear and tear, defect, or damage. The cost of such repairs and replacements shall be covered by assessments. No Owner approval is required for repairing, maintaining, and replacing any part of or all of the Common Areas and Limited Common Area.

(16) **Payment of Expenses.**

- (a) **Anticipated Budget.** At the end of each calendar year the Management Committee shall prepare a budget which sets forth an itemization of the Common Expenses which are anticipated for the coming year. Such budget shall take in account any deficit or surplus realized during the current year.
- (b) **Reserve Funds.** Provision must be made in such budget for the maintenance of an adequate reserve fund for the replacement of the Common Areas and Facilities.
- (c) **Apportionment of Expenses.** The total of such Common Expenses shall be apportioned among all the Units on the basis of their appurtenant percentages of undivided ownership interest.
- (d) **Monthly Installments.** Prior to the first day of each month during the year covered by the budget each Unit Owner shall pay to the Management Committee as his share of the Common Expenses one-twelfth of the amount so apportioned to his Unit. If monthly payments are too large or too small as a result of unanticipated income or expenses, the Management Committee may effect an equitable change in the amount of such payments.

- (e) **Method of Payment.** The dates and manner of payment shall be determined by the Management Committee. The foregoing method of assessing the Common Expenses to the Unit Owners may be altered by the Management Committee so long as the method it adopts is consistent with good accounting practices and requires that the portion of the Common Expenses borne by each Owner during a 12-month period be determined on the basis of his undivided ownership interest. In the event the reserve fund for the replacement of Common Areas and Facilities is insufficient to provide for necessary replacement, special assessments may be levied against the Unit Owners.
- (f) **Purpose of Common Area Expense.** The Assessments provided for herein shall be used for the general purpose of operating the Project, promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and residents, including the maintenance of any real and personal property owned by the Association, and regulating the Project, all as may be more specifically authorized from time to time by the Management Committee.
- (g) **Creation of Assessments.** Since the Assessments shall pay for the Common Expenses of the Association, as shall be determined by the Management Committee from time to time, each Owner, by acceptance of a deed to a Unit, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association in a timely manner all Assessments assessed by the Management Committee.
- (h) **Special Assessments.** In addition to the other Assessments authorized herein, the Association may levy special assessments in any year, subject to the following:
 - i. **Management Committee Based Special Assessment.** So long as the special assessment does not exceed the sum of ONE-THOUSAND DOLLARS (\$1,000) per Unit in any calendar year ("the Special Assessment Limit"), the Management Committee may levy a special assessment without any additional approval.
 - ii. **Association Approval.** Any special assessment which would exceed the Special Assessment Limit shall be effective only if approved by a majority of Owners present at a meeting duly called for such purpose.
- (i) **Notice of Special Assessments.** The Management Committee must give prompt written notice to Unit Owners of the amount and time of payment of special assessments. No payment may be due less than thirty (30) days after notice under this paragraph is given. Special assessments are assessed to Unit Owners proportionally according to Exhibit B.
- (j) **Assessment Lien.** The Association has a lien in its favor for all assessments, fees, charges, and costs associated with collecting unpaid assessments, including court costs and reasonable attorney fees, late charges, interest, and any other amount that the Association is entitled to recover under this Declaration, the Act, or an administrative or judicial decision, and a fine that the Association imposes against the Unit Owner. The recording of this Declaration constitutes record notice and perfection of the Assessment Lien.
- (k) **Superiority of Assessment Lien.** The Assessment Lien is superior to all other encumbrances except liens for a lien or encumbrance recorded before this

Declaration is recorded, a first or second security interest on the unit secured by a mortgage or deed of trust that is recorded before a recorded notice of lien by or on behalf of the Association, or real estate taxes or other governmental assessments or charges against the unit. Each Owner, by virtue of his acceptance of a deed or other document of conveyance of any Unit waives the priority of the homestead exemption over a lien filed by the Association against his Unit.

- (l) **Operating of the Property.** The Management Committee shall from time to time, and at least annually, prepare a budget for the Association, determine the amount of common charges required to meet the common expenses of the Association, and allocate and assess such common charges against the Owners per the Allocated Interest.
- (m) **Budget.** At the Annual Homeowners Meeting, the Management Committee shall prepare and deliver to the Owners a copy of the proposed budget.
- (n) **Itemization.** The proposed budget shall set forth an itemization of the anticipated Common Expenses for the twelve (12) month calendar year, commencing with the following January 1.
- (o) **Basis.** The proposed budget shall be based upon advance estimates of cash requirements by the Management Committee to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Areas and Facilities and regulation of the Association, which estimate shall include but is not limited to expenses of management, irrigation water, grounds maintenance, taxes and special assessments, insurance premiums, common lighting and heating, water charges, trash collection, sewer service charges, elements of the Common Areas and Facilities that must be replaced on a periodic basis, legal and accounting fees, any deficit remaining from a previous period; the creation of a reasonable contingency reserve, surplus or sinking fund, capital improvement reserve, and other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under and by reason of this Declaration.
- (p) **Personal Obligation of Owner.** Owners are liable to pay all Assessments and Individual Charges; provided, however, no first mortgagee or beneficiary under a first deed of trust (but not the Seller under a uniform real estate contract, land sales contract, or other similar instrument), who obtains title to a Unit pursuant to the remedies provided in the mortgage or trust deed shall be liable for more than six (6) months' unpaid Assessments which accrued prior to the acquisition of title. For purposes of this Section, the term "Owner" means and refer jointly and severally to: (1) the Owner of both legal and equitable interest in any Unit; (2) the Owner of record in the offices of the County Recorder of Salt Lake County, Utah; and (3) both the Buyer and Seller under any executory sales contract or other similar instrument.
- (q) **Reserve Account.** The Management Committee shall establish and maintain a reserve account or accounts to pay for unexpected operating expenses and capital improvements.
- (r) **No Waiver.** No Owner may waive or otherwise exempt himself or herself from liability for the Assessments provided for herein, including but not limited to the non-use of Common Areas and Facilities or the abandonment of his Unit.

(17) **Failure to Pay Assessments**

- (a) **Delinquent Assessments.** Payments are due on the first day of the month. Payments are received after the tenth of the month shall be considered late. Any Assessment not paid when due are considered delinquent.
- (b) **Default Interest.** Default interest at the rate of 18% per annum shall accrue on the outstanding balance of all delinquent accounts.
- (c) **Duty to Pay Independent.** No reduction or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association or Management Committee to take some action or perform some function required to be taken or performed by the Association or Management Committee under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay Assessments being a separate and independent covenant on the part of each Owner.

(18) **Remedies for Nonpayment.** The Association may exercise any of the following remedies simultaneously in the event the Owner fails to pay Assessments when due:

- (a) **Late Fees.** A late fee in an amount determined by resolution of the Management Committee may be charged on all payments received more than fifteen (15) days after its due date;
- (b) **Personal Judgment.** Each Owner, by acceptance of a deed or as party to any other type of conveyance, vests in the Association or its agent the right and power to bring all actions against him or her personally for the collection of the charges as a debt or to foreclose the lien in the same manner as mechanics liens, mortgages, trust deeds or encumbrances may be foreclosed;
- (c) **Foreclosure of Lien as Mortgage or Trust Deed.** The sale or foreclosure shall be conducted in the same manner as foreclosures in deeds of trust or mortgages or in any other manner permitted by law, including by way of illustration but not limitation a non-judicial or judicial foreclosure. In any foreclosure or sale, the Unit Owner shall pay the costs and expenses of such proceedings, including but not limited to the cost of a foreclosure report, reasonable attorney's fees, and a reasonable rental for the Unit during the pendency of the foreclosure action. The Association in the foreclosure action may require the appointment of a receiver to collect the rental without regard to the value of the mortgage security. The Management Committee may bid for the Unit at foreclosure or other sale and hold, lease, mortgage, or convey the same;
- (d) **Appointment of Trustee in the Event of Non-Judicial Foreclosure.** If the Management Committee elects to foreclose the lien non-judicially in the same manner as foreclosures in deeds of trust, then each Unit Owner by accepting a deed or other document of conveyance to the Unit hereby irrevocably appoints the attorney of the Association, provided he/she is a member of the Utah State Bar, as Trustee, and hereby confers upon said Trustee the power of sale set forth with particularity in Utah Code Annotated, §57-1-45, as amended. In addition, the Unit Owner hereby

transfers in trust to the Trustee all of his right, title and interest in and to the real property for the purpose of securing his performance of the obligations set forth herein;

