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Carri R. Jeffries, Iron County Recorder - Page 1 of 50

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Recorded at the Request of:  
SUNVIEW HOMEOWNERS ASSOCIATION  
581 East Saint George Blvd.,  
Saint George, UT 84770

**Record against the real property  
described in Exhibit A.**

After Recording mail to:  
Clarkson & Associates, LLC  
162 North 400 East, Suite A-204  
St. George, UT 84770

CHARTER OF DECLARATIONS, COVENANTS,  
RESTRICTIONS AND RESERVATION OF EASEMENTS  
FOR  
SUNVIEW HOMEOWNERS ASSOCIATION  
(a Planned Unit Development)

CHARTER OF DECLARATIONS, COVENANTS,  
RESTRICTIONS AND RESERVATION OF EASEMENTS  
FOR  
SUNVIEW HOMEOWNERS ASSOCIATION

Table of Contents

<u>PREAMBLE</u> .....	1
<u>RECITALS</u> .....	1
<u>ARTICLE I</u> .....	2
<u>DEFINITIONS</u> .....	2
<u>1.1 ACC Restrictions and Rules</u> .....	2
<u>1.2 Annexable Territory</u> .....	2
<u>1.3 Annual Assessment</u> .....	2
<u>1.4 Articles</u> .....	2
<u>1.5 Association</u> .....	2
<u>1.6 Beneficiary</u> .....	3
<u>1.7 Benefitted Assessment</u> .....	3
<u>1.8 Board</u> .....	3
<u>1.9 Budget</u> .....	3
<u>1.10 Bylaws</u> .....	3
<u>1.11 Corrective Assessments</u> .....	3
<u>1.12 Common Area</u> .....	3
<u>1.13 Common Expenses</u> .....	3
<u>1.14 Community-Wide Standard</u> .....	3
<u>1.15 Deed of Trust</u> .....	3
<u>1.16 Development</u> .....	3
<u>1.17 Dwelling Unit</u> .....	4
<u>1.18 Fiscal Year</u> .....	4
<u>1.19 Founder</u> .....	4
<u>1.20 Government Assessments</u> .....	4
<u>1.21 Holidays</u> .....	4
<u>1.22 Improvement</u> .....	4
<u>1.23 Limited Common Area</u> .....	4
<u>1.24 Lot</u> .....	4
<u>1.25 Manager</u> .....	4
<u>1.26 Member Membership</u> .....	5
<u>1.27 Mortgage, Mortgagee, Mortgagor</u> .....	5
<u>1.28 Notice of Board Adjudication</u> .....	5
<u>1.29 Notice of Members Meeting</u> .....	5
<u>1.30 Notice of Noncompliance by the ACC</u> .....	5
<u>1.31 Owner</u> .....	5
<u>1.32 Person</u> .....	5
<u>1.33 Phase I</u> .....	5
<u>1.34 Phase of Development</u> .....	6
<u>1.35 Plans</u> .....	6
<u>1.36 Plat</u> .....	6
<u>1.37 Properties</u> .....	6
<u>1.38 Record, Recorded, Filed or Recordation</u> .....	6
<u>1.39 Rules and Regulations</u> .....	6
<u>1.40 Recreational Vehicles</u> .....	6
<u>1.41 Special Assessments</u> .....	6
<u>1.42 Streets. Streets shall mean private streets and thoroughfares on the Properties.</u> .....	6
<u>1.43 Supplemental Charter</u> .....	6
<u>1.44 Trust Deed for Assessments</u> .....	6
<u>1.45 Vehicle</u> .....	7
<u>ARTICLE IA</u> .....	7
<u>DESCRIPTION OF PROPERTY</u> .....	7
<u>ARTICLE II</u> .....	8

<b>OWNERS' PROPERTY RIGHTS</b> .....	8
2.1 <u>Owners' Easements of Enjoyment</u> .....	8
2.2 <u>Form For Conveyancing</u> .....	8
2.3 <u>Transfer of Title to Common Area</u> .....	8
2.4 <u>Limitations on Common Area Easement</u> .....	8
2.5 <u>Parking Restrictions</u> .....	10
2.6 <u>Easements for Public Service Use</u> .....	10
2.7 <u>Easements for Water and Utility Purposes</u> .....	10
2.8 <u>Easement for Encroachments</u> .....	10
2.9 <u>Founder Easement Indemnification</u> .....	10
2.10 <u>Cross-Use Easement</u> .....	11
2.11 <u>Association Easement</u> .....	11
2.12 <u>Waiver of Use</u> .....	11
2.13 <u>Taxes</u> .....	11
2.14 <u>Lot/Limited Common Area</u> .....	11
2.15 <u>Community-Wide Standard</u> .....	11
2.16 <u>Zoning of Adjacent Property</u> .....	11
2.17 <u>Display of the Flag</u> .....	11
<b>ARTICLE III</b> .....	13
<b>SUNVIEW HOMEOWNERS ASSOCIATION</b> .....	13
3.1 <u>Organization of Association</u> .....	13
3.2 <u>Parties and Powers</u> .....	13
3.3 <u>Membership</u> .....	13
3.4 <u>Transfer</u> .....	13
3.5 <u>Non-Liability for Tort</u> .....	13
3.6 <u>Board Acts for Association</u> .....	13
<b>ARTICLE IV</b> .....	13
<b>VOTING RIGHTS</b> .....	13
4.1 <u>Vote Distribution</u> .....	13
4.2 <u>Multiple Ownership</u> .....	14
4.3 <u>Expansion of Terms</u> .....	14
<b>ARTICLE V</b> .....	14
<b>JURISDICTION OF ASSOCIATION</b> .....	14
<b>ARTICLE VI</b> .....	14
<b>COVENANT FOR ASSESSMENTS</b> .....	14
6.1 <u>Creation of Assessment Obligation</u> .....	14
6.2 <u>Purpose of Annual and Special Assessments</u> .....	15
6.3 <u>Annual Assessments</u> .....	15
6.4 <u>Special Assessments</u> .....	15
6.5 <u>Corrective Assessments</u> .....	16
6.6 <u>Benefitted Assessments</u> .....	16
6.7 <u>Government Assessments</u> .....	16
6.9 <u>Uniform Rate of Assessment</u> .....	17
6.10 <u>Date of Commencement of Annual Assessments</u> .....	17
6.11 <u>Exempt Property</u> .....	18
6.12 <u>Notice of Members Meetings: Quorum Requirements</u> .....	18
6.13 <u>Preparation of Budget</u> .....	18
6.14 <u>Reserve Fund</u> .....	18
6.15 <u>Initial Capital Contribution</u> .....	18
<b>ARTICLE VII</b> .....	18
<b>NONPAYMENT OF ASSESSMENTS: REMEDIES</b> .....	19
7.1 <u>Nonpayment of Assessments: Remedies</u> .....	19
7.2 <u>Iron County Tax Collection</u> .....	19
7.3 <u>Lien</u> .....	19
7.4 <u>Trust Deed for Assessments</u> .....	19
7.5 <u>Perfection of Lien and Priority</u> .....	20
7.6 <u>Discontinuance of Common Utility Service and Suspension of Common Facility Use</u> .....	20
7.7 <u>Tenant Payment</u> .....	21
7.8 <u>Statement of Account</u> .....	22

