

**BYLAWS
OF
MULBERRY GROVE HOMEOWNERS ASSOCIATION, INC.**

**ARTICLE I
Offices**

1.1 Principal Office. The principal office and place of business of the Mulberry Grove Homeowners Association (the "Association") in the State of Utah shall be designated from time to time by the Executive Board and shall be within Grand County, Utah.

1.2 Registered Office. The registered office of the Association shall be maintained in Utah and may be, but need not be, the same as the principal office. The address of the registered office may be changed from time to time by the Executive Board.

**ARTICLE II
Members**

2.1 Membership Qualifications. Membership and voting rights in the Association shall be defined, described and governed by the Declaration of Covenants, Conditions and Restrictions of Mulberry Grove recorded in Book ____ at Page ____ of the records of the Clerk and Recorder of Grand County, Utah, (the "Declaration"), the Articles of Incorporation of the Association (hereinafter the "Articles of Incorporation") and by these By-Laws. Definitions contained in the Declaration shall apply in these By-Laws. Membership in the Association shall terminate without any formal Association action whenever ownership of a lot in Mulberry Grove terminates. The termination of membership shall not relieve or release any former owner from any liability or obligation owing to the Association or any claim the Association may have against a former owner arising out of or in any way connected with his or her ownership of a House Lot and membership in the Association.

2.2 Recognition. Only Members of record on the books of the Association shall be entitled to be treated by the Association as Members in fact, and the Association shall not be bound to recognize any equitable or other claim to, or interest in, any membership on the part of any other person, firm or corporation, whether or not it shall have express or other notice thereof.

2.3 Voting. A Member may vote either in person, by proxy executed in writing by the Member, by his duly authorized attorney in fact or by written consent. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy.

2.4 Action by Written or Electronic Ballot. Any action that may be taken at any annual, regular or special meeting of Members may be taken without a meeting if the Association delivers a written or electronic (e-mail) ballot to every Member entitled to vote on the matter. The written or electronic ballot shall:

- (a) set forth each proposed action; and
- (b) provide an opportunity to vote for or against the proposed action. Approval by written or electronic ballot shall only be valid when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. All solicitations for votes by written or electronic ballot shall:
 - i. indicate the number of responses necessary to meet the quorum requirements;
 - ii. state the percentage of approvals necessary to approve each matter other than election of directors;
 - iii. specify the time by which the ballot must be received by the Association in order to be counted; and

- iv. be accompanied by written information sufficient to permit each person voting to reach an informed decision. Written or electronic ballots may not be revoked.

2.5 Annual Meetings. The annual meeting of the Members for the purpose of electing the Executive Board and any other matters, without limitation which may be raised shall be held on the third Saturday of January in each year.

2.6 Regular Meetings. Regular meetings of the Members shall be held two or three times per year, as determined and set at the annual meeting of Members. No notice of regular meetings will be delivered to Members.

2.7 Special Meetings. Special meetings of the Members may be called at the request of the President, or EBMs (as hereinafter defined) or by a majority of Members. Special meetings may be held at such time and place within Grand County, Utah as shall be specified by the President. Notice of the place, day and time of the meeting shall be given to each Member by mailing at least three (3) days prior to the date of the meeting. The notice shall set forth the purpose of the special meeting. The business of each meeting shall be limited to the purposes described in the notice.

2.8 Meetings by Telecommunication. Any or all of the Members may participate in an annual or special member meeting by, or the meeting may be conducted through the use of any means of communication by which all Members participating in the meeting can hear each other during the meeting. A member participating in a meeting in this manner is deemed to be present in person at the meeting.

2.9 Place of Meetings. All meetings of Members shall be held at the place in Moab, Utah designated in the notice thereof (if notice is required).

2.10 Quorum. A quorum at any meeting shall have 60% of the Members and the affirmative vote of 75% of the Members present at a meeting where a quorum is present shall be required for any affirmative action. Each Lot in Mulberry Grove is entitled to one (1) vote on all matters. In the case of Twin Home Lots, each residence thereon shall have one (1) vote. The foregoing notwithstanding, the vote of a supermajority of 75% of all of the Members shall be required for major decisions such as, but not limited to, the granting of long-term easements, capital expenditures in excess of \$50,000.00, long-term leases of Common Space, amendment of documents and such other matters as 75% of all of the Members determine by vote such super majority shall be required. The determination of what is or is not a major decision shall be made by the Executive Board and can be over-ridden by a 75% vote of the members.

