

Recorded NOV 18 1977 at 11:30 A.M.  
Request of Whitewater Dev. Corp.  
Fee Paid KATIE L. DIXON  
Recorder, Salt Lake County, Utah  
By Cheryl Warrington Deputy  
Ref.

WHEN RECORDED RETURN TO:

Whitewater Development Corp.  
341 South Main, Suite 501  
Salt Lake City, UT 84111

**3025991**

DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS

SALT LAKE COUNTY, UTAH

THIS DECLARATION, made this 21st day of June, 1977, by  
Whitewater Development Corp., a Utah Corporation, hereinafter  
referred to as "Declarant":

Lots 1 through 21 inclusive in Olympus Shadows Estates

WHEREAS, Declarant has deemed it desirable to impose  
a general plan for the improvement and development of the portion  
of said tract and all of the property described herein and the  
adoption and establishment of covenants, conditions, and restric-  
tions upon said real property and each and every lot and portion  
thereof and upon the use, occupancy, and enjoyment thereof, all  
for the purpose of enhancing and protecting the value, desirabil-  
ity, and attractiveness of said tract; and

WHEREAS, Declarant has deemed it desirable for the  
efficient preservation of the value, desirability and attractive-  
ness of the portion of said tract and any additional property  
which may be annexed thereto, pursuant to the provisions of this  
Declaration, to create a corporation administering the common  
area and administering and enforcing these covenants, conditions  
and restrictions and collecting and disbursing funds pursuant to  
the assessment and charges hereinafter created and referred to; and

WHEREAS, Olympus Shadows Homeowner's Association, a  
nonprofit corporation, (has been) (will be) incorporated under the  
laws of the State of Utah for the purpose of exercising the powers  
and functions aforesaid; and

WHEREAS, Declarant will convey title to all of said lots  
in the portion of said tract subject to certain protective cove-  
nants, conditions and restrictions hereinafter set forth;

NOW THEREFORE, Declarant hereby covenants, agrees and  
declares that all of said lots and property described above and  
such additions thereto as may hereafter be made pursuant to Article  
II hereof shall be held, sold and conveyed subject to the following  
covenants, conditions, restrictions, and easements which are  
hereby declared to be for the benefit of the whole tract and all of  
the property described herein and the owners thereof, their  
successors, and assigns. These covenants, conditions, restrictions,  
and easements shall run with the said real property and shall be  
binding on all parties having or acquiring any right, title or  
interest in the described real property or any part thereof and  
shall inure to the benefit of each owner thereof and are imposed  
upon said real property and every part thereof as a servitude in  
favor of each and every parcel thereof as the dominant tenement  
or tenements.

ARTICLE I

DEFINITIONS

The following terms used in these covenants, conditions  
and restrictions shall be applicable to this Declaration and also  
to any supplemental declaration recorded pursuant to Article II  
thereof and are defined as follows:

Section 1. "Association" shall mean and refer to Olympus  
Shadows Homeowner's Association, a nonprofit corporation, incor-  
porated under the laws of the State of Utah, its successors and  
assigns.

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Section 2. "Common Area" and "Common Facilities" shall mean all real property owned by the Association for the common use and enjoyment of the members of the Association including, but not limited to, private streets.

Section 3. "Lot" shall mean and refer to a recorded lot within the existing property or any other properties annexed pursuant to this Declaration, upon which there has been or will be constructed a single family residence, but shall not mean or include any common area.

Section 4. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 5. "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 buyers, but excluding those having such interest merely a security for the performance of an obligation.

Section 6. "Declarant" shall mean and refer to Whitewater Development Corporation and Mr. Darwin Knudson, its successors and assigns.

Section 7. "Deed of Trust" shall mean the conveyance of any lot or other portion of the property to secure the performance of an obligation.

Section 8. "Conveyance" shall mean and refer to conveyance of a fee simple title to any lot.

## ARTICLE II

### ANNEXATION OF ADDITIONAL PROPERTY

Any real property may be annexed to and become subject to this Declaration by any of the methods set forth hereinafter in this Article, as follows:

Section 1. Annexation Without Approval and Pursuant to the General Plan. Any real property may be annexed to and become subject to this declaration and subject to the jurisdiction and a part of the Association without the approval, assent or vote of the Association or its members, providing and on condition that:

(a) Prior to the conveyance of title to any improved lots within the real property to be annexed to individual purchasers thereof, fee simple title or right-of-way to the common area within said real property shall be conveyed to the Association, free and clear of any and all encumbrances and liens, except current real property taxes, which taxes shall be prorated to the date of transfer, and easements, covenants, conditions and restrictions then of record, including those set forth in this Declaration.

(b) A supplementary Declaration of Covenants, Conditions, and restrictions, as described hereinafter in Section 3 of this Article, covering said real property described on Exhibit A attached hereto, shall be executed and recorded by Whitewater Development Corporation and Mr. Darwin Knudson, the owners of said real property, or its successors and assigns. The recordation of said Supplementary Declaration shall constitute and effectuate the annexation of the said real property described therein, making said real property subject to the functions, powers and jurisdiction of the Association, and thereafter all of the owners of lots in said real property shall automatically be members of the Association.

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Section 2. Annexation Pursuant to Approval. Upon approval in writing of the Association, pursuant to a two-thirds majority vote of those present at a meeting for this purpose that has been duly called of members including proxies who are entitled to vote, any owner of single-family residential property and/or property for the common use of owners or such residential property who desires to add such property to the plan of this Declaration and the subject such property to the jurisdiction of the Association, may file of record a Supplementary Declaration, as described in Section 3 of this Article.

Section 3. Supplementary Declarations. The additions authorized under the foregoing Sections shall be made by filing of record a Supplementary Declaration of Covenants, Conditions, and restrictions, or similar instrument, with respect to the additional property which shall extend the plan of this Declaration to such property.

Such Supplementary Declaration contemplated above may contain such complementary additions and modifications as may be necessary to reflect the different character, if any, of the additional property and as are not inconsistent with the plan of this Declaration. In no event, however, shall any such Supplementary Declaration merger or consolidation, revoke, modify or add to the covenants established by this Declaration within the existing property, except as hereinafter otherwise provided.

The recordation of said Supplementary Declaration shall constitute and effectuate the annexation of the said real property described therein, making said real property subject to this Declaration and subject to the functions, powers, and jurisdiction of the Association, and thereafter all of the owners of lots in said real property shall automatically be members of the Association.

Section 4. Mergers or Consolidations. Upon a merger or consolidation of the Association with another association, as provided in its Articles of Incorporation, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants, conditions and restrictions established by this Declaration within the existing property, together with the covenants and restrictions established upon any other property, as one plan.

Section 5. Dedication of Subdivision to Salt Lake County. It is understood that Olympus Shadows Estates is a private subdivision existing independent of county services and shall continue as described until such time as the members of the Association deem it necessary and/or desirable to dedicate Olympus Shadows Estates to Salt Lake County.

