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M.P.A.

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BY-LAWS  
OF  
LA MONTAGNE HOMEOWNERS ASSOC.  
As Amended February 1, 1990

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KATIE L. DIXON  
RECORDER, SALT LAKE COUNTY, UTAH  
RULON T BURTON & ASSOC  
1945 E VINE ST SUITE 340  
SLC UT 84121  
REC BY: DOROTHY SINFIELD, DEPUTY

ARTICLE I  
NAME, OFFICE AND APPLICABILITY

Section 1: Name.

The name of the corporation is La Montagne Homeowners Assoc. (the "Association").

Section 2: Principal Office.

The principal office of the Association shall be in Salt Lake County, State of Utah.

Section 3: Applicability.

The provision of these By-laws are applicable to the residential subdivision known as The Villas La Montagne, a planned unit development (The "Property") located in Salt Lake County, State of Utah. All present and future owners, tenants, sub-tenants, employees and any other person that might use all or any portion of the Property or any improvements thereon, in any manner, are subject to these By-laws, the Declaration of Covenants, Conditions, Restrictions and Reservation of Easements (the "Declaration") applicable to the Property as recorded in the office of the Salt Lake County Recorder, State of Utah, and all rules and regulations adopted and promulgated by the Members pursuant to these By-laws. The mere acquisition or rental of any lot within the Property, or the mere act of occupancy of any lot within the Property, shall constitute a conclusive presumption that these By-laws have been accepted, ratified, approved and will be complied with by any such actor.

ARTICLE II  
MEMBERS

Section 1: Eligibility for Membership, Voting Rights, and Certificate of Membership.

A. Eligibility. All persons or entities who are owners of the lots within the Property shall be Members of the Association. There shall be one

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class of Members. In the case of persons or entities purchasing any such lot on contract, the contract seller may assign such seller's right of enjoyment of the Common Area and facilities of the Property and such seller's voting proxy, as provided in the Declaration, but as between the Association and such seller, the seller may not delegate the seller's membership obligations. Any such assignment and/or proxy shall be in writing and shall be delivered to the Association before any such contract purchaser may use the Common Area and facilities of the Property or vote, as the case may be. An such seller shall remain liable for all charges and assessments attributable to the lot being sold on contract until fee simple title to the lot is conveyed. Persons or entities who hold an interest in any lot solely as security for payment of indebtedness or the performance of any obligation shall not be Members of the Association unless pursuant to such security interest or a deed in lieu thereof, such person or entity succeeds to the fee simple title to such lot. The memberships of the Association shall be appurtenant to and may not be separated from ownership of the lots as aforesaid. When the ownership of one of the lots is vested in more than one person or entity, then and in that event, each such person or entity shall be considered a Member of the Association, but such Members shall have only one vote per lot owned, which vote may be cast as such joint or co-owners determine among themselves.

B. Certificate of Membership. Each Member of the Association shall be issued a certificate of membership evidencing such membership, which certificate shall include the following: the name of the Association, the certificate number, the name of the Member, the provisions of sub-section A of this Section 1, the date of issuance of such certificate, and the lot in the Property to which the membership is appurtenant.

Section 2: Annual and Special Assessments:

Subject to the provisions of the Declaration, the Members shall determine from time to time the amount of annual or special assessments payable to the Association by all Members. The maximum annual Common Assessment may be increased by the Members effective January 1st of each year not more than the greater of (1) twenty percent (20%) or (2) the percentage by which the U. S. Bureau of Labor Statistics for the area, all items Consumer Price Index has

increased as of the date of the increase over the level of said Index as of the date the Common Assessment was last established, above the maximum annual Common Assessment for the previous year. Any increase shall be by the vote or written assent of eight Members entitled to vote. Any special assessments, including those set forth in Article VI, Section 5, shall require the vote or written assent of eight Members entitled to vote.

Section 3: Due Dates of Assessments and Notice Requirements

Annual assessments shall be paid monthly and are due by the 10th day of each month. Special assessments are due only as set forth in the vote on such assessments. Written notice of any change in the amount of the annual Common Assessment or Special Assessment shall be sent to every owner subject thereto, at least thirty (3) days prior to the effective date of such change.

