

RECORDING REQUESTED BY AND
AFTER RECORDING RETURN TO:

Canyon Glen 2021 LLC
Attn: Justin Palmer
226 W 1750 S
Perry, Utah 84302

(space above reserved for recorder)

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
OF
CANYON GLEN SUBDIVISION**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS OF CANYON GLEN SUBDIVISION (this “**Declaration**”) is made and executed as of the ____ day of _____, 2022 (the “**Effective Date**”), by CANYON GLEN 2021 LLC, an Idaho limited liability company (“**Declarant**”), in contemplation of the following facts and circumstances:

RECITALS

A. Declarant is the fee simple owner of certain real property located in Kimberly, Twin Falls County, Idaho, consisting of approximately 32.60 acres, as more particularly described on Exhibit A, attached hereto and incorporated herein by this reference (the “**Property**”).

B. Declarant intends to develop the Property into ninety-two (92) lots, as generally depicted on the Site Plan (as defined below).

D. Declarant desires to adopt this Declaration to establish certain covenants, conditions, restrictions, rules, agreements, provisions, easements, constraints, and limitations with respect to the ownership, construction, use, management, and operation of each of the Lots and Improvements thereon as more fully set forth herein (collectively, the “**Covenants, Conditions and Restrictions**”), which Covenants, Conditions and Restrictions are intended for the benefit of Declarant, each Owner and the protection and preservation of the value of each Parcel and the Property as a whole.

DECLARATIONS AND AGREEMENTS

NOW, THEREFORE, Declarant does hereby declare the following:

1. **Definitions.** Unless otherwise defined in this Declaration, the terms set forth in this Section 1 shall have the following meanings:

1.1. “**Architectural Review Committee**” shall mean the initial Board of Directors or such other individuals as appointed by the Board to review and approve all Plans for construction of Improvements within the Subdivision.

1.2. “**Articles of Incorporation**” or “**Articles**” shall mean the Articles of Incorporation of the Association as filed with the Idaho Secretary of State, as may be amended from time to time, a true and correct copy of which is attached as Exhibit B.

1.3. “**Association**” shall mean and refer to “Canyon Glen Subdivision Owner’s Association, Inc., an Idaho nonprofit corporation” organized, or that shall be organized, by Declarant for the purpose of owning and maintaining the Common Areas, the Members of which shall be the Owners of the Parcels.

1.4. “**Board**” or “**Board of Directors**” shall mean and refer to the governing body of the Association.

1.5. “**Bylaws**” shall mean the Bylaws of the Association as may be amended from time to time, a true and correct copy of which is attached as Exhibit C.

1.6. “**City**” shall mean Kimberly, Idaho.

1.7. “**Common Area**” shall mean all real and personal property that the Association now or hereafter owns or otherwise holds for the common use and enjoyment of all Owners exclusively within the Subdivision, which Common Area is so designated by Declarant, in Declarant’s sole discretion. The land that is part of the Common Area includes all the land of the Subdivision less and except (i) the Parcels that may be located within the Subdivision from time to time, or (ii) any property in the Subdivision that has been dedicated to the City or County.

1.8. “**Common Expenses**” shall mean and include the actual and estimated expenses of operating the Common Areas and all Improvements located thereon and shall include any reasonable reserve for such purposes as determined by the Board.

1.9. “**County**” shall mean Twin Falls County, Idaho.

1.10. “**County Recorder**” shall mean the Twin Falls County Recorder.

1.11. “**Declarant**” shall mean CANYON GLEN 2021 LLC, an Idaho limited liability company, its successors and/or assigns.

1.12. “**Declaration**” shall mean this Declaration of Covenants, Conditions, Restrictions and Easements.

1.13. “**Default Rate**” shall mean twelve percent (12%) per annum.

1.14. “**Easement**” or “**Easements**” shall mean any easement or, as the context shall require, all easements (i) granted pursuant to the provisions of this Declaration, (ii) to which the Property or any portion thereof is subject pursuant to documents which have been or will be recorded with the County Recorder, or (iii) currently existing or affecting all or any portion of the Property, whether or not recorded.

1.15. “**Governmental Authority**” shall mean any federal, state, or local governmental or quasi-governmental agency(ies) or authority(ies) having applicable jurisdiction, including without limitation the City, County, and any local district(s), special services district(s), assessment district(s), special improvement district(s) (or similar organized unit(s)) created for the purpose of administering, financing, paying for, controlling, or overseeing all or any portion of any public amenities or facilities, and/or any other applicable subject matter.

1.16. “**Home**” or “**Homes**” shall mean any residential structure or structures built on any portion of the Property for permanent use.

1.17. “**Improvements**” shall mean and include all structures, signage and other improvements made or constructed upon any portion of the Property, and shall include, without limitation, all Homes, driveways, sidewalks, curbing, gutters, landscaping, signs, utilities, exterior lighting, streets, parks, amenities and related appurtenances.

1.18. “**Lot**” shall mean each single-family residential lot constituting a separate Parcel of record and which may be separately transferred or conveyed under the laws of the State of Idaho.

1.19. “**Owner**” shall mean any party, including Declarant and the Association, whether such party shall be an individual, corporation, limited liability company, joint venture, partnership, entity or association, which then holds in fee title, the rights and incidents of ownership of real property in the State of Idaho as to a Parcel as evidenced in the official records of the County. The term “**Owner**” shall not refer to any party that shall have such interest solely as security for performance of any obligation, including a deed of trust or mortgage.

1.20. “**Parcel**” shall mean one or more legally subdivided Lots within the Subdivision as designated on the Plat, as well as all Improvements located thereon, intended for single-family residential use. Parcel numbers shall be synonymous with Lot numbers notwithstanding the assignment of a separate residential address to each of the same.

1.21. “**Plat**” shall mean the final plat approved by the City and duly recorded with the County Recorder for the Subdivision. The Plat is attached hereto as Exhibit E and is incorporated herein by this reference. This Declaration may be amended as provided for in Section 8.2 to incorporate additional Plats for future phases of the Subdivision.

1.22. “**Property**” shall have the meaning given to such term in Recital A.

1.23. “**Site Plan**” shall mean that certain site plan for the overall Subdivision attached hereto as Exhibit D and incorporated herein by reference.

1.24. “**Subdivision**” shall mean the Property, together with any Improvements which are now located upon or may in the future be located upon the Property, to be collectively known as “Canyon Glen Subdivision”.

1.25. “**Subdivision Documents**” shall mean this Declaration, as amended from time to time, the exhibits attached hereto, together with the other basic documents used to create and govern the Subdivision, including the Plat, the Articles, the Bylaws, and any rules and regulations adopted from time to time.

2. Submission.

2.1. Declaration. Declarant hereby declares that the Subdivision shall be held, sold, conveyed, transferred, designed, constructed, operated, used, maintained, leased, subleased and occupied subject to the Covenants, Conditions, and Restrictions, together with all other terms and provisions, set forth in this Declaration, which are for the purpose of (among other things) establishing mutual easements, covenants and restrictions to provide for the common management and operation of certain portions of the

Subdivision, to place certain use restrictions and/or limitations on the Subdivision, and to protect and preserve the value of the Subdivision.

2.2. Covenants to Run with the Land. This Declaration and all of the Covenants, Conditions, and Restrictions and other provisions contained herein are intended to be, and shall constitute covenants which shall run with the land and which shall be binding upon and shall inure to the benefit of Declarant, each respective Owner, and any other party which has or may acquire any interest in or to any portion of the Subdivision and each respective grantee, transferee, heir, devisee, personal representative and successor and assign thereof. Any party which may acquire an interest in any portion of the Subdivision, or which may occupy any portion of the Subdivision, including, without limitation, each Owner of all or any portion thereof, shall be deemed to consent and agree to be bound by the Declaration and all of the Covenants, Conditions, and Restrictions and other terms and provisions herein contained.

2.3. Development Plan. Notwithstanding any other provision of this Declaration to the contrary, and subject to the appropriate approval by the applicable Governmental Authority, Declarant, without obtaining the consent of any other Owner, shall have the right to make changes or modifications to its plan of development with respect to any Parcels owned by Declarant in any way which Declarant desires including, but not limited to, changing all or any portion of the Parcels owned by Declarant.

