

**CONSTITUTION OF THE
SUMMIT PARK HOMEOWNERS ASSOCIATION**

PREAMBLE

The residents of Summit Park in general have chosen to enjoy the pleasures of mountain living. Periodically, problems arise that affect all residents and which can best be solved through community action. For this purpose a homeowners association has been founded to help organize efforts to meet problems as they occur and to limit as much as possible any one individual's commitment. The main objectives of the homeowners association ~~is~~ are to maintain the environmental character of our community and react to the desires of the community as a whole.

ARTICLE I

This organization shall be known as the Summit Park Homeowners Association.

ARTICLE II

The objective of this association shall be to protect, preserve, and improve private and public properties in Summit Park, Summit County, State of Utah for the beneficial use of residents ~~and~~ property owners.

Comment [LOM1]: Supports renters/lessors

ARTICLE III

SECTION I: Membership shall be open to any adult person or persons who own, rent or lease a home, or own an undeveloped lot, in Summit Park. ~~There shall be a limit of two members from each household.~~

~~SECTION II: Associate membership shall be open to any adult person or persons who own property in Summit Park or are interested in Summit Park. The association membership shall be a nonvoting membership.~~

SECTION II: Each lot or household shall have one membership vote; however, in the case of a home occupied as a rental, if the tenant household holds membership and the non-resident homeowner also holds membership, both the tenant and owner memberships may cast a vote. HOA membership must be in good standing (paid) to exercise voting rights.

Comment [LOM2]: Eliminate definition of separate non-voting membership for non-voting lot owners; Plats A & B membership is required based on ownership.

SECTION III: The association shall be a non-profit, non-political, non-racial, non-sectarian and non-social organization.

ARTICLE IV

SECTION I: The formal governing body of the association shall consist

of not less than ~~seven-five (75)~~ directors which are elected from homeowners association members in good standing.

Comment [LOM3]: Does not preclude more, but allows operation with smaller board during lean times.

SECTION II: The group, hereinafter known as the Board of Directors, shall meet immediately following the annual election and select from their board a President and Vice-President. The President shall appoint a Secretary-Treasurer or a Secretary and Treasurer.

SECTION III: The ~~ir~~ term of office shall be for three years ~~, except for the first election. At the first election, two members shall be elected to a one year term, two members shall be elected to a two year term, and three members shall be elected to a three year term~~.

SECTION IV: An elected member of the Board whose term is expiring ~~may run for re-election cannot succeed himself.~~

Comment [LOM4]: Need to allow people to run again if they are willing.

ARTICLE V

SECTION I: The President shall call a meeting of the Board of Directors monthly for the transaction of business. Minutes of every meeting, which will ~~also~~ include the voting record ~~of each director~~, shall be kept. This record shall be available for inspection by any member of the association.

SECTION II: The President shall call for a general membership meeting once during the calendar year. Fair and reasonable notice shall be provided as supported by Utah community association law and defined in the By-Laws.

SECTION III: The President shall call for nominations for directors to be placed on the ballot at least 60 days before the election at which the vacancies will be filled.

SECTION IV: The President shall place on the agenda of the annual general meeting the annual report. Elections will be conducted once a year to fill Board vacancies, occurring within the first 30 days of the year.

Comment [LOM5]: Clarifying what kind of vote, but not dictating the exact time of year.

SECTION V: Members of the Board of Directors are required to attend all regularly called meetings. Failure to attend two consecutive meetings without notification and just cause, may, at the discretion of the Board, result in suspension from office. A Director may attend a meeting electronically (e.g., via conference call, speakerphone, etc.) as long as equal provision is accorded to any association member who has requested Board meeting notice in writing, as supported by Utah community association law.

Comment [LOM6]: Allows tele- attendance if appropriate & supportable

SECTION VI: All Board of Directors meetings shall be open to all members of the association. The Board of Directors may close a portion of the meeting for discussion of sensitive matters as supported by Utah

Comment [LOM7]: HOA doesn't have employees or community real estate holdings so it's unlikely to need this, but should have this standard provision.

| community association law.

ARTICLE VI

SECTION I: This constitution may be amended by simple majority of members either present or voting by absentee ballot at any general meeting of the association provided that they have been notified thirty (30) days prior to said meeting at which constitutional changes will be considered.

SECTION II: The By-Laws may be adopted, amended or repealed at any regular Board meeting by a two-thirds vote of the Directors present.