In the event the Association deems it necessary and/or desirable to dedicate said property to Salt Lake County the dedication shall require a majority vote by the members in good standing of seventy-five percent of the Association membership or more.

Also, in the event of said dedication it will be the responsibility of the association to bring to standard at the expense of the association all things necessary to meet Salt Lake County requirements prior to county acceptance of said subdivision.

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ARTICLE III

MEMBERSHIP

Section 1. Membership. Every person or entity who is a record owner of a fee or undivided fee interest in any lot which is subject by covenants of record to assessment by the Association, shall be a member of the Association. The terms and provision set forth in this Declaration, which are binding upon all owners of all lots and all members in the association, are not exclusive, as the member shall, in addition, be subject to the terms and provisions of the Articles of Incorporation and the By-laws of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No owner shall have more than one membership for each lot owned. Membership shall be appurtenant to and may not be separated from the fee ownership of any lot which is subject to assessment by the Association. Ownership of such lot shall be the sole qualification for membership.

Section 2. Transfer. The membership held by any owner of a lot shall not be transferred, pledged or alienated in any way, except upon the sale or encumbrance of such lot, and then only to the purchaser or deed of trust holder of such lot. Any attempt to make a prohibited transfer is void, and will not be reflected upon the books and records of the Association. In the event the owner of any lot should fail or refuse to transfer the membership registered in his name to the purchaser of such lot, the Association shall have the right to record the transfer upon the books of the Association.

Section 3. Voting Rights. The Association shall have two (2) classes of voting membership:

Class A. Class A members shall be all those owners as defined in Section 1 above with the exception of the Declarant. Class A members shall be entitled to one (1) vote for each lot in which they hold the interest required for membership by Section 1. When more than one person holds such interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any lot.

Class B. The Class B member shall be the Declarant. The Class B member shall be entitled to three (3) votes for each lot in which it holds the interest required for membership by Section 1.

All voting rights shall be subject to the restrictions and limitations provided herein and in the Articles and By-Laws of the Association.

ARTICLE IV

PROPERTY RIGHTS IN THE COMMON AREAS

Section 1. Members' Easements of Enjoyment. Every member shall have a right and easement of enjoyment in and to the common area, and such easement shall be appurtenant to and shall pass with the title to every assessed lot, subject to the following provisions:

(a) The right of the Association to establish uniform rules and regulations pertaining to the use of the common area including but not limited to private streets and the recreational facilities thereof.

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(b) The right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the common area and facilities and to aid thereof, to mortgage said property, provided that the rights of such mortgages shall be subordinate to the rights of the members.

(c) The right of the Association to dedicate or transfer all or any part of the common area to any public agency, authority or utility for such purposes and subject to such condition as may be agreed to by the members. No such dedication or transfer shall be effective unless a written instrument pursuant to a two-thirds majority vote of those present at a meeting for this purpose that has been duly called of members including proxies who are entitled to vote has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every member not less than ten (10) days in advance. However, the Declarant reserves the right to grant easements over the road system or any other designated utility easement areas for utility purposes.

(d) The right of Declarant (and its sales agents and representatives) to the non-exclusive use of the common area and the facilities thereof, for display and exhibit purposes in connection with the sale of residential units within the tract or any property annexed hereto, which right Declarant hereby reserves. No such use by Declarant or its sales agents or representatives shall otherwise restrict the members in their use and enjoyment of the common areas of facilities thereof.

Section 2. Delegation of Use. Any member may delegate, in accordance with the By-Laws, his right of enjoyment to the common area and facilities to the members of his family, his tenants or contract purchasers who reside on the property.

Section 3. Waiver of Use. No member may exempt himself from personal liability for assessments duly levied by the Association, nor release the lot owned by him from the liens and charges hereof, by waiver of the use and enjoyment of the common area and the facilities thereon or by abandonment of his lot other than by sale thereof.

Section 4. Title to the Common Area. The Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title or rights-of-way to common areas in the existing property to the Association, free and clear of all encumbrances and liens, except current real property taxes, which taxes shall be prorated to the date of transfer, and easements, conditions and reservations then of record, including those set forth in this Declaration.

## ARTICLE V

### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the lien and Personal Obligation of Assessments. Each Class A member, by acceptance of a uniform real estate contract or deed therefor, whether or not it shall be so expressed in any such contract or deed, is deemed to covenant and agree to pay to the Association: (1) regular assessments and charges, and (2) special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided. The regular and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the lot against such interest, costs, and

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(b) The right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the common area and facilities and to aid thereof, to mortgage said property, provided that the rights of such mortgages shall be subordinate to the rights of the members.

(c) The right of the Association to dedicate or transfer all or any part of the common area to any public agency, authority or utility for such purposes and subject to such condition as may be agreed to by the members. No such dedication or transfer shall be effective unless a written instrument pursuant to a two-thirds majority vote of those present at a meeting for this purpose that has been duly called of members including proxies who are entitled to vote has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every member not less than ten (10) days in advance. However, the Declarant reserves the right to grant easements over the road system or any other designated utility easement areas for utility purposes.

(d) The right of Declarant (and its sales agents and representatives) to the non-exclusive use of the common area and the facilities thereof, for display and exhibit purposes in connection with the sale of residential units within the tract or any property annexed hereto, which right Declarant hereby reserves. No such use by Declarant or its sales agents or representatives shall otherwise restrict the members in their use and enjoyment of the common areas of facilities thereof.

Section 2. Delegation of Use. Any member may delegate, in accordance with the By-Laws, his right of enjoyment to the common area and facilities to the members of his family, his tenants or contract purchasers who reside on the property.

Section 3. Waiver of Use. No member may exempt himself from personal liability for assessments duly levied by the Association, nor release the lot owned by him from the liens and charges hereof, by waiver of the use and enjoyment of the common area and the facilities thereon or by abandonment of his lot other than by sale thereof.

Section 4. Title to the Common Area. The Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title or rights-of-way to common areas in the existing property to the Association, free and clear of all encumbrances and liens, except current real property taxes, which taxes shall be prorated to the date of transfer, and easements, conditions and reservations then of record, including those set forth in this Declaration.

## ARTICLE V

### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the lien and Personal Obligation of Assessments. Each Class A member, by acceptance of a uniform real estate contract or deed therefor, whether or not it shall be so expressed in any such contract or deed, is deemed to covenant and agree to pay to the Association: (1) regular assessments or charges, and (2) special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided. The regular and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the lot against such interest, costs, and

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reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation shall not pass to his successors in title unless expressly assumed by them. No membership may be transferred to a subsequent lot owner until all due interest and penalty charges have been paid in full.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be exclusively for the purpose of promoting the recreation, health, safety, and welfare of the members of the Association and, in particular, for the improvement and maintenance of the properties, services and facilities devoted to this purpose and related to the use and enjoyment of the common area.