3. Easements.

3.1. General. The Property, and any portion of the Property which is sold as a separate Parcel, shall be conveyed and owned subject to and together with the Easements recited in this Declaration, whether or not such Easements are specifically set forth in the document of conveyance. Except as may be specifically set forth elsewhere in this Declaration, no Easement may be amended, extinguished or otherwise modified in any manner by an amendment to this Declaration without the express written approval of the Owners of the Parcels which shall be benefitted or burdened by the creation/existence of such Easement. It is expressly agreed that any and all Easements granted pursuant to this Declaration shall survive any termination, expiration or other cessation of this Declaration and shall be extinguished only upon the execution and delivery of a separate instrument executed by the party or parties legally benefitted by the Easement intended to be terminated. Except as expressly stated herein, as contained on any recorded plat of the Property, or as agreed to in writing by the parties benefitted and burdened thereby, no easements may exist on the Subdivision in places where Homes are expected to be built.

3.2. Access Easement. Declarant hereby reserves unto itself, its successors and assigns, including without limitation the Association, a perpetual, non-exclusive access easement on, over and across the Common Area purposes of constructing, repairing, replacing and maintaining the Common Area and all Improvements located thereon.

3.3. Cross-access Easements. Each Owner is granted a private, perpetual, non-exclusive Easement on, over and across the Common Area for the purpose of pedestrian ingress and egress from public rights of way via all current access points to each respective Parcel. Notwithstanding the foregoing, the Association reserves the right to restrict access to the portions of the Common Area that include or contain portions of the irrigation facilities servicing the Subdivision, including but not limited to the pumphouse (inasmuch as is necessary to protect the pumphouse and facilities included therein), canal easement area, or irrigation lines.

3.4. No Public Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of any portion of the Subdivision, including without limitation the Common Area, to or for the general public or for any public purpose whatsoever, it being the intention of Declarant that this Declaration will be strictly limited to and for the purposes herein expressed. Notwithstanding the grant of

the Easements, each Owner may be entitled to take whatever steps it deems reasonably necessary to protect and preserve the private ownership of its Parcel and to prevent the same from being dedicated to the public use as a matter of law. An Easement granted herein to the City and/or a Governmental Authority shall be deemed granted to the City and/or the applicable Governmental Authority only, which may be used by its employees, agents, contractors and representatives in performance of their respective duties within the Subdivision, and shall not be construed to be a grant to the public generally.

4. **Development and Use Restrictions.**

4.1. **Development of Parcels.** Each Owner shall be responsible for the construction of all Homes and Improvements which are constructed upon its Parcel. No Owner shall be responsible to contribute to the cost of the construction, reconstruction or repair of any Improvements located upon any other Parcel unless agreed upon in writing by such Owner or as otherwise set forth in this Declaration.

4.2. **Construction of Improvements.** Each Owner shall cause all Improvements constructed on its Parcel(s), including, without limitation, the Easements, to be of quality and appearance in accordance with the plans approved by the Architectural Review Committee. Once commenced, construction, reconstruction or repair of any Improvements shall be diligently prosecuted to completion. Additionally, once construction of a Home has begun on any Lot such construction on the Lot, including the installation of landscaping on such Lot, shall be completed within two (2) years of commencement of such. If any Owner fails to complete such construction on their Lot within such two (2) year period, then the Owner shall be obligated to pay a special assessment to the Association in the amount of two hundred fifty dollars (\$250) per week that the construction extends past the end of the two (2) year period.

4.3. **Architectural Review Committee.** No Home or Improvements shall be erected, placed, or altered on any Parcel until the construction plans, specifications, and site plans (collectively, “Plans”) of said Home and/or Improvements have been approved by the Architectural Review Committee as to quality of workmanship and materials, harmony of design with existing buildings in the Subdivision, and as to the location with respect to topography and finish grade elevation. In the event of death or resignation of any member of the Architectural Review Committee, the remaining members shall have full authority to designate a successor. The members of the Architectural Review Committee shall not be entitled to any compensation for services performed pursuant to this Section. At any time, a majority of the then-Owners of record shall have the power through a duly recorded written instrument to change the membership of the Architectural Review Committee or to withdraw from the Architectural Review Committee or restore to it any of its powers and duties. In the event the Architectural Review Committee fails to approve or disapprove within thirty (30) days after Plans have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with. The initial Architectural Review Committee shall consist of the initial Board of Directors.

4.4. **Permitted Use; Prohibited Uses.** All Parcels within the Subdivision shall be used exclusively for residential purposes and in compliance with all applicable laws, regulations and zoning ordinances.

4.5. **Compliance with Law.** No portion of the Subdivision may be occupied for any use which is in violation of any applicable ordinances, laws and regulations of any Governmental Authority.

4.6. **No Subdivision of Parcel.** No Parcel shall be further subdivided without the prior written consent of a majority of all Owners within the Subdivision and approval by the applicable Governmental Authority. Notwithstanding the forgoing, with respect to Parcels which shall be owned by

Declarant at the time of such adjustments, Declarant shall have the right, subject to applicable laws and ordinances but without the consent being required of any Owner, (i) to relocate or otherwise reconfigure the boundary lines of any Parcel, and (ii) to combine Parcels. Nothing contained herein shall be construed to grant Declarant the right to alter the boundary of any Parcel not owned by Declarant without the express written consent of the Owner of such Parcel.

4.7. Use of Parcel. The use of a Parcel shall be in accordance with and subject to the following provisions:

4.7.1. All Parcels shall be used and occupied for residential dwelling purposes only, except that the Declarant may use a Parcel owned by Declarant as a model space or leasing office.

4.7.2. A Home constructed on a Parcel may be rented or leased by the Owner or its lessee, provided the entire Home is rented and the lease is in writing. There shall be no minimum lease term and, if permitted by the City's zoning regulations or ordinances, a Home or Parcel within the Subdivision shall be permitted to be rented on a short-term basis, whether as a vacation rental by owner, nightly rental, or other similar short-term rental systems. No lease shall relieve the Owner as against Declarant and the Association and other Owners from any responsibility or liability imposed by this Declaration.

4.7.3. Nothing shall be altered in, constructed in, or removed from the Common Area except upon written consent of Declarant or the Board of Directors, which may be given through regulations of the Association, and further provided that any holder of a first mortgage which acquires possession of a Parcel by foreclosure or by deed in lieu of foreclosure shall have the right to post signs for the sale or rental of such Parcel until such Parcel is sold or a lease is entered into.

4.7.4. No activity shall be allowed which unduly interferes with the peaceful possession and use of the property by the Owners nor shall any fire hazard or unsightly accumulation of refuse be allowed.

4.7.5. Agents of or contractors hired by Declarant or the Association may enter upon any Parcel when necessary in connection with any maintenance, landscaping, or construction for which Declarant or the Association is responsible, provided such entry shall be made with reasonable advance notice to the Owners and with as little inconvenience to the Owners as practicable.

4.7.6. An Owner shall be liable to Declarant, other Owners, and the Association for the expense of any maintenance, repair, or replacement rendered necessary by its acts, neglect, or carelessness, or by that of its guests, employees, agents or lessees, which liability shall include any increase in insurance rates resulting therefrom.

4.7.7. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Parcel. Only domestic household pets, such as dogs or cats, may be kept upon any Lot provided that they are not kept, bred, or maintained for any commercial purpose. Pets must be controlled to avoid becoming a nuisance and shall not be allowed to wander or leave waste on any other Owner's Lot.

4.7.8. No Parcel shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary receptacles. Garbage must be placed in appropriate garbage receptacles on each Lot for pickup by the City of Kimberly or its agents, and such garbage receptacles shall be stored behind fenced areas except on garbage disposal days.

4.7.9. Fences shall be approved by the Architectural Review Committee. Chain link fencing will not be approved. Any fences that are constructed without first obtaining the written approval of the Architectural Review Committee shall be subject to removal at the Owner's expense.

4.8. Size Restrictions. Any home to be constructed on a Lot with 10,500 square feet or more shall contain not less than 2,500 square feet of living space exclusive of porches, garages, and patios. Any home to be constructed on a Lot with less than 10,500 square feet shall contain not less than 2,250 square feet of total living space exclusive of porches, garages, and patios. The minimum ground level required living space for any home constructed shall be 1,850 square feet.

4.9. Exterior Home Materials. No Home shall be erected or placed on any Parcel if such Home has less than twenty percent (20%) of the total front exterior being veneer brick, stone, or approved siding. No stucco shall be permitted on the front of the Home. No more than fifty percent (50%) of a street facing side of the Home may be solely stucco. No aluminum or vinyl will be allowed for exterior siding. Aluminum or vinyl will be allowed only on soffit and fascia areas. Roofing materials shall be of architectural shingle (and not 3-tab shingles), as approved by the Architectural Review Committee.

