

327639 B: 1212 P: 0447

Page 1 of 28

Chad Montgomery Box Elder County Utah Recorder

07/15/2013 04:07:07 PM Fee \$76.00

By HELGESEN WATERFALL & JONES

Electronically Recorded By SIMPLIFILE LC E-RECORDING

**AMENDED
DECLARATION
FOR
CENTENNIAL ESTATES**

July 2013

AMENDED

DECLARATION

FOR

CENTENNIAL ESTATES

(2013)

This Amendment to the Declaration of Covenants, Conditions and Restrictions for Centennial Estates ("Amended Declaration") is made and executed on the date shown below by the Lot Owners at Centennial Estates, a Cluster Subdivision, ("Centennial Estates"), after having been voted on and approved by the Owners at Centennial Estates.

RECITALS

WHEREAS, Centennial Estates was created by the recording of the Declaration of Covenants, Conditions, and Restrictions and Reservation of Easements for Centennial Estates, a Cluster Housing Development Subdivision ("Enabling Declaration") in the records of Box Elder County, Utah, on July 14, 1997, as entry number 100168, in book 0652, beginning on page 0891; and

WHEREAS, the property that is the subject of this Amended Declaration is situated in and upon that certain real property located in Box Elder County, State of Utah, as specifically described in Exhibit "A", attached hereto and incorporated herein by this reference, and including the Common Area that is appurtenant to each lot as shown on the plat maps for Centennial Estates, as recorded in the office of the County Recorder for Box Elder County, State of Utah. There are 18 units at Centennial Estates; and

WHEREAS, The Lot Owners in Centennial Estates are desirous to create the Centennial Estates Owners Association, Inc., a Utah non-profit corporation ("Association"), which will be created by filing Articles of Incorporation with the Utah Division of Corporations and Commercial Code, which Association shall operate for the purpose of managing the Common Area and enforcing the provisions of the Enabling Declaration, this Amended Declaration, and any amendments thereto. The Association will be the governing body of Centennial Estates and will operate in accordance with this Amended Declaration, the Articles of Incorporation (attached as Exhibit "B") and the Bylaws of the Association (attached as Exhibit "C") for the purpose of managing the Common Area and enforcing the provisions of the Association documents.

NOW THEREFORE, To accomplish the Lot Owners' objectives, the following amendments are hereby adopted to amend the Enabling Declaration and to create Centennial Estates Owners Association, Inc., a Utah non-profit corporation. If there is any conflict between this Amended Declaration and the Enabling Declaration, this document shall control. This Amended Declaration shall become effective upon recording. Capitalized words used herein shall have the same meaning

as defined in Article I of the Enabling Declaration unless the context clearly indicates otherwise. The Centennial Estates Enabling Declaration is hereby amended as follows:

AMENDMENT

ARTICLE I CREATION OF NON-PROFIT CORPORATION

- 1.1 The Lot Owners hereby authorize and approve the creation of a Utah nonprofit corporation, to be known as the Centennial Estates Owners Association, by filing with the State of Utah the Articles of Incorporation for the Association in a form substantially similar to those contained in Exhibit "B", attached hereto. The Association shall be responsible for managing the Common Area within Centennial Estates and governing the affairs of Centennial Estates in accordance with the provisions of the Enabling Declarations, any amendments to the Enabling Declarations, the Articles of Incorporation and the Bylaws.
- 1.2 By voting to approve this Amended Declaration, the Lot Owners hereby agree to adopt the following documents:
 - a. this Amended Declaration;
 - b. the Articles of Incorporation (Exhibit "B" attached hereto); and
 - c. the Bylaws of the Association (Exhibit "C" attached hereto)

as the governing documents of Centennial Estates Owners Association, Inc., which documents shall constitute equitable servitudes that shall run with the real property described in Exhibit "A".

- 1.3 Pursuant to the provisions in this Amended Declaration wherein Centennial Estates is incorporated as a non-profit corporation under the laws of the State of Utah, the management of Centennial Estates and the Common Area of Centennial Estates shall hereafter be performed under the direction and authority of the Association's board of directors.

ARTICLE II ADOPTION OF BYLAWS

- 2.1 The Lot Owners hereby authorize and approve the adoption of Bylaws for Centennial Estates Owners Association, Inc. The Bylaws which shall govern the Association are attached hereto has Exhibit "C".

ARTICLE III RENTAL RESTRICTIONS

WHEREAS, it is the desire of the Lot Owners within Centennial Estates to live in a community that is orderly, peaceful and desirable, and that will allow for and protect the comfortable

enjoyment of all residents of Centennial Estates; and

WHEREAS, the Lot Owners within the Association desire to amend the Governing Documents to preserve and enhance the quality of life at Centennial Estates Condominium; and

WHEREAS, the Lot Owners desire to amend the Declaration to place reasonable restrictions on the percentage of renters who may occupy Lots at Centennial Estates; and

WHEREAS, the Lot Owners within the Association desire to preserve and enhance the quality of life at Centennial Estates and have purchased their Lots at Centennial Estates for the purpose of using their Lot as an Owner occupied single family residence; and

WHEREAS, the Lot Owners have purchased a Lot in a community association because they understand the community association living concept was developed to create a real property interest wherein individuals could own their own real property and enjoy the benefits and stability that accompany ownership of real property, both individually and as a neighborhood, as well as the security that comes to a high density community association community by having residents who are Owners and are committed to the long-term welfare and good of the community; and

