

CO 217729
RECEIVED

FEB 12 1999

State of Utah
Department of Commerce
Division of Corporations and Commercial Code

ARTICLES OF INCORPORATION

I hereby certify that the foregoing has been filed and approved on the 12 day of February 1999 in the office of this Division and hereby issue this Certificate thereof.

OF

Utah Div. of Corp. Comm. Code

Examiner CEB Date 2/12/99 **MUIRFIELD HOMEOWNERS ASSOCIATION, INC.**



[Signature]
LORENA P. RAY
DIVISION DIRECTOR

A Utah Non-Profit Corporation

The undersigned natural person over the age of 21 years, acting as incorporator of a non-profit corporation under the Utah Non-Profit Corporation and Cooperative Association Act (Section 16-6-18 through 16-6-111, Utah Code Annotated (1953)), hereby adopts these Articles of Incorporation for such Corporation.

The name of the Corporation is Muirfield Homeowners Association, Inc. The Corporation shall continue in existence perpetually unless dissolved or otherwise terminated according to law.

I. DEFINITIONS

When used in these Articles, the following terms shall have the meaning indicated:

1. Articles shall mean and refer to these Articles of Incorporation of Muirfield Homeowners Association, Inc.
2. Association shall mean and refer to Muirfield Homeowners Association, Inc., the Utah non-profit corporation which is created by the filing of these Articles.
3. Member shall mean and refer to every person who holds membership in the Association.
4. Developer shall mean and refer to Muirfield L.L.C., a Utah limited liability company, its successor and assigns.
5. Property shall mean and refer to the entirety of the following-described tract of real property, situated in Wasatch County, State of Utah:

Lots 201 through 310, inclusive, shown and designated and the Homeowners Association Open Space shown on the plat entitled, "Muirfield Subdivision #2" to be recorded among the Recorder's Office of Wasatch County, Utah, and any additional property designated by the Developer.
6. Plat shall mean and refer to the subdivision plat covering the Property, entitled "MUIRFIELD SUBDIVISION NO. 2" executed and acknowledged by Developer, prepared and certified by Ralph E. Goff registered Utah Land Surveyor holding Certificate

00211422 BR 00414 P3 00720

2. 2.21 LEASE AGREEMENTS. All lease agreements with respect to any Lot or any Structure located thereon shall be in writing. The minimum term of all lease agreements shall be one (1) year, with the exception that during the months of January, February, March and April of the year 2002, homeowner may lease out their property for Olympic 2002 purposes. All lease agreements shall be subject to this Declaration. Owners who do not reside on their Lot must provide current addresses and phone numbers to the Association.

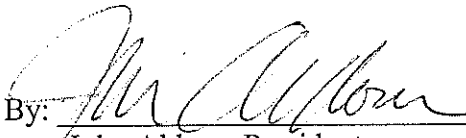
In all other respects, the Declaration, as amended, remains unchanged.

WITNESS the hand and seal of Muirfield L.L.C. on the day herein above first written.

WITNESS/ATTEST:

MUIRFIELD L.L.C.

By: HAMLET HOMES CORPORATION,
Member

By:  (SEAL)
John Aldous, President

MUIRFIELD HOMEOWNERS ASSOCIATION

FOURTH AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS FOURTH AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Fourth Amendment"), is made this 31 day of August, 2000, by MUIRFIELD, L.L.C., a Utah limited liability company ("Declarant").

WITNESSETH:

WHEREAS, Muirfield L.L.C. made, executed and caused to be recorded, as Declarant, that certain Declaration of Covenants, Conditions and Restrictions dated February 18, 1999 and recorded among the Wasatch County Recorder's Office in Book 00414, page 00741-00778 et seq., pursuant to which the Declarant subjected all that property described in the Declaration (the "Property") and Declarant formed an association known as, "Muirfield Homeowners Association" ("Association"); and

WHEREAS, pursuant to Article 2.16 VEHICLES, of the Declaration, (Paragraph c) Trailers, buses, tractors or any type of recreational vehicle shall not be parked, stored, maintained or repaired on any Lot or parked upon any streets or Common Areas; and

WHEREAS, Declarant has ascertained that paragraph (c) of Article 2.16 is contradictory to paragraph (a) of Article 2.16; and

NOW THEREFORE, the Declarant hereby declares that the Declaration of Covenants, Conditions and Restrictions be amended as follows:

1. Removal of paragraph (c) Article 2.16 (located on page 10).

WHEREAS, pursuant to Article 2.21 LEASE AGREEMENTS, of the Declaration; All lease agreements with respect to any Lot or any Structure located thereon shall be in writing. The minimum term of all lease agreements shall be one (1) year, and shall state that the lease agreement shall be subject to this Declaration. Owners who do not reside on their Lot must provide current addresses and phone numbers to the Association; and

WHEREAS, Declarant would like to add the following amendment to Article 2.21: The minimum term of all lease agreements shall be one (1) year, with the exception that during the months of January, February, March and April of the year 2002, homeowner may lease out their property for Olympic 2002 purposes; and

NOW THEREFORE, the Declarant hereby declares that the Declaration of Covenants, Conditions and Restrictions be amended as follows:

ENTRY NO. 227208 DATE 9-14-00 TIME 16:25 FEE 198.1
ACCOMODATION RECORDING ONLY RECORDED FOR 1ST AMERICAN BOOK 475 PAGE 631-635
FIRST AMERICAN TITLE MAKES NO REPRESENTATION AS TO CONDITION OF TITLE NOR DOES IT ACCEPT ANY RESPONSIBILITY FOR VALIDITY, SUFFICIENCY OR AFFECT OF DOCUMENT. ELIZABETH M. PARCELL BY MARILYN W CUMMINS

EXHIBIT "A"

**MUIRFIELD PUD
DESCRIPTION OF PHASES
TO BE SUBMITTED TO THE HOMEOWNERS ASSOCIATION**

BEING KNOWN AND DESIGNATED as Phases 2, 3, 4A and 4B all as shown on the Plats entitled, "Muirfield, Phase 2", "Muirfield, Phase 3", "Muirfield, Phase 4B", and "Muirfield, Phase 4A", which Plats are recorded among the Recorder's Office of Wasatch County.

LEGAL DESCRIPTION

MUIRFIELD ESTATES NO. 2 OPEN SPACE DESCRIPTIONS

BEGINNING AT A POINT WHICH IS SOUTH, 1904.09 FEET AND WEST, 1370.96 FEET FROM THE NORTHEAST CORNER OF SECTION 31, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE S29°04'31"W, 114.06 FEET; THENCE N89°40'15"W, 66.17 FEET; THENCE N17°27'57"E, 104.65 FEET; THENCE S89°40'15"E, 90.19 FEET TO THE POINT OF BEGINNING.

CONTAINS: 7818 SQUARE FEET

ALSO:

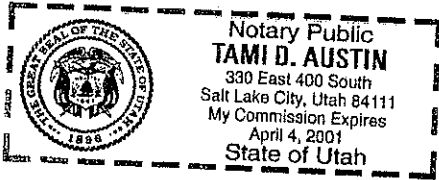
BEGINNING AT A POINT WHICH IS SOUTH, 2063.39 FEET AND WEST, 1494.77 FEET FROM THE NORTHEAST CORNER OF SECTION 31, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE S0°19'45"W, 189.18 FEET; THENCE 77.23 FEET ALONG THE ARC OF A 75.00 FOOT RADIUS CURVE TO THE LEFT (CHORD BEARS S29°49'44"W, 73.89 FEET); THENCE N89°40'08"W, 67.00 FEET; THENCE S23°50'40"W, 82.70 FEET; THENCE S26°28'30"W, 189.83 FEET; THENCE S29°18'52"W, 165.51 FEET; THENCE N89°13'26"W, 141.78 FEET; THENCE N0°46'34"E, 10.94 FEET; THENCE N33°00'00"E, 112.36 FEET; THENCE 131.69 FEET ALONG THE ARC OF A 50.00 FOOT RADIUS CURVE TO THE LEFT (CHORD BEARS N50°05'18"E, 96.78 FEET); THENCE N29°46'06"E, 352.24 FEET; THENCE N50°45'00"W, 84.99 FEET; THENCE N39°14'52"E, 124.68 FEET; THENCE 106.98 FEET ALONG THE ARC OF A 120.00 FOOT RADIUS CURVE TO THE RIGHT (CHORD BEARS N64°47'15"E, 103.47 FEET TO THE POINT OF BEGINNING.

CONTAINS: 1.2095 ACRES

STATE OF UTAH
COUNTY OF SALT LAKE

I HEREBY CERTIFY, that on this 6th day of September, 2000, before me, the subscriber, a Notary Public in and for the State of Utah and Salt Lake County aforesaid, personally appeared Blake Heiner, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, who acknowledged himself to be the Vice President of FIRST AMERICAN TITLE COMPANY OF UTAH, a Utah corporation, Trustee, that he has been duly authorized to execute, and has executed, the foregoing instrument on behalf of the said entity for the purposes therein set forth, and that the same is its act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.



Tami D. Austin
Notary Public

My commission expires: 04-04-01

Muirfield L.L.C.
470 East 3900 South, #200
Salt Lake City, Utah 84107

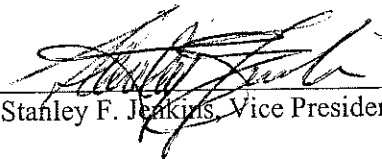
ENTRY NO. 227207 DATE 9-14-00 TIME 11:23 FEE 196.00
RECORDED FOR 1ST AMERICAN BOOK 475 PAGE 627-630
RECORDER ELIZABETH M. PARCELL BY MARILYN W. CUMMINGS

JOINDER AND CONSENT OF LENDER AND TRUSTEE

FIRST SECURITY BANK OF UTAH, N.A. as holder of that certain Promissory Note (as amended from time to time, the "Note"), and FIRST AMERICAN TITLE COMPANY, Trustee under that certain Deed of Trust from MUIRFIELD, L.L.C., recorded among the Wasatch County Recorder's Office (the "Deed of Trust"), execute this Joinder and Consent of Lender and Trustee for the sole purpose of expressing consent to the Fourth Amendment to Declaration of Covenants, Conditions and Restrictions for Muirfield Homeowners Association, to which this Joinder is attached and made a part of, and of binding and subjecting their interest in the Property (as defined in the Deed of Trust and known as Muirfield, all units), to the terms and conditions of such Declaration.

WITNESS OR ATTEST:

FIRST SECURITY BANK OF UTAH, N.A.

 (SEAL)
By: Stanley F. Jenkins, Vice President

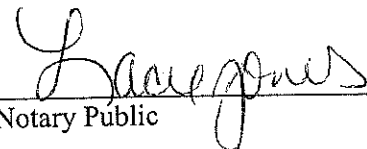
TRUSTEE:
FIRST AMERICAN TITLE COMPANY
OF UTAH

 (SEAL)
By: Blake Heiner, Vice President

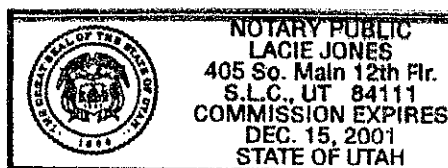
STATE OF UTAH
COUNTY OF SALT LAKE

I HEREBY CERTIFY, that on this 31st day of August, 2000, before me, the subscriber, a Notary Public in and for the State of Utah and Salt Lake County aforesaid, personally appeared Stanley F. Jenkins, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, who acknowledged himself to be the Vice President of FIRST SECURITY BANK OF UTAH, N.A., a national banking organization, that he has been duly authorized to execute, and has executed, the foregoing instrument on behalf of the said entity for the purposes therein set forth, and that the same is its act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.


Notary Public

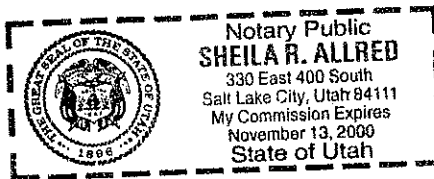
My commission expires: Dec 15, 2001



STATE OF UTAH
COUNTY OF SALT LAKE

I HEREBY CERTIFY, that on this 13th day of July, 2000, before me, the subscriber, a Notary Public in and for the State of Utah and Salt Lake County aforesaid, personally appeared Stanley F. Jenkins, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, who acknowledged himself to be the Vice President of FIRST AMERICAN TITLE COMPANY OF UTAH, a Utah corporation, Trustee, that he has been duly authorized to execute, and has executed, the foregoing instrument on behalf of the said entity for the purposes therein set forth, and that the same is its act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.



Sheila R. Allred

Notary Public

My commission expires: 11-13-00

Muirfield L.L.C.
470 East 3900 South, #200
Salt Lake City, Utah 84107

JOINDER AND CONSENT OF LENDER AND TRUSTEE

FIRST SECURITY BANK OF UTAH, N.A. as holder of that certain Promissory Note (as amended from time to time, the "Note"), and FIRST AMERICAN TITLE COMPANY, Trustee under that certain Deed of Trust from MUIRFIELD, L.L.C., recorded among the Wasatch County Recorder's Office (the "Deed of Trust"), execute this Joinder and Consent of Lender and Trustee for the sole purpose of expressing consent to the First Amendment to Declaration of Covenants, Conditions and Restrictions for Muirfield Homeowners Association, to which this Joinder is attached and made a part of, and of binding and subjecting their interest in the Property (as defined in the Deed of Trust and known as Muirfield, all units), to the terms and conditions of such Declaration.

WITNESS OR ATTEST:

FIRST SECURITY BANK OF UTAH, N.A.

 (SEAL)
By: Stanley F. Jenkins, Vice President

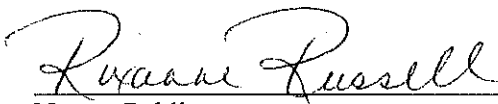
TRUSTEE:
FIRST AMERICAN TITLE COMPANY
OF UTAH

 (SEAL)
By: Blake Heimer, Vice President

STATE OF UTAH
COUNTY OF SALT LAKE

I HEREBY CERTIFY, that on this 13th day of July, 2000, before me, the subscriber, a Notary Public in and for the State of Utah and Salt Lake County aforesaid, personally appeared Stanley F. Jenkins, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, who acknowledged himself to be the Vice President of FIRST SECURITY BANK OF UTAH, N.A., a national banking organization, that he has been duly authorized to execute, and has executed, the foregoing instrument on behalf of the said entity for the purposes therein set forth, and that the same is its act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.