4.10. Setbacks. No structure shall be located on any Parcel in violation of the setbacks set forth and/or shown on the Plat, or as required by the City.

4.11. Drainage. The City requires each Lot Owner to retain its portion of storm water on their Lot, except that all driveways shall be allowed to drain directly to public streets. Roof drainage shall not be allowed to drain onto streets via driveways but shall be retained on the Lot. Lot grading shall be provided in a manner assuring that storm water created on each Lot will drain into and through landscape retention areas. The City building code requires a storm water drainage and retention plan be submitted with the application for a building permit. The drainage and retention plan shall show how the retention requirement will be met. Established drain way elevations will be maintained and flow will not be blocked by fencing or landscaping.

4.12. Landscaping. Each Owner shall install landscaping with underground sprinklers, trees, shrubbery and grass by the end of the growing season of the year in which occupancy of the Home occurs, if Home occupancy occurs before July 1 of that year. If Home occupancy occurs after July 1 of the year of occupancy, the Owner shall have until the following July 1 to complete landscaping. A landscaping plan shall be approved by the Architectural Review Committee as part of the approval for building plans and specifications. Under no circumstance shall cottonwoods, Russian olives, quaking aspens, or Chinese elms be planted on any Lot by an Owner and any landscape plans including such trees shall be rejected. Each Owner shall be responsible for maintaining their landscaping and controlling weeds. In the event an Owner does not properly maintain their landscaping, the Association will hire a yard maintenance professional to bring the landscape maintenance to an acceptable level and the Owner will pay for the cost of such maintenance.

4.13. Pressurized Irrigation. Each Lot shall be provided the right to use a pressurized secondary water irrigation system and pumphouse, all of which shall be deemed Common Area and shall be maintained, repaired, and replaced by the Association. However, the water flow in the pressurized irrigation system is seasonal, and subject to change from year to year. Each irrigation season, the Association shall allocate a certain, proportionate volume of irrigation water that shall be provided to each Lot. The water usage for each Lot shall be separately metered and if the usage on any Lot exceeds the allocated amount, then the Association shall be permitted to cease water delivery to such Lot. Additionally, water delivery may be ceased for any Lot if the Owner of such Lot that fails to pay its share of the Common Expenses when due. Each Owner shall be responsible for the irrigation of all landscaping on their Lot.

Further, each Owner shall be required to purchase and install a self-cleaning filter for the pressurized irrigation system on their Lot.

4.14. Signs. Except for one “For Rent” or “For Sale” sign of not more than five (5) square feet, no advertising signs, billboards, objects of unsightly appearance, or nuisances shall be erected, placed, or permitted to remain on any Lot or any portion of the Subdivision. The foregoing restrictions shall not apply to the signs and billboards, if any, of the Declarant or its agents during the construction and sales period. Except for one “For Rent” or “For Sale” sign of not more than five (5) square feet, all signs must be approved in writing by the Architectural Review Committee in advance of their placement and must conform to City’s zoning regulations.

4.15. Activities. No noxious or offensive activity shall be carried on any Parcel, nor shall anything be done thereon which may be or become any annoyance or nuisance to other Owners. No clothes drying or storage of any unsightly articles are permitted on any Parcel unless in enclosed areas built and designed for such purposes. No automobiles, trailers, boats, or other vehicles are to be stored on streets or at the front and side of Parcels unless they are in running condition, properly licensed, are being regularly used, at least once every fourteen (14) days. Outside recreational vehicle storage is not permitted unless the recreational vehicle is located on the side or rear of the Home constructed on a Lot and concealed from view from the street. All roof mounted heating and cooling equipment shall be located to the backside of the roof out of view from the street. All antennas are to be placed in the attic out of view. Satellite dishes and similar appurtenances shall be hidden from view from the street.

5. Maintenance.

5.1. Maintenance by Declarant. Prior to the conveyance of the first Parcel to an unaffiliated third-party, Declarant shall be solely responsible for maintaining the Common Area. At such time as Declarant conveys the first Parcel to an unaffiliated, third-party, maintenance of the Common Area shall be by the Association.

5.2. Maintenance by Association. Declarant and/or the Association shall maintain the Common Area in a first-class condition consistent with similar developments in the City, and shall make assessments related thereto as a Common Expense except where maintenance has been specifically made the responsibility of an individual Owner. If an Owner defaults on its responsibilities of maintenance, Declarant or the Association shall assume such responsibilities and shall assess the cost thereof against the Parcel of such Owner and such assessment shall be collectible as if it were an assessment for Common Expenses, all as provided for in Idaho Code § 55-115. The Association may, in its discretion, assume responsibility for any maintenance project which requires reconstruction, repair, rebuilding, conservation, restoration or similar work to more than one Parcel and the cost thereof may be, in the discretion of the Association, either assessed against each Parcel on which such costs were incurred or assessed against all Parcels as a Common Expense according to the circumstances.

5.3. Maintenance by Owners. Except as otherwise provided for herein, or as otherwise agreed to by Declarant and/or the Association, each Owner shall continuously maintain all Improvements located on its Parcel, in a well-kept appearance of a first-class development in the City. Each Owner shall keep its Parcel free from rubbish, debris, fire hazards or any unsanitary, unsightly or offensive condition and to conduct such weed abatement, rubbish and debris removal and other maintenance to the extent required by applicable federal, state, and/or local laws, rules, regulations and ordinances. Each Owner shall be responsible for the exterior and interior maintenance of any and all Homes and any and all Improvements, including, without limitation, sidewalks, lighting, and driveways, located on said Owner’s Parcel except as otherwise set forth in this Declaration. Each Owner, for himself/herself/itself and its successors, assigns,

transferee, heirs, devisees, and personal representatives thereof, covenants and agrees to not take any action, or fail to take any action, that would compromise or negatively affect the integrity, condition or appearance of the Common Area or the Subdivision as a whole.

5.4. Payment of Common Expenses. Declarant or the Association shall assess each Owner for its pro rata share for all Common Expenses incurred by Declarant or the Association in performing the maintenance set forth in this Article 5. Each Owner shall remit payment to Declarant or the Association within the time required by the Board of Directors. If any Owner fails to pay its pro rata share of Common Expenses as set forth herein, Declarant and the Association shall have (i) the right to charge such Owner interest at the Default Rate, (ii) a lien on the Parcel of the defaulting Owner for such unpaid amounts plus interest at the Default Rate and other amounts as more fully set forth herein, and (iii) any and all other rights and remedies provided at law or in equity for the collection of debts.

5.5. Alterations or Improvements by the Association. Whenever in the judgment of Declarant or the Board of Directors the Common Area shall require additions, alterations or improvements, Declarant or the Board of Directors shall proceed with such additions, alterations or improvements and shall assess all Owners for the cost thereof as a common charge.

6. Membership and Voting Rights.

6.1. Creation of Association. Prior to the conveyance of the first Parcel to an unaffiliated, third-party, Declarant shall incorporate the Association as a required by the Idaho Nonprofit Corporation Act, Title 30, Chapter 30, Code of Idaho, as may be amended from time to time, by filing the Articles and adopting the Bylaws. Prior to its formation, Declarant shall operate the Subdivision in place and stead of the Association with all powers and authority of the same as provided for under applicable law. Prior to the formation of the Association, any reference in this Declaration to Association shall mean and refer to Declarant.

6.2. Association. At such time as Declarant conveys the first Parcel to an unaffiliated, third-party, and upon formation of the Association as provided for in Section 6.1, Declarant shall turn over the operation and management of the Subdivision to the Association, which operation and management shall be in accordance with this Declaration, the Articles and the Bylaws. Whenever a vote or other action of Owners as a group is required, the mechanics of conducting such a vote or taking such action shall be under the control and supervision of the Association. The action of the Association shall constitute the action of the Owners.

6.3. Compliance. All Owners, tenants, invitees, families, guests and other persons using or occupying the Subdivision shall be bound by and strictly comply with the provisions of the Bylaws of the Association and all agreements, regulations and determinations lawfully made by the Association and its directors, officers or agents shall be binding on all such Owners and other persons. A failure to comply with the Bylaws or any agreement or determination thus lawfully made shall be grounds for an action to recover sums due for damages on the part of the Association or any Owner, as applicable, or for injunctive relief or for any other relief authorized by law or in the Association's corporate documents, without waiving any other remedy.