Section 3. Regular Assessments. The amount and time of payment of regular assessments shall be determined by the Board of Trustees of the Association pursuant to the Articles of Incorporation and By-Laws of said association after giving due consideration to the current maintenance costs and future needs of the Association. Written notice of the amount of an assessment, regular or special, shall be sent to every owner, and the due date for the payment of same shall be set forth in said notice.

Section 4. Special Assessments for Capital Improvements. In addition to the regular assessments, the Association may levy in any calendar year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the common area, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose (excluding the voting power of Declarant), written notice of which shall be sent to all members not less than ten (10) days in advance of the meeting, setting forth the purpose of the meeting.

Section 5. Uniform Rate of Assessment. Both regular and special assessments shall be fixed at a uniform rate for all lots owned by Class A members and may be collected on a monthly or annual basis.

Section 6. Date of Commencement of Regular Assessments and Fixing Thereof. The regular assessments provided for herein shall commence as to all lots on the first day of the month following the purchase of each lot to an individual owner. Monthly or annual assessments will be payable at times determined by the Board of Trustees of the Association.

For the years 1977, 1978, and 1979, all Class A members of the Association shall be assessed a flat rate of \$ per lot per year, based upon ownership on the last day of each year. Said fee shall not include the services of a security guard(s) if such is established during this period by vote of members of the Association.

Section 7. Certificate of Payment. The Association shall, upon demand, furnish to any owner liable for said assessment, a certificate in writing signed by an officer of the Association, setting forth whether the regular and special assessments on a specified lot have been paid, and the amount of the delinquency, if any. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

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Section 8. Exempt Property. The following property subject to the Declaration shall be exempt from the assessments created herein:

- (a) All properties dedicated to and accepted by a local public authority;
- (b) the common area;
- (c) All properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of Utah; and
- (d) All Class B memberships.

#### ARTICLE VI

##### NON-PAYMENT OF ASSESSMENTS

Section 1. Delinquency. Any assessment provided for in this Declaration, which is not paid when due, shall be delinquent. With respect to each assessment not paid within fifteen (15) days after its due date, the Association may, at its election, require the owner to pay a "late charge" in a sum to be determined by the Association, but not to exceed \$15.00 per each delinquent assessment. If any such assessment is not paid within thirty (30) days after the delinquency at the rate of 10% per annum, and the Association may, at its option, bring an action at law against the owner personally obligated to pay the same, or, upon compliance with the notice provisions set forth in Section 2 hereof, to foreclose the lien (provided for in Section 1 of Article V hereof) against the lot, and there shall be added to the amount of such assessment the late charge, the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include said interest and a reasonable attorney's fee, together with the costs of action. Each owner vests in the Association or its assigns, the right and power to bring all actions at class or lien foreclosure against such owner or other owners for the collection of such delinquent assessments.

Section 2. Notice of Lien. No action shall be brought to foreclose said assessment lien or to proceed under the power of sale herein provided less than thirty (30) days after the date a notice of claim of lien is deposited in the United States mail, certified or registered to the owner of said lot.

Section 3. Foreclosure Sale. Any such foreclosure and subsequent sale provided for above is to be conducted in accordance with the laws of the State of Utah relating to liens, mortgages, and deeds of trust. The Association, through its duly authorized agents, shall have the power to bid on the lot at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same.

Section 4. Curing of Default. Upon the timely curing of any default for which a notice of claim of lien was filed by the Association, the officers of the Association are hereby authorized to file or record, as the case may be, an appropriate release of such notice, upon payment by the defaulting owner of a fee, to be determined by the Association, but not to exceed \$25.00, to cover the costs of preparing and filing or recording such release, together with the payment of such other costs, interest or fees as shall have been incurred.

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

Section 6. Subordination of Assessment liens. If any lot subject to a monetary lien created by any provision hereof shall be subject to the lien of a deed of trust: (1) the foreclosure of any lien created by anything set forth in this Declaration shall not operate to affect or impair the lien of such deed of trust; and (2) The foreclosure of the lien of deed of trust or the acceptance of a deed in lieu of foreclosure of the deed of trust shall not operate to affect or impair the lien hereof, except that the lien hereof for said charges as shall have accrued up to the foreclosure or the acceptance of the deed in lieu of foreclosure to the lien of the deed of trust, with the foreclosure-purchaser or deed-in-lieu-grantee taking title free of the lien hereof for all said charges that have accrued up to the time of the foreclosure of deed given in lieu of foreclosure, but subject to the lien hereof for all said charges that shall accrue subsequent to the foreclosure of deed given in lieu of foreclosure.

## ARTICLE VII

### ARCHITECTURAL CONTROL

Section 1. Architectural Approval. No building, fence, wall, or other structure shall be commenced or erected upon the properties, nor shall any exterior addition to or change or alteration therein, including antennas, be made until the plans and specifications showing the nature, kind, shape, size, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Committee provided for in Section 5 hereof.

Section 2. Landscaping Control. Each member shall maintain his lot in an attractive and safe manner so as not to detract from the community and to preserve the natural vegetation of the lots wherever possible.

Section 3. Maintenance of Entrance Ways. Commencing at the time of occupancy or completion of the dwelling, each Class A owner of corner lots shall be responsible to maintain in an attractive manner any special landscaping emplaced at street entrances by the Declarant or the Association. Such maintenance shall include watering and weeding of planting areas. The Association shall be responsible for maintenance of signs and special lighting as outlined in Article VIII Section 1 (b).

Section 4. Building and Landscaping Time Restrictions. The exterior construction of all structures shall be completed within a period of two (2) years following commencement of construction. The front yard of each lot shall be landscaped within a period of one (1) year following completion or occupancy of each dwelling. Side and rear yards shall be landscaped within a period of two (2) years following completion or occupancy of each dwelling. Areas covered with natural foliage (e.g. scrub oak) will be considered landscaped.

All Class A members of the Association possessing vacant lots shall be responsible for keeping such lots clean in appearance and free from all refuse and potential fire hazards. No vacant

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lot shall be used for storage of any kind except during the construction period.

Section 5. Appointment of Architectural Committee. The Declarant shall appoint the Architectural Committee, consisting of not less than three (3) members. In the event of the death or resignation of any member of the Committee, the Board of Trustees of the Association, with the approval of the Declarant, shall appoint such member's successor.

Section 6. General Provisions. The members of such Committee shall not be entitled to any compensation for services performed pursuant to this covenant. The powers and duties of such Committee shall be in force for a period of twenty-five (25) years from the date of the recording of this declaration. Such powers and duties shall continue following the twenty-five year period until a written instrument has been executed and duly recorded by the then record owners of a majority of the lots appointing a representative who shall thereafter exercise the same powers previously exercised by said Committee. Said Representatives may be the members of the Board of Trustees of the Association.

Section 7. Building Site Restrictions. Each house shall be required to meet minimum dimensional specifications. The minimum square feet allowed on one-half acre lots shall be two thousand (2,000) square feet for single level dwellings and three thousand (3,000) square feet for two story dwellings. The minimum square feet allowed on one acre lots shall be two thousand two hundred (2,200) square feet for a single level dwelling and three thousand five hundred (3,500) for two story dwellings.

