

PAGE ( ) INDEX ( ) ABSTRACT ( ) PLAT ( ) CHECK ( )

00188420 Br00328 Pg00048-00058

BY-LAWS  
OF

WASATCH CO RECORDER-ELIZABETH M PARCELL  
1996 JUL 29 16:44 PM FEE \$83.00 BY MWC  
REQUEST: FOUNDERS TITLE COMPANY

BIG POLE ESTATES HOMEOWNERS ASSOCIATION

ARTICLE I

NAME AND LOCATION

The name of the corporation is the Big Pole Estates Homeowners Association, hereinafter referred to as the "Association". The principal office of the corporation shall be located at 1245 Brickyard Road #650 Salt Lake City, Utah 84106, but meetings of members and directors may be held at such places within the State of Utah, County of Wasatch as may be designated by the Board of Directors.

ARTICLE II

DEFINITIONS

Section 1. "Association" shall mean and refer to Big Pole Homeowners Association, its successors and assigns.

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

Section 3. "Properties" shall mean and refer to the certain real property described in the Declaration of Covenants, Conditions, Restrictions, and Management Policies, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Facilities" shall mean facilities contained within easements such as detention basins, open space and trails that the Association shall operate and maintain.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded final plat map of the properties with the exception of the Common Facilities.

Section 6. "Declarant" shall mean and refer to John W. Walden, President of Sacred Fountain of Youth Inc.

Section 7. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions, Restrictions and Management Policies applicable to the properties recorded in the Office of the Wasatch County Recorder.

Section 8. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

ARTICLE III 00188420 8k00328 Pg00049

MEETING OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held on the second Saturday of January each year thereafter, at a 12:00 noon.

Section 2. Special Meetings. Special Meeting of the members may be called at any time by the president or by the Board of Directors, or upon written request of the members who are entitled to vote one-fourth (1/4) of all of the votes of the Class A membership.

Section 3. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 15 days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by the member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of each class of membership shall constitute a quorum for any action. If, however, such quorum shall not be present or represented at any meeting, the members from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5. Proxies. At all meeting of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot.

**ARTICLE IV**

**BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE**

Section 1. Number. The affairs of this Association shall be managed by a Board of three (3) directors, who must be members of the Association.

Section 2. Term of office. At the first annual meeting the members shall elect one director for a term of one year, one director for a term of two years, and one director for a term of three years; and at each annual meeting thereafter the members shall elect one director for a term of three years.

Section 3. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. Directors shall receive compensation for actual expenses incurred in the performance of their duties, as determined by the members of the Association.

Section 5. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

00188420 Bk00328 Pg00050

**ARTICLE V**

**NOMINATION AND ELECTION OF DIRECTORS**

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nomination Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for elections to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

## ARTICLE VI

### MEETING OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held monthly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any two director, after not less than three days notice to each director.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

00188420 Ex00328 Pg00051

## ARTICLE VII

### POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power to:

(a) adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof; which rules and regulations shall not be inconsistent with any provision of the declaration.

(b) suspend the voting rights and right to use of the recreational facilities of a member during any period in assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations;

(c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not

reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;

(d) declare the office of a member of the Board of Directors to be vacant in the event such a member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and

(e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

Section 2. Rules. It shall be the duty of the Board of Directors to :

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class A members who are entitled to vote:

(b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(c) as more fully provided in the Declaration, to:

(1) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;

(2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(3) foreclose the lien against any property for which assessment are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same.

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states that an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) procure and maintain adequate liability and hazard insurance on property owned by the Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) cause the Common Area to be maintained in a clean, safe, and attractive manner.

(h) cause the exterior of the dwellings, and the yards around the dwellings, to be maintained in a clean, safe and attractive manner.

(i) The Board of Directors may delegate the responsibility of providing exterior maintenance to the owner of any lot, but such delegation shall not absolve the Association of the responsibility of maintaining such lot in the event of failure on the part of the lot owner to provide such exterior maintenance.