6.4. Powers of Association. Each Owner agrees that the Association has and shall exercise all powers, rights and authority granted unto it on behalf of the Owners, including but not limited to the making of assessments chargeable to Owners and the creation and enforcement of a lien on Parcels thereof as provided for under Idaho law, including, without limitation, Idaho Code §§ 45-810 and 55-115, and to acquire a Parcel at foreclosure sale and to hold, lease, mortgage or convey the same. The Association shall also have the authority to impose fines against Owners or tenants for failure to comply with any

provision in the Articles, Bylaws, or any rules and regulations adopted by the Board, which fine shall be a lien upon said Parcel or Parcels. Any assessment or other charge made by the Association against an Owner or Parcel shall accrue interest at the Default Rate, or such other lawful rate, if not paid when due. Liability for payment of Common Expenses, assessments, or other charges shall be joint and several, and any remedy for the collection of the forgoing may be enforced against any Owner of the Parcel or the Parcel itself. Any relief obtained by the Association shall include reimbursement by said Owner for the Association's cost and expenses, including reasonable attorney's fees. The Association shall be entitled to the appointment of a receiver to collect any income or rentals which may be produced by any Parcel against which the Association's initiates foreclosure proceedings.

6.5. Membership, Voting Rights. Upon formation of the Association, the members of the Association shall consist of all of the record Owners of Parcels. Change of membership in the Association shall be established by recording in the public records of the County Recorder, a deed or other instrument establishing a record title to a Parcel and the membership of the prior Owner shall be thereby terminated. The members of the Association shall be entitled to one (1) vote for each Parcel owned in the Subdivision.

6.6. Restraint Upon Assignment. The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to an Owner's Parcel.

6.7. Board of Directors. The affairs of the Association shall be conducted by the Board of Directors consisting of not less than two (2) and no more than five (5) Directors who shall be designated in the manner provided in the Bylaws.

6.8. Discharge of Liability. All Owners shall promptly discharge any lien which may hereafter be filed against its Parcel.

6.9. Limitation on Association's Liability. The Association shall not be liable for any injury or damage to property caused by or on the Common Areas or by another Owner or person in the Subdivision or by any other means unless caused by the gross negligence of the Association. No diminution or abatement of Common Expenses shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements of the Common Areas or from any action taken to comply with any law, ordinance or orders of a governmental authority.

6.10. Indemnification of Directors and Officers. Every Director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including legal counsel fees, reasonably incurred by or imposed upon him or her in connection with any proceeding to which it may be a party, or in which it may become involved, by reason of it being or having been a Director or officer of the Association, or any settlement thereof, whether or not it is a Director or officer at the time such expenses are incurred, except in such cases wherein the Director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of its duties provided that in the event of a settlement the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being in the best interests of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such Director or officer may be entitled.

6.11. Agent to Receive Service of Process. The Association's agent, in the State of Idaho, designated as the agent to receive service of process upon the Association, shall be as set forth in the Association's Articles of Incorporation.

7. Rights, Duties and Obligations.

7.1. Indemnification. To the fullest extent permitted by applicable law, each Owner and their successors and assigns hereby agree to indemnify, defend and hold the other Owners, including the Association, harmless from and against any and all liens, encumbrances, costs, demands, claims, judgments, and/or damage caused by or arising out of: (i) the acts and omissions of such Owner and their agents, servants, employees, contractors, and/or invitees on the Subdivision; and (ii) the use of any other Parcel by such Owner and their agents, servants, employees, contractors or invitees. The terms and conditions of this provision shall remain effective, notwithstanding the expiration or termination of this Declaration.

7.2. Insurance. The Association shall procure and maintain a comprehensive general liability and property damage insurance policy on the Common Area and the Improvements thereon, the cost of which shall be a Common Expense, with minimum coverage of at least \$1,000,000.

7.3. Enforcement.

7.3.1. Non-Monetary Default. In compliance with the provisions of Idaho Code §§ 45-810 and 55-115, if any default or breach of this Declaration of any non-monetary obligation (“**Non-Monetary Default**”) by any Owner is not remedied within thirty (30) days after notice thereof from another Owner, Declarant or the Association, the non-defaulting Owner, Declarant, or the Association, may reasonably enforce this Declaration (including, without limitation, any and all easements, covenants, conditions, restrictions, terms, provisions, rights and/or duties now or hereafter imposed in any of the foregoing) through any of the following methods: (i) bring a suit at law or in equity to enjoin any violation or to recover monetary damages or both, or (ii) perform the necessary action specified in the notice. If any Owner, Declarant or the Association opts to enforce this Declaration via self-help as set forth above in subsection (ii), the defaulting Owner shall reimburse the performing Owner, Declarant or the Association for all costs and expenses incurred in performing the necessary action within sixty (60) days of receiving written notice thereof.

7.3.2. Monetary Default. If any default or breach of this Declaration of any monetary obligation by any Owner (each, a “**Monetary Default**”) is not remedied within thirty (30) days after notice thereof from another Owner, Declarant or the Association, the non-defaulting Owner, Declarant or the Association (each a “**Curing Owner**”) may reasonably enforce this Declaration as follows:

7.3.2.1. Notice of Claim of Lien. If there is a Monetary Default, any delinquent amounts, together with interest at the Default Rate from the date of the Monetary Default, costs and attorneys’ fees incurred by the Curing Owner in the collection of said delinquent amounts, shall be a lien against the Parcel of the defaulting Owner (the “**Delinquent Owner**”) in favor of the Curing Owner. To evidence such a lien, the Curing Owner may prepare and execute a written notice of lien setting forth the delinquent amounts, the name of the Delinquent Owner, a description of the Delinquent Owner’s Parcel, and any other information required by law, which may be recorded.

7.3.2.2. Foreclosure of Lien. To the fullest extent permitted under applicable law, and in accordance with Idaho Code §§ 45-810 and 55-115, (i) such lien may be enforced by sale or foreclosure (judicial or non-judicial) of the Delinquent Owner’s Parcel conducted in accordance with the provisions of law applicable to the exercise of powers of sale or judicial foreclosure of deeds of trust or mortgages or in any other manner permitted by law, and (ii) the Curing Owner shall have the right to appoint and assign a trustee to the extent necessary or convenient for any foreclosure. In any such foreclosure, the Delinquent Owner shall be required to pay the costs and expenses of such proceeding (including reasonable attorneys’ fees), and such costs and expenses shall be secured by the lien being foreclosed. Notwithstanding any language to the contrary herein, all acts regarding the liens, assessments

and foreclosures as described above shall be taken in accordance with applicable law. In all events, the lease of any tenant on the Delinquent Owner's Parcel shall not be terminated by the foreclosure.

The failure by any Owner or the Association to enforce any provision, condition, term, limitation, restriction or prohibition set forth in the Declaration shall not be deemed a waiver of any rights whatsoever.

8. **Miscellaneous.**

8.1. **Notices.** Upon acquisition of title to a Parcel, each Owner shall provide written notice to Declarant and/or the Association of such Owner's address for purposes of furnishing notices in connection with this Declaration and if no such address shall have been provided, then the address used by the County for the mailing of real property tax statements for such Parcel shall be used for such notice. Declarant or the Association shall maintain a record of the current notice addresses furnished by the other Owners, if any. All notices given to Declarant shall be sent to the following address:

Declarant:	Canyon Glen 2021 LLC
	Attn: Justin Palmer
	226 W 1750 S
	Perry, UT 84302

All notices to be given pursuant to this Declaration shall be sufficient if given by personal service, by guaranteed overnight delivery service or by being mailed postage prepaid, certified or registered mail, return receipt requested, to the prescribed address. Any time period provided in the giving of any notice hereunder shall commence upon the date of personal service, the date after delivery to the guaranteed overnight delivery service or two (2) days after mailing by certified or registered mail.

8.2. **Amendment.** No supplement, modification or amendment of this Declaration shall be binding unless in writing and executed by at least two-thirds (66.67%) of the Owners entitled to vote; provided, however, so long as Declarant owns any Parcel within the Subdivision, Declarant may amend this Declaration without the consent of any other Owner. Additionally, so long as Declarant owns any Parcel within the Subdivision, Declarant may unilaterally, without the consent of any other Owner, amend Exhibit D of this Declaration to incorporate additional Plats for future phases of the Subdivision.

8.3. **Duration.** The Covenants, Conditions and Restrictions of this Declaration shall run with and bind the Subdivision, and shall inure to the benefit of and shall be enforceable by Declarant, the Association, each Owner, and their respective legal representatives, heirs, successors, and assigns, for a term of forty (40) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then Owners, has been recorded within the twelve (12) month period preceding the renewal of this Declaration, agreeing to change said Covenants, Conditions and Restrictions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein.