7.9	<u>Payment by Encumbrancer</u> .....	23
7.10	<u>Cumulative Remedies</u> .....	23
7.11	<u>Mortgage Protection</u> .....	23
7.12	<u>Rent After Foreclosure</u> .....	23
	<b>ARTICLE XIII</b> .....	23
	<b>MAINTENANCE AND REPAIR OBLIGATIONS</b> .....	23
8.1	<u>Maintenance Obligations of Owners</u> .....	23
8.2	<u>Maintenance Obligations of Association</u> .....	24
8.3	<u>Damage to Dwelling Units - Reconstruction</u> .....	24
8.4	<u>Access at Reasonable Hours</u> .....	25
8.5	<u>Alteration of Certain Maintenance Duties by Rules</u> .....	25
8.6	<u>Party Walls</u> .....	25
8.7	<u>Mold</u> .....	26
	<b>ARTICLE IX</b> .....	26
	<b>USE RESTRICTIONS</b> .....	26
9.1	<u>Residential Use</u> .....	26
9.2	<u>Accountability of Members</u> .....	26
9.3	<u>Business or Commercial Activity</u> .....	27
9.4	<u>Signs</u> .....	27
9.5	<u>Quiet Enjoyment</u> .....	27
9.6	<u>Parking and Vehicular Restrictions</u> .....	27
9.7	<u>Animals</u> .....	28
9.8	<u>Insurance and Governmental Requirements</u> .....	28
9.9	<u>Construction</u> .....	28
9.10	<u>Temporary Buildings</u> .....	29
9.11	<u>Drilling</u> .....	29
9.12	<u>Further Subdivision: Lease Provisions</u> .....	29
9.13	<u>Drainage</u> .....	30
9.14	<u>Water Supply and Sewage Disposal Systems</u> .....	30
9.15	<u>External Apparatus</u> .....	30
9.16	<u>Limited Common Area Restrictions</u> .....	30
9.17	<u>Trash Receptacles</u> .....	30
9.18	<u>Reserved</u> .....	30
9.19	<u>Garbage Removal</u> .....	30
9.20	<u>FCC Antenna and Dish Policy</u> .....	30
	<b>ARTICLE X</b> .....	31
	<b>DAMAGE AND CONDEMNATION</b> .....	31
	<b>ARTICLE XI</b> .....	32
	<b>INSURANCE</b> .....	32
11.1	<u>Casualty Insurance</u> .....	32
11.2	<u>Liability Insurance</u> .....	32
11.3	<u>Fidelity Insurance</u> .....	33
11.4	<u>Additional Insurance Requirements</u> .....	33
11.5	<u>Insurance Obligations of Owners</u> .....	34
11.6	<u>Unacceptable Policies</u> .....	34
11.7	<u>Association and Owner's Flood Insurance</u> .....	34
	<b>ARTICLE XII</b> .....	
	<b>MORTGAGEE PROTECTION CLAUSE</b> .....	35
12.1	<u>Preservation of Regulatory Structure and Insurance</u> .....	35
12.2	<u>Preservation of Common Area: Change in Method of Assessment</u> .....	35
12.3	<u>Notice of Matters Affecting Security</u> .....	36
12.4	<u>Notice of Meetings. The Association shall give to any first Mortgagee of a Lot requesting the same, notice of all meetings of the Association, and such first Mortgagee shall have the right to designate in writing a representative to attend all such meetings.</u> .....	36
12.5	<u>Right to Examine Association Records</u> .....	36
12.6	<u>Right to Pay Taxes and Charges</u> .....	36
12.7	<u>Rights Upon Foreclosure of Mortgagee</u> .....	36
12.8	<u>Deemed Consent</u> .....	36
	<b>ARTICLE XIII GENERAL PROVISIONS</b> .....	36

<u>13.1</u>	<u>Enforcement</u> .....	36
<u>13.2</u>	<u>Severability</u> .....	37
<u>13.3</u>	<u>Rule Against Perpetuities</u> .....	37
<u>13.4</u>	<u>Interpretation</u> .....	37
<u>13.5</u>	<u>Amendment</u> .....	38
<u>13.6</u>	<u>Notice</u> .....	38
<u>13.7</u>	<u>Manager</u> .....	39
<u>13.8</u>	<u>Terms of Management Agreement</u> .....	39
<u>13.9</u>	<u>Rules and Regulations</u> .....	39
<u>13.10</u>	<u>Assignment of Founder Powers</u> .....	39
<u>13.11</u>	<u>Agreement to Encourage Resolution of Construction Defect Disputes Without Litigation</u> .....	40
<u>13.12</u>	<u>Dispute Resolution Procedures</u> .....	40
<u>13.13</u>	<u>Initiation of Litigation and Limitation of Action</u> .....	42
<u>13.14</u>	<u>Easement to Inspect and Right to Correct</u> .....	42
<u>13.15</u>	<u>Founder's Disclaimer of Representations</u> .....	42
	<b><u>ARTICLE XIV</u></b> .....	43
	<b><u>ANNEXABLE TERRITORY</u></b> .....	43
<u>14.1</u>	<u>Annexation by Founder</u> .....	43
<u>14.2</u>	<u>Limitation on Annexation</u> .....	43
<u>14.3</u>	<u>Expansion of Definitions</u> .....	44

CHARTER OF DECLARATIONS, COVENANTS,  
RESTRICTIONS AND RESERVATION OF EASEMENTS  
FOR  
SUNVIEW HOMEOWNERS ASSOCIATION  
(a Planned Unit Development)

PREAMBLE

This Charter of Declarations, Covenants, Restrictions and Reservations of Easements for Sunview Homeowners Association (hereafter "Charter") affects the following real property, and such additional land from the Annexable Territory as may be annexed to the property hereafter, all located in Iron County, State of Utah:

Phase I - See Exhibit A attached hereto and incorporated herein.

Annexable Territory - See Exhibit B attached hereto and incorporated herein.

The terms contained in this Preamble and the Recitals below, which are hereafter defined in Article I, shall be given the meaning assigned to them in Article I.

The Community Association Act, Utah Code §57-8a-101, et. seq. (the "Act"), as amended from time to time, shall supplement this Declaration. If an amendment to this Declaration adopts a specific section of the Act, such amendment shall grant a right, power, and privilege permitted by such section of the Act, together with all correlative obligations, liabilities and restrictions of that section. The remedies in the Act and the Declaration -- provided by law or in equity -- are cumulative and not mutually exclusive.

RECITALS

A. Sunview Development, LLC a Utah limited liability company, as Founder, will develop the real property described in Exhibit A as a planned unit development.

B. Founder has established or will establish the Sunview Homeowners Association and the Association will be vested with powers of, among other matters, owning, maintaining and administering the Common Area, administering and enforcing the covenants and restrictions pertaining to the Properties, promulgating Rules and Regulations through its Board and Architectural Control Committee, and collecting and disbursing the assessments and charges hereinafter created.

C. Founder also desires to expand the Development to include the Annexable Territory, all of which the Founder desires to be governed by this Charter.

D. The Founder intends that the Properties, and such portions of the Annexable Territory annexed into the Development, shall be maintained, developed and conveyed pursuant to a general plan for all of the Properties and subject to certain protective covenants, easements, equitable servitudes, liens and charges, all running with the Properties as hereinafter set forth.

E. The Founder hereby declares that all of the Properties shall be maintained, held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the following easements, restrictions, reservations, rights, covenants, conditions and equitable servitudes, all of which are for the purpose of uniformly enhancing and protecting the value, attractiveness and desirability of the Properties, in furtherance of a general plan for the protection, maintenance, subdivision, improvement, and sale of the Properties or any portion thereof. The covenants, conditions, restrictions, rights, reservations, easements, and equitable servitudes set forth herein shall run with and burden the Properties and shall be binding upon all persons having or acquiring any right, title, or interest in the Properties, or any part thereof, their heirs, successors and assigns; shall inure to the benefit of every portion of the Properties and any interest therein; and shall inure to the benefit of and be binding upon and may be enforced by Founder, the Association, each owner and their respective heirs, executors and administrators, and successors and assigns.