Notary Public

My commission expires: December 15, 2001

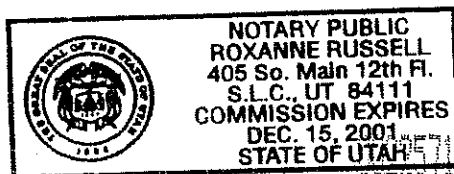


EXHIBIT "B"

**DESCRIPTION OF COMMON AREAS
TO BE SUBMITTED TO THE HOMEOWNERS ASSOCIATION**

All that area shown as "Common Area Open Space" on the Plats entitled,
"Muirfield, Phase 4A, which Plat is recorded among the Recorder's Office of Wasatch
County (please note there are no common areas).

EXHIBIT "A"

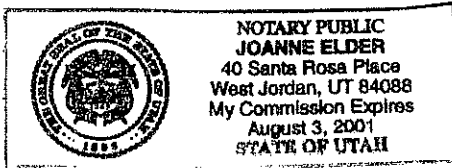
**DESCRIPTION OF LOTS
TO BE SUBMITTED TO THE HOMEOWNERS ASSOCIATION**

BEING KNOWN AND DESIGNATED as Lots 401 through and including 420,
all as shown on the Plat entitled, "Muirfield, Phase 4A, which Plat are recorded among
the Recorder's Office of Wasatch County.

STATE OF UTAH, CITY/COUNTY OF SALT LAKE, TO WIT:

I HEREBY CERTIFY that on this 13th day of July, 2000, before me, the subscriber, a Notary Public of the State of Utah, personally appeared John Aldous, known to me or suitably proven, who acknowledged himself to be President of Hamlet Homes Corporation, Member of Muirfield, L.L.C., the entity named in the foregoing instrument, and who, being authorized to do so, in my presence, signed and sealed the same and acknowledged the same to be the act and deed of such entity.

AS WITNESS my hand and seal.



Joanne Elder

Notary Public

My Commission Expires:

8-3-01

2. The Common Area to be owned by the Association at the time of the conveyance of the first lot contained within the Property described in Exhibit "A" attached hereto, is more particularly described in Exhibit "B" attached hereto and made a part hereof. References to streets and other Common Areas described in Exhibit "B" are for reference only, and the streets and Common Areas are intended for use by the Owners for access, ingress, egress, recreation and other related activities. The designated areas are not dedicated hereby for use by the general public, but are dedicated for the common use and enjoyment of the Owners as more fully set forth in the Declaration herein.

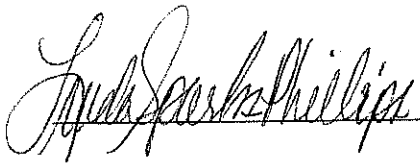
In all other respects, the Declaration, as amended, remains unchanged.

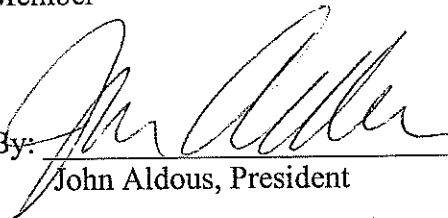
WITNESS the hand and seal of Muirfield L.L.C. on the day herein above first written.

WITNESS/ATTEST:

MUIRFIELD L.L.C.

By: HAMLET HOMES CORPORATION,
Member



By:  (SEAL)
John Aldous, President

MUIRFIELD LLC
470 FAST 3900 SOUTH, #200
SALT LAKE CITY, UTAH 84107

MUIRFIELD HOMEOWNERS ASSOCIATION

THIRD AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS THIRD AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("First Amendment), is made this 13~~th~~ day of July, 2000, by MUIRFIELD, L.L.C., a Utah limited liability company ("Declarant").

WITNESSETH:

WHEREAS, Hamlet made, executed and caused to be recorded, as Declarant, that certain Declaration of Covenants, Conditions and Restrictions dated February 18, 1999 and recorded among the Wasatch County Recorder's Office in Book 00414, page 00741-00778 et seq., pursuant to which the Declarant subjected all that property described in the Declaration (the "Property") and Declarant formed an association known as, "Muirfield Homeowners Association" ("Association"); and

WHEREAS, pursuant to Article 3.2 of the Declaration, Declarant reserved the right to add to the Property additional land within that area described in Exhibit "B" attached to the Declaration; and

WHEREAS, Declarant, is the owner of that certain property described in Exhibit "A" attached hereto and incorporated herein, and that property is within the area described in Exhibit "B" attached to the Declaration, and Declarant wishes to add that property described in Exhibit "A" attached hereto to the Property subjected to the Declaration.

NOW THEREFORE, the Declarant hereby declares that the Declaration of Covenants, Conditions and Restrictions be amended as follows:

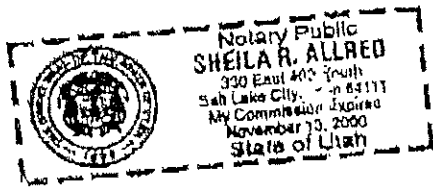
1. All that property described in Exhibit "A" attached hereto is annexed to the Property subject to the Declaration, and shall be held, sold and conveyed subject to the easements, declarations, covenants and conditions set forth in the Declaration, which are for the purpose of protecting the value and desirability, and enhancing the attractiveness of the Property, and which shall run with the Property and shall be binding upon all parties having any right, title or interest in the Property or any part thereof, their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner of the Property or any part thereof and their respective heirs, personal representatives, successors and assigns, and the Association.

00225715 Bk 00469 Pg 00002-00008
WASATCH CO RECORDER-ELIZABETH N PARCELL
2000 JUL 19 11:09 AM FEE \$41.00 BY WMC
REQUEST: FIRST AMERICAN TITLE COMPANY

STATE OF UTAH
COUNTY OF SALT LAKE

I HEREBY CERTIFY, that on this 3rd day of April, 2000, before me, the subscriber, a Notary Public in and for the State of Utah and Salt Lake County aforesaid, personally appeared Stanley F. Jenkins, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, who acknowledged himself to be the Vice President of FIRST AMERICAN TITLE COMPANY OF UTAH, a Utah corporation, Trustee, that he has been duly authorized to execute, and has executed, the foregoing instrument on behalf of the said entity for the purposes therein set forth, and that the same is its act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.



Sheila R. Allred
Notary Public

My commission expires: 11-13-00

00223139 BK 00458 Pg 00079


Muirfield L.L.C.
470 East 3900 South, #200
Salt Lake City, Utah 84107

JOINER AND CONSENT OF LENDER AND TRUSTEE

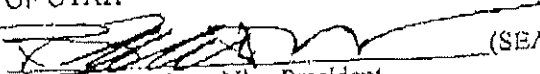
FIRST SECURITY BANK OF UTAH, N.A. as holder of that certain Promissory Note (as amended from time to time, the "Note"), and FIRST AMERICAN TITLE COMPANY, Trustee under that certain Deed of Trust from MUIRFIELD, L.L.C., recorded among the Wasatch County Recorder's Office (the "Deed of Trust"), execute this Joinder and Consent of Lender and Trustee for the sole purpose of expressing consent to the First Amendment to Declaration of Covenants, Conditions and Restrictions for Muirfield Homeowners Association, to which this Joinder is attached and made a part of, and of binding and subjecting their interest in the Property (as defined in the Deed of Trust and known as Muirfield, all units), to the terms and conditions of such Declaration.

WITNESS OR ATTEST:

FIRST SECURITY BANK OF UTAH, N.A.

 (SEAL)
By: Stanley F. Jenkins, Vice President

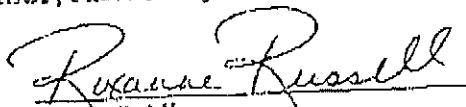
TRUSTEE:
FIRST AMERICAN TITLE COMPANY
OF UTAH

 (SEAL)
By: Blake Heiner, Vice President

STATE OF UTAH
COUNTY OF SALT LAKE

I HEREBY CERTIFY, that on this 3rd day of April, 2000, before me, the subscriber, a Notary Public in and for the State of Utah and Salt Lake County aforesaid, personally appeared Stanley F. Jenkins, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, who acknowledged himself to be the Vice President of FIRST SECURITY BANK OF UTAH, N.A., a national banking organization, that he has been duly authorized to execute, and has executed, the foregoing instrument on behalf of the said entity for the purposes therein set forth, and that the same is its act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.


Notary Public

My commission expires: December 15, 2001

00223139 BK 00453 Pg 00078

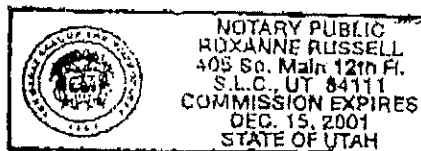


EXHIBIT "B"
DESCRIPTION OF COMMON AREAS
TO BE SUBMITTED TO THE HOMEOWNERS ASSOCIATION

All that area shown as "Common Area Open Space" on the Plats entitled,
"Muirfield, Phase 4B, which Plat is recorded among the Recorder's Office of Wasatch
County (please note there are no common areas).

00223139 Ek 0045B P3 00077

NOV-03-00 FRI 01:15 PM FIRST AM TITLE
APR-25-2000 TUE 08:17 AM FIRST AMERICAN TITLE

FAX NO. 435 649 5558
FAX NO. 435 654 1422

P. 05

EXHIBIT "A"

**DESCRIPTION OF LOTS
TO BE SUBMITTED TO THE HOMEOWNERS ASSOCIATION**

BEING KNOWN AND DESIGNATED as Lots 432 through and including 468,
all as shown on the Plat entitled, "Muirfield, Phase 4B, which Plat are recorded among
the Recorder's Office of Wasatch County.

00223139 BK 0045B Pg 00076

APR-25-00 TUE 09:24 AM 435 654 1422

P. 05

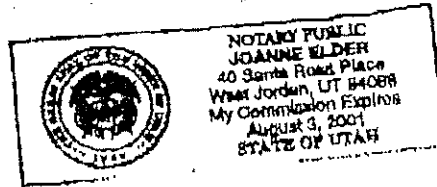
STATE OF UTAH, CITY/COUNTY OF SALT LAKE, TO WIT:

I HEREBY CERTIFY that on this 3rd day of April, 2000, before me, the subscriber, a Notary Public of the State of Utah, personally appeared John Aldous, known to me or suitably proven, who acknowledged himself to be President of Hamlet Homes Corporation, Member of Muirfield, L.L.C., the entity named in the foregoing instrument, and who, being authorized to do so, in my presence, signed and sealed the same and acknowledged the same to be the act and deed of such entity.

AS WITNESS my hand and seal.

Joanne Elder
Notary Public

My Commission Expires: 8-3-01



00223139 BK 00458 P3 00075

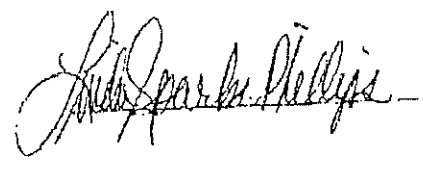
2. The Common Area to be owned by the Association at the time of the conveyance of the first lot contained within the Property described in Exhibit "A" attached hereto, is more particularly described in Exhibit "B" attached hereto and made a part hereof. References to streets and other Common Areas described in Exhibit "B" are for reference only, and the streets and Common Areas are intended for use by the Owners for access, ingress, egress, recreation and other related activities. The designated areas are not dedicated hereby for use by the general public, but are dedicated for the common use and enjoyment of the Owners as more fully set forth in the Declaration herein.

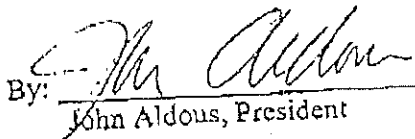
In all other respects, the Declaration, as amended, remains unchanged.

WITNESS the hand and seal of Muirfield L.L.C. on the day herein above first written.

WITNESS/ATTEST:

MUIRFIELD L.L.C.
By: HAMLET HOMES CORPORATION,
Member



By:  (SEAL)
John Aldous, President

00223139 BK 00458 Pg 00074

APR-25-2000 TUE 08:17 AM FIRST AMERICAN TITLE
MUIRFIELD, L.L.C.
470 EAST 3900 SOUTH, #200
SALT LAKE CITY, UTAH 84107

MUIRFIELD HOMEOWNERS ASSOCIATION
SECOND AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS SECOND AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS ("First Amendment"), is made this 3rd day of
April, 2000, by MUIRFIELD, L.L.C., a Utah limited liability company ("Declarant").

WITNESSETH:

WHEREAS, Hamlet made, executed and caused to be recorded, as Declarant, that
certain Declaration of Covenants, Conditions and Restrictions dated February 18, 1999
and recorded among the Wasatch County Recorder's Office in Book 00414, page 00741-
00778 et seq., pursuant to which the Declarant subjected all that property described in the
Declaration (the "Property") and Declarant formed an association known as, "Muirfield
Homeowners Association" ("Association"); and

WHEREAS, pursuant to Article 3.2 of the Declaration, Declarant reserved the
right to add to the Property additional land within that area described in Exhibit "B"
attached to the Declaration; and

WHEREAS, Declarant, is the owner of that certain property described in Exhibit
"A" attached hereto and incorporated herein, and that property is within the area
described in Exhibit "B" attached to the Declaration, and Declarant wishes to add that
property described in Exhibit "A" attached hereto to the Property subjected to the
Declaration.

NOW THEREFORE, the Declarant hereby declares that the Declaration of
Covenants, Conditions and Restrictions be amended as follows:

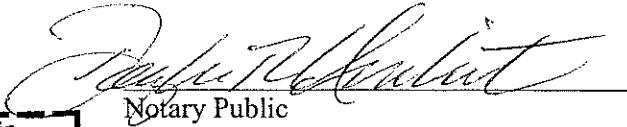
1. All that property described in Exhibit "A" attached hereto is annexed to
the Property subject to the Declaration, and shall be held, sold and conveyed
subject to the easements, declarations, covenants and conditions set forth in the
Declaration, which are for the purpose of protecting the value and desirability,
and enhancing the attractiveness of the Property, and which shall run with the
Property and shall be binding upon all parties having any right, title or interest in
the Property or any part thereof, their heirs, personal representatives, successors
and assigns, and shall inure to the benefit of each owner of the Property or any
part thereof and their respective heirs, personal representatives, successors and
assigns, and the Association.

00223139 Blk 004518 Pg 00073-00078
WASATCH CO RECORDER-ELIZABETH M PARCELL
2000 APR 06 11:09 AM FEE \$57.00 BY #0
REQUEST: FIRST AMERICAN TITLE COMPANY

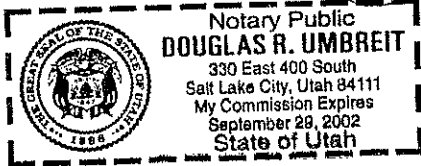
STATE OF UTAH
COUNTY OF SALT LAKE

I HEREBY CERTIFY, that on this 19 day of July, 1999, before me, the subscriber, a Notary Public in and for the State of Utah and Salt Lake County aforesaid, personally appeared Blake Heiner, duly sworn, Vice President of FIRST AMERICAN TITLE COMPANY OF UTAH, a Utah corporation, Trustee, and that the within and foregoing instrument was signed on behalf of said corporation by authority of a resolution of its Board of Directors, and duly acknowledged to me that said corporation executed the same.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.