- (e) **Attorney in Fact.** Each Owner by accepting a deed to a Unit hereby irrevocably appoints to the Association as his attorney in fact to collect rent from any person renting his Unit, if the Unit is rented and the Owner is delinquent in his Assessments. Rent due shall be paid directly to the Association, upon written demand, until such time as the Owner's Assessments are current; and the Owner shall credit the Renter, against rent due, for the amount of money paid to the Association;
- (f) **Lenders, Foreclosures and Unpaid Assessments.** Anything to the contrary notwithstanding, any first mortgagee of record who obtains title to a Unit pursuant to the remedies in the mortgage or trust deed or through foreclosure will not be liable for more than six (6) months of the unpaid regular budgeted assessments, dues or charges accrued before acquisition of the title to the property by the mortgage, although the first mortgage will also be liable for any reasonable attorney fees or costs related to the collection of the unpaid dues. All other grantees who obtain title to a Unit in a voluntary conveyance or pursuant to the remedies in a mortgage or trust deed or through foreclosure shall be jointly and severally liable with the seller, trustor or mortgagor for all unpaid assessments, late fees, default interest and collection costs, including a reasonable attorney fees, against the Unit for its share of the Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the trustor or mortgagor the amounts paid by the grantee. **ANYTHING TO THE CONTRARY NOTWITHSTANDING**, these provisions shall be considered waived by the Management Committee if necessary for a Unit to qualify for VA, FHA or other government financing and any unpaid Assessments shall be considered subordinate to the interest of the government lender, guarantor or insurer;
- (g) **Assignment of Rents.** If an Owner at any time leases his Unit and defaults in the payment of Assessments, the Management Committee may, after providing notice to the Owner, and so long as such default continues for at least 60 days after payment is due, demand and receive from any tenant of the Owner the rent due or becoming due, and the payment of such rent to the Management Committee shall be sufficient payment and discharge of such tenant and the Owner for such assessments to the extent of the amount so paid;
- (h) **Termination of Utilities and Right to Use Amenities for Non-Payment of Assessments.** If an Owner fails to pay any Assessment when due, the Management Committee may (a) terminate the Owner's right to receive utility services paid as a Common Expense; and (b) terminate the Owner's right of access and use of recreational facilities, after giving notice and the Owner an opportunity to be heard as required by the Act; and
- (i) **Attorney Fees and Collection Costs.** If the Association is the prevailing party in any judicial action, the Association is entitled to its costs and reasonable attorney fees in exercising any of the remedies available to the Association under this Declaration. In a nonjudicial foreclosure, the Association may include in the amount due all costs and reasonable attorney fees incurred in collecting the amount due, including the costs of preparing, recording, and foreclosing a lien.

- (19) **Insurance.** The Management Committee may adopt general insurance house Rules, Policies and Procedures intended as a guide for the Owners and Residents in order to maintain the insurability of the Project, keep the insurance premium reasonable, and enforce the maintenance responsibilities of the individual Owners.
- (a) **Insurance Obligation of the Association.** The Association shall obtain and maintain the insurance specified in this Declaration to the extent reasonably available; provided however the Association shall always comply with the insurance requirements of the Act:
- (i) **Property Insurance.** The Association shall obtain property insurance coverage as required by the Act at U.C.A. §57-8-43, as may be amended from time to time. The Owners are encouraged to obtain insurance coverage as provided by the Act at U.C.A. §57-8-43, as may be amended from time to time, including coverage to pay the Association's property insurance policy deductible when triggered under the Act.
- (ii) **Comprehensive Public Liability Insurance.** The Association shall obtain a comprehensive general liability policy insuring the Association, the agents and employees of the Association, the Owners and Occupants and the respective family members, guests, and invitees of the Owners and Occupants, against liability incident to the use, ownership, or maintenance of the Common Area or membership in the Association. The coverage limits under such policy shall be in amounts generally required by private institutional mortgage investors for projects similar to the Condominium Project in construction, size, location, and use. Nevertheless, such coverage shall have at least a One Million Dollar (\$1,000,000) single person limit as respects bodily injury and property damage, a Two Million Dollar (\$2,000,000) limit per occurrence, if reasonably available, and a One Million Dollar (\$1,000,000) minimum property damage limit. If possible, the policy should be written on the comprehensive form and shall include non-owned and hired automobile liability protection;
- (iii) **Workmen's Compensation.** Workmen's compensation and employer's liability insurance and all other similar insurance in respect to employees of the Association in the amounts and in the form now or later required by law;
- (iv) **D&O.** Directors and Officers coverage with at least One Million Dollars (\$1,000,000) in coverage;
- (v) **Fidelity Bond.** The Board of Directors shall obtain fidelity coverage against dishonest acts on the part of Board Members, officers, employees or volunteers who handle or who are responsible for handling funds of the Association. Such fidelity bonds shall name the Association as obligee and shall be written in an amount determined by the Board of Directors, but shall be no less than the estimated maximum amount of funds, including reserve funds, in the custody of the Board of Directors, the Association, or the management agent as the case may be, at any given time during the term of each bond, and shall contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee" or similar terms or expressions; and

- (vi) Other Coverage. Insurance against other risks of a similar or dissimilar nature, as the Board may deem appropriate with respect to the Project, including without limitation any personal property of the Association located on the Project.

(b) **Provisions Relating to Property Insurance.**

- (i) Flood Insurance. If any part of the Condominium Project is or comes to be situated in a Special Flood Hazard area as designated on a Flood Insurance Rate Map, a "master" or "blanket" policy of flood insurance shall be maintained covering the Condominium Project, any machinery and equipment that are not part of a building and all Common Area within the Condominium Project ("Insurable Property") in an amount deemed appropriate, but not less than the lesser of: (i) the maximum limit of coverage available under the National Flood Insurance Administration Program for the Insurable Property within any portion of the Condominium Project located within a designated flood hazard areas; or (ii) one hundred percent (100%) of the insurable value of the Insurable Property. The maximum deductible amount for such policy covering the Common Area shall be determined by the Board of Directors in its sole discretion.
- (ii) Mortgage Clause. Each property or flood insurance policy required to be maintained by the Association shall contain the standard mortgage clause, or equivalent endorsement (without contribution), commonly accepted by private institutional mortgage investors in the area in which the Condominium Project is located.
- (iii) Additional Requirements. Each property or flood insurance policy required to be maintained by the Association shall provide, if available, for the following: recognition of any insurance trust agreement, a waiver of the right of subrogation against Owners individually, and the insurance is not prejudiced by any act or neglect of individual Owners which is not in the control of such Owners collectively.
- (iv) Steam Boiler and Machinery Endorsement. The property insurance policy required to be maintained by the Association shall also contain or provide "Steam Boiler and Machinery Endorsement" if the Project has central heating or cooling, which shall provide that the insurer's minimum liability per accident at least equals the lesser of Two Million Dollars (\$2,000,000) of the insurable value of the building containing the boiler or machinery. In lieu of obtaining this coverage as an endorsement to the commercial package property, the Association may purchase stand-alone boiler and machinery coverage.

(c) **Miscellaneous Provisions Relating to Association Insurance.**

- (i) Insurance not Reasonably Available. If the Association becomes aware that property insurance or liability insurance is not reasonably available, the Association shall, within seven calendar days after becoming aware, give all Unit Owners notice that the insurance is not reasonably available.
- (ii) Unit Owner's Acts Irrelevant. Unless a Unit Owner is acting within the scope of the Unit Owner's authority on behalf of the Association, a Unit Owner's act or

omission may not void a property insurance policy or a liability insurance policy or be a condition to recovery under a policy.

- (iii) Premiums a Common Expense. The premiums for the Association's insurance policies are to be considered a Common Expense.
 - (iv) Association's Insurance Does Not Cover Owner's or Occupant's Contents or Personal Property. The Association's property insurance DOES NOT cover the contents or the personal property in the Unit or belonging to the Unit Owner or occupant, or personal liability.
- (d) **Policy Provisions.**
- (i) Certificate of Insurance. Any insurer that has issued an insurance policy to the Association under this Article shall also issue a certificate or memoranda of insurance to the Association and upon request, to any Owner or Lender.
 - (ii) Named Insured. The named insured under any policy of insurance shall be the Association, as trustee for the Owners, or its authorized representative, including an Insurance Trustee, who shall have exclusive authority to negotiate losses under the policies. The policy shall provide that each Owner shall be an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Area or membership in the Association. Each Owner hereby appoints the Association, or any Insurance Trustee, as attorney-in-fact for the purpose of purchasing and maintaining insurance required by this Declaration, and adjustment of all losses related thereto, including: the collection and appropriate disposition of all insurance proceeds, the negotiation of all losses and execution of releases of liability, the execution of all documents and the performance of all other acts necessary to administer such insurance. The Association shall receive, hold, or otherwise properly dispose of any proceeds of insurance in trust for the Owners and their Lenders, as their interests may appear. This power-of-attorney is coupled with an interest, shall be irrevocable, and shall be binding on any heirs, personal representatives, successors or assigns of an Owner.
 - (iii) No Limitations. Coverage must not be limited by (i) any act or neglect by Owners or Occupants which is not within control of the Association, or (ii) any failure of the Association to comply with any warranty or condition regarding any portion of the Condominium Project over which the Association has no control.
 - (iv) Cancellation or Modification of Coverage. Coverage may not be canceled or substantially modified (including cancellation for nonpayment of premium) and the insurer may not refuse to renew the policy without at least thirty (30) days prior written notice to the Association and all Lenders, and to any Owner to whom a certificate has been issued.
 - (v) Waiver of Subrogation. All policies must contain a waiver of subrogation by the insurer as to any and all claims against the Association, the Owners, Occupants and their respective agents and employees, and any defenses based on coinsurance or on invalidity arising from acts of the insured.