F. These Recitals shall be deemed covenants as well as recitals.

## **ARTICLE I** **DEFINITIONS**

The definitions in this Declaration are supplemented by the definitions in the Act. In the event of any conflict, the more specific and restrictive definition shall apply. Unless otherwise expressly provided, the following words and phrases when used herein shall have the meanings hereinafter specified.

1.1 ACC Restrictions and Rules. ACC Restrictions and Rules shall mean such restrictions and rules as may be adopted and promulgated by the Declarant as set forth herein and as amended from time to time pursuant to Sections 8.1 and 8.4 hereof as such restrictions and rules may be amended from time to time.

1.2 Annexable Territory. Annexable Territory shall mean the real property described in Exhibit B attached hereto and incorporated herein by this reference, all or any portion of which may from time to time be made subject to this Charter pursuant to the provisions of Article XV hereof. Annexable Territory shall also mean any real property which the Founder desires to annex into the Development which is contiguous to the real property described in Exhibit A or B.

1.3 Annual Assessment. Annual Assessment shall mean the annual charge against each Owner and his Lot, representing a portion of the Common Expenses, which are to be paid by each Owner to the Association in the manner and proportions provided herein.

1.4 Articles. Articles shall mean the Articles of Incorporation of the Association filed with the State of Utah, Department of Commerce, Division of Corporations and Commercial Code, as such Articles may be amended from time to time.

1.5 Association. Association shall mean Sunview Homeowners Association, a corporation formed under the Utah Revised Nonprofit Corporation Act, its successors and assigns.

1.6 Beneficiary. Beneficiary shall mean a mortgagee under a mortgage or a beneficiary under a deed of trust, as the case may be, and the assignees of such mortgagee or beneficiary.

1.7 Benefitted Assessment. Benefitted Assessment shall mean assessments levied in accordance with Article X against particular Units to cover costs pursuant to a menu of services which the Board of Directors may from time to time authorize.

1.8 Board. Board shall mean the Board of Directors of the Association, elected pursuant to the Bylaws of the Association.

1.9 Budget. Budget shall mean a written, itemized estimate of the expenses to be incurred by the Association in performing its functions under this Charter.

1.10 Bylaws. Bylaws shall mean the Bylaws of the Association, as adopted by the Board, as such Bylaws may be amended by the Board from time to time.

1.11 Corrective Assessments. Corrective Assessments shall mean a charge against a particular Owner and his Lot representing the costs to the Association incurred in taking corrective action against an Owner, including without limitation actions taken pursuant to Sections 2.12, 8.7, 9.1, and 14.9, and Article XI.

1.12 Common Area. Common Area means that portion of property owned by the Association, shown on the Plat as dedicated to the common use and enjoyment of the owners and all improvements constructed thereon.

1.13 Common Expenses. Common Expenses shall mean those expenses for which the Association is responsible under this Charter, including the actual and estimated costs of: maintenance, management, operation, repair, replacement and improvement of the Common Area; costs of management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and other employees; the costs of all utilities; gardening; certain landscaping and Improvements on the Common Area, or portions thereof; and the costs of any other items incurred by the Association for any reason whatsoever, in connection with the Properties, for the benefit of all of the Owners.

1.14 Community-Wide Standard. Community-Wide Standard shall mean the standard of conduct, construction, architecture, maintenance, or other activity generally prevailing at the Properties, or the minimum standards established pursuant to the ACC Restrictions and Rules, Rules and Regulations, and Board resolutions, whichever is a highest standard. Founder shall establish initially such standard and it may contain both objective and subjective elements. The Community-Wide Standard may evolve as development progresses and as the needs and desires within the Properties change.

1.15 Deed of Trust. Deed of Trust shall mean a mortgage or a deed of trust as the case may be.

1.16 Development. Development shall mean Sunview Estates Phase 1 according to the Plat.



1.17 Dwelling Unit. Dwelling Unit shall mean a single-family dwelling, with or without walls or roofs in common with other single-family dwelling units. The Dwelling Unit includes fee title to the real property lying directly beneath the single-family dwelling, and, subject to Sections 1.24, 1.25, and 2.14 below, such other land as shown as private property within Lot boundary lines on the Plat.

1.18 Fiscal Year. Fiscal Year shall mean the fiscal accounting and reporting period of the Association selected by the Board from time to time.

1.19 Founder. Founder shall mean Sunview Development, LLC a Utah limited liability company, its successors and any Person to which it shall have assigned any rights hereunder, except that a party acquiring all or substantially all of the right, title and interest of Sunview Estates Phase 1 in the Properties by foreclosure, judicial sale, bankruptcy proceedings, or by other similar involuntary transfer, shall automatically be deemed a successor and assign of Sunview Development, LLC as Founder under this Charter.

1.20 Government Assessments. Government Assessments shall mean assessments required by local governmental authorities having jurisdiction over the Properties.

1.21 Holidays. Holidays shall mean Christmas, Thanksgiving and New Year's Day, and such other holidays as the Board may designate from time to time.

1.22 Improvement. Improvement shall mean any structure or appurtenance thereto of every type and kind, including but not limited to Dwelling Units and other buildings, walkways, sprinkler pipes, or areas, garages, roads, driveways, parking areas, fences, screening walls, block walls, retaining walls, stairs, decks, landscaping, ponds, antennae, hedges, wind-breaks, patio covers, railings, plantings, planted trees and shrubs, poles, signs, storage areas, exterior air conditioning and water-softening fixtures or equipment.

1.23 Limited Common Area. Limited Common Area means that portion of the property owned by the Association shown on the Plat as dedicated to the exclusive use and enjoyment of the Owner of the Lot to which such Limited Common Area is adjacent and/or appurtenant and as further provided for in Section 2.14.

1.24 Lot. Each Lot is owned in fee simple by the Owner. However, area within the surveyed Lot boundaries but outside the Dwelling Unit walls shall be treated as Limited Common Area for use purposes, and as exterior area for maintenance purposes. To the extent the Lot boundaries are larger than the Dwelling Unit, the purpose of laying out a Lot larger than the Dwelling Unit is to allow flexibility in the original construction. After the initial construction on a Lot, subsequent construction, if any, may occupy any portion of the surveyed Lot, subject to all other provisions of this Charter. An Owner may construct appurtenant structures and personal landscaping outside the boundaries of the Dwelling Unit and within the rear area of the surveyed boundaries of the Lot or the Limited Common Area.

1.25 Manager. Manager shall mean the Person appointed by the Association, if any, hereunder as its agent and delegated certain duties, powers or functions of the Association as further provided in this Charter and in the Bylaws.

1.26 Member, Membership. Member shall mean any Person holding a membership in the Association, as provided in this Charter. Membership shall mean the property, voting and other rights and privileges of Members as provided herein, together with the correlative duties and obligations contained in this Charter and the Articles, Bylaws, ACC Restrictions and Rules, and Rules and Regulations.

1.27 Mortgage, Mortgagee, Mortgagor. Mortgage shall mean any Recorded first mortgage or first deed of trust. The term "Deed of Trust" or "Trust Deed" when used herein shall be synonymous with the term "Mortgage." The term Mortgagee shall mean a person or entity to whom a Mortgage is made and shall include the beneficiary of a Deed of Trust. Mortgagor shall mean a Person who mortgages his, her, or its Lot to another (i.e., the maker of a Mortgage), and shall include the Trustor of a Deed of Trust. The term "Trustor" shall be synonymous with the term "Mortgagor," and the term "Beneficiary" shall be synonymous with the term "Mortgagee."