WHEREAS, the Lot Owners realize that the value of their Lots is directly related to the ability to sell their Lots, that the ability to sell their Lots is directly related to the ability of prospective borrowers to obtain FHA and other forms of financing, and that FHA underwriting standards as well as the underwriting standards at financial institutions and secondary mortgage markers restrict the percentage of non-owner occupied Lots that can exist in a community association; and further, when too high a percentage of non-owner occupied Lots exist in a community association project, a buyer will not be able to qualify for favorable and competitive market interest rates and financing terms, thus inhibiting a Lot Owner's ability to sell a Lot and depressing the value of all the Lots at Centennial Estates; and

- 3.1 **Owner Defined.** As used herein, "Owner" or "Lot Owner" means an individual or entity that holds a fee title interest in a Lot at Centennial Estates as shown on the records of the Box Elder County Recorder.
- 3.2 **Non-Owner Defined.** As used herein, "Non-Owner" means an individual or entity that is not an Owner as shown on the records of the Box Elder County Recorder.
- 3.3 **Rent and Lease Defined.** As used herein, "rent" (or a variation of the word) or "lease" (or any variation of the word) means a Lot or Dwelling Unit that is owned by an Owner that is occupied by one or more Non-Owners while no Owner occupies the Lot or Dwelling Unit as the Owner's primary residence. The payment of compensation to an Owner by a Non-Owner shall not be required to establish that the Non-Owner is leasing a Lot or Dwelling Unit. Failure of a Non-Owner to pay compensation of any kind to the Owner shall not be considered when determining if a Lot is being rented or leased.
- 3.4 **Occupied Defined.** As used herein, "occupied" means to reside in a Lot or Dwelling Unit

as a full time renter or to reside in a Lot or Dwelling Unit for fifteen (15) days or more in a thirty (30) day period. A Lot or Dwelling Unit is deemed to be occupied by a Non-Owner if the Lot or Dwelling Unit is occupied by an individual(s) other than the Lot Owner and the Owner is not occupying the Lot or Dwelling Unit as the Owner's primary residence.

- 3.5 **Single Family Defined.** "Single family" means: (a) a single person living alone or with the person's children, (b) up to three unrelated persons, or (c) a husband/wife relationship with or without children. Only single families may reside in Lots or Dwelling Unit within Centennial Estates.
- 3.6 **Temporary Defined.** Nothing herein shall prohibit an Owner from permitting a guest, Non-Owner or visitor from temporarily residing in his or her Lot, while the Owner is present. As used in this paragraph, "temporarily" mean for a period not exceeding fifteen (15) days in any thirty (30) day period.
- 3.7 **No Leasing Permitted.** No Lots or Dwelling Unit within Centennial Estates may be leased at any time or occupied by a Non-Owner in violation of this Article III. Those Lots or Dwelling Units that are occupied by Non-Owners at the time this Amended Declaration is recorded at the Box Elder County Recorders office may continue to be occupied by Non-Owners until the Lot Owner transfers the Lot or occupies the Lot, or an officer, owner, member, trustee, beneficiary, director, or person holding a similar position of ownership or control of an entity or trust that holds an ownership interest in the Lot transfers the Lot or occupies the Lot or Dwelling Unit. Amendments to this Article III shall require the approval of not less than sixty-seven percent (67%) of the Owners.
- 3.8 **Violation.** Any Lot Owner who violates this Amended Declaration shall be subject to a complaint for damages and/or injunction and order seeking to terminate the lease in violation of this Amended Declaration. If Centennial Estates is required to retain legal counsel to enforce this Amended Declaration, with or without the filing of legal process, the violating Lot Owner shall be liable for all costs and expenses incurred by the Association, including but not limited to attorney fees and court costs incurred by the Board in enforcing this Amended Declaration.

ARTICLE IV

MAINTENANCE OF LOTS AND DWELLING UNITS

- 4.1 **Maintenance of Dwelling Units.** Consistent with the division of duties set forth in Exhibit "D" attached, the interior of each Dwelling Unit shall be maintained by the Owner thereof so as not to detract from the appearance of the Property and so as not to affect adversely the value or use of any other Lot or Dwelling Unit. The Association shall have no obligation regarding maintenance of the interior of the Dwelling Unit and shall only maintain the exterior of the Dwelling Unit as herein elsewhere provided. For purposes of this Amended Declaration, the phase "interior of each Dwelling Unit" includes any fenced in areas within each Lot and any and all flower beds immediately adjoining a Dwelling Unit.

4.2 Operation and Maintenance by Association. The Association shall provide for such maintenance and operation of the Common Areas as may be necessary or desirable to make them appropriately usable in conjunction with the Lots and to keep the Common Areas clean, functional, attractive, and generally in good condition and repair. However, flower beds that are immediately adjoining a Dwelling Unit are the responsibility of the Lot Owner to maintain in a clean and attractive condition.

4.3 Exterior Maintenance of Dwelling Units.

- a. In addition to maintenance of the Common areas, the Association shall insure, maintain, repair, and landscape the exterior of the Dwelling Units and the Common Areas according to the Maintenance Chart attached hereto as Exhibit "D". Consistent with the provisions of Exhibit "D", the Association shall provide exterior maintenance on each lots as follows: paint, maintain and repair exterior walls and surfaces; replacement and care of roofs, chimneys, gutters, downspouts, trees and shrubs (with the exception of flower beds), grass, brickwork (with the exception of driveways or sidewalks, walks and other exterior brick or concrete improvements). Such exterior maintenance shall not include glass surfaces. Should any provision of this 4.3 Amended Declaration be in conflict with or contrary to Exhibit "D", Exhibit "D" shall control. Nothing herein shall require the Association to replace, repair or construct a Dwelling Unit that is damaged or destroyed and for which the Association's insurance policy does not provide coverage (e.g., property settling, earthquake damage). Each Lot Owner shall provide condominium type insurance coverage for the interior of their Dwelling Unit and any additional type coverage as determined by the Lot Owner.
- b. In the event that the need for maintenance or repair to the exterior of the Dwelling Unit and other improvements on the Lot is caused through the willful or negligent acts of its Owner, including but not limited to failure by a Lot Owner to timely complete construction of an improvement, or is due to the willful or negligent acts of the family, guests, or invitees of the Owner of the Lot, to the extent not covered by the Association's insurance, the cost of such exterior maintenance or repair, including the cost of the Association's insurance deductible, shall be added to and become part of the assessment to which such Dwelling Unit is subject.