- (e) **Supplemental Insurance.** The Board of Directors may obtain such other policies of insurance in the name of the Association as the Board of Directors deems appropriate to protect the Association and Owners. Notwithstanding any of the provisions herein, the Association shall continuously maintain in effect such casualty, flood, and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for condominium projects established by FNMA, the Department of Veterans Affairs, and the Government National Mortgage Association, so long as any is a mortgagee or Owner of a Unit, except to the extent such coverage is not available or has been waived in writing by FNMA, the Department of Veterans Affairs, or the Government National Mortgage Association.
 - (f) **Annual Insurance Report.** Not later than sixty (60) days prior to the beginning of each fiscal year, the Board of Directors may obtain a written report by a reputable independent insurance broker or consultant setting forth the existing insurance obtained pursuant to this Declaration and stating whether, in the opinion of such broker or consultant, the insurance complies with the requirements of this Declaration and the Act. Such report may also set forth recommendations regarding current policy provisions and for additional insurance reasonably required for the protection of the Owners and the Lenders in light of the insurance then available and the prevailing practice with respect to other similar condominium projects. The Board of Directors shall be fully protected in relying on the written report furnished pursuant to this Section 14.6 provided reasonable care and prudence were exercised in selecting such independent insurance broker or consultant.
 - (g) **Insurance Obligation of Unit Owner.** The foregoing obligation and right of the Association to purchase insurance DOES NOT preclude the right or negate the obligation of each Owner to insure his own Unit for his benefit.
- (20) **Damage to Project.** In the event of damage to or destruction of part or all of the improvements in the Project, the following procedures shall apply:
- (a) **Sufficient Funds.** If proceeds of the insurance maintained by the Management Committee are alone sufficient to repair or reconstruct the damaged or destroyed improvement, such repair or reconstruction shall be carried out.
 - (b) **Insufficient Funds.** If less than seventy-five percent (75%) of the Project's improvements are destroyed or substantially damaged, and if proceeds of the insurance maintained by the Management Committee are not alone sufficient to accomplish repair or reconstruction, restoration shall be carried out and all the Unit Owners shall be assessed for any deficiency on the basis of their respective percentages of undivided interest in the Common Areas and Facilities as provided in Subsection (16)(h).
 - (c) **Approval.** If seventy-five percent (75%) or more of the Project's improvements are destroyed or substantially damaged, if proceeds of the insurance maintained by the Management Committee are not alone sufficient to accomplish restoration, and if the Unit Owners within one hundred (100) days after the destruction or damage by a vote of at least seventy-five percent (75%) elect to repair or reconstruct the affected improvements, restoration shall be accomplished in the manner directed under subparagraph (b) above.

- (d) **Disapproval.** If seventy-five percent (75%) or more of the Project's improvements are destroyed or substantially damaged, if proceeds of the insurance maintained by the Management Committee are insufficient to accomplish restoration, and if the Unit Owners do not, within one hundred (100) days after the destruction or damage and by a vote of at least eighty percent (80%) of the undivided interest in the Common Areas and Facilities, elect to repair or reconstruct the affected improvements the Management Committee shall promptly record with the Salt Lake County Recorder's notice setting forth such facts. Upon the recording of such notice the provisions of subsections (1) through (4) of Section 57-8-31, Utah Code Annotated, applies and governs the rights of all parties having an interest in the Project or any of the Units.
- (e) **Mortgagee Disapproval.** In the event any Mortgagee should not agree to rebuild, the Management Committee may purchase the mortgage by payment in full of the amount secured by the Mortgage if 80% of the Owners are in agreement not to rebuild. The Management Committee may obtain the funds for this purpose by special assessments under Subsection (16)(h).
- (f) **Disposition of Insurance Proceeds.** The first money disbursed in payment for cost or repair or reconstruction must be made from insurance proceeds. If there is a balance after payment of all costs of repair or reconstruction, the balance must be distributed to the Unit Owners in proportion to the contributions each Owner made pursuant to the Assessments the Management Committee made under Subsection (20)(b).
- (g) **Removal of Project from the Act.** If 80% of the Unit Owners and all holders of first Mortgages on Units agree not to rebuild, as provided in this Declaration, the Project may be removed from the provisions of the Condominium Act.
- (21) **Consent Equivalent to Vote.** In those cases in which the Act or this Declaration requires the vote of a stated percentage of the Project's undivided ownership interest for the authorization or approval of a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Unit Owners who collectively hold at least the necessary percentage of undivided ownership interest.
- (22) **Fines.** Each Owner and all Residents, guests, visitors, and occupants are responsible for adhering to the Governing Documents. The Management Committee shall adopt, publish and update annually a "Fine Schedule". Pursuant to U.C.A., Section 57-8-37, a breach of the Governing Documents (as they may be amended from time to time) is subject to enforcement pursuant to the Declaration, which may include the imposition of a sanction, penalty, fine or other Individual Charges.
- (23) **Enforcement and Right to Recover Attorneys Fees.** Should the Association, Management Committee or an aggrieved Owner be required to take action to enforce the Project Documents or to pursue any remedy provided hereunder or by applicable law, whether such remedy is pursued by filing suit or otherwise, the prevailing party may recover damages, including all reasonable attorney's fee and costs which may arise or accrue. It is the intent of the Association to have the Management Committee respond to verified complaints made by Owners regarding violations of the Declaration, rather than police the Project Documents.

- (24) **Use Restrictions.** The use of the Property is subject to the right of the Management Committee to limit the number of guests, visitors, and permittees, to adopt administrative rules and regulations from time to time governing the use and enjoyment of the Common Area, and to suspend the voting rights and the privilege to use the recreational amenities by a member for: (a) any period during which his Assessments or other charges remain delinquent, and (b) a period not to exceed ninety (90) days after notice and hearing as may be set forth hereinafter for any infraction of the Association rules. In addition:
- (a) **Nuisance.** It shall be the responsibility of each Owner to prevent the creation or maintenance of a nuisance in, on or about the Project. The term "nuisance" includes but is not limited to the following:
 - (i) The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about his Unit or the Common Areas and Facilities;
 - (ii) Maintaining any plants, animals, devices or items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Community by other residents, their guests or invitees;
 - (iii) Unreasonable amounts of noise or traffic in, on or about any Unit or the Common Area; and
 - (iv) Drug houses and drug dealing; the unlawful sale, manufacture, service, storage, distribution, dispensing or acquisition occurs of any controlled substance; gambling; criminal activity; parties which occur frequently which bother, annoy or disturb other reasonable residents or interfere with their quiet and peaceful enjoyment of the premises; prostitution; or other violation of U.C.A., Section 78B-6-1107as amended or supplemented.
 - (b) **Removing Garbage, Dust and Debris.** All rubbish, trash, refuse, waste, dust, debris and garbage shall be deposited in sealed plastic bags or other authorized containers, shall be regularly removed from the Unit, not being allowed to accumulate therein so as to create a sanitation, health or safety hazard, and shall be disposed of within dumpsters provided by the Association.
 - (c) **Subdivision of a Unit.** No Unit may be subdivided.
 - (d) **No Severance.** The elements of a Unit and other rights appurtenant to the ownership of a Unit, including interest in Common Areas and Facilities and Limited Common Areas and Facilities, if any, are inseparable, and each Owner agrees that he shall not, while this Declaration is in effect, make any conveyance of less than an entire Unit and such appurtenances. Any conveyance made in contravention of this Subsection, including under any conveyance, encumbrance, judicial sale or other transfer (whether voluntary or involuntary) is void.
 - (e) **Firearms, Incendiary Devices and Graffiti.** The use of firearms and incendiary devices, tags or the painting of graffiti within the Project is prohibited. The term firearms includes but is not limited to all guns, pistols, handguns, rifles,

automatic weapons, semi-automatic weapons, BB guns, pellet guns, sling shots, wrist-rockets, blow-dart guns, and other firearms of all types, regardless of size.