1.28 Notice of Board Adjudication. Notice of Board Adjudication shall mean notice of the decision of the Board, delivered in person or in writing by mail or personal service, of its decision rendered at a hearing held pursuant to a Notice of Noncompliance by the Board and Right to Hearing.

1.29 Notice of Members Meeting. Notice of meetings of the Members required or provided for in this Charter shall be in writing, shall satisfy the notice requirements set forth in the Bylaws, and may be delivered either personally or by first class or registered mail. Notice of Members Meetings shall be delivered at least ten (10) days but not more than thirty (30) days prior to the date of the meeting of the Members. Notwithstanding the foregoing, notice given by other means shall be deemed fair and reasonable if given in accordance with the Utah Revised Nonprofit Corporation Act.

1.30 Notice of Noncompliance. Notice of Noncompliance by the Board and Right to Hearing Notice of Noncompliance shall mean a notice from the board to an Owner specifying in reasonable detail the nature of such Owner's noncompliance with the ACC Restrictions and Rules and this Declaration. Notice of Noncompliance by the Board and Right to Hearing shall mean a notice from the Board directed to an Owner specifying in reasonable detail the nature of such Owner's noncompliance with any provisions of this Charter and the opportunity for the Owner to have a hearing before the Board as provided for in the Bylaws.

1.31 Owner. Owner shall mean the Person or Persons, including Founder, who is the owner of record (in the office of the County Recorder of Iron County, Utah) of a fee simple or an undivided fee simple interest in a Lot. Notwithstanding any applicable theory relating to a Mortgage, the term Owner shall not mean or include a Mortgagee unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

1.32 Person. Person shall mean a natural individual or any other entity with the legal right to hold title to real property.

1.33 Phase I. Phase I shall mean all of the real property described in the Plat for "SUNVIEW ESTATES PHASE I."

1.34 Phase of Development. Phase of Development shall mean (a) Phase I, and (b) all the real property covered by a Supplemental Charter recorded pursuant to Article XV of this Charter.

1.35 Plans. Plans shall mean such plans and specifications as may be required by this Charter and by ACC Restrictions and Rules.

1.36 Plat. Plat shall mean "SUNVIEW ESTATES-- PHASE I", a planned unit development Plat, executed and acknowledged by Founder, prepared and certified by Rosenberg Associates, recorded in the records of the Iron County Recorder, as the same has been modified, amended, supplemented or expanded in accordance with the provisions of Article XV concerning amendments or supplements to this Charter in conjunction with annexations to the Properties as herein provided.

1.37 Properties. Properties shall mean (a) Phase I, and (b) each Phase of Development described in a Supplemental Charter and annexed to the Properties.

1.38 Record, Recorded, Filed or Recordation. Record, Recorded, Filed or Recordation shall mean, with respect to any document, the recordation of such document in the office of the County Recorder of Iron County, Utah.

1.39 Rules and Regulations. Rules and Regulations shall mean rules and regulations as may be adopted and promulgated by the Board pursuant to the Bylaws and this Charter, as the Board deems necessary or desirable (i) to aid it in administering the affairs of the Association, (ii) to insure that the Properties are maintained and used in a manner consistent with the interests of the Owners, (iii) to regulate the use of the Common Areas and to regulate the personal conduct of the Members and their guests thereon, and (iv) to establish penalties for the infractions thereof, as such rules and regulations may be amended from time to time.

1.40 Recreational Vehicles. Recreational Vehicles shall mean all watercraft, travel trailers, campers, camper shells, tent trailers, motorhomes, snowmobiles, all-terrain-vehicles, off road motorcycles, and off-highway-vehicles (ATVs and OHVs, respectively), dune buggies, or devices similar to any of the foregoing and trailers that carry any of the foregoing.

1.41 Special Assessments. Special Assessments shall mean a charge against each Owner and his Lot, representing a portion of the costs to the Association of defraying any extraordinary expenses incurred or special projects approved as set forth in Article VI.

1.42 Streets. Streets shall mean private streets and thoroughfares on the Properties.

1.43 Supplemental Charter. Supplemental Charter shall mean any supplemental Charter of covenants, conditions and restrictions and reservation of easements, or similar instrument, which extends the provisions of this Charter to all or any duly annexed portions of the Annexable Territory and may contain such complementary or amended provisions for such additional land as are herein authorized by this Charter.

1.44 Trust Deed for Assessments. Trust Deed for Assessments shall mean the deed of trust created by this Charter in Article VII to further secure the Owner's obligation to pay

Charter

Sunview Homeowners Association

Page 6 of 44

Assessments and to provide the Association with the power of non-judicial trust deed foreclosure provided for in Utah Code Ann. § 57-1-19, et seq., as amended from time to time.

1.45 Vehicle. Vehicle shall mean any and all equipment or device (mobile or immobile, operable or inoperable) of any type, designed to transport persons, objects -- or are designed to be transported on wheels, skids, skis or tracks--, including, without limitation, dump trucks, cement mixer trucks, gas trucks, delivery trucks, buses, aircraft, trailers, Recreational Vehicles, minivans, cars, pickup trucks, motorcycles, other devices or equipment similar to any of the foregoing, whether or not used for daily transportation.

#### **ARTICLE IA** **DESCRIPTION OF PROPERTY**

The real property which is associated with the Development and which has been and shall hereafter continue to be held, transferred, sold, conveyed and occupied subject to the provisions of this Charter consists of all the property described in Exhibit A hereto and the Annexable Territory; TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the described parcel of real property.

ALL OF THE FOREGOING IS SUBJECT TO: All liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all patent reservations and exclusions; any mineral reservations of record and rights incident thereto; all instruments of record which effect the above-described land or any portion thereof, including without limitation, any Mortgage; all visible easements and rights-of-way; all easements and rights-of-way of record; any easements, rights-of-way, encroachments, or discrepancies otherwise existing; an easement for each and every pipe, line, cable, wire, utility line, or similar facility which traverses or partially occupies the above-described land at such time as construction of all Development improvements is complete; and all easements necessary for ingress to, egress from, maintenance of, and replacement of all such pipes, line, cables, wires, utility lines, and similar facilities.

RESERVING UNTO FOUNDER, however, such easements and rights of ingress and egress over, across, through, and under the Properties and Annexable Territory, and any Improvements now or hereafter constructed thereon, as may be reasonably necessary for Founder (in a manner which is reasonable and consistent with the provisions of this Charter):

(a) To construct and complete the Improvements as Founder deems to be appropriate, and to do all things reasonably necessary or proper in connection therewith;

(b) To construct and complete, in additional Phases of Development, on the Annexable Territory or any portion thereof, such Improvements as Founder shall determine to build in its sole discretion;

(c) To improve portions of the Properties with such other or additional Improvements, facilities, or landscaping designed for the use and enjoyment of all the Owners or Founder or as such assignee or successor may reasonably determine to be appropriate; and

(d) To develop, construct and improve lands adjacent to the Properties or the Annexable Territory.

If, pursuant to the foregoing reservations, the Properties, the Annexable Territory, or any Improvement thereon, is traversed or partially occupied by a permanent Improvement or utility line, a perpetual easement for such Improvement or utility line shall exist. Such easement shall be in favor of such utility as is providing the service. All sewer, water, telephone and electric lines shall be owned by the respective utilities serving the Properties.

## **ARTICLE II**

### **OWNERS' PROPERTY RIGHTS**

2.1 Owners' Easements of Enjoyment. Each Owner shall have a right and easement of use and enjoyment including, but not limited to, the right of ingress and egress to and from his Lot and in and to the Common Area. Such right and easement shall be appurtenant to and shall pass with title to each such Lot and in no event shall be separated therefrom. Any Owner may grant the use and enjoyment described herein to any tenant, lessee, guest, or family member, and to a contract purchaser who resides on such Lot. All such rights are subject to this Charter.