Notary Public



My commission expires: 9/29/02

00216428 Bk 00432 Pg 00135

Muirfield L.L.C.
470 East 3900 South, #200
Salt Lake City, Utah 84107

JOINDER AND CONSENT OF LENDER AND TRUSTEE

FIRST SECURITY BANK OF UTAH, N.A. as holder of that certain Promissory Note (as amended from time to time, the "Note"), and FIRST AMERICAN TITLE COMPANY, Trustee under that certain Deed of Trust from MUIRFIELD, L.L.C., recorded among the Wasatch County Recorder's Office (the "Deed of Trust"), execute this Joinder and Consent of Lender and Trustee for the sole purpose of expressing consent to the First Amendment to Declaration of Covenants, Conditions and Restrictions for Muirfield Homeowners Association, to which this Joinder is attached and made a part of, and of binding and subjecting their interest in the Property (as defined in the Deed of Trust and known as Muirfield, all units), to the terms and conditions of such Declaration.

WITNESS OR ATTEST:

FIRST SECURITY BANK OF UTAH, N.A.

 (SEAL)
By: Stanley F. Jenkins, Vice President

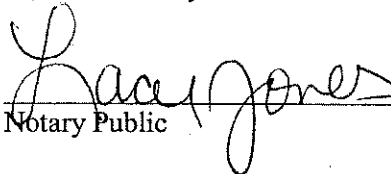
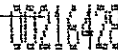
TRUSTEE:
FIRST AMERICAN TITLE COMPANY
OF UTAH

 (SEAL)
By: Blake Heiner, Vice President

STATE OF UTAH
COUNTY OF SALT LAKE

I HEREBY CERTIFY, that on this 19th day of July, 1999, before me, the subscriber, a Notary Public in and for the State of Utah and Salt Lake County aforesaid, personally appeared Stanley F. Jenkins, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, who acknowledged himself to be the Vice President of FIRST SECURITY BANK OF UTAH, N.A., a national banking organization, that he has been duly authorized to execute, and has executed, the foregoing instrument on behalf of the said entity for the purposes therein set forth, and that the same is its act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.


Notary Public  BK 00432 Pg 00134

My commission expires: 12-15-2001

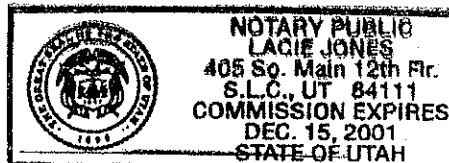


EXHIBIT "B"

**DESCRIPTION OF COMMON AREAS
TO BE SUBMITTED TO THE HOMEOWNERS ASSOCIATION**

All that area shown as "Common Area Open Space" on the Plat entitled,
"Muirfield, Phase III, which Plat is recorded among the Recorder's Office of Wasatch
County.

00216428 Blk 00432 Pg 00133

EXHIBIT "A"

**DESCRIPTION OF LOTS
TO BE SUBMITTED TO THE HOMEOWNERS ASSOCIATION**

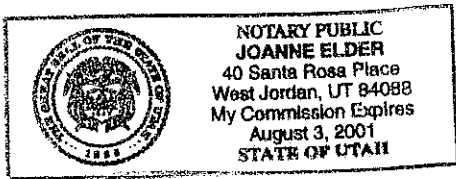
BEING KNOWN AND DESIGNATED as Lots 311 through and including 324,
all as shown on the Plat entitled, "Muirfield, Phase III, which Plat is recorded among the
Recorder's Office of Wasatch County.

00216428 BK 00432 Pg 00132

STATE OF UTAH, CITY/COUNTY OF SALT LAKE, TO WIT:

I HEREBY CERTIFY that on this 16 day of July, 1999 before, me, the subscriber, a Notary Public of the State of Utah, personally appeared John Aldous, known to me or suitably proven, who acknowledged himself to be President of Hamlet Homes Corporation, Member of Muirfield, L.L.C., the entity named in the foregoing instrument, and who, being authorized to do so, in my presence, signed and sealed the same and acknowledged the same to be the act and deed of such entity.

AS WITNESS my hand and seal.



Joanne Elder
Notary Public

My Commission Expires: 8-3-01

2. The Common Area to be owned by the Association at the time of the conveyance of the first lot contained within the Property described in Exhibit "A" attached hereto, is more particularly described in Exhibit "B" attached hereto and made a part hereof. References to streets and other Common Areas described in Exhibit "B" are for reference only, and the streets and Common Areas are intended for use by the Owners for access, ingress, egress, recreation and other related activities. The designated areas are not dedicated hereby for use by the general public, but are dedicated for the common use and enjoyment of the Owners as more fully set forth in the Declaration herein.


In all other respects, the Declaration, as amended, remains unchanged.

WITNESS the hand and seal of Muirfield L.L.C. on the day herein above first written.

WITNESS/ATTEST:

MUIRFIELD L.L.C.

By: HAMLET HOMES CORPORATION,
Member

By:  (SEAL)
John Aldous, President

MUIRFIELD HOMEOWNERS ASSOCIATION

**FIRST AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS ("First Amendment), is made this 16 day of
July, 1999, by MUIRFIELD, L.L.C., a Utah limited liability company ("Declarant").

WITNESSETH:

WHEREAS, Hamlet made, executed and caused to be recorded, as Declarant, that certain Declaration of Covenants, Conditions and Restrictions dated February 18, 1999 and recorded among the Wasatch County Recorder's Office in Book 00414, page 00741-00778 et seq., pursuant to which the Declarant subjected all that property described in the Declaration (the "Property") and Declarant formed an association known as, "Muirfield Homeowners Association" ("Association"); and

WHEREAS, pursuant to Article 3.2 of the Declaration, Declarant reserved the right to add to the Property additional land within that area described in Exhibit "B" attached to the Declaration; and

WHEREAS, Declarant, is the owner of that certain property described in Exhibit "A" attached hereto and incorporated herein, and that property is within the area described in Exhibit "B" attached to the Declaration, and Declarant wishes to add that property described in Exhibit "A" attached hereto to the Property subjected to the Declaration.

NOW THEREFORE, the Declarant hereby declares that the Declaration of Covenants, Conditions and Restrictions be amended as follows:

1. All that property described in Exhibit "A" attached hereto is annexed to the Property subject to the Declaration, and shall be held, sold and conveyed subject to the easements, declarations, covenants and conditions set forth in the Declaration, which are for the purpose of protecting the value and desirability, and enhancing the attractiveness of the Property, and which shall run with the Property and shall be binding upon all parties having any right, title or interest in the Property or any part thereof, their heirs, personal representatives, successors and assigns, and shall inure to the benefit of each owner of the Property or any part thereof and their respective heirs, personal representatives, successors and assigns, and the Association.

LEGAL DESCRIPTION

MUIRFIELD ESTATES NO. 2 OPEN SPACE DESCRIPTIONS

BEGINNING AT A POINT WHICH IS SOUTH, 1904.09 FEET AND WEST, 1370.96 FEET FROM THE NORTHEAST CORNER OF SECTION 31, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE S29°04'31"W, 114.06 FEET; THENCE N89°40'15"W, 66.17 FEET; THENCE N17°27'57"E, 104.65 FEET; THENCE S89°40'15"E, 90.19 FEET TO THE POINT OF BEGINNING.

CONTAINS: 7818 SQUARE FEET

ALSO:

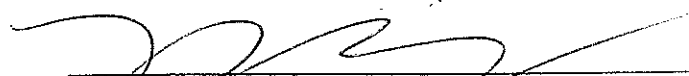
BEGINNING AT A POINT WHICH IS SOUTH, 2063.39 FEET AND WEST, 1494.77 FEET FROM THE NORTHEAST CORNER OF SECTION 31, TOWNSHIP 3 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE S0°19'45"W, 189.18 FEET; THENCE 77.23 FEET ALONG THE ARC OF A 75.00 FOOT RADIUS CURVE TO THE LEFT (CHORD BEARS S29°49'44"W, 73.89 FEET); THENCE N89°40'08"W, 67.00 FEET; THENCE S23°50'40"W, 82.70 FEET; THENCE S26°28'30"W, 189.83 FEET; THENCE S29°18'52"W, 165.51 FEET; THENCE N89°13'26"W, 141.78 FEET; THENCE N0°46'34"E, 10.94 FEET; THENCE N53°00'00"E, 112.36 FEET; THENCE 131.69 FEET ALONG THE ARC OF A 50.00 FOOT RADIUS CURVE TO THE LEFT (CHORD BEARS N50°05'18"E, 96.78 FEET); THENCE N29°46'06"E, 352.24 FEET; THENCE N50°45'00"W, 84.99 FEET; THENCE N39°14'52"E, 124.68 FEET; THENCE 106.98 FEET ALONG THE ARC OF A 120.00 FOOT RADIUS CURVE TO THE RIGHT (CHORD BEARS N64°47'15"E, 103.47 FEET TO THE POINT OF BEGINNING.

CONTAINS: 1.2095 ACRES

EXHIBIT "A"

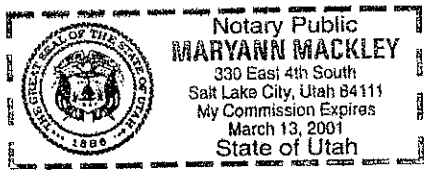
STATE OF UTAH)
) ss
COUNTY OF SALT LAKE)

On the day of A.D., 1999, personally appeared before me, the undersigned Notary Public, in and for said County of SALT LAKE, in said state of UTAH, John Aldous who after being duly sworn, acknowledged to me that he is the president Hamlet Homes Inc. a Utah Corporation, and said John Aldous signed on behalf of said Corporation by authority of a resolution of its Borad of Directions and that said Corporation is the Managing Member of MUIRFIELD L.L.C. a Utah Limited Liability Co. and that foregoing instrument signed in behalf of said Limited Liability Company, by authority of its Article of Organization and said John Aldous acknowledged to me that said Limited Liability company executed that same.



Notary Public
Residing in SALT LAKE

My Commission Expires 3.13.01



Recorded at Request of.....

at..... M. Fee Paid \$.....

by..... Dep. Book..... Page..... Ref.:

Mail tax notice to Muirfield HOA Address 470 E. 3900 So #200
Salt Lake City, UT 84107

WARRANTY DEED

MUIRFIELD L.L.C. by Hamlet Homes, Inc., Its Manager grantor
of Salt Lake City County of Salt Lake State of Utah, hereby

CONVEY and WARRANT to
MUIRFIELD HOMEOWNERS ASSOCIATION

grantee
of Salt Lake City County of Salt Lake , State of Utah

for the sum of TEN DOLLARS and other good and valuable considerations DOLLARS/

the following described tract of land in Salt Lake County,

State of Utah, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

00212528 BK 00418 Pg 00511-00513
WASATCH CO RECORDER-ELIZABETH X PARCELL

ONLY

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.



Notary Public
SHEILA R. ALLRED
330 East 400 South
Salt Lake City, Utah 84111
My Commission Expires
November 13, 2000
State of Utah

Sheila R. Allred

Notary Public

My commission expires on 11-13-00.

STATE OF UTAH, COUNTY OF Salt Lake : TO WIT:

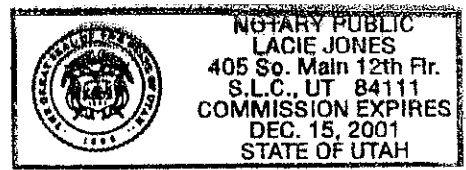
I HEREBY CERTIFY that on this 2nd day of December 1998 before me, a Notary Public for the state aforesaid, personally appeared Stanley F. Jenkins, the Vice President of FIRST SECURITY BANK, N.A., Beneficiary, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, who acknowledged that he/she has executed it as Beneficiary for the purposes therein set forth, and that it is his/her act and deed.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.

Lacie Jones

Notary Public

My commission expires on 12-15-2001.



00211424 BK 00414 Pg 07778

00205591 BK 00407 Pg 00490

CONSENT AND AGREEMENT OF TRUSTEE AND BENEFICIARY

FIRST AMERICAN TITLE INSURANCE COMPANY and FIRST SECURITY BANK, N.A., are, respectively, the Trustee and the Beneficiary under that certain Deed of Trust dated August 13, 1998 and recorded as Entry No. 205773 in Book, 391 at pages 769-777 of the Official Records of Wasatch County, Utah, as amended by the Amendment to Trust Deed dated August 27, 1998 by Muirfield L.L.C. and recorded August 31, 1998 as Entry No. 206266 in Book 393 at pages 645-656, hereby join in the foregoing Declaration of Covenants, Conditions and Restrictions for the express purpose of subordinating all of their respective right, title and interest under such Deed of Trust in and to the real property described in Exhibit A such to the operation and effect of such Declaration.

Nothing in the foregoing provisions of this Consent and Agreement of Trustee and Beneficiary shall be deemed in any way to create between the person named in such Declaration as "the Declarant" and any of the undersigned any relationship of partnership or joint venture, or to impose upon any of the undersigned any liability, duty or obligation whatsoever.

IN WITNESS WHEREOF, the Trustee and Beneficiary have executed and sealed this Consent and Agreement of Trustee and Beneficiary or caused it to be executed and sealed on its behalf by its duly authorized representatives, this 2nd day of December, 1998.

WITNESS/ATTEST:

TRUSTEE:
FIRST AMERICAN TITLE INSURANCE COMPANY

[Signature] (SEAL)
By:

WITNESS/ATTEST:

BENEFICIARY:
FIRST SECURITY BANK, N.A.

[Signature] (SEAL)
By: Stanley F Jenkins

STATE OF UTAH: COUNTY OF Salt Lake : TO WIT:

I HEREBY CERTIFY that on this 2nd day of December 1998 before me, a Notary Public for the state aforesaid, personally appeared Mark Hanner, on behalf of FIRST AMERICAN TITLE INSURANCE COMPANY, Trustee, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument, who acknowledged that he has executed it on behalf of the Trustee for the purposes therein set forth, and that it is his act and deed.

00211424 BK 00414 Pg 00777

00000591 BK 00407 Pg 00489

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

EXHIBIT B

Description of the Additional Property

BEING all that land shown as "FUTURE DEVELOPMENT Phase 3" and "FUTURE DEVELOPMENT Phase 4" shown on the Concept Plan, Phase Two, MUIRFIELD, a copy of which is attached hereto.

