

**Recorded at the request of:**

CEDAR HIGHLANDS HOMEOWNERS  
ASSOCIATION, INC.

**After recording mail to:**

CEDAR HIGHLANDS HOMEOWNERS  
ASSOCIATION, INC.  
1702 N. BULLDOG RD., UNIT 113  
CEDAR CITY UT 84721

Record against the property described in Exhibit "A"

**AMENDED AND RESTATEED BYLAWS OF  
THE CEDAR HIGHLANDS SUBDIVISION**

LOCATED IN  
IRON COUNTY, UTAH

# **AMENDED AND RESTATEED BYLAWS OF THE CEDAR HIGHLANDS SUBDIVISION**

## **ARTICLE I – GENERAL**

### **1.1 Purpose of Bylaws.**

These Bylaws of THE CEDAR HIGHLANDS HOMEOWNERS ASSOCIATION, INC. (the “Bylaws”) are adopted by the Board of Directors (the “Board”) in accordance with Utah Code § 16-6a-206. These Bylaws are for the regulation and management of the affairs of the Cedar Highlands Homeowners Association, a Utah nonprofit corporation (the “Association”), to which reference is made in the Amended and Restated Declaration of Covenants and Restrictions of the Cedar Highlands Subdivision, recorded in the official records of the Iron County Recorder, State of Utah, as amended or supplemented from time to time (the “Declaration”), to perform the functions as provided in the Declaration and to further the interests of Owners of Lots within the Property described in Exhibit “A.”

### **1.2 Terms Defined in Declaration.**

Unless otherwise specifically provided in these Bylaws, capitalized terms in these Bylaws shall have the same meaning as given to them in the Declaration.

### **1.3 Controlling Laws and Instruments.**

These Bylaws are subject to the Utah Revised Nonprofit Corporation Act (Utah Code §§ 16-6a-101 et seq.) (the “Nonprofit Act”) and the Community Association Act (Utah Code §§ 57-8a-101 et seq.) (the “Association Act”) (collectively the “Acts”), the Declaration, and the Articles of Incorporation of the Association (the “Articles”) filed with the Division of Corporations and Commercial Code of the Utah Department of Commerce (the “Division”), as any of the foregoing may be amended from time to time. If these Bylaws conflict with the Nonprofit Act or the Association Act, these Bylaws shall control unless the provisions of the Nonprofit Act or the Association Act, or both, are mandatory and not default provisions.

## **ARTICLE II – OFFICES**

### **2.1 Principal Office.**

The principal office of the Association shall be at the address identified in the Association’s latest annual report filed with the Division. In its discretion, the Board may change the location of the principal office from time to time.

### **2.2 Registered Office and Agent.**

The Acts require that the Association have and continuously maintain a registered office and a registered agent in Utah. The initial registered office and the initial registered agent are specified in the Articles and may be changed by the Association at any time, without amendment to the Articles, by filing a statement with the Division in accordance with the Nonprofit Act.

## **ARTICLE III – MEMBERS**

### **3.1 Members.**

A “Member” is the person or, if more than one (1), all persons collectively, who constitute the Owner of a Lot within the Property.

### **3.2 Membership Appurtenant to Lot.**

Each membership shall be appurtenant to the fee simple title to a Lot. The person or persons who constitute the owner of fee simple title to a Lot shall automatically be the holder of the membership appurtenant to that Lot, and the membership shall automatically pass with fee simple title to the Lot.

### **3.3 Member Voting Rights.**

Subject to the Declaration and the Articles, each Member shall be entitled to one (1) vote for each Lot the Member owns within the Property.

### **3.4 Voting by Joint Owners.**

If more than one (1) person owns a Lot, a vote cast at any Association meeting by any of the persons owning the Lot, whether in person or represented by proxy or ballot, shall be conclusively presumed to be the vote attributable to the Lot concerned unless an objection is immediately made by another person who also owns the same Lot. If an objection is made, the vote shall not be counted for any purpose other than to determine whether a quorum exists.

### **3.5 Resolution of Voting Disputes.**

In the event of any dispute as to the entitlement of any Member to vote or as to the results of any vote of Members at a meeting, the Board shall act as arbitrators and the decision of a disinterested majority of the Board shall, when put in writing, be final.

### **3.6 Assignment of Voting Rights to Tenants or Mortgagees.**

A Member may assign the Member’s right to vote to a tenant occupying the Member’s Living Unit or to a mortgagee of the Member’s Lot for the term of the lease or the mortgage, and any transfer or conveyance of the Living Unit and the Lot upon which it is situated shall, unless otherwise provided in the document of transfer or conveyance, be subject to any such assignment of voting rights to any tenant or mortgagee. Any such assignment of voting rights and any revocation or termination of any assignment of voting rights shall be in writing and shall be filed with the Board. Any such assignment of voting rights shall automatically terminate and be deemed revoked upon the transfer or conveyance of the Lot.

## **ARTICLE IV – MEETINGS OF MEMBERS**

### **4.1 Place of Member Meetings.**

Meetings of Members shall be held at the principal office of the Association or at such other place, within or convenient to the Property, as may be fixed by the Board and specified in the notice of the meeting.

### **4.2 Annual Meetings of Members.**

Annual meetings of the Members shall be held at such time of day as is fixed by the Board and specified in the notice of meeting. The annual meetings shall be held to elect members of the Board (“Directors”) and to transact such other business that properly comes before the Members at an annual meeting.

### **4.3 Special Meetings of Members.**

Special meetings of the Members may be called by the president or the Board or by Members holding not less than twenty-five percent (25%) of the total votes of all Members. Only business within the purposes described in the notice of the special meeting may be conducted at a special meeting of the Members.

### **4.4 Record Date for Notice of Meeting/Members List.**

4.4.1 Unless the Board sets a different record date by resolution before sending notice, the record date in Subsection 4.4.2 applies when determining which Members are entitled to receive notice, vote at a meeting, or exercise any other rights.

4.4.2 The record date for determining which Members are entitled to notice of a meeting is the close of business on the business day before the notice is provided.

4.4.3 The Association is only required to prepare a list of Members as described in Subsection 9.3.3.

### **4.5 Notice of Member Meetings.**

Written notice stating the place, day, and hour of any meeting of the Members shall be given not less than ten (10) nor more than sixty (60) days before the date of the meeting (plus any time added to effectuate delivery under Section 9.16). The notice of an annual, regular or special meeting shall include: (a) the names of any known candidate for Director and shall identify any other matter that it is known may come before the meeting; (b) potential conflicting interest transactions of a Director, a party related to a Director, or an entity in which the Director is a director or officer or has a financial interest (as set forth in § 16-6a-825 of the Nonprofit Act), if any; (c) notice of any indemnification or advance of expenses to a Director in connection with a “proceeding” as defined in § 16-6a-102 of the Nonprofit Act; (d) notice of any amendment to these Bylaws proposed by the Members and a copy, summary or general statement of the proposed amendment; (e) notice of a proposed plan of merger; (f) notice of a proposed sale of the Common

Area or a portion of the Common Area by the Association other than in the regular course of activities; (g) notice of a proposed dissolution of the Association; and (h) any matter a Member intends to raise at the meeting if requested in writing to do so by a person entitled to call a special meeting and the request is received (receipt deemed effective as set forth in Section 9.16) by the secretary or president at least ten (10) days before the Association gives notice of the special meeting (plus any time added to effectuate delivery as set forth in Section 9.16). The notice of a special meeting shall state the purpose or purposes for which the meeting is called.

