

WHEN RECORDED MAIL TO:  
SALT LAKE VALLEY HABITAT FOR HUMANITY INC.  
2237 South 600 East  
Salt Lake City, Utah 84106

7775438  
12/06/2000 03:50 PM 115.00  
Book - 8406 Pg - 4217-4262  
NANCY WORKMAN  
RECODER, SALT LAKE COUNTY, UTAH  
SALT LAKE TITLE  
BY: RDJ, DEPUTY - WI 51 P.

Attention: Shelly

7775438

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
LENNOX STREET, A PLANNED UNIT DEVELOPMENT**

THIS DECLARATION is made and executed this 29<sup>th</sup> of  
November, 2000, by SALT LAKE VALLEY HABITAT FOR  
HUMANITY, INC., a Utah non-profit corporation (hereinafter referred to as the  
"Declarant").

**RECITALS**

A. Declarant is the owner of certain real property in the County of Salt Lake, State of Utah, which is more particularly described in Exhibit "A" attached hereto and by this reference is made a part hereof, entitled Real Property Description of Lennox Street, a planned unit development.

B. The Declarant intends by recording this Declaration, the Bylaws and the Map in the Office of the County Recorder of Salt Lake County, State of Utah, to submit the Land, the Buildings, and all other improvements situated in or upon the Land to the provisions of this Declaration and to impose upon said property mutually beneficial restrictions under a general plan of improvement for the benefit of all Lots within said Project and the Owners thereof.

NOW THEREFORE, for the forgoing purpose, the Property described in Exhibit "A" is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

8406PG4212

## ARTICLE I DEFINITIONS

When used in this Declaration and in the By-Laws which are made a part of this Declaration and are attached hereto as Exhibit "C", the following terms shall have the meaning indicated.

1. Association shall mean and refer to all of the Lot Owners taken as, or acting as, a group.

2. Building shall mean and refer to a building to be built upon a Lot and comprising a part of the Property.

3. Capital Improvement shall mean and refer to all the total capital invested in fixed assets, including but not limited to the roads, roofs, siding, carports, and play ground equipment intended to enhance, ameliorate, and improve the value, beauty, or utility of the common areas and/or to adapt it for new uses or other purposes, but excluding current or operating expenses for the regular maintenance and ordinary repairs.

4. Common Areas and Facilities or Common Areas shall mean, refer to, and include:

(a) The real property and interest in real property, excluding the Lots and interests in the Lots.

(b) All Common Areas and Facilities designated as such in the Map attached hereto as Exhibit "B".

(c) All storage spaces, stairs, stairways, clubhouse, yards and any entrances and exits which are designed for the use of more than one Lot, access roads, driveways, walkways, pedestrian sidewalks, landscape and planting areas, fences, outdoor or street lights and other common facilities.

(d) All apparatus, installations, and facilities included within the Project and existing for common use.

(e) All portions of the Project not specifically included within the individual Lots.

(f) All other parts of the Project normally in common use or necessary or convenient to its use, existence, maintenance, safety, or

management.

5. Common Expenses shall mean and refer to all sums which are expended on behalf of all the Lot Owners and all sums which are required by the Management Committee to perform or exercise its functions, duties, or rights under the Act, this Declaration, any Management Agreement for operation of the Project, and such Rules and Regulations as the Management Committee may from time to time make and adopt. By way of illustration but not limitation, Common Expenses shall include: (i) expenses of administration, maintenance, operation, repair, replacement of those elements of Common Areas that must be replaced on a periodic basis, and other reserves as may be from time to time established pursuant to the Declaration; (ii) expenses agreed upon as Common Expenses by the Association and lawfully assessed against the Owners in accordance with the Declaration; (iii) any valid charges against the Project as a whole.

6. Declarant shall mean and refer to SALT LAKE VALLEY HABITAT FOR HUMANITY, INC. and its successors and assigns.

7. Declaration shall mean and refer to this instrument, and the same may be amended from time to time.

8. Family shall mean and refer to a group of natural persons related to each other by blood or legally related to each other by marriage or adoption, or up to two (2) unrelated persons, who maintain a common household in a Unit.

9. Improvement shall mean all existing structures and appurtenances to the property of every kind and type, including but not limited to all buildings, walkways, sprinkler pipes, roads, driveways, parking areas, fences, walls, stairs, landscaping, trees and shrubs.

10. Insurer or Guarantor shall mean and include an insurer or governmental guarantor of a mortgage which has requested notice in writing or certain matters from the Association.

11. Lots shall mean and refer to a separate physical part of the Property intended for independent use together with its appurtenant undivided ownership interest in the common areas and its appurtenant right to exclusive use of the Limited Common Areas associated with such Lot.

12. Management Committee or Committee shall mean and refer to the Management Committee of the Lennox Street PUD Owners' Association and governed by the By-Laws. It shall act as the governing body of the Lennox

Street Homes Owners Association.

13. Map shall mean and refer to the Map recorded concurrently herewith, as Exhibit "B".

14. Mortgage shall mean and include both a first mortgage and a first deed of trust or other security instrument by which a Lot or any part thereof is encumbered.

15. Mortgagee shall mean any person named as a Mortgagee or beneficiary under or holder of a deed of trust.

16. Percentage Interest is designated as a factor of the percentage interest for each Lot, and shall be used to calculate voting rights, ownership in the Common Areas, Assessments, Fees and all other items. The maximum number of Lots that the project could have is five Lots. The percentage of interest in the common areas will be 1/5 (20%).

17. Property shall mean and refer to the Land, the Buildings all improvements and structures thereon, all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

18. Rules and Regulations means those rules and regulations adopted from time to time by the Management Committee that are deemed necessary for the enjoyment of the Project, provided they do not conflict with the By-Laws or the Declaration.

19. Lot Number shall mean and refer to the number, letter, or combination thereof which designates a Lot in the attached Map.

20. Lot Owner or Owner shall mean and refer to the Owner of the fee simple in a Lot and the Percentage Interest in the Common Areas which are appurtenant thereto. In the event a Lot is the subject of an executory contract of sale, the contract purchaser shall, upon written notice to the Management Committee from the Purchaser, be considered the Lot Owner for purposes of voting and Association membership unless the Seller and the purchaser have agreed otherwise and have informed the Management Committee in writing of such agreement.

## ARTICLE II SUBMISSION

The Declarant, Owner of the Land described in Exhibit "A", which Exhibit is attached hereto and incorporated herein by this reference, (the Land), located in Salt Lake County, Utah, hereby submits the Land, the Buildings and all other improvements now or hereafter made in or upon the Land to the provisions of this Declaration. All of said property is and shall be subject to the covenants, conditions, restrictions, uses, limitations, and obligations set forth, herein, each and all of which are declared and agreed to be for the benefit of said Project and in furtherance of a plan of improvement of said property and division thereof into Lots; further, each and all of the provisions hereof shall be deemed to run with the Land and shall be a burden and a benefit on the Land and shall be binding upon the Declarant, its successors and assigns, and to any person acquiring, leasing, or owning an interest in the real property and improvements comprising of the Project and to their respective personal representatives, heirs, successors, and assigns.

## ARTICLE III COVENANTS, CONDITIONS, AND RESTRICTIONS

The submission of the Land to the provisions of this Declaration is made upon and under the following covenants, conditions and restrictions:

### 1. Description of Improvements.

The improvements included in the Project are now or will be located upon the tract. The significant improvements contained in the Project include five buildings, asphalt roadways, open parking spaces, curb and gutter. The location and configuration of the improvements referred to in the forgoing sentence is depicted on the Map. The Project also contains other improvements of a less significant nature, such as outdoor lighting and the landscaping. Said buildings are composed of the following materials: wooden frame with load and non-load bearing walls studded with wood, first floor of concrete, second floor of wooden joists; combination truss-rafter type roof; surfaced with asphalt shingle roofing; interior walls surfaced with gypsum board; and exterior surfaced with brick veneer and non-wood siding. There are a total of five residential Lots.

### 2. Legal Status of Lots and Limited Common Areas.

The Map shows the Limited Common Areas which are reserved for the exclusive use of the Lot Owners. All Lots are residential Lots. All Lots shall be

capable of being independently owned, encumbered, and conveyed.

3. Percentage ownership.

Appurtenant to and inseparable from each Lot shall be a percentage ownership in the common areas and facilities. No Lot may be further subdivided. No Lot owner shall execute any deed, mortgage, lease or other instrument conveying, leasing or encumbering title to the Lot without including therein all interests appurtenant thereto. The purpose of this restriction is to prevent any severance of such combined ownership. Any such deed, mortgage or other instrument purporting to affect one or more of such interest, without including all such interests, shall be deemed to include any omitted interest, even though not expressly mentioned or described therein.

4. Common Areas.

(a) The Common Areas contained in the Project are described and identified in this Declaration. Neither the Percentage Interest nor the right of exclusive use of a Common Area shall be separated from the Lot to which it appertains

(b) The use of the Common Areas shall be limited to the Owners in residence and to their tenants in residence, and to their guests, invitees and licensees. The use of each of the Limited Common Areas shall be restricted to the Owner of the Lot to which it is appurtenant, to his tenants in residence, and to his guests, invitees and licensees. The use of the Common Areas and Limited Common Areas shall be governed by the Declaration and the Rules or Regulations as initially established by Declarant and as adopted and amended from time to time by the Management Committee.

(c) All trees, shrubs and plants growing or planted in or upon the Common Area of the Project are and shall be the responsibility of the Association and all necessary planting, trimming, removal etc. shall be as decided or directed by the Management Committee.