Section 4: Remedies Re Non-Payment of Assessments

Each Member of the Association shall be liable for payments of the assessment levied upon each Member as provided in the Declaration, and the Association shall have all remedies for collection of such assessments as provided in the Declaration.

Pursuant to Article II, Section 1 of the Declaration of Covenants, an Owner's right to vote and right to use the Common Area facilities shall be suspended when the Owner's monthly installment of the annual assessment and/or any other assessment is delinquent. Notice of such delinquency shall be given by the President or Treasurer at least 10 days in advance of any meeting of the members of the Association or of the Governing Board. Said notice shall state the amount of the delinquency and give the Owner notice and opportunity to be heard in this regard before a lawfully convened quorum of the Board or of the Members, prior to any vote of the Members. If the said quorum finds the Owner delinquent, the Owner may be entitled to vote and to use the Common Area facilities only upon tender of cashier's check, certified funds, money order or cash in the full amount of the delinquency together with any interest charges. No vote of the Members shall be delayed after such hearing, however, for the purpose of allowing such delinquent Member to obtain funds.

Section 5: Excess Funds

Pursuant to Article VI, Section 8, Paragraph 5 of the Declaration, the Members at the annual meeting or any meeting prior thereto, shall determine the disposition of excess funds from the prior year, if any, as follows:

- (1) To return the excess pro rata to the Members.
- (2) To retain the excess and thereby reduce the following year's assessment.
- (3) By assenting vote of eight Members and at a meeting called on thirty-day notice to retain the excess without reducing the following year's assessment.

Section 6: Property Rights.

Any person ceasing to be a Member of the Association shall forfeit all rights and privileges of membership, and all rights and claims in and to the property of the Association, and all of such Member's interests in such property shall vest in the Association and its Members absolutely.

ARTICLE III  
MEETINGS OF MEMBERS

Section 1: Annual Meeting.

The annual meeting of the Members of the Association shall be held on the first Thursday in the month of February of each year, beginning with the year 1988, at the hour of 7:00 p.m. If the day fixed for the annual meeting shall be a legal holiday in the State of Utah, such meeting shall be held on the next succeeding Thursday. At the annual meeting, the following business shall be conducted: (1) Officers shall be elected by the Members of the Association; (2) Review the balance sheet for the past calendar year, prepared by direction of the President; (3) Review the written proposed budget for the current, prepared by the President; (4) Consider maintenance contracts for the current year; and (5) Transaction of any other business that may come before the meeting.

Section 2: Special Meetings.

Special meetings of the Members of the Association may be called by the President, Vice President, or not less than four of the Members of the Association. All meetings of the Members are automatically meetings of the Governing Board since the Governing Board is comprised of 100% of all Members. Any requirements by these By-laws for specific action to be taken at a meeting of Members shall not exclude other matters properly noticed to be considered at such meeting, unless the notice of the meeting specifically states otherwise.

Section 3: Place of Meetings.

The place of meetings shall be in one of the homes (units) of La Montagne or any place in Salt Lake County as set forth in the Notice of Meeting.

Section 4: Notice of Meetings.

Written or printed notice stating the place, day, and hour of all official meetings of Members shall be delivered to each Member either personally or by mail by the Officers or persons calling the meeting. Notice of annual meetings shall be given not less than 30 days and not more than 60 days in advance of the meeting. Special meetings require not less than ten (10) days notice in advance of the date of such meeting. (See Section 5 for notice of meetings for increasing of assessments.) In case of a special

meeting, or when required by the Declaration, by statute, or by these By-laws, the purpose or purposes for which a meeting is called shall be stated in the notice. If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail, addressed to the Member at his, her or its address as it appears on the records of the Association, with postage thereon prepaid. No notice is required for any meeting which is a meeting held on a date certain from an adjourned prior meeting, which date is announced at the prior meeting.

**Section 5: Nature of Meetings and Quorum Requirement to Increase Assessments**

Written notice of any meeting called for the purpose of taking any action by the Members to increase assessments, including the levy of any special assessment, shall be sent to all Members not less than thirty (30) days, nor more than sixty (60) days, in advance of the meeting. At such meeting called, the presence of Members or of proxies entitled to cast eight votes shall constitute a quorum.