#### **4.6 Proxies at Meetings.**

A Member entitled to vote at a meeting may vote by proxy executed in writing by the Member or the Member's duly authorized attorney-in-fact and filed with the Board before the time the proxy is exercised.

#### **4.7 Action by Written Ballot.**

4.7.1 Ballots Used Without a Meeting. The Association may, upon a determination of the Board or upon specific request of a Member for a special meeting of the Members, use ballots without a meeting to take any action that may be taken at any annual, regular, or special meeting of the Members if the Association delivers a written ballot to every Member entitled to vote on the matter. Approval by written ballot is valid only if: (a) the deadline for receiving all ballots has passed so a quorum can be confirmed, and (b) the number of approval votes is at least the number that would be needed to approve the matter if the same number of votes had been cast at an in-person meeting.

4.7.2 Ballots at Meetings. A written ballot may, upon a determination of the Board, be used in connection with any annual, regular, or special meeting of Members, thereby allowing Members the choice of either voting in person or by written ballot delivered by a Member to the Association in lieu of attendance at the meeting. Any written ballot shall be counted equally with the votes of Members in attendance at any meeting for every purpose, including satisfaction of a quorum requirement.

4.7.3 Ballot Content. A written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action.

4.7.4 Solicitation for Votes by Written Ballot. All solicitations for votes by written ballot shall (a) identify each proposed action, (b) provide for an opportunity to vote for or against each proposed action, (c) indicate the number of responses needed to meet the quorum requirements, (d) state the percentage of approvals necessary to approve each matter other than the election of Directors, (e) specify the time by which a ballot must be received by the Association in order to be counted, and (f) be accompanied by written information sufficient to permit each person casting the ballot to reach an informed decision on the matter.

4.7.5 Ballot Deadline. Members shall be provided a fair and reasonable amount of time before the day on which the Association must receive ballots. An amount of time is considered to be fair and reasonable if (a) Members are given at least fifteen (15) days from the day on which the notice is mailed, if the notice is mailed by first-class or registered mail; (b) Members are given

at least thirty (30) days from the day on which the notice is mailed, if the notice is mailed by other than first-class or registered mail; or (c) considering all the circumstances, the amount of time is otherwise reasonable.

#### **4.8 Electronic Voting.**

Voting by electronic means shall be permitted, and ballots may be signed electronically as provided for in Section 4.19.

#### **4.9 Revocation of Proxy or Ballot.**

A proxy or ballot may be revoked, prior to the time the proxy is exercised or the ballot counted by: (a) the Member attending the meeting and voting in person, or (b) the Member signing and delivering to the secretary or officer or other person authorized to tabulate proxy votes or ballot votes: (i) a writing stating that the proxy or ballot is revoked, or (ii) a subsequent proxy form or ballot. A proxy or ballot shall be automatically revoked when a Member conveys or transfers the Member's Lot and the Member's membership is transferred of the membership on the books of the Association. A proxy becomes invalid on the earlier of: (a) the day after the Members' meeting it was submitted for, or (b) 11 months after it was signed, unless the proxy states otherwise. The death or incapacity of the Member appointing a proxy or casting a ballot does not affect the right of the Association to accept the proxy or count the ballot unless the secretary or other officer or agent authorized to tabulate votes receives notice of the death or incapacity before the proxy is exercised or the ballot is counted.

#### **4.10 Written Consents Without a Meeting.**

Unless prohibited by the Articles, any action that must or may be taken at a Members' meeting can be taken without a meeting and without prior notice, if one (1) or more written consents describing the action are signed by Members holding at least the minimum number of votes needed to approve the action at a meeting where all eligible Members were present and voting. A Director may not be elected by written consent, except by unanimous written consent of all Members entitled to vote for the election of Directors. Any action taken under this Section 4.10 is not effective unless all written consents are received within a sixty (60) day period and have not been revoked. A written consent may be given by electronic transmission or other form of communication that provides the Association with a complete copy of the written consent, including: (a) the date the written consent was sent and (b) the signatures (including any electronic signatures as provided in Section 4.19).

#### **4.11 Telecommunications.**

Any or all of the Members may participate in an annual, regular, or special meeting of the Members by, or the meeting may be conducted through the use of, any means of communication by which all persons participating in the meeting may hear each other during the meeting. A Member participating in a meeting by a means permitted under this Section 4.11 is considered to be present in person at the meeting.

#### **4.12 Quorum at Member Meetings.**

Except as may be otherwise provided in the Declaration or the Articles, and except as provided in Section 4.13 for adjournments of meetings, the representation in person, by proxy, or by ballot of Members entitled to cast at least twenty-five percent (25%) of the votes of the Members shall constitute a quorum at any meeting of such Members. Members present in person or represented by proxy or ballot at a duly organized meeting may continue to transact business until adjournment. Once a Member is present or represented for any purpose at a meeting, including the purpose of determining that a quorum exists, the Member is considered present for quorum purposes for the rest of the meeting and for any adjournment of that meeting unless, under Section 4.4, a new record date is set or shall be set for that adjourned meeting.

#### **4.13 Adjournment of Member Meetings.**

Members present in person or represented by proxy at any meeting, whether or not there is a quorum, may adjourn the meeting from time to time. If the meeting is adjourned, the Board shall give notice of the new date, time, and place of the meeting, and at that meeting, the Members who are present in person or represented by proxy or ballot shall constitute a quorum, except as otherwise provided in the Declaration or the Articles. No such subsequent meeting may be held more than forty-five (45) days after the preceding meeting at which a quorum was not present.

#### **4.14 Member Vote Required.**

At any meeting or any action without a meeting where a quorum is present, action on a matter, other than the election of Directors, is approved if the votes cast favoring the action exceed the votes cast opposing the action unless a greater proportion is required by law, the Declaration, or the Articles. In the case of elections to the Board, a quorum is not required, and when there is more than one (1) candidate, the person or persons receiving the highest number of votes shall be elected.

#### **4.15 Cumulative Voting Not Permitted.**

Cumulative voting by Members in the election of Directors is prohibited.

#### **4.16 Order of Business.**

Unless otherwise changed by resolution of the Board or the Members, the order of business at any meeting of Members shall be as follows: (a) roll call to determine the voting power represented at the meeting; (b) proof of notice of meeting or waiver of notice; (c) election of Directors, if applicable; (d) report of finances; and (e) any other Association business.

#### **4.17 Expenses of Meetings.**

The Association shall bear the expenses of all annual, regular, and special meetings of the Members.

#### **4.18 Waiver of Notice.**

A Member may waive any required notice, either before or after the date or time stated in the notice for when the action will occur or has occurred. A waiver shall be in writing, signed by the Member entitled to the notice, and delivered to the Association for inclusion in the minutes or filing with the corporate records. The required delivery and filing cannot be conditions for the waiver to be valid. A Member's attendance at a meeting: (a) waives any objection to missing or faulty notice, unless the Member objects at the start of the meeting, and (b) waives any objection to discussing matters not listed in the notice, unless the Member objects when the matter is raised.

