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For RICHARDS LAW, P.C.



WHEN RECORDED, RETURN TO:

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**AMENDED AND RESTATED BYLAWS  
FOR  
SWAN CREEK VILLAGE  
HOMEOWNERS ASSOCIATION**

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THESE AMENDED AND RESTATED BYLAWS (hereafter "Amended Bylaws") are made on the date evidenced below by the Swan Creek Village Homeowners Association (hereafter "Association").

**RECITALS**

- A. Certain real property in Rich County, Utah, known as Swan Creek Village subdivision, was subjected to certain covenants, conditions, and restrictions pursuant to a Declaration of Covenants, Conditions, and Restrictions for Swan Creek Village ("Declaration"), recorded October 3, 2008 as Entry No. 75597, in the Recorder's Office for Rich County, State of Utah, which, along with the Bylaws of Swan Creek Village Homeowners Association ("Bylaws") which were signed and in full force and effect as of September 18, 2007.
- B. These Amended Bylaws shall be binding against the property described in the Declaration and Bylaws and any annexation or supplement thereto, as described in **Exhibit A**.
- C. These Amended Bylaws are intended to update the Bylaws with actual practices and pursuant to Utah law, shall be recorded in the records of the Rich County Recorder, state of Utah.
- D. Pursuant to Article XI, Section 11.01 of the Bylaws, the undersigned officer(s) hereby certifies that the voting requirements to amend the Bylaws have been satisfied to adopt these Amended Bylaws.

**ARTICLE I  
NAME AND PRINCIPAL OFFICE**

1.1. **Name.** The name of the Association, as established under the Utah Nonprofit Corporations Act, is Swan Creek Village Homeowner Association.

1.2. **Office.** The initial principal office of the Association shall be situated in Rich County, State of Utah.

1.3. **Application to Project.** The provisions of these Bylaws are applicable to the recreational and housing project known as Swan Creek Village in Rich County, Utah. All present

and future Owners, and their tenants, future tenants, employees, and any other persons who might use the facilities of the Project in any manner are subject to the regulations set forth in these Bylaws, the Declaration, Plat, Articles of Incorporation, and rules and regulations for the Association. The mere acquisition or rental of any Lot in the Project or the mere act of occupancy of any Lot will signify that these Bylaws are accepted, ratified, and will be observed.

## **ARTICLE II** **DEFINITIONS**

2.1. **Definitions.** Unless otherwise specifically provided herein, the definitions contained in the Declaration, as may be amended from time to time, are incorporated in these Bylaws by reference.

## **ARTICLE III** **ELECTRONIC MEANS – NOTICE & VOTING**

### 3.1. **Notices.**

3.1.1. Association. All notices to the Association or the Board of Trustees shall be sent care of its designated agent. If there is no such designated agent (such as a Project Manager), then notice shall be sent to the principal office of the Association or to such other address as the Board may hereafter designate from time to time.

#### 3.1.2. Owners.

(a) Notice by Electronic Means. In any circumstance where notice is required to be given to Owners under these Bylaws, the Declaration or Utah law, the Association may provide notice by electronic means, including text message, email, or an Association website, if the Board deems the notice to be fair and reasonable. An Owner may require the Association, by written demand, to provide notice to the Owner by regular U.S. mail if they do not prefer electronic notice. The Board of Trustees is authorized to promulgate rules and procedures facilitating the implementation of this section as it deems fit from time to time, including requiring Owners to furnish the Association with a current email address so long as such email addresses are not deemed a record of the Association and shall only be used by the Board of Trustees for Association business.

(b) Except as otherwise provided in the Declaration, these Bylaws or law, all notices to any Owner shall be sent to such address as may have been designated by him or her, from time to time, in writing to the Board of Trustees, or if no address has been designated, then to the Owner's Lot. Neither the Board nor its agent(s) shall be responsible for locating the Owner if their mailing or email address has changed. Owners shall be responsible to notify the Association of all such changes.

(c) If a Lot is jointly owned, notice shall be sent to a single address, of which the Secretary has been notified in writing by such parties. If no address has been given to the Secretary in writing, then mailing to the Lot shall be sufficient.