8.4. **No Merger.** The Easements, covenants and restrictions and other provisions contained in this Declaration shall remain in full force and effect despite the fact that any of the Parcels may be owned by the same persons from time to time. It is the express intent of Declarant to create a common scheme for the development and operation of the Subdivision which will not be terminated by the doctrine of merger or otherwise unless this Declaration is terminated in accordance with the provisions hereof.

8.5. Assignment of Declarant's Rights and Remedies. Any and all of the rights, powers and reservations of Declarant herein contained may be assigned by Declarant to any person, corporation, association or other entity which assumes such assigned duties of Declarant hereunder, including the Association. In the event that Declarant attempts to assign less than all of the rights, powers and reservations of Declarant set forth herein, then any such assignment must specify which rights, powers and reservations are being assigned and the only party that shall be permitted to exercise a right reserved or granted unto Declarant shall be the party to whom such right has been assigned. To be effective, such assignment must be in writing, must be recorded in the office of the County Recorder, and must specifically refer to the rights, powers and reservations of Declarant hereunder which are being assigned. Upon acceptance of such assignment by any such person or entity (such acceptance may be shown, among other ways, by execution of such assignment by such assignee, or by such assignee recording the assignment in the office of the County Recorder) and recording of such assignment in the office of the County Recorder, said assignee shall, to the extent of such assignment, assume, and be deemed to have assumed, Declarant's duties hereunder and shall have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein. Upon such assignment and recording, and to the extent thereof, the party making such assignment shall be relieved from all liabilities, obligations and duties hereunder arising from and after the date of such assignment. Anything contained elsewhere herein to the contrary notwithstanding, the mere conveyance or transfer of ownership of the Property by Declarant to any person or party, whether by deed or other instrument of conveyance, shall in no way convey any right, power or reservation of Declarant hereunder. A successor to Declarant by reason of any merger or consolidation of the then Declarant shall automatically be deemed to have assumed Declarant's duties hereunder and shall have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein.

8.6. Violation of Law. Any violation of any federal, state, municipal or local law, ordinance, rule or regulation, pertaining to the ownership, occupation or use of any Property or Improvements within the Subdivision, is hereby declared to be a violation of this Declaration and shall be subject to any and all of the enforcement procedures set forth in this Declaration.

8.7. No Third-Party Beneficiary. This Declaration has been executed and recorded for the benefit of Declarant and the Owners. Unless otherwise set forth herein with specificity which shall include the name of the party which shall be intended to be benefitted by a specific provision of this Declaration, no other party shall be construed to be an intended third party beneficiary of any of the rights, duties or obligations set forth herein and no party other than Declarant or an Owner shall, therefore, have the right to enforce any provision hereof, unless such right shall be specifically set forth herein.

8.8. Liberal Interpretation. The provisions of this Declaration shall be liberally construed as a whole to effectuate the purpose of this Declaration.

8.9. Captions. The titles, headings and captions used herein are for convenience only and are not a part of this Declaration and shall not be considered in construing, nor shall same be used to limit or amplify the terms and provisions hereof.

8.10. Invalidity of Provision. If any provision of this Declaration as applied to any circumstance shall be adjudged by a court of competent jurisdiction to be void or unenforceable for any reason, the same shall in no way affect (to the maximum extent permissible by law) any other provision of this Declaration, the application of any such provision under circumstances different from those adjudicated by the court, or the validity or enforceability of the Declaration as a whole.

8.11. Exhibits. All exhibits to this Declaration are incorporated herein by this reference.

8.12. Governing Law. This Declaration and the exhibits attached hereto shall be governed by and construed under the laws of the State of Idaho.

[Signature and Acknowledgment Follow]

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

Canyon Glen Subdivision

Legal Description

A PARCEL OF LAND LOCATED IN THE SW ¼, SE ¼, SECTION 29, T. 10 S., R. 18 E., BOISE MERIDIAN, TWIN FALLS COUNTY, IDAHO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE S ¼ CORNER OF SAID SECTION 29; RUN THENCE N 00°03'35" E FOR A DISTANCE OF 1321.97 FT. TO A 5/8" REBAR ALONG THE NORTH-SOUTH CENTERLINE OF SAID SECTION 29, WHICH SHALL ALSO BE THE BASIS OF BEARING OF THIS DESCRIPTION;

THENCE S 89°25'02" E A DISTANCE OF 1320.29 FT. TO A 5/8" REBAR;

THENCE S 00°03'11" W A DISTANCE OF 767.82 FT. TO A CALCULATED POINT ALONG CANAL;

THENCE N 86°46'49" W A DISTANCE OF 336.60 FT. TO A CALCULATED POINT ALONG CANAL;

THENCE N 86°46'49" W A DISTANCE OF 336.60 FT. TO A CALCULATED POINT ALONG CANAL;

THENCE S 66°44'11" W A DISTANCE OF 115.00 FT. TO A CALCULATED POINT ALONG CANAL;

THENCE S 11°43'49" E A DISTANCE OF 71.00 FT. TO A CALCULATED POINT ALONG CANAL;

THENCE S 55°06'11" W A DISTANCE OF 224.60 FT. TO A CALCULATED POINT ALONG CANAL;

THENCE S 17°35'11" W A DISTANCE OF 338.10 FT. TO A CALCULATED POINT ALONG THE SOUTHERN BOUNDARY OF SAID SECTION 29:

THENCE N 89°25'25" W A DISTANCE OF 607.26 FT. TO A 5/8" REBAR ALONG THE SOUTHERN BOUNDARY OF SAID SECTION 29 TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 32.55 ACRES

SUBJECT TO AND TOGETHER WITH ANY AND ALL EASEMENTS, RESERVATIONS OR PATENTS, RESTRICTION, CONDITIONS AND/OR INSTRUMENTS OF RECORD.

EXHIBIT B

**ARTICLES OF INCORPORATION
OF
CANYON GLEN SUBDIVISION OWNER’S ASSOCIATION, INC.**

TO THE SECRETARY OF STATE OF THE STATE OF IDAHO:

In compliance with the requirements of the Idaho Nonprofit Corporation Act, Title 30, Chapter 30, Code of Idaho, as amended, the undersigned acting as incorporator of a nonprofit corporation hereby adopts the following Articles of Incorporation.

**Article 1
Name and Principal Office**

The corporation shall be known as **Canyon Glen Subdivision Owner’s Association, Inc.** and its principal offices shall be located in Kimberly, Twin Falls County, Idaho.

**Article 2
Corporate Existence**

The corporate existence of this corporation shall begin upon the date these Articles are filed with the Idaho Secretary of State, and the period of its duration is perpetual.

**Article 3
Purposes and Powers**

A. The purpose and objective of the corporation is to provide an entity to conduct the business and affairs of, and to act as or for, the co-owners of that certain residential subdivision project commonly known as “Canyon Glen Subdivision” (the “**Subdivision**”) to be located on certain portions of real estate situated in Kimberly, Twin Falls County, Idaho.

The corporation shall have all powers and purposes granted or implied to a nonprofit corporation under the Idaho Nonprofit Corporation Act, Title 30, Chapter 30, Code of Idaho, and all of such powers shall likewise constitute lawful purposes of the Association.

B. The purposes of the corporation are exclusively not for private profit or gain and no part of its activities shall consist of carrying on political propaganda or otherwise attempting to influence legislation, and the corporation shall make no distribution of income to its members, directors or officers, although members, directors, or officers may be reimbursed for expenses incurred while conducting the affairs of the corporation. No dividends shall be paid to members at any time.

C. In maintaining property, the corporation may join with the management of any other Association(s) maintaining similar properties in securing or providing services or facilities common in whole or in part to both or all, and in discharging the expense thereof.

**Article 4
Registered Office and Agent**

The address of the initial registered office of the corporation is _____, Idaho _____, and the name of its initial registered agent at such address is _____.

Exhibit B

Article 5
Board of Directors

The number of directors constituting the initial Board of Directors of the corporation is two (2), and the names and addresses of the persons who are to serve as the initial directors are:

<u>Name</u>	<u>Address</u>
Lawrence Gunderson	1535 Canyon View Dr. Perry, UT 84302
Justin Palmer	226 W. 1750 S. Perry, UT 84302

The initial Board of Directors shall be subject to removal only by Canyon Glen 2021 LLC, an Idaho limited liability company, acting by and through its Manager until their term expires as provided in the Bylaws, but thereafter a Director may be removed from office at a special meeting of the members of the corporation in such manner as may be provided by the Bylaws.