Section 8. Plot Plan Approval. Each building, fence, wall or other structure must be placed in such a location, with regard to set-backs, side yard easements, public and utility easements according to county ordinances and building codes, as to not restrict the natural drainage of the lot. Site plan approval is to be given by Salt Lake County Zoning Administration for construction of dwellings on lots 3, 4, 5, 6, 17, and 18 prior to issuance of a building permit.

## ARTICLE VIII

### DUTIES AND POWERS OF THE ASSOCIATION

Section 1. Duties and Powers. In addition to the duties and powers enumerated in the Articles of Incorporation and By-Laws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall:

(a) Own, and/or maintain and otherwise manage all of the common areas and all facilities, improvements and landscaping thereon, all property acquired by the Association.

(b) Establish and maintain street entrance ways on corner lots, including maintenance of street signs and special lighting which may exist. Watering and weeding of planting areas shall be the responsibility of lot owners as specified in Article VIII, Section 3.

(c) Pay any real and personal property taxes and other charges assessed against the common areas.

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(d) Have the authority to obtain, for the benefit of all of the common areas, all water, gas and electric services and refuse collection, and snow removal.

(e) Grant easements where necessary for utilities and sewer facilities over the common areas to serve the common areas and the lots.

(f) Maintain such policy or policies of insurance as the Board of Trustees of the Association deems necessary or desirable in furthering the purposes of and protecting the interests of the Association and its members.

(g) Have the authority to employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association, provided that any contract with a person or firm appointed as a manager or managing agent shall provide for the right of the Association to terminate the same at the first annual meeting of the members of the association.

(h) Have the power to establish and maintain a working capital and contingency fund in an amount to be determined by the Board of Trustees of the Association.

(i) Have a duty to maintain the streets.

## ARTICLE IX

### EASEMENTS

Section 1. The rights and duties of the owners of lots within the properties with respect to sanitary systems and water, electricity, gas and telephone and Cable Television lines and drainage facilities shall be governed by the following:

(a) Wherever water connections or electricity, gas or telephone, and Cable Television lines or drainage facilities are installed within the properties, which connections, lines or facilities, or any portion thereof lie in or upon lots owned by Association or other than the owner of a lot served by said connections, the Association and the owners of any lot served by said connections, lines or facilities shall have the right and are hereby granted an easement to the full extent necessary therefor, to enter upon the lots or to have utility companies enter upon the lots within the properties in or upon which said connections, lines or facilities, or any portion thereof, lie, to repair, replace and generally maintain said connections as and when the same may be necessary as set forth below.

(b) Wherever water connections or electricity, gas, or telephone, or Cable Television lines or drainage facilities are installed within the properties which connections serve more than one lot, the owner of each lot served by such portions of said connections as service his lot.

Section 2. Easements over the lots and common area properties for the installation and maintenance of electric, telephone, Cable Television, water, gas and drainage facilities, and street entrance ways as shown on the record tract map of the properties, or other documents of record, are hereby reserved by Declarant, together with the right to grant and transfer the same for the use and benefit of the members of the Association.

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Section 3. Easements for the purpose of installing and maintaining the security of the perimeter fencing are hereby reserved by Declarant, together with the right to grant and transfer the same.

Section 4. Easements over the lots and common area for the purpose of drainage, the installation and maintenance of drainage facilities and ingress and egress for the purpose of such installation and maintenance are hereby reserved to Declarant, together with the right to grant and transfer the same.

#### ARTICLE X

##### USE RESTRICTIONS

Section 1. All lots in the tract and in such property as shall be annexed thereto shall be known and described as residential lots and shall be used for no purpose other than those specified under the R-1-21 and R-1-43 zoning designations of Salt Lake County Zoning Ordinance, save and except the lots owned by the Community Association, i.e., the community area lots on which there will be placed landscaping and recreational facilities and private streets.

Section 2. No part of the properties shall be used for any commercial, manufacturing, mercantile, storing, vending, or other such non-residential purposes. Declarant, its successors or assigns, and the owners of any tract annexed pursuant to Article II hereof, may use the properties for a model home site, display, and sales office during the construction and sales period.

Section 3. No sign or billboard of any kind shall be displayed to the public view on any portion of the properties or any lot, except one sign for each building site, of not more than eighteen (18) inches by twenty-four (24) inches, advertising the property for sale or rent or the property during the construction and sales period.

Section 4. No noxious or offensive trade or activity shall be carried on upon any lot or any part of the properties, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the owners of his respective dwelling unit or which shall in any way increase the rate of insurance.

Section 5. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other out building shall be used on any lot at any time as a residence, either temporarily or permanently. No trailer, camper, boat, truck larger than 3/4 ton, or similar equipment shall be permitted to remain upon any property within the properties, unless placed or maintained within garage or carport or parked to the rear of the average front line of the dwelling or unless written approval is given by the Board of Trustees.

Section 6. No oil drilling oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon the surface of any lot. No derrick or other structure designed for use in boring for water, oil or natural gas shall be erected, maintained or permitted upon any lot except by Declarant, its successors or assigns for the benefit of the Association.

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Section 7. All rubbish, trash and garbage shall be regularly removed from the properties, and shall not be allowed to accumulate thereon. Each owner shall acquire and utilize a trash compacter at the time of completion of each dwelling. All clotheslines, refuse containers, woodpoles, storage areas, and machinery and equipment shall be prohibited upon any lot unless obscured from view of adjoining lots and streets by a fence or appropriate screen.

Section 8. No television, radio, or other electronic antenna or device of any type shall be erected, constructed, placed or permitted to remain on any of the houses or structures on the lots in said tract unless and until the same shall have been approved in writing by the Architectural Committee of the Association. No television, radio or other electronic antenna shall be erected, constructed, placed or permitted to remain on any of the lots in said tract, unless and until the same shall have been approved in writing by the Architectural Committee of the Association.

Section 9. All slopes or terraces on any lot shall be maintained so as to prevent any erosion thereof upon adjacent streets or adjoining property.

Section 10. No ingress or egress to the tract described herein shall be permitted for use of any person or vehicle except through designated gateways, unless authorized in writing by the Board of Trustees. Any such authorization shall become null and void if the security of said area is diminished. However, Declarant, its successors or assigns, reserves the right-of-way.

Owners whose lots are located along the perimeter of the tract described herein shall be responsible for maintaining the fencing according to its original state or replacing such with a wall or fence for the purpose of preserving or improving the security of the area. Alternative or replacement fencing shall meet the prior written approval of the Board of Trustees.