3.2. **Affairs, Electronic Means.** Except for the **election** of Trustees, or as stated herein, any notice, transaction or action involving the business or affairs of the Association or the Board (whether or not expressly stated in any Articles or Sections of the Declaration or Bylaws), including but not limited to any and all notices, voting matters referred to in these Bylaws and the Declaration may be conducted by electronic means. The Association may accept an electronic vote, consent, written ballot, waiver, proxy appointment, proxy revocation or any other verified action taken through electronic means as the act of the Member if the Board does so in good faith and has no reason to believe it is not the act of the Member.

Any such document or writing may be delivered in an electronic medium or by electronic transmission, and may be signed by photographic, electronic, or other means. An electronic record or electronic signature is attributable to a person if it was the act of the person. An electronic signature may consist of a mark, symbol, character, letter, or number or any combination thereof attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record and the same shall be considered the signature of such person. A writing includes any document, record, vote, ballot, proxy, or instrument required or permitted to be transmitted by a Member or by the Association.

#### **ARTICLE IV** **POWER OF THE ASSOCIATION**

4.1. **Powers.** The Association shall have all the powers conferred upon it by the Declaration and all powers allowed by law necessary or convenient for accomplishment of any of its purposes, including all powers referred to or described in Utah Code Annotated sections 16-6a-302 through 16-6a-304.

4.2. **Limitations.** The Association is not organized for pecuniary profit. Notwithstanding the breadth of the foregoing portion of this Article: (i) no dividend shall be paid to, no part of the Association's funds shall be distributed to, and no part of any net income of the Association shall inure to the benefit of, any of its Members, Board members, officers, or any other person, unless any of said enumerated persons are employed or retained by the Association to perform services for the Association; and (ii) the powers of the Association shall be subject to all limitations or restrictions contained herein or in the Declaration.

#### **ARTICLE V** **MEMBERSHIP, MEETINGS, AND VOTING RIGHTS**

5.1. **Membership.** Every Owner shall be a Member of the Association. Membership in the Association shall be mandatory, shall be appurtenant to the Lot in which the Owner has the necessary interest, and shall not be separated from the Lot to which it appertains. Neither the issuance nor the holding of shares of stock shall be necessary to evidence Membership in the Association.

5.2. **Membership List.** The Association shall maintain up-to-date records showing the name and address of each person who is a Member, as well as a phone number and email address, if available, and the Lot to which the membership of such person is appurtenant.

5.2.1. In the event a Member's address, phone or email address changes, the Member shall provide the Association its new contact information within thirty (30) days of the change.

5.2.2. In the event of any transfer of a fee or undivided fee interest in a Lot (or portion of a Lot, if split) either the transferor or transferee shall furnish the Association with (1) evidence establishing that the transfer has occurred and that the deed or other instruments accomplishing the transfer is of record in the office of the County Recorder of Rich County, Utah, and (2) the name, address and phone number and email address, if available, of the transferee and the Lot that has been transferred.

5.2.3. The Association may for all purposes act and rely on the information concerning Members and Lot Ownership which is thus provided by the Members as referenced in this section or, at its option, the Association may act and rely on current ownership information respecting any Lot or Lots which is obtained from the office of the County Recorder of Rich County, Utah.

5.2.4. The address of all Members shall be deemed to be the address of the living unit situated on such Member's Lot unless the Association is otherwise advised.

5.3. **Voting Rights.** The Association shall have one class of voting membership. All Members shall be entitled to one vote for each Lot owned. The Association, by majority Board vote, shall cast the votes for any Lot(s) the Association owns.

5.4. **Multiple Ownership Interest.** In the event there is more than one Owner of a Lot, the vote relating to such Lot shall be exercised as such Owners may determine among themselves. A vote cast at any Association meeting by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the vote attributable to the Lot concerned unless an objection is immediately made by another Owner of the same Lot. In the event such objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.

5.5. **Annual Meetings.** The annual meeting of the Members shall be held on a Saturday in September of each succeeding year. The time of the meeting shall be determined by the Board of Trustees. The purpose of the annual meeting shall be the election of Board members and the transaction of such other business as may come before the Members. If elections of Board members are not held on the day designated herein for an annual meeting, the Board of Trustees shall cause such election to be held at a special meeting of the Members as soon thereafter is convenient.