00211424 BK 00414 P3 00776

00209591 BK 00407 P3 00488

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

EXHIBIT A

Description of the Property

BEING all those 110 Lots shown and designated as Lot Nos. 201 through and including 310 and the Common Area shown on the Plat entitled, "MUIRFIELD SUBDIVISION NO. 2" recorded among the Recorder's Office of Wasatch County in Plat Book _____ No. _____, folio _____.

00211424 BK 00419 Pg 00775

~~00209531 BK 00407 Pg 00487~~

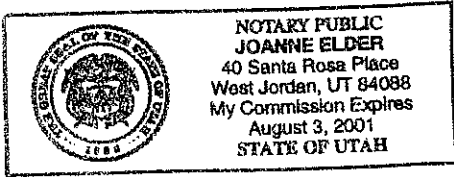
STATE OF UTAH, CITY/COUNTY OF SALT LAKE, TO WIT:

I HEREBY CERTIFY that on this 20th day of November 1998, before me, the subscriber, a Notary Public of the State of Utah, personally appeared John Aldous, known to me or suitably proven, who acknowledged himself to be the President of Hamlet Homes Corporation, Managing Member of Muirfield L.L.C., the Declarant named in the foregoing Declaration of Covenants, Conditions and Restrictions, and who, being authorized to do so, in my presence, signed and sealed the same and acknowledged the same to be the act and deed of the Declarant.

AS WITNESS my hand and seal.

Joanne Elder
Notary Public

My Commission Expires: 8-3-01



00211424 BK 00414 Pg 0077A

00208501 BK 00407 Pg 00486

of Housing and Urban Development, Department of Veterans Affairs or any other similar authority, in connection with any mortgage insurance or guaranty, secondary mortgage market, or other program applicable to the issuance or sale of Mortgages.

(d) Declarant may at any time during the Development Period, acting in its sole discretion and without the consent or joinder by the Association, Owner, Mortgagee or other person, (i) amend or supplement the Plat if and to the extent that the Declarant, in its sole discretion, deems necessary or desirable in connection with development of the Community (including, but not limited to, altering the locations, boundaries or property-type designation of any Lots, open spaces, Common Areas or similar areas, easement areas and setback or building restriction lines set forth thereon), or (ii) amend or supplement this Declaration to reflect any such alteration previously made by an amendment, revision or supplement of the Plat under the preceding clause, or release from the legal effect of this Declaration all or part of the real property then subject thereto. Any such amendment, revision or supplement of the Plat shall become effective for purposes of this Declaration on being signed by Declarant and any other person whose approval thereof is required by law as a condition thereto, and recorded.

(e) An amendment may not modify a right expressly reserved in this Declaration for Declarant's benefit, without the Declarant's prior written consent.

(f) Nothing in this Section shall be construed in derogation of any requirement in this Declaration that all or a specified number of Mortgagees approve specified actions of the Association.

WITNESS the hand and seal of the Declarant hereto on the day herein above first written.

WITNESS/ATTEST:

Emely Ingram

DECLARANT:

Muirfield L.L.C.

By: Hamlet Homes Corporation
its Managing Member

By: John Aldous
John Aldous, President

00211424 BK 00414 Pg 0073

00209531 BK 00407 Pg 0045

plural.

11.9 AMENDMENT.

(a) For so long as there is a Class B membership of the Association, this Declaration may be amended by an instrument in writing, signed and acknowledged by the Declarant and by the President or Vice-President and Secretary or Assistant Secretary of the Association after approval of the amendment at a meeting of the Association duly called for such purpose. The vote (in person or by proxy) or written consent of (i) at least two-thirds (2/3) of the Class A members of the Association, if any, and (ii) the Declarant shall be required to add to, amend, revise or modify this Declaration. Following the lapse of the Class B membership in the Association, as provided in Article IV hereof, this Declaration may be amended by an instrument in writing, signed and acknowledged by the President or Vice-President and Secretary or Assistant Secretary of the Association with the approval, in the manner set forth above, of at least two-thirds (2/3) of the Class A members of the Association at a meeting of the Association duly called for such purpose.

(b) An amendment or modification shall be effective when executed by the President or Vice-President and Secretary or Assistant Secretary of the Association who shall certify that the amendment or modification has been approved as herein above provided. The amendment shall be recorded in the Recorder's Office of Wasatch County. Unless a later date is specified in any such instrument, any amendment to this Declaration shall become effective on the date of recording. For the purpose of recording such instrument, each Owner, other than the Declarant, hereby grants to the president or Vice-President and Secretary or Assistant Secretary of the Association an irrevocable power of attorney to act for and on behalf of each and every Owner in certifying, executing and recording said instrument. Notwithstanding anything to the contrary contained herein, in no event may any of Declarant's rights or privileges under the Articles of Incorporation or By-Laws of the Association or this Declaration be terminated, altered or amended without Declarant's prior written consent.

(c) Anything set forth above to the contrary notwithstanding, during the Development Period the Declarant shall have the absolute unilateral right, power and authority to amend, modify, revise or change any of the terms or provisions of this Declaration, By-Laws, Articles of Incorporation, Plat or any other document relating to the Community, all as from time to time amended or supplemented, without the consent of any Owner, Mortgagee or other person, which in its reasonable opinion, is needed to (i) correct obvious typographical, mathematical or similar errors therein, or (ii) cause any of the foregoing documents to conform to any requirement now or hereafter imposed by the Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Department

00219478 BK 00414 PS 00712

00219541 BK 00407 PS 00704

proceeding, or (b) testify or submit evidence (except where required by law, subpoena or formal order of such court, administrative body or officer), or otherwise take a formal position on any issue under consideration, in any such proceeding or appeal, in all cases until such action is approved in writing by, or by the vote of, both (x) members entitled to cast at least 75 percent of the votes held by all Owners other than Class B Members, and (y) (if such action would be taken during the Development Period), the votes of Class B Owners holding at least 75 percent of the votes held by all Class B Owners. Nothing in this subsection shall apply to a civil or administrative proceeding which the Association commences or prosecutes with a court or administrative body or officer (a) to collect an Assessment, or enforce or foreclose a lien securing an Assessment, or (b) otherwise to enforce the Association's rights or another person's obligations under the Declaration, By-Laws or Articles of Incorporation on account of a default or otherwise.

11.3 NO WAIVER. The failure or forbearance by the Association to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

11.4 INCORPORATION BY REFERENCE ON RESALE. In the event any Owner sells or otherwise transfers any Lot, any deed purporting to effect such transfer shall be deemed to contain a provision incorporating by reference the covenants, restrictions, servitudes, easements, charges and liens set forth in this Declaration, whether or not the deed actually so states.

11.5 NOTICES. Any notice required to be sent to any member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, by ordinary mail, postage paid, to the last known address of the person who appears as member or Owner on the records of the Association at the time of such mailing.

11.6 NO DEDICATION TO PUBLIC USE. Nothing herein contained shall be construed as a dedication to public use or as an acceptance for maintenance of any Common Area by any public or municipal agency, authority or utility and no public or municipal agency, authority or utility shall have any responsibility or liability for the maintenance or operation of any of the Common Area.

11.7 SEVERABILITY. Invalidation of any one of these covenants or restrictions by judgment, decree or order shall in no way affect any other provisions hereof, each of which shall remain in full force and effect.

11.8 CAPTIONS AND GENDERS. The captions contained in this Declaration are for convenience only and are not a part of this Declaration and are not intended in any way to limit or enlarge the terms and provisions of this Declaration. Whenever the context so requires, the male shall include all genders and the singular shall include the

00209571 00407 P5 00405
00211424 00414 P5 00771

10.3 APPROVAL BY FEDERAL HOUSING ADMINISTRATION AND VETERANS ADMINISTRATION. Until the Class B membership terminates pursuant to the provisions of Article IV, Section 4.3, the consent or approval of the Federal Housing Administration, the Veterans Administration and/or the Department of Housing and Urban Development shall be obtained with respect to any of the following actions taken while a Mortgage is in effect which is insured by such entity:

- (a) a dedication of any portion of the Common Area to public use;
- (b) an amendment of this Declaration; and
- (c) annexation of additional properties.

ARTICLE XI
MISCELLANEOUS

11.1 TERM. This Declaration shall run with the land and shall be binding for a period of thirty (30) years from the date this Declaration is recorded, after which time this Declaration shall automatically be extended for successive periods of ten (10) years each unless and until an instrument has been recorded, by which this Declaration, in whole or in part, is amended, modified or revoked pursuant to the provisions of Section 11.9.

11.2 ENFORCEMENT.

(a) Enforcement of this Declaration shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain the violation or to recover damages, or both. In acquiring title to any Lot in the Community, the purchaser or purchasers violating or attempting to violate any covenant, agree to reimburse the Association and/or any Owners for all costs and expenses for which it or they may be put as a result of the said violation or attempted violation, including but not limited to, court costs and attorneys' fees.

(b) These Covenants shall inure to the benefit of and be enforceable by the Association or by the Owner(s) of any land included in the Community and their respective legal representatives, successors and assigns, and all persons claiming by, through or under them.

(c) Notwithstanding the foregoing, neither the Association or any person acting or purporting to act on its behalf shall (a) file or otherwise commence, or prosecute, in any jurisdiction whatsoever, any (i) civil, criminal or administrative proceeding in or with any court or administrative body or officer, or (ii) appeal of or objection to any decision or other action made or taken by any court or administrative body or officer, in any judicial or administrative

ARTICLE X
RIGHTS OF MORTGAGEES

10.1 **GENERAL.**

(a) Regardless of whether a Mortgagee in possession of a Lot is its Owner, (i) such Mortgagee in possession shall have all of the rights under the provisions of this Declaration, the Plat, the Articles of Incorporation, the By-Laws and applicable law, which would otherwise be held by such Owner, subject to the operation and effect of anything to the contrary contained in its Mortgage, and (ii) the Association and each other Owner or person shall be entitled, in any matter arising under the provisions of this Declaration and involving the exercise of such rights, to deal with such Mortgagee in possession as if it were the Owner thereof.

(b) Any Mortgagee in possession of a Lot shall (subject to the operation and effect of the provisions of this Declaration, the Articles of Incorporation, the By-Laws and applicable law) bear all of the obligations under the provisions thereof which are borne by its Owner; provided, that nothing in the foregoing provisions of this Section shall be deemed in any way to relieve any Owner of any such obligation, or of any liability to such Mortgagee on account of any failure by such Owner to satisfy any of the same.

10.2 **INSPECTION; STATEMENT AND NOTICE.** A Mortgagee shall, upon delivery of a written request to the Association, be entitled to

(a) inspect the Association's books and records during normal business hours;

(b) receive an annual financial statement of the Association within ninety (90) days after the end of any fiscal year of the Association;

(c) be given timely written notice of all meetings of the Membership, and designate a representative to attend all such meetings;

(d) be given timely written notice of the occurrence of any substantial damage to or destruction of the Common Area, or if the Common Area is made the subject of any condemnation or eminent domain proceeding or the acquisition thereof is otherwise sought by any condemning authority; and

(e) be given timely written notice by the Association of failure to pay assessments by the Owner of such Mortgagee's Lot which is not cured within thirty (30) days after such default commences, but the failure to give such notice shall not affect the validity of the lien for any assessments levied pursuant to this Declaration.

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shall be paid over to the Association for the benefit of the Property, which proceeds may be used and/or distributed as determined by the Board of Directors, in its discretion, or as otherwise provided in the Articles of Incorporation and/or the Bylaws of the Association.

9.4 REPAIR AND RECONSTRUCTION OF COMMON AREA. If any improvements on the Common Area are damaged or destroyed, and the proceeds of insurance received by the Association are not sufficient to pay in full the cost of the repair and reconstruction of the improvements, the Board of Directors shall, without the necessity of a vote of the members, levy a Special Assessment against all Owners in order to cover the deficiency in the manner provided in Article VIII hereof. If the proceeds of insurance exceed the cost of repair, such excess shall be retained by the Association and used for such purposes as the Board of Directors shall determine.

9.5 HAZARD INSURANCE ON IMPROVED LOTS. Each Owner of an improved Lot at all times shall maintain fire and extended coverage insurance or other appropriate damage and physical loss insurance, in an amount equal to not less than one hundred percent (100%) of the current replacement value of the improvements on the Lot.

9.6 OBLIGATION OF LOT OWNER TO REPAIR AND RESTORE.

(a) In the event of any damage or destruction of the improvements on a Lot, the insurance proceeds from any insurance policy on an improved Lot, unless retained by a Mortgagee of a Lot, shall be applied first to the repair, restoration or replacement of the damaged or destroyed improvements. Any such repair, restoration or replacement shall be done in accordance with the plans and specifications for such improvements originally approved by the Declarant or the Architectural Review Committee; unless the Owner desires to construct improvements differing from those so approved, in which event the Owner shall submit plans and specifications for the improvements to the Architectural Review Committee and obtain its approval prior to commencing the repair, restoration or replacement.

(b) If any Owner of an improved Lot fails to maintain the insurance required by Section 9.5 of this Article, the Association may, but shall not be obligated to, obtain such insurance and pay any premiums required in connection with obtaining such insurance. Such Owner shall be personally liable to the Association for any costs incurred by the Association in obtaining such insurance, to the same extent as such Owner is liable for assessments levied against its Lot, and, upon the failure of the Owner to pay such costs within ten (10) days after such Owner's receipt of a written demand therefor from the Association, the Association may establish a lien therefor upon the Owner's Lot in accordance with and subject to the provisions of this Declaration applicable to an assessment lien.

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Association, its officers, directors and managing agents, having at least a Five Hundred Thousand Dollar (\$500,000.00) limit per total claims that arise from the same occurrence, including but not limited to liability insurance for the recreational facilities located in the Community, or in an amount not less than the minimum amount required by applicable law, ordinance or regulation;

(c) workers' compensation insurance, if and to the extent required by law; and

(d) fidelity bond or bonds covering all Directors, officers, employees and other persons handling or responsible for the funds of the Association, in such amounts as the Board of Directors deems appropriate.

After the conclusion of the Development Period, the Board of Directors shall have the authority to and shall obtain the insurance described above.

9.2 PREMIUMS FOR INSURANCE MAINTAINED BY ASSOCIATION.

Premiums for all insurance and bonds required to be carried under Section 9.1 hereof or otherwise obtained by the Association on the Common Area shall be an expense of the Association, and shall be included in the Annual Assessments. Premiums on any fidelity bond maintained by a third party manager shall not be an expense of the Association.

9.3 DAMAGE AND DESTRUCTION OF COMMON AREA.

(a) Immediately after any damage or destruction by fire or other casualty to all or any part of the insurable improvements on the Common Area, the Board of Directors, or its agent, shall proceed with the filing and adjustment of all claims arising under the fire and extended coverage insurance maintained by the Association and obtain reliable estimates of the cost of repair or reconstruction of the damaged or destroyed improvements. Repair or reconstruction means repairing or restoring the improvements to substantially the same condition in which they existed prior to the fire or other casualty.