## ARTICLE XI

### GENERAL PROVISIONS

Section 1. Enforcement. The Association or any owner or the successor in interest of an owner shall have the right to enforce by proceedings at law or in equity all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration or any amendment thereto, including the right to prevent the violation of any such restrictions, conditions, covenants or reservations and the right to recover damages or other dues for such violation; provided, however, that with respect to assessment liens, the Association shall have the exclusive right to the enforcement thereof. Failure by the Association or by any owner to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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

Section 3. Term. The covenants, conditions and restrictions of this Declaration shall run with and bind the lots, and shall inure to the benefit of and be enforceable by the Association or the owner of any lot subject to this Declaration,

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their respective legal representatives, heirs, successors and assigns, for a term of forty (40) years from the date this Declaration is recorded, after which time said covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants, conditions and restrictions in whole or in part.

Section 4. Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community or tract and for the maintenance of common recreational facilities and common areas and streets. The Article and Section headings have been inserted for convenience only, and shall not be considered or referred to in resolving question of interpretation or construction.

Section 5. Amendments. This Declaration of Covenants, Conditions and Restrictions may be amended only by the affirmative assent or vote of not less than seventy-five percent (75%) of the owners, and further, this amendment provision shall not be amended to allow amendments by the assent or vote of less than seventy-five percent (75%) of the owners, provided, however, that Article VI, Section 6 and Article XI, Section 6 shall not be amended without the consent of the lien holder under any first deed of trust. Any amendment or modification must be properly recorded.

Section 6. Mortgage Protection Clause. No breach of the covenants, conditions or restrictions herein contained nor the enforcement of any lien provisions herein, shall defeat or render invalid the lien of any deed of trust made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and effective against any owner whose title is derived through foreclosure of trustee's sale, or otherwise.

Section 7. Singular Includes Plural. Whenever the context of this Declaration requires same, the singular shall include the plural and the masculine shall include the feminine.

Section 8. Nuisance. The result of every act or omission, whereby any provision, condition, restriction, covenant, easement or reservation contained in this Declaration is violated in whole or in part, is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such result, and may be exercised by the Association, or any other land owner in the tracts. Such remedy shall be deemed cumulative and not exclusive.

Section 9. Private Nature of Subdivision. All streets within Olympus Shadows Estates Subdivision are private and are to be maintained by the residents of said subdivision. It is understood that a gate be constructed and a sign posted at each entrance to the subdivision stating the private nature of the subdivision and that no public service or maintenance will be provided by Salt Lake County.

IN WITNESS WHERE, Declarant has executed this instrument the day and year first hereinabove written.

WHITEWATER DEVELOPMENT CORPORATION &  
DARWIN KNUDSON

By Henry P. Nelson  
Darwin Knudson

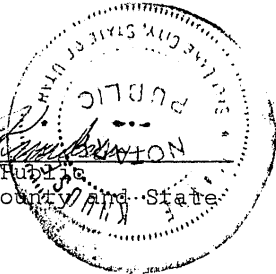
STATE OF UTAH            )  
                                  ) ss.  
COUNTY OF SALT LAKE)

On November 17, 1977, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Mr. Gregory P. Nelson known to me to be the President of Whitewater Development Corporation and Mr. Darwin Knudson, a general partner, the parties that executed the within instrument, and known to me to be the persons who executed the instrument on behalf of the enterprise therein named, and acknowledged to me that such enterprise executed the same.

WITNESS my hand and official seal.

*My Commission expires 5/29/79*

Wayne E. [Signature]  
Notary Public  
in and for said County and State



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BY-LAWS  
OF  
OLYMPUS SHADOWS HOMEOWNER'S ASSOCIATION

ARTICLE I

Definitions

The following terms used in these By-Laws are defined as follows:

1. "Association" means OLYMPUS SHADOWS HOMEOWNER'S ASSOCIATION, its successors and assigns.

2. "Community Services" shall include any and all of the purposes now set forth in the Articles of Incorporation of the Association, or as the same maintenance of common areas.

3. "Common area" and "Common facilities" shall mean all real property owned, leased, and controlled or occupied by the Association for the common use and enjoyment of the members of the Association.

4. "Special common areas" are to be used by and limited to sub groups of members who choose to affiliate and pay additional fees for the construction and maintenance of such areas.

5. "Service area" shall mean and refer to all of the real property described in Exhibit "A" attached hereto, and any additions thereto as may hereafter be brought within the jurisdiction of the Association.

6. "Lot" shall mean and refer to a recorded lot within the existing property or any other properties annexed pursuant to the Declaration, upon which there has been or will be constructed a single family residence, but shall not mean to include any common area.

7. "Member" shall mean and refer to every person or entity who holds membership in the association.

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

9. "Declarant" shall mean and refer to Whitewater Development Corporation and Mr. Darwin Knudson, their successors and assigns.

10. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions, and Restrictions applicable to the service area, recorded in the office of the County Recorder, County of Salt Lake, State of Utah.

11. "Deed of Trust" shall mean the conveyance of any lot or other portion of the property to secure the performance of an obligation.



12. "Conveyance" shall mean and refer to the conveyance of a fee simple title.

## ARTICLE II

### OFFICE

Principle Office: The principle office for the transaction of the business of the Association is hereby fixed and located in the County of Salt Lake, State of Utah. The Board of Trustees is hereby granted full power and authority to change said principal office from one location to another within said Salt Lake County.

## ARTICLE III

### MEMBERS

Section 1. Membership. Every person or entity who is a record owner of a fee or undivided fee interest in any lot or contract purchaser of any lot which is subject to covenants of record to assessment or assessment by the Association be subject to the provisions of the Articles of Incorporation and these By-Laws. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No owner shall have more than one membership for each lot owned. Membership shall be appurtenant to and may not be separated from the fee ownership or the contract purchase of any lot which is subject to assessment by the Association. Ownership or contract purchase of such lot shall be the sole qualification for membership.

Section 2. Transfer. The membership held by any owner of a lot shall not be transferred, pledged, or alienated in any way, except upon the sale or encumbrance of such lot; and then only to the purchaser or deed of trust holder of such lot. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. In the event the owner of any lot should fail or refuse to transfer the membership registered in his name to the purchaser of such lot, the Association shall have the right to record the transfer upon the books of the Association.

Section 3. Termination of Membership. Membership in the Association shall automatically terminate when such member sells and transfers the lot.

Section 4. Voting Rights. The Association shall have two classes of voting membership.

Class A. Class A members shall be all those owners as defined in Article III with the exception of the Declarant. Class A members shall be entitled to one vote for each lot in which they hold the interest required for membership by Article III. When more than one person holds such interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any one lot. The Declarant shall be authorized to issue three thousand (3,000) Class A memberships.

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Class B. Class B. members shall be the Declarant. The Class B member shall be entitled to three (3) votes for each lot in which it holds the interest required for membership by Article III. The Declarant shall be authorized to issue three thousand (3,000) Class B memberships.

Section 5. Membership Certificates. In its descretion, the Board of Trustees of the Association may, but need not, issue appropriate membership certificates evicencing membership in the Association.

Section 6. Plural Memberships. A member may own more than one membership in this Association by complying with the qualifications of membership as set forth in Section 1 of this Article.