ARTICLE III Board of Directors

3.1 Qualifications, Election, Tenure. Members of the Executive Board of the Association shall be natural persons at least eighteen years of age or older who are Members of the Association. The Executive Board Members (hereinafter referred to as "EBMs" each an "EBM"), shall manage the affairs of the Association. The number of EBMs shall be five (5). The Executive Board shall be elected by the Membership at its annual meeting. EBMs thus elected shall be elected for a two year term and shall hold office until the next annual meeting of the Membership occurring at the expiration of their terms and until their successors have been elected and qualified. EBMs may be elected for successive terms. An EBM continues to serve until his or her successor is elected, appointed or designated and qualifies. The term of an EBM filling a vacancy expires at the end of the unexpired term that such EBM is filling. Terms of EBM may be staggered as determined by the Executive Board.

3.2 Annual Meeting. The annual meeting of the Executive Board shall be for the purpose of transaction of any and all business as may come before the meeting. It shall be held on the third Saturday of January in each year immediately following the annual meeting of Members.

3.3 Regular Meetings. Regular meetings of the Executive Board shall be held bimonthly. The Executive Board may provide by resolution the time and place, within Grand County, Utah, for the holding of additional regular meetings without other notice.

3.4 Special Meetings. Special meetings of the Executive Board may be called by or at the request of the President or any two (2) EBMs. Special meetings shall be held at such time and place, within Grand County, Utah, as may be designated by the authority calling such meeting. Notice stating the place, day, and hour of every special meeting shall be given to each Member of the Executive Board by mailing such notice at least three (3) days before the date fixed for the meeting. The notice of such special meeting need not specify the purpose of the meeting.

3.5 Quorum, Voting. A quorum at all meetings of the Executive Board shall consist of a majority of the EBMs holding office. If there shall be less than a quorum in attendance at any meeting of the Executive Board, the president may adjourn the meeting from time-to-time without further notice until a quorum is secured. Except as provided otherwise by the Bylaws, the act of a majority of the EBMs present at a meeting at which a quorum is present shall be the act of the Executive Board. For purposes of determining a quorum and for purposes of casting a vote, an EBM shall be deemed to be present and to vote if the EBM grants a signed written proxy to another EBM. The proxy shall direct a vote to be cast with respect to a particular proposal that is described with reasonable specificity in the proxy. No other proxies are allowed. An EBM who is present at a meeting of the Executive Board is deemed to have assented to all action taken unless: (i) the EBM objects at the beginning of the meeting, or promptly upon arrival, to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to any action taken; (ii) the EBM contemporaneously requests that the EBM's dissent or abstention as to any specific action taken be entered in the minutes; or (iii) the EBM causes written notice of his or her dissent or abstention as to any specific action to be received by the presiding officer of the meeting before adjournment or by the corporation promptly after adjournment. The right of dissent or abstention is not available to an EBM who votes in favor of the action taken.

3.6 Vacancies. Any vacancy in the Executive Board shall be filled by the vote of the remaining EBMs. An EBM elected to fill a vacancy shall be elected for the unexpired term of such person's predecessor in office and until such person's successor is duly elected and shall have qualified. Any position on the Executive Board to be filled by reason of an increase in the number of EBM shall be filled by the Executive Board as soon as practicable after the time such increase is authorized.

3.7 Committees. The Executive Board of the Association may designate from among the EBMs, by a resolution adopted by a majority of the entire Executive Board, an executive committee and one or more other committees, each of which shall have and may exercise such authority in the management of the Association as shall be provided in such resolution or in these Bylaws. No such committee shall have the power or authority to authorize distributions; elect, appoint or remove any EBM; amend, restate, alter, or repeal the Articles of Incorporation; amend, alter, or repeal these or any other Bylaws of the corporation; approve a plan of merger; approve a sale, lease, exchange, or other disposition of all or substantially all of the property of the Association, with or without goodwill, other than in the usual and regular course of business; or to take any other action prohibited by law.

3.8 Design Review Committee. The Executive Board shall be required to appoint and maintain at all times a Design Review Board to administer the design review criteria of the Declaration. The Design Review Board shall consist of three (3) Members of the Association who may, but shall not be required to be, EBMs. Because of the nature of the work and the responsibility to review plan, meetings of the Design Review Committee shall be held with the members of that Committee and the affected House Lot owner present.

3.9 Resignation. An EBM may resign at anytime by giving written notice of resignation to the Association. The resignation is effective when the notice is received by the Association unless the notice specifies a later effective date. An EBM who resigns may deliver a statement to that effect to the Utah Division of Corporations.

3.10 Removal. Any Member of the Executive Board elected by the Executive Board may be removed with or without cause by a majority of the Members of the Association present at a meeting at which a quorum is present.