- (f) **Temporary Structures.** No Owner or occupant shall place upon any part of the Project any temporary structures, including but not limited to dog runs, storage unit, tents, trailers and sheds or their equivalent, without the prior written consent of the Management Committee; provided, however, tents may be allowed for up to forty-eight (48) hours by Owners in their Limited Common Areas or the Common Area immediately adjacent to their buildings.
- (g) **Trees, Shrubs and Bushes; Maintenance of Proper Sight Distance at Intersections.** All property located at or near driveways, entrances, exits, walkways, paths and street intersections or corners shall be landscaped so as to remove any obstructions and to permit safe sight. No fence, wall, hedge, shrub, bush, tree or monument, real or artificial, shall be planted or placed by any Owner or Resident in, on or about the Common Areas and Facilities without the prior written consent of the Committee. The Management Committee may alter or remove any objects planted or placed in violation of this subsection and shall not be guilty of a trespass.
- (h) **Business Use.** No business or commercial activities shall be allowed within the Project that generate traffic and/or create annoying disturbances. No Owner or Resident may operate a commercial trade or business in or from his Unit with employees of any kind or with customers who are not residents of the Project, or which create or maintain a nuisance.
- (i) **Storage and Parking of Vehicles.** The driving, parking, standing and storing of motor vehicles in, on or about the Project shall be subject to the parking rules and regulations adopted by the Management Committee from time to time., which shall include:
 - (i) The parking areas are not designed for recreational, commercial, or oversized motor vehicles and the Management Committee has the right to make rules and regulations conditioning, restricting or prohibiting their use. Unless otherwise determined by the Management Committee, all recreational, commercial, and oversized vehicles shall be parked outside the Project, except for purposes of loading and unloading.
 - (ii) No motor vehicle or trailer may be parked or stationed in such a manner so as to create a potentially dangerous situation. Except for purposes of loading and unloading, no motor vehicle or trailer may be parked or stationed in such a manner so as to create an obstacle or along any street or road, or in front of any garage, walkway, driveway, Building or Unit, or in an unauthorized Common Area.
 - (iii) Residents may only park their motor vehicles within their Parking Stall Units, carports, covered parking spaces, or in other designated Common Area parking stalls.
 - (iv) Residents may not park their motor vehicles in red zones, fire lanes, or other unauthorized areas.

- (v) No Owners or Residents shall repair or restore any vehicle of any kind in, on or about any Unit or the Common Area, except for emergency repairs, and then only for a seventy-two (72) hour period to enable movement thereof to a proper repair facility.
- (vi) No motor vehicle shall be parked in such a manner as to inhibit or block access to a Unit, garage, covered parking space, uncovered parking space, entrance, exit, or parking area.
- (vii) All parking areas shall be used solely for the parking and storage of motor vehicles used for personal transportation.
- (j) **Aerials, Antennas, and Satellite Systems.** Antennas and satellite dishes shall be subject to rules and regulations adopted by the Management Committee
- (k) **Window Coverings, Awnings and Sun Shades.** No-aluminum foil, newspapers, reflective film coatings, or any other similar materials may be used to cover the exterior windows of any residential structure on a Unit. Sun shades are not allowed on the exterior of any Building, unless the color, style, construction material and uniformity of appearance are approved by the Management Committee.
- (l) **Windows.** All windows and window panes in the Project shall be harmonious, and comparable in size, design and quality so as not to detract from uniformity in appearance and quality of construction.
- (m) **Pets.** No pets, animals, livestock or poultry of any kind shall be bred in, on or about the Project. One (1) domestic pet per Unit is allowed. All pets must be properly licensed and registered with the appropriate governmental agency, abide by all pet rules and regulations adopted by the Management Committee from time to time. Pets may not create a nuisance. The following acts of an animal shall be considered a nuisance: (a) it causes damage to the property of anyone other than its owner; (b) it causes unreasonable fouling of the air by odors; (c) it causes unsanitary conditions; (d) it defecates on any common area and the feces are not immediately cleaned up by the responsible party; (e) it barks, whines or howls, or makes other disturbing noises in an excessive, continuous or untimely fashion; or (f) it molests or harasses passersby by lunging at them or chasing passing vehicles. Pets may not be tied or tethered in the Common Area. The Management Committee may promulgate rules and regulations regarding animals or pets, including but not limited to behavior, noise barking limitations, use of leashes, registration requirements, quantity, size, breed, and type restrictions.
- (n) **Chimes and Musical Sound Makers.** Chimes, dream catchers, bells, tubes, or other objects hung vertically outside the Unit which ring, strike or otherwise produce musical sounds or harmony heard by other residents are prohibited.
- (o) **Dumpster.** The Management Committee may adopt rules governing the use of the dumpster(s). Nothing shall be placed in, on or about the dumpster(s) in violation of the dumpster rules.
- (p) **Storage Unit/Parking Stall Access.** Owners shall not place any objects in areas that would obstruct access to another Owners storage units and/or parking stalls.

- (q) **Insurance.** Nothing shall be done or kept in, on or about any Unit or in the Common Areas and Facilities or Limited Common Areas which may result in the cancellation of the insurance on the Property or an increase in the rate of the insurance on the Property, over what the Management Committee, but for such activity, would pay.
 - (r) **Laws.** Nothing shall be done or kept in, on or about any Unit or Common Areas and Facilities, or any part thereof, which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.
 - (s) **Damage or Waste.** No damage to, or waste of, the Common Areas and Facilities or Limited Common Areas shall be committed by any Owner or Resident, or their Permittees; and each Owner and Resident shall indemnify and hold the Management Committee and the other Owners in the Project harmless against all loss resulting from any such damage or waste caused by him.
 - (t) **Structural Alterations.** Except in the case of an emergency repair, no structural alterations, plumbing, electrical or similar work within the Common Areas and Facilities or Limited Common Areas shall be done or permitted by any Owner without the prior written consent of the Management Committee.
- (25) **Duty of Owner to Pay Taxes on Unit Owned.** It is understood that under the Act each Unit (and its percentage of interest in the Common Areas and Facilities) in the Project is subject to separate assessment and taxation of each taxing authority and the special district(s) for all types of taxes and assessments authorized by law, and that as a result thereof no taxes will be assessed or levied against the Project as such. Accordingly, each Unit Owner will pay and discharge nay and all taxes and assessments which may be assessed against the Owner's Unit.
- (26) **Reinvestment Fee.** The Management Committee may charge a reasonable reinvestment fee equal to 2 months of Assessments each time ownership or possession of a Unit is transferred. The reinvestment fee shall be the personal obligation of the new Owner and shall be secured by the lien under this Declaration. Notwithstanding the other provisions of this Declaration, this Section shall not apply to a Lender who becomes an Owner by a foreclosure proceeding
- (27) **Delegation of Management Responsibilities.** The Management Committee may delegate some of its management responsibilities in whole or in part to a professional manager, management company, an experienced on-site manager, and/or an independent contractor, through service contracts or any combination thereof ("Manager"). The Manager may be an employee or an independent contractor. The termination provision of any such contract must not require a termination penalty or any advance notice of any more than sixty (60) days, and no such contract or agreement shall be for a term greater than two (2) year or have a severance payment or termination penalty. The Management Committee may also employ general laborers, grounds crew, maintenance, bookkeeping, administrative and clerical personnel as necessary to perform its management responsibilities. Anything to the contrary notwithstanding, any such management contract may be terminated for cause on thirty (30) days written notice.

- (28) **Consent of Eligible Mortgagee.** The consent of at least sixty percent (60%) of the Eligible Mortgagees shall be required to any amendment which would terminate the legal status of the Project.
- (29) **Mortgagee's Right of Notification of Default.** Any holder of the Mortgage of any Unit is entitled to written notification from the Management Committee of any default by that Unit's Owner in the performance of the obligations under this Declaration that is not cured within thirty (30) days.
- (30) **Amendment.** The vote of at least two-thirds (2/3rds) of the undivided ownership interest in the Common Areas and Facilities is necessary and sufficient to amend this Declaration or the Record of Survey Map. Any amendment so authorized shall be accomplished through the recordation of an instrument executed by the Management Committee. In such instrument the Management Committee shall certify that the vote required by this Paragraph for amendment has occurred.
- (31) **Consent of Eligible Mortgagees to Add or Amend Any Material Provision.**
- (a) **Material Changes.** Anything to the contrary notwithstanding, the consent of Eligible Mortgagees holding at least a majority of the undivided ownership interest in the Common Areas and Facilities shall be required to add to or amend any material provision of this Declaration or the Record of Survey Map which establishes, provides for, governs, or regulates any of the following:
- (i) Voting rights;
 - (ii) Increases in monthly assessments for operating expenses that raise the previously assessed amount by more than 25%, Assessment liens, or the priority of Assessment liens;
 - (iii) Reductions in reserves for maintenance, repair, and replacement of Common Areas, Facilities and Elements;
 - (iv) Responsibility for maintenance and repairs;
 - (v) Reallocation of interests in the Common Area, Limited Common Area, and general or limited common elements, or rights to their use;
 - (vi) Redefinition of any Unit boundaries;
 - (vii) Convertibility of Units into Common Area or Elements, or vice versa;
 - (viii) Expansion or contraction of the Project, or the addition, annexation, or withdrawal of property to or from the Project;
 - (ix) Hazard or fidelity insurance requirements;
 - (x) Imposition of any restrictions on the leasing of Units;
 - (xi) Imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit;