4.4 Interior Dwelling Unit Maintenance.

- a. Each Owner shall, at his sole expense, have the right and the duty to keep the interior of his Dwelling Unit and its equipment, appliances, and appurtenances in good order, condition and repair and shall do all redecorating and painting at any time necessary to maintain the good appearance and condition of his Dwelling. Each Owner shall be responsible for the maintenance, repair or replacement of any plumbing fixtures, water and sewer lines serving only the Owner's Lot or Dwelling Unit, gas lines serving only the Owner's Dwelling Unit, water heaters, furnaces, lighting fixtures, refrigerators, dishwashers, disposals, ranges, fans, heating and air conditioning

equipment, or other equipment, electrical fixtures or appliances which are in his Dwelling Unit and service his Lot or Dwelling Unit. If a water, sewer, gas or other utility line serves more than one Dwelling Unit, the Owner is responsible for any repair and maintenance costs associated with such utility line from the point the utility line no longer provides service to two Dwelling Units.

- b. Without limiting the generality of the foregoing, each Owner shall have the right and the duty, at his sole cost and expense, to maintain, repair, paint, paper, panel, plaster, tile, and finish the interior surfaces of the ceilings, floors, window frames, door frames, trim, and the perimeter walls of the Dwelling Unit and the surfaces of the bearing walls located within his Dwelling Unit and shall not permit or commit waste of his Lot, Dwelling Unit or the Common Areas. This section shall not be construed as permitting an interference with or damage to the structural integrity of the building or interference with the use and enjoyment of the Common Areas or of the other Dwelling Units, nor shall it be construed to limit the powers or obligations of the Board hereunder.
- c. Attached hereto as Exhibit "D" and incorporated herein by this reference, is an Association Maintenance Chart, which indicates those areas within the Association which shall be maintained, repaired and replaced by the Association and which shall be maintained, repaired and replaced by the Lot Owners. Notwithstanding any other provisions contained in this Amended Declaration, the provisions of the Maintenance Chart shall control.

ARTICLE V ASSESSMENTS

- 5.1 Article VI, Section 4, of the Enabling Declaration is hereby repealed. The Board is authorized to set the annual assessment in an amount needed to properly and reasonably meet the maintenance and financial needs of the Association as required by the Enabling Declaration. A majority of the Owners may amend the Board's annual assessment if fifty-one percent (51%) or more of the Owners vote at a special meeting of the Owners to modify the annual assessment established by the Board.

ARTICLE VI NUISANCES

- 6.1 In addition to the nuisance provisions set forth in Article X, Section 4, of the Enabling Declaration, the following constitutes a nuisance and is prohibited within Centennial Estates:

A nuisance is anything which is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.

The Association is authorized, in accordance with the Utah Community Association Act, to

assess a fine against any Lot Owner who creates a nuisance, who violates community rules, or violates any of the provisions of the Association's governing documents.

CERTIFICATION

It is hereby certified that more than 51% of the Lots Owners voted to approve this Amended Declaration.

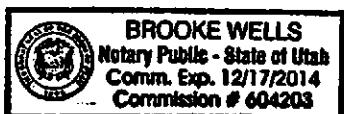
IN WITNESS WHEREOF, this 11 day of July, 2013.

CENTENNIAL ESTATES

By K Johnson
President

STATE OF UTAH)
:ss.
COUNTY OF BOX ELDER)

On this 11 day of July, 2013, personally appeared before me Kathleen Johnson, who, being by me duly sworn, did say that she is President of the Centennial Estates Homeowners Association and that the within and foregoing document was signed as an officer of the Association and in behalf of said Association and she duly acknowledged to me she executed the same.



Brooke Wells
Notary Public

EXHIBIT "A"

Legal Description of Lots

All Lots and Common Area within Centennial Estates, a Cluster Housing Development Subdivision, Box Elder County, Utah.

EXHIBIT "B"

Articles of Incorporation

ARTICLES OF INCORPORATION

for

CENTENNIAL ESTATES OWNERS ASSOCIATION, INC.

The undersigned adult natural persons, acting as incorporators, hereby establish a nonprofit corporation pursuant to the Utah Revised Nonprofit Corporation Act (the "Act") and adopt the following articles of incorporation for such corporation;

ARTICLE I NAME

The name of the corporation is Centennial Estates Owners Association, Inc. (hereinafter the "Association").

ARTICLE II DURATION

The Association shall have perpetual existence.

ARTICLE III PURPOSES AND POWERS

1. **Purposes** The Association is organized as a nonprofit corporation and shall be operated to promote the health, safety and welfare of all members of the Association in connection with Centennial Estates and to establish, provide, and maintain a desirable community and environment for all Lot Owners.
2. **Powers** In furtherance of the foregoing purposes, and subject to the restriction set forth in Section 3 of this article, the Association shall have and may exercise all of the powers now or hereafter conferred upon nonprofit corporations organized under the laws of Utah and may do everything necessary or convenient for the accomplishment of any of the corporate purposes, either alone or in connection with other organizations, entities or individuals, and either as principal or agent, subject to such limitations as may be prescribed by law.
3. **Restrictions Upon Purposes and Powers** The foregoing purposes and powers of the Association are subject to the following limitations:
 - a. **Earnings of Association** No part of the net earnings of the Association (if any) shall

inure to the personal benefit of any member of the Association; however, this restriction shall not limit or impair the Association's right to compensate Members for services rendered or for goods sold or leased to the Association;

- b. **Nonprofit Organization** The Association shall be organized and operated exclusively for non-profitable purposes as set forth in Section 528 of the Internal Revenue Code as it is now or may hereafter be amended; and

ARTICLE IV **DIVIDENDS & DISTRIBUTIONS**

The Association shall not pay any dividends. No distribution of the corporate assets to Members (as such) shall be made except as permitted by the Internal Revenue Code and the Utah Code sections governing community associations. Upon dissolution of the Association, the assets shall be distributed as provided in Article X herein.