5.5.1. Postponement of Annual Meeting. In the event that life, health and safety concerns prevent the reasonable congregating of Association members for a meeting, then the annual meeting in any given year (upon vote of the Board) may be postponed in such limited

circumstances until the next year and all terms of the Board of Trustees shall be extended an additional year in order to accommodate the postponement while keep the Board properly seated and functioning.

5.6. **Special Meetings.** A special meeting of the Members for any purpose or purposes may be called by the President, by the Board of Trustees, or upon the written request of Members of the Association.

5.6.1. Such written request(s) must state the purpose of the meeting and must be signed and dated by Members holding at least ten percent (10%) of all the votes entitled to be cast on any issue proposed to be considered at the meeting.

5.6.2. A special meeting request must be delivered to a member of the Board of Trustees or the Board President.

5.6.3. Only business within the purposes described in the notice of the meeting may be conducted at a special meeting of the Members.

5.7. **Place of Meeting.** The Board of Trustees shall designate any place within Salt Lake County, Davis County, Rich County or Weber County, Utah, as a place of any annual meeting or for any special meeting called by the Board. If no designation is made, a waiver of notice signed by all Members may designate a place, either within or without the State of Utah, as the place for holding such meeting.

5.7.1. Members may attend and otherwise participate in an annual, regular, or special meetings. If electronic communication is available without extraordinary means, Members may participate in aforementioned meetings so long as all Members participating can hear each other during the meeting. A Member participating in a meeting by means of telecommunication is considered to be present in person at the meeting.

5.8. **Notice of Meetings.** Written notice of annual, regular or special meetings shall be delivered no fewer than thirty (30) days, and no more than sixty (60) days, prior to the meeting, to each Member of record entitled to vote at such meetings. The notice shall specify the place, day and hour of the meeting, and must include a description of any matter that must be approved by the Members and, in the case of a special meeting, the purpose of the meeting.

Each Member shall register with the Association, such Member's current mailing address and email address for purposes of notice hereunder. Such registered address may be changed from time to time by notice in writing to the Association (see section 5.2.1. herein). If no address is registered with the Association, the Members living unit situated on such Member's Lot shall be deemed to be his registered address for purposes of notice hereunder.

5.9. **Waiver of Notice.** A Member may waive any notice, whether before or after the date or time stated in the notice as the date or time when any action will occur or has occurred.

5.9.1. The waiver shall be in writing, signed by the Member entitled to the notice and delivered to the President of the Association for inclusion in the minutes or filing with the corporate record.

5.10. **Voting by Proxy.** At each meeting of the Members, each Member entitled to vote shall be entitled to vote in person, by proxy, or by written ballot; provided, however, that the right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been executed by the Member(s) or by their attorney thereunto duly authorized in writing pursuant to Utah Code.

5.10.1. At any membership meeting, the presence, whether in person, by proxy, or by written ballot of Members entitled to vote, shall constitute a quorum for the transaction of business.

5.10.2. Such instrument authorizing a proxy to act shall be delivered by the beginning of the meeting to the Secretary of the Association or to such other officer or person who may be acting as Secretary of the meeting. The Secretary of the meeting shall enter a record of all such proxies in the minutes of the meeting.

5.10.3. An appointment of proxy shall be valid for thirty (30) days.

5.10.4. Each Member may not obtain or represent more than two (2) proxy votes from other Members of the Association.

5.10.5. Every proxy shall automatically cease upon sale of the Lot.

5.11. **Quorum.** At any meeting of the Members, the Members that are represented in person, by proxy, written ballot or any means permitted by these Bylaws, shall constitute a quorum for the transaction of business.

5.12. **Votes.** With respect to each matter, including the election of Trustees, each Member entitled to vote at the meeting shall have the right to cast, in person, by proxy, or by written ballot, a single vote appertaining to the Lot owned by such Member. Those attending by electronic communication must have a representative voting their proxy for the election of Board members. The affirmative of a majority of the votes entitled to be cast by the Members present or represented by proxy at a meeting at which a quorum was initially present shall be necessary for the adoption of any matter voted on by the Members, unless a greater proportion is required by the Articles of Incorporation, these Bylaws, the Declaration, or Utah law. The election of Board members shall be by secret ballot. If a membership is jointly held, all or any holders thereof may attend each meeting of the Members, but such holders must act unanimously to cast the votes relating to their joint membership.