- (xii) A decision by the Association to establish self-management if professional management had been required previously by the Project Documents or by an Eligible Mortgage holder;
 - (xiii) Restoration or repair of the Project (after damage or partial condemnation) in a manner other than that specified in the documents; and
 - (xiv) Any provisions that expressly benefit Mortgage holders, insurers or guarantors.
- (b) **Non-material changes.** Any addition or amendment shall not be considered “material” for purposes of this paragraph if it is for the clarification only or to correct a clerical error. Notice of any proposed amendment to any Eligible Mortgagee to whom a written request to approve an addition or amendment to this Declaration or the Record of Survey Map is required shall be mailed postage prepaid to the address for such Mortgagee shown on the list maintained by the Association. Any Eligible Mortgagee who does not deliver to the Management Committee or the Association a negative response to the notice of the proposed amendment within thirty (30) days from the date of such mailing shall be deemed to have approved the proposal. The foregoing consent requirements shall not be applicable to amendments to this Declaration and the Record of Survey Map or the termination of the legal status of the Project if such amendments or such termination are made or accomplished in accordance with the provisions of this Declaration regarding Condemnation or Substantial Obsolescence.
- (32) **Effect of Invalidity.** The invalidity or unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof.
- (33) **Interpretation.** To the extent the provisions of the Act are consistent with this Declaration, such provisions shall supplement the terms hereof and are incorporated herein. This Declaration shall be liberally construed to affect its purpose. The captions which precede the Paragraphs of this Declaration are for convenience only and shall in no way affect the manner in which any provision hereof is construed.
- (34) **Covenants to Run with Land.** This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of all parties who hereafter acquire any interest in a Unit or in the Project, and their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner, Residents, and permittees shall comply with, and all interests in all Units shall be subject to, the terms of the Act, the terms of this Declaration, the Bylaws, and the provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration. By acquiring any interest in a Unit or in the Project, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.
- (35) **Agent for Service of Process.** The Registered Agent listed with the Department of Commerce, Division of Corporations is the person to receive service of process on behalf of the Association in the cases authorized by the Act. In the event that there is no Registered Agent listed, the President is the person to receive service of process on behalf of the Association. The Management Committee shall, however, have the right to appoint a successor or substitute process agent. Such successor or substitute agent and his or her address shall be specified by an

appropriate instrument filed in the office of the County Recorder of Salt Lake County, State of Utah.

- (36) **Percentages of Ownership Interest.** Voting rights and distribution of Common Expenses shall be based upon the Allocated Interest, which is set forth on Exhibit "A", attached hereto and incorporated herein by this reference. The Allocated Interest shall have a permanent character and may not be changed without the affirmative written consent of at least three-fourths of the Allocated Interest.
- (37) **Notices.** Any notice permitted or required to be delivered by the Association as provided in these Declaration may be delivered either personally, by mail, email, or through an official Association website. If delivery is by mail, delivery is deemed to occur 24 hours after the notice is deposited in the United States mail, postage prepaid, addressed to each Unit Owner at the address given to the Management Committee or the Manager for the purpose of notice. If no address is given, notice must be delivered to the Unit. If delivery is by email, delivery is deemed to occur immediately after notice is sent to the email address registered with the Association. A Unit Owner may, by written demand, require the Association to provide notice to the Unit Owner by mail.
- (38) **Effective Date.** This document shall be effective on the date it is recorded in the office of the Salt Lake County Recorder.

Dated this 23 day of July, 2014.

CAPITOL GARDENS CONDOMINIUMS, INC.

By: Don Kauffman
Title: President

By: None
Title: Secretary

STATE OF UTAH)
) ss.
County of Salt Lake)

On the 23 day of July, 2014, personally appeared before me Don Kauffman and N/A, who being by me duly sworn did say, that they are the authorized agents of Capitol Gardens Condominiums, Inc. to execute this Amended and Restated Declaration of Condominium on behalf of the Association and affirm that the foregoing document was approved by at least two-thirds of the voting interests of the Association, and that it is accurate to the best of their knowledge.

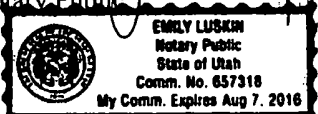
Emily Lusk
Notary Public


EXHIBIT A – Capitol Gardens Property Description

Beginning at a point South 23°46' East 1.28 feet from the Northwest Corner of Lot 4, Block 20, Plat E, Salt Lake City Survey and running thence South 23°46' East 170.22 feet to the Southwest Corner of said Lot 4; thence South 89°38'57" East 167.73 feet to the Southeast Corner of said Lot 4; thence North 23°40' West 170.70 feet; thence North 89°40' West 106.73 feet; thence South 0.50 feet; thence North 89°40' West 59.08 feet to the point of beginning.

EXHIBIT B – Undivided Ownership Interest in Common Areas and Facilities

<u>Unit No.</u>	<u>Proportionate (Percentage) Ownership in Common Areas</u>
<u>First Floor:</u>	
101	3.7600
102	2.9540
106	3.7600
107	3.7600
108	3.7600
<u>Second Floor:</u>	
201	3.7600
202	2.9540
203	3.7600
204	2.9540
205	3.7600
206	3.7600
207	3.7600
208	3.7600
209	3.7600
<u>Third Floor:</u>	
301	3.7600
303	3.7600
304	2.9540
305	3.7600
306	3.7600
307	3.7600
308	6.2700
309	3.7600
<u>Fourth Floor:</u>	
403	3.7600
404	2.9540
405	3.7600
406	3.7600
407	<u>3.7600</u>
	100.0000%

EXHIBIT C – Parking Spaces

Parking space assignment (all being carports except No. 19) as Limited Common Areas:

<u>Unit No.</u>	<u>Parking Space No.</u>	<u>Storage Unit</u>
101	17	7
201	28	16
301	19	12
102	18	5
202	5	9
203	6	11
303	2	17
403	12	23
204	7	18
304	8	22
404	16	25
205	25	10
305	14	20
405	13	27
106	3	4
206	26	15
306	10	13
406	24	26
107	4	19
207	23	1
307	27	14
407	15	24
108	1	2
208	9	3
308	20/21	Bottom of stairs
209	11	6
309	22	Next to unit

EXHIBIT D - Unit Parcel Numbers (27 Condominium Units)

<u>Unit</u>	<u>Parcel Number</u>
101	8362780020000
102	8362780030000
106	8362780040000
107	8362780050000
108	8362780060000
201	8362780070000
202	8362780080000
203	8362780090000
204	8362780100000
205	8362780110000
206	8362780120000
207	8362780130000
208	8362780140000
209	8362780150000
301	8362780160000
303	8362780170000
304	8362780180000
305	8362780190000
306	8362780200000
307	8362780210000
308	8362780220000
309	8362780230000
403	8362780240000
404	8362780250000
405	8362780260000
406	8362780270000
407	8362780280000

13-26
When Recorded, Return to:
Vial Fotheringham LLP
602 East 300 South
Salt Lake City, UT 84102

AMENDED BYLAWS
OF
CAPITOL GARDENS CONDOMINIUMS, INC.
SALT LAKE CITY, SALT LAKE COUNTY

THESE BYLAWS OF CAPITOL GARDENS ("Bylaws") are effective when recorded with the Salt Lake County Recorder's Office by the CAPITOL GARDENS CONDOMINIUMS, INC., a Utah nonprofit corporation ("Association"), pursuant to the Utah Condominium Ownership Act and the Utah Revised Nonprofit Corporation Act.

RECITALS

1. Capitalized terms in these Bylaws are defined in Article I of the Amended and Restated Declaration for CAPITOL GARDENS, a Utah Condominium Project ("Declaration").
2. These Bylaws shall amend and completely replace all bylaws, and any amendments thereto, recorded or effective prior to the date of these Bylaws, including but not limited to the document entitled "BY-LAWS OF CAPITOL GARDENS" ("Original Bylaws").
3. These Bylaws are adopted in order to complement the Declaration and to eliminate ambiguity, to further define the rights of the Association and the Unit Owners, to provide for the ability to more easily govern and operate the Association, and, to further the Association's efforts to safely, efficiently, and economically provide a quality living environment.
4. The Association certifies that these Bylaws have been adopted by the approval of at least two-thirds of the Association's voting interests as provided by Article VIII of the Original Bylaws.

ARTICLE I
DEFINITIONS

1.1 **Definitions.** Except as otherwise provided herein or as may be required by the context, all terms defined in the Declaration shall have the same meanings when used in these Bylaws.

ARTICLE II
UNIT OWNERS

2.1 Annual Meetings. The annual meeting of the Unit Owners shall be held each year in September on a day and time established by the Management Committee. The purpose of the annual meeting shall be electing Committee Members and transacting such other business as may come before the meeting. If the election of Committee Members cannot be held on the day designated herein for the annual meeting of the Unit Owners, or at any adjournment thereof, the Management Committee shall cause the election to be held either at a special meeting of the Unit Owners to be convened as soon thereafter as may be convenient or at the next annual meeting of the Unit Owners. The Management Committee may from time to time by resolution change the date and time for the annual meeting of the Unit Owners.