2.2 Form For Conveyancing. Any deed, lease, mortgage, deed of trust, or other instrument conveying or encumbering title to a Lot shall describe the interest or estate involved substantially as follows:

All of Lot \_\_\_\_\_ of Sunview Estates, Phase \_\_\_\_, a planned unit development, according to the official Plat thereof, subject to the Charter of Declarations, Conditions, Covenants and Restrictions and Reservation of Easements, on file in the office of the Iron County Recorder.

Whether or not the description employed in any such instrument is in the above-specified form, however, all provisions of this Charter shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Lot.

2.3 Transfer of Title to Common Area. Founder represents that it will, on or prior to the first conveyance of a Lot in any Phase, convey to the Association title to all Common Area contained in that Phase, and Founder further agrees that it will discharge all liens and encumbrances on said Common Area on or before the sale and close of escrow of the last Lot in such Phase.

2.4 Limitations on Common Area Easement. An Owner's right and easement of use and enjoyment concerning the Common Area shall be subject to the following:

(a) Subject to the provisions of Article XIII of this Charter, the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association. Any such dedication or transfer must, however, upon Notice of Members Meeting be assented to by (i) two-thirds (2/3) of the vote of each class of Membership which Members present in person or by proxy or represented by ballot are entitled to cast at a meeting duly called for the purpose, (ii) the local municipal authority, and (iii) so long as Class B voting exists, the Founder. The quorum requirement for such meeting shall be as set forth in the Bylaws.

(b) The right of the Association, to be exercised by the Board, to establish uniform Rules and Regulations as set forth in Section 14.9;

(c) The right of Founder and its sales agents, representatives and prospective purchasers, to the nonexclusive use of the Common Area and any facilities thereon, without cost, to full access, ingress, egress, use and enjoyment, in order to show and dispose of the Properties and the Annexable Territory as provided herein, until the last Close of Escrow for the sale of a Lot in the Properties and the Annexable Territory; provided, however, that such use shall not unreasonably interfere with the rights of enjoyment of the other Owners as provided herein;

(d) The rights and reservations of Founder as set forth in Article IA of this Charter;

(e) The right of the Association, to be exercised by the Board, to reconstruct, replace or refinish any Improvement or portion thereof upon the Common Area in accordance with the original design, finish or standard of construction of such Improvement;

(f) The right of the Association to replace destroyed trees or other vegetation and plant trees, shrubs and ground cover upon any portion of the Common Area;

(g) The right of the Association, to be exercised by the Board, to reasonably restrict access to portions of the Common Area and to limit the number of guests and invitees of members using the Common Area;

(h) The easements shown on the Plat and those reserved or implied in this Charter, including without limitation, the easements set forth in Sections 2.6, 2.7, 2.8, 2.9, 2.10, 2.11.

(i) The right of the Board to suspend a Member's voting rights as provided for in the Bylaws and the right to suspend a Member's right to the Common Areas and Facilities during any

period of violation of any provision of this Charter, or the ACC Restrictions and Rules, or any Rule or Regulation of the Association;

(j) The right of the Association to enter into cross-use agreements, agreements or leases which provide for use of the Common Areas and Facilities by a similar Association in consideration for use of the Common Areas and Facilities of the other Association, or for cash consideration; and

(k) The right of the Association, to be exercised by the Board, to take such steps as are reasonably necessary or desirable to protect the Common Area against foreclosure.

2.5 Parking Restrictions. In addition to the parking restrictions provided for in Section 10.6 (a), the Association, through its Board, is hereby empowered to establish "parking," "guest parking" and "no parking" areas within the portions of the Common Area improved as Streets, driveways, turnarounds or community parking areas. The Association, through its Board, is also empowered to include in the Rules and Regulations, the ability to enforce the parking restrictions imposed pursuant to this Section 2.5 and those set forth in Section 10.6(a) by all means lawful for such enforcement, including the removal of any violating Vehicles at the expense of the owner of the Vehicle and imposing fines.

2.6 Easements for Public Service Use. In addition to the foregoing easements over the Common Area, there shall be and Founder hereby reserves and covenants for itself and all future owners within the Properties, easements for public services of the City of St. George in which the Properties are located, including but not limited to, the right of the police and fire departments to enter upon any part of the Common Area for the purpose of carrying out their official duties.

2.7 Easements for Water and Utility Purposes. In addition to the foregoing easements over the Common Area, there shall be and Founder hereby reserves and covenants for itself and all future Owners within the Properties, easements for public and private utility purposes, including but not limited to, the right of any public utility of ingress or egress over the Common Area for purposes of reading and maintaining meters, and using and maintaining fire hydrants located on the Common Area. The Lots shall also be subject to such public utility easements as shown on the Plat and as required by the City of St. George.

2.8 Easement for Encroachments. If any portion of a Dwelling Unit or other Improvement constructed by Founder, or if any portion of a Dwelling Unit or other Improvement reconstructed so as to substantially duplicate the Dwelling Unit or other Improvement originally constructed by Founder, encroaches upon the Common Areas, Limited Common Areas, or other Lots, as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the Properties, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists.

2.9 Founder Easement; Indemnification. For so long as (i) Founder owns any Lot in the Properties or (ii) Founder has the right to annex all or any portion of the Annexable Territory

to the Properties, Founder hereby expressly reserves for its benefit, for the benefit of its agents, employees and contractors, and for the benefit of its successors and assigns, a nonexclusive easement appurtenant to the Annexable Territory, in, to, and over the Common Area for access, ingress, egress, use and enjoyment, in order to show the Properties or Annexable Territory to its prospective purchasers, or to develop, market, sell, lease or otherwise dispose of the Properties or the Annexable Territory.

2.10 Cross-Use Easement. Founder reserves the right to grant a cross-use easement for ingress and egress permitting members of adjoining developments the right of ingress and egress over the private Streets in the Development.

2.11 Association Easement. The Association shall have an easement to be exercised during daylight hours, except in the case of an emergency as determined in the sole discretion, of the Board, to enter upon the Limited Common Areas and Lots for the purpose of carrying out and performing the functions of the Association as set forth in this Charter, the Bylaws, ACC Restrictions and Rules, or any Rule or Regulation of the Association.

2.12 Waiver of Use. No owner may exempt himself from personal liability for assessments duly levied by the Association nor release the Lot or other property owned by him from the liens and charges hereof, by waiver of the use and enjoyment of the Common Area or any Improvements thereon or by abandonment of his Lot or any other property in the Properties.

2.13 Taxes. Each Owner shall execute such instruments and take such action as may reasonably be specified by the Board to obtain separate real estate tax assessment of each Lot. If any taxes or assessments may, in the opinion of the Board, become a lien on the Common Area, or any part thereof, they may be paid by the Association as a Common Expense, and the Association may levy against the Lot as a Corrective Assessment any amounts paid by the Association to rectify the problem.

2.14 Lot/Limited Common Area. Each Lot is owned in fee simple by the Owner. However, area within the surveyed Lot boundaries but beyond the Dwelling Unit walls shall be treated as Limited Common Area for use purposes and as exterior area for maintenance purposes. The purpose of laying out a Lot larger than the Dwelling Unit is to allow flexibility in the original construction. After the initial construction on a Lot, subsequent construction, if any, may occupy any portion of the surveyed Lot and all other provisions of this Charter. An Owner may construct appurtenant structures and personal landscaping outside the boundaries of the Dwelling Unit and within the rear area of the surveyed boundaries of the Lot or the Limited Common Area, subject to written approval in advance by the Board. The Board may adopt Rules and Regulations concerning the use of the Limited Common Areas.