5. Computation of Percentage Interests.

The proportionate share of the Lot Owners in the Common Areas of the Project is based on equal division of the total based upon the number of Lots. All Lots shall include an undivided 20% ownership of the Common Areas.

BK8406PG4217

6. Lot Maintenance.

Each Owner shall at his own cost and expense maintain, repair, paint, re-paint the building to be erected on the Lot. The color and quality of any paint used shall be approved, in writing, by the Management Committee. Each Lot shall be maintained so as not to detract from the appearance of the Project and so as not to affect adversely the value or use of any other Lot.

7. Association Membership.

Membership in the Association shall be automatic, and shall be appurtenant to the Lot in which the Owner has the necessary interest and shall not be separated from the Lot to which it appertains. The property, business and affairs of the Association shall be governed by the Management Committee as agent of the Association. Each Lot owner shall automatically upon becoming the owner of a Lot, be a member of the Association, and shall remain a member of said Association until such time as ownership ceases for any reason, at which time membership in the Association shall automatically cease. Membership is appurtenant to and may not be separated from Lot ownership. The Management Committee or its delegate may require that a person claiming membership in the Association provide proof of ownership of their Lot as a condition to recognition as a Member of the Association, when and if ownership is in question. All Lot owners are subject to all the rights and duties established in this Declaration and in the Articles of Incorporation and Bylaws of the Association. Unless otherwise provided in these documents, the Declarant, for all unsold Lots in the project, enjoys the same rights and is subject to the same duties as other owners.

8. Easement for Encroachment.

If any part of the Common Areas encroaches or shall hereafter encroach upon a Lot or Lots, an easement for such encroachment and for the maintenance for the same shall and does exist. If any part of a Lot encroaches or shall hereafter encroach upon the Common Areas, or upon an adjoining Lot or Lots, an easement for such encroachment and for the maintenance shall and does exist. Such encroachments shall not be considered encumbrances either to the Common Areas or the Lots. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of any Building in the Project, by error in the Map, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

9. Access for Repair of Common Areas.

Some of the Common Areas are or may be located within the Lots or may be conveniently accessible only through the Lots. The Association shall have the irrevocable right, to be exercised by the Management Committee, as its agent, to have access to each Lot and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Areas located therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Areas or to another Lot or Lots. The Management Committee shall also have such rights independent of the agency relationship. Damage to the interior of any part of a Lot resulting from the maintenance, repair, emergency repairs, or replacement of any of the Common Areas, or as a result of emergency repairs within another Lot at the instance of the Management Committee or of a Lot Owner shall be the responsibility of the Association; provided that, such damage is not the result of negligence of the Owner of a Lot. If such damage is the result of the Lot owners or their tenants, agents or invitees negligence, then such Lot Owner shall be financially responsible for all such damage, which shall be repaired with due diligence and the property shall be restored substantially to the same condition as it existed prior to damage. Amounts owing by Owners pursuant hereto shall be collected by the Management Committee by assessment pursuant to Section 19 below.

10. Right of Ingress, Egress.

Each Owner shall have the right to ingress and egress over, upon and across the Common Areas necessary for access to his Lot, and to the Limited Common Areas designated for use in connection with his Lot, and such rights shall be appurtenant to and pass with the title to each Lot.

11. Pipes, Ducts, Cables, Wires, Conduits, Public Utility Lines, and Other Common Facilities Located Inside of Lots:

Each Lot Owner shall have an easement in common with the Owners of all other Lots to use all pipes, wires, ducts, cables, conduits, public utility lines and other Common Facilities located in any of the other Lots and serving his Lot. Each Lot shall be subject to an easement in favor of the owners of all other Lots to use the pipes, ducts, cables, wires, conduits, public lines and other Common Facilities serving such other Lots and located in such Lot. The Management Committee shall have a right of access to each Lot to inspect the same, to remove violations therefrom, and to maintain, repair or replace the Common Areas contained therein or elsewhere in the Buildings, and may do so, without prior notice in the event of an emergency. Every portion of a Lot

which contributes to the structural support of the building shall be burdened with an easement of structural support for the benefit of all other Lots and the Common Areas.

**12. Easement to Management Committee.**

The Management Committee shall have non-exclusive easements to make such use of the Common Areas as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration.

**13. Easement for Utility Services.**

There is hereby created a blanket easement upon, across, over and under the property described in Exhibit "A" for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to, water, sewers, gas, telephone, electricity, and other utility services.

**14. Easement for use of Recreational Areas and Facilities.**

(a) All Owners of Lots are hereby granted a non-exclusive right and easement of enjoyment in common with others of the amenities and recreational facilities constituting a portion of the Common Areas of the Project.

(b) The right and easements of enjoyment created hereby shall be subject to the following:

(1) The right of the Declarant prior to the termination of the period of Declarant's control to grant and reserve easement and rights-of-way through, under, over and across the recreational areas, for the installation, maintenance and inspection of the line and appurtenances for public or private water, sewer, drainage, gas, electricity, telephone and other utilities; and,

(2) The right of the Management Committee to adopt Rules and Regulations governing the use by the Owners of the recreational area and facilities.

(c) Any person having the right to use and enjoy the recreational areas and facilities may delegate such rights to the members of his family and to such other persons as may be permitted by the Management Committee Rules and Regulations.

(d) Each person having the right to use the recreational areas and facilities and each person to whom such right has been delegated shall comply with the Rules and Regulations regarding such use, as such Rules and Regulations may be established and amended from time to time by the Management Committee. Such rights to use may be suspended if there is a material violation of the terms, covenants or conditions, including but not limited to, the failure of a Lot Owner to pay his assessments. Prior to denying or suspending the Lot owner or occupant(s) of the right to use the recreational areas and facilities, the Committee shall provide the Lot owner or occupant a hearing on the denial or special assessment before the Committee prior to assessment or denial.

## 15. Use of Lots and Common Areas.

(a) Residential Community. The Lots shall be used only for residential purposes, with the restrictions as set forth in this Declaration. The Common Areas and Facilities shall be used only in a manner which is consistent with their community nature and with the use restrictions applicable to the Lots. No Lot Owner, including an Owner in possession of a Lot following a default in a first mortgage, shall be permitted to lease his Lot for transient or hotel purposes.

(b) Rules and Regulations. The Association, acting through its Committee, shall have the power and authority to enforce this Section and to make and to enforce standards and restrictions governing the use of the Lots and Common Area. Such regulations and use restrictions shall be binding upon all Owners and occupants until and unless overruled, canceled, or modified in a regular or special meeting of the Association.

### (c) Restrictions and Limitations of Use.

(1) All provisions of the Declaration, By-Laws, and any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants of any Lot.

(2) Obstructions. There shall be no obstructions of the Common Areas by or suffered by the Owners, their Guests or Invitees without the prior written consent of the Committee. The Committee may by Rule and Regulation prohibit or limit the use of

the Common Areas as may be reasonably necessary for protecting the interest of all the Owners for protecting the Lots or the Common Areas. Nothing shall be kept or stored on any part of the Common Areas without the prior written consent of the Committee, except as specifically provided herein. Nothing shall be altered or constructed in or removed from the Common Areas except upon the prior written consent of the Committee.

(3) Violations of Insurance Policy. Nothing shall be done or kept in any Lot or in the Common Areas or any part thereof which would result in the cancellation of the insurance on the Project or any part thereof or increase the rate of the insurance on the Project or any part thereof over what the Committee, but for such activity, would pay, without the prior written consent of the Committee. Nothing shall be done or kept in any Lot or in the Common Areas or any part thereof which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to or waste of, the Common Areas or any part thereof shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold, the Committee and the other Owners harmless against all loss resulting from any such damage or waste caused by him or his invitees, provided, however, that any invitee of the Declarant shall not under any circumstances be deemed to be an invitee of any other Owner. No noxious, destructive or offensive activity shall be carried on in any Lot or in the Common Areas or any part thereof, nor shall anything be done therein which may be or may become an annoyance or nuisance to any other Owner or to any person at any time lawfully residing in the Project. In the event that a Lot Owner or their tenant violates this policy, the Lot Owner may request a Hearing before the Committee to present information relating to such violation.

(4) Nuisance. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkept condition on his or her Lot. No Lot shall be used in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept in or upon any Lot that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort or serenity of the occupants of the surrounding property. No noxious or offensive

activity shall be carried on in or around any Lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any property adjacent to the Lot.

(5) Unsightly Work, Hobbies or Unkept Condition. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly, or unkept conditions, shall not be pursued or undertaken on any part of the Property.

(6) Clotheslines, Garbage Cans, Tanks, Woodpiles, Etc. All clotheslines, garbage cans, above-ground tanks, woodpiles, and other similar items shall be located so as to be concealed from view of the neighboring Lots, streets, and property located adjacent to the Lot. All rubbish, trash, and garbage shall be regularly removed from the Lot and shall not be allowed to accumulate thereon.

(7) Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed, except with the prior written approval of the Committee or the Association.

(8) Firearms. The use of firearms within the Property is strictly prohibited. The term firearm includes BB guns, pellet guns, sling shots, wrist-rockets, blow-darts and any and all other firearms of all types, regardless of size.

(9) Tents, Trailers, and Temporary Structures. Except in designated RV areas, Owners or occupants shall not place upon a Lot or any part of the Property any tent or trailer of any structure of a temporary nature, such as a tent, shack, or utility shed without the written consent of the Association.

(10) Air Conditioning Units. Except as may be permitted by the Management Committee, no window air conditioning units may be installed or maintained in any Lot.

(11) Artificial Vegetation, Exterior Sculptures, and Similar Items. No artificial vegetation, sculpture, fountains, banners, or similar items shall be permitted on the exterior of any portion of the Property.