#### **4.19 Signature of Members.**

Except as otherwise provided in the Acts, all votes, consents, written ballots, waivers, proxy appointments, and proxy or ballot revocations shall be in the name of the Member and signed by the Member, preferably with a designation of the Member's capacity, *i.e.*, owner, partner, president, director, member, trustee, conservator, guardian, etc. Pursuant to Utah Code § 46-4-201, a signature may not be denied legal effect or enforceability solely because it is in electronic form, *i.e.*, an electronic signature. As used in this Section, the term "electronic" means relating to technology having electrical, digital, magnet, wireless, optical, electromagnetic, or similar capabilities. And the term "electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a ballot and executed or adopted by a person with the intent to sign the ballot.

### **ARTICLE V – BOARD OF DIRECTORS**

#### **5.1 General Powers and Duties of the Board of Directors.**

The Board shall have the duty to manage and supervise the affairs of the Association and shall have all powers necessary or desirable to permit it to do so. Without limiting the generality of the foregoing, the Board shall have the power to exercise or cause to be exercised for the Association all of the powers, rights, and authority of the Association not reserved to Members in the Declaration, the Articles, these Bylaws, or the Acts.

#### **5.2 Special Powers and Duties of the Board of Directors.**

Without limiting the foregoing statement of general powers and duties of the Board or the powers and duties of the Board in the Declaration, the Board shall be vested with the following specific powers and duties:

5.2.1 Assessments. The duty to fix and levy assessments, special assessments, and all other assessments upon the Members of the Association as provided in the Declaration, and to enforce the payment of delinquent assessments as provided in the Declaration.

5.2.2 Insurance. The duty to contract and pay premiums for fire, casualty, liability, or other insurance in accordance with the Declaration.



5.2.3 Common Areas. The duty to manage and care for the Common Areas, to employ personnel necessary for the care and operation of the Common Areas, and to contract and pay for necessary or desirable improvements on property acquired by the Association in accordance with the Declaration.

5.2.4 Agents and Employees. The power to select, appoint, and remove all officers, agents, and employees of the Association and to prescribe such powers and duties for them as may be consistent with law, the Declaration, the Articles, and these Bylaws.

5.2.5 Borrowing. The power, with the approval of at least sixty percent (60%) of the Members, to borrow money and to incur indebtedness for the purpose of the Association and to cause to be executed and delivered therefor, in the Association's name, promissory notes, bonds, debentures, mortgages, pledges, hypothecations or other evidences of debt, and securities therefor.

5.2.6 Enforcement. The power to enforce the Governing Documents and agreements of the Association.

5.2.7 Delegation of Powers. The power to delegate its powers according to law.

5.2.8 Rules. The power to adopt such rules with respect to the interpretation and implementation of the Declaration, use of Common Areas, and use of any property within the Property, including Living Units, and to impose fines and penalties for violations of the rules; provided, however, that such rules shall be enforceable only to the extent that they are consistent with the Declaration, the Articles, these Bylaws, and the Association Act.

5.2.9 Emergency Powers. The right to exercise such emergency powers provided for in the Acts.

### **5.3 Qualifications of Directors.**

A Director must be a natural person at least eighteen (18) years of age and an Owner of a Lot within the Property or, if the Owner of any such Lot is a partnership, corporation, or limited liability company, a designated representative of the partnership, corporation, or limited liability company. If a Director conveys or transfers title to the Director's Lot, or if a Director who is a designated representative of a partnership, corporation, or limited liability company ceases to be a designated representative, or if the partnership, corporation, or limited liability company conveys or transfers title to its Lot, the Director's term as Director shall automatically terminate, and a new Director shall be selected as soon as possible to take the terminated Director's place. The Association may, through the Governing Documents or the Board's internal procedures, disqualify an individual from serving as a director because the individual has been convicted of a felony or is a sex offender.

### **5.4 Number of Directors.**

The number of Directors of the Association shall be three (3) or five (5). Subject to these limitations, the number of Directors shall be five (5) until changed pursuant to this Section 5.4.

### **5.5 Terms of Office and Elections of Directors.**

The affairs of the Association shall be managed by the Board. The Board shall be elected at a meeting of the Members by any authorized and lawful procedure adopted by the Board, to serve as follows:

At each annual Members meeting, Directors are elected to two-year terms. An odd number of Directors (at least two fewer than the total Board) are elected in odd-numbered years, and an even number are elected in even-numbered years.

When electing multiple Directors, the candidates with the highest number of votes—up to the number of open positions—are elected to the Board. When only one (1) Director position is being voted upon, the candidate having the highest number of votes cast in his or her favor is elected to the Board.

Only Members who are not in violation of the Declaration, these Bylaws, or the Association's rules are eligible to run for a position on the Board. Directors newly elected at the annual meeting of the Members shall take office immediately. Despite the expiration of a Director's term, a Director continues to serve until the Director's successor is elected and qualifies or there is a decrease in the number of Directors.

### **5.6 Nominating Committee.**

Nominations for election to the Board may be made by a nominating committee. Nominations may also be made from the floor at the annual meeting of the Members. The nominating committee shall consist of a chairman, who shall be a Director, and two (2) or more Members of the Association. The nominating committee shall be appointed by the Board prior to each annual meeting of the Members. The nominating committee shall make as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

### **5.7 Removal of Directors by the Members.**

At any meeting of the Members, the notice of which indicates such purpose, any or all of the Directors may be removed, with or without cause, by a majority vote of the Members, and a successor may be then and there elected to fill the vacancy thus created. Any Director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association, and any Director who shall be absent from three (3) consecutive Board meetings shall be automatically removed from the Board unless determined otherwise by the other Directors.

### **5.8 Resignation of Directors.**

Any Director may resign at any time by giving written notice to the president, to the secretary, or to the Board stating the effective date of such resignation. Board acceptance is unnecessary for a resignation to be effective. A person who resigns may deliver to the Division a statement that contains the person's name, the Association's name, information sufficient to

identify the report or other document on file with the Division in which the person is named as a Director, and the date on which the person ceased to be a Director.

#### **5.9 Vacancies in the Board of Directors.**

Any vacancy occurring on the Board shall be filled by the vote of a majority of the remaining Directors, though less than a quorum of the Board. A Director elected by the Board to fill a vacancy shall be elected for the unexpired term of the Director's predecessor in office. A directorship to be filled by reason of an increase in the number of Directors shall be filled only by vote of the Members. A Director elected by the Board to fill the vacancy of a Director elected by the Members may be removed with or without cause by the Members, but not the Board. If any vacancy on the Board remains unfilled for two (2) months, the Members may, at a special meeting of the Members called for that purpose, elect a Director to fill such vacancy by a majority of the votes of the Members present at such meeting or represented by proxy or ballot.

#### **5.10 Appointment of Committees.**

The Board, by resolution adopted by a majority of the Directors in office, may designate and appoint one (1) or more committees which shall consist of two (2) or more Directors and which, unless otherwise provided in such resolution, except as otherwise provided in Section 6.6, shall make recommendations (but not final decisions) to the Board in the management of the Association.