Section 7. Dues and Assessments. All class A members of the Association shall be jointly, severally and personally liable for the payment of such dues and assessments as may from time to time be fixed and levied by the Board of Trustees pursuant to the provisions of Article V Section 1 (e) and (f) of these By-Laws; provided, however, that such levy must be applied in a uniform manner among all class A members. If such dues and assessments are not paid by the member when they are due, they shall bear interest from date of delinquency at the rate of ten percent (10%) per annum, and the Board of Trustees may require the delinquent member to pay a late charge. Class B members shall be exempt from such dues and assessments.

Section 8. Enforcement of Payment of Dues and Assessments. Should any member fail to pay his dues and assessments before delinquency, the Association, in the descretion of the Board of Trustees, shall have the right to enforce payment of such delinquent dues and assessments by (a) filing and maintaining legal action against such delinquent member, or (b) recording in the office of the Recorder of Salt Lake County a claim of lien for such delinquent dues and assessments against the estate and improvements thereon owned by the delinquent member and by foreclosing such lien in accordance with the laws of the State of Utah then in effect governing the foreclosure of mortgages of real property. There shall be added to any claim hereunder the amount of such delinquent dues and assessments, the late charge, the costs of preparing and filing the complaint or the lien, and in the event a judgment is obtained, such judgment shall include said interest and a reasonable attorney's fee, together with the costs of action. No membership may be transferred to a subsequent lot owner until all dues, interest, penalty charges, or judgments have been paid in full, and (c) by disallowing access into delinquent members property and restriction access through Association streets and use of common facilities.

Section 9. Curing of Delinquency. Upon the timely curing of any delinquency for which a notice of claim of lien or any such action has been filed by the Association pursuant to Section 8, the officers of the Association shall file or record an appropriate release of such notice or dismissal of such action, as the case may be, upon the payment by the delinquent member of a fee, to be determined by the Board of Trustees, to cover the costs of preparing or filing and recording such release, together with the payment of such other costs, interests, or fees as shall have accrued in connection with the delinquency.

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ARTICLE IV

Meetings of Members

Section 1. Place of Meeting. All meetings of members shall be held at the principal office of the Association, or at such other place in the County of Salt Lake as may be fixed from time to time by resolution of the Board of Trustees.

Section 2. Annual Meetings. The first annual meeting of the members shall be held in Salt Lake County within one (1) year after the recording of the subdivision; each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of 8:00 p.m. in Salt Lake County, provided, however, that the Board by resolution may fix a date for the meeting no more than thirty (30) days before or after said date. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 3. Special Meetings. Special meetings of the members for any purpose may be called at any time by the Board of Trustees, or by any three or more members thereof, or by one or more members holding not less than thirty percent (30%) of the voting rights of the members of the Association.

Section 4. Notices of Meetings. Written notice of meetings, annual or special, shall be given to each member entitled to vote, either personally or by sending a copy of the notice through the mail, postage prepaid, to his address appearing on the books of the Association, or supplied by him to the Association for the purpose of notice. All such notices shall be sent to each member entitled thereto not less than ten (10) days before each meeting, and shall specify the place, the day, and the hour of such meeting, and in case of special meetings, the general nature of the business to be transacted. If delivery is by mail, it shall be deemed to have been delivered 24 hours after a copy of the same has been deposited in the United States mail.

When any meeting of members, either annual or special, is adjourned for thirty (30) days or more, notice of the time and place of the adjourned meeting shall be given as in the case of an original meeting. Except as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting, other than by announcement thereof at the meeting at which such adjournment is taken.

Section 5. Quorum. Those present at the meeting of members entitled to cast votes or of proxies entitled to cast votes shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. Except where a greater portion of the voting power is required by the Articles of Incorporation, the Declaration, or these By-Laws, a two-thirds majority of the voting power present, in person or by proxy, shall prevail at all meeting.

Section 6. Proxies. Every member entitled to vote or execute consents shall have the right to do so either in

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person, or by an agent authorized by a written proxy executed by such member of his duly authorized agent and filed with the Secretary of the Association, provided that no such proxy shall be valid after the expiration of the eleven (11) months from the date of the execution.

Section 7. Action Without Meetings. Any action which, under any provisions of the Articles, these By-Laws, or the General Nonprofit Corporation Law of the State of Utah, may be taken at a meeting of members entitled to exercise a two-thirds majority of the voting power of the Association and filed with the Secretary of the Association.

## ARTICLE V

### Trustees

Section 1. Powers. Subject to limitations of the Articles of Incorporation, the Declaration, or these By-Laws and of the Utah Corporations Code as to action to be authorized or approved by the members, and subject to the duties of the trustees as prescribed by these By-Laws, all corporate powers shall be exercised by or under the authority of, and the business and affairs of the Association shall be controlled by the Board of Trustees. Without prejudice to such general powers but subject to the same limitations, the trustees are vested with and shall have the following powers; to wit:

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

(b) To conduct, manage and control the affairs and business of the Association, and to make and enforce such rules and regulations therefor consistent with law, with the Articles of Incorporation, the Declaration, and/or these By-Laws, as the Board may deem necessary.

(c) To change the principal office for the transaction of the business of the Association from one location to another within the County of Salt Lake, as provided in Article II hereof; to designate any place within said County or the holding of any annual or special meeting or meetings of members; to adopt and use a corporate seal, and to prescribe the form of certificate of memberships to such persons as shall be eligible for membership, as provided in Article III of these By-Laws.

(d) To borrow money and to incur indebtedness for the purposes of the Association, and to cause to be executed and delivered therefor, in the Association's name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, or other evidences of debt and security therefor.

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(e) To fix and levy from time to time regular dues and assessments upon the members of the Association; to fix and levy from time to time in any calendar year special assessments applicable to that year only for capital improvements with the assent of two-thirds of the voting members; to determine and fix the due date for the payment of such dues and assessments, and the date upon which the same shall become delinquent; provided, however, that such dues and assessments shall be fixed and levied only to provide for the payment of the expenses of the Association and of taxes and assessments upon real or personal property owned, leased, controlled or occupied by the Association, or for labor rendered or materials or supplies used and consumed, or equipment and appliances furnished for the maintenance, improvement, or development of such property or for the payment of any and all obligations in relation thereto, or in performing or causing to be performed any of the purposes of the Association for the general benefit and welfare of its members, and the Board of Trustees is hereby authorized to incur any and all such expenditures for any of the foregoing purposes and to provide adequate reserves for replacements as it shall deem to be necessary or advisable in the interest of the Association or welfare of its member. Such assessments shall be fixed at a uniform rate for all Class A members. Should any member fail to pay such dues and assessments before delinquency, the Board of Trustees in its discretion is authorized to enforce the payment of such delinquent dues and assessments as provided in Article III, Section 8 of these By-Laws.

(f) To enforce the provisions of the Declaration covering the service area, these By-Laws or other agreements of the Association.

(g) To contract for and pay fire, casualty, liability and other insurance insuring the lot owners and common area, including bonding of the members of any management body, if deemed advisable by the Board.