3.11 Action Without a Meeting. Any action required by law to be taken at a meeting of the Executive Board, or any committee thereof, or any other action which may be taken at a meeting of the Executive Board, or any committee thereof, may be taken without a meeting if every EBM in writing either: (i) votes for such action or (ii) votes against such action or abstains from voting and waives the right to demand that a meeting be held. Action is taken only if the affirmative votes for such action equals or exceeds the minimum number of votes that would be necessary to take such action at a meeting at which all of the EBMs then in office were present and voted. The action shall only be effective if there are writings which describe the action, signed by all EBMs, received by the Association and filed with the minutes. Any such writings may be received by electronically transmitted facsimile or other form of wire or wireless communication providing the Association with a complete copy of the document including a copy of the signature. Actions taken shall be effective when the last writing necessary to effect the action is received by the corporation unless the writings set forth a different date. Any EBM who has signed a writing may revoke it by a writing signed, dated and stating the prior vote is revoked. However, such writing must be received by the Association before the last writing necessary to effect the action is received. All such actions shall have the same effect as action taken at a meeting.

3.12 Compensation. No Member of the Executive Board shall receive any compensation for serving in such office, provided that the Association may reimburse any EBM for reasonable out of pocket expenses incurred in connection with service on the Executive Board.

3.13 Notice. Notice of the date, time and place of any special meeting shall be given to each EBM at least three (3) days prior to the meeting by written notice either personally delivered or mailed to each EBM at his or her business address, or by notice transmitted by private courier, electronically transmitted facsimile or other form of wire or wireless communication. If mailed, such notice shall be deemed to be given and to be effective on the earlier of: (i) five days after such notice is deposited in the United States mail, properly addressed, with first class postage prepaid; or (ii) the date shown on the return receipt, if mailed by registered or certified mail return receipt requested, provided that the return receipt is signed by the EBMs to whom the notice is addressed. If notice is given by electronically transmitted facsimile or other similar form of wire or wireless communication, such notice shall be deemed to be given and to be effective when sent. If an EBM has designated in writing one or more addresses or facsimile numbers for delivery of notice, notice sent by mail, or electronically transmitted facsimile or other form of wire or wireless communication shall not be deemed to have been given or to be effective unless sent to such addresses or facsimile numbers as the case may be.

3.14 Waiver of Notice. An EBM may waive notice of a meeting before or after the time and date of the meeting by a writing signed by the EBM. Such waiver shall be delivered to the Association's secretary for filing with the Association records, but such delivery and filing shall not be conditions to the effectiveness of the waiver. Further, an EBM's attendance at or participation in a meeting waives any required notice to the EBM of the meeting unless at the beginning of the meeting, or promptly upon the EBM later arrival, the EBM objects to holding the meeting or transacting business at the meeting because of lack of notice or defective notice and does not thereafter vote for or assent to action taken at the meeting. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Executive Board need be specified in the notice or waiver of notice of such meeting.

3.15 Telephonic Meetings. The Executive Board may permit any EBM (or any Member of any committee designated by the Executive Board) to participate in a regular or special meeting of the Executive Board or a committee thereof through the use of any means of communication by which all EBMs participating in the meeting can hear each other during the meeting. An EBM participating in a meeting in this manner is deemed to be present in person at the meeting.

3.16 Standard of Conduct for EBM and Officers. Each EBM and officer shall perform their duties as an EBM or officer, including without limitation their duties as a Member of any committee of the Executive Board, in good faith, in a manner the EBM or officer reasonably believes to be in the best interests of the Association, and with the care an ordinarily prudent person in a like position would exercise under similar circumstances. In the performance of their duties, an EBM or officer shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by the persons designated below. However, an EBM or officer shall not be considered to be acting in good faith if the EBM or officer has knowledge concerning the matter in

question that would cause such reliance to be unwarranted. An EBM or officer shall not be liable to the Association or its Members for any action the EBM or officer takes or omits to take as an EBM or officer if, in connection with such action or omission, the EBM or officer performs their duties in compliance with this Section. An EBM or officer, regardless of title, shall not be deemed to be a trustee with respect to the Association or with respect to any property held or administered by the Association including, without limitation, property that may be subject to restrictions imposed by the donor or transferor of such property.

The designated persons on whom an EBM or officer are entitled to rely are: (1) one or more officers or employees of the Association whom the EBM or officer reasonably believes to be reliable and competent in the matters presented; (ii) legal counsel, a public accountant, or other person as to matters which the EBM or officer reasonably believes to be within such person's professional or expert competence; or (iii) a committee of the Executive Board on which the EBM or officer does not serve if the EBM reasonably believes the committee merits confidence.