5.13. **Waiver of Irregularities.** All inaccuracies and/or irregularities in calls or notices of meetings and in the manner of voting, form of proxies, and/or method of ascertaining Members present shall be deemed waived if no objection thereto is made at the meeting.

5.14. **Action by Written Ballot.** Any action that may be taken at any annual, regular or special meeting of the Members may be taken without a meeting if the Association delivers a written ballot to every Member entitled to vote on the matter. A written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action.

5.14.1. Quorum for Vote by Written Ballot. For purposes of taking action by written ballot, the number of votes cast by written ballot constitutes a quorum for action on the matter.

5.14.2. Approval for Vote by Written Ballot. Approval by written ballot shall be valid only when: (1) the time by which all ballots must be received by the Association has passed so that a quorum can be determined; and (2) the number of approvals equal or exceeds the number of votes that would be required to approve the matter at a meeting.

5.14.3. All solicitations for votes by written ballot shall (1) set forth each proposed action, (2) indicate the number of responses needed to meet the quorum requirements, (3) state the percentage of approvals necessary to approve each matter, other than election of Board members, (4) specify the time by which a ballot must be received by the Association in order to be counted, and (5) be accompanied by written information sufficient to permit each person casting the ballot to reach an informed decision on the matter.

5.14.4. No written ballot timely cast by a Member entitled to vote may be revoked.

5.14.5. A written ballot delivered to every Member entitled to vote on the matter may also be used in connection with any annual, regular or special meeting of Members, thereby allowing Members the choice of either voting in person or by written ballot delivered by a Member to the Association in lieu of attendance at such meeting. Any written ballot shall be counted equally with the votes of Members in attendance at any meeting for every purpose, including satisfaction of a quorum requirement.

## **ARTICLE VI**

### **BOARD OF TRUSTEES**

6.1. **Management.** In connection with the Association, the business, property and affairs of the Project shall be managed, operated and maintained by the a Board of Trustees (formerly referred to as the "Management Committee" in the original Declaration) as agent for the Owners or Members.

6.2. **Number, Tenure, and Qualifications.** The Board of Trustees shall be composed of up to seven (7) Members. At each annual Association meeting any vacant seat on the Board shall be filled with a Member elected for a three-year term. Only Owners and officers of Owners



shall be eligible for Board seats. The Board, as an agent of the Association shall be entitled to one vote for each Lot it holds which has not been sold or conveyed to a Lot purchaser.

6.2.1. The Board of Trustees may choose to waive the vote for each Lot it holds, which has not been sold or conveyed to a Lot purchaser; or in the alternative, may draw the name of a Member present at the meeting, for one additional vote for any Lot the Association owns.

6.2.2. Any change in the number of Trustees may be made only by amendment of these Bylaws.

6.2.3. Qualifications. To be considered for a Trustee Board position an individual must be a Lot Owner of record within the Association and verified by county records; be in good standing meaning there are no unpaid assessments fines or unresolved violations of the Governing Documents; and elected Trustees must sign a Board Confidentiality Agreement indicating that issues discussed in Executive Session shall remain confidential and a failure to keep sensitive information may result in the surrendering of their Board seat.

6.3. Regular Meetings. A regular meeting of the Board of Trustees shall be held monthly on the third Tuesday of each month beginning at 6:00 p.m. at the Board designated office of the Association.

6.4. Special Meetings. Special meetings of the Board of Trustees may be called by or at the request of the President, the Vice President, or by a majority of Trustees. The person or persons authorized to call special meetings of the Board of Trustees may fix any place within the State of Utah, as the place for holding any special meeting of the Board of Trustees called by such person or persons. Notice of any special meeting shall be given at least five (5) days prior thereto by written notice delivered personally, or mailed to each Trustee at his registered address, and by electronic mail. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with first class postage thereon prepaid. If notice be given by electronic mail, such notice shall be deemed to be delivered when the Trustee acknowledges receipt to the individual sending notice. Any Trustee may waive notice of a meeting.

6.5. Quorum and Manner of Acting. A majority of the Trustees in office shall constitute a quorum for the transaction of business at any meeting of the Board of Trustees. The act of a majority of the Trustees present at any meeting at which a quorum is present shall be the act of the Board of Trustees. The Trustees shall act only as a Board, and individual Trustees shall have no powers as such.