(12) Lighting. No exterior lights shall be displayed by the Owners or occupants except for seasonal Christmas or Hanukkah and other similar religious holiday decorative lights, which may be displayed by the Lot owner between December 1 and January 10, upon application by the Lot owners and will be subject to the Committee's sole discretion.

(13) Pets or animals of any kind are not allowed to be kept, bred or raised in any Lot or on any of the Common Areas and Facilities in the Project unless permitted in writing by the rules and regulations established by the Management Committee.

(14) Fences. No dog runs, animal pens, or fences of any kind shall be permitted in any Lot or Common Area without the prior written consent of the Committee.

(15) Business Use. No trade or business may be conducted in or from any Lot, except that which an Owner or occupant residing in a Lot may conduct such business activities within the Lot so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell for outside the Lot; (b) the business activity conforms to all zoning requirements for the Property; (c) the business activity is consistent with the residential character of the Property; and (d) the business activity does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the Committee.

The terms "business" or "trade" as used in this provision, shall be construed to have their ordinary, generally accepted meanings, but shall not include the leasing of a Lot to an occupant by the Owner.

(16) On-Site Fuel Storage. No on-site storage of gasoline, heating, or other fuels shall be permitted on any part of the Property, except that the Committee or Association may store to operate and maintain the Project, provided that it is stored in a separate facility designated for this purpose.

(17) Heating. In order to prevent breakage or leakage of water pipes during colder months of the year, the thermostats within all vacant or unoccupied Lots shall be maintained with the

heat on and at a minimum setting of sixty (60) degrees Fahrenheit from October through April. Owners and occupants shall take all steps possible and in a timely basis to keep the heating equipment, including the thermostat, in good working order.

(18) **Parking and Storage of Vehicles.** No motor vehicle or trailer, including but not limited to automobiles, trucks, campers, boats or trailers, may be parked or stationed for an extended period of time (no more than seven days) in front of any garage, walkway or Lot. Owners or occupants may only park their vehicles within their designated garages or parking area, and visitors may only park temporarily in designated spaces and in accordance with the rules and regulations designated by the Committee. No Owners or occupants shall repair or restore a vehicle of any kind upon any Lot or Common Area, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility.

(19) **Windows, Doors and Garage Doors.** Owners shall maintain all windows, doors and garage doors in a good and attractive condition and shall only replace exterior doors, garage doors and windows with goods and materials approved by the Committee in order to maintain uniformity of quality and appearance. If an Owner or occupant uses a non-conforming item, or fails to properly maintain his or her windows, doors or garage door, and fails to cure any such default within 30 days of written notice, then the Committee may repair or replace the item and treat the expense as a specific assessment for that Lot. The Lot Owner may request a hearing prior to the Committee's action to repair the windows, doors or garage doors and Committee shall provide the Lot owner or occupant a hearing before the Committee prior to action by the Committee..

(20) **Signs.** No signs whatsoever shall be erected or maintained in the Common Areas without the prior written consent of the Committee except: (I) Such signs as may be required by legal proceedings, and (ii) Such signs as Declarant may erect or maintain incident to sale of Lots, provided however that said signs must be contained inside the Owner's Lot.

(21) **Aerials, Antenna, and Satellite Dishes.** No radio, television, or other aerial, antenna, dish, tower, or other transmitting or receiving structure shall be erected, installed or

placed outside of any Lot without written permission from the Management Committee. However, the Association may erect an aerial, antenna, satellite dish or other reception device for a master television or radio system.

(22) Window Coverings. No tinted windows shall be permitted. Aluminum foil, newspapers, reflective film coatings, or similar materials may not be used to cover the windows in any Lot.

(d) Enforcement. Notwithstanding any provision in the Declaration or the By-Laws to the contrary, the Committee may impose a special assessment upon any Owner or occupant who violates these Rules and Regulations, an amount up to the amount of the Association's insurance deductible or an amount equal to the expenses incurred by the Committee to remedy the violation, including attorney's fees. The Association may also deny the Owner or occupant the right to make a claim on the Association's policy of insurance for any damage caused by violation of these Rules and Regulations, where the violation of the Rules and Regulations is the cause of the loss. Prior to denying the Lot owner or occupant of the right to make a claim on the Association's insurance policy or imposing a special assessment upon the Lot owner or occupant, the Committee shall provide the Lot owner or occupant a hearing on the denial or special assessment before the Committee prior to assessment or denial.

(e) Declarant's Rights. Notwithstanding anything contained herein to the contrary, until the Declarant has completed and sold all of the Lots, neither the Lot Owners who have purchased Lots from the Declarant nor the Committee shall interfere with the completion of improvements and sale of the remaining Lots. The Declarant reserves the right to use any Lots owned by the Declarant as models, management offices or sales offices until such time as Declarant conveys title. Declarant reserves the right to relocate the same from time to time within the Project; upon relocation or sale of a model, management office or sales office, the furnishings thereof may be removed. Declarant further reserves the right to maintain on the Project such advertising signs which may be placed in any location on the Project and may be relocated or removed, all at the sole discretion of the Declarant.

#### 16. Status & General Authority of the Management Committee.

The affairs of the Association shall be governed by a Management Committee composed of three (3) persons elected by the Association. The

number of persons on the Management committee may be changed by amendment to the Bylaws of the Association. The Management Committee shall have the power to manage the condominium project in accordance with the Act, this Declaration and the Bylaws. The Declarant may appoint and remove all members of the Management Committee, all officers of the Lot owners' association and exercise all powers and responsibilities delegated by this declaration and the Act toward the association, its officers and the Management Committee for a period ending (a) five years after the recording of this declaration, or (b) until the Lots to which three-fourths of the undivided interest in the common areas and facilities have been conveyed, whichever occurs first.

The Common Areas and Facilities of the Project shall be managed, operated, and maintained by the Home Owners Association through the Management Committee exclusively as agent of, and in the name of, the Association and any act performed by the Management Committee pursuant to this Declaration or the By-Laws, as the same may be amended from time to time, shall be deemed to be performed by the Committee for and on behalf of the Association as its agent. The Home Owners Association shall be responsible to keep all such -Common Areas and Facilities in good, clean, attractive, safe and sanitary condition, order, and repair; provided however, that each Owner shall keep their Limited Common Areas in a clean, sanitary, and safe condition. The Association shall be responsible for the maintenance and repair of the exterior of all buildings, other improvements and the grounds. The Management Committee shall have, and is hereby granted, the following authority and powers to perform their duties:

- (a) The authority, without the vote or consent of the Lot Owners or of any other person(s), to grant or create, on such terms as it deems advisable, utility and similar non-exclusive easements over, under, across and through the Common Areas and Facilities.
- (b) The authority to execute and record, on behalf of all the Lot Owners, any amendment to the Declaration or Map which has been approved by the vote or consent necessary to authorize such amendment.
- (c) The power to sue and be sued.
- (d) The authority to enter into contracts which in any way concern the Project, so long as any vote or consent of the Lot Owners necessitated by the subject matter of the agreement has been obtained.

(e) The power and authority to convey or transfer any interest in real property authorized by the Owners having an interest therein.

(f) The power and authority to purchase, otherwise acquire, and accept title to, any interest in real property, so long as such action has been authorized by any vote or consent which is necessary under the circumstances.

(g) The authority to license persons not otherwise entitled to use any of the recreational areas and facilities to use the same from time to time as the Committee deems appropriate upon payment of fees prescribed by it to help defray the cost of maintenance thereof.

(h) The power and authority to borrow money, provided that no indebtedness for borrowed funds shall exceed at any given time the sum of \$5,000.00 without the prior written approval of a majority of the Lot Owners at a meeting duly called at which a quorum is present.

(i) The authority to promulgate such reasonable Rules and Regulations, and procedures as may be necessary or desirable to aid the Committee in carrying out any of its functions or to insure that the Project is maintained and used in a -manner consistent with the interest of the Lot Owners.

(j) The power and authority to perform any other acts and to enter into any other transactions which may be reasonably necessary for the Management Committee to perform its functions as agent of the Association.

Any instrument executed by the Management Committee that recites facts which, if true, would establish the Committee's power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument

Notwithstanding the foregoing, The Declarant shall relinquish all special rights, expressed or implied, through which the Declarant may directly or indirectly control, direct, modify, or veto any action of the owner's association, its executive board, or a majority of Lot owners, and control of the owner's association shall pass to the owners of the Lots within the project, not later than seven years from the date the first conveyance to a Lot purchaser

is made.

17. Manager.

The Committee may carry out any of its functions which are capable of delegation through a Project Manager. Any Manager retained for such purposes must be an individual or entity experienced and qualified in the field of property management. The Manager so engaged shall be responsible for managing the Project for the benefit of the Lot Owners and shall, to the extent permitted by law and the terms of the agreement with the Committee, be authorized to perform any of the functions or acts required or permitted to be performed by the Management Committee itself. Any agreement for such professional management of the Project which may be entered into by the Management Committee or the Association, shall call for a term not to exceed two (2) years, if negotiated by Declarant or 1 to 3 years if negotiated by the Board of Directors of the Association and shall provide that for cause such Management Agreement may be terminated by the Management Committee or by the Association upon at least thirty (30) days written notice.

18. Composition of Management Committee.

The Committee shall be composed of three members. At or after the first annual meeting of the Association, five members of the Committee shall be elected. The term of office of Committee members shall be as set forth in the By-Laws. The Committee Members shall hold office until their respective successors have been elected and hold their first meeting. Only Lot Owners shall be eligible for Committee membership. At each annual meeting the Percentage Interest appurtenant to a Lot may be voted in favor of as many candidates for Committee membership as there are seats on the Committee to be filled.