2.15 Community-Wide Standard. Owners recognize that the Community-Wide Standard is for the benefit of the Properties and that it contains both objective and subjective standards, appearances, and other factors which may evolve over time. Owners further agree to abide by the Community-Wide Standard prevailing at the Properties at any given time.

2.16 Zoning of Adjacent Property. Each Owner, in perpetuity, by acceptance of a deed to a Lot waives and forfeits any right to object to, protest or support any protest or contest to the zoning or re-zoning – for higher density residential, service business, recreational, commercial or



such purposes (other than industrial) as are permitted by the City of Enoch – of property as described in the map attach hereto and incorporated herein as Exhibit C.

2.17 Display of the Flag. The Association may not prohibit an Owner from displaying the United States flag inside a dwelling or on the Owner's Lot or Limited Common Area appurtenant to the Owner's Lot if the display complies with United States Code, Title 4, Chapter 1. The Association may, by rule of the Board, restrict the display of a United States flag on the Common Area.

**ARTICLE III**  
**SUNVIEW HOMEOWNERS ASSOCIATION**

3.1 Organization of Association. Founder has caused or will cause the Association to be organized and the Articles filed with the State of Utah, Department of Commerce, Division of Corporations and Commercial Code.

3.2 Parties and Powers. The Association shall have such duties and powers as set forth in the Articles, Bylaws, and this Charter as such documents are amended from time to time.

3.3 Membership. Every Owner shall be a Member of the Association. Membership in the Association shall be mandatory and shall be appurtenant to the Owner's Lot.

3.4 Transfer. Membership in the Association is nontransferable and shall not be separated from the Lot to which it appertains.

3.5 Non-Liability for Tort. The Association shall not be liable, in any civil action brought by or on behalf of a Member, for bodily injury occurring to a Member, or a Member's guests, invitees, licensees or trespassers, on the Association's Common Area or Limited Common Area. This immunity from liability shall not be effective if the Association causes bodily injury to the Member on the Common Area or Limited Common Area by its willful, wanton, or grossly negligent act of commission or omission.

3.6 Board Acts for Association. Except as limited in the Declaration or the Association Bylaws, the Board acts in all instances on behalf of the Association.

**ARTICLE IV**  
**VOTING RIGHTS**

4.1 Vote Distribution. The Association shall have the following two classes of voting membership:

(a) Class A. Class A Members shall be all the Owners. Class A Members shall be entitled to one vote for each Lot which he or it owns. In no event, however, shall more than one Class A vote exist with respect to any Lot.

(b) Class B. The Class B member is the Founder. The Class B member is entitled to three (3) votes for each Lot owned. The Class B membership will cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (i) upon conveyance of ninety percent (90%) of the Lots subject to this Charter or annexation to this Charter to purchasers; or
- (ii) the expiration of seven (7) years from the first Lot conveyance to a purchaser.

4.2 Multiple Ownership. In the event there is more than one Owner of a particular 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 an objection is made, the vote involved shall not be counted for any purpose whatsoever, other than to determine whether a quorum exists.

4.3 Expansion of Terms. As the Development is expanded through Supplemental Charters, the terms of this Article shall be expanded and extended to such additional lands. Specifically including, without limitation, the extension of Class B voting rights to the additional lands.

## **ARTICLE V** **JURISDICTION OF ASSOCIATION**

The Association has been organized to provide for the operation, maintenance, preservation and architectural control of the Properties and Improvements and to administer the Common Areas of the Association. The Association shall have jurisdiction and authority over the Properties and the Members of the Association to the full extent allowed by law and also as provided for in this Charter and in the Articles, Bylaws, Community-Wide Standard, ACC Restrictions and Rules, and Rules and Regulations, as such documents may be modified from time to time. The Association may also maintain public areas within the Properties.

## **ARTICLE VI** **COVENANT FOR ASSESSMENTS**

6.1 Creation of Assessment Obligation. Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (1) Annual Assessments for Common Expenses, (2) Special Assessments, (3) Corrective Assessments, (4) Benefitted Assessments, (5) Government Assessments, (6) Athletic Club monthly membership fees, (7) Reinvestment Fee Assessments, and (8) any other amount or assessment levied by the Board pursuant to this Charter; all such assessments to be established and collected as provided in this Charter. The Association shall not levy or collect any Annual Assessment, Special Assessment, Corrective Assessment, Benefitted Assessment, or Government Assessment that exceeds the amount necessary for the purpose or purposes for which it is levied. All such assessments, together with interest, costs and reasonable attorneys' fees for the collection thereof, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, if applicable, shall also be and remain the personal obligation of the Person who was the Owner of such property at the time when the assessment fell due. This personal obligation cannot be avoided by abandonment of a Lot or by an offer to waive use of the Common Area. The personal obligation for delinquent assessments liability shall not pass to any new Owner ("Purchaser") successors in title unless expressly assumed by such Purchaser.

So long as the Founder has an option unilaterally to subject additional property to this Charter, the following shall apply: the Founder, builder, contractor, investor, or other person or

entity who purchases a Lot for the purpose of constructing improvements thereon for resale to an Owner, shall pay no assessment unless a Dwelling Unit constructed on a Lot is occupied for a residence on a permanent or part-time basis, provided that the Founder or its assigns shall have the obligation to subsidize the Association until control of the Association passes to the Owners. Subsidization shall be defined as the payment of the reasonable cash needs of the Association for ordinary and necessary maintenance expenses and a reasonable contribution to reserves. In no event, however, shall the subsidy exceed the monthly assessments. This obligation may be satisfied in the form of a cash subsidy or by "in kind" contributions of services or materials, or a combination of these.

6.2 Purpose of Annual and Special Assessments. The Annual and Special Assessments levied by the Association shall be used exclusively to promote the common health, safety, benefit and welfare of the Owners and for the improvement and maintenance of the Common Area, including establishing and funding a reserve to cover major repair or replacement of Improvements within the common Area and any expense necessary or desirable to enable the Association to perform or fulfill its obligations, functions, or purposes under this Charter or its Articles.

6.3 Annual Assessments. Annual Assessments shall be used to satisfy Common Expenses of the Association, as provided herein and in the Bylaws. The initial Annual Assessment shall be Twenty Dollars (\$20.00) payable in twelve (12) equal monthly installments due on the first day of each month. The Annual Assessment shall be based upon the Budget prepared by the Board. The Board shall authorize and levy the amount of the Annual Assessment upon each Lot, as provided herein, by a majority vote of the Board. The Common Expenses of the Association, and therefore the Annual Assessment, may increase because of, among other reasons, Common Facilities constructed in the sole discretion of Founder. Nothing herein shall obligate Founder to construct any Common Facilities.

6.4 Special Assessments. In addition to the Annual Assessment, a Special Assessment can be assessed to pay the costs of any one or more of the following:

(a) Approved by Board. Special Assessments for the following extraordinary expenses can be levied by the Board without Member approval:

- (i) An extraordinary expense required by an order of a court;
- (ii) An extraordinary expense necessary to repair or maintain the Common Area or any portion thereof for which the Association is responsible where a threat to personal safety on the Common Area is discovered. Prior to the imposition or collection of a Special Assessment pursuant to this subsection, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was necessary and was not or could not have been reasonably foreseen in the budgeting process. The resolution shall be distributed to the Members with the notice of Assessment;
- (iii) Taxes payable to Iron County as described in Section 7.2 of this Charter; and
- (iv) To protect the Common Areas against foreclosure; and

(v) To cover other short falls, or other needs approved by the Board as being reasonably necessary to the protection or preservation of the Properties, provided that any such assessment levied under this subparagraph (iv) does not exceed fifty percent (50%) of the current Annual Assessment.