Article 6
Bylaws

The initial Bylaws of the corporation shall be adopted by its initial Board of Directors, but the power to thereafter alter, amend, or repeal the same or adopt new Bylaws is reserved to the members of the corporation.

Article 7
Members and Voting

Persons or entities owning Parcels in the Subdivision shall be the members of the corporation, all of which and the rights and obligations thereof shall be governed by the provisions of the Bylaws. The voting rights of the members shall be fixed, limited, enlarged, or denied to the extent specified in the Bylaws.

Article 8
Execution of Written Instruments

All instruments executed by the Association shall be deemed sufficient if executed as provided by specific resolution of the Board of Directors as certified by the president, vice president or secretary of the Association.

Article 9
Dissolution

The Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3) of the members. Upon dissolution of the Association, other than incident to a merger or consolidated, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused

acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

Article 10
Exemption of Members from Personal Liability

The private property of all members of the Association shall be wholly exempt from liability for any and all debts, obligations and liabilities of the Association.

Article 11
Amendment

Amendment of these Articles shall require the assent of two-thirds (2/3rds) of the entire membership.

Article 12
Incorporator

The name and address of the incorporator is:

<u>Name</u>	<u>Address</u>
Lawrence Gunderson	1535 Canyon View Dr. Perry, UT 84302

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of Idaho, the undersigned, being the sole incorporator of this Association, has executed these Articles of Incorporation this _____ day of _____, 2022.

Lawrence Gunderson, Incorporator

EXHIBIT C

BYLAWS OF GLEN CANYON SUBDIVISION OWNER'S ASSOCIATION, INC.

These are the Bylaws of Glen Canyon Subdivision Owner's Association, Inc. (hereinafter referred to as "**Association**"), a corporation organized pursuant to the Idaho Nonprofit Corporation Act, Title 30, Chapter 30, Code of Idaho, as amended (the "**Act**"), for the purpose of administering the Glen Canyon Subdivision, a residential subdivision project (the "**Subdivision**") located on certain portions of the real property located in Kimberly, Twin Falls County, Idaho. Any capitalized term used but not otherwise defined herein shall have the meaning given to such term in the declaration executed for the purpose of governing said Subdivision (the "**Declaration**").

I. MEMBERS AND VOTING RIGHTS.

1. Only the Owners of each Parcel shall constitute the Members of the Association and membership shall automatically cease upon termination of all interests of such Owner in the Subdivision. Declarant shall be and have the rights of Members with respect to unsold Parcels.

2. An Owner of record shall be recognized as a Member in the Association without further action for so long as it holds an ownership interest in a Parcel. If ownership is acquired but not of record, or if acquired other than by way of conveyance or other formal instrument of transfer (such as by death, judicial act or dissolution), the person acquiring or succeeding to ownership shall present to Board of Directors of the Association evidence satisfactory to it of facts evidencing lawful ownership status prior to exercise of any rights of membership in the Association (failure to provide such evidence shall not, however, relieve an Owner of its ownership obligations). A fiduciary or other official acting in the representative capacity shall exercise all membership rights and privileges of the Owner which it represents.

3. If more than one person is the Owner of the same Parcel, all such Owners shall be Members and remain jointly and severally liable for all membership obligations. In such cases, or if more than one fiduciary or other official is acting in the premises, the votes entitled to be cast by the Owners of that Parcel shall be cast by the person named for that purpose on a certificate signed by all such Owners or fiduciaries or other officials and filed with the Secretary of the Association and such person shall be deemed to hold an ownership interest to such Parcel for purposes of voting and determining the representation of such ownership interest at any meeting or for purposes otherwise provided herein. If such certificate is not executed and filed with the Secretary, such membership shall not be in good standing and the votes for that Parcel shall not be considered in considering a quorum or a vote or for any other purposes until this bylaw is complied with.

4. The Owner of each Parcel shall be entitled to one vote on all matters to be determined by the Members of the Association either as Owners or as Parcels or as contemplated by the Act, as amended, pursuant to the Declaration, including any supplements or amendments thereto, submitting the property to the Subdivision. Votes of a single Parcel may not be divided. Declarant shall be entitled to one vote for each Parcel it owns.

II. MEMBERS' MEETINGS.

1. The organizational meeting of the Members of the Association to elect successors of the initial Board of Directors shall be held on the earlier of five (5) years after Declarant conveys the first Parcel

in the Subdivision to an unaffiliated, third-party purchaser, or after Declarant has turned over control of the Subdivision to the Association.

2. A special meeting shall be held whenever called by the President or, in his or her absence or disability, by the Vice-President, or by any one Member of the Board of Directors.

3. The Secretary or his or her designate shall give written notice to each Member of the annual meeting or a special meeting called pursuant to Section II.2 hereof. Whoever requests the special meeting shall give like written notice of such special meeting. All notices shall set forth the time and place and purpose or purposes for which the meeting will be held. No action shall be taken at a special meeting which is not directly related to the purpose or purposes stated in the notice of such meeting.

4. The Secretary shall fix the record date for membership votes prior to any membership meeting. The record date for determining the Members entitled to notice of a meeting is the close of business on the day preceding the mailing of the notice of that meeting. The record date for determining the Members entitled to vote at a meeting is the date of the meeting.

5. After fixing a record date for notice of a meeting, the Secretary shall prepare an alphabetical list of the names of its Members who are entitled to notice of the meeting. The list shall show the address of each Member and the number of votes each Member is entitled to cast at the meeting. The Secretary shall also prepare on a current basis through the time of the membership meeting a list of Members, if any, who are entitled to vote at the meeting but were not entitled to notice of the meeting at the time notice was given.

6. Notice of a Members' meeting shall be given by mailing or delivering the same not less than ten (10), but not more than thirty (30) days, prior to the date of the meeting. Notice shall be deemed to be given if mailed by first class mail to the Member at the address of his or her Parcel within the Subdivision, unless at the time of giving such notice such Member has given written direction delivered to the Secretary specifying a different mailing address to be carried on the rolls of the Association. If more than one person is the owner of the same Parcel or if more than one fiduciary or one official is acting in the premises, notice to such person shall be deemed to have been given, when in accordance with this paragraph to the person named in the certificate filed with the Secretary in accordance with Section I.3. Notice of any meeting may be waived in writing by the person entitled thereto.

7. A quorum at a Members' meeting shall consist of two-thirds (2/3) of the Owners of all of the Parcels. The acts carried or approved by a majority vote of all Owners of the Parcels represented at a meeting at which a quorum is present shall constitute the acts of the membership unless a different rule is provided herein or by the Articles, the Declaration or other agreement to which the Association is a party. The President, or, in his or her absence or disability the Vice-President, shall preside at each Members' meeting; if neither the President nor the Vice-President is able to preside, a chairman shall be elected by the Members present at such meeting.

8. At a membership meeting, a person holding a member's proxy to vote shall be permitted to cast such Member's vote on all questions properly coming before such meeting, provided such proxy must be in writing and signed by a Member or other person entitled to cast votes, and shall set forth the Parcel with respect to which such rights are pertinent, and the period in which the proxy is to be in force and effect. Decision of the Board of Directors as to the sufficiency of any proxy for recognition shall be final and not subject to appeal to the members.

9. At all meetings, the order of business shall consist of the following:

- (a) Election of Chairman, if required.
- (b) Calling of roll and certification of proxies.
- (c) Proof of notice of meeting or waiver of notice.
- (d) Reading and disposal of any unapproved minutes.
- (e) Reports of officers, if applicable.
- (f) Reports of committees, if applicable.
- (g) Election of Directors, if applicable.
- (h) Unfinished business.
- (i) New Business.
- (j) Adjournment.

Robert's Rules of Order shall govern unless the Chairperson prefers to utilize another method to facilitate the meeting.

III. BOARD OF DIRECTORS.

1. The affairs of the Association shall be managed by an initial Board of three (3) Directors. The initial Board shall consist of such persons as the Declarant may appoint pursuant to the Declaration and need not be Members of the Association. The initial Board shall serve until the first annual Members' meeting. From and after the first annual meeting of members, the Board of Directors shall be selected from the members of the Association. An officer or designated agent of a partnership or corporate member shall qualify to serve as a Director.

2. At the first annual Members' meeting and at each meeting thereafter three (3) Directors shall be elected and the term of office of each Director shall extend until the next annual meeting of the members and thereafter until their successors are duly elected and qualified or until removal in the manner as elsewhere provided.