#### **5.11 General Provisions Applicable to Committees.**

The designation and appointment of any committee and the delegation thereto of authority shall not operate to relieve the Board, or any individual Director, of any responsibility imposed upon it or him by law. The provision of these Bylaws with respect to notice of meeting, waiver of notice, quorums, adjournments, vote required, and action by consent applicable to meetings of the Board shall not be applicable to meetings of committees of the Board.

#### **5.12 Board Action to Enforce Governing Documents.**

The Board shall use its reasonable judgment to determine whether to exercise the Association's powers to impose sanctions or pursue legal action for a violation of the Governing Documents, including whether to compromise a claim made by or against the Board or the Association and whether to pursue a claim for an unpaid assessment. The Association may not be required to take enforcement action if the Board determines, after fair review and acting in good faith and without conflict of interest, that under the particular circumstances: (a) the Association's legal position does not justify taking any or further enforcement action; (b) the covenant, restriction, or rule in the Governing Documents is likely to be construed as inconsistent with current law; (c) a technical violation has or may have occurred and the violation is not material as to a reasonable person or does not justify expending the Association's resources; or (d) it is not in the Association's best interests to pursue an enforcement action, based upon hardship, expense, or other reasonable criteria. If the Board decides under this Section to forego enforcement, the Association is not prevented from later taking enforcement action. The Board may not be arbitrary, capricious, or act against public policy in taking or not taking enforcement action. This Section

does not govern whether the Association's action in enforcing a provision of the Governing Documents constitutes a waiver or modification of that provision.

### **5.13 Conflicting Interest Transactions.**

To avoid conflicting interest transactions, the following procedure shall apply:

5.13.1 A Director is a "conflicted Director" if the Director proposes (a) to accept a gift from a vendor or service provider to the Association; or (b) to enter into a contract to procure goods or services of any kind or of any value from a vendor or service provider in which that Director has a financial, professional, employment, or family relationship.

5.13.2 A conflicted Director may not accept a gift from a vendor or service provider to the Association unless (a) the conflicted Director has disclosed to the Board the prospective donor, the nature of the gift, and the value of the gift; and (b) the Board has authorized the receipt of the gift.

5.13.3 The Board may not enter into a contract to procure for the Association goods or services of any kind or of any value from a vendor or service provider involving a conflicted Director unless the Board has approved the transaction.

5.13.4 The Board may authorize the receipt of a gift by a conflicted Director or a transaction involving a conflicted Director by a vote of a majority of disinterested Directors at a meeting of the Board where a quorum is present.

5.13.5 A conflicted Director may be counted towards establishing a quorum for a meeting of the Board in which a decision to authorize the gift or the transaction is made, but the conflicted Director may not vote on the motion to authorize the gift or transaction.

5.13.6 The Board may authorize the receipt of a gift by a conflicted Director or a transaction involving a conflicted Director if the Board has determined that: (a) in the case of a gift, the gift is of such a nature and value that it would not reasonably be expected to cause the donor to exert an influence over the conflicted Director's judgment in voting on matters affecting the Association; or (b) in the case of a transaction for goods or services, the transaction is fair to the Association.

## **ARTICLE VI – BOARD MEETINGS**

### **6.1 Place of Board Meetings.**

Meetings of the Board shall be held at the principal office of the Association or at such other place, within or convenient to the Property, as may be fixed by the Board and specified in the notice of the meeting.

## **6.2 Annual Board Meeting.**

The annual meeting of the Board shall be held on the same date as, or within ten (10) days following, the annual meeting of Members. The business to be conducted at the annual meeting of the Board shall consist of the appointment of officers of the Association and the transaction of such other business as may properly come before the Board at the meeting. No prior notice of the annual meeting of the Board shall be necessary if the meeting is held on the same day and at the same place as the annual meeting of Members at which the Board is elected or if the time and place of the annual meeting of the Board is announced at the annual meeting of Members.

## **6.3 Other Regular Board Meetings.**

The Board may hold other regular meetings and may, by resolution, establish in advance, the times and places for such regular meetings. The resolution shall be given to all Members of the Association at least forty-eight (48) hours (plus any time added to effectuate delivery under Section 9.16) before the first meeting scheduled. No prior notice of any regular meeting need be given after establishment of the time and place by such resolution.

## **6.4 Special Board Meetings.**

Special meetings of the Board may be called by the president or any two (2) Directors other than the president. Any special meeting of the Board not regularly scheduled under Section 6.3 shall require the same notice as Section 6.3.

## **6.5 Open Board Meetings/Member Right to Participate.**

Except as provided in Section 6.6, a Board meeting, whether in person or by means of electronic communication, at which the Board can take binding action shall be open to each Member or the Member's representative if the representative is designated in writing. At each meeting, the Board shall provide each Member a reasonable opportunity to offer comments. The Board may set limits on the total time for comments, the time allowed for each individual comment, and where member comments appear on the meeting agenda. By a majority vote, the Board may allow a member comment even if it occurs outside the time designated on the meeting agenda. If a member's comment includes name-calling or otherwise disrupts the decorum of the meeting, the Board may require that the member be escorted out. The Board may follow Roberts Rules of Order as a prescriptive guide. A Director may not avoid or obstruct the requirements of this Section. However, nothing in this Section shall affect the validity or enforceability of an action of the Board.

## **6.6 Closed Meetings.**

The Board may close a meeting to: (a) consult with an attorney for the purpose of obtaining legal advice; (b) discuss ongoing or potential litigation, mediation, arbitration, or administrative proceedings; (c) discuss a personnel matter; (d) discuss a matter relating to contract negotiations, including review of a bid or proposal; (e) discuss a matter that involves an individual if the discussion is likely to cause the individual undue embarrassment or violate the individual's reasonable expectation of privacy; or (f) discuss a delinquent assessment or fine.

If after a vote of the majority of all other Directors, it is determined that a Director has not maintained the confidentiality of any matter covered in the previous paragraph that is addressed at a closed meeting (“Confidential Matter”), the non-offending Directors may exclude the offending Director from any closed meetings at which that Confidential Matter is addressed and may create a committee to handle the Confidential Matter and exclude the offending Director from that committee.

#### **6.7 Notice to Directors of Board Meetings.**

In the case of all meetings of the Board for which notice is required by these Bylaws, notice stating the place, day, and hour of the meeting shall be given not less than two (2) nor more than thirty (30) days before the date of the meeting (plus any time added to effectuate delivery as set forth in Section 9.16), by mail, fax, electronic means, telephone, or personally, by or at the direction of the persons calling the meeting, to each Director. If by telephone such notice shall be deemed to be effective when given by telephone to the Director. If given personally, such notice shall be deemed effective upon delivery of a copy of a written notice to, or upon verbally advising, the Director or some person who appears competent and mature at the Director’s home or business address as either appears on the records of the Association. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board need be specified in the notice to the Director or any waiver of notice of such meeting.