ARTICLE V **MEMBERSHIP AND VOTING**

- 1. **Members** The Association shall have Members. Every Owner of a Lot which is subject to assessment shall be a Member of the Association. Each membership shall be pertinent to and may not be separated from ownership of the Lot to which the membership is attributable.
- 2. **Stock** No stock in the Association shall be issued. The Board may, in its discretion, issue certificates evidencing a Member's membership in the Association. A person's membership, however, is not affected by the holding of such a certificate and a Member is entitled to all the benefits and subject to all obligation of membership whether or not the Member holds a membership certificated.
- 3. **Voting** The Association shall have one class of voting membership. Each Lot shall be entitled to one vote on any given matter, regardless of the number of Members owing an interest in such Lot. The Members owning a particular Lot are authorized to cast the vote attributable to the Lot. The Board may suspend the voting rights of Members for a particular Lot if the Members are in violation of the Declaration.
- 4. **Right to Vote** No change in the ownership of a membership shall be effective for voting purposes unless and until the Board is given actual written notice of such change and is provided satisfactory proof thereof. The vote for each Lot must be cast as a Lot, and fractional votes shall not be allowed. If a Lot is owned by more than one person or entity and such Owners are unable to agree among themselves as to show their vote or votes shall be cast, they shall not be entitled to vote on the matter in question. If any Member casts a vote

representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Lot unless objection thereto is made at the time the vote is cast. If more than one vote is cast for a particular Lot, none of the said votes shall be counted and all said votes shall be deemed void. Voting by proxy is allowed as set forth in the Association's Bylaws.

5. **No Cumulative Voting** In any election of the members of the Board, the Owner(s) of a given Lot shall collectively have one vote for each Director position to be elected. The candidate receiving the highest number of votes for a given Director position shall be deemed elected to such position. Cumulative voting shall not be allowed in the election of members of the Board or for any other purpose.
6. **Transfer of Membership** The rights and obligations of memberships in the Association shall not be assigned, transferred, pledged, conveyed or alienated in any way except upon transfer of ownership to an owner's Lot and then only to the new Owner of the Lot. A transfer of ownership to a Lot may be effected by deed, intestate succession, testamentary disposition, foreclosure of a mortgage of record, or such other legal process as now in effect or as may hereafter be established under or pursuant to the laws of the State of Utah. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership to a Lot shall automatically transfer the membership appurtenant to said Lot to the new Owner thereof.

ARTICLE VI **SHARE OF STOCK**

The Association shall not issue any shares of stock.

ARTICLE VII **DIRECTORS**

The management of the affairs of the Association shall be vested in a Board of Directors, except as otherwise provided in the Act, these Articles of Incorporation or the Bylaws of the Association. The number of Directors, their classification, if any, their terms of office and the manner of their election or appointment shall be determined according to the Bylaws of the Association from time to time in force.

Six Directors shall constitute the Board of Directors. Their names and addresses are as follows:

	<u>Name</u>	<u>Address</u>
1.	Kathleen Johnson	1276 S 350 E, Garland, UT 84312
2.	Michael Christensen	1324 S 350 E, Garland, UT 84312
3.	Carol Ann Heusser	1327 S 350 E, Garland, UT 84312
4.	John Carter	1250 S 375 E, Garland, UT 84312
5.	Judy Mieure	1354 S 350 E, Garland, UT 84312
6.	Phil Spjut	1250 S 350 E, Garland, UT 84312

ARTICLE VIII
BYLAWS

The Bylaws of the Association may contain any provisions for the regulation or management of the affairs of the Association which are not inconsistent with law or these articles of incorporation, as these articles may from time to time be amended.

ARTICLE IX
INITIAL PRINCIPAL OFFICE, REGISTERED OFFICE AND AGENT

The address of the initial principal office of the Association is Centennial Estates Owners Association, Inc., 1276 S 350 E, Garland, UT 84312 . The address of the initial registered office is 1276 S 350 E, Garland, UT 84312. The name of the Association's registered agent at such address is Kathleen Johnson.

ARTICLE X
DISSOLUTION

The Association may be dissolved only upon termination of Enabling Declarations for Centennial Estates. Written notice of a proposal to dissolve, setting forth the reasons therefore and the disposition to be made of the assets, as set forth below, shall be mailed to every Member at least 30 days in advance of any action taken. Upon dissolution of the Association, the assets both real and personal of the Association, shall be distributed according to the provisions of the Act and the Utah Code sections governing community associations.

ARTICLE XI
INCORPORATOR

The name and address of the incorporator of this Association is:

Kathleen Johnson, 1276 S 350 E, Garland, UT 84312

ARTICLE XII
AMENDMENT

The Association may amend these Articles of Incorporation by a vote of not less than 51% of the members.

IN WITNESS WHEREOF, I, Kathleen Johnson have executed these Articles of Incorporation this 11 day of July, 2013, and say: That I am the incorporator herein and have read the above and foregoing Articles of Incorporation and know the contents thereof and that the same is true to the best of my knowledge and belief.