**Section 6. Quorum.**

The Members entitled to vote who are present, or represented by proxy, shall constitute a quorum for the transaction of business at any meeting except a meeting to increase assessments. (See Section 5.) The act of a majority of the voting power present at a meeting shall be the act of the Association, unless the act of a greater number is required by law, in the Declaration, or by these By-laws.

**Section 7: Proxies.**

Proxies shall be written, dated and signed. Proxies may be valid for one meeting or for the time specified in the proxy up to one year, unless revoked in writing or replaced by subsequent written proxy. The mailing of a proxy form with notice of any meeting shall not be required.

## ARTICLE IV

### MEMBERS CONSTITUTE THE GOVERNING BOARD

Pursuant to the laws of the State of Utah, the Declaration and the provisions of these By-laws, the affairs of the Association shall be managed by the Governing Board consisting of all of the Members of the Association. No election, therefore, is required. All meetings of Members are therefore meetings of the Governing Board. Any action or authority designated in these By-laws or by the Declaration or otherwise by law to be taken by the Governing Board or by the Members shall be taken by the Members acting as a group in a meeting officially called and duly noticed. No Member acting as an individual may act for or represent the Members in any manner whatsoever unless authorized by the Members in a meeting of Members. Actions of elected officers are authorized as defined in these By-laws.

## ARTICLE V

### OFFICERS

#### Section 1: Officers.

The Officers of the Association shall be a President, Vice President, Secretary and Treasurer. The offices of Secretary and Treasurer shall be held by the same person if no treasurer is elected. An officer of the Association must be a Member of the Association.

#### Section 2. Election, Appointment and Term of Office.

The President, Vice President, Secretary and Treasurer of the Association shall be elected annually by the Members of the Association at the regular annual meeting and shall be selected from Members of the Association. If such election shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Each Officer so elected shall hold office until the next annual meeting of the Association and until his or her successor shall have been duly elected and qualified.

#### Section 3. Removal.

Any Officer of the Association may be removed by the Members, whenever in their judgment the best interests of the Association would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the Officer so removed.

Section 4: Vacancies.

A vacancy in any office because of death, resignation, removal, disqualification, or otherwise, may be filled by the Members of the Association for the unexpired portion of the term of the office vacated at a meeting called for that purpose.

Section 5: President.

The President shall be the principal executive officer of the Association and shall in general supervise and control all of the business and affairs of the Association, subject to direction by the Members as a Governing Board, including the implementation of recommendations of any committee after they have been approved by the Members. He or she may sign, with any Officer of the Association authorized by the Members, any deeds, mortgages, bonds, contracts or other instruments which the Members have authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Members to some other officer or agent of the Association, and in general the President shall perform all duties incident to the office of President and such other duties as may be prescribed by the Members from time to time.

The President shall prepare and submit, or cause to be prepared and submitted, to each Member a written proposed budget for the following calendar year by October 31 of each year, which budget shall conform with Article VI, Section 8, Paragraph 2, of the Declaration, designating allocation of income to (1) the Operating Fund and (2) the Common Area Reserve Fund.

By January 31st of each year, the President shall cause to be mailed or delivered an actual balance sheet for the immediate prior year to each Member and to each first mortgagee who has filed a written request for a copy of the same.

Section 6: Vice President.

In the absence of the President or in the event of his or her inability, clear negligence, or refusal to act, the Vice President shall perform the duties of the President, and when so acting, shall have all the powers of and



be subject to all the restrictions upon the President. The Vice President shall perform such other duties as from time to time may be assigned to him or her by the President or by the Members.

Section 7: Secretary.

The Secretary shall: (1) Keep the minutes of the meetings of the Members in one or more books provided for that purpose and provide all Members with a copy of the minutes of every official meeting within five days after each meeting; (2) See that all notices are duly given in accordance with the provisions of these By-laws or as required by law; (3) Act as the custodian of the corporate records, including a copy of these By-laws, the Articles of Incorporation, and a copy of the recorded Declaration; (4) Keep a Membership Book as set forth in Article XII, Section 5 containing the post office addresses and phone numbers of each Member, which shall be furnished to the Secretary by such Members; (5) Keep a book entitled "Lienholders on Lots; and (6) In general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him or her by the President or the Members.

Section 8: Treasurer.