#### **6.8 Notice to Members of Board Meetings.**

At least forty-eight (48) hours before an open Board meeting (plus any time added to effectuate delivery under Section 9.16), the Association shall give written notice of the meeting via email to each Member who requests notice of a meeting, unless: (a) notice of the meeting is included in a meeting schedule that was previously provided to the Member; or (b) the meeting is to address an emergency and each Director receives notice (receipt deemed effective as set forth in Section 9.16) of the meeting less than forty-eight (48) hours before the meeting. The notice to the Members shall: (a) be delivered to the Member by email, to the email address that the Member provides to the Board or the Association (or via mail if requested in writing by the Member); (b) state the time and date of the meeting; (c) state the location of the meeting; and (d) if a Member may participate by means of electronic communication, provide the information necessary to allow the Member to participate by the available means of electronic communication.

#### **6.9 Proxies.**

For purposes of determining a quorum with respect to a particular proposal, and for purposes of casting a vote for or against a particular proposal, a Director is considered to be present at a meeting and to vote if the Director has granted a signed written proxy: (a) to another Director who is present at the meeting, (b) authorizing the other Director to cast the vote that is directed to be cast by the written proxy with respect to the particular proposal that is described with reasonable specificity in the proxy. Except as provided in this Section 6.9, Directors may not vote or otherwise act by proxy.

#### **6.10 Telecommunications.**

The Board may permit any Director to participate in a regular or special meeting of the Board by, or conduct the meeting through the use of, any means of communication by which all Directors participating may hear each other during the meeting. A Director participating in such a meeting is considered to be present in person at the meeting. If a Director wants to participate in a Board meeting by electronic communication, the Board shall provide the information necessary to allow the Members entitled to notice of the Board meeting under 6.8 to participate by the available electronic means.

#### **6.11 Quorum of Directors.**

A majority of the number of Directors fixed in these Bylaws shall constitute a quorum for the transaction of business. For the purpose of determining the presence of a quorum, Directors will be counted if present in person or represented by proxy.

#### **6.12 Adjournment of Board Meeting.**

Whether or not a quorum is present, the Directors present in person or represented by proxy at any meeting of the Board may adjourn the meeting without notice other than by an announcement at the meeting to a different date that is not more than thirty (30) days after the date of the original meeting. At any adjourned meeting that is held without notice other than an announcement at the preceding meeting, the quorum requirement shall not be reduced or changed, but if the originally required quorum is present, any business may be transacted that could have been transacted at the meeting as originally called.

#### **6.13 Vote Required at Board Meeting.**

At any meeting of the Board, if a quorum is present, a majority of the votes present in person or represented by proxy and entitled to be cast on a matter shall be necessary for the adoption of the matter, unless a greater proportion is required the Declaration, the Articles, or the Acts.

#### **6.14 Officers at Board Meetings.**

The president shall act as chairman, and the Board shall appoint a secretary to act at all meetings of the Board.

#### **6.15 Waiver of Notice.**

A Director may waive any notice of a Board meeting before or after the time and date stated in the notice. If a Director may waive notice in writing, and if the Director does, the waiver shall be signed by the Director and delivered to the Association for filing with the corporate records. A written waiver may be communicated by electronic transmission, and the effectiveness of a written waiver may not be conditioned on the delivery and filing of the waiver. A Director's attendance at or participation in a meeting waives any required notice to that Director of the meeting unless (a) at the beginning of the meeting or promptly upon the Director's later arrival,

the Director objects to holding the meeting or transacting business at the meeting because of lack of notice or defective notice; and (b) after objecting, the Director does not vote for or assent to action taken at the meeting.

#### **6.16 Board Action Without a Meeting.**

The Board may take action without a meeting in accordance with § 16-6a-813 of the Nonprofit Act. And any action taken pursuant to that statute has the same effect as action taken at a Board meeting and may be described as an action taken at a Board meeting in any document. The form attached hereto as Exhibit B may be used by the Board when taking action without a meeting.

#### **6.17 Expenses of Board Meetings.**

The Association shall bear the expenses of all regular and special meetings of the Board.

### **ARTICLE VII – OFFICERS**

#### **7.1 Officers, Employees, and Agents.**

The officers of the Association shall be natural persons at least eighteen (18) years of age and shall consist of a president, a secretary, a treasurer, and such other officers, assistant officers, employees, and agents as may be deemed necessary by the Board. Officers other than the secretary and the treasurer must be Directors. The same person may simultaneously hold more than one office.

#### **7.2 Appointment and Term of Office of Officers.**

The officers shall be appointed by the Board at the annual meeting of the Board and shall hold office, subject to the pleasure of the Board, until the next annual meeting of the Board or until their successors are appointed, whichever is later, unless the officer resigns, or is removed earlier.

#### **7.3 Resignation and Removal of Officers.**

An officer may resign at any time by giving written notice of resignation to the Association. A resignation of an officer is effective when the notice is received by the Association unless the notice specifies a later effective date. If a resignation is made effective at a later date, the Board may (a) permit the officer to remain in office until the effective date, and the Board may fill the pending vacancy before the effective date if the successor does not take office until the effective date; or (b) remove the officer at any time before the effective date and fill the vacancy created by the removal. The Board may remove any officer at any time with or without cause. An officer who resigns, is removed, or whose appointment has expired may file a statement with the Division in the same form as provided in Section 5.8.



#### **7.4 Vacancies.**

Any vacancy occurring in any position as an officer may be filled by the Board. An officer appointed to fill a vacancy shall be appointed for the unexpired term of the predecessor in office.

#### **7.5 President.**

The president shall be the principal executive officer of the Association and, subject to the control of the Board, shall direct, supervise, coordinate, and have general control over the affairs of the Association. The president shall preside at all Board meetings and Member meetings.

#### **7.6 Vice President.**

The vice president, if any, may act in place of the president in case of the president's death, absence, or inability to act and shall perform such other duties and have such authority as is delegated by the Board or by the president from time to time.

#### **7.7 Secretary.**

The secretary shall be the custodian of the records and the seal, if any, of the Association and shall affix the seal to all documents requiring the seal. Subject to the control of the Board, the secretary (a) shall see that all notices are duly given in accordance with the provisions of these Bylaws and as required by law and that the books, reports and other documents and records of the Association set forth in Section 9.3 are properly kept and filed; (b) shall take or cause to be taken and shall keep minutes of the meetings of Members, of the Board, and of committees of the Board; (c) shall keep at the principal office of the Association a record of the names and addresses of the Members; and (d) in general, shall perform all duties incident to the office of secretary and such other duties as may, from time to time, be assigned by the Board or by the president. The Board may appoint one or more assistant secretaries who may act in place of the secretary in case of the secretary's death, absence, or inability to act. The secretary's duties may be delegated to the Association's manager, if any.

#### **7.8 Treasurer.**

Subject to control of the Board, the treasurer (a) shall have charge and custody of, and be responsible for, all funds and securities of the Association; (b) shall deposit all such funds in the name of the Association in the depositories as shall be designated by the Board; (c) shall keep correct and complete financial records and books of account and records of financial transactions and condition of the Association and shall submit such reports thereof as the Board may, from time to time, require; (d) shall arrange for the annual report required under Section 9.7 of these Bylaws; and (e) in general, shall perform all the duties incident to the office of treasurer and such other duties as may from time to time be assigned by the Board or by the president. The Board may appoint one or more assistant treasurers who may act in place of the treasurer in case of the treasurer's death, absence, or inability to act. The treasurer's duties may be delegated to the Association's manager, if any.