Kathleen Johnson
Kathleen Johnson

ACKNOWLEDGMENT OF ACCEPTANCE BY REGISTERED AGENT

The undersigned hereby accepts and acknowledges appointment as the initial registered agent of the Association named above.

K Johnson
REGISTERED AGENT

EXHIBIT "C"
BYLAWS

Bylaws
FOR
**CENTENNIAL ESTATES
HOMEOWNERS ASSOCIATION**

The following are adopted as the administrative Bylaws of Centennial Estates Homeowners Association ("Centennial Estates").

**ARTICLE I
PLAN OF LOT OWNERSHIP AND INCORPORATION**

- 1.1 **Submission.** These Bylaws are adopted by the Owners of Lots in Centennial Estates after having first been voted and approved by the Centennial Estates Lot Owners. These Bylaws shall govern the administration of Centennial Estates Homeowners Association.
- 1.2 **Conflict.** In the event of any conflict, incongruity or inconsistency between the provisions of these Bylaws and the provisions of the Enabling Declaration or any amendments thereto, the latter shall in all instances govern and control.
- 1.3 **Office and Registered Agent.** The Registered Agent of the Association shall be the President or Secretary of the Association and the Registered Office of the Association shall be the office of the President or such other place as shall be designated by him.
- 1.4 **Bylaws Applicability.** All present and future Owners, residents, tenants, renters, lessees, and their guests, licensees, invitees, servants, agents or employees, and any other person or persons who shall be permitted at Centennial Estates shall be subject to and abide by these Bylaws.

**ARTICLE II
ASSOCIATION**

- 2.1 **Composition.** The association of Owners is a mandatory association consisting of all Owners at Centennial Estates.
- 2.2 **Voting.** Each Owner shall have an equal number of votes.
- 2.3 **Place of Meeting.** Meetings of the Association shall be held at the principal office of the Association or at such other suitable place as may be designated by the Board from time to

time and stated in the notice of meeting.

2.4 **Annual Meeting.** Unless otherwise designated by the Board, the annual meeting of the Association shall be held at 6:00 o'clock p.m. on the second Tuesday of June of each year, or at such other suitable day, date and time as may be designated by the Board from time to time. When such day is a legal holiday, the meeting shall occur on the first business day thereafter. The place of meeting shall be the principal office of the Association unless otherwise specified in the notice of meeting.

2.5 **Special Meetings.** The President shall call a special meeting (a) if he or she so desires, (b) if a majority of the members of the Board of Directors direct him or her to do so, or (c) upon receipt of a petition signed and presented to the Secretary of the Board by at least twenty-five percent (25%) of the members of the Association. The notice of any special meeting shall state the date, time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

2.6 **Notice of Meeting.** It shall be the duty of the Secretary to give notice of (a) each annual meeting of the Owners not less than ten (10) and not more than thirty (30) days in advance of such meeting; and (b) each special meeting of the Owners at least three (3) days and not more than twenty (20) days in advance of such meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Owner of record, at the address of his respective Lot or such other address as each Owner may have designated by notice in writing to the Secretary. The mailing of a notice of meeting in the manner provided in this Section shall be considered service of notice.

2.7 **Notification by Mail, Website and Email.** Any notice permitted or required to be delivered by the Board or from the Association to the Owners may be delivered either personally, by U.S. mail, or by electronic means.

- a. If notice 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, postage prepaid, addressed to each Owner at the address given by such person to the Board of Directors for the purpose of service of such notice or to the Lot of such person if no address has been given. Such addresses may be changed by Owner from time to time by notice in writing to the Board of Directors.
- b. If notice is by electronic means, any notice delivered by the Association to Owners under the provisions of the Declaration or these Bylaws may be sent by electronic means, including text message, email, or the Association's website. The Association shall maintain records of all notices sent to Members by electronic means, including the electronic address to which notice was sent. When a notice is sent electronically, the Association shall first compile a list of Owners' current electronic addresses (such as email or text messaging addresses or other types of well known electronic forms, such as Facebook) and the Association shall send notification of all Association meetings and business to the electronic address of the Owners. The

Association secretary shall thereafter send an electronic notice, via email or a comparable electronic means, of all Association meetings and business to those Owners who do not object to electronic notification in this manner. A member may, by written demand, require the Association to provide notice to the Lot Owner by mail.

- c. If notice is by personal means, notice may be delivered to Owners by hand delivery directly to the Owner or a responsible occupant of an Owner's Home, or by securely attaching a copy of the notice to the front entry door of the Owner's Home.

2.8 **Voting Requirements.** An Owner shall be deemed to be in "good standing" and "entitled to vote" at any annual meeting or at any special meeting of the Association if, and only if, he shall be in full compliance with all of the terms, covenants, and conditions of the Project Documents, and shall have fully paid all Assessments due.

2.9 **Proxies.** The votes appertaining to any Lot may be cast pursuant to a proxy or proxies duly executed by or on behalf of the Owner, or in cases where the Owner is more than one person, by or on behalf of all such persons. No such proxy shall be revocable except by actual written notice to the person presiding over the meeting, by the Owner or by any of such persons, that it be revoked. Any proxy shall be void if it is not dated, if it purports to be revocable without notice, or if it is not signed by a person having authority, at the time of the execution thereof, to execute deeds on behalf of that person. Unless it expressly states otherwise, a proxy shall terminate automatically upon the adjournment of the first meeting held on or after the date of that proxy. Each proxy must be filed with the Secretary of the Board before the meeting. Only individual Owners or the legal representative of an Organizational Owner may be proxies.