6.6. Compensation. No Trustee of the Association shall receive compensation for any service they may render to the Association as a Trustee.

6.7. **Resignation and Removal.** A Trustee may resign at any time by delivering a written resignation to either the President or the Board of Trustees. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Trustee may be removed at any time for or without cause, by the affirmative vote of sixty percent (60%) of the total votes of the Association at a special meeting of the Members duly called for such purpose.

6.8. **Vacancies.** Vacancies on the Board, caused by any reason other than the removal of a Board member by a vote of the Association Members, shall be filled for the balance of the then serving term by vote of a majority of the remaining Board members. Any vacancies in the Board of Trustees occurring by reason of the members' removal as a Board member may be filled by election by the Members at the meeting at which such Trustee is removed.

6.9. **Informal Action by Trustees.** Any action that is required or permitted to be taken at a meeting of the Board of Trustees may be taken without a meeting, if each and every member of the Board, in writing, either (1) votes for the action, or (2) votes against the action or abstains from voting and waives the right to demand that action not be taken without a meeting. If writing is delivered through electronic mail, such writing shall be deemed to be delivered when the Trustee receives acknowledgement of receipt by the individual sending notice.

6.10. **Waiver of Notice.** Any notice required to be given to a Trustee may be waived by the Trustee entitled thereto signing a waiver thereof, whether before or after the time stated therein, and the signing of such waiver shall, for all purposes, be equivalent to the giving of such notice. Attendance of a Trustee at any meeting shall constitute a waiver of notice of such meeting unless such Trustee is attending the meeting for the sole and express purpose of objecting to the transaction of any business at the meeting because the meeting was not lawfully called or convened.

6.11. **Authority to Act.** The Board of Trustees shall have, and is hereby granted, the following authority and powers:

6.11.1. The authority to execute and record, on behalf of all Members, any amendment to the Declaration or exhibits therein, which has been approved by the vote or consent necessary to authorize such amendment;

6.11.2. The authority to enter into contracts which in any way concerns the Project;

6.11.3. The power and authority to convey or transfer any interest in real property, so long as any vote or consent necessary under the circumstances has been obtained;

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

6.11.5. The authority to promulgate such reasonable rules, regulations, and procedures as may be necessary or desirable to aid the committee in carrying out any of its functions or to insure that the Project is maintained and used in a manner consistent with the interests of the Owners;

6.11.6. The power and authority to perform any other acts and enter into any other transactions which may be reasonably necessary for the Board to perform its functions as agents for the Owners.

6.12. **Project Manager.** The Board of Trustees may carry out its obligations through a Project Manager appointed by the Board. The Board shall decide whether any Project Manager so engaged shall be either an independent contractor and or employee of the Association.

6.12.1. The Project Manager shall not be a Board of Trustee or hold office on the Association Board unless approved by Board action to meet a specific circumstance. Additionally, in the event the incumbent Project Manager fails to perform, regardless of circumstance, a Board member may temporarily, by Board designation, perform the duties of this position to ensure continuation of project support. In such instance, the commensurate rate of pay shall apply.

6.13. **Board Determination Binding on Owners.** In the event of any dispute or disagreement between any Owners relating to the Project, or any question of interpretation or application of the provisions hereof, the determination thereof by the Board shall be final and binding on each and all of the Owners.

6.14. **Open Meetings; Executive Sessions.**

6.14.1. Open Meetings. Except as provided herein, and pursuant to Utah law, all meetings of the Board of Trustees shall be open to Owners. At each meeting, the Board shall provide Owners present a reasonable opportunity to offer comments which may have a time limit imposed. Beyond such comment period, no Owner shall have a right to participate in the Board meeting unless the Owner is also a Trustee. The Board may adopt policies governing meetings of Trustees. If Trustees are allowed to participate by means of electronic communication, the Board must provide the information necessary to allow Owners who have requested notice of Board meetings to participate by the same means.

6.14.2. Executive Sessions. Consistent with Utah law, the Board of Trustees may close a Board meeting and adjourn to executive session.

6.14.3. Notice of Board Meetings. At least 48 hours before a Board meeting, the Association shall give written notice of the meeting to each Owner who requests notice of a Board meeting, unless the meeting schedule was previously provided to the Owner, or the meeting is to address an emergency, and Trustees were given less than 48 hours' notice.