3. Each Director shall be elected by ballot (unless such requirement is waived by majority consent) and by a plurality of the votes cast at the annual meeting of the members of the Association. Each person entitled to vote shall be entitled to vote for as many nominees as there are vacancies to be filled by election and each Director shall be elected by a separate ballot unless provided otherwise by majority consent of the members.

4. Except as provided in Section III.5, vacancies on the Board of Directors may be filled until the date of the next annual meeting by a vote of the remaining Directors regardless of whether those remaining constitute a quorum.

5. The initial Directors shall be subject to removal only by the Declarant. Thereafter, a Director may be removed by concurrence of three-fourths (3/4) of the Members at a special meeting called for that purpose. The vacancy on the Board of Directors so created shall, be filled by the persons entitled to vote at the same meeting.

6. The initial Directors as well as any other Directors appointed by the Declarant shall serve without compensation. Directors elected by the Members shall receive such compensation and expenses as may be approved by the persons entitled to vote at any annual or special meeting.

7. An organization meeting of a newly-elected Board of Directors shall be held within ten (10) days of their election at such place and time as shall be fixed by the Directors at the meeting at which they were elected. No further notice of the organization meeting shall be necessary.

8. By a majority vote, the Directors may set the time and place for regular meetings of the Board and no notice thereof shall be required until such resolution is modified or rescinded. Special meetings of the Directors may be called by the President, Vice-President, or any Director, provided not less than two (2) days' notice shall be given, personally or by mail, telephone, or telegraph, which notice shall state the time, place and purpose of the meeting.

9. A quorum at a Directors' meeting shall consist of two of the three Directors. The acts approved by a majority vote of those present at a meeting duly called at which a quorum is present shall constitute the acts of the entire Board of Directors, except where approval by a greater number of Directors is required by the Declaration or these Bylaws.

10. The presiding officer of a Director's meeting shall be the President, or in his or her absence, the Vice-President.

11. The Board of Directors, by resolution approved by all Members thereof, may designate from among its members such committees as it deems advisable and by resolution provide the extent and manner to which the same may have and exercise the authority of the Board.

12. Board of Director's meetings must be open to all Owners except for meetings between the Board and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by attorney-client privilege. Notice of each Board of Director's meeting must be mailed or delivered to each Owner at least seven (7) days before the meeting. Minutes of meetings of the Board of Directors must be maintained in written form or in another form that can be converted into written form within a reasonable time. The official records of the Board of Directors must be open to inspection and available for photocopying at reasonable times and places. Any action taken by the Board of Directors at a meeting that is in violation of any of the provisions of this subsection is not valid or enforceable. Notwithstanding the above, the Board of Directors may conduct a meeting in an emergency situation subject to the ratification of any Board action at a subsequent meeting held in compliance with this Section.

IV. POWERS AND DUTIES OF THE BOARD OF DIRECTORS.

All of the powers and duties of the Association shall be exercised by the Board of Directors, including those existing under the common law and statutes, the Articles, and the Subdivision Documents. Such powers and duties of the Directors shall be exercised in accordance with the provisions of the Declaration and, in addition to those elsewhere provided, shall include but not be limited to the following:

1. The collection of Assessments against Members for all Common Expenses;
2. Use of the proceeds of Assessments in the exercise of its powers and duties;
3. The maintenance, repair, replacement, and operation of the Project including all Common Elements, and the making or providing for payment for all such work and approving or delegating to the officers authority to approve vouchers therefor;
4. The reconstruction, repair, restoration, or rebuilding of the Subdivision and of any Homes as applicable after casualty; construction of new improvements or alterations if approved; to make and amend regulations respecting the use and occupancy of the Subdivision and to permit or forbid an action or conduct within the discretion committed to them in the Declaration, Bylaws, and resolutions of the members;

5. The enforcement by legal means of the provisions of the Act, the Articles, the Bylaws, the Declaration, and any rules and regulations for the use of the Property adopted from time to time; and to take legal action in the name of the Association and on behalf of the Members;

6. To contract for management of the Subdivision and to delegate to such manager any or all powers and duties of the Association except such as are specifically required by the Declaration, Bylaws or resolutions of the Members to have approval of the Board of Directors or the membership of the Association;

7. To employ, designate, and discharge personnel to perform services required for proper operation of the Subdivision;

8. To carry insurance on the Property and insurance for the protection of Owners and the Association;

9. To pay the cost of all power, water, sewer, and other utility or other services rendered to the Subdivision and not billed directly to the Owners of the individual Parcels;

10. To conduct all votes or determinations of the Members other than at a membership meeting;

11. To borrow money from banks, lending institutions or agencies for the use and benefit of the Association and to secure loans by pledge of the assets of the Association, and from time to time renew such loans and give additional security; and

12. To do such other acts as are necessary and proper to effect the purpose of the Subdivision as stated in the Declaration and these Bylaws, provided such acts are not otherwise prohibited.

V. OFFICERS.

1. The officers of the Association shall be the President who shall be a Director, a Vice-President who shall be a Director, a Treasurer, who need not be either a Director or a member, and a Secretary, who need not be either a Director or member. All such officers shall be elected annually by the Board of Directors and may be preemptorily removed and replaced by the vote of two-thirds (2/3) of the Directors at any meeting. The initial officers and their successors shall be chosen by the initial Board of Directors and shall serve until the organizational meeting of the Members. The Board of Directors may from time to time create and fill other offices and designate the powers and duties thereof. Each officer shall have the powers and duties usually vested in such office, and such authority as is committed to the office by the Bylaws or by specific grant from the Board, but subject at all times to the provisions of the Bylaws and to the control of the Board of Directors.

2. The President shall be the chief executive officer of the Association. He or she shall preside at all membership meetings and meetings of the Board of Directors and shall have power to appoint committees from among the Members to assist in the conduct of the affairs of the Association and the Subdivision.

3. The Vice-President shall preside over the membership meetings in the absence or disability of the President, and shall otherwise exercise the powers and duties of the President in the event of the absence or disability of the President and shall generally assist the President and exercise such other powers and duties as are prescribed by the directors.

4. The Secretary shall keep the minutes of all proceedings of membership meetings and Directors' meetings and shall have custody and control of the Minute Book of the Association and shall keep or be in charge and control of the records of the Association.

5. The Treasurer shall have control of the funds and other property of the Association and shall keep the financial books and records thereof.

6. The compensation of all officers and employees shall be fixed by the Directors. This provision shall not preclude the Board of Directors from employing a Director as an employee, nor the contracting with a Director for management of the Subdivision.

7. Any instrument affecting an interest in real property may be executed by the President or Vice-President and one other officer upon authorization of the Directors or in such manner as the Directors may otherwise direct.

VI. FISCAL MANAGEMENT.

1. The Board of Directors shall adopt a budget for each fiscal year (which shall be the same as the Association's fiscal year for income tax purposes) which shall include the estimated funds required to defray the Common Expenses and to provide and maintain funds for the following accounting categories according to good accounting practices:

(a) Current expenses which shall include all funds and expenditures to be made for the year for which the funds are budgeted, including a reasonable allowance for contingencies and working funds, except expenditures chargeable to reserves or to additional improvements. The balance of this fund at the end of each year shall be applied to reduce the assessments for current expense for the succeeding year;

(b) Reserve for deferred maintenance, which shall include funds for maintenance items which occur less frequently than annually; and

(c) Reserve for replacement, which shall include funds for repair or replacement required because of damage, destruction, depreciation or obsolescence.

2. The Board of Directors shall assess against each Parcel, and the Owners thereof shall be liable for, a share of the items in the budget adopted pursuant to Section VI.1 equal to such Parcel's pro rata share of Common Expenses as set forth in the Declaration. Such share shall be assessed annually in advance for the fiscal year for which the budget was prepared, and notice of such assessments shall be mailed or delivered not less than thirty (30) days prior to the first day of such fiscal year. Such assessment shall be due and payable from the respective Owner or Owners in twelve (12) equal installments, each installment being due and payable the first day of each calendar month, within such fiscal year. In the event notice of such assessment is not timely given, the amount of such assessment will not change but the due date for each installment which would otherwise be due and payable less than thirty (30) days from the giving of such notice, shall be due and payable on the due date of the first installment which is due after thirty (30) days from the date such notice was mailed or delivered. In the event the annual assessment proves to be insufficient, the budget and assessments, therefore, may be amended at any time by the Board of Directors. Such amended budget may be adopted at a special Directors' meeting upon an affirmative majority vote of the Directors. The additional amount so budgeted shall be assessed to each Parcel in the same manner as assessments for the annual budget and shall be prorated among the remaining installments due and payable in such year. Notwithstanding the above, Declarant shall not pay any assessments for

Parcels it owns until such time as an occupancy permit is received for that Parcel, it being the intention that the Declarant shall not pay assessments for any Parcel until construction upon the Parcel is completed.