2.10 **Quorum.** A majority of the members (51% or more) of the Association shall constitute a quorum for the adoption of decisions. If, however, such quorum shall not be present or represented at any meeting, the Owners entitled to vote thereat, present in person or represented by proxy, shall have power to adjourn the meeting and reschedule for a time no earlier than two (2) days nor more than thirty (30) days after the set time for the original meeting. No notice of such rescheduled meeting shall be required except an announcement thereof at the original meeting. The Owners present at the rescheduled meeting shall constitute a quorum for the adoption of decisions. When a quorum is present at any meeting, the vote of the Owners representing a majority of the members of the Association present at the meeting either in person or by proxy, shall decide any question brought before the meeting; provided, however, if the Declaration requires a fixed percentage of Owners to approve any action, however, that percentage shall be required anything to the contrary notwithstanding.

2.11 **Order of Business.** The order of business at all meetings of the Association shall be as follows:

- a. roll call to determine quorum status;
- b. proof of notice of meeting;

- c. reading of minutes of preceding meeting;
- d. reports of officers;
- e. report of special Boards, if any;
- f. appointment of inspectors of election, if applicable;
- g. election of Board Members, if applicable;
- h. unfinished business; and
- i. new business.

2.12 Conduct of Meeting. The President shall, or in his absence the Vice-president, preside over all meetings of the Association; the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted by the meeting as well as record of all transactions occurring thereat.

ARTICLE III BOARD OF DIRECTORS

3.1 Powers and Duties. The affairs and business of the Association shall be managed by the Board of Directors. The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Association in accordance with the provisions of the Declaration, and may do all such acts and things necessary to operate and maintain the Project. The Board may delegate its authority to a manager or managers. Subject to any limitations or provisions contained in the Declaration, the Board shall be responsible for at least the following:

- a. Preparation of an annual budget;
- b. Determining the annual assessment of each Owner;
- c. Managing the Association;
- d. Maintaining the Common Areas and Facilities;
- e. Collecting the Assessments;
- f. Depositing the collections into a federally insured interest bearing account or accounts;
- g. Adopting and amending rules and regulations;
- h. Enforcing the Project Documents;
- i. Opening of bank accounts on behalf of the Association and designating the signatories required therefor.
- j. Making, or contracting for the making of, repairs, additions, and improvements to, or alterations of, the Property and repairs to, and restoration of, the Property, in accordance with the Declaration and other provisions of these Bylaws, after damage or destruction by fire or other casualty.
- k. Commencing legal action when necessary;
- l. Purchasing and maintaining insurance for the Association and the Board;
- m. Paying the cost of all services rendered to the Project and not billed directly to Owners of individual Lots.
- n. Keeping books and records of the Association;
- o. Providing common utility services as needed;

- p. Paying any amount necessary to discharge any mechanic's or materialman's lien or other encumbrance levied against the Common Area or Facilities;
- q. Giving notice of alleged violations of the Project Documents and providing the alleged violator the opportunity to be heard;
- r. Levying fines, sanctions and citations;
- s. Making emergency repairs;
- t. Towing or impounding motor vehicles;
- u. Evicting non-Owner residents in material violation of the Project Documents or who have created and failed to abate a nuisance; and
- v. Doing such other things and acts necessary to accomplish the foregoing.

3.2 Composition of Board of Directors. The Board of Directors shall be composed of at least five (5) but not more than seven (7) members of the Association.

3.3 Qualification. Only individual Owners or officers or agents of organizational Owners other than individuals shall be eligible for Board Membership. Only one Owner per Lot shall serve on the Board at any given same time.

3.4 Election and Term of Office of the Board. The term of office of membership on the Board shall be one (1) year and each member shall serve on the Board until such time as his successor is duly qualified and elected.

3.5 Initial Organizational Meeting. The first meeting of the members of the Board shall be immediately following the annual meeting of the Association or at such other time and place designated by the Board.

3.6 Regular Meetings. Regular meetings of the Board shall be held from time to time and at such time and place as shall be determined by a majority of the members of the Board, but no less often than monthly.

3.7 Special Meetings. Special meetings of the Board may be called by the President, Vice-president or a majority of the members on at least forty-eight (48) hours prior notice to each member. Such notice shall be given personally, by regular U.S. mail postage prepaid, by telephone or electronic means, and such notice shall state the time, place and purpose of the meeting. Any meeting attended by all members of the Board shall be valid for any and all purposes.

3.8 Waiver of Notice. Before or at any meeting of the Board, any member may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member at any such meeting of the Board shall constitute a waiver of notice. If all the members are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

3.9 Quorum. At all meetings of the Board, a majority of the members then in office shall constitute a quorum for the transaction of business, and the acts of the majority of all the

Board members present at a meeting at which a quorum is present shall be deemed to be the acts of the Board. If, at any meeting of the Board, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time but for no shorter than two (2) days nor more than 5 days and give notice of the rescheduled meeting to the members not in attendance. At any such rescheduled meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

- 3.10 **Vacancies.** Vacancies in the Board caused by any reason other than removal of a member by a vote of the Association shall be filled by vote of the majority of the remaining members of the Board at a special meeting of the Board held for that purpose promptly after the occurrence of any such vacancy, even though the total members remaining may constitute less than a quorum of the Board; and each person so elected shall be a member for the remainder of the term of the member so replaced. A vacancy created by the removal of a member by a vote of the members of the Association at a special meeting called for that purpose shall be filled by the election and vote of the members of the Association at said meeting.
- 3.11 **Removal of Board Member.** A member may be removed, with or without cause, and his successor elected, at any duly called regular or special meeting of the Association at which a quorum of the Association is present, by an affirmative vote of a majority of the members of the Association. Any member whose removal has been proposed by the Owners shall be given at least thirty (30) days notice of the calling of the meeting and the purpose thereof and an opportunity to be heard at the meeting. Any Board Member who misses twenty-five percent (25%) or more of the Board Meetings or who misses three (3) consecutive meetings in any calendar year, shall be automatically removed from the Board.
- 3.12 **Compensation.** Board members shall not be compensated for their services but shall be reimbursed for all expenses reasonably incurred in connection with Board business and approved by the Board.
- 3.13 **Conduct of Meetings.** The President shall preside over all meetings of the Board and the Secretary shall keep a Minute Book of the Board recording therein all resolutions adopted by the Board and a record of all transactions and proceedings occurring at such meetings, subject to the following:
 - a. **Open Meetings.** A portion of each meeting of the Board shall be open to all members of the Association, but members other than members of the Board may not participate in any discussion or deliberation unless expressly so authorized by a majority of a quorum of the Board. The Board shall establish procedures, policies, and guidelines for conducting of its meetings, retiring to executive session, and prohibiting photographs and/or any electronic (video or audio) recordation of the meetings, or any part thereof.
 - b. **Executive Session.** The Board may, with approval of a majority of a quorum, adjourn a meeting and reconvene in an Executive Session to discuss and vote upon