19. Agreement to Pay Assessment.

By the acceptance of a deed therefore, each Owner or purchaser of any Lot, whether or not it be so expressed in the deed, or by entering into a sale and purchase contract, hereby covenants and agrees with the seller, the Declarant and with the Association to pay to the Association annual assessments made by the Association for the purposes provided in this Declaration, and special assessments for capital improvements and other matters as provided in this Declaration. Such assessments shall be fixed, established and collected from time to time in the manner provided in this Article. For the purposes of this Section the term "Owner" shall mean the Owner of the legal and/or equitable interest in the Lot, including but not

limited to the vested Owner, the Owner of record, and both the Buyer and Seller (excluding the Declarant), under any land sales contract, who shall be jointly and severally liable.

(a) Amount of Total Annual Assessments. The Declarant shall set the first year's annual assessment and notify all prospective Owners of such in writing prior to sale. Thereafter the total annual assessments against all Lots shall be based upon advance estimates of cash requirements made by the Committee to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common areas, which estimates may include, among other things, expenses of management, grounds maintenance, taxes and special assessments, (until the Lots are separately assessed as provided herein), premiums for all insurance which the Committee is required or permitted to maintain pursuant hereto, common lighting and water heating, water charges, trash collection, sewer service charges, repairs and maintenance of the Common Areas and replacement of those elements of the Common Areas that must be replaced on a periodic basis, wages for Committee employees, legal and accounting fees, any deficit remaining from a previous period; the creation of a reasonable operating reserve, capital improvement reserve, surplus and/or sinking fund; and any other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under or by reason of this Declaration.

(b) Equitable Changes. If the aggregate of all monthly payments on all of the Lots is too large or too small as a result of unanticipated income or expenses, the Committee may from time to time effect an equitable change in the amount of said payments.

(c) Apportionment of Annual Assessments. Expenses attributable to the Common Areas and to the Project as a whole shall be apportioned among all Owners in proportion to their respective Percentage Interests (par value) in the Common Areas.

(d) Notice of Annual Assessments and Time for Payment Thereof. Annual assessments shall be determined on a fiscal year basis beginning January 1 and ending December 31; provided the first fiscal year shall begin on the date of this Declaration and end on December 31. Except with respect to the first fiscal year, the Committee shall give written notice to each Owner as to the amount of the annual assessment with respect to his Lot not less than thirty (30) days nor more than sixty (60) days prior to the beginning of the next fiscal year. Such assessment

shall be due and payable in twelve equal monthly installments on the first day of each and every calendar month of each year; provided, however, that the first annual assessment for the first fiscal year shall be based upon such portion of the first fiscal year remaining after the date fixed by the Committee as the date of commencement of the Project. Such assessment shall be due and payable in monthly installment on the first day of each and every month and no separate notices of such monthly installment shall be required. Advance payments of monthly assessments shall not be permitted except by separate checks for each month which are to be deposited on the first banking day of the month to which the payment applies. On the 15th day of each calendar month a late fee shall be charged and/or a penalty shall be made for improper advance payments. Such late fee or penalty shall be the greater of twenty dollars (\$20.00) or ten percent (10%) of the accounts receivable amount that was due on the first of the calendar month which has not been paid prior to the 15th or of the amount improperly paid in advance.

(e) Acceleration. The Committee may, at its discretion, elect to accelerate the entire Annual Assessment for delinquent Lots Owners. Unless the Committee designates otherwise or elects to accelerate the entire Annual Assessment, Annual Assessments shall be paid in equal monthly installments. If, however, the Annual Assessment is accelerated and the Owner subsequently files bankruptcy or the Committee otherwise decides acceleration is not in its best interest, the Committee, at its sole discretion, may de-accelerate the obligation.

(f) Special Assessments. In addition to the annual assessments authorized above, the Committee may levy in any assessment year a special assessment, payable over such a period as the Committee may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Project or any part thereof, or for any other expense incurred or to be incurred as provided in this Declaration. This Section shall not be construed as an independent source of authority for the Committee to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other Sections hereof. Any amounts assessed pursuant hereto shall be assessed to Owners in proportion to their respective percentage Interests (par value) in the Common Areas. Notice in writing of the amount of such special assessments and the time for payment thereof shall be given promptly to the owners, and no payment shall be due less than thirty (30) days after such notice shall have been given. Special assessments shall be subject to the same late fees and penalties as are prescribed in paragraph 19 C

for regular assessments. Additions or capital improvements must, prior to being constructed, be authorized by the majority of the Owners.

(g) Specific Assessments. The Committee shall have the power specifically to assess individual Lots or buildings pursuant to this Section as, in its discretion, it shall deem appropriate. Failure of the Committee to exercise its authority under this Section shall not be ground for any action against the Association or the Committee and shall not constitute a waiver of the Committee's rights to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Committee has not previously exercised its authority under this Section. The Committee may specifically assess Lots for the following expenses, except for expenses incurred for maintenance and repair of items which are the maintenance responsibility of the Association as provided herein:

(1) Benefit Only to Specific Lot or Building. Expenses of the Association which benefit less than all of the Lots may be specifically assessed equitably among all of the Lots which are benefitted according to the benefit received.

(2) Unequal or Disproportionate Benefit. Expenses of the Association which benefit all Lots; but which do not provide an equal benefit to all, may be specifically assessed equitably among all Lots according to the benefit received.

(h) No Waiver. No Owner may waive or otherwise exempt himself or herself for liability for the Assessments or Fees provided herein, including, by way of illustration, but not limited to, non-use of Common Areas, Recreational Facilities or abandonment of the Lot.

(i) Duty to Pay Independent. No reduction of abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association or board to take some action or perform some function required to be taken or performed by the Association or Committee under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or any action taken to comply with any law, ordinance, or with any order of directive of any municipal or other governmental authority, the obligation to pay Assessments being a separate and independent covenant on the part of each Owner.

(j) Lien for Assessments. All sums assessed to any Lot pursuant to this Declaration, together with interest thereon as provided herein, shall be secured by a lien on such Lots in favor of the Association. Each lien shall be superior to all other liens and encumbrances on such Lot, except only for: (a) valid tax and special assessment liens on the Lot in favor of any governmental assessing authority; and (b) a lien for a sum unpaid on a first Mortgage which was recorded prior to the delinquency, or any Mortgage to Declarant, duly recorded in the Official Records of Salt Lake County, Utah, including all unpaid obligatory advances to be made pursuant to such Mortgage and all amounts advanced pursuant to such Mortgage and secured by the lien thereof in accordance with the terms of such instrument. All other liens or acquiring liens on any Lot after this Declaration shall have been recorded in said records shall be deemed to consent that such liens shall be inferior to future liens for assessments, as provided herein, whether or not such consent be specifically set forth in the instruments creating such liens.

To evidence a lien for sums assessed hereunder, the Committee may prepare a written notice of lien, setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Lot and a description of the Lot. Such a notice shall be signed by the Committee or their authorized representative and may be recorded in the office of the County Recorder of Salt Lake County, Utah. No notice of lien shall be recorded until there is a delinquency in payment of the assessment.

Such lien may be enforced by the Committee in the same manner in which mortgages or trust deeds on real property may be foreclosed in Utah. If the Committee elects to foreclose the lien in the same manner as foreclosures in deeds of trust, then the Lot Owner by accepting a deed to the Lot hereby irrevocably appoints the attorney of the Association, as Trustee and hereby confers upon said Trustee the power of sale set forth in Utah Code Annotated. Lot Owner hereby transfers in trust to the Trustee all of his rights, title and interest in and to the real property of the purpose of securing his or her performance of the obligations set forth herein.

In any such foreclosure, the Lot Owner shall be required to pay the costs and expenses of such proceeding, the costs and expenses of filing the notice of lien and all reasonable attorney's fees. All such costs, expenses and fees shall be secured by the lien being foreclosed. The Lot Owner shall also be required to pay the Committee any assessments against the Lot which shall become due during the period of foreclosure.

In the event of foreclosure, after the institution of the action the Lot Owner shall pay a reasonable rental for his use of the Lot and the Committee shall, without regard to the value of the Lot, be entitled to the appointment of a receiver to collect any rentals due from the Owner or any other person. The Committee shall have the right and power to bid an amount equal to its then existing lien at the foreclosure sale or other legal sale and to acquire, hold convey, lease, rent, encumber, use and otherwise deal with the same as the Owner thereof.

A release of notice of lien shall be executed by the Committee, or their authorized representative, and recorded in the Office of the County Recorder of Salt Lake County, Utah at the expense of the delinquent Owner, upon payment of all sums secured by a lien which has been made the subject of a recorded notice of lien.

Any Encumbrancer holding a lien on a Lot may pay, but shall not be required to pay, any amounts secured by the lien created hereunder, and upon such payment such Encumbrancer shall be subrogated to all rights of the Committee with respect to such lien, including priority, except that any later occurring delinquencies shall have priority over the fees paid by the Encumbrancer.

(k) Personal Obligation of Owner. The amount of any Annual or Special Assessment against any Lot, including all costs of collections and all reasonable attorney fees, shall be the personal obligation of the Owner thereof to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of his Lot.

(l) Statement of Account. Upon payment of a reasonable fee not to exceed twenty dollars, or such amount as may in the future be allowed by the Act, and upon written request of any Owner or any Mortgagee, prospective Mortgagee or prospective purchaser of a Lot, the Committee shall issue a written statement setting forth the amount of the unpaid assessments, and if any, with respect to such Lot; the amount of the current yearly assessment and the date that such assessment becomes or became due; credit for advanced payments or prepaid items, including, but not limited to an Owner's share of prepaid insurance premiums and such statement shall be conclusive upon the Committee in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within twenty (20)

days, all unpaid assessments which became due prior to the date of making such request shall be subordinate to the lien of a Mortgagee which acquired its interest subsequent to requesting such statement.