2.2 Special Meetings. Special meetings of the Unit Owners may be called by a majority of the Management Committee, the President, or upon the written request of Unit Owners holding at least thirty-five percent (35%) of the voting interests Association, delivered at least seven (7) days prior to the date fixed for the Special Meeting. Any written request for a special meeting presented by the Unit Owners shall be delivered to the President and shall include the original signature of each Unit Owner affirmatively supporting such request along with a complete statement of the purpose of the meeting on each page containing signatures. The President shall then call, provide notice of, and conduct a special meeting within 30 days of receipt of the request.

2.3 Place of Meetings. The Management Committee may designate any place in the State of Utah reasonably convenient for the Unit Owners of the Association as the place of meeting for any annual or special meeting. If no designation is made, or if a special meeting is otherwise called, the place of the meeting shall be at the principal office of the Association.

2.4 Notice of Meetings. The Management Committee shall cause written or printed notice of the date, time, and place (and in the case of a special meeting, the purpose or purposes) for all meetings of the Unit Owners. Such written or printed notice shall be delivered to each member of record entitled to vote at such meeting not more than sixty (60) nor less than ten (10) days prior to the meeting. Such notice may be hand-delivered, mailed, or emailed. If mailed, such notice shall be deemed to be delivered when deposited in the U.S. mail addressed to the member at the Unit Owner's address registered with the Association, with first-class postage thereon prepaid. If emailed, such notice shall be deemed to be delivered when sent to the email address of the Unit Owner that is registered with the Association. Each Unit Owner shall register with the Association such Unit Owner's current mailing address and email address for purposes of notice hereunder. Such registered addresses may be changed from time to time by notice in writing to the Association. If no address is registered with the Association, a Unit Owner's Unit address shall be deemed to be the Unit Owner's registered address.

2.5 Qualified Voters. A Unit Owner shall be deemed to be in "good standing" and "entitled to vote" at any meeting of the Association if he or she is in full compliance with all of the terms, covenants, conditions of the Declaration, or these Bylaws, and shall have fully paid his or her share of any assessments (together with any interest and/or late fees) prior to the commencement of the meeting.

2.6 Record Date for Notice Purposes. The Management Committee may designate a record date, which shall not be more than sixty (60) nor less than ten (10) days prior to the meeting, for the purpose of determining Unit Owners entitled to notice of any meeting of the Unit Owners. If no record date is designated, the last date on which a notice of the meeting is mailed or delivered shall be deemed to be the record date for determining Unit Owners entitled to notice. The persons or entities appearing in the

records of the Association on such record date as the Owner(s) of record of Units in the Condominium Project shall be deemed to be the Unit Owners of record entitled to notice of the meeting of the Unit Owners.

2.7 Quorum. At any meeting of the Unit Owners, the presence of Unit Owners and holders of proxies entitled to cast more than twenty-five percent (25%) of the voting interests of the Association shall constitute a quorum for any and all purpose. If however, such quorum is not present or represented at any meeting, the Management Committee has the power to adjourn the meeting and reschedule for a time no earlier than one (1) day, nor later than thirty (30) days after the set time for the original meeting. No notice of such rescheduled meeting shall be required except an oral announcement at the meeting to be rescheduled. The presence of Unit Owners and holders of proxies entitled to cast more than ten percent (10%) of the voting interests of the Association shall constitute a quorum for the transaction of business at the rescheduled meeting.

2.8 Proxies. At each meeting of the Unit Owners, each Unit Owner entitled to vote shall be entitled to vote in person or by proxy provided, however, that the right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been executed by the Unit Owner or by the Unit Owner's attorney when duly authorized in writing. If a Unit is jointly owned, the instrument authorizing a proxy to act may be executed by any one (1) owner of such Unit or the Unit Owners' attorneys when duly authorized in writing. Such instrument authorizing a proxy to act shall be dated, set forth the specific matters or issues upon which the proxy is authorized to act, and may allow the proxy to vote on any issue arising at any particular meeting or meetings. Only Unit Owners or the legal representative of a Unit Owner may be proxies. Such instrument shall be delivered at the beginning of the meeting to the Secretary of the Association or to such other officer or person who may be acting as secretary of the meeting. The secretary of the meeting shall enter a record of all such proxies in the minutes of the meeting.

2.9 Votes. With respect to each matter submitted to a vote of the Unit Owners, each Unit Owner entitled to vote at the meeting shall have the right to cast, in person or by proxy, the number of votes appertaining to the Unit of such Unit Owner, as shown in the Declaration. All proxies must be in writing, and in the case of proxies for the annual meeting, proxies must be delivered to the Secretary at least three days prior to the annual meeting. Proxies for special Unit Owners' meetings must be of record with the Secretary at least three days prior to the special meeting. The affirmative vote of a majority of the votes entitled to be cast by the Unit Owners present or represented by proxy at a meeting at which a quorum was initially present shall be necessary for the adoption of any matter voted on by the Unit Owners, unless a greater proportion is required by the Articles, these Bylaws, the Declaration, or the Act. The election of Committee Members may be by secret ballot. When more than one (1) person owns an interest in a Unit, any person who is the owner may exercise the vote for such Unit on behalf of all Co-Owners of the Unit. In the event of two (2) conflicting votes by co-Owners of one (1) unit, no vote shall be counted for that Unit. In no event shall fractional votes be exercised in respect to any Unit.

2.10 Waiver of Irregularities. All inaccuracies and irregularities in calls or notices of meetings and in the manner of voting, in the form of proxies and the method of ascertaining Unit Owners present, and in the decision and votes of the Management Committee or of the Owners shall be deemed waived if no objection is made either at the meeting or within thirty (30) days of the date of the meeting, or within 30 days of notice of any decision by the Management Committee.

2.11 Informal Action by Unit Owners. Any action that is required or permitted to be taken at a meeting of the Unit Owners may be taken without a meeting, if a consent in writing, setting forth the

action so taken, shall be signed by enough Unit Owners such that the vote would have passed if all of Association Unit Owners had been in attendance at a regularly called meeting.

2.12 **Waiver of Notice.** Any Unit Owner may at any time waive any notice required to be given under these Bylaws, or by statute or otherwise. The presence of a Unit Owner in person at any meeting of the Unit Owners constitutes waiver of notice for that meeting.

ARTICLE III MANAGEMENT COMMITTEE

3.1 **General Powers.** The property, affairs and business of the Association shall be managed by the Management Committee. The Management Committee may exercise all of the powers of the Association, whether derived from the Act, the Declaration or these Bylaws, except such powers that the Articles, these Bylaws, the Declaration, or the Act vest solely in the Unit Owners. The Management Committee, as it deems advisable, may enter into a management agreement with a third person, firm or corporation to act as a Manager of the Project.

3.2 **Number, Tenure, and Qualifications.** The property, business, and affairs of the Association shall be governed and managed by a Management Committee composed of five (5) persons, each of whom shall meet the qualifications in the Declaration. At each annual meeting, the Unit Owners shall elect for terms of three (3) years each the appropriate number of Committee Members to fill vacancies by expiring terms of Committee Members.

3.3 **Regular Meetings.** The Management Committee shall hold regular annual meetings immediately after the adjournment of each annual Unit Owners' meeting. Regular meetings other than the annual meeting may be held at regular intervals as the President of the Management Committee may designate. The Management Committee may designate any place in Salt Lake County, Utah as the place of meeting for any regular meeting called by the Management Committee. Meetings may also be held with Committee Members appearing telephonically so long as any Committee Member appearing telephonically consents to such appearance. If no designation is made, the place of the meeting shall be at the principal office of the Association.

3.4 **Special Meetings.** Special meetings of the Management Committee may be called by the President, Vice President, or a majority of the Committee Members on at least five (5) days prior notice to each Committee Member. The person or persons authorized to call special meetings of the Management Committee may fix any place, within Salt Lake County, as the place for holding the meeting. Notice shall be given personally, by regular U.S. Mail at such Committee Member's registered address, or by telephone. If mailed, such notice shall be deemed to be delivered when deposited in the U.S. mail so addressed, with first-class postage thereon prepaid. Any Committee Member may waive notice of a meeting. Attendance by a Committee Member at any meeting constitutes waiver of notice of that meeting. By unanimous consent of the Management Committee, special meetings may be held without call or notice at any time or place.

3.5 **Quorum and Manner of Action.** A majority of the then authorized number of Committee Members shall constitute a quorum for the transaction of business at any meeting of the Management Committee. The act of a majority of the Committee Members present at any meeting at which a quorum is present and for which proper notice was provided to the Committee Members shall be the act of the Management Committee. The Committee Members shall act only as the Management Committee, and individual Committee Members shall have no powers as such.

3.6 **Compensation.** No Committee Member shall receive compensation for any services that such member may render to the Association as a Committee Member; provided, however, that a Committee Member may be reimbursed for expenses incurred in performance of such duties as a Committee Member to the extent such expenses are approved unanimously by the other Committee Members. This section does not preclude any member of the Management Committee from serving the Project in a capacity other than Committee member a receive compensation.