The Treasurer shall, if required by the Members, give a bond for the faithful discharge of his or her duties in such sum and with such surety or sureties as the Members shall determine; be responsible for all funds and securities of the Association and supervise the bookkeeper or accountant. The Treasurer shall personally perform or supervise an agent of the Association to receive and give receipts for monies due and payable to the Association from any source whatsoever and deposit all such monies in the name of the Association in such banks, trust companies, or other depositories as shall be selected in accordance with the provisions of Article VIII of these By-laws; and in general perform all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him or her by the President or by the Members.

ARTICLE VI  
COMMITTEES

Section 1: Architectural Committee.

The Architectural Committee shall perform the functions of the committee defined and set forth in Article VIII of the Declaration. However, the members of this Committee and the Committee as a whole shall take no executive action whatsoever with respect to Architectural matters until they have received specific direction from the Members in a meeting convened for the purpose of hearing the report and recommendations of the Architectural Committee. The Members may temporarily replace any member of this committee with any other member or members for any special purpose.

Section 2: Architectural Committee Membership.

Committee members shall be appointed by the Members. Any members of said committee residing immediately adjacent to the site of proposed construction shall be temporarily or permanently excused from serving and shall be disqualified and therefore temporarily or permanently replaced by Members.

Any Member deeming itself affected by any proposed construction may request the Architectural Committee in writing to notify such Member of any recommendations of the committee at least 24 hours before the committee communicates its recommendations to the Members.

Section 3: Committees.

Other committees may be designated and appointed by a resolution of the Members or the President from time to time for the purpose of accomplishing the objectives of the Association. All other committees shall be fact finding committees without executive authority. If appointed by the Members, they shall report to the Members at an official meeting called for that purpose. If appointed by the President, they shall report to the President.

Section 4: Term of Office.

Each Member of a committee designated and appointed by the Members or the President shall continue as such at the pleasure of the Members or the President respectively, or until any Member so appointed resigns his committee assignment.

Section 5: Quorum.

Unless otherwise provided in the resolution of the Members designating and appointing a committee, or, if appointed by the President, by direction of the President, a majority of the whole committee shall constitute the decision of the committee.

ARTICLE VII

RULES

Pursuant to the laws of the State of Utah, the Declaration and these By-laws, the Members by resolution may adopt, publish, and enforce rules applicable to all Members of the Association and their guests, which rules have to do with the management, maintenance, preservation, operation and architectural control of the Property.

ARTICLE VIII

CONTRACTS, CHECKS, DEPOSITS AND REFUNDS

Section 1: Contracts.

The Members may authorize any Officer or Officers, agent or agents of the Association, in addition to the Officers so authorized by these By-laws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances. Except that no Officer, Member or agent may incur or pay any expense or enter into any contract for the Association in excess of \$500.00 without the prior authorization by the Members at a meeting duly called, unless for an approved budgeted item. Nor shall any Officer or Member employ the services of an attorney, architect, accountant, engineer, or other such professional person without prior authorization of the Members of the Association at a meeting duly called.

Section 2: Checks, Drafts, and Related Documents.

Unless otherwise provided by resolution of the Members, all checks, drafts, or other orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the Association shall be signed by the Treasurer and countersigned by either the President or Vice President of the Association.

Section 3: Deposit.

All funds of the Association shall be deposited from time to time to the credit of the Association in such banks, trust companies, or other depositories as the Members may select.

Section 4: Gifts.

The Members may accept on behalf of the corporation any contribution, gift, bequest, or devise for the general purposes or for any special purpose of the Association.

ARTICLE IX

INDEMNIFICATION OF TRUSTEES, OFFICERS, EMPLOYEES OR AGENT

Section 1: Authorization for Indemnification.

Any person made a party to, or involved in, any civil, criminal, investigative, or administrative action, suit, or proceeding, regardless of whether any such action, suit, or proceeding is by or in the right of the Association or otherwise, by reason of the fact that such person, such person's testator or intestate representative, is or was a Trustee, Officer, employee, or agent of the Association, may be indemnified by the Association against expenses reasonably incurred by him or imposed on such person in connection with or resulting from the defense of such action, suit or proceeding, or in connection with or resulting from any appeal therein. Notwithstanding any provision in this Section to the contrary, the provisions of this Section 1 shall be deemed waived to the extent necessary to enable the Association to obtain liability insurance with respect to all risks contemplated by this Section 1.