Where a prospective purchaser makes such request, both the lien for such unpaid assessments and the percent obligation of the purchaser shall be released automatically if the statement is not furnished within the (20) day period provided herein and thereafter an additional written request is made by such purchaser and is not complied with within (10) days, and the purchaser subsequently acquires the Lot.

(m) Personal Liability of Purchaser for Assessments. Subject to the provisions of subparagraph (g), a Purchaser of a Lot shall be jointly and severally liable with the Seller for all unpaid Assessments against the Lot up to the time of the grant or conveyance without prejudice to the purchaser's right to recover from the Seller the amount paid by the Purchaser for such Assessments.

## 20. Insurance.

The Management Committee shall secure and at all time maintain the following insurance coverage:

(a) A multi-peril policy or policies of fire and casualty insurance covering all Common Areas of the project, with extended coverage and all other coverage in the kinds and amounts commonly required by private institutional mortgage investors for projects similar in construction, location and use on a replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based upon replacement cost). Each such policy shall contain the standard mortgagee clause which must be endorsed to provide that any proceeds shall be paid to the association for the use and benefit of Mortgagees as their interest may appear. The insured shall be the Association.

(b) A comprehensive policy of public liability insurance insuring the Association, the Committee, the Manager, and the Lot Owners against any liability incident to the ownership, use or operation of the Common Areas and public ways of the Project or of any Lot which may arise among themselves, to the public, or to any invitees, or tenants of the Project, or of the Lot Owners. Limits of liability under such insurance shall be not less than One Million Dollars (\$1,000,000.00) per occurrence, for personal property injury and/or property damage.

Such insurance policy shall contain a "Severability of Interest" endorsement which shall preclude the Insurer from denying the claim of a Lot Owner because of negligent acts of the Association or other Lot Owners. The scope of coverage must include all other coverage in the kinds and amounts required by private institutional mortgage Investors for similar projects in location, construction and use.

(c) The Association shall maintain fidelity coverage to protect against dishonest acts on the part of Committee Members, Manager, employees or volunteers responsible for handling funds belonging to or administered by the Association. The fidelity bond or insurance must name the Association as the named insured and shall be written in an amount sufficient to provide protection which in no event shall be less than one and one-half times the insured's estimated annual-operating expenses, including reserves. In connection with such coverage an appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers.

(d) The following additional provisions shall apply with respect to insurance:

(1) In addition to the insurance and bond coverage described above, the Committee shall secure and at all times maintain insurance against such risks as are or hereafter may be customarily insured against in connection with all condominium projects similar to the project in construction, nature and use.

(2) Each insurer must be specifically licensed to transact business with the State of Utah. Policies are unacceptable where (i) under the terms of the carrier's charter, by-laws or policy, contributions or assessments may be made against the Borrower, any first Mortgagee, or its assignee; or (ii) by the terms of the carrier's charter, by-laws or policy, loss payments are contingent upon action by the carrier's board of directors, policy holders or members; or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent Mortgagee, its assignee, or the borrower from collecting insurance proceeds.

(3) The Committee shall have the authority to settle (adjust) losses with the insurance carrier.

(4) Insurance secured and maintained by the Committee

shall not be brought into contribution with insurance held by the individual Lot Owners or their mortgagees.

(5) Each policy of insurance obtained by the Committee shall provide: a standard mortgagee clause commonly accepted by private institutional mortgage investors in the area in which the Project is located; a waiver (if available) of the insurer's Subrogation rights with respect to the Committee, the Manager, the Lot Owners, and their respective servants, agents, and guests; that it cannot be canceled, suspended, or invalidated due to the conduct of any particular Lot Owner or Owners; that it cannot be canceled, suspended or invalidated due to the conduct of any member, officer, or employee of the Committee or of the Manager without a prior written demand that the defect be cured; that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Lot Owners; and that a mortgagee clause endorsement which must provide that the insurance carrier shall notify the first Mortgagee (or trustee) named at least ten (10) days in advance of the effective date of any reduction in or cancellation of the policy.

(6) Any Lot Owner may obtain additional insurance at his own expense, so long as such additional insurance does not have the effect of decreasing the amount which may be realized under any policy maintained by the Committee. Any Lot Owner who individually obtains insurance covering any portion of the Project shall supply the committee with a copy of his policy within 30 days after he acquires such insurance.

(7) The Project is not located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards. In the event that at some future time the Project should be declared to be in such flood area, a blanket policy of flood insurance on the Project shall be maintained in the amount of the aggregate of the outstanding principal balances of the mortgage loans on the Lots comprising the Project or the maximum limit of coverage available under the National Flood Insurance Act of 1968, as amended, whichever is less. The name of the insured under each required policy must be in form and substance as that required by any first Mortgagee, or its assignee, at any given time.

(e) Declarant shall provide the following insurance if the project is

expanded to add an additional phase or phases.

A general liability insurance policy in an amount not less than \$1 million for each occurrence, to cover any liability which owners of previously sold Lots are exposed to as a result of further expansion of this condominium project development.

**21. Damage to Project.**

In the event of damage of or destruction of part or all of the improvements in the Condominium Project, the following procedures shall apply:

- (a) If proceeds of the insurance maintained by the Management Committee are alone sufficient to repair or reconstruct the damage or destroyed improvement, such repair or reconstruction shall be carried out.
- (b) If less than 75% of the Projects improvements are destroyed or substantially damaged, and if proceeds of the insurance maintained by the Committee are not alone sufficient to accomplish repair or reconstruction, restoration shall be carried out and all the Lot Owners shall be assessed for any deficiency on the basis of their respective Percentage Interest.
- (c) If 75% or more of the Project's improvements are destroyed or substantially damaged, if proceeds of the insurance maintained by the Management Committee are not alone sufficient to accomplish restoration, and if the Lot Owners within 100 days after the destruction or damage by a vote of at least 75% elect to repair or reconstruct the affected improvements, restoration shall be accomplished in the manner directed under subparagraph (b) above.
- (d) If 75% or more of the Project's improvements are destroyed or substantially damaged, if proceeds of the insurance maintained by the Committee are insufficient to accomplish restoration, and if the Lot Owners do not, within 100 days after the destruction or damage and by a vote of at least 75%, elect to repair or reconstruct the affected improvements, the Management Committee shall promptly record with the Salt Lake County Recorder a notice setting forth such facts. Upon the recording of such notice the provisions of subsections (1) through (4) of Section 57-8-31, Utah Code Annotated (1953), shall apply and shall govern the rights of all parties having an interest in the Project or any of

the Lots.

Any reconstruction or repair which is required to be carried out by this Declaration regarding the extent of damage to or destruction of Project improvements shall be made by three MAI appraisers selected by the Management Committee. The decision of any two such appraisers shall be conclusive.

**22. Certain Provisions Applicable to Declarant.**

Notwithstanding any other provision herein contained for as long as Declarant continues to own any of the Lots the following provisions shall be deemed to be in full force and effect, none of which shall be construed so as to relieve the Declarant from any obligations as Lot Owner to pay assessments, except as herein otherwise provided, as to each Lot owned by Declarant in accordance with the Declaration.

(a) Declarant specifically disclaims any intent to have made any warranty or representation in connection with the Project or the Declaration except as specifically set forth herein or in any agreement for sale of a Lot, and no person shall rely upon any warranty or representation not so specifically made therein.

(b) No amendment may be made to the Declaration without the written consent of Declarant while Declarant is still in control of the owner's association. No amendments to the declaration, bylaws or other enabling documentation may be made by the Lot owners while the Declarant is still in control.

**23. Amendment.**

Except as provided below, the vote of at least 65% of the Percentage interest of the Lot owners in person or represented by proxy at a meeting of the Association at which a quorum is present shall be required to amend the Declaration and/or the Map. Any amendment so authorized shall be accomplished through the recordation of an instrument executed by the Management Committee. In such instrument the Committee shall certify that the vote required by this Paragraph for amendment has occurred. The foregoing right of amendment shall be subject to the following paramount right:

(a) Except as hereinafter provided, until seven years from the date the first conveyance to a Lot purchaser is made, Declarant shall have, and is hereby vested with, the right to unilaterally amend this

Declaration or the Map. Such right shall obtain without regard to the subject matter of amendment, so long as the amendment involved is consistent with law and does not attempt to divest any vested property rights of any Owner or Mortgagee.

(b) Notwithstanding anything to the contrary contained in the Declaration, including in the immediately preceding paragraph, neither the insurance provisions of paragraph 20 nor the Mortgagee protection provisions of paragraph 27 shall be amended without the written approval of all Mortgagees having a recorded interest.

**24. Consent Equivalent to Vote.**

In those cases in which the Act or this Declaration requires the vote of a stated percentage of the Project's undivided ownership interest for the authorization or approval of a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Lot Owners who collectively hold at least the necessary percentage of undivided ownership interest, provided that such written consents relied upon are obtained within a ninety (90) day period.

**25. Eminent Domain.**

Whenever all or part of the Common Areas shall be taken, injured or destroyed as the result of the exercise of the power of eminent domain, each Lot Owner shall be entitled to notice thereof and to participate in the proceedings incident thereto, but in any proceeding for the determination of damages, such damages shall be determined for such taking, injury or destruction as a whole and not for each Lot Owner's interest therein. After such determination each Lot Owner shall be entitled to a share in the damages in the same portion as his Percentage Interest in the Common Areas, subject, however, to any prior right of the Mortgagee to participate therein.