3.7 **Resignation and Removal.** A Committee Member may resign at any time by delivering a written resignation to either the President or the Secretary. Unless otherwise specified therein, such resignation shall take effect upon delivery. A Committee Member may be removed at any time, with or without cause, at a special meeting of the Unit Owners duly called for such purpose upon the affirmative vote of at least fifty-one percent (51%) of the voting interests of the Association. A Committee Member may also be removed by the affirmative vote of a majority of the other Committee Members if he or she, in any twelve (12) month period, misses either three (3) consecutive or fifty percent (50%) of the regularly scheduled Management Committee meetings.

3.8 **Vacancies and Newly Created Committee Memberships.** If vacancies occur in the Management Committee by reason of the death, resignation, disqualification, or Management Committee removal as provided in Section 3.7 of a Committee Member, the Committee Members then in office shall continue to act, and such vacancies shall be filled by a majority vote of the Committee Members then in office, though less than a quorum. Any vacancy in the Management Committee occurring by reason of removal of a Committee Member by the Unit Owners may be filled by election by the Unit Owners at the meeting at which such Committee Member is removed. Any Committee Member elected or appointed hereunder to fill a vacancy shall serve for the unexpired term of his predecessor.

3.9 **Informal Action by Committee Members.** Any action that is required or permitted to be taken at a meeting of the Management Committee may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Committee Members.

3.10 **Adjournments.** The Management Committee may adjourn any meeting from day to day or for such other time as may be prudent or necessary, provided that no meeting may be adjourned for longer than thirty (30) days.

ARTICLE IV OFFICERS

4.1 **Officers.** The officers of the Association shall be a President, Vice President, a Secretary, a Treasurer, and such other officers as may from time to time be appointed by the Management Committee.

4.2 **Election Tenure and Qualifications.** The officers of the Association shall be chosen by the Management Committee annually at the first regular meeting of the Management Committee following the annual meeting of the Unit Owners. In the event of failure to choose officers at such regular meeting of the Management Committee, officers may be chosen at any regular or special meeting of the Management Committee. Each such officer (whether chosen at a regular meeting of the Management Committee or otherwise) shall hold such office until the next ensuing regular meeting of the Management Committee and until a successor has been chosen and qualified, or until such officer's death, or until resignation, disqualification, or removal in the manner provided in these Bylaws, whichever first occurs. Any person may hold any two (2) or more of such offices, except that the President may not also be the

Secretary. No person holding two (2) or more offices shall act in or execute any instrument in the capacity of more than one (1) office. The President, Vice President, Secretary, and Treasurer must be and remain Committee Members of the Association during the entire term of their respective offices.

4.3 Subordinate Officers. The Management Committee may from time to time appoint such other officers or agents as it may deem advisable, each of whom shall have such title, hold office for such period, have such authority, and perform such duties as the Management Committee may from time to time determine. Subordinate officers need not be Committee Members of the Association. Appointment of subordinate officers takes place at the first meeting of the Management Committee immediately following the annual meeting of Unit Owners; provided, however, that elections of officers may be held at any other meeting of the Management Committee.

4.4 Resignation and Removal. Any officer may resign at any time by delivering a written resignation to any member of the Management Committee or to any Manager. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed and replaced upon the affirmative vote of a majority of the Management Committee at anytime, with or without cause.

4.5 Vacancies and Newly Created Offices. If any vacancy shall occur in any office by reason of death, resignation, removal, disqualification or any other cause, or if a new office shall be created, such vacancies or newly created offices may be filled by the Management Committee at any regular or special meeting.

4.6 The President. The President shall preside at meetings of the Management Committee and at meetings of the Unit Owners. At the meetings, the President shall have all authority typically granted to the person presiding over the meeting including but not limited to: (1) the right to control the order of the meeting, (2) the right to arrange for the removal of any disruptive Owner or person, (3) the right to impose and enforce reasonable rules and procedures related to the meeting such as those found in "Robert's Rules of Order" or "The Modern Rules of Order." The President has the right to appoint committees from among the Unit Owners from time to time as he may, in his discretion, decide is appropriate to assist in the conduct of the affairs of the Project. The President may sign on behalf of the Association all conveyances, mortgages, documents, and contracts, and shall do and perform all other acts and things as required by the Management Committee.

4.7 The Vice President. The Vice President shall perform all duties of the President when the President is absent or unable or refuses to act at any meeting of the Management Committee or Unit Owners. The Vice President shall perform such other duties as required by the Management Committee. If the President and Vice President are absent or refuse or are unable to act, the Management Committee may appoint some other member of the Management Committee to do so on an interim basis.

4.8 The Secretary. The Secretary shall keep the minutes of the Association and shall maintain such books and records as these Bylaws, the Declaration, Rules, or any resolution the Management Committee may require such person to keep. The Secretary shall also act in the place and stead of the Vice President in the event of the President's and Vice President's absence or inability or refusal to act.

4.9 The Treasurer. The Treasurer shall have the custody and control of the funds of the Association, subject to the action of the Management Committee, and when requested by the President, shall report the state of the finances of the Association at each meeting of the Unit Owners and at any meeting of the Management Committee. The Treasurer is responsible for the deposit of all monies and all other valuable effects in the name, and to the credit of, the Management Committee. The Treasurer shall perform such

other duties as required by the Management Committee.

4.10 **Compensation.** No officer shall receive compensation for any services rendered to the Association as an officer, provided, however, that an officer may be reimbursed for expenses incurred in performance of such duties as an officer to the extent such expenses are approved unanimously by the Management Committee.

ARTICLE V SUBCOMMITTEES

5.1 **Designation of Subcommittees.** The Management Committee may from time to time by resolution designate such Subcommittees as it may deem appropriate in carrying out its duties, responsibilities, functions, and powers. The membership of each such Subcommittee designated must consist of at least two persons, including at least one (1) Committee Member. No member of a Subcommittee may receive compensation for services rendered to the Association as a member of the Subcommittee; provided, however, that the Subcommittee member may be reimbursed for expenses incurred in performance of such duties as a Subcommittee member to the extent that such expenses are approved unanimously by the Management Committee. A Subcommittee shall not have any powers, duties, or responsibilities beyond those specifically assigned by the Management Committee in a written resolution. The Management Committee may terminate any Subcommittee at any time.

5.2 **Proceeding of Subcommittees.** Each Subcommittee designated hereunder by the Management Committee may appoint its own presiding and recording officers and may meet at such places and times and upon such notice as such Subcommittee may from time to time determine. Each Subcommittee shall keep a record of its proceedings and shall regularly report such proceedings to the Management Committee.

5.3 **Quorum and Manner of Acting.** At each meeting of any Subcommittee designated hereunder by the Management Committee, the presence of Subcommittee Members constituting at least a majority of the authorized membership of such Subcommittee (but in no event less than two (2) members) shall constitute a quorum for the transaction of business, and the act of a majority of the members present at any meeting at which a quorum is present shall be the act of such Subcommittee. The members of any Subcommittee designated by the Management Committee hereunder shall act only as a Subcommittee, and the individual members thereof shall have no powers as such. A Subcommittee may exercise the authority granted by the Management Committee.

5.4 **Resignation and Removal.** Any member of any Subcommittee designated hereunder by the Management Committee may resign at any time by delivering a written resignation to the President, the Management Committee, or the presiding officer of such Subcommittee. Unless otherwise specified therein, such resignation shall take effect upon delivery. The Management Committee may at any time, with or without cause, remove any member of any Subcommittee designated by it thereunder.

5.5 **Vacancies.** If any vacancy occurs in any Subcommittee designated by the Management Committee due to disqualification, death, resignation, removal, or otherwise, the remaining members shall, until the filling of such vacancy by the Management Committee, constitute the then total authorized membership of the Subcommittee and, provided that two (2) or more members are remaining, may continue to act. Such vacancy may be filled at any meeting of the Management Committee.

ARTICLE VI
INDEMNIFICATION

6.1 **Indemnification** No Committee Member or officer is personally liable for any obligations of the Association or for any duties or obligations arising out of any acts or conduct of said Committee Member or officer performed for or on behalf of the Association. The Association shall and does hereby indemnify and hold harmless each person who serves at any time as a Committee Member or officer of the Association, as well as such person's heirs and administrators, from and against any and all claims, judgments and liabilities to which such persons becomes subject, by reason of that Committee Member having reason of any action alleged to have been heretofore or hereafter taken or omitted to have been taken by him as such Committee Member or officer, and shall reimburse any such person for all legal and other expenses reasonably incurred in connection with any such claim or liability; provided that no such person shall be indemnified against or be reimbursed for or be defended against any expense or liability incurred in connection with any claim or action arising out of such person's intentional misconduct. The rights accruing to any person under the foregoing provisions of this Section shall not exclude any other right to which such person may lawfully be entitled, nor shall anything herein contained restrict the right of the Association to indemnify or reimburse such person in any proper case, even though not specifically provided for herein or otherwise permitted. The Association, its Committee Members, officers, employees, and agents shall be fully protected in taking any action or making any payment or in refusing so to do in reliance upon the advice of counsel.