## ARTICLE VIII

### OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Offices. The officers of this Association shall be a president and vice-president, who shall at all times be members of the Board of Directors, a secretary, and a treasurer, and such officers as the Board of Directors may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, having such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officers so replaced.

Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other officers except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

#### President

(a) The president shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

00188420 BK00328 Pg00053

Vice-President

(b) The vice-president shall act in the places and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

(c) The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of all the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serves notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

Treasurer

(d) The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be represented to the membership at its regular annual meeting, and deliver a copy of each to the members.

**ARTICLE IX****COMMITTEES**

The Association shall appoint an Architectural Control Committee, as provided in the Declaration and a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purposes.

**ARTICLE X**

00188420 8k00328 Pg00054

**BOOKS AND RECORDS**

The books, records and papers of the Association shall at all times, during reasonable business hours be subject to inspection by any member. The Declaration, the Articles of Incorporation, and the By-Laws of the Association shall be available for inspection by any member at the principal office for the Association where copies may be purchased at reasonable cost.

**ARTICLE XI**

**ASSESSMENTS**

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of 15 percent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Lot.

**ARTICLE XII**

**CORPORATE SEAL**

The Association shall have a seal in circular form having within its circumference the words: Big Pole Estates Homeowners Association.

**ARTICLE XIII**

00188420 Bk00328 Pg00055

**AMENDMENTS**

Section 1. These By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy, except that the Board of County Commissioners shall have the right to veto amendments while there is Class B membership.

Section 2. In the case of any conflict between the Article of Incorporation and these By-Laws, the Articles shall control, and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.



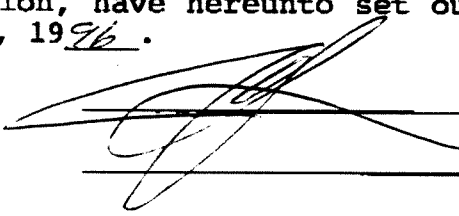
ARTICLE XIV

MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, we, being all of the directors of the Big Pole Estates Homeowners Association, have hereunto set our hands this 15<sup>th</sup> day of May, 1996.

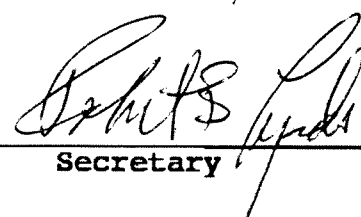
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
  
\_\_\_\_\_

CERTIFICATION

I, the undersigned, do hereby certify:  
THAT I am the duly elected and acting secretary of the Big Pole Estates Homeowners Association, a Utah corporation, and,  
THAT the foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof, held on the 15<sup>th</sup> day of May, 1996.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 15<sup>th</sup> day of May, 1996.

  
\_\_\_\_\_  
Secretary



**LEGAL DESCRIPTION****Parcel 1:**

BEGINNING at a point 52.69 chains West along the Section line from the Northeast Corner of Section 5, Township 4 South, Range 6 East, Salt Lake Base and Meridian; thence West 19.722 chains, thence South 60.625 chains, thence East 19.722 chains, thence North 60.625 chains to the point of BEGINNING.

EXCEPTING THEREFROM any portions lying within the South one-half of the South one-half of said Section 5.

**Parcel 2:**

All of Lots 3, 4, 5, and the Southeast Quarter of the Northwest Quarter of Section 6, Township 4 South, Range 6 East of the Salt Lake Base Meridian; lying South of the Center line of Big Pole Creek.

**Parcel 3:**

BEGINNING at the Southwest Corner of Section 32, Township 3 South, Range 6 East of the Salt Lake Base and Meridian; thence North along the Section line 22.28 chains, thence East 39.99 chains, more or less to the center of section line; thence South 00 02' 42" East 21.39 chains along said center of Section line to the South line of said Section 32; thence West 40.01 chains along the Section line to the point of BEGINNING.

**Parcel 4:**

The East half of Section 31, Township 3 South, Range 6 East of the Salt Lake Base and Meridian, lying South of the Center line of the Big Pole Creek.