3. Assessments for Common Expenses for emergencies and extraordinary expenditures, which cannot be paid from the annual assessments for Common Expenses and maintenance funds shall be made only after notice of the need thereof to the Owners. After such notice and upon approval in writing by persons entitled to cast more than one-half (1/2) of the votes in the Subdivision, the assessments shall become effective, and shall be due in such manner as the Board of Directors may require after thirty (30) days' notice thereof. In the event any expenditure for repair or replacement of any Parcel or Common Elements cannot be paid from annual assessments but can be at least ninety percent (90%) paid from insurance proceeds therefor, such expenditures may be made upon approval of the Board of Directors without approval of the members and an amended budget and assessment may be made therefor if necessary.

4. The Board of Directors may assess against any Parcel, and the Owner thereof shall be liable for, any judgment obtained against the Owner by the Association, including the Association's reasonable attorney's fees. Such assessment shall be due and payable from the Owner in twelve (12) equal installments, each installment being due and payable the first day of each calendar month. Notice of said assessment shall be given to the Owner by the Association at least thirty (30) days prior to the due date of the first installment.

5. The Board of Directors may assess against any Parcel, and the Owner thereof shall be liable for, any fine levied by the Board of Directors for a violation of any rules and regulations for the use of the Property adopted from time to time.

6. If an Owner shall be in default of an installment payment upon an assessment, the Board of Directors may accelerate the remaining installments of the assessment upon notice thereof to such Owner, and thereupon the unpaid balance of the assessment shall become due upon the date stated in the notice, but not less than ten (10) days after delivery thereof to such Owner either personally or by registered or certified mail. Interest shall be computed and due on balances due under this paragraph but unpaid on such due date at the maximum rate of interest allowable by law from the date such balance becomes due and payable in accordance with the preceding sentence; such interest shall be in addition to any other payments for which said owner is liable.

7. The holder of a mortgage on any Parcel, upon its filing written request with the Association, shall be given written notice by the Association of the nonperformance of a mortgagor's obligations under these Bylaws, the Declaration or other Subdivision, which is not cured within thirty (30) days.

8. All sums assessed but unpaid, including but not limited to, interest, with respect to a Parcel or against an Owner shall constitute a lien on such Parcel prior to all other liens except:

- (a) Tax liens on the unit in favor of any assessing Parcel and special district; and
- (b) All sums unpaid on the first mortgage of record.

Said lien may be foreclosed by the Association in the manner and with the consequences provided under applicable law, in which event the Owner shall be required to pay a reasonable rental for the Parcel. In the event the Association forecloses on any lien, the Owner or Owners of such Parcel, by their membership in this Association, specifically waive any rights to delay or prevent foreclosure which he, she or they may have against the Association by reason of any homestead exemption provided for under law.

The Association may sue for money judgment for unpaid assessments and interest or sums due without foreclosing or waiving any lien which it holds.

9. If a mortgagee or purchaser of a Parcel obtains title as a result of foreclosure of a first mortgage, neither such mortgagee nor purchaser nor their successors or assigns, shall be liable for the assessments chargeable to such Parcel due prior to the acquisition of title, and such unpaid assessments shall thereafter be deemed to be Common Expenses collectible from all Owners including the mortgagee or purchaser, and their successors and assigns. The Owner of a Parcel pursuant to a voluntary conveyance or by inheritance or devise shall be jointly and severally liable with the grantor or prior Owner for all unpaid assessments against the grantor or prior Owner, but without prejudice to the rights of such grantee or devisee to recover from the grantor the amounts paid therefor. The grantee or other successor in interest of an individual subject to a levy of an assessment on account of default shall be liable for any such special assessment.

10. The depository of the Association shall be such bank or banks as shall be designated from time to time by the Directors and in which the moneys of the Association shall be deposited. Withdrawal of moneys from the accounts shall only be by checks signed by such persons as are authorized by the Directors.

11. An audit of the accounts of the Association may be made annually by a certified public accountant and if such audit is made a copy of the report shall be furnished to each member not later than sixty (60) days after the close of the fiscal year for which the report is made.

VII. AMENDMENT.

1. These Bylaws may be amended, altered, repealed or new Bylaws adopted by the Members at a regular or special meeting of the Members upon the affirmative vote of sixty-seven percent (67%) of all votes entitled to be cast.

2. No amendment may be adopted at either a special or regular membership meeting not included in the notice thereof, except if notice of the proposed amendment has been given, an amendment relative to the same subject may be adopted by those present, in person or by proxy and possession of the requisite percentage of membership and voting interests; provided further, no vote by proxy may be counted unless the proxy expressly provides for such contingency. Notice referred to herein shall be given in the manner prescribed in Section II.3 and shall be given to the persons described in Section II.5, and the holder of any first mortgage of record which has notified the Association of its interests not more than fifty (50) days nor less than thirty (30) days before the date such meeting will be held. More than one proposed amendment may be included in the notice of a meeting.

3. To the extent provided by the Act, no modification or amendment to these Bylaws shall be effective unless set forth in an amendment to the Declaration, executed and recorded in the manner set forth in the Declaration and an amendment to these Bylaws shall constitute an amendment to the Declaration as provided for by law. Upon such recording, said amendment shall be effective against all persons having an interest in a Parcel or the Subdivision regardless of whether said person had such interest at the time said amendment was adopted.

VIII. MISCELLANEOUS PROVISIONS.

1. The invalidity of any portion or provision of these Bylaws shall not affect the validity of the remaining provisions or portions hereof.

2. The Association shall not have or employ a corporate seal.
3. The Board of Directors may require fidelity bonds from all Directors, officers, or agents handling or responsible for Association funds and the expense of such bonds shall be common expense of the Association.
4. The Association shall promulgate such rules and regulations as it deems to be in the best interest of all Owners within the Subdivision. The initial Board of Directors shall adopt the initial rules and regulations which may be added to, amended, modified or subsequently altered by the Board of Directors. Such rules and regulations, as amended, shall be binding upon all members, guests, and agents of members. An amendment to the rules and regulations shall not constitute an amendment to the Declaration and shall be valid and enforceable upon adoption without recording the same as an amendment to the Declaration.
5. The Association shall at all times maintain separate and accurate written records of each Parcel and Owner and the address of each, and setting forth the status of all assessments, accounts and funds pertinent to that Parcel and Owner. Any person other than an Owner may rely on a certificate made from such records by an officer or agent of the Association as to the status of all assessments and accounts.
6. Each Member shall have the obligations as such member as are imposed on him or her by the Subdivision Documents as an Owner, and no member shall have any power or authority to incur a mechanic's lien or other lien effective against the Subdivision property except as the same may attach only against his or her interest therein.
7. The Board of Directors may, in its discretion, issue written evidence of membership, but the same shall be evidence thereof only and in no manner shall be transferable or negotiable, and the share of the Member in the assets of the Association cannot be assigned, hypothecated, or transferred in any manner except as appurtenant to such assignment, hypothecation or transfer of the Parcel.
8. Each Owner or lessee of his or her Parcel, as applicable, shall have a right to use and enjoy the Common Elements provided that such use shall be limited to the uses permitted by the Declaration and the Subdivision Documents.
9. The Association, through its Board of Directors and officers, shall make available to all members during ordinary business hours copies of the Declaration and an exhibits thereto, including the Articles, Bylaw, minutes of special or annual meetings of the Association, and copies of periodic financial statements of the Association.
10. If any Owner shall violate or attempt to violate any of the provisions of the Declaration, Bylaws or rules and regulations, it shall be lawful for the Association or any other Owner to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such provisions and either prevent said person or persons from so doing or to recover damages or other remedies for such violation. The prevailing party in such action may be allowed to recover costs, expenses and reasonable attorney's fees from the other party. If the proceedings are prosecuted by the Association, any judgment recovered against the Owner, including reasonable attorney's fees, may be assessed against the Owner's Parcel, as provided in Section VI.4 herein and may be foreclosed as provided in Section VI.8 herein.

By: _____
 Name: Lawrence Gunderson
 Title: Director

By: _____
 Name: Justin Palmer
 Title: Director

EXHIBIT D

SITE PLAN



EXHIBIT E

PLAT

See attached