6.14.4. Board Work Sessions. If the Board of Trustees has provided notice to the Members pursuant to any means permitted by these Bylaws that no decisions will be made at a Board “work session,” then the Board may meet, without opening a work session up for Member attendance, as long as no Board decisions are made during that gathering.

6.15. **Meetings by Telephonic or Electronic Communication.** In the event of an emergency, or by decision of the Board of Trustees, and to the fullest extent allowed by law, meetings of the Board of Trustees may be conducted by means of electronic communication that allows all members of the Board of Trustees participating to be able to communicate orally in real time.

## **ARTICLE VII** **OFFICERS**

7.1. **Number.** The officers of the Association shall be a President, a Vice President, a Secretary, a Treasurer, and such other officers as may from time to time be appointed by the Board of Trustees.

7.2. **Election, Tenure, and Qualifications.** The officers of the Association shall be appointed by the Board of Trustees annually at the first regular Board meeting following the annual membership meeting. In the event of failure to choose officers at such regular meeting, officers may be appointed at any special meeting of the Board of Trustees. Each such officer (whether appointed at a regular annual meeting of the Board of Trustees or otherwise) shall hold his office until the next ensuing regular meeting of the Board of Trustees following the annual membership meeting and until his successor shall have been chosen and qualified, or until his death, or until his resignation or removal in the manner provided in these Bylaws, whichever first occurs. Any one person may hold any two or more of such offices, except that the President may not also be the Secretary or the Treasurer. No person holding two or more offices shall act in or execute any instrument in the capacity of more than one office. The President, the Vice President, the Secretary and the Treasurer shall be and remain Members of the Association during the entire term of their respective offices and may, but need not be, Trustees.

7.3. **Subordinate Officers.** The Board of Trustees may from time to time appoint such other officers or agents as it may deem advisable, each of whom shall have such title, hold office for such period, have such authority, and perform such duties as the Board of Trustees may from time to time determine. The Board of Trustees may from time to time delegate to any officer or agent the power to appoint any such subordinate officers or agents and to prescribe their respective titles, terms of office, authorities, and duties. Subordinate officers need not be Members or Trustees of the Association.

7.4. **Resignation and Removal.** Any officer may resign at any time by delivering a written resignation to the President or the Board of Trustees. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed by the Board of Trustees at any time, for or without cause.

7.5. **Vacancies and Newly Created Offices.** If any vacancy shall occur in any office by reason of death, resignation, removal, disqualification, or any other cause, or if a new office shall be created, such vacancies or newly created offices may be filled by the Board of Trustees at any regular or special meeting.

7.6. **The President.** The President shall be the chief executive officer of the Association and, as such, shall have general supervision of the affairs and property of the Association and over its Board of Trustees. The President, if present, shall preside at meetings of the Board of Trustees and at meetings of the Members. The President may sign, in the name and on behalf of the Association, all conveyances, mortgages, documents, and contracts authorized by the Board of Trustees, and shall do and perform all other acts and things that the Board of Trustees may require.

7.7. **The Vice President.** In the event of the President's absence or inability to act, the Vice President shall have the powers of the President. They shall perform such other duties as the Board of Trustees may impose upon them.

7.8. **The Secretary.** The Secretary shall act as Secretary of the Board of Trustees and shall record the votes and keep the minutes of all proceedings in a book to be kept for that purpose. All records, notes and information may be kept in electronic format. The Secretary shall be the custodian of the seal of the Association, if any, and shall affix such seal, if any, to all papers and instruments requiring the same. The Secretary shall record the names and addresses of all Members of the Association, shall see that all notices are duly given as required by the Bylaws or applicable law. The Secretary shall see, at the direction of the Board of Trustees, that a written notice of annual assessments is sent to every Member and shall see that proper books of account are maintained for all assessments paid. The Secretary shall perform such other duties as the Board of Trustees may require.

7.9. **The Treasurer.** The Treasurer shall have the custody and control of the funds of the Association, subject to the action of the Board of Trustees, and shall, when requested by the President to do so, report the state of the finances of the Association at each annual meeting of the Members and at any meeting of the Board of Trustees. The Treasurer shall deposit in bank accounts approved by the Board of Trustees, all monies of the Association and shall disburse funds as directed by a resolution of the Board of Trustees, provided, however, that a resolution of the Board of Trustees shall not be necessary for the disbursements made in the ordinary course of business conducted within the limits of a budget adopted by the Board of Trustees. The Treasurer shall sign all checks, which are to be co-signed by a chosen Officer or Board member. The Treasurer shall keep proper books of account and prepare an annual budget and an annual balance sheet statement, and the budget and balance sheet statement shall be presented to the Members prior to and at the annual meeting. The Treasurer shall perform such other duties as the Board of Trustees may require.