(b) Approved by Association. Special assessments which must be assented to by more than fifty percent (50%) of all votes which Members represented in person, by proxy, or by ballot are entitled to cast at a meeting duly called and held for such purpose pursuant to the Bylaws involve:

(i) the replacement or improvement of the Common Area or Improvement thereon; and

(ii) an extraordinary expense necessary to repair or maintain the Common Area or any portion thereof for which the Association is responsible.

6.5 Corrective Assessments. In addition to the Annual Assessment and any Special Assessments, the Association may levy Corrective Assessments against a particular Owner and his Lot to pay the following: costs directly attributable to, or reimbursable by, that Owner, equal to the costs incurred by the Association for corrective action, performed pursuant to the provisions of this Charter, including, without limitation, Sections 2.12, 8.7, 9.1, and Article XI, plus interest, an administration fee of fifteen percent (15%) of the total cost of the corrective action, and other charges on such Corrective Assessments.

The Board shall deliver a Notice of Noncompliance and Right to Hearing to the Owner upon whom it intends to levy a Corrective Assessment. Corrective Assessments shall be due and payable within forty-five (45) days following delivery of Notice of Board Adjudication and shall bear interest thereafter at the rate of eighteen percent (18%) per annum until paid in full.

6.6 Benefitted Assessments. The Board may levy Benefitted Assessments against particular Lots for expenses incurred or to be incurred by the Association to cover the costs, including overhead and administrative costs, of providing benefits, items, or services to the Lot or occupants thereof upon request of the Owner pursuant to a menu of special services which the Board may from time to time authorize (which might include, without limitation, landscape maintenance, caretaker services, etc.), which assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Owner.

6.7 Government Assessments. In addition to the annual assessments, special assessments, and corrective assessments, the Association shall levy such additional assessments as may be necessary from time to time for the purpose of repairing and restoring the damage or disruption resulting to streets or other Common or Limited Common Areas from the activities of the City of St. George in maintaining, repairing or replacing the City's utility lines and facilities thereon. It is acknowledged that the ownership of said utility lines, underground or otherwise, is in the City up to and including the meters for individual units, and that they are installed and shall be maintained to City specifications.

6.8 Reinvestment Fee Assessments. In addition to all other assessments and upon the conveyance of a Lot there shall be one Reinvestment Fee charged to the buyer or seller, as the buyer and seller may determine, comprised of one or more of the following charges:

- (a) An assessment determined pursuant to resolution of the Board and charged for:
  - (i) Common planning, facilities, and infrastructure,
  - (ii) Obligations arising from an environmental covenant,
  - (iii) Community programming,
  - (iv) recreational facilities and amenities,
  - (v) the following association expenses
    - (A) the administration of the common interest association;
    - (B) the purchase, ownership, leasing, construction, operation, use, administration, maintenance, improvement, repair, or replacement of association facilities, including expenses for taxes, insurance, operating reserves, capital reserves, and emergency funds;
    - (C) providing, establishing, creating, or managing a facility, activity, service, or program for the benefit of property owners, tenants, common areas, the burdened property, or property governed by the common interest association; or
    - (D) other facilities, activities, services, or programs that are required or permitted under the common interest association's organizational documents; and
    - (E) Expenses reasonably charged to the Owners Association by the Association's Manager for the administration of the conveyance.

(b) No reinvestment assessment shall exceed 0.5% of the fair market value of the Lot, plus all improvements. When the seller is a financial institution, the reinvestment assessment shall be limited to the costs directly related to the transfer, not to exceed \$250.00. The Association may assign the charges in 6.8 (b) directly to the Association's manager.

6.9 Uniform Rate of Assessment. Annual Assessments and Special Assessments imposed pursuant to subsections 6.2, 6.3, and 6.4(a) and (b) of this Charter shall be assessed equally and uniformly against all Owners and their Lots.

6.10 Date of Commencement of Annual Assessments. Annual Assessments shall commence on all Lots on the first day of the first calendar month following the first Close of Escrow for the sale of a Lot in the Properties. The first Annual Assessment shall be adjusted according to the number of months remaining in the Fiscal Year as set forth in the Bylaws. Written notice of any change in the amount of any Annual Assessment shall be sent to every owner subject thereto, not less than thirty (30) days prior to the effective date of such change. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer or agent of the Association, setting forth whether the assessments on a specified Lot have been paid. A

Charter

Sunview Homeowners Association

Page 17 of 44

properly executed certificate of the Association as to the status of assessments against a Lot is binding upon the Association as of the date of its issuance.

6.11 Exempt Property. The following property subject to this Charter shall be exempt from the assessments herein:

- (a) All portions of the Properties dedicated to and accepted by a local public authority; and
- (b) The Common Area owned by the Association in fee.

6.12 Notice of Members Meetings; Quorum Requirements. Before any Special Assessment is levied, the Board shall deliver a Notice of Members Meeting. The quorum required for any action authorized by Section 6.4(b) shall be as follows: at the first meeting called, the presence of Members or of proxies entitled to cast fifty percent (50%) of all outstanding votes shall constitute a quorum. If a quorum is not present at any meeting another meeting may be called by the Board issuing a Notice of Members Meeting at which a quorum shall be one-half of the quorum which was required at such preceding meeting. The process of calling subsequent meetings may continue until a quorum is reached and the quorum requirement will continue to be reduced as provided for above at each subsequent meeting. No such subsequent meeting shall be held more than forty-five (45) days following such preceding meeting at which a quorum was not present.

6.13 Preparation of Budget. At least annually the Board shall prepare and adopt a budget for the Association and the Board shall present the budget at a meeting of the members. A budget presented by the Board is only disapproved if member action to disapprove the budget is taken in accordance with the limitations under Section 215 of the Act.

6.14 Reserve Fund. The Board shall, on behalf of the Association, cause to be funded through Annual Assessments or other periodic assessments an adequate reserve to cover the cost of reasonably predictable and necessary major repairs and replacement to the Common Areas. The Board shall cause a reserve analysis to be conducted no less frequently than every six (6) years and shall review and, if necessary, update a previously prepared reserve analysis every three (3) years. The Board may conduct the reserve analysis by itself or may engage a reliable person or organization to conduct the reserve analysis. The Board shall annually provide Owners a summary of the most recent reserve analysis or update and provide a complete copy of the reserve analysis or update to an Owner upon request. In formulating the budget each year, the Board shall include a reserve line item in an amount required by the governing documents, or, if the governing documents do not provide for an amount, the Board shall include an amount it determines, based on the reserve analysis, to be prudent.

6.15 Initial Capital Contribution. Each initial Owner of a Lot shall make an initial contribution of Two Hundred Dollars (\$200.00), which will be collected by the Founder from the purchaser of a Dwelling Unit and transferred to the Association by the Founder at the time of the sale. Such amounts paid shall not be deemed to be advance payments of the Annual Assessment, but shall be in addition thereto. The Board may apply such funds to cover any deficit in operating expenses or to the reserves.