(b) Any damage or destruction to insurable improvements on the Common Area shall be repaired or reconstructed unless at least seventy-five percent (75%) of the members present at a meeting of the membership held within ninety (90) days after the casualty shall decide not to repair or reconstruct.

(c) If, in accordance with subsection (b), the improvements are not to be repaired or reconstructed and no alternative improvements are authorized by the members, then and in that event the damaged Common Area shall be restored to its natural state and maintained as an undeveloped portion of the Common Area by the Association in a neat and attractive condition. In such event, any excess insurance proceeds

assessment.

8.11 ENFORCEMENT OF LIEN. The Association may establish and enforce the lien for any assessment, annual, special, or otherwise, pursuant to the provisions of this Declaration. The lien is imposed upon the Lot against which such assessment is made. The lien may be established and enforced for damages, interest, costs of collection, late charges permitted by law, and attorneys' fees provided for herein or awarded by a court for breach of any of the covenants herein.

8.12 EXEMPT PROPERTY. The Common Area and all Lots owned by the Association or dedicated to and accepted by a public authority and all property owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Utah shall be exempt from the assessments created herein.

8.13 RESERVES FOR REPLACEMENTS.

(a) The Association shall establish and maintain a reserve fund for repairs and replacements of the Common Area by the allocation and payment monthly to such reserve fund of an amount to be designated from time to time by the Board of Directors. Such fund shall be conclusively deemed to be a common expense of the Association and may be deposited with any banking institution, the accounts of which are insured by an agency of the United States of America or may, in the discretion of the Board of Directors, be invested in obligations of, or fully guaranteed as to principal by, the United States of America.

(b) The Association may establish such other reserves for such other purposes as the Board of Directors may from time to time consider to be necessary or appropriate. The proportional interest of any member of the Association in any such reserves shall be considered an appurtenance of such Owner's Lot and shall not be separated from the Lot to which it appertains and shall be deemed to be transferred with such Lot.

ARTICLE IX
INSURANCE AND CASUALTY LOSSES

9.1 TYPES OF INSURANCE MAINTAINED BY ASSOCIATION. During the Development Period, the Association may obtain the following types of insurance:

(a) insurance on all insurable improvements on the Common Area against loss or damage by fire or other hazards, including extended coverage, vandalism, and malicious mischief in an amount sufficient to cover the full replacement cost of such improvements in the event of damage or destruction;

(b) a public liability insurance policy covering the

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fixed for the preceding period shall continue until a new maintenance assessment is fixed. No member may exempt itself from liability for maintenance assessments by abandonment of any Lot owned by such member or by the abandonment of such member's right to the use and enjoyment of the Common Area.

(c) The Association shall, upon demand at any time, furnish to any Owner liable for assessment a certificate in writing signed by an officer of the Association setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated as having been paid. A charge not to exceed Ten Dollars (\$10.00) may be levied in advance by the Association for each certificate so delivered.

8.8 ADDITIONAL ASSESSMENTS. Additional assessments may be fixed against any Lot only as provided for in this Declaration. Any such assessments shall be due as provided by the Board of Directors in making any such assessment.

8.9 NONPAYMENT OF ASSESSMENT. Any assessment or portion thereof not paid within thirty (30) days after the due date thereof shall be delinquent and shall bear interest from the date of delinquency at the rate of twelve percent (12%) per annum, and shall be subject to a late charge of Ten Dollars (\$10.00) per month until paid, or ten percent (10%) of the assessment, whichever is greater, and the Board of Directors shall have the right to declare the entire balance of the assessment and accrued interest thereon to be immediately due and payable. The Association may bring an action at law against the Owner personally obligated to pay the same, and/or without waiving any other right, at equity to foreclose the lien against the Lot in the same manner and subject to the same requirements as are specified by the law of Utah for the foreclosure of mortgages or deeds of trust containing a power of sale or an assent to a decree, and there shall be added to the amount of such assessment the reasonable costs of preparing and filing the complaint of such action, and in the event that judgment is obtained, such judgment shall include interest on the assessment as above provided, late fees and reasonable attorneys' fees to be fixed by the court together with the cost of the action. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of such Owner's Lot.

8.10 SUBORDINATION OF LIEN TO MORTGAGE. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage(s) or deed(s) of trust now or hereafter placed upon the Lot subject to assessment; provided, however, that the sale or transfer of any Lot pursuant to mortgage or deed of trust foreclosure, or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. Such sale or transfer shall not relieve such Lot from liability for any assessments thereafter becoming due, nor from the lien of any such future

to the same notice requirements, and the required quorum at any subsequent meeting shall be one-half (½) of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

8.6 COMMENCEMENT DATE OF ANNUAL ASSESSMENTS.

(a) The Annual Assessments as to any Lot shall commence on the earlier of (i) the date the Lot is conveyed to any person or entity other than the Declarant or a Builder or (ii) the date a Use and Occupancy Permit is issued by the proper authorities of Wasatch County to the Declarant or a Builder. The Annual Assessments shall be due and payable on a monthly basis on the first (1st) calendar day of each month, and shall be a lien for any month after the fifteenth (15th) day of that month.

(b) The due date of any Special Assessment under Section 8.4 shall be fixed in the resolution authorizing such Special Assessment.

8.7 DUTIES OF THE BOARD OF DIRECTORS.

(a) The Board of Directors shall determine the amount of the maintenance assessments annually, but may do so at more frequent intervals should circumstances so require. Upon resolution of the Board of Directors, installments of Annual Assessments may be levied and collected on a quarterly, semi-annual or annual basis rather than on the monthly basis herein above provided for. Any member may prepay one or more installments of any maintenance assessment levied by the Association, without premium or penalty.

(b) The Board of Directors shall prepare, or cause the preparation of an annual operating budget for the Association, which shall provide, without limitation, for the management, operation and maintenance of the Common Area. The Board of Directors of the Association shall make reasonable efforts to fix the amount of the annual maintenance assessment against each Lot for each assessment period at least thirty (30) days in advance of the beginning of such period and shall, at that time, prepare a roster of the Lots and the annual maintenance assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner upon reasonable notice to the Board of Directors. Written notice of the annual maintenance assessments shall thereupon be sent to all members of the Association. The omission by the Board of Directors, before the expiration of any assessment period, to fix the amount of the annual maintenance assessment hereunder for that or the next period, shall not be deemed a waiver or modification in any respect of the provisions of this Article or a release of any member from the obligation to pay the annual maintenance assessment, or any installment thereof, for that or any subsequent assessment period; but the annual maintenance assessment

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Assessment may be increased above the ten percent (10%) limitation specified in the preceding sentence only by a vote of two-thirds (2/3) of each class of members of the Association, voting in person or by proxy, at a meeting duly called for such purpose.

(d) Neither the Declarant, nor a Builder, nor any Lot to which the Declarant or Builder holds record title, shall be exempt from any assessment hereunder, however, notwithstanding anything elsewhere set forth herein, the following allowance shall be made by the Association to the Declarant and Builder in each instance: Annual Assessments or charges made or levied against any Lot to which the Declarant or Builder hold record title shall equal twenty-five percent (25%) of the Annual Assessment or charge made or levied against any other Lot laid out on the Property, to the end and intent that the Declarant or Builder shall not pay more, or less, than twenty-five percent (25%) of the per Lot Annual Assessment established by the Association under this Section.

(e) The Board of Directors of the Association may fix the Annual Assessment or charges against each Lot at any amount not in excess of the maximum. Subject to the limitations set forth in this Section 8.3, and for the periods therein specified, the Association may change the maximum and the basis of the assessments fixed by Section 8.3 hereof prospectively for any period provided that any such change shall have the assent of two-thirds (2/3) of each class of members of the Association, voting in person or by proxy, at a meeting duly called for such purposes.

8.4 SPECIAL ASSESSMENTS. In addition to the Annual Assessments authorized above, the Association may levy in any assessment year, a special assessment ("Special Assessment"), applicable for that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement located on the Common Area, including fixtures and personal property related thereto, and/or to meet any other deficit of the Association or any emergency or unforeseen expenses of the Association; provided that such assessment shall first be approved by two-thirds (2/3) of the votes of each class of the members of the Association, voting in person or by proxy at a meeting duly called for such purpose.

8.5 NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 8.3 AND 8.4. Written notice of any meetings of members of the Association called for the purpose of taking any action authorized under Sections 8.3 and 8.4 of this Article shall be sent to all members not less than thirty (30) days, nor more than sixty (60) days, in advance of the meeting. At the first such meeting called, the presence at the meeting of members or of proxies, entitled to cast sixty percent (60%) of all of the votes of each class of members entitled to be cast at such a meeting shall be necessary and sufficient to constitute a quorum. If the required quorum is not present, another meeting may be called subject

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obligation of the Owner holding title to any Lot at the time when the assessment fell due or was payable. The personal obligation for any delinquent assessment or charge, together with interest, costs and reasonable attorneys' fees, however, shall not pass to the Owner's successor or successors in title unless expressly assumed by such successor or successors.

8.2 USE OF ASSESSMENTS. The assessments and charges levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents of the Community, and in particular for (a) the improvement and maintenance, operation, care, services and facilities related to the use and enjoyment of the Common Area as well as fees paid to any management agent; (b) the payment of taxes on the Common Area (except to the extent that proportionate shares of such public charges and assessments on the Common Area may be levied against all Lots laid out on the Property by the tax collecting authority so that the same is payable directly by the Owners thereof, in the same manner as real property taxes are assessed or assessable against the Lots); (c) the payment of insurance premiums on the Common Area; (d) the costs of repair, replacement and additions to the Common Area and improvements thereon; (e) the cost of obtaining, planting and thereafter maintaining street trees throughout the Community if required by Wasatch County, whether or not such street trees are located in the Common Area; (f) the costs of utilities and other services which may be provided by the Association for the Community as may be approved from time to time by a majority of the members of the Association; (g) the cost of labor, equipment, insurance, materials, management and supervision incurred or expended in performing all of the foregoing; (h) the cost of refuse containers, as described in Section 2.22; (i) the cost of maintenance, insurance and replacement of any covered parking; and (j) the cost of funding all reserves established by the Association, including a general operating excess and a reserve for replacements.

8.3 MAXIMUM ANNUAL ASSESSMENT.

(a) Until January 1 of the year immediately following the conveyance of the first Lot to an Owner other than the Declarant or a Builder, the maximum Annual Assessment shall be the aggregate of Five Hundred and Four Dollars (\$504.00) for each Townhouse Lot, payable at the rate of Forty Two Dollars (\$42.00) per month, and the aggregate of Three Hundred Dollars (\$300.00) for each Single Family Lot, payable at the rate of Twenty-Five Dollars (\$25.00) per month.

(b) From and after such date, the maximum Annual Assessment may be increased each year by not more than ten percent (10%) of the maximum Annual Assessment for the previous year without a vote of the membership of the Association.

(c) From and after such date the maximum Annual

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such reasonable rules and regulations which the Association may adopt and uniformly apply and enforce.

6.7 RULES AND REGULATIONS. Each Owner shall fully and faithfully comply with the rules, regulations and restrictions applicable to use of the Common Area, as such rules, regulations and restrictions are from time to time adopted by the Association for the safety, care, maintenance, good order and cleanliness of the Common Area. Further, each Owner shall comply with the Covenants imposed by this Declaration on the use and enjoyment of the Common Area.

ARTICLE VII
ENCROACHMENTS

If any Structure or any part thereof, now or at any time hereafter, encroaches upon an adjoining Lot or any Structure encroaches upon any Common Area, whether such encroachment is attributable to construction, settlement or shifting of the Structure or any other reason whatsoever beyond the control of the Board of Directors or any Owner, there shall forthwith arise, without the necessity of any further or additional act or instrument, a good and valid easement for the maintenance of such encroachment, for the benefit of the Owner, its heirs, personal representatives and assigns, to provide for the encroachment and non disturbance of the Structure. Such easement shall remain in full force and effect so long as the encroachment shall continue. The conveyance or other disposition of a Lot shall be deemed to include and convey, or be subject to, any easements arising under the provisions of this Article without specific or particular reference to such easement.

ARTICLE VIII
COVENANT FOR ASSESSMENT

8.1 COVENANT FOR ASSESSMENT. The Declarant for each Lot owned by it within the Property, hereby covenants, and each Owner, by acceptance of a deed hereafter conveying any such Lot to it, whether or not so expressed in such deed or other conveyance, shall be deemed to have covenanted and agreed to pay the Association (a) in advance, an annual assessment (the "Annual Assessment") equal to the member's proportionate share of the sum required by the Association, as estimated by the Board of Directors, for Annual Assessments or charges, and (b) Special Assessments (as hereinafter defined) or charges, for capital improvements, such annual and special assessments and charges to be established and collected as hereinafter provided. The Annual and Special Assessments or charges shall be a charge and continuing lien upon each of the Lots against which the assessment is made in accordance with the terms and provisions of this Article VIII and shall be construed as a real covenant running with the land. Such assessments or charges, together with interest at a rate of twelve percent (12%) per annum, and costs and reasonable attorneys' fees incurred or expended by the Association in the collection thereof, shall also be the personal

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its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Area in a manner designed to promote the enjoyment and welfare of the members, and in aid thereof to mortgage any of the Common Area;

(c) the right of the Association to take such steps as are reasonably necessary to protect the property of the Association against mortgage default and foreclosure;

(d) the right of the Association to suspend the voting rights and the rights to use of the Common Area after notice and a hearing for any period not to exceed sixty (60) days for any infraction of any of the published rules and regulations of the Association or of this Declaration;

(e) the right of the Association to dedicate or transfer all or any part of the Common Area to any public or municipal agency, authority or utility for purposes consistent with the purpose of this Declaration and subject to such conditions as may be agreed to by the members; and further subject to the written consent of Wasatch County; provided, however, that no dedication, transfer, mortgage or determination as to the purposes or as to the conditions thereof, shall be effective unless two-thirds (2/3) of the Class A members (excluding the Declarant if the Declarant is a Class A member) of the Association consent to such dedication, transfer, purpose and conditions; and

(f) the right of the Association, acting by and through its Board of Directors, to grant licenses, rights-of-way and easements for access or for the construction, reconstruction, maintenance and repair of any utility lines or appurtenances, whether public or private, to any municipal agency, public utility, the Declarant or any other person; provided, however, that no such license, right-of-way or easement shall be unreasonably and permanently inconsistent with the rights of the members to the use and enjoyment of the Common Area.