(h) To contract for and pay maintenance, gardening, utilities, materials and supplies, and services relating to the common area and to employ personnel necessary for the operation of the project, including, legal services, and accounting services. To contract for and pay for improvements and community facilities.

(i) To delegate its powers according to law, and subject to the approval of the members, to adopt these By-Laws.

(j) To grant easements where necessary for utilities over the common area to serve the common areas and the lots.

Section 2. Number and Qualification of Trustees.

The Board of Trustees shall consist of the number of trustees named in the Articles of Incorporation (not less than three

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nor more than nine) until changed by amendment of the Articles, or by an amendment to this Section 2 of these By-Laws, fixing or changing such number, adopted by the vote or written assent of members entitled to exercise a majority of the voting power. A person may serve as a trustee without being a member of the Association.

Section 3. Election and Term of Office. Until the holding of the organizational meeting of the members referred to in Section 2, Article IV of these By-Laws, the Board of Trustees shall consist of those trustees who constituted the incorporators of this Association. The trustees shall be elected at each annual meeting of members, but if any such annual meeting is not held, or if the trustees are not elected thereat, the trustees may be elected at any special meeting of members held for that purpose. All trustees shall hold office until their respective successors are elected.

Section 4. Vacancies. Vacancies on the Board of Trustees may be filled by a majority of the remaining trustees, though less than a quorum, and each trustee so elected shall hold office until his successor is elected at an annual meeting of members, or at a special meeting called for that purpose.

A vacancy or vacancies shall be deemed to exist in case of the death, resignation or removal of any trustee. If the members shall increase the authorized number of trustees but shall fail to elect the additional trustees as provided for at the meeting at which such increase is authorized, or at an adjournment thereof, or in case the members fail to at any time elect the full number of the authorized trustees, a vacancy or vacancies shall be deemed to exist.

The members may at any time elect trustees to fill any vacancy not filled by the trustees, and may elect the additional trustees at the meeting at which an amendment of the By-Laws is voted authorizing an increase in the number of trustees.

If any trustee tenders his resignation to the Board of Trustees, the Board shall have power to elect a successor to take office at such time as the resignation shall become effective. No reduction of the number of trustees shall have the effect of removing any trustee prior to the expiration of his term of office.

Section 5. Place of Meetings. All meetings of the Board of Trustees shall be held at the principal office of the Association, or at any other place or places within the County of Salt Lake designated at any time by resolution of the Board or by written consent of all members of the Board.

Section 6. Organization Meeting. Immediately following each annual meeting of the members, the Board of Trustees shall hold a regular meeting for the purpose of organization, election of officers and the transaction of other business.

Section 7. Other Regular Meetings. Other regular meetings of the Board of Trustees may be held without call at such place and day and hour as may be fixed from time to

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time by resolution of the Board of Trustees; provided, should said day fall upon a legal holiday, then the meeting which otherwise would be held on said day shall be held at the same time on the next day thereafter ensuing which is not a legal holiday. Notice of all such regular meetings of the Board of Trustees is hereby dispensed with.

Section 8. Special Meetings - Notices. Special meetings of the Board of Trustees for any purpose may be called at any time by the Chairman or by the President, or if they are unable to or refuse to act, by the Vice President or by any two trustees.

Written notice of the time and place of special meetings shall be delivered personally to the trustees or sent to each trustee by letter or by telegram, postage or charges prepaid, addressed to him at his address as it is shown upon the records of the Association. In case such notice is mailed or telegraphed, it shall be deposited in the United States Mail or delivered to the telegraph company at or near the place in which the principal office of the Association is located at least forty-eight (48) hours prior to the time of the holding of the meeting. Such mailing, telegraph or delivery as provided herein shall be due, legal and personal notice to each such trustee.

Section 9. Notice of Adjournment. Notice of adjournment of any Trustees' meeting, either regular or special, need not be given to absent trustees if the time and place are fixed at the meeting adjourned.

Section 10. Waiver of Notice. The transaction of any business at any meeting of the Board of Trustees, however called and noticed, or wherever held, shall be as valid as though had at a meeting duly held after regular call and notice, if a quorum be present, and if, either before or after the meeting, each of the trustees not present signs a written waiver of notice or a consent to holding such meeting or an approval of the minutes thereof. All such waivers, consents, or approvals shall be filed with the records of the Association or make a part of the minutes of the meeting.

Section 11. Quorum. A majority of the number of trustees as fixed by the Articles of Incorporation or these By-Laws shall be necessary to constitute a quorum for the transaction of business, except to adjourn as hereinafter provided. Every act or decision made or done by a majority of the trustees present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board of Trustees.

Section 12. Adjournment. A quorum of the trustees may adjourn any Trustees' meeting to meet again at a stated day and hour; provided, however, that meeting, either regular or special, may adjourn from time to time until the time fixed for the next regular meeting of the Board.

Section 13. Consent of Board Obviating Necessity of Meeting. Notwithstanding anything to the contrary contained in these By-Laws, any action required or permitted to be taken by the Board of Trustees may be taken without a meeting if all members of the Board of Trustees shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with

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the minutes of the proceedings of the Board. Such action by written consent shall have the same force and effect as a unanimous vote of such trustees.

Section 14. Fees and Compensations. No trustee or officer shall receive any salary for his services as such officer or trustee. Nothing herein contained shall be construed to preclude any trustee or officer from serving the Association as agent, counsel, or any capacity other than as such trustee or officer, and receiving compensation therefor, provided that the vote of any trustee who is selected to so serve and receive compensation shall not be counted when selection is made.

Section 15. Presiding Officer. The members of the Board of Trustees shall elect one of their number to act as Chairman and one of their number to act as Secretary. The Chairman shall preside at all meetings and the Secretary shall record the Minutes of all meetings of the Board of Trustees and of the members.

Section 16. Indemnification of Trustees, Officers, and Employees. Except to the extent prohibited by then applicable law, this corporation shall reimburse, indemnify and hold harmless each present and future trustee, officer, and employee of this corporation and each person who, at the request of this corporation acts as a trustee, officer or employee of any other corporation in which this corporation has an interest, from and against all loss, cost, liability and expense which may be imposed upon or reasonable incurred by him, including reasonable settlement payments, in connection with any claim, action, suit or proceedings, or threat thereof, made or instituted, in which he may be involved or make a party by reason of his being or having been a director, officer or employee of this corporation or such other corporation, or by reason of any action alleged to have been taken or omitted by him in such capacity, if a disinterested majority of the Board of Trustees of this corporation (or, if a majority of the Board of Trustees is not disinterested, then independent legal counsel) determines in good faith that such person was acting in good faith (a) within what he reasonably believed to be the scope of his authority or employment, and (b) for a purpose which he reasonably believed to be in the best interests of the corporation.