## **7.9 Bonds.**

The Association may pay for fidelity bonds covering officers or other persons handling funds of the Association as provided for in the Declaration. The Association shall pay the premiums for any such bonds acquired.

## **7.10 Special Appointments.**

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

# **ARTICLE VIII – INDEMNIFICATION**

## **8.1 Indemnification.**

The Association shall indemnify any Director, officer, employee, fiduciary, and agent (including but not limited to the property manager) to the fullest extent allowed by the Acts.

## **8.2 Authority to Insure.**

The Association may purchase and maintain liability insurance on behalf of any Directors, officers, employees, fiduciaries, and agents against any liability asserted against them and incurred by them in such capacity or arising out of their status as such, including liabilities for which they might not be entitled to indemnification under these Bylaws.

# **ARTICLE IX – MISCELLANEOUS**

## **9.1 Amendment/Conflict.**

These Bylaws may be amended at any regular, annual, or special meeting of the Board by a vote of the majority of the Board unless it would result in a change of the rights, privileges, preferences, restrictions, or conditions of a membership class as to voting, dissolution, redemption, or transfer by changing the rights, privileges, preferences, restrictions, or conditions of another class. The Board may not amend these Bylaws to require a greater quorum requirement or a greater voting requirement for Members without Member approval. The Members may amend the Bylaws even though the Bylaws may also be amended by the Board. Amendments to the Bylaws by Members shall be made in accordance with the Acts. In the case of any conflict between the Articles and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

## **9.2 Compensation of Officers, Directors, and Members.**

No Director shall have the right to receive any compensation from the Association for serving as a Director except for reimbursement of expenses as may be approved by resolution of the disinterested Directors and except as may otherwise be approved by the Members. Officers, agents, and employees may receive such reasonable compensation as may be approved by the

Board. Appointment of a person as an officer, agent, or employee shall not, in itself, create any right to compensation.

### **9.3 Books and Records.**

9.3.1 The Association shall keep as permanent records: (a) minutes of all meetings of its Members and Board; (b) a record of all actions taken by the Members or Board without a meeting; (c) a record of all actions taken by a committee of the Board in place of the Board on behalf of the Association; (d) a record of all waivers of notices of meetings of Members and of the Board or any committee of the Board; and (e) the Governing Documents.

9.3.2 The Association shall maintain appropriate accounting records.

9.3.3 The Association or its agent shall maintain a record of its Members in a form that permits preparation of a list of the name and address of all Members in alphabetical order, by class, and showing the number of votes each Member is entitled to vote.

9.3.4 The Association shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

9.3.5 The Association shall keep a copy of each of the following records at its principal office: (a) the Governing Documents; (b) resolutions adopted by the Board relating to the characteristics, qualifications, rights, limitations, and obligations of Members; (c) the minutes of all Member meetings for a period of three (3) years; (d) records of all actions taken by Members without a meeting for a period of three (3) years; (e) all written communications to Members generally as Members for a period of three (3) years; (f) a list of the names and business or home addresses of the Association's current Directors and officers; (g) a copy of the Association's most recent annual report filed with the Division; (h) all financial statements prepared for periods ending during the last three (3) years; (i) the minutes of all Board meetings for the previous three (3) calendar years; (j) the most recent annual budget and financial report; (k) the most recent reserve analysis; (l) the Association's certificate of insurance for each insurance policy the Association holds; (m) a profit and loss statement for the previous three (3) fiscal years; and (n) a balance sheet for the previous three (3) fiscal years.

9.3.6 If the Association has an active website, the Association shall make the following documents available to Members, free of charge, through the website: (a) the Governing Documents, (b) the most recent approved minutes, and (c) the most recent budget and financial statement. If the Association does not have an active website, the Association shall make physical copies of such documents available to Members during regular business hours at the Association's address registered with the Utah Department of Commerce.

### **9.4 Inspection of Records.**

9.4.1 A Director or Member is entitled to inspect and copy any of the records of the Association described in Subsection 9.3.5: (a) during regular business hours; (b) at the Association's principal office; and (c) if the Director or Member gives the Association written

demand at least five (5) business days before the date on which the Member wishes to inspect and copy the records.

9.4.2 In addition to the rights in Subsection 9.4.1, a Director or Member is entitled to inspect and copy any of the other records of the Association described in Section 9.3: (a) during regular business hours; (b) at a reasonable location specified by the Association; and (c) at least five (5) business days before the date on which the Member wishes to inspect and copy the records, if the Director or Member: (i) meets the requirements of Subsection 9.4.3; and (ii) gives the Association written demand.

9.4.3 A Director or Member may inspect and copy the records described in Subsection 9.4.2 only if: (a) the demand is made in good faith and for a proper purpose, (b) the Director or Member describes with reasonable particularity the purpose and the records the Director or Member desires to inspect, and (c) the records are directly connected with the described purpose.

9.4.4 Notwithstanding the definition of “Member” in Section 3.1, for purposes of this Section only, a “Member” includes: (a) a beneficial owner whose membership interest is held in a voting trust and (b) any other beneficial owner of a membership interest who establishes beneficial ownership. “Proper purpose” means a purpose reasonably related to the demanding Member’s or Director’s interest as a Member or Director.

9.4.5 The right of inspection granted by this Section may not be abolished or limited by the Articles or these Bylaws.

9.4.6 This Section does not affect: (a) the right of a Director or Member to inspect records relating to ballots, (b) the right of a Member to inspect records to the same extent as any other litigant if the Member is in litigation with the Association, or (c) the power of a court, independent of this ARTICLE IX, to compel the production of corporate records for examination.

9.4.7 A Director or Member may not use any information obtained through the inspection or copying of records permitted by Subsection 9.4.2 for any purposes other than those set forth in the demand made under Subsection 9.4.3.

9.4.8 The Association may redact the following information from any document the Association produces for inspection or copying: (a) a Social Security number, (b) a bank account number, or (c) any communication subject to attorney-client privilege.

9.4.9 In a written request to inspect or copy documents:

- (a) a Member shall include:
  - (i) the Association’s name;
  - (ii) the Member’s name, property address, and email address;
  - (iii) a description of the documents requested; and
  - (iv) any election or request described in Subsection (b).
- (b) a Member may:

- (i) elect whether to inspect or copy the documents;
- (ii) if the Member elects to copy the documents, request hard copies or electronic scans of the documents; or
- (iii) subject to Subsection 9.4.10, request that:
  - (A) the Association make the copies or electronic scans of the requested documents;
  - (B) a recognized third-party duplicating service make the copies or electronic scans of the requested documents;
  - (C) the Member be allowed to bring any necessary imaging equipment to the place of inspection and make copies or electronic scans of the documents while inspecting the documents; or
  - (D) the Association email the requested documents to an email address provided in the request.