**26. Service of Process.**

SALT LAKE VALLEY HABITAT FOR HUMANITY, INC., Manager of Lennox Street, PUD with Yasamina Rogue is the person to receive service of process in cases authorized by the Act at 2237 South 600 East, Salt Lake City, Utah 84106. The Management Committee shall, however, have the right to appoint a successor substitute process agent. Such successor or substitute agent and his address shall be specified by an appropriate instrument filed in the office of the Salt Lake County Recorder, State of Utah.

BK8406PG4240

27. Mortgagee Protection.

Notwithstanding anything to the contrary contained in the Declaration:

- (a) An adequate reserve fund for repair, maintenance and replacement of those elements of the Common Areas that must be replaced on a periodic basis must be established and shall be funded by regular monthly payments rather than by special assessments. Amounts of such reserve funds shall be invested by the Committee in obligations of the United States Government or in accounts insured by agencies of the U. S. Government and such funds shall be used only for the purpose for which collected and may not be used to reduce operating assessments or deficits or for costs of capital assessments not provided for as part of such funds.
- (b) All taxes, assessments and charges which may become liens prior to the first Mortgage under local law shall relate only to the individual Lots and not to the Project as a whole.
- (c) Any mortgage holder which comes into possession of the Lot pursuant to the remedies provided in the Mortgage or foreclosure of the Mortgage or deed (or assignment in lieu of foreclosure) shall be exempt from any claim of right or other provisions which may exist relating to sale or lease of the Lots in the Project, and no claim of right shall impair the rights of any first Mortgage to: (I) foreclose or take title to a Lot pursuant to the remedies provided in the Mortgage, or (ii) accept a deed (or assignment) in lieu of foreclosure in the event of default by a mortgagor, or (iii) interfere with a subsequent sale or lease of the Lot so acquired by the Mortgagee.
- (d) No Lot Owner, or any other party, shall have priority over any rights of the first Mortgagee of the Lot Pursuant to its Mortgage in the case of a distribution to such Lot Owner of insurance proceeds or condemnation awards for losses to or a taking of Lots and/or Common Areas.
- (e) In the event of damage to or destruction of any Lot, which loss exceeds \$1,000.00 or any part of the Common Areas, which loss exceeds \$10,000.00, the institutional holder of any first Mortgage on a Lot shall be entitled to timely written notice to any such damage or destruction. No Lot Owner or other party shall be entitled to priority over such institutional holder with respect to the distribution to such Lot Owner of any insurance proceeds regardless of the amount of loss. Upon request

of any first Mortgagee the Association must provide a letter to said first Mortgagee wherein the Association agrees to notify the first Mortgagee or any organization it designates at the address indicated by the Mortgagee whenever (i) damage to a Lot covered by the first Mortgagee's Mortgage exceeds \$1,000.00, or (ii) damage to the Common Areas and related facilities exceeds \$10,000.00.

(f) If any Lot or portion thereof or the Common Areas or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the institutional holder of any first Mortgage of a Lot shall be entitled to timely written notice of any such proceeding or proposed acquisition. No Lot Owner or other party shall have priority over such Institutional holder regardless of the amount of the condemnation award with respect to the distribution to such Lot Owner of the proceeds of any award or settlement.

(g) Each holder of a first mortgage lien on a Lot who obtains title to a Lot by virtue of remedies provided in the Mortgage, including but not limited to foreclosure of the mortgage, excluding conveyance by deed or assignment in lieu of foreclosure, shall take the Lot free of unpaid charges and shall not be liable for any unpaid claims or assessments and charges against the Lot which accrue prior to the acquisition of title of such Lot by Mortgagee, unless such provision is contrary to Utah law.

(h) Any lien, accruing after the placement of a mortgage on a Lot, which the Management Committee may have on any Lot in the Project for the payment of Common Expense assessments attributable to such Lot will be subordinate to the lien or equivalent security interest of any mortgage on the Lot, unless such provision is contrary to Utah law.

(i) Unless at least 75% of the institutional first Mortgagees (based on one vote for each Mortgage owned) of Lots have given their prior written approval neither the Management Committee, Declarant, Owners, nor the Association shall:

(1) By act or omission, seek to abandon or terminate the Project.

(2) Change the pro-rata interest or obligations of any Lot for (i) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards or for (ii) determining the pro-rata share of ownership of

each Lot in the appurtenant Common Areas.

(3) Partition or subdivide any Lot.

(4) By act or omission, seek to amend, partition, subdivide, encumber, sell, abandon or transfer, the Common Areas. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas of the Project shall not be deemed a transfer within the meaning of this subparagraph).

(5) Use hazard insurance proceeds for losses to any condominium property (whether to Lots or to the Common Areas) for other than the repair, replacement or reconstruction of such improvements, except as provided by statute in cases of substantial loss to the Lots and/or the Common Areas of the Project.

(6) Terminate professional management and assume self management of the Project. Any management agreement entered into by the board shall provide for termination for cause upon 30 days' notice and run for a reasonable time period of two (2) years if negotiated by Declarant or 1 to 3 years if negotiated by the Board of Directors of the Association and be renewable upon consent of the association and the management.

(j) Any institutional holder of a first Mortgage (or trust deed) of a Lot in the Project will, upon request be entitled to examine the books and records of the Project during normal business hours.

(k) Whenever there is a change of ownership of a Lot, the Committee shall require that the new Lot/Owner furnish the Committee with the name of the holder or any first Mortgage (or trust deed) affecting such Lot. The Management Committee or Manager shall maintain a current roster of Lot Owners and of the holders of first Mortgages (or trust deed) affecting Lots in the Project.

## 28. Duty of Owner to Pay Taxes on Lot Owned.

It is understood that under the Act each Lot (and its Percentage Interest in the Common Areas) in the Project is subject to separate assessment and taxation of each taxing authority and the special district(s) for all types of taxes and assessments authorized by law, and that as a result thereof, no taxes will

be assessed or levied against the Project as such, except for certain personal properties thereof. Accordingly, each Lot Owner will pay and discharge any and all taxes and assessments which may be assessed against them on their Lot.

**29. Covenant to Run With Land; Compliance.**

This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitude, as the case may be, and shall be binding upon and shall inure to the benefit of Declarant all parties who hereafter acquire any interest in a Lot or in the Project, and their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner or occupant of a Lot shall comply with, and all interests in all Lots shall be subject to the terms of this Declaration, the By-Laws, and the provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration, and failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Committee on behalf of Lot Owners, or, in a proper case, by an aggrieved Lot Owner. By acquiring any interest in a Lot or in the Project, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

**30. Information Regarding Transfer of a Lot.**

Any Lot Owner who sells, leases, or otherwise disposes of his Lot shall submit to the Management Committee pertinent information concerning the transferee or new occupant within one week of any transfer of title or possession on a form furnished by the Committee.

**31. Indemnification of the Association and The Management Committee.**

The Association and the Management Committee shall not be liable for any failure of water service or other utility service (if any) to be obtained and paid for by the Association hereunder, or for the injury or damage to any person or property caused by the elements or by another Owner or person in or upon the Project. Nor shall the Committee or the Association be liable for damage or injury resulting from electricity, water, rain, snow, or ice which may leak or flow from outside or from any parts of the Building or its drains, pipes, conduits, appliances or equipment, or from any other place, unless caused by the gross negligence or willful misconduct of the Association or its Committee. No diminution or abatement of any assessment under this Declaration shall be claimed or allowed for inconvenience or discomfort arising from the making of any repairs or improvements to or maintaining the Project or any part thereof,

or from any action taken to comply with the provisions of this Declaration or with the laws, ordinances, regulations, rules or order of any governmental authority.

32. Invalidity.

The invalidity of any provisions of this Declaration, or any portion thereof, shall not be deemed to impair or affect in any manner the validity, enforceability, or effect of the remainder of this Declaration and, in such event, all of the other provisions of this Declaration shall continue in full force and affect as if such invalid provision had never been included herein.

33. Waiver.

No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breeches which may occur.

34. Gender.

The use of the masculine gender in this Declaration, shall be deemed to refer to the feminine gender and the use of the singular shall be deemed to refer to the plural, and vice versa, whenever the context so requires.

35. Topical Headings.

The headings appearing in the table of contents and at the beginning of the paragraphs of this Declaration are only for convenience of reference and are not intended to describe, interpret, define, limit, extend, or otherwise affect the content, meaning or intent of this Declaration or any paragraph or provision hereof.

36. Effective Date.

This Declaration shall take effect upon recording in the office of the

/  
/  
/  
/  
/  
/  
/  
/

County Recorder of Salt Lake County, Utah.

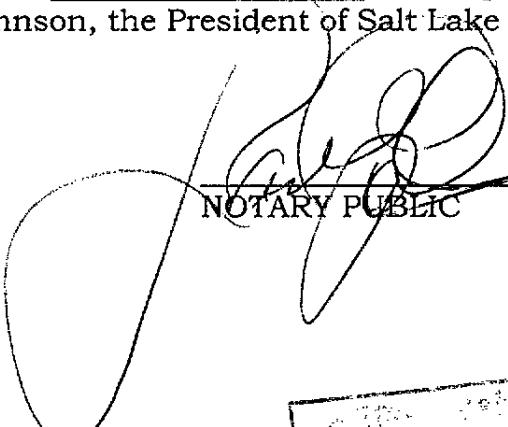
IN WITNESS WHEREOF, the undersigned being the Declarant, has caused this instrument to be executed by its duly authorized officer on the day and year first above written.