SUMMIT PARK HOMEOWNERS ASSOCIATION BY-LAWS

ARTICLE I

SECTION I: The Membership dues of this association shall be \$~~2550~~.00 per year per household, or as submitted by the Board of Directors and approved at ~~the second quarterly a~~ general membership meeting.

~~SECTION II: The associate membership dues of the association shall be identical to the dues for resident members of the association.~~

~~SECTION III: The membership in the association shall be terminated after the dues have been delinquent for twelve months.~~

SECTION ~~IV~~II: SPECIAL MEETINGS: Special meetings of homeowners association, other than those regulated by statute, may be called at any time by the President, or a majority of the Directors, and must be called by the President upon written request of twenty percent of the homeowners membership. Written notification of such meeting stating the place, the date and hour of the meeting, the purpose or purposes for which it is called shall be given. The notice shall be given to each homeowner member of record in the same manner as notice of the annual general membership meeting. No business other than that specified in the notice of the meeting shall be transacted at any such special meeting.

ARTICLE II BOARD OF DIRECTORS

SECTION I, GENERAL POWERS: The business and affairs of the homeowners association shall be managed by its Board of Directors. The Board of Directors may determine the rules and regulations for the conduct of their meetings and the business affairs of the homeowners association as they deem proper.

SECTION II, MANNER OF ACTING: At all meetings of the Board of Directors, each director shall have one vote. The act of a majority present at a meeting shall decide the act of the Board of Directors, provided a quorum is present. In accordance with Utah community association law, Board action may only be taken at a properly noticed Board meeting, or via email if properly executed under the provisions of the Utah Revised Nonprofit Corporation Act including written consent by all Board members to take such action. Actions taken without a

Comment [LOM8]: Eliminating non-voting membership category.

Comment [LOM9]: Membership is mandatory for Plats A & B; can't terminate it for non-payment.

Comment [LOM10]: Details are here: <https://le.utah.gov/xcode/Title16/Chapter6A/16-6a-S813.html>
Basically, the action requires ALL board members to agree to the vote and to participate; it's not just a majority of the quorum like it is at a meeting.

meeting shall be ratified at the next Board meeting.

SECTION III, VACANCIES: A vacancy in the Board of Directors shall be deemed in case of death, resignation, or removal of any director. Any vacancy may be filled by the remaining Directors, though less than a quorum, to serve as an interim Director until an election held at the next general membership meeting.

SECTION IV, REMOVALS: Directors may be removed at any time by a majority vote of the general membership. Any vacancy ~~shall may~~ be filled as specified in Section III above. by the Directors then _____, though less than a quorum, to hold office until his successor is trained and qualified.

SECTION V, RESIGNATION: A Director may resign at any time by delivering written notification thereof to the President or Secretary of the Corporation. The resignation shall become effective upon its acceptance by the Board of Directors, ~~;~~ however, that if the Board of Directors has not acted thereon within three (3) days from the date of its delivery, the resignation shall upon the tenth day be deemed accepted. Any vacancy may be filled as specified in Section III above.

SECTION VI: PRESUMPTION OF ASSENT: A Director of the homeowner association who is present at a meeting of the Board of Directors at which action on any homeowner matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the Secretary of the meeting before the adjournment thereof or shall forward such dissent to the Secretary of the homeowner association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favor of such action.

Comment [LOM11]: This is in the Utah Nonprofit Act and is standard for community association law, so although it does not seem necessary to the review committee, we recommend leaving it in.

ARTICLE III OFFICERS

SECTION I, NUMBER: The officers of the association shall be a President and Vice-President, each of whom shall be elected by a majority of the Board of Directors. A Secretary and a Treasurer shall be appointed by the President. Such other officers and assistant officers as may be deemed necessary may be elected or appointed by the Board of Directors. In its discretion, the Board of Directors may leave unfilled for any such period as it may determine any office except those of the President and Secretary. Any two or more offices may be held by the same person, except the office of the President.

SECTION II, ELECTION AND TERM OF OFFICE: The officers of the

homeowners association to be elected by the Board of Directors shall be elected annually by the Board of Directors at the first meeting of the Board of Directors held after such annual election meeting of the homeowners association. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as convenient. Each officer shall hold office until his successor shall have been duly elected ~~and shall have qualified~~ or until his death or until ~~he shall, his resignation, or shall have been removed~~ in the manner hereinafter provided.

SECTION III, RESIGNATIONS: Any officer may resign at any time by delivering a written resignation either to the President or to the Secretary. Unless otherwise specified therein, such resignation shall take effect upon delivery.