(g) All of the foregoing shall inure to the benefit of and be enforceable by the Association and the Declarant, or either of them, their respective successors and assigns, against any member of the Association, or any other person, violating or attempting to violate any of the same, either by action at law for damages or suit in equity to enjoin a breach or violation, or enforce performance of any term, condition, provision, rule or regulation. Further, the Association and the Declarant shall each have the right to abate summarily and remove any such breach or violation by any member at the cost and expense of such member.

6.6 DELEGATION OF RIGHT OF USE. Any member of the Association may delegate its rights to the use and enjoyment of the Common Area to family members who reside permanently with such member and to its tenants, contract-purchasers, invitees and guests, all subject to

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set forth.

6.2 MEMBER'S RIGHT OF ENJOYMENT. Every member of the Association shall have a non-exclusive right and easement for the use, benefit and enjoyment, in common with others, in and to the Common Area and such non-exclusive right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the restrictions herein set forth. Except as otherwise permitted by the provisions of this Declaration, the Common Area shall be retained in its natural state, and no Structure or improvement of any kind shall be erected, placed or maintained thereon. Structures or improvements designed exclusively for community use, shelters, benches, chairs or other seating facilities, fences and walls, walkways, playground equipment, game facilities, drainage and utility structures, grading and planting, may be erected, placed and maintained thereon for the use, comfort and enjoyment of the members of the Association, or the establishment, retention or preservation of the natural growth or topography of the area, or for aesthetic reasons. No portion of the Common Area may be used exclusively by any Owner or Owners for personal vegetable gardens, storage facilities or other private uses.

6.3 NUISANCE. No noxious or offensive activity shall be carried on upon the Common Area nor shall anything be done thereon which will become an annoyance or nuisance to the Community.

6.4 MAINTENANCE OBLIGATIONS OF THE ASSOCIATION. The Association shall improve, develop, supervise, manage, operate, examine, insure, inspect, care for, repair, replace, restore and maintain the Common Area, and maintain the grassed areas surrounding the front, side and rear yards of the Townhouse Lots and sprinkler systems located thereon (subject, however, to the provisions of Section 2.13), and any area dedicated to a public or governmental entity if such entity fails to properly maintain such area, as from time to time improved, together with any items of personal property placed or installed thereon, all at its own cost and expense, and shall levy against each member of the Association a proportionate share of the aggregate cost and expense required for the care, maintenance and improvement of the Common Area, which proportionate share shall be determined based on the ratio which the number of Lots owned by the member bears to the total number of Lots then laid out or established on the Property.

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6.5 RESTRICTIONS. The right of each member of the Association to use the Common Area shall be subject to the following:

(a) any rule or regulation now or hereafter set forth in this Declaration and, further, shall be subject to any rule or regulation now or hereafter adopted by the Association for the safety, care, maintenance, good order and cleanliness of the Common Area;

(b) the right of the Association, in accordance with

described in Section 6.4; provided, however, that Declarant shall have no obligation to perform such maintenance. No right shall be conferred upon any Owner by the recording of any plat relating to the development of the Property in accordance with such plat, Declarant expressly reserving unto itself the right to make such amendments to any such plat or plats as shall be advisable in its best judgment and as shall be acceptable to public authorities having the right to approval thereof.

(g) Declarant further reserves unto itself, for itself and any Builder and their successors and assigns, the right, notwithstanding any other provision of the Declaration, to use any and all portions of the Property other than those Lots conveyed to Owners, including any Common Area which may have previously been conveyed to the Association, for all purposes necessary or appropriate to the full and final completion of construction of the Community. Specifically, none of the provisions of Article II concerning architectural control or use restrictions shall in any way apply to any aspect of the Declarant's or Builder's activities or construction, and notwithstanding any provisions of this Declaration, none of the Declarant's or Builder's construction activities or any other activities associated with the development, marketing, construction, sales management or administration of the Community shall be deemed noxious, offensive or a nuisance. The Declarant reserves the right for itself and any Builder, and their successors and assigns, to store materials, construction debris and trash during the construction period on the Property without keeping same in containers. The Declarant will take reasonable steps, and will ensure that any Builder takes reasonable steps, to avoid unduly interfering with the beneficial use of the Lots by Owners.

5.2 INCORPORATION BY REFERENCE; FURTHER ASSURANCES. Any and all grants made to the Association with respect to any of the Common Area and all grants made with respect to any Lots shall be conclusively deemed to incorporate the foregoing reservations, whether or not specifically set forth in such instruments. At the request in writing of any party hereto, any other party shall from time to time execute, acknowledge and deliver such further assurances of such reservations as may be necessary.

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ARTICLE VI
COMMON AREA

6.1 GRANT OF COMMON AREA. The Association shall take title to the Common Area that is part of the Property free and clear of all encumbrances, except non-monetary title exceptions and this Declaration not later than the date the first Lot is conveyed to an Owner (other than the Declarant or a Builder). The Covenants are hereby imposed upon the Common Area for the benefit of the Declarant, the Builder, the Association and the Owners, and their respective personal representatives, successors and assigns, to the end and intent that the Association shall have and hold the said Common Area subject to the reservations set forth in Article V hereof, and to the Covenants herein

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and across the Common Area for the purpose of the storage of building supplies and materials, and for all other purposes reasonably related to the completion of construction and development of the project and the provision of utility services, and related services and facilities.

(c) The designation of streets, avenues, roads, courts and places upon the Plat is for the purpose of description only and not dedication, and the rights of the Declarant in and to the same are specifically reserved, and the Declarant hereby reserves unto itself, and its successors and assigns, the right to grade, regrade and improve the streets, avenues, roads, courts and places as the same may be located on the Plat, including the creation or extension of slopes, banks, or excavation in connection therewith and in the construction of and installation of drainage structures therein. The Declarant further reserves unto itself, and its successors and assigns, the bed, in fee, of all streets, avenues and public highways in the Community, as shown on the Plat.

(d) The Declarant further reserves unto itself, and its successors and assigns, the right to grant easements, rights-of-way and licenses to any person, individual, corporate body or municipality, to install and maintain pipelines, underground or above-ground lines, with the appurtenances necessary thereto for public utilities, or quasi-public utilities or to grant such other licenses or permits as the Declarant may deem necessary for the improvement of the Community in, over, through, upon and across any and all of the roads, streets, avenues, alleys, and open space and in, over, through, upon and across each and every Lot in any easement area set forth in this Declaration or as shown on the Plat.

(e) The Declarant further reserves unto itself and its successors and assigns, the right to dedicate all of said roads, streets, alleys, rights of way or easements, including easements in the areas designated as "open space" and stormwater management reservation, to public use all as shown on the Plat. No road, street, avenue, alley, right of way or easement shall be laid out or constructed through or across any Lot or Lots in the Community except as set forth in this Declaration, or as laid down and shown on the Plat, without the prior written approval of the Architectural Review Committee.

(f) Declarant further reserves unto itself and its successors and assigns, the right at or after the time of grading of any street or any part thereof for any purpose, to enter upon any abutting Lot and grade a portion of such Lot adjacent to such street, provided such grading does not materially interfere with the use or occupancy of any Structure built on such Lot, but Declarant shall not be under any obligation or duty to do such grading or to maintain any slope. Similarly, Declarant reserves the right unto itself, and its successors and assigns, and, without limitation, the Association, to enter on any Lot during normal business hours for the purpose of performing the maintenance obligations of the Association, as more particularly

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members of the Association. If after such conversion additional property is made subject to the Declaration, then the Class B membership shall be reinstated until December 31, 2007, or such earlier time as the total number of votes entitled to be cast by Class A members again equals or exceeds the total number of votes entitled to be cast by Class B members. The Declarant and any Builder shall thereafter remain a Class A member of the Association as to each and every Lot from time to time subject to the terms and provisions of this Declaration in which the Declarant or the Builder then holds the interest otherwise required for Class A membership.

ARTICLE V
DECLARANT'S RESERVED RIGHTS AND OBLIGATIONS

5.1 **RESERVED RIGHTS OF DECLARANT.** The Association shall hold the Common Area conveyed to it pursuant to Article VI hereof and each Owner shall own its Lot subject to the following:

(a) The reservation to Declarant, its successors and assigns, of non-exclusive easements and rights of way over those strips or parcels of land designated or to be designated on the Plat as "Drainage and Utility Easement," "Sewer Easement," "Drainage and Sewage Easement," and "Open Space," or otherwise designated as an easement area over any road or Common Area on the Property, and over those strips of land running along the front, rear, side and other Lot lines of each Lot shown on the Plat, except for the common side lines on the Lots, for the purposes of proper surface water drainage, for ingress and egress, for the installation, construction, maintenance, reconstruction and repair of public and private utilities to serve the Property and the Lots therein, including but not limited to the mains, conduits, lines, meters and other facilities for water, storm sewer, sanitary sewer, gas, electric, telephone, cable television, and other public or private services or utilities deemed by Declarant necessary or advisable to provide service to any Lot, or in the area or on the area in which the same is located, together with the right and privilege of entering upon the Common Areas for such purposes and making openings and excavations thereon, which openings and excavations shall be restored in a reasonable period of time, and for such alterations of the contour of the land as may be necessary or desirable to effect such purposes. Within the aforesaid easement areas, no Structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or change the direction of the flow of drainage channels or obstruct or retard the flow of water through drainage channels. The reserved easement areas of each Lot and all improvements therein, except improvements for which a public authority or utility company is responsible, shall be maintained continuously by the Owner of the Lot.

(b) The reservation to Declarant and its successors and assigns, of a non-exclusive easement and right-of-way in, through, over

provided, however, that any Mortgagee or any other person or entity who holds such interest solely as security for performance of an obligation shall not be a Class A member solely on account of such interest. Each Class A member shall be entitled to one (1) vote per Lot, for each Lot owned by it, in all proceedings in which action shall be taken by members of the Association.

(ii) Class B. The Class B members shall be the Declarant and any Builder. The Class B members shall be entitled to three (3) votes per Lot for each Lot owned by them, in all proceedings in which actions shall be taken by members of the Association. Notwithstanding anything contained herein to the contrary, each Builder shall be conclusively deemed during the Development Period:

(A) To have given the Declarant an irrevocable and exclusive proxy entitling the Declarant, at each meeting of the Membership held while such Builder holds such title, to cast the votes in the Association's affairs which such Builder holds under the foregoing provisions of this Section on each question which comes before such meeting;

(B) To have agreed with the Declarant that such proxy is given to and relied upon by the Declarant in connection with the Declarant's development, construction, marketing, sale and leasing of any or all of the Property and is coupled with an interest; and

(C) Such proxy shall cease with respect to the votes appurtenant to a Lot when a dwelling has been constructed on such Lot and legal title to such Lot is conveyed to a person who intends to occupy such dwelling as a residence.

(b) If more than one (1) person, firm, corporation, trustee, or other legal entity, or any combination thereof, holds the record title to any Lot, all of the same, as a unit, and not otherwise, shall be deemed a single member of the Association. The vote of any member comprised of two (2) or more persons, firms, corporation, trustees, or other legal entities, or any other combination thereof, shall be cast in the manner provided for in the Articles of Incorporation and/or By-Laws of the Association, or as the several constituents may determine, but in no event shall all such constituents cast more than one (1) vote per Lot for each Lot owned by them.

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4.3 CONVERSION. The Class B membership in the Association shall cease and be converted to Class A membership in the Association subject to being revived upon Additional Property being annexed to the Property pursuant to this Declaration, upon the earlier to occur of (i) December 31, 2005; or (ii) at such time as the total number of votes entitled to be cast by Class A members of the Association equals or exceeds the total number of votes entitled to be cast by the Class B

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transferred, held, sold, conveyed and occupied subject to this Declaration is located in the Community, and is described on Exhibit A attached hereto, all of which real property is referred to herein as the "Property."

3.2 ADDITIONS TO PROPERTY.

(a) The Declarant, its successors and assigns, shall have the right for seven (7) years from the date hereof to bring within the scheme of this Declaration Additional Property within the Community (the "Additional Property") without the consent of the Class A members of the Association provided that the annexation is in accordance with the general plan heretofore approved. The general plan of development is shown on the Plat, but the plan shall not bind the Declarant, its successors or assigns, to make the proposed additions, or to adhere to the plan in any subsequent development of the land shown thereon. The Additional Property that may be annexed to the Community is described on Exhibit B attached hereto.

(b) The additions authorized under this subsection shall be made by filing a supplemental declaration of record with respect to the Additional Property which shall extend the scheme of the Declaration to such Additional Property, and which Additional Property shall thereupon become part of the Property. Upon the filing of any supplemental declaration, Owners of Additional Property shall be subject to the same obligations and entitled to the same privileges as apply to the Owners of the Property. Such supplemental declaration may contain such complementary additions and modifications to the Declaration as may be necessary to reflect the different character, if any, of the Additional Property not inconsistent with the scheme of this Declaration. In no event, however, shall such supplemental declaration revoke, modify or add to the Covenants established by this Declaration for the Property as of the date hereof.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

4.1 MEMBERSHIP. Every Owner of a Lot that is subject to assessment shall become and be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot that is subject to assessment.

4.2 CLASSES OF MEMBERSHIP.

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(a) The Association shall have two (2) classes of voting membership:

(i) Class A. Except for the Declarant and any Builder, which shall initially be the Class B members, the Class A members shall be all Owners holding title to one (1) or more Lots;

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which may damage or interfere with any easement for the installation or maintenance of utilities, or which may unreasonably change, obstruct or retard direction or flow of any drainage channels. No poles and wires for the transmission of electricity, telephone and the like shall be placed or maintained above the surface of the ground on any Lot.

2.24 PARTY WALLS.

(a) Each wall that is built as a part of the original construction of the dwellings upon the Townhouse Lots and placed upon the dividing line between such Lots shall constitute a party wall, and to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

(c) If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owner(s) thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owner(s) to call for a larger contribution from the other(s) under any rule of law regarding liability for negligence or willful acts or omissions.

(d) Notwithstanding any other provision of this section, any Owner who by its negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

(e) The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to each Owner's successors in title.

(f) In the event of any dispute arising concerning a party wall, or under the provisions of this Section, each party shall choose one (1) arbitrator, and such arbitrators shall jointly choose one (1) additional arbitrator, and the decision shall be by the majority of the three (3) arbitrators.

(g) The rules applicable to party walls shall also apply to any party fences.

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ARTICLE III
PROPERTY SUBJECT TO THIS DECLARATION
AND ADDITIONS THERETO

3.1 PROPERTY. The real property which is, and shall be,

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(c) As used herein, (i) "impair" has the meaning given it in 47 Code of Federal Regulations Part 1, section 1.4000, as hereafter amended; and (ii) "Small Antenna" means any antenna (and accompanying mast, if any) of a type, the impairment of the installation, maintenance or use of which is the subject of such regulation. Such antennae are currently defined thereunder as, generally, being one (1) meter or less in diameter or diagonal measurement and designed to receive certain types of broadcast or other distribution services or programming.