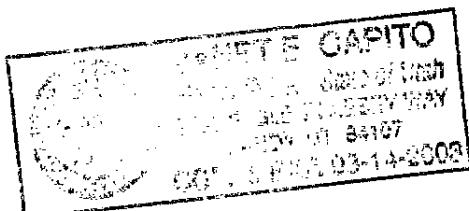
SALT LAKE VALLEY HABITAT FOR  
HUMANITY, INC.

By: Celeste T. Johnson  
Celeste T. Johnson, President

STATE OF UTAH }  
{} ss.  
COUNTY OF SALT LAKE }

On the 29<sup>th</sup> day of November, 2000, personally appeared before me Celeste T. Johnson, the President of Salt Lake Valley Habitat for Humanity, Inc.

  
NOTARY PUBLIC



BK 8406 PG 4246

EXHIBIT A

REAL PROPERTY DESCRIPTION OF  
LENNOX STREET, A PLANNED UNIT DEVELOPMENT

BK8406PG4247

EXHIBIT "A"

Sidwell No.: 21-35-229-002

BEGINNING AT A POINT ON THE SOUTH LINE OF LENNOX STREET AT A POINT SOUTH 89 DEGREES 28'31" EAST 89.34 FEET FROM THE INTERSECTION OF THE SOUTH LINE OF LENNOX STREET WITH THE EAST LINE OF HOLDEN STREET IN MIDVALE CITY, WHICH POINT IS WEST 650.46 FEET AND SOUTH 492.59 FEET FROM THE NORTHEAST CORNER OF SECTION 35, TOWNSHIP 2 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, AND RUNNING THENCE NORTH 89 DEGREES 51'48" EAST 85.98 FEET; THENCE SOUTH 00 DEGREES 38'24" WEST 23.14 FEET; THENCE SOUTH 00 DEGREES 17'47" EAST 89.50 FEET; THENCE SOUTH 00 DEGREES 25'21" EAST 98.60 FEET; THENCE SOUTH 02 DEGREES 28'02" EAST 122.77 FEET; THENCE SOUTH 89 DEGREES 18'43" WEST 27.53 FEET; THENCE NORTH 00 DEGREES 36'00" EAST 52.91 FEET; THENCE NORTH 89 DEGREES 28'31" WEST 55.75 FEET TO A POINT ON AN EXISTING FENCELINE; THENCE NORTH 00 DEGREES 36'00" EAST 178.05 FEET TO A POINT ON AN EXISTING FENCELINE; THENCE NORTH 89 DEGREES 28'31" WEST 12.41 FEET TO A POINT ON AN EXISTING FENCELINE; THENCE NORTH 00 DEGREES 36'00" WEST 102.45 FEET TO THE POINT OF BEGINNING.

BK8406PG4248

EXHIBIT B

LENNOX STREET, A PLANNED UNIT DEVELOPMENT MAP

BK8406P64249



EXHIBIT C

BY-LAWS

OF THE

LENNOX STREET, A PLANNED UNIT DEVELOPMENT MAP

BK8406pg4251

**BYLAWS**  
**OF**  
**LENNOX STREET, P.U.D. HOMEOWNERS' ASSOCIATION**

**ARTICLE I**  
**PLAN OF UNIT OWNERSHIP**

1. Condominium Submission. The Property located in Salt Lake County, Utah, has been submitted to the provisions of the Act by the Declaration recorded in the Office of the County Recorder of Salt Lake County, Utah, simultaneously herewith, and shall hereafter be referred to as the "Condominium".

2. By-Laws. All present and future Owners, tenants, future tenants, their guests, licensees, servants, agents, employees and any other person or persons who shall be permitted to use the facilities of the Condominium, shall be subject to these By-Laws and to the Rules and Regulations of the Condominium. Acquisition, rental or occupancy of any of the Condominium Units in the Condominium shall constitute an acknowledgment that such Owner, tenant or occupant has accepted and ratified these By-Laws, the provision of the Declaration and the Rules and Regulations and will comply with them.

3. Office. The office of the Condominium and of the Management Committee shall be located at the Condominium or at such other place as may be designated from time to time by the Management Committee (hereinafter sometimes called the "Committee").

**ARTICLE II**  
**ASSOCIATION**

1. Composition. Each unit owner shall automatically upon becoming the owner of a unit, be a member of the Association, and shall remain a member of said Association until such time as the ownership ceases for any reason, at which time membership in the Association shall automatically cease. Membership is appurtenant to and may not be separated from unit ownership. The Management Committee or its delegate may require that a member provide proof of ownership as a condition to re-cognition. All unit owners are subject to all the rights and duties established in this Declaration and in the Articles of

Incorporation and Bylaws of the Association. Unless otherwise provided in these documents, The Declarant, for all unsold units in the project, enjoys the same rights and is subject to the same duties as other owners. All of the Unit Owners, acting as a group in accordance with the Act, the Declaration and these by-laws, shall constitute the Association. Except as to those matters which the Act or the Declaration specifically requires to be performed by the vote of the Unit Owners, the administration of the Condominium shall be performed by the Committee.

2. Voting. Each unit owner shall be entitled to a number of votes equal to the par value of the owned unit. Such par value may be changed when and if the project expands and may be adjusted by the Declarant without the consent of the unit owners. Since Unit Owner may be more than one person, if only one of such persons is present at a meeting of the Association, that person shall be entitled to cast the vote(s) appertaining to that Unit. But if more than one of such persons is present, the vote appertaining to that Unit shall be cast only in accordance with the agreement of a majority of them, and such consent shall be conclusively presumed if any one of them purports to cast the vote appertaining to the Unit without protest being made forthwith by any of the others to the person presiding over the meeting.

Since a person need not be a natural person, the word "person!" shall be deemed for the purposes of this Section to include, without limitation, any natural person having authority to execute deeds on behalf of any person, excluding natural persons, which is, either alone or in conjunction with another person or persons, a Unit Owner.

Except where a greater number is required by the act, the Declaration, or these By-Laws, a majority of the votes of Unit Owners present in person or represented by proxy in good standing and entitled to vote is required to adopt decisions at any meeting of the Association. If the Declarant owns or holds title to one or more Units, the Declarant shall have the right at any meeting of the Association to cast the votes to which such Unit is entitled.

3. Place of Meeting. Meetings of the Association shall be held at the principal office of the Condominium or at such other suitable place as may be designated by the Committee and stated in the notice of the meeting.

4. Annual Meeting. The first annual meeting shall be set by the Declarant. Thereafter, the annual meeting of the Association shall be held in March of each year. The specific date, time, to be fixed by the Committee. The place of meeting shall be at a location in Salt Lake County, Utah specified in the notice of meeting. At least ten (10) but not more than thirty (30) days

before the date of the annual meeting a written notice thereof shall be personally delivered or mailed postage prepaid to each person who appears as an Owner, at the latest address for such person appearing, in the records of the Management Committee at the time of delivery or mailing. Such notice shall state the time, place and general purpose of the meeting.

5. Special Meetings. It shall be the duty of the President to call a special meeting of the Association within six weeks if so directed by resolution of the Committee or, after all of the Committee has been elected by Unit Owners other than Declarant, or upon a petition signed and presented to the Secretary by Owners having not less than twenty percent (20%) of the votes of all Owners. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be conducted at a special meeting except as stated in the notice.

6. Notice of Meeting. It shall be the duty of the Secretary to mail, by United States mail, postage prepaid, a notice of (a) each annual meeting of the Owners, at least twenty (20) days in advance of such meeting and of each special meeting of the Owners at least ten (10) 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 their respective units and at 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.

7. 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 have fully paid all due installments of assessments made or levied against him and his unit by the Committee as hereinafter provided, together with all interest, costs, attorney's fees, penalties and other expenses, if any, properly chargeable to him and against his Unit, at least three (3) days prior to the date fixed for such annual or special meeting.

8. Proxies. The votes appertaining to any unit may be cast pursuant to a proxy or proxies duly executed by or on behalf of the unit Owner, or, in cases where the Unit Owner is more than one person, by or on behalf of all such persons. No such proxy shall be revocable except by actual notice to the person presiding over the meeting, by the Unit 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 as aforesaid. The proxy of any person shall be void if not signed by a person having authority, at the time of the execution thereof, to execute deeds on behalf of that person. Any proxy shall

terminate automatically upon the adjournment of the first meeting held on or after the date of that proxy, and must be filed with the Secretary not less than three (3) days before the meeting.

9. Quorum. Except as may otherwise be provided herein or by statute, more than forty percent (40%) of the Owners 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 48 hours, and no later than thirty (30) days after the time set for the original meeting. No notice of such rescheduled meeting shall be required except an announcement thereof at the original meeting. A quorum for the transaction of business at the rescheduled meeting shall be percent (30%) of the Percentage Interest.

10. Order of Business. The order of business at all meetings of the Association shall be as follows: (a) roll call; (b) proof of notice of meeting; (c) reading of minutes of preceding meeting; (d) reports of officers; (e) report of special committees, if any; (f) election of Committee Members, if applicable; (g) unfinished business; and (h) new business.

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

### ARTICLE III MANAGEMENT COMMITTEE

1. Powers and Duties. The affairs and business of the Association shall be managed by the Management Committee which shall have all of the powers and duties necessary for the administration of the affairs of the Association in accordance with the provision of the Declaration and may do all such acts and things as are not by the Act or these By-Laws directed to be exercised and done by the Association. The Committee shall have the power from time to time to adopt any Rules and Regulations deemed necessary for the enjoyment of the Condominium provided such Rules and Regulations shall not be in conflict with the Act, the Declaration or these By-laws. The Committee shall delegate to one of its members the authority to act on behalf of the Committee on all matters relating to the duties of the Managing Agent, if any, which might arise between meetings of the Committee.