Section 2: Expenses.

As used in this Article, the term "expenses" shall include all obligations incurred for the payment of money including, without limitation, attorney's fees, judgments, awards, fines, penalties, and amounts paid in satisfaction of judgment or settlement of any such action, suit, or proceeding, except amounts paid to the Association.

**Section 3: Determination of Indemnification.**

A determination as to whether any such Trustee, Officer, employee, or agent of the Association shall be indemnified as authorized by this Article, as well as the amount of any such indemnification, shall be made as follows:

(a) An order of the court or administrative body or agency having jurisdiction of any such action, suit, or proceeding; or

(b) An order of any court having jurisdiction over the Association; or

(c) A resolution adopted by a majority of a quorum of Members entitled to vote at any meeting of the Members.

Any such determination made by one of the foregoing means shall be binding upon the Association.

**ARTICLE X**

**BOOKS AND RECORDS**

The Association shall keep correct and complete books and records of account, and shall also keep minutes of the proceedings of its Members and shall keep a record giving the names and addresses and phone numbers of the Members of the Association. All books and records of the Association may be inspected by any Member, or his agent or attorney, for any proper purpose at any reasonable time.

**ARTICLE XI**

**FISCAL YEAR**

The fiscal year of the Association shall begin on the first day of January and end on the last day of December in each year.

**ARTICLE XII**

**MISCELLANEOUS**

**Section 1: Notice of Encumbrances.**

Any Member who mortgages or otherwise similarly encumbers a lot in the Property shall notify the Association of such encumbrance forthwith including in such notice the name and address of the lienholder. The Association shall maintain such information in a book entitled "Lienholders of Lots". Any such Member shall likewise notify the Association as to the release or discharge of any such encumbrance.

Section 2: Notice of Unpaid Assessments.

The Treasurer, at the request of a lienholder with respect to any lot in the Property, shall report to such lienholder any unpaid assessments due from any Member with respect to such lot. Any Member is entitled to a report of unpaid assessments on any or all lots upon request to the Treasurer.

Section 3: Conflicting Provisions.

In case any of these By-laws conflict with any provisions of the laws of the State of Utah, such conflicting By-laws shall be null and void upon final court determination of such effect, but all other By-laws shall remain in full force and effect. In case of any conflict between the Articles of Incorporation of the Association and these By-laws, the Articles shall control. In case of any conflict between the Declaration and these By-laws, the Declaration shall control.

Section 4: Inspection of By-laws.

The Association shall keep at its principal office the original or copy of these By-laws as amended, or otherwise amended to date, certified by the Secretary, which shall be open to inspection by all Members of the Association and all lienholders of lots in the Property at all reasonable times during office hours.

Section 5: Membership Book.

The Association shall keep and maintain at its principal office a book containing the name and address of each Member of the Association. The termination or transfer of ownership of any lot in the Property or the termination of any certificate of membership with respect to any Member, shall be recorded in such book, together with the date of any such termination or transfer.

Section 6: Animals.

No dog shall be kept in any unit. Any Member presently keeping a dog is not to be affected by this section. No guest or Member shall bring any dog into the common areas.

Section 7. Recreation Vehicle.

No boat, trailer, camper or other recreation vehicle or other vehicle shall be stored in the common area for longer than fourteen days. Permission may be granted by the President for a period not to exceed thirty days but said permission may be modified or revoked by the Members.


ARTICLE XIII

AMENDMENTS TO BY-LAWS

Subject to the provisions of the Declaration, these By-laws may be amended by a majority of the Members present at any annual meeting or special meeting of the Association. Any material amendment shall not be effective until after thirty days written notice has been given to all first mortgagees.

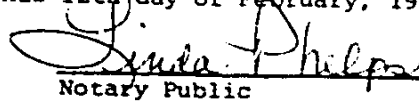
CERTIFICATION

I hereby certify that the foregoing is a true and correct copy of the By-laws adopted by the Members of La Montagne Homeowners Assoc., a Utah Non-profit Corporation, at a meeting of the Members on the 15th day of October, 1987, and as amended February 1, 1990, at a lawfully convened meeting of the Members.



Rulon T. Burton  
President

Subscribed and sworn to before me this 12th day of February, 1990.



Notary Public