2.19 SUBDIVISION. No Lot shall be divided or subdivided and no portion of any Lot (other than the entire Lot) shall be transferred or conveyed for any purpose; provided, however, this shall not prohibit transfers of parts of Lots between adjoining Lot owners where the transfer is not for the purpose of creating a new building Lot. The provisions of this subsection shall not apply to the Declarant and, further, the provisions hereof shall not be construed to prohibit the granting of any easement or right-of-way to any person for any purpose.

2.20 SIGNAGE. Except for entrance signs, directional signs, signs for traffic control or safety, community "theme areas" or "For Sale" signs (not larger than 2 feet by 3 feet), and except as provided in Section 2.8 of this Article II, no signs or advertising devices of any character shall be erected, posted or displayed upon, in or about any Lot or Structure. The provisions and limitations of this subsection shall not apply to any institutional first Mortgagee of any Lot who comes into possession of the Lot by reason of any proceeding, arrangement, assignment or deed in lieu of foreclosure.

2.21 LEASE AGREEMENTS. All lease agreements with respect to any Lot or any Structure located thereon shall be in writing. The minimum term of all lease agreements shall be one (1) year, and shall state that the lease agreement shall be subject to this Declaration. Owners who do not reside on their Lot must provide current addresses and phone numbers to the Association.

2.22 TRASH AND OTHER MATERIALS. No lumber, metals, bulk materials, refuse or trash shall be kept, stored or allowed to accumulate on any Lot, except (a) building material during the course of construction of any approved dwelling or other permitted Structure, and (b) firewood, which shall be cut and neatly stored at least six (6) inches off the ground and twelve (12) inches away from any wooden structure. No burning of trash shall be permitted on any Lot. All Owners shall place trash or other refuse into refuse containers provided by the Association or the City. Owners may not place any trash outside of such refuse containers or in any other location or container, except as designated by the Association, if any. The cost of refuse pick-up shall be borne by the Owner.

2.23 NON-INTERFERENCE WITH UTILITIES. No Structure, planting or other material shall be placed or permitted to remain upon any Lot

of Commercial Vehicles upon the Property, including, without limitation, the streets or Lots in the Community, for a time greater than that which is necessary to accomplish the aforesaid business purpose.

(c) Trailers, buses, tractors or any type of recreational vehicle shall not be parked, stored, maintained or repaired on any Lot or parked upon any streets or Common Areas.

(d) Notwithstanding the above, during construction of dwellings, the Declarant and any Builder may maintain Commercial Vehicles and trailers on the Property for purposes of construction and for use as a field or sales office.

2.17 LIGHTING AND WIRING. The exterior lighting on Lots shall be directed downward and shall not be directed outward from, or extend beyond, the boundaries of any Lot. All wiring on any Lot shall be underground.

2.18 ANTENNAE. No radio aerial, antenna or satellite or other signal receiving dish, or other aerial or antenna for reception or transmission, shall be placed or kept on a Lot outside of a dwelling, except on the following terms:

(a) An Owner may install, maintain and use on its Lot one (or, if approved, more than one) Small Antenna (as hereinafter defined) in the rear yard of a dwelling on the Lot, at such location, and screened from view from adjacent dwellings in such a manner and using such trees, landscaping or other screening material, as are approved by the Architectural Review Committee, in accordance with Article II. Notwithstanding the foregoing terms of this subsection, (i) if the requirement that a Small Antenna installed on a Lot be placed in the rear yard of a dwelling would impair such Small Antenna's installation, maintenance or use, then it may be installed, maintained and used at another approved location on such Lot where such installation, maintenance or use would not be impaired; (ii) if and to the extent that the requirement that such Small Antenna be screened would result in any such impairment, such approval shall be on terms not requiring such screening; and (iii) if the prohibition against installing, maintaining and using more than one (1) Small Antenna on a Lot would result in any such impairment, then such Owner may install on such Lot additional Small Antennae as are needed to prevent such impairment (but such installation shall otherwise be made in accordance with this subsection).

(b) In determining whether to grant any approval pursuant to this Section, neither Declarant, the Architectural Review Committee nor the Board of Directors shall withhold such approval, or grant it subject to any condition, if and to the extent that doing so would result in an impairment; provided however, that any Small Antenna shall be placed in the rear of each dwelling, notwithstanding any other provision in this Section 2.18.

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maintain, repaint and restore the Lot and the improvements or Structures thereon, and the cost thereof shall be a binding, personal obligation of such Owner, as an additional assessment on the Lot.

2.14 NUISANCES. No noxious or offensive trade or activity shall be carried on upon any Lot, nor shall anything be done or placed thereon which may become an annoyance or nuisance to the neighborhood or any adjoining property owners. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier or other sound device, except such properly maintained and operated devices as may be used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any dwelling or upon the exterior of any other Structure constructed upon any Lot. No snowmobiles, go-carts, motorbikes, trail bikes, other loud-engine recreational vehicles or skateboard ramps shall be run or operated upon any Lot or upon any roadways serving the Property.

2.15 ANIMALS. No animals, livestock, or poultry of any kind, including pigeons, shall be raised, bred or kept on any Lot, except that dogs, cats or any household pets, may be kept, provided that they are not kept, bred or maintained for any commercial purpose, and provided that they are kept so as to avoid becoming a nuisance to the neighborhood or to any adjoining property owners, and do not roam unattended on the Property. Household pets shall not include miniature pigs, horses or other hybrid livestock or farm animals. Pets shall be registered, licensed and inoculated as required by law. Owners shall be responsible for the immediate clean-up and removal of their pets' waste from any other Lot and the Common Area.

2.16 VEHICLES.

(a) Other than private passenger vehicles, vans, trucks or permitted commercial vehicles in regular operation, no other motor vehicles or inoperable, unlicensed, unregistered, junk or junked cars or other similar machinery or equipment of any kind or nature (except for such equipment and machinery as may be reasonable, customary and usual in connection with the use and maintenance of any Lot) shall be kept on the Property or repaired on any portions of the Property except in emergencies. RV's and recreational trailers are permitted on single-family detached driveways. For the purposes hereof, a vehicle shall be deemed inoperable unless it is licensed, contains all parts and equipment, including properly inflated tires, and is in such good condition and repair as may be necessary for any person to drive the same on a public highway.

(b) No commercial vehicles over 3/4 ton rated capacity ("Commercial Vehicles") shall be left parked on any part of the Property, including, without limitation, any street or Lot, longer than is necessary to perform the business function of such vehicle in the area; it being the express intention of this restriction to prevent the parking

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initial construction of a dwelling on a Lot by the Declarant and/or Builder, no fence, wall or other similar enclosure may be built on the front or side yard of any Lot, except a rear yard fence. On townhomes, the rear yard fence for any Lot which abuts to the outside boundaries of the Property shall be no closer than five (5) feet from such boundary; and all other Lots may not have a fence which is nearer than four (4) feet from its rear property line. In the event the rear portion of a Lot is fenced in by an Owner, such Owner shall maintain such area in accordance with the provisions of Section 2.13. The height restriction of all enclosures of patios and open gardens, privacy screens and work area screens, shall not exceed six (6) feet in height; however, this restriction shall not apply to retaining walls required by topography, where such enclosures are approved in advance by the Architectural Review Committee and provided they do not extend beyond the minimum building lines to any Lot line and are located to the rear of the front face of the Structure. No fences, walls or hedges shall be erected or placed nearer to any street Lot line than the minimum building line. Such enclosures may extend beyond the minimum building line to a Lot line, provided any such enclosure is fifty percent (50%) "see-through". All gates must open inward onto a Lot and shall not open onto another Lot or the Common Area. All fences and walls (except such fences and walls as may be installed and/or constructed by Declarant or simultaneously with the initial construction of a dwelling on a Lot by Declarant in accordance with plans and specifications approved by Declarant) must receive the prior written approval of the Architectural Review Committee. Any such fence or wall shall be decorative in character (rail, picket, etc.), and not of chain link or chicken wire. The foregoing restriction shall not be construed to prohibit the growth of an ornamental hedge fence, which shall be kept neatly trimmed, and shall be trimmed to a hedge of not more than three (3) feet in the front yard of any Lot and the side yard of corner Lots.

2.13 NEAT APPEARANCE. Owners shall, at all times, maintain their Lots and all appurtenances thereto in good repair and in a state of neat appearance, including, but not limited to, the seeding, watering and mowing of all lawns and yards, keeping all sidewalks, if any, neat, clean and in good repair, and free of ice and snow, the pruning and cutting of all trees and shrubbery and the painting (or other appropriate external care) of all Structures on the Lot, all in a manner and with such frequency as is consistent with good property management and maintenance; provided, however, that the Association shall perform maintenance of all grassy areas surrounding the front, rear (provided the same is not fenced in) and side areas of each Townhouse Lot in accordance with Section 6.4. If, in the opinion of the Architectural Review Committee, any Owner fails to perform the duties imposed hereunder, the Association, on affirmative action of a majority of the Board of Directors, after fifteen (15) days written notice to such Owner to remedy the condition in question, and upon failure of the Owner to remedy the condition, shall have the right (but not the obligation), through its agents and employees, to enter upon the Lot in question and to repair,

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2.6 EXTERIOR MATERIALS. All primary exterior materials of any Structure constructed on a Lot shall be in material approved by the Architectural Review Committee.

2.7 TEMPORARY STRUCTURES. No Structure of a temporary character, trailer, basement, tent, shack, garage, or other outbuildings shall be used on any Lot at any time as a residence, either temporarily or permanently. Nothing in this Declaration shall be deemed to prohibit an Owner from placing upon its Lot reasonably sized garden sheds, greenhouses or other similar accessory structures approved in advance by the Architectural Review Committee.

2.8 REAL ESTATE SALES OR CONSTRUCTION OFFICE. Notwithstanding anything contained herein to the contrary, a real estate sales or construction office or a trailer and/or model home and related signs, may be erected, maintained and operated on any Lot, or in any Structure now or hereafter located thereon, provided such office or trailer, and signs, are used and operated only in connection with the development and/or initial sale of any Lot or Lots, and/or the initial construction of improvements on any Lot now or hereafter laid out or created in the Community. Nothing herein, however, shall be construed to permit any real estate sales or construction office, trailer, or sign after such initial development, sales, and/or construction is completed. Except as expressly permitted herein above, neither any part of any Lot, nor any improvement now or hereafter erected on any Lot, shall be used for any real estate sales or construction office or trailer, nor shall any sign used in conjunction with such uses be erected.

2.9 CLOTHES LINE. No exterior clothes dryer, clothes pole or similar equipment shall be erected, installed or maintained on any Lot, nor shall articles of clothing, bedding, etc. be hung outside.

2.10 TRAFFIC VIEW. No Structure, landscaping, shrubbery or any other obstruction shall be placed on any Lot so as to block the clear view of traffic on any streets, nor shall any planting be done on any corner Lots closer than twenty (20) feet from either street line that will exceed three (3) feet in height (except shade trees which shall be trimmed so that a clear view may be maintained to the height of eight (8) feet).

2.11 FRONT LAWN AND LANDSCAPING. The area within the front of a dwelling shall be kept only as a lawn for ornamental or decorative planting of grass, trees and shrubbery. All front and side yards must be landscaped within one (1) year after the dwelling is occupied. Rear yards shall be landscaped within two (2) years of occupancy of the dwelling. Landscaping for the Lots includes maintenance of a green area between the curb and sidewalk.

2.12 FENCES AND WALLS. Except for fences as may be installed and/or constructed by the Declarant or Builder simultaneously with the

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(f) Any member of the Architectural Review Committee, upon the occurrence of a violation of the provisions of this Declaration, and after the Association or the Architectural Review Committee gives written notice thereof to the Owner of the applicable Lot, at any reasonable time, may enter upon and inspect any Lot and the exterior of any Structure thereon to ascertain whether the maintenance, construction or alteration of such Structure or Alteration are in accordance with the provisions hereof.

(g) All Structures on a Lot shall be made, constructed and maintained, and all activities on a Lot shall be undertaken, in conformance with all laws and ordinances of the City of Heber, Wasatch County, and State of Utah which may apply, including without limiting the generality of the foregoing, all zoning and land use ordinances.

2.3 LAND USE. The Lots, except as hereinafter provided, shall be used for private and residential purposes only and no dwelling of any kind whatsoever shall be erected, altered or maintained thereon except a private dwelling house for the sole and exclusive use of the Owner or occupant of the Lot. None of the Lots shall at any time be used for apartments or other types of multiple housing units; it being the intention of the Declarant that each and every one of the Lots be used solely for one (1) single family dwelling, and no other purposes, except such purposes as may be specifically reserved in the succeeding sections of this Declaration. No industry, business, trade or profession of any kind, whether or not for profit, shall be conducted, maintained or permitted on any part of the Property, except that any part of any Structure now or hereafter erected on any Lot may be used as an office or studio, provided that (i) the person using such office or studio actually resides in the Structure in which such office or studio is located, (ii) such office or studio is operated in full compliance with all applicable zoning and other laws, (iii) the operation of such office or studio does not involve the employment of any more than one (1) non-resident employee, (iv) the person owning such Lot has obtained the prior written approval of the Architectural Review Committee, and (v) such office or studio does not occupy more than twenty-five percent (25%) of the total floor area of such Structure.

2.4 SWIMMING POOLS. No swimming pools, whether "in ground", "above ground" or other type, shall be permitted on any Lot; provided, however, that "in ground" pools may be allowed on Single Family Lots if all applicable local laws are satisfied and approval from the Architectural Review Committee has been obtained in advance for construction of the pool and fencing location and materials.

2.5 DRIVEWAYS. No driveways or parking areas shall be permitted on any Lot in the Community, excluding, however, those Lots which have garages that have been constructed by the Declarant or Builder.

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opinion, for aesthetic or other considerations. Written requests for approval, accompanied by the foregoing described plans and specifications or other specifications and information as may be required by the Architectural Review Committee from time to time shall be submitted to the Architectural Review Committee by registered or certified mail or in person. In the event the Architectural Review Committee fails to approve or disapprove any plans within sixty (60) days of receipt thereof, such plans shall be deemed approved. Approval of any particular plans and specifications or design shall not be construed as a waiver of the right of the Architectural Review Committee to disapprove such plans and specifications, or any elements or features thereof, in the event such plans and specifications are subsequently submitted for use in any other instance. The Architectural Review Committee shall have the right to charge a processing fee, not in excess of \$50.00, for such requests, which shall be retained by the Association and not the Architectural Review Committee.