SECTION IV, REMOVAL: Any officer ~~or agent~~ may be removed by the Board of Directors whenever in its judgment the best interests of the homeowners association will be served thereby. Any such removal shall require a majority vote of the Board of Directors exclusive of the officer in question ~~if he is also a Director~~.

SECTION V, VACANCIES: A vacancy in an office because of death, resignation, removal, disqualification, the creation of a new office or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

SECTION VI, PRESIDENT: The President shall be the chief executive and administrative officer of the homeowners association. He shall preside at all meetings. He shall exercise such duties as customarily pertain to the office of President and shall have general and active supervision over the property, business, and affairs of the homeowners association and over its several officers. ~~He may appoint officers other than those appointed by the Board of Directors.~~ He may sign, execute and deliver in the name of the homeowners association powers of attorney, contracts, bonds and other obligations, ~~and shall perform such other duties~~ as may be prescribed ~~from time to time~~ by the Board Directors or by the By-Laws.

SECTION VII, VICE-PRESIDENT: The Vice-President shall have such powers and perform such duties as may be assigned to him by the Board of Directors or the President. In the absence or disability of the President, the Vice-President designated by the Board or the President shall perform the duties and exercise the powers of the President. ~~A Vice President may sign and execute contracts and other obligations pertaining to the regular course of his duties.~~

SECTION VIII, SECRETARY: The Secretary shall keep the minutes of all meetings of the homeowners association and of the Board of

Directors and, to the extent ordered by the Board of Directors or the President, the minutes of meetings of all committees. He shall cause notice to be given of meetings of the homeowners association, of the Board of Directors, and of any committee appointed by the Board. He shall have general charge of the records, documents and papers of the homeowners association pertaining to the performance of the duties vested in other officers which shall at all reasonable times be open to the examination of any Director. He may sign or execute contracts with the President or Vice-President thereunto authorized in the name of the homeowners association. He shall perform such other duties as may be prescribed from time to time by the Board of Directors of the By-Laws. ~~He shall be sworn to the faithful discharge of his duties.~~ Assistant Secretaries shall assist the Secretary and shall keep and record such minutes of meetings as shall be directed by the Board of Directors.

Comment [LOM12]: No longer standard language, and not required of other positions.

SECTION IX, TREASURER: The Treasurer shall be subject to the direction of a designated Vice-President, have general custody of the collections and disbursement of funds of the homeowners association. He shall endorse on behalf of the homeowners association for collection checks, notes and other obligations, shall deposit the same to the credit of the homeowners association in a bank or banks or depositories as the Board of Directors may designate. He may sign, with the President or such other persons as may be designated for the purpose by the Board of Directors, all bills of exchange or promissory notes of the homeowners association. He shall enter or cause to be entered yearly in the books of the homeowners association full and accurate account of all monies received and paid by him on account of the homeowners association, shall at all reasonable times exhibit his books and accounts to any director of the homeowners association. He shall perform such other duties as may be described from time to time by the Board of Directors or by the officers. ~~He shall give bond for the faithful performance of his duties in such _____d with or without such surety as shall be approved by the Board of Directors.~~ The treasurer shall have the responsibility of keeping accurate membership rolls ~~and~~ enrolling new members, ~~and responding appropriately to property status inquiries by title companies and realtors.~~

Comment [LOM13]: Treasurer is not required to be bonded

SECTION X, OTHER OFFICERS: Other officers shall perform such duties and have such powers as may be assigned to them by the Board of Directors.

ARTICLE IV **COMMITTEES**

The Board of Directors may appoint from among its own members such other committees as the Board of Directors may determine, ~~which shall~~

~~in each case consist of not less than two directors,~~ and which shall have such powers and duties as shall from time to time be prescribed by the Board. The President shall be a member ex officio of each committee appointed by the Board of Directors. A majority of the members of any committee may fix its rules of procedure.

Comment [LOM14]: Not required

ARTICLE V **BOARD OF DIRECTORS' MEETINGS**

SECTION I: Regular meetings of the Board of Directors shall be held the ~~third-first~~ Tuesday of the month at 7:~~30-00~~ pm or at such other times as agreed upon by the members of the Board.