6.2 **Other Indemnification**. The indemnification herein provided shall not be deemed exclusive of any other right to indemnification to which any person seeking indemnification may be under any Bylaw, agreement, vote of disinterested Committee Members or otherwise, both as to action taken in any official capacity and as to action taken in any other capacity while holding such office. It is the intent hereof that all Committee Members and officers be and hereby are indemnified to the fullest extent permitted by the laws of the State of Utah and these Bylaws. The indemnification herein provided shall continue as to any person who has ceased to be a Committee Member, officer or employee and shall inure to the benefit of the heirs, executors and administrators of any such person.

6.3 **Insurance**. The Management Committee, in its discretion, may direct that the Association purchase and maintain insurance on behalf of any person who is or was a Committee Member, officer, or employee of the Association or is or was serving at the request of the Association as a Committee Member, officer, employee or agent of another association, corporation, partnership, joint venture, trust or other enterprise against any liability asserted against, and incurred by, such person in any such capacity or arising out of such person's status as such, whether or not the Association would have the power to indemnify such person against liability under the provisions of this Article VI.

6.4 **Settlement by Association**. The right of any person to be indemnified shall be subject always to the right of the Association by the Management Committee, in lieu of such indemnity, to settle any such claim, action, suit or proceeding at the expense of the Association by the payment of the amount of such settlement and the costs and expenses incurred in connection therewith.

ARTICLE VII
RECORDS AND AUDITS

The Association shall maintain within the State of Utah all documents, information, and other records of the Association in accordance with the Declaration, these Bylaws, and the Utah Revised

Nonprofit Corporation Act in the manner prescribed by a resolution adopted by the Management Committee.

7.1 General Records.

a. The Management Committee or managing agent for the Association shall keep detailed records of the actions of the Management Committee and managing agent or manager; minutes of the meetings of the Management Committee; and minutes of the member meetings of the Association.

b. The Management Committee shall maintain a book of resolutions containing the Rules and policies adopted by the Association and Management Committee.

c. The Management Committee shall maintain a list of Owners.

d. The Association shall retain within the State of Utah all records of the Association for not less than the period specified in applicable law.

7.2 Records of Receipts and Expenditures. The Management Committee or its designee shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the Condominium Project, itemizing the maintenance and repair expenses of the Common Areas or Association property and any other expenses incurred.

7.3 Financial Reports and Audits.

a. An annual report of the receipts and expenditures of the Association and a balance sheet showing assets and liabilities shall be rendered by the Management Committee to all Owners.

b. From time to time the Management Committee, at the expense of the Association, may obtain an audit and/or review by a certified public accountant or other financial review of the books and records pertaining to the Association and furnish copies thereof to the Owners and Eligible Mortgagees of Units. At any time any Owner or Eligible Mortgagee may, at such Owner's or Eligible Mortgagee's own expense, cause an audit or inspection to be made of the books and records of the Association.

7.4 Inspection of Records by Owners.

a. Except as provided in Section 7.5 below, all records of the Association shall be reasonably available for examination by an Owner and any Eligible Mortgagee of a Unit pursuant to Rules adopted by resolution of the Management Committee.

b. The Management Committee shall maintain a copy, suitable for the purposes of duplication of the following:

i. The Declaration, Bylaws, and any amendments in effect or supplements thereto, and Rules of the Association.

ii. The most recent financial statement prepared pursuant to Section 7.3 above.

iii. The current operating budget of the Association.

c. The Association, after receipt of a written request by an Owner, shall, within a mutually agreeable period of time, furnish the requested information required to be maintained under subsection b. of this Section.

d. The Board, by resolution, may adopt reasonable Rules governing the frequency, time, location, notice and manner of examination and duplication of Association and the imposition of a reasonable fee for furnishing copies of any documents, information or records described in this Section. The fee may include reasonable personnel costs incurred to furnish the information, including any and all fees the Association may be charged by its designee that assists the Association in furnishing this information.

7.5 **Records Not Subject to Inspection.** Records kept by or on behalf of the Association may be withheld from examination and duplication to the extent the records concern:

- a. Personnel matters relating to a specific identified person or a person's medical records.
- b. Contracts, leases, and other business transactions that are currently under negotiation to purchase or provide goods or services.
- c. Communications with legal counsel that relate to matters specified in subsections a. and b. of this Section, or current or pending litigation.
- d. Disclosure of information in violation of law.
- e. Documents, correspondence, or management or Board of Director reports compiled for or on behalf of the Association or the Board by its agents or committees for consideration by the Board in executive session.
- f. Documents, correspondence, or other matters considered by the Management Committee in executive session.
- g. Files of individual Owners, other than those of a requesting Owner or requesting Eligible Mortgagee of an individual Owner, including any individual Owner's file kept by or on behalf of the Association.

ARTICLE VIII RULES AND REGULATIONS

The Management Committee shall have the authority to adopt and establish by resolution such Condominium Project management and operational Rules and regulations as it may deem necessary for the maintenance, operation, management, and control of the Condominium Project, and the Management Committee may from time to time, by resolution, alter, amend, and repeal such Rules and regulations and use their best efforts to see that they are strictly observed by their lessees and the persons over whom they have or may exercise control or supervision, it being clearly understood that such Rules and regulations shall apply and be binding upon all Unit Owners of the Condominium Project. Copies of all Rules, regulations, and resolutions adopted by the Management Committee shall be sent to all Unit Owners at least ten (10) days prior to the effective date thereof.

ARTICLE IX
AMENDMENTS

9.1 **How Proposed.** Amendments to these Bylaws shall be proposed by either a majority of the Management Committee or by Owners holding at least forty percent (40%) of the voting interests of the Association. The proposed amendment must be reduced to writing and must be included in the notice of any meeting at which action is to be taken thereon.

9.2 **Adoption.** Amendments may be approved by the Association at a duly constituted meeting or by written ballot in lieu of a meeting for such purpose. These Bylaws may be amended, altered, or repealed and new Bylaws may be adopted by the members upon the affirmative vote of more than fifty percent (50%) of the voting interests of the Association.

9.3 **Execution and Recording.** An amendment shall not be effective unless and until certified by the President of the Association as being adopted in accordance with these Bylaws, acknowledged, and recorded with the Recorder's Office of Salt Lake County.

ARTICLE X
MISCELLANEOUS PROVISIONS

10.1 **Notices Generally.** Any notice permitted or required to be delivered as provided in these Bylaws may be delivered either personally, by mail, email, or through an official Association website. If delivery is by mail, delivery is deemed to occur 24 hours after the notice is deposited in the United States mail, postage prepaid, addressed to each Unit Owner at the address given to the Management Committee or the Manager for the purpose of notice. If no address is given, notice must be delivered to the Unit. If delivery is by email, delivery is deemed to occur immediately after notice is sent to the email address registered with the Association. A Unit Owner may, by written demand, require the Association to provide notice to the Unit Owner by mail.

10.2 **Waiver.** No restriction, condition, obligation, or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

10.3 **Invalidity; Number; Captions.** The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these Bylaws. As used in these Bylaws, the singular shall include the plural, and the plural the singular. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions are intended solely for convenience of reference and shall in no way limit any of the provisions of these Bylaws.

10.4 **Conflicts.** These Bylaws are intended to comply with the Declaration. In case of any irreconcilable conflict, the Declaration controls over these Bylaws.

)
)
)

EXECUTED this 23 day of July, 2014.

CAPITOL GARDENS CONDOMINIUMS, INC.

BY: Don Kauffman
TITLE: HOA President

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

On the 23 day of July 2014, personally appeared before me Don Kauffman
Who by me being duly sworn, did say that he/she is the President of CAPITOL GARDENS
CONDOMINIUMS, INC., that he/she is authorized to execute this document on behalf of said
association, that the foregoing instrument was approved by at least two-thirds of the voting interests of the
Association as required by Article VIII of the Original Bylaws, and that this information is true and
accurate to the best of his/her knowledge.

Emily Luskin
Notary Public

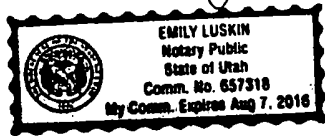


EXHIBIT A

Unit Parcel Numbers (27 Condominium Units)

<u>Unit</u>	<u>Parcel Number</u>
101	8362780020000
102	8362780030000
106	8362780040000
107	8362780050000
108	8362780060000
201	8362780070000
202	8362780080000
203	8362780090000
204	8362780100000
205	8362780110000
206	8362780120000
207	8362780130000
208	8362780140000
209	8362780150000
301	8362780160000
303	8362780170000
304	8362780180000
305	8362780190000
306	8362780200000
307	8362780210000
308	8362780220000
309	8362780230000
403	8362780240000
404	8362780250000
405	8362780260000
406	8362780270000
407	8362780280000