(d) Construction of Alterations in accordance with plans and specifications approved by the Architectural Review Committee pursuant to the provisions of this Article shall be commenced within six (6) months following the date of approval and completed within twelve (12) months of commencement of the Alterations, or within such other period as the Architectural Review Committee shall specify in its approval. In the event construction is not commenced within the period aforesaid, then approval of the plans and specifications by the Architectural Review Committee shall be conclusively deemed to have lapsed and compliance with the provisions of this Article shall again be required. After construction, all Structures and Alterations shall be maintained continuously in strict conformity with the plans and specifications so approved and all applicable laws.

(e) If any Structure is altered, erected, placed or maintained on any Lot other than in accordance with approved plans and specifications therefor and applicable law, such action shall be deemed to be a violation of the provisions of this Declaration and, promptly after the Association gives written notice thereof to its Owner, such Structure shall be removed or restored to its condition prior to such action, and such use shall cease, so as to terminate such violation. If within thirty (30) days after having been given such notice, such Owner has not taken reasonable steps to terminate such violation, any agent of the Association may enter upon such Lot and take such steps as are reasonably necessary to terminate such violation. Such Owner shall be personally liable to the Association for the cost thereof, to the same extent as he is liable for an Assessment levied against such Lot, and, upon the failure of the Owner to pay such cost within ten (10) days after such Owner's receipt of written demand therefor from the Association, the Association may establish a lien therefor upon such Lot in accordance with and subject to the provisions of this Declaration applicable to an assessment lien.

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this Article II as the Architectural Review Committee, in its sole discretion, may deem advisable and in the best interests of the Community.

2.2 ARCHITECTURAL REVIEW.

(a) No Structure (other than construction or development by, for or under contract with Declarant) shall be constructed on any Lot nor shall any addition (including awnings and screens), change, or alteration therein or thereto (including any retreatment by painting or otherwise of any exterior part thereof unless the original color and material are used) (collectively, "Alterations") be made to the exterior of any Structure and/or contour of any Lot, nor shall any work be commenced or performed which may result in a change of the exterior appearance of any Structure until the plans and specifications, in duplicate, showing the nature, kind, shape, dimensions, material, floor plans, color scheme, location, proposed topographical changes, together with the estimated costs of said Alterations or construction, the proposed construction schedule, and a designation of the party or parties to perform the work, have been submitted to and approved in writing by the Architectural Review Committee, its successors and assigns, and until all necessary permits and any other governmental or quasi-governmental approvals have been obtained. The approval of the Architectural Review Committee of any Structure or Alterations shall in no way be deemed to relieve the Owner of any Lot from its obligation to obtain any and all permits and approvals necessary for such Structure or Alterations.

(b) The Architectural Review Committee shall consider applications for approval of plans, specifications, etc., upon the basis of conformity with this Declaration, applicable law and the Design Guidelines, if any, and shall be guided by the extent to which such proposal will insure conformity and harmony in exterior design and appearance, based upon, among other things, the following factors: the quality of workmanship; nature and durability of materials; harmony of external design with existing structures; choice of colors; changes in topography, grade elevations and/or drainage; the ability of the party or parties designated by the Owner to complete the Structure or Alterations proposed in accordance with this Declaration, including, without limiting the foregoing, such factors as background, experience, skill, quality of workmanship, financial ability; factors of public health and safety; the effect of the proposed Structure or Alterations on the use, enjoyment and value of other neighboring properties, and/or on the outlook or view from adjacent or neighboring properties; and the suitability of the proposed Structure or Alterations with the general aesthetic appearance of the surrounding area.

(c) The Architectural Review Committee shall have the right to refuse to approve any such plans or specifications, including grading and location plans, which are not suitable or desirable in its

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1.13 "Single Family Lot" shall mean and refer to those Lots upon which there are constructed a single family detached dwellings.

1.14 "Structure" means any thing or device the placement of which upon the Property (or any part thereof) may affect the appearance of the Property (or any part thereof) including, by way of illustration and not limitation, any building, trailer, garage, porch, shed, greenhouse, bathhouse, coop or cage, covered or uncovered patio, clothesline, radio, television or other antenna or "dish", fence, sign, curbing, paving, wall, roadway, walkway, exterior light, landscape, hedge, trees, shrubbery, planting, signboard or any temporary or permanent living quarters (including any house trailer), or any other temporary or permanent improvement made to the Property or any part thereof. "Structure" shall also mean (i) any excavation, fill, ditch, diversion, dam or other thing or device which affects or alters the natural flow of surface waters from, upon or across the Property, or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel from, upon or across the Property, and (ii) any change in the grade of the Property (or any part thereof) of more than six (6) inches from that existing at the time of first ownership by an Owner hereunder other than the Declarant.

1.15 "Townhouse Lot" shall mean and refer to those Lots upon which there are constructed townhouse style or similar attached dwellings.

ARTICLE II
COVENANTS, CONDITIONS AND RESTRICTIONS

2.1 **ADMINISTRATION; ARCHITECTURAL REVIEW COMMITTEE.** The Architectural Review Committee, which shall be appointed by the Declarant during the Development Period and thereafter by the Board of Directors of the Association (the "Architectural Review Committee") shall have all the rights, powers and duties granted to it pursuant to this Declaration. The initial members of the Architectural Review Committee are John Aldous, David Irwin and Gordon Etter. The Architectural Review Committee shall at all times be comprised of at least three (3) members. At any time, or from time to time, during the Development Period, the initial members of the Architectural Review Committee may be replaced for any reason (including death or resignation) with other individuals selected by the Declarant in its sole discretion. All questions shall be decided by a majority of the members of the Architectural Review Committee, and such majority shall be necessary and sufficient to act in each instance and on all matters. Each member of the Architectural Review Committee, now or hereafter appointed, shall act without compensation for services performed pursuant to this Declaration. The Declarant hereby grants to the Architectural Review Committee, its successors and assigns, the right to establish architectural design criteria for the Community (the "Design Guidelines") which shall be made available to all members, and to waive such portion or portions of the Covenants numbered 2.3 through 2.23 of

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a Class A membership as described in Article IV.

1.7 "Lot" and/or "Lots" shall mean and refer to those portions of the Property that are subdivided parcels of land shown and defined as lots or plots of ground (exclusive of the Common Area) and designated by numerals on the Plat, on which a dwelling is proposed to be constructed. "Lots" shall include both Townhouse Lots and Single Family Lots (as such terms are hereinafter defined).

1.8 "Mortgage" means any mortgage or deed of trust encumbering any Lot or any or all of the Common Area, and any other security interest existing by virtue of any other form of security instrument or arrangement, provided that such mortgage, deed of trust or other form of security instrument, and an instrument evidencing any such other form of security arrangement, has been recorded among the Recorder's Office.

1.9 "Mortgagee" means the person secured by a Mortgage.

1.10 "Plat" shall mean and refer to the plat entitled, "MUIRFIELD SUBDIVISION NO. 2" to be recorded among the Recorder's Office of Wasatch County, Utah, and any plats recorded among the Recorder's Office in substitution therefor or amendment thereof, plus any plats hereafter recorded among the Recorder's Office of any Additional Property that may hereafter expressly be made subject to this Declaration by an instrument in writing, duly executed, and recorded among the Recorder's Office.

1.11 "Property" shall mean and refer to all of the real property described in Exhibit A attached hereto, and any additional land at such time as it is hereafter expressly made subject to this Declaration by an instrument in writing, duly executed and recorded among the Recorder's Office.

1.12 "Owner" shall mean, refer to and include the person, firm, corporation, trustee, or legal entity, or the combination thereof, including contract sellers, holding the fee simple record title to a Lot, as said Lot is now or may from time to time hereafter be created or established, either in his, her, or its own name, as joint tenants, tenants in common, tenants by the entireties, or tenants in copartnership, if the Lot is held in such real property tenancy or partnership relationship. If more than one (1) person, firm, corporation, trustee, or other legal entity, or any combination thereof, hold the record title to any one (1) Lot, whether it is in a real property tenancy, or partnership relationship, or otherwise, all of the same, as a unit, shall be deemed a single Owner and shall be or become a single member of the Association by virtue of ownership of such Lot. The term "Owner", however, shall not mean, refer to or include any contract purchaser nor shall it include a Mortgagee.

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NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

THAT the Declarant does hereby establish and impose upon the Property (as hereinafter defined), the Covenants for the benefit of and to be observed and enforced by the Declarant, its successors and assigns, as well as by all purchasers of Lots, to wit:

ARTICLE I
DEFINITIONS

The following words when used in this Declaration (unless the context otherwise requires) shall have the following meanings:

1.1 "Association" shall mean and refer to the Muirfield Homeowners Association, Inc.

1.2 "Builder" shall mean any person or entity other than the Declarant, which shall, in the ordinary course of such person's business, construct a dwelling on a Lot and sell or lease it to another person to occupy as such person's residence.

1.3 "Common Area" shall mean and refer to those areas of land, intended to be devoted to the common use and enjoyment of the Owners of the Lots, including but not limited to reserved open spaces, maintenance areas, any recreational facilities and/or tot lots, non-tidal wetlands, recreational areas with any improvements located thereon, steep slopes, off-street private parking areas, storm water detention facilities, and any other real property or other facilities which the Association owns and/or in which the Association acquires a right of use for the benefit of the Association and its members, saving and excepting, however, so much of the land previously conveyed or to be conveyed to a governmental body.

1.4 "Community" shall mean and refer to all of the land hereby made subject to this Declaration by an instrument in writing, duly executed and recorded among the Recorder's Office and any Additional Property (as such term is hereinafter defined) that may hereafter expressly be made subject to this Declaration by an instrument in writing, duly executed and recorded among the Recorder's Office.

1.5 "Declarant" shall mean and refer to Muirfield L.L.C., and any successor or assign thereof to whom it shall expressly (a) convey or otherwise transfer all of its right, title and interest in the Property as an entirety, without reservation of any kind; or (b) transfer, set over and assign all of its right, title and interest under this Declaration, or any amendment or modification thereof.

1.6 "Development Period" shall mean the time between the date of recordation of this Declaration among the Recorder's Office and the date on which the Class B membership in the Association converts to

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MUIRFIELD HOMEOWNERS ASSOCIATION, INC.

RECORDED IN BOOK 00407 PAGE 00453-00490
WASATCH CO RECORDER ELIZABETH N PARCELL
1998 DEC 15 12:00 PM FEE \$192.00 BY KWC
REQUEST: FIRST AMERICAN TITLE COMPANY

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION OF COVENANTS, CONDITIONS and RESTRICTIONS (the "Declaration") made this 20th day of November 1998, by MUIRFIELD L.L.C., a Utah limited liability company (the "Declarant").

RECITALS

A. The Declarant is the owner of certain land in Wasatch County, Utah, shown on the plat entitled, "MUIRFIELD SUBDIVISION NO. 2" to be recorded among the Recorder's Office of Wasatch County, Utah, Recorder's Office (the "Recorder's Office"), in Plat Book 405 No. 300, folio 309.

B. It is the intention of the Declarant to develop the land as a residential community, and to insure therefor a uniform plan and scheme of development, and unto that end the Declarant has adopted, imposed and subjected the property hereinafter described to certain covenants, conditions, restrictions, easements, charges and liens (collectively, the "Covenants"), as set forth herein for the following purposes:

(1) To insure uniformity in the development of the Lots (as hereinafter defined) in the Community (as hereinafter defined).

(2) To facilitate the sale by the Declarant, its successors and assigns, of the Land in the Community by reason of its ability to assure such purchasers of uniformity.

(3) To make certain that the Covenants shall apply uniformly to all Lots for the mutual advantage of the Declarant, the Owners and any Mortgagee (as such capitalized terms are defined herein) and to all those who may in the future claim title through any of the above.

(4) To provide for the benefit of the Owners, the preservation of the value and amenities in the Community, and the maintenance of certain reserved open spaces and common areas, including but not limited to easements, charges and liens, herein below set forth, and for the creation of an association to be delegated and assigned the powers of maintaining and administering the Common Area (as hereinafter defined), and enforcing all applicable covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter created; which association shall be incorporated under the laws of the State of Utah, as a nonprofit corporation, for the purpose of exercising the functions as aforesaid.

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WASATCH CO RECORDER ELIZABETH N PARCELL
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Article II: Covenants, Conditions and Restrictions

2.1 (pg. 4) Administration; Architectural Review Committee

2.11 (pg. 8) Front Lawn & Landscaping (Front & Side = 1 Yr. / Rear = 2 Yrs.)

2.13 (pg. 9) Neat Appearance

2.16 (pg. 10) Vehicles

Article IV: Membership & Voting Rights in the Association

4.3 (pg. 15) Conversion: 1: Dec. 31, 2005 or 2: Total # of votes entitled to be cast by Class A members = / + votes entitled to be cast by Class B member.

Article VI: Common Area

6.4 (pg. 19) Maintenance Obligations of the Association

Article VIII: Covenant for Assessment

8.1 (pg. 21) Covenant for Assessment: Annual assessment = members proportionate share + 12% per annum + costs & reasonable attorneys' fees incurred in the collection thereof..

8.5 (pg. 23) Notice & Quorum for any Action Authorized under Sections 8.3 (Maximum Annual Assessment) & 8.4 (Special Assessments):

- Written notice to members = > 30 days & < 60 days in advance of the meeting.
- Quorum @ 1st Meeting = The presence @ meeting of members OR proxies = at least 60% of all votes entitles to be cast = Quorum.
 - If not met: 2nd meeting to be held with in 60 days of original date.
 - Quorum @ 2nd Meeting = ½ of previous requirement or 30% of all votes entitles to be cast = Quorum.

8.9 (pg. 25) Nonpayment of Assessment: Delinquency after 30 days shall bear interest at rate of 12% per annum + \$10 per month until paid (or 10% of the assessment, whichever is greater)

8.11 (pg. 26) Enforcement of Lien: The Association may establish & enforce the lien for any assessment or breach of any of the covenants herein.

FIRST AMENDMENT TO DECLARATION OF CC & R's = Lots 311 through 324 & Common Area Open Space (Muirfield, Phase III) submitted to the Homeowners Association.

SECOND AMENDMENT TO DECLARATION OF CC & R's = Lots 432 through 468 & Common Area Open Space (Muirfield Phase 4B) submitted to the Homeowners Association.

THIRD AMENDMENT TO THE DECLARATION OF CC & R's = Lots 401 through 420 & Common Area Open Space (Muirfield Phase 4A) submitted to the Homeowners Association.

FORTH AMENDMENT TO THE DECLARATION OF CC & R's = Removal of paragraph (C) Article 2.16 (pg. 10) [as it was contradictory to paragraph (a) Article 2.16] ALSO for the dates January, February, March & April of 2002, Article 2.21 Lease Agreements, the minimum term of all lease agreements will be not be enforced to a one year term for Olympic 2002 purposes.

I created this as a little cheat sheet for the major issues that come up more than others. cp