private, confidential, sensitive or personnel matters, litigation, and orders of business of a similar nature. The nature of any and all business to be considered in an Executive Session shall first be announced in open session.

- c. **Action Without a Formal Meeting.** Any action to be taken at a meeting of the Board may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all members of the Board.

3.14 Report of Board. The Board shall present at each annual meeting, and when called for by vote of the Association at any special meeting of the Association, a full and clear statement of the business and condition of the Association.

ARTICLE IV **Nomination and Election of Board Members**

- 4.1 Nomination Process.** The process for the nomination and election of the Board of Directors shall proceed as set forth herein.
- 4.2 Nominating Committee.** Nominations for election to the Board shall be made by a Nominating Committee, whose purpose is to seek out and locate qualified individuals as candidates for election to the Association's Board of Directors. The Nominating Committee shall consist of a Chairman, who shall be a member of the existing Board, and three or more additional members of the Association, who may or may not be current members of the Board. The Nominating Committee shall be appointed by the Board not less than 30 days prior to each annual meeting of the Association at which an election will be held. The Nominating Committee shall serve for a term of one year. The Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine, but in no event less than the number of vacant Board seats to be filled. The Nominating Committee may notify members that it is seeking qualified candidates and interview all candidates interested in serving on the Board to determine if, in the Nominating Committee's sole discretion, the potential candidate has the proper demeanor, experience, ability and character to serve the interests of the Association if elected. The Nominating Committee shall submit to the Board those names as candidates which a majority of the Nominating Committee recommend be placed on the Association ballot. Those nominated as candidates shall have the opportunity to communicate their qualifications to the members and to solicit votes.
- 4.3 Nomination Approval.** Anyone nominated as a candidate prior to or at the Association's election meeting should have first granted their approval and affirmatively stated that he or she is willing to serve for the term if elected.
- 4.4 Nominations.** The names of the candidates recommended by the Nominating Committee shall be included in the Notice of the annual meeting sent to members of the Association, and may be included on proxy and absentee ballots sent to members. Write-in candidates are permitted. Nominations may also be received from members of the Association from the

floor at the annual meeting of the members.

4.5 **Election.** At the annual meeting for the election of new Board members, the Board shall prepare and distribute a ballot to each Owner. Owners who do not attend the meeting may vote by proxy ballot or by written ballot. Each Lot is entitled to vote as provided in the Declaration and Bylaws. Voting shall be by secret ballot only if required by the Declaration

ARTICLE V OFFICERS

5.1 **Designation.** The principal officers of the Association shall be a President, a Vice-president, a Secretary and a Treasurer, all of whom shall be elected by the Board. The Board may appoint assistant secretaries and such other officers as in its judgment may be necessary. All officers shall also be members of the Board. Two or more offices may be held by the same person, except that the President shall not hold any other office.

5.2 **Election of Officers.** The officers of the Association shall be elected by the members of the Board of Directors at their first meeting after the annual meeting of the Association. Any vacancy in an office shall be filled by the remaining members of the Board of Directors at a regular meeting or special meeting called for such purpose.

5.3 **Removal of Officers.** The officers shall hold office until their respective successors are chosen and qualify in their stead. Any officer elected or appointed by the Board may be removed at any time by the affirmative vote of a majority of the Board, and his successor may be elected at any regular meeting of the Board, or at any special meeting of the Board called for such purposes.

5.4 **President.** The President shall be the chief executive officer; he shall preside at meetings of the Association and the Board and shall be an ex officio member of all Boards; he shall have general and active management of the business of the Board and shall see that all orders and resolutions of the Board are carried into effect. He shall have all of the general powers and duties, which are usually vested in or incident to the use of president of a stock corporation organized under the laws of the State of Utah.

5.5 **Vice-president.** The Vice-president shall, in the absence or disability of the President, perform the duties and exercise the powers of the President, and shall perform such other duties as the Board or the President shall prescribe. If neither the President nor the Vice-president is able to act, the Board shall appoint a member of the Board to do so on an interim basis.

5.6 **Secretary.** The Secretary shall attend all meetings of the Board and all meetings of the Association and record all votes and the minutes of all proceedings in a book to be kept by him or her for that purpose and shall perform like duties for Boards when required. He shall give, or cause to be given, notices for all meetings of the Association and the Board and shall perform such other duties as may be prescribed by the Board. The Secretary shall compile

and keep current at the principal office of the Association, a complete list of the Owners and their last known post office addresses. This list shall be open to inspection by all Owners and other persons lawfully entitled to inspect the same, at reasonable hours during regular business days. The Secretary shall also keep current and retain custody of the Minute Book of the Association, containing the minutes of all annual and special meetings of the Association and all sessions of the Board including resolutions.