9.4.10 If the Association produces the copies or electronic scans, the copies or electronic scans shall be legible and accurate, and the Member shall pay the Association the reasonable cost of the copies or electronic scans and for the time spent meeting with the Member, which may not exceed (a) the actual cost that the Association paid to a recognized third-party duplicating service to make the copies, or (b) if an employee, manager, or other agent of the Association makes the copies, ten cents (\$.10) per page and twenty dollars (\$20.00) per hour for the employee's, manager's, or other agent's time making the copies. The Association may not charge the Member for any costs associated with fulfilling a request for electronic transmission of the documents described in Subsection 9.4.9. If a Member requests a recognized third-party duplicating service make the copies, the Association shall arrange for the delivery and pick up of the original documents, and the Member shall pay the duplicating service directly. If a Member requests to bring imaging equipment to the inspection, the Association shall provide the necessary space, light, and power for the imaging equipment. The Association may fulfill the request described in Subsection 9.4.9 by posting the documents described in Subsection 9.4.9 to the Association's website or online Owner portal, if any.

9.4.11 Subject to Subsection 9.4.12, if in response to a Member's request to inspect or copy documents, the Association fails to comply with a provision of this Section, the Association shall pay:

- (a) the reasonable costs of inspecting and copying the requested documents;
- (b) for the Governing Documents, the most recent approved, minutes, and the most recent budget and financial statement, twenty-five dollars (\$25.00) to the Member who made the request for each day the request continues unfulfilled, beginning the sixth (6th) day after the day on which the Member made the request; and
- (c) reasonable attorney fees and costs incurred by the Member in obtaining the inspection and copies of the requested documents.

9.4.12 The Association is not liable for identifying or providing a document in error if the Association identified or provided the erroneous document in good faith.

### **9.5 Scope of Inspection Right.**

A Director's or Member's agent or attorney has the same inspection and copying rights as the Director or Member. The Association may comply with a Director's or Member's demand to inspect the record of Members under Subsection 9.3.3 by furnishing to the Director or Member a list of Directors or Members that complies with Subsection 9.3.3 and is compiled no earlier than the date of the Director's or Member's demand. Without consent of the Board, a membership list or any part thereof may not be obtained or used by any person for any purpose unrelated to a Member's interest as a Member. A Member's right to inspect ballot results is limited to the final tabulated vote totals, and does not include access to individual ballots, identifying information, or any record that could reveal how any specific Member voted. Concerning financial statements, by no later than fifteen (15) days after the day on which the Association receives a written request of any Member (receipt by the Association deemed effective as set forth in Section 9.16), the Association shall mail to the Member the following that show in reasonable detail the assets and liabilities and results of the operations of the Association: (a) the Association's most recent annual financial statements, if any; and (b) the Association's most recently published financial statements, if any.

### **9.6 Statement of Account.**

Upon written request of a Member and payment of ten dollars (\$10.00) (or a higher reasonable fee if allowed by the Association Act), the Association shall give, within ten (10) days after receiving the request (receipt by the Association deemed effective as set forth in Section 9.16), a written statement indicating any unpaid assessment with respect to the Member's Lot. The written statement is binding on the Association and any other owners of the Lot in favor of any person who relies on the statement in good faith.

### **9.7 Annual Reports.**

The Association shall file with the Division, within the time prescribed by law, annual corporate reports in such form and containing the information required by law and shall pay the fee for such filing as prescribed by law.

### **9.8 Fiscal Year.**

The fiscal year of the Association shall be the calendar year and shall begin on January 1 and end the succeeding December 31. The Board may change the fiscal year without amending these Bylaws.

### **9.9 Shares of Stock and Dividends Prohibited.**

The Association shall not have or issue shares of stock and no dividends shall be paid and no part of the income or profit of the Association shall be distributed to its Members, Directors, or officers. Notwithstanding the foregoing, the Association may issue certificates evidencing membership in the Association, may confer benefits upon its Members in conformity with its purposes and, upon dissolution or final liquidation, may make distributions as permitted by law,

and no such payment, benefit, or distribution shall be deemed to be a dividend or distribution of income or profit.

#### **9.10 Loans to Directors, Officers, and Members Prohibited.**

No loan shall be made by the Association to any Director, officer, or Member, and any Director, officer, or Member who nevertheless assents to or participates in the making of any such loan shall be liable to the Association for the amount of the loan until it is repaid.

#### **9.11 Limited Liability.**

A director, officer, or member of any committee of the Association is not liable to the Association or the Members for any action taken, or any failure to take any action, as an officer, director, or committee member, as the case may be, unless the director has breached or failed to perform the duties of the office set forth in § 16-6a-822 of the Nonprofit Act and the breach or failure to perform constitutes willful misconduct, intentional infliction of harm on the Association or the Members, or gross negligence.

#### **9.12 Minutes and Presumptions.**

Minutes or any similar record of the meetings of Members or of the Board, when signed by the secretary or acting secretary of the meeting, shall be presumed to truthfully evidence the matters set forth in the minutes. A recitation in any such minutes that notice of the meeting was properly given shall be prima facie evidence that the notice was given.

#### **9.13 Checks, Drafts, and Documents.**

All checks, drafts, or other orders for payment of money, notes, or other evidence of indebtedness, issued in the name of or payable to the Association, shall be signed or endorsed by such person or persons, and in such manner as, from time to time, shall be determined by resolution of the Board.

#### **9.14 Execution of Documents.**

The Board, except as these Bylaws otherwise provide, may authorize any officer or agent to enter into any contract or execute any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances. Unless authorized by the Board, no officer, agent, or employee shall have any power or authority to bind the Association by any contract or engagement or to pledge its credit or to render it liable for any purpose or in any amount.

#### **9.15 Right to Inspect.**

Notwithstanding the other provisions of this ARTICLE IX, unless otherwise provided in these Bylaws, a right of a Member to inspect or receive information from the Association applies only to a Member of the Association or that Member's agent.

#### **9.16 Manner of Giving Notice.**

The Association may provide notice to Members orally or by electronic means, including text message, email, or the Association's website, except that a Member may, by written demand, require the Association to provide notice to that Member by mail. Any notice required to be given shall be deemed effective and received upon the earlier to occur of the following:

(a) When mailed by first-class mail and addressed to the most recent address of the recipient according to Association's records, notice is effective and deemed received at the earliest of the following: (i) when received, (ii) six (6) days after it is mailed, or (iii) on the date shown on the return receipt if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

(b) When sent via electronic means such as an e-mail, text message, or similar electronic communication, notice is effective and deemed received within twenty-four (24) hours of being sent and a rejection or undeliverable notice is not received by the sender.

(c) When posted on the Association's website, notice is effective and deemed received seventy-two (72) hours after it was posted.

(d) When hand delivered, notice is effective and deemed received immediately when delivered.

(e) When notice is given orally, notice is effective and deemed received when communicated if the communication is comprehensible.

(f) When delivered by other means, notice is effective and deemed received upon such circumstances and conditions as are reasonably calculated to give notice to the Member.

#### **9.17 Severability.**

Invalidation of any provision of the Governing Documents by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

#### **9.18 Interpretation.**

The provisions of the Governing Documents shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community and for the maintenance of the Common Areas and other areas within the Property. The article and Section headings have been inserted for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction. The words "may not" mean that an action is not authorized and is prohibited. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine and neuter shall each include the masculine, feminine and neuter. Except for judicial construction and express Utah law, the Board shall have the exclusive right to construe and interpret the provisions of the Governing Documents, and amendments thereto. In the absence of any adjudication by a court of competent jurisdiction or express Utah law to the contrary, the Board's construction or



interpretation of the provisions hereof shall be final, conclusive, and binding as to all persons and property benefitted or bound by the Governing Documents.