## ARTICLE VII

### Charter

Sunview Homeowners Association

Page 18 of 44

## NONPAYMENT OF ASSESSMENTS; REMEDIES

7.1 Nonpayment of Assessments; Remedies. Pursuant to Utah Code Ann. §§ 57-8a-301, *et seq.*, any assessment installment payment not paid when due shall, together with the hereinafter provided for interest and costs of collection, be, constitute, and remain a continuing lien on the Lot provided, however, that any such lien will be subordinate to the lien or equivalent security interest of any Mortgage on the Lot recorded prior to the date any such installment payment on assessments become due. If any installment payment on the assessment is not paid within thirty (30) days after the date on which it becomes due, the amount thereof shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum plus a late payment service charge of Ten Dollars (\$10.00) if the assessment is not paid within ten (10) days of when it is due, or such larger amount as set by the Board, provided the charge does not exceed twenty-five percent (25%) of the amount of the installment payment, and the Association may, in its discretion, bring an action either against the Owner or to foreclose the lien against the Lot judicially or non-judicially. Any judgment obtained by the Association and any foreclosure commenced shall include reasonable attorney fees, court costs, and each and every other expense incurred by the Association in enforcing its rights. If a monthly installment payment is not timely made, the Board may declare the entire Annual Assessment in default and accelerate the Annual Assessment and declare the entire amount of the Annual Assessment immediately due and owing.

7.2 Iron County Tax Collection. It is recognized that under the Charter the Association will own the Common Area and that it will be obligated to pay property taxes to Iron County. It is further recognized that each Owner of a Lot is a Member of the Association and as part of his assessment will be required to pay to the Association his pro rata share of such taxes. Notwithstanding anything to the contrary contained in this Charter, or otherwise, Iron County shall be, and is, authorized to collect such pro rata share (on an equal basis) of taxes directly from each Owner by inclusion of said share with the tax levied on each Lot. To the extent allowable, Iron County is hereby directed to do so. In the event that the assessor shall separately assess Common Areas to the Association, the Board may impose, in its discretion a Special Assessment to pay such taxes, or they may be incorporated into the Annual Assessment.

7.3 Lien. The Board may elect to file a claim of lien against the Lot of the delinquent Owner by Recording a notice ("Notice of Lien") setting forth (a) the amount of the claim or delinquency, (b) the interest and costs of collections which have accrued thereon, (c) the legal description of the Lot against which the lien is claimed, and (d) the name of the Owner thereof. Such Notice of Lien shall be signed and acknowledged by an officer of the Association or duly authorized agent of the Association. The lien shall continue until the amounts secured thereby and all subsequently accruing amounts are fully paid or otherwise satisfied. When all amounts claimed under the Notice of Lien and all other costs and assessments which may have accrued subsequent to the Notice of Lien have been fully paid or satisfied, the Association shall execute and Record a notice releasing the lien upon payment by the Owner of a reasonable fee as fixed by the Board to cover the cost of preparing and recording the release of lien. Unless paid or otherwise satisfied, the lien may be foreclosed in a like manner as a mortgage or any other manner provided by law, including without limitation, a deed of trust as set forth in this Charter.

7.4 Trust Deed for Assessments. By acceptance of a deed for a Lot, each Owner as Trustor conveys and warrants to Trustee in trust for the Association as Beneficiary, with power of sale, the Owner's Lot and appurtenant Limited Common Area, and all Improvements thereon for

Charter

Sunview Homeowners Association

Page 19 of 44



the purpose of securing payment of all assessments (including basis of collection) provided for in this Charter. For purposes of this Section and Utah Code Ann. §§ 57-1-19, *et seq.*, as amended from time to time. The Association and each Lot Owner hereby conveys and warrants pursuant to Sections 212 and 302 of the Act, and Utah Code §57-1-20, to attorney Barry Clarkson, or any other attorney that the Association engages to act on its behalf to substitute for Barry Clarkson, with power of sale, the Lot and all improvements to the Lot for the purpose of securing payment of assessments under the terms of the Declaration. The Trustee shall mean the attorney for the Association and the Association may provide notice and disclosure of the Trustee by recording an "Appointment of Trustee" on the records of the Iron County Recorder.

7.5 Perfection of Lien and Priority. Upon the recording of Notice of Lien by the Manager or Board, such lien constitutes a lien on the Lot Owner's interest in the property prior to all other liens and encumbrances, recorded or unrecorded, except:

- (a) tax and special assessment liens on the Lot in favor of any assessing lot or special improvement district; and
- (b) encumbrances on the interest of the Lot Owner:
  - (i) recorded prior to the date of the recording of Notice of Lien; and
  - (ii) that by law would be a lien prior to subsequently recorded encumbrances.

The Manager or Board may enforce the assessment lien by sale or foreclosure of the Owner's interest. The Manager or Board may bid at a sale or foreclosure and hold, lease, mortgage, or convey the Lot that is subject to the assessment lien.

7.6 Discontinuance of Common Utility Service and Suspension of Common Facility Use. If the Owner fails or refuses to pay an assessment when due, the board may, after giving notice and an opportunity to be heard as provided for below, terminate an Owner's right:

- (a) to receive utility services paid as a common expense; and
- (b) of access and use of recreational facilities.

Before terminating utility services or right of access and use of recreational facilities, the Manager or Board shall give written notice to the Owner in the manner provided in the Bylaws. The notice shall inform the Owner (i) that utility service or right of access and use of recreational facilities will be terminated if payment of the assessment is not received within thirty (30) days, (ii) of the amount of the assessment due, including any interest or late payment fee, and (iii) of the right to request a hearing as provided for in this Section. An Owner who is given notice may request an informal hearing to dispute the assessment by submitting a written request to the Board within fourteen (14) days after the date on which the Owner receives the notice. The hearing shall be conducted by the Board in accordance with the standards provided in the Bylaws. If a hearing is requested, utility services or right of access and use of recreational facilities may not be terminated until after the hearing has been conducted and a final decision has been entered. Upon payment of the assessment due, including any interest or late payment fee, the Manager of Board shall immediately take action to reinstate the terminated utility services and right of access and use of recreational facilities.

As used in this section, "Delinquent Member" means a lot owner who fails to pay an assessment when due.

- (a) The Board of Directors may terminate a Delinquent Member's right:
  - (i) to receive a utility service for which the Member pays as a common expense; or
  - (ii) of access to and use of recreational facilities.
- (b) (i) Before terminating a utility service or right of access to and use of recreational facilities under Subsection (a) the Manager or Board of Directors shall give the Delinquent Member notice. Such notice shall state:
  - (A) that the Association will terminate the Member's utility service or right of access to and use of recreational facilities, or both, if the Association does not receive payment of the assessment within fourteen (14) calendar days;
  - (B) the amount of the assessment due, including any interest or late payment fee; and
  - (C) the Member's right to request a hearing.
  - (ii) A notice under Subsection 2(a) may include the estimated cost to reinstate a utility service if service is terminated.
- (c) (i) The Delinquent Member may submit a written request to the Board of Directors for an informal hearing to dispute the assessment.
  - (ii) A request under Subsection c(i) shall be submitted within fourteen (14) days after the date the Delinquent Member receives the notice under Subsection b(i).
- (d) The Board of Directors shall conduct an informal hearing requested under in accordance with the hearing procedures of the Association.
- (e) If the Delinquent Member requests a hearing, the Association may not terminate a utility service or right of access to and use of recreational facilities until after the Board of Directors:
  - (i) conducts the hearing; and
  - (ii) enters a final decision.
- (f) If the Association terminates a utility service or a right of access to and use of recreational facilities, the Association shall take immediate action to reinstate the service or right following the Member's payment of the assessment, including any interest and late payment fee.
- (g) The Association may:
  - (i) levy an assessment against the Delinquent Member for the cost associated with reinstating a utility service that the Association terminates as provided in this section; and
  - (ii) demand that the estimated cost to reinstate the utility service be paid before the service is reinstated, if the estimated cost is included in a notice under Subsection 2(b).

7.7 Tenant Payment. The Board may require a tenant under a lease with a Lot owner to pay the Association all future lease payments due to the Lot owner if the Lot owner fails to pay an assessment for a period of more than 60 days after the assessment is due and payable, beginning with the next monthly or periodic payment due from the tenant and until the