5.7 **Treasurer.** The Treasurer shall have custody of all funds and securities. He shall keep full and accurate records of receipts and disbursements, shall prepare all required financial data, and shall deposit all monies and other valuable effects in such depositories as may be designated by the Board. He shall disburse funds as ordered by the Board, taking proper vouchers for such disbursements, and shall render to the President and members, at the regular meetings of the Board, or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Project.

ARTICLE VI **FISCAL YEAR**

6.1 The fiscal year of the Association shall be the calendar year consisting of the twelve month period commencing on January 1 of each year terminating on December 31 of the same year. The fiscal year herein established shall be subject to change by the Board should it be deemed advisable or in the best interests of the Association.

ARTICLE VII **AMENDMENT TO BYLAWS**

7.1 **Amendments.** These Bylaws may be modified or amended either (i) by the affirmative vote of a majority of the members of the Association or (ii) pursuant to a written instrument of consent duly executed by a majority of the members of the Association provided all of the written consents are obtained within a ninety day period.

ARTICLE VIII **COMPLIANCE, CONFLICT, AND MISCELLANEOUS PROVISIONS**

8.1 **Compliance.** These Bylaws are set forth in compliance with the requirements of the Enabling Declaration.

8.2 **Conflict.** These Bylaws are subordinate to and are subject to all provisions of the Enabling Declaration, except in those cases where the provisions of the Bylaws are clearly intended to govern (administrative matters). All of the terms hereof, except where clearly repugnant to the context, shall have the same meaning as they are defined to have in the Declaration.

8.3 **Severability.** If any provisions of these Bylaws or any section, sentence, clause, phrase, or work, or the application thereof in any circumstance is held invalid, the validity of the remainder of these Bylaws shall not be affected thereby and to this end, the provisions hereof

are declared to be severable.

- 8.4 **Waiver.** No restriction, condition, obligation, or provision of these Bylaws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.
- 8.5 **Captions.** The captions contained in these Bylaws are for convenience only and are not part of these Bylaws and are not intended in any way to limit or enlarge the terms and provisions of these Bylaws.
- 8.6 **Construction.** Whenever in these Bylaws the context so requires, the singular number shall refer to the plural and the converse; the use of any gender shall be deemed to include both masculine and feminine, and the term "shall" is mandatory and "may" permissive.
- 8.7 **Effective.** These Bylaws shall be effective upon recording in the Office of the County Recorder of Box Elder County.

BUILDING & PROPERTY MAINTENANCE CHART

The following chart defines the division of responsibility for maintenance and repair of property in the project/subdivision between the association and owner.

	EXTERIOR	HOA	OWNER
1	Maintenance, replace, repair of roof and siding (including sheathing).	X	
2	Maintenance, replace and repair of exterior brickwork and chimneys.	X	
3	Maintenance, replace and repair of front steps and sidewalk		X
4	Maintenance, replace and repair of concrete foundations and entrees.		X
5	Maintenance, replace and repair of patio and deck floor support structures.		X
6	Maintenance, replace and repair of original fences.	X	
7	Maintenance, replace and repair of unit owner added or modified fences.		X
8	Maintenance, replace and repair of rain gutters and down spouts.	X	
9	Replacement, maintenance and repair of window wells and window well covers.		X
10	Maintenance and repair of patios, decks & balconies and other authorized modifications.		X
11	Replacement, maintenance and repair of doors, hinges, frames, thresholds, locks, doorbells and chimes.		X
12	Replacement, maintenance and repair of garage floors and doors.		X
13	Replacement, maintenance and repair of windows, sliding glass doors, screens and frames.		X
14	Replacement, maintenance and repair of all yard lights that use electricity from the unit.		X
15	Replacement, maintenance and repair of all lights attached to the exterior walls.		X
16	Maintenance of gas and electricity connections from the meters to the unit.		X
17	Maintenance of water system from the outside entry through the foundation throughout the unit. This includes the outside faucets and hose bibs. Any damage caused by this portion of the water system is the liability of unit owner.		X
18	Replacement and repairs to outside water spigots and bibs.		X
19	Replacement, repair and maintenance of phone lines, TV cables, air conditioning, heat pumps.		X
20	Unit owner improvements: skylights, solar panels, windows, awnings, attic vents and similar items.		X

	INTERIOR	HOA	OWNER
21	All interior painting, decorations and furnishings from the inside of the unfinished walls and ceilings. This includes all appliances such as dishwashers, garbage disposals, ranges, refrigerators, furnaces, exhaust fans, attic vents, air conditioners, water heaters, and intercom, telephone, and computer networks.		X
22	Maintenance, cleaning and repair of venting, chimneys and fireplaces.		X
23	Maintenance, repair and replacement of the electrical system from the city electric meter to the breaker panel and to all outlets including switches and light fixtures.		X
24	Maintenance, repair and replacement of plumbing fixtures such as sinks, basins, toilets and all interior pipes and valves.		X
25	Repair of cracks or other damage to interior walls, floors or ceilings caused by normal unit settling.		X
26	Repairs of damage resulting from static water or seepage of water from any underground source except water and sprinkler system failures.		X
27	Repairs of damage resulting from surface water.		X
28	Repairs of damage resulting from static water or seepage of water from water and sprinkler system failures.		X

	GROUNDS	HOA	OWNER
29	Lawn, flowers, trees and shrubs in the common areas.	X	
30	Lawn, flowers, trees and shrubs in limited common areas.	X	
31	Lawn watering system.	X	
32	Snow removal.	X	
33	Roadways, parking lots, curbs and gutters, sidewalks and steps that are not the responsibility of the city.		X
34	Watering system for limited common areas (with approval of the Grounds Committee).	X	

	OTHER	HOA	OWNER
35	Garbage collection.		X
36	Maintenance and repair of water system from the city water meter to the entrance to the exterior wall of each unit.		X