The right of indemnification provided in this section shall inure to each person referred to in this section, whether or not the claim asserted against him is based on matters which arose in whole or in part prior to the adoption of this section and in the event of his death shall extend to his legal representatives. The right of indemnification provided in this section shall not be exclusive of any other rights to which any such person, or any other individual, may be entitled as a matter of law (including, without limitation, his rights under the Utah State Corporations Code), or under any agreement, vote of trustees or stockholders or otherwise.

## ARTICLE VI

### Officers

Section 1. Officers. The officers shall be a President, Vice President, a Secretary, and a Treasurer, which officers shall be elected by and hold office at the

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pleasure of the Board of Trustees. Each of the officers may, but need not be a member of the Board of Trustees. Any two or more of such offices may be held by the same person except the offices of President and Secretary, which may not be held by the same person. The office of President and all other offices may be held by someone who is not a member of the Board of Trustees.

Section 2. Election. The officers of the Association, except such officers as may be appointed in accordance with the provisions of Section 3 or Section 5 of this Article, shall be chosen annually by the Board of Trustees, and each shall hold his office until he shall resign or shall be removed or otherwise disqualified to serve, or until his successor shall be elected and qualified.

Section 3. Subordinate Officers. The Board of Trustees may appoint such other officers as the business of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as are provided in these By-Laws or as the Board of Trustees may from time to time determine.

Section 4. Removal and Resignation. Any officer may be removed, either with or without cause, by the vote of a majority of all the trustees then in office at any regular or special meeting of the Board at which a quorum is present.

Any officer may resign at any time by giving written notice to the Board of Trustees or to the President or to the Secretary of the Association. Subject to the provisions of Section 4 of this Article, any such resignation shall take effect as of the date of the receipt of such notice or at any later of such resignation shall not be necessary to make it effective.

Section 5. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in the manner prescribed in these By-Laws for regular appointments to such office.

Section 6. President. The President shall be the chief executive officer of the Association and shall, subject to the control of the Board of Trustees have general supervision, direction, and control of the business and officers of the Association. The President may, but need not be, the Chairman of the Board of Trustees. He shall be an ex-officio member of all standing committees, if any, and shall have the general powers and duties of management usually vested in the office of the President of a corporation, and shall have such other powers and duties as may be prescribed by the Board of Trustees or these By-Laws.

Section 7. Vice President. In the absence or disability of the President, the Vice President shall perform all the duties of the President, and upon the office of President. The Vice President shall have such other powers and perform such other duties as from time to time may be prescribed for him by the Board of Trustees or the By-Laws.

Section 8. Secretary. The Secretary shall keep, or cause to be kept, a book of Minutes at the principal office or such other place as the Board of Trustees may order, of all meetings of trustees and members, with the time

and place of the holding of same, whether regular or special, and if special, how authorized, the notice thereof given, the names of those present or represented at members' meetings and the proceedings thereof.

The Secretary shall keep, or cause to be kept, at the principal office, a membership register showing the following: (1) the names and addresses of all members of the Board of Trustees; (2) the names of the members and their addresses; (3) the property to which each membership relates; (4) the number of memberships held by each member; (5) the number of votes represented by each member; (6) the number and date of membership certificates issued, if any; and (7) the number and date of cancellation of membership certificates, if any.

The Secretary shall give, or cause to be given, notice of all meetings of the members and of the Board of Trustees required by the By-Laws or by law to be given, and he shall keep the seal of the Association in safe custody, and by the Board of Trustees or by these By-Laws.

#### ARTICLE VIII

##### Miscellaneous

Section 1. Record Date and Closing Membership Register. The Board of Trustees may fix a time, in the future, not exceeding fifteen (15) days preceding the date of any annual or special meeting of the members, as a record date for the determination of the members entitled to notice of and to vote at any such meeting, and in such case only members of record on the date so fixed shall be entitled to notice of and to vote at such meeting, notwithstanding any transfer of any membership on the books of the Association after any record date so fixed. For the purpose of determining such record date, the Board of Trustees may close the books of the Association against transfer of membership during the whole, or any part, of any such period.

Section 2. Inspection of Corporate Records. The Membership register, the books of account, and minutes of meeting of the members' and trustees' meetings shall be open to the inspection of the directors and members at reasonable times from time to time and in the manner provided in the Corporations Code of the State of Utah relating thereto.

Section 3. Checks, Drafts, etc. All checks, drafts, or other orders for payment of money, notes or other evidences of indebtedness issued in the name of or payable to the Association, shall be signed or endorsed by such officer or officers and in such manner as, from time to time, shall be determined by resolution of the Board of Trustees.

Section 4. Contracts, etc., How Executed. The Board of Trustees, except as in these By-Laws otherwise provided, may authorize any officer or officers, agents or agent, to enter into any contract or execute any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances; and unless so authorized by the Board of Trustees, no officer

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agent, or employee shall have any power or authority to bind the Association by any contract or engagement or to pledge its credit or to tender it liable for any purpose or for any amount.

Section 5. Inspection of By-Laws. The Association shall keep in its principal office for the transaction of business the original or a copy of the By-Laws as amended, certified by the Secretary, which shall be open to inspection by all of the members at all reasonable times.

Section 6. Annual Independent Audit. An annual independent audit of the account or accounts of the Association or any management body shall be made and a copy of such audit shall be available for the inspection of each member, officer, or trustee of the Association within thirty (30) days of completion thereof.

Section 7. Singular Includes Plural. Wherever the context of these By-Laws requires same, the singular shall include the plural and the masculine shall include the feminine.

## ARTICLE IX

### Amendments

Section 1. Powers of Members. The By-Laws of this Association may be adopted, amended or repealed by the vote or written assent of members entitled to exercise a two-thirds majority of the voting power, or the vote of a two-thirds majority of a quorum at a meeting of members duly called for such purpose, provided the proposed amendment has been submitted to each member together with the advance notice of said meeting.

Section 2. Powers of Trustees. Subject to the right of the members to adopt, amend or repeal these By-Laws, as provided in Section 1 of this Article IX, at any special or regular meeting of the Board of Trustees, the Board of Trustees may adopt, amend, or repeal any of these By-Laws, except that only by a vote of the members, as provided in Section 1 of this Article IX, may the following By-Laws be amended or changed:

- (a) The provisions of Article V, Section 2, relating to the number of Trustees;
- (b) The provisions of Article III, Sections 1, 2, 3, and 4 relating to number of members, qualifications of members, transfer of membership, and termination of membership;
- (c) The provisions of Article III, Sections 4, 7, and 8 relating to voting, dues and assessments, and enforcement of payment of dues and assessments;
- (d) The provisions of Article IV, Sections 2, 3, and 4 relating to annual meetings, special meetings and notices of meetings; and
- (e) The provisions of Article VII, Sections 2 and 7 relating to inspection of corporate records and annual independent audit.

Section 3. Record of Amendments. Whenever an amendment or new By-Law is adopted, it shall be placed in the book of By-Laws in the appropriate place. If any By-Law is repealed, the fact of repeal, with the date of the meeting at which the repeal was enacted or written assent was filed, shall be stated in said book.

Section 4. Conflicts. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

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