7.10. **Compensation.** No officer shall receive compensation for any services that they may render to the Association as an officer, except for expenses incurred. Officers may be compensated for expenses applicable to services rendered to the Association.

## **ARTICLE VIII COMMITTEES**

8.1. **Designation of Committees.** The Board of Trustees may from time to time by resolution designate such committees as it may deem appropriate in carrying out its duties, responsibilities, functions, and powers. The membership of each such committee designated hereunder shall include at least one (1) Trustee. No committee member shall receive compensation for services that they may render to the Association as a committee member.

8.2. **Proceedings of Committees.** Each committee designated hereunder by the Board of Trustees shall be appointed a presiding officer. Each such committee shall report to the President as to actions taken, any discrepancies found, or findings of matters under their purview.

8.3. **Quorum and Manner of Acting.** At each meeting of any committee designated hereunder by the Board of Trustees, the presence of committee members constituting at least two-thirds (2/3) of the authorized membership of such committee shall constitute a quorum for the transaction of business, and the act of the majority of the committee members present at any meeting at which a quorum is present shall be the act of such committee. The members of any committee designated by the Board of Trustees hereunder shall act only as a committee, and the individual members thereof shall have no powers as such.

8.4. **Resignation and Removal.** Any member of any committee designated hereunder by the Board of Trustees may resign at any time by delivering a written resignation either to the President, the Board of Trustees, or the presiding officer of the committee of which they are a member. Unless otherwise specified therein, such resignation shall take effect upon delivery. The Board of Trustees may at any time, for or without cause, remove any member of any committee designated by it hereunder.

8.5. **Vacancies.** If any vacancy shall occur in any committee designated by the Board of Trustees hereunder, due to disqualification, death, resignation, removal, or otherwise, the remaining committee members shall, until the filling of such vacancy, constitute the then total authorized membership of the committee and, provided that two or more committee members are remaining, may continue to act. Such vacancy may be filled at any meeting of the Board of Trustees.

8.6. **Architectural Committee.** The Architectural Committee must submit a positive recommendation to the Board of Trustees and the Board must ratify the recommendation before any application for new construction, improvements or additions obtains final approval.

**ARTICLE IX**  
**INDEMNIFICATION**

9.1. **Indemnification Against Third Party Actions.** The Association shall indemnify any Board member, officer or a member of a committee of the Board who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Association) by reason of the fact that they are or were a Trustee, officer, employee, or agent of the Association, or is or was serving at the request of the Association as a Trustee, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by them in connection with such action, suit, or proceeding, if they acted in good faith, without gross negligence and without intentional misconduct and in a manner they reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any alleged criminal action or proceeding, has no reasonable cause to believe his conduct was unlawful.

9.2. **Insurance.** The Association may purchase and maintain insurance on behalf of any person who was or is a Trustee, officer, employee, or agent of the Association, or who was or is serving at the request of the Association as a Trustee, officer, employee, or agent of another corporation, entity, or enterprise (whether for profit or not for profit), against any liability asserted against them or incurred by them in any such capacity or arising out of his status as such, whether or not the Association would have the power to indemnify them against such liability under the laws of the State of Utah, as the same may hereafter be amended or modified.

9.3. **Payments and Premiums.** All indemnification payments made, and all insurance premiums for insurance maintained, pursuant to this Article shall constitute expenses of the Association and shall be paid with funds from the Common Expense Fund referred to in the Declaration.

9.4. **Claims.** A voting Member of the Association may only file suit against the Association pursuant to Utah Code Chapter 16 after a written demand is made upon the Association to take suitable action; and ninety (90) days have expired from the date the demand is made, unless the complainant is notified before the 90-day period expires that the demand is rejected by the Association or irreparable injury to the Association would result by waiting for the 90-day period's expiration.