2. Composition of Management Committee, etc. The provisions relating to the composition of the Management Committee, the terms of office, and other provisions regarding the Committee, are set forth in the Declaration.

3. Election and Term of Office of the Committee. At the first annual meeting of the Association the members of the Committee shall be elected. The term of office shall be fixed at two years for those three persons receiving the greatest number of votes. The Committee Members shall hold office until their respective successors have been elected and hold their first meeting.

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

5. Organization Meeting. The first meeting of the members of the Management Committee following the annual meeting of the Association shall be held within ten (10) days after the annual meeting at such place as shall be fixed by the Committee at the meeting at which such Committee Members were elected, and no notice shall be necessary to the newly elected Committee Members in order legally to constitute such meeting provided that majority of the whole Committee shall be present thereat.

6. Regular Meetings. Regular meetings of the Committee may be held at such time and place as shall be determined, from time to time, by a majority of the Committee, but at least three such meetings shall be held during each fiscal year after the first annual meeting of the Association. Notice of regular meetings of the Committee shall be given to each Member, personally, by mail or by telephone, at least three (3) business days prior to the day named for such meeting.

7. Special Meetings. Special meetings of the Committee may be called by the President on three (3) business days notice to each Member. Such notice shall be given personally, by mail or by telephone, and such notice shall state the time, place and purpose of the meeting. Special meetings of the Committee shall be called by the President or Secretary in like manner and on like notice on the written request of at least two Committee Members.

8. Waiver of Notice. Before or at any meeting of the Committee, any Committee 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 Committee Member at any meeting of the Committee shall be a waiver of notice by him of the time and place thereof. If all the Committee Members are present at any meeting of the Committee, no notice shall be required and any

business may be transacted at such meeting.

9. Committee's Quorum. At all meeting of the Committee, a majority of the Committee Members shall constitute a quorum for the transaction of business, and the acts of the majority of the Committee Members present at a meeting at which a quorum is present shall be the acts of the Committee. If, at any meeting of the Committee, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

10. Vacancies. Vacancies in the Committee caused by any reason other than removal of a Committee Member by a vote of the Association shall be filled by vote of the majority of the remaining Committee Members, at a special meeting of the Committee held for that purpose promptly after the occurrence of any such vacancy, even though the Committee Members present at such meeting may constitute less than a quorum of the Committee; and each person so elected shall be a Committee Member until a successor is elected at the next annual meeting of the Association; provided that the vacancy of any Committee Member designated by the Declarant pursuant to a right of the Declarant to make such designation shall be filled by the Declarant.

11. Removal of Committee Members. A Committee 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 is present, by an affirmative vote of a majority of the votes represented and voting. Any Committee Member whose removal has been proposed by the Owners shall be given at least ten (10) days notice of the calling of the meeting and the purpose thereof and an opportunity to be heard at the meeting. Notwithstanding anything in this Section to the contrary, no person selected and designated by the Declarant as a member of the Committee may be removed without the consent of the Declarant and in such event the Declarant shall select and designate his successor.

12. Transfer of Control by Declarant. Notwithstanding the foregoing, The Declarant shall relinquish all special rights, expressed or implied, through which the Declarant may directly or indirectly control, direct, modify, or veto any action of the owner's association, its executive board, or a majority of unit owners, and control of the owner's association shall pass to the owners of the units within the project seven years from the date the first conveyance to a unit purchaser is made.

13. Compensation. No Committee Member shall receive any

compensation from the Condominium for acting as such.

14. Conduct of Meetings. The President shall preside over all meetings of the Committee and the Secretary shall keep a Minute Book of the Committee recording therein all resolutions adopted by the Committee and a record of all transactions and proceedings occurring at such meeting.

15. Report of Committee. The Committee 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 Condominium.

16. Fidelity Bonds. The Committee shall require that all officers, agents (including professional Manager and its employees) and employees of the Association handling or responsible for funds furnish adequate fidelity bonds. The premiums on such bonds shall constitute a Common Expense. The Committee shall provide a fidelity insurance coverage as required by the Declaration.

#### ARTICLE IV FISCAL YEAR

The fiscal year of the Association shall consist of the twelve month period commencing on January 1 of each year and terminating on December 31 of the same year, except that the first fiscal year shall begin at the date of organization and terminate on December 31.

#### ARTICLE ~V AMENDMENT TO BY-LAWS

1. Amendments. Except as otherwise provided in this Section, these By-Laws may be modified or amended either (i) by a vote of at least sixty-five percent (65%) of the Percentage Interest at any regular or special meeting at which a quorum is present, provided that Notice of the proposed amendment shall have been given to each Owner simultaneously with the notice of such meeting or (ii) pursuant to a written instrument duly executed by at least fifty-one percent (51 %) of the Percentage Interest, as provided, however, that (a) Section 2 of Article III insofar as they relate to the selection of members of the Committee by the Declarant, (b) Section 2 of Article III insofar as it provides that the Declarant, so long as it is the Owner of one or more Units, may vote the votes appurtenant thereto, and (c) this Section I of Article VI, may not be amended without the consent in writing of the Declarant, so long as the Declarant shall own five or more Units.

2. Recording. A modification or amendment of these By-Laws shall become effective only if such modification or amendment is recorded in the office of the County Recorder of Salt Lake County, Utah within 45 days of the modification.

3. Conflicts. No modification or amendment of these By-laws may be adopted which shall be inconsistent with the provisions of the Act or with the provision of the Declaration. A modification or amendment once adopted and recorded as provided for herein shall then constitute part of the official By-Laws of the Condominium and all Owners shall be bound to abide by such modification or amendment.

4. Approval of Mortgages. The Declaration contains provisions concerning various rights, priorities, remedies and interests of the Mortgagees of Units. Such provisions in the Declarations are to be construed as covenants for the protection of the Mortgagees on which they may rely in making loans secured by mortgages on the Units. Accordingly, all Mortgagees shall be given thirty (30) days notice of all proposed amendments, and no amendment or modification of these By-Laws impairing or affecting the rights, priorities, remedies or interests of a Mortgagee (including the Mortgagee's use of a secondary mortgage market, i.e., the sale ability of Mortgages to one of ultimate mortgage purchasing corporations) shall be adopted without the prior written consent of such Mortgagee. If there is more than one Mortgagee holding Mortgages on the Units, it shall be sufficient for this purpose to obtain the written consent of the Mortgagee or Mortgagees holding mortgages on seventy-five (75%) or more of the Units encumbered by Mortgages.

## ARTICLE VI NOTICE

1. Manner of Notice. All notices, demands, bills, statements or other communications provided for or required under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by U. S. Mail, first class postage prepaid (i) if to an Owner, at the address of his Unit and at such other address as the Owner may have designated by notice in writing to the Secretary, or (ii) if to the Committee or the Manager, at the principal office of the Manager or at such other address as shall be designated by notice in writing to the Owners pursuant to this Section.

2. Waiver of Notice. Whenever any notice is required to be given under the provisions of the statutes, the Declaration or of these By-Laws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether signed before or after the time stated therein, shall be deemed

equivalent thereto, unless such waiver is ineffective under the provisions of the Act.

## ARTICLE VII COMPLIANCE, CONFLICT, AND MISCELLANEOUS PROVISIONS

1. Compliance. These By-Laws are set forth in compliance with the requirements of the Act.

2. Conflict. These By-Laws are subordinate and subject to all provisions of the Declaration and to the provisions of the Act. All of the terms hereof, except where clearly repugnant to the context, shall have the same meaning as they are determined to have in the Declaration or the Act. In the event of any conflict between these By-Laws and the Declaration, the provisions of the Declaration shall control; and in the event of any conflict between the Declaration and the Act, the Provisions of the Act shall control.

3. Severability. These By-Laws are set forth to comply with the requirements of the State of Utah. In case any of the By-Laws are in conflict with the provisions of any of its statutes, the provisions of the statutes will apply. If any provisions of these By-Laws or any section, sentence, clause, phrase, or word, or the application thereof in any circumstances is held invalid, the validity of the remainder of these By-Laws shall not be affected thereby and to this end, the provisions hereof are declared to be severable.

4. Waiver. No restriction, conditions, obligation or provision of these By-Laws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

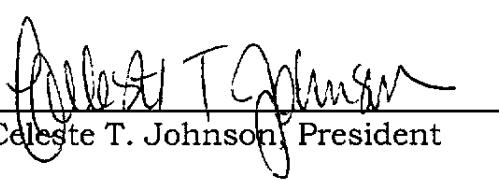
5. Citations. The captions contained in these By-Laws are for convenience only and are not part of these By-Laws and are not intended in any way to limit or enlarge the terms and provisions of these By-Laws.

6. Gender, etc. Whenever in these By-Laws the context so requires, the singular number shall include the plural and the converse, and the use of any gender shall be deemed to include all genders.

The Bylaws shall take effect upon recording in the office of the County Recorder of Salt Lake County, Utah.

IN WITNESS WHEREOF, the undersigned being the Declarant, has caused this instrument to be executed by its duly authorized officer on the day and year below written.

SALT LAKE VALLEY HABITAT  
FOR HUMANITY, INC.

By: 

Celeste T. Johnson, President

BK8406PG4261

**EXHIBIT "D"**  
**OWNERSHIP INTEREST TABLE**

**Lot Number** **Percent of Undivided Interest in Common Area**

1	20%
2	20%
3	20%
4	20%
5	20%

L	1	21-35-229-040-0000
L	2	21-35-229-041-0000
L	3	21-35-229-042-0000
L	4	21-35-229-043-0000
L	5	21-35-229-044-0000
L	AREA	21-35-229-045-0000

BK8406PG4262