**9.19 Substantial Compliance.**

The Association and Board need only substantially comply with the Governing Documents in good faith; their technical breaches of the Governing Documents do not constitute breach.

*[signatures on following page]*

## CERTIFICATE OF PRESIDENT

I, the undersigned, do hereby certify that:

1. I am the duly elected and acting President of [Association Name], a Utah nonprofit corporation (“Association”); and

2. The foregoing Bylaws constitute the Bylaws of the Association duly adopted by the Board of the Association at a meeting held on \_\_\_\_\_, 20\_\_.

IN WITNESS WHEREOF, I have hereunto subscribed my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**[ASSOCIATION NAME],**  
a Utah nonprofit corporation

By: \_\_\_\_\_  
Its: President

STATE OF UTAH )  
 )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared before me \_\_\_\_\_, whose identity is personally known to me or proved to me on the basis of satisfactory evidence, and who, being duly sworn (or affirmed), did say that he/she is the President of [Association Name], a Utah nonprofit corporation, and that the foregoing document was signed by him/her on behalf of the Association by authority of its Bylaws, Declaration, or resolution of the Board, and he/she acknowledged before me that he/she executed the document on behalf of the Association and for its stated purpose.

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Notary Public

Exhibit A  
(Legal Description)

This Amended and Restated Declaration of Covenants and Restrictions of the Cedar Highlands Subdivision affects the following real property, all located in Iron County, State of Utah:

**Block 1 Amended:** All of Lot 1 and Lot 6, together with all Common Area, Cedar Highlands Subdivision Amended, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0002-0001  
PARCEL: D-1024-0001-0006

**Block 2 Amended:** All of Lots 7 through 9, together with all Common Area, Cedar Highlands Subdivision Amended, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0002-0007 through D-1024-0002-0009

**Block 1:** All of Lot 1A and Lots 2 through 5, together with all Common Area, Cedar Highlands Subdivision, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0001-001A  
PARCEL: D-1024-0001-0002 through D-1024-0001-0005

**Block 2:** All of Lots 2 through 6 and Lots 10 through 34, together with all Common Area, Cedar Highlands Subdivision, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0002-0002 through D-1024-0002-0006  
PARCEL: D-1024-0002-0010 through D-1024-0002-0034

**Block 3:** All of Lots 1 through 13, together with all Common Area, Cedar Highlands Subdivision, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0003-0001 through D-1024-0003-0013

**Block 4:** All of Lots 1 through 19, together with all Common Area, Cedar Highlands Subdivision, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0004-001 through D-1024-0004-0019

**Block 5:** All of Lots 1 through 10, together with all Common Area, Cedar Highlands Subdivision, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0005-0001 through D-1024-0005-0010

**Block 6:** All of Lots 1 through 12, together with all Common Area, Cedar Highlands Subdivision, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0006-0001 through D-1024-0006-0012

**Block 7:** All of Lots 1 through 9, together with all Common Area, Cedar Highlands Subdivision, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0007-0001 through D-1024-0007-0009

**Block 8:** All of Lots 1 through 20, together with all Common Area, Cedar Highlands Subdivision, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0008-0001 through D-1024-0008-0020

**Block 9:** All of Lots 1 through 10, together with all Common Area, Cedar Highlands Subdivision, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0009-0001 through D-1024-0009-0010

**Block 10:** All of Lots 1 through 6, together with all Common Area, Cedar Highlands Subdivision, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0010-0001 through D-1024-0010-0006

**Block 11:** All of Lots 1 through 11, together with all Common Area, Cedar Highlands Subdivision, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0011-0001 through D-1024-0011-0011

**Block 12:** All of Lots 1 through 15, together with all Common Area, Cedar Highlands Subdivision, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0012-0001 through D-1024-0012-0015

**Common Area:** All Area Known as Common Area of Cedar Highlands Subdivision, according to the Official Plat thereof, on file in the Office of the Recorder of Iron County, State of Utah.

PARCEL: D-1024-0013-0000

PARCEL: D-1024-0014-0000

Exhibit B  
(Action without a Meeting Form)

Notice of Proposed Action Without a Meeting of the Board  
Pursuant to Utah Code § 16-6a-813  
(Email Communication)

1. Stipulations: All Board members (“Directors”) stipulate that this email communication and any response by email will be deemed a written communication and the email address of each Director will act as the Director’s signature to the communication. Any response must be sent by a “reply to all.” A response sent to all Directors in this email communication will be deemed a written response received by the Association.
2. Proposed Action: The following action is proposed to be taken:  

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3. Response Options: Each Director may respond to the proposed action in one of the following three ways (or language that is clear and the equivalent of the following):
  - (a) Reply all via email stating, “I vote in favor of the proposed action.”
  - (b) Reply all via email stating, “I abstain from the vote on the proposed action.”
  - (c) Reply all via email stating, “I object to the proposed action being taken without a meeting.”
4. Time to Respond: Each Director must respond to this Notice by not later than the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ .m., Utah time.
5. Effect of Untimely Response: An untimely response will have the following effect:
  - (a) abstaining from the vote on the proposed action; and
  - (b) failing to timely demand the proposed action not be taken without a meeting.
6. When Action is Deemed Taken: The proposed action is taken only if at the end of the time stated in paragraph 4:
  - (a) the affirmative votes are timely received and not timely revoked, and those votes equal or exceed the minimum number of votes that would be necessary to take such action at a meeting at which all of the Directors then in office were present and voted; and

- (b) a demand has not been received under paragraph 3(c) that the action not be taken without a meeting, unless the demand has been revoked by the time identified in paragraph 4.
- 7. Right to Revoke: A Director who has voted, abstained, or demanded the action not be taken without a meeting under paragraph 3 or paragraph 5 may revoke the vote, abstention, or demand that the action not be taken without a meeting by sending a follow-up reply email by the time stated in paragraph 4 and stating the revocation and stating the desired response under paragraph 3.
- 8. Effective Date: The effective date of the action deemed taken under paragraph 6 shall be the date and time stated in paragraph 4, unless a later date and time for the effective date is specified in the proposed action to be taken under paragraph 2.
- 9. Conditions for Email Communications:
  - (a) An email communicating a vote, abstention, demand, or revocation will be deemed written, signed, and dated for purposes of this action if the email is delivered with information from which the Board, as parties to the email, communication can determine:
    - (i) that the email is transmitted by the Director; and
    - (ii) the date on which the email is transmitted.
  - (b) The date on which the email is transmitted is considered the date on which the vote, abstention, demand, or revocation is signed.
  - (c) For purposes of this proposed action, an email to the Board is not effective until received.
- 10. Statutory Effect: Under Utah Code Section 16-6a-813, action taken pursuant to this email has the same effect as action taken at a meeting of the Board and may be described as an action taken at a meeting of the Board in any document.
- 11. Minutes: At the next regular Board meeting, any action taken pursuant to this email (without a meeting) will be announced at the meeting and recorded in the minutes of the Board. Failing to announce any such action at the next Board meeting or recording it in the minutes will not affect the validity of the action.