**ARTICLE X**  
**FISCAL YEAR**

The fiscal year of the Association shall begin on the 1st day of July of each year and shall end on the 30th day of June next following, except that the first year shall begin on the date of incorporation.

**ARTICLE XI**  
**RULES AND REGULATIONS**

The Board of Trustees may from time to time adopt, amend, repeal, and enforce reasonable rules and regulations governing the use and operation of the Project, to the extent that such rules and regulations are not inconsistent with the rights and duties set forth in the Articles of Incorporation, the Declaration, or these Bylaws. The Members shall be provided with copies of all rules and regulations adopted by the Board of Trustees, and with copies of all amendments and revisions thereof. A violation of such rules and regulations shall be deemed a violation of the terms hereof.

**ARTICLE XII**  
**AMENDMENTS**

12.1. **Amendment by Board.** The Board of Trustees may amend these Bylaws at any time to add, change, or delete a provision unless restricted by these Bylaws, Utah Code, the Articles of Incorporation or the Declaration.

12.2. **Amendment by Members.** Except as otherwise provided by law, the Articles of Incorporation, Declaration, or Bylaws, may also be amended, altered, or repealed and new Bylaws may be made and adopted by the Members holding at least sixty seven (67%) of the total votes in the Association by an instrument or instruments duly recorded in the offices of the County Recorder for Rich County, State of Utah.

**ARTICLE XIII**  
**MISCELLANEOUS**

13.1. **Records and Audits.** The Association shall maintain within the state of Utah, all documents, information and other records of the Association in accordance with the Governing Documents, the Community Association Act and the Utah Revised Nonprofit Corporation Act.

13.2. **Interpretation.** The captions which precede the various portions of these Bylaws are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, any gender shall include both other genders. The invalidity or unenforceability of any provision contained in these Bylaws shall not affect the validity or enforceability of the remainder hereof. These Bylaws have been prepared in conjunction with the Declaration and should be read and construed in light of that fact and liberally



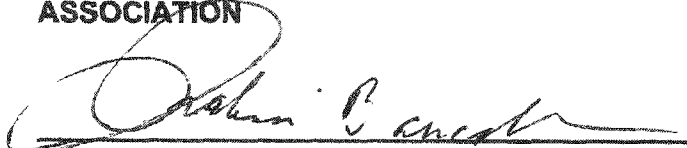
so as to affect all of the purposes of both instruments. To the extent the provisions of the Utah Revised Nonprofit Corporation [U.C.A. section 16-6a-101, et seq. (2000)], the Utah Co-operative Association Act [U.C.A. section 57-8a-101, et seq. (2004)] and any modifications, amendments, and additions thereto are consistent with these Bylaws, the Articles of Incorporation and the Declaration, such legislation shall supplement the terms hereof.

13.3. **Waiver, Precedent and Estoppel.** No restriction, condition, obligation, or provision contained in these Bylaws or rules and regulations adopted pursuant hereto shall be deemed to have been abrogated or waived by the Association by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur and any failure to enforce the same shall not be deemed to constitute precedent or estoppel impairing the right of the Association as to any similar matter.

13.4. **Conflicts.** In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

**IN WITNESS WHEREOF**, these Amended Bylaws have been adopted by all of the Swan Creek Village Homeowners Association as of the 21 day of September, 2020.

**SWAN CREEK VILLAGE HOMEOWNERS ASSOCIATION**



By: Robin Barraclough  
Its: President

STATE OF UTAH                    )  
  :SS  
COUNTY OF SALT LAKE        )

I hereby certify that on the 21 day of September, 2020, personally appeared before me Robin Barraclough, who, being by me first duly sworn, declared that he is the person who signed the foregoing document and that the statements therein contained are true.



NOTARY PUBLIC

## EXHIBIT A

### Legal Description

All Lots and Common Area, SWAN CREEK VILLAGE Plat 1, according to the official plat(s) thereof on file in the office of the Rich County Recorder.

Parcels:

41-08-010-0001 through 0103

All Lots and Common Area, SWAN CREEK VILLAGE PH 2, according to the official plat(s) thereof on file in the office of the Rich County Recorder.

Parcels:

E Lots: 41-08-040-0001 through 0104

T Lots: 41-08-050-0001 through 0164

PH Lots: 41-08-060-0001 through 0104

RV Lots: 41-08-070-0001 through 0095