~~SECTION II: Annual general membership meetings shall be announced at least thirty days in advance.~~

Comment [LOM15]: Moved to Article VI

SECTION III: The order of business shall be:

- A: Call to order (roll call)
- B: ~~Reading Approval~~ of the minutes of the previous meeting
- C: Treasurer's report
- D: Special committee reports
- E: Unfinished business
- F: New business
- G: Adjournment

ARTICLE VI **GENERAL MEMBERSHIP MEETINGS**

~~SECTION I: Annual general membership meetings shall be announced at least thirty days in advance.~~

Comment [LOM16]: Moved here from Article V

SECTION II: The general meeting discussion and adoption of the homeowners association goals will be presented by the Board of Directors.

~~SECTION II: This section shall contain the goals adopted at the general meeting.~~

Comment [LOM17]: Not going to update By-Laws annually with new goals

ARTICLE VII **CONTRACTS, LOANS, CHECK AND DEPOSITS**

SECTION I, CONTRACTS: The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract of execute and deliver any instrument in the name of and on the behalf of the homeowners association, and such authority may be general or confined to specific instances.

SECTION II, LOANS: No loan or advances shall be contracted on behalf of the homeowners association, no negotiable paper or other evidence of its obligation under any loan or advance shall be issued in its name, and no property of the homeowners association shall be mortgaged, pledged, hypothecated or transferred as security for the payment of any loan, advance indebtedness or liability of the homeowners association, unless and except as authorized by the Board of Directors. Any such authorization may be general or confined to specific instances.

SECTION III, DEPOSITS: All funds of the homeowners association not otherwise employed shall be deposited from time to time to the credit of the association in such banks, trust companies or other depositories as the Board of Directors may select, or as may be selected by any officer or agent authorized to do so by the Board of Directors.

SECTION IV, CHECKS and DRAFTS: All notes, drafts, acceptances, checks, endorsements and evidences of indebtedness of the homeowners association shall be signed by such officers or such agent or agents of the homeowners association and in such manner as the Board of Directors from time to time may determine. Endorsements for deposit to the credit of the homeowners association in any of its duly authorized depositories shall be made in such manner as the Board of Directors from time to time may determine.

ARTICLE VIII **INDEMNIFICATION AND INSURANCE**

SECTION I, RIGHT OF INDEMNIFICATION: The association shall, to the extent legally permissible under the Utah Revised Nonprofit Corporation Act, indemnify each person who may serve or who has served at any time as an officer, director, or employee of the association against all expenses and liabilities, including, without limitation, counsel fees, judgments, fines, excise taxes, penalties and settlement payments, actually and reasonably incurred by or imposed upon such person in connection with any threatened, pending or completed action, suit or proceeding in which he or she may become involved by reason of his or her service in such capacity; provided that no indemnification shall be provided for any such person with respect to any matter as to which he or she shall have been finally adjudicated in any proceeding not to have acted in good faith in the reasonable belief that such action was in the best interests of the corporation; and further provided that any compromise or settlement payment shall be approved by a majority vote of a quorum of directors who are not at that time parties to the proceeding.

The indemnification provided hereunder shall inure to the benefit of the

Comment [LOM18]: Added standard clauses for HOA community bylaws

heirs, executors and administrators of persons entitled to indemnification hereunder. The right of indemnification under this Article shall be in addition to and not exclusive of all other rights to which any person may be entitled.

This Article constitutes a contract between the association and the indemnified officers, directors, and employees. No amendment or repeal of the provisions of this Article which adversely affects the right of an indemnified person under this Article shall apply to such person with respect to those acts or omissions which occurred at any time prior to such amendment or repeal, unless such amendment or repeal was voted by or was made with the written consent of such indemnified person.

SECTION II. APPROVAL OF INDEMNIFICATION: As set forth in Utah Revised Nonprofit Corporation Act, upon written request to the Board by any person seeking indemnification, the board shall promptly determine whether the applicable standard of conduct has been met, and, if so, the Board shall authorize indemnification. If the Board cannot authorize indemnification because the number of Directors who are parties to the proceeding with respect to which indemnification is sought prevents formation of a quorum of directors who are not parties to that proceeding, the Board shall promptly call a meeting of members. At that meeting, the members shall determine whether the applicable standard of conduct has been met, and, if so, the members present at the meeting in person or by proxy shall authorize indemnification.

SECTION III. INSURANCE: The association shall have the right to purchase and maintain insurance to the full extent permitted by law on behalf of its officers, directors, employees, and other agents, against any liability asserted against or incurred by any officer, director, employee, or agent in such capacity, or arising out of the officer's, director's, employee's, or agent's status as such.

ARTICLE ~~VIII~~ IX

The parliamentary authority for this organization shall be 'Robert's Rules of Order'.