ARTICLE IV Officers

4.1 General. The officers of the Association shall be a President, one or more Vice-presidents, a Secretary, and a Treasurer. Any individual may hold more than one office. The Members may elect such other officers as they may deem advisable, who shall be chosen in such manner and hold their offices for such terms and have such authority and duties as set forth in the Bylaws as from time-to-time may be determined by the Member. Except as expressly prescribed by these Bylaws, the Members or officer or officers authorized by the Members, shall from time to time determine the procedure for the appointment of officers, their authority and duties, provided that the Members may change the authority and duties of any officer. All officers shall be natural persons who are eighteen years or older. An officer needs to be a EBM of the Association and a Member of the Association.

4.2 Powers and Duties. The officers of the Association shall exercise and perform the respective powers, duties, and functions as are stated below and as may be assigned to them by the Executive Board.

a. The President shall preside at all meetings of the Executive Board. The President shall be the Chief Executive Officer of the Association and shall, subject to the general direction and control of the Executive Board, have the general supervision, direction, and control over the business and affairs of the corporation and its officers, agents, and employees. The President may sign, with the Secretary or any Assistant Secretary or any other proper officer of the Association designated by the Executive Board, any deeds, leases, mortgages, deeds of trust, or other documents of conveyance or encumbrance of any real property owned by the corporation. He or she shall also perform all duties incident to the office of President and such other duties as may be assigned by the Executive Board from time-to-time.

b. The Vice-presidents shall assist the President and shall perform such duties as may be assigned to them by the President or by the Executive Board. In the absence of the President, the Vice-president, if any (or, if more than one, the Vice-presidents in the order designated by the Executive Board, or if the Executive Board makes no such designation, then the Vice-president designated by the President, or if neither the Executive Board nor the President makes any such designation, the senior Vice-president as determined by first election to that office), shall have the powers and perform the duties of the President.

c. The Secretary shall keep accurate minutes of the proceedings of the Members and of the Executive Board and of any committees of the Executive Board; shall ensure that all notices are duly given in accordance with the provisions of these Bylaws; shall be custodian of the records and of the seal of the Association and shall attest the affixing of the seal of the Association when authorized by the Executive Board; and shall perform such additional duties as are incident to such office and as may be assigned to such person by the Executive Board or the President. Assistant Secretaries, if any, shall have the same duties and powers subject to the supervision of the Secretary.

d. The Treasurer shall be the principal financial officer of the Association; shall have the charge and custody of and be responsible for all funds and securities of the corporation; shall deposit such funds in the name of the Association in such depositories as shall be designated by the Executive Board; shall keep accurate books of account and records of financial transactions and the condition of the Association and shall submit such reports thereof as the Executive Board may from time-to-time require, and in general, perform all duties incident to such office and such other duties as may from time-to-time be assigned to such person by the President or by the Executive Board. The Treasurer shall make an annual financial report to the Association at the annual meeting of the Executive Board. With the approval of the Executive Board, the Treasurer shall be authorized to engage any firm of certified public accountants to assist in the performance of any of the duties incident to the Treasurer's office. Assistant treasurers, if any, shall have the same duties and powers subject to the supervision of the Treasurer.

4.3 Selection and Terms of Offices. All officers of the Association shall be elected by the Members at its annual meeting and shall hold office for one year and until their successors shall have been elected and shall have qualified.

4.4 Compensation. No compensation shall be paid to officers of the Association for serving in such capacity. The Association shall reimburse any officer for all reasonable out of pocket expenses incurred by such individual in connection with services rendered to or for the Association.

4.5 Resignation and Removal. An officer may resign at any time by giving written notice of resignation to the Association. The resignation is effective when the notice is received by the Association unless the notice specifies a later effective date. Any officer or agent elected may be removed at any time with or without cause by the Members. An officer who resigns or is removed or whose appointment has expired may deliver a statement to that effect to the Utah Division of Corporations. Such removal does not affect the contract rights, if any, of the Association or of the person so removed. The appointment of an officer or agent shall not in itself create contract rights.

4.6 Vacancies. A vacancy in any office, however occurring, may be filled by the Executive Board, or by the officer or officers authorized by the Executive Board for the unexpired portion of the officer's term. If an officer resigns and the resignation is made effective at a later date, the Executive Board, or officer or officers authorized by the Executive Board, may permit the officer to remain in office until the effective date and may fill the pending vacancy before the effective date if the Executive Board, or officer or officers authorized by the Executive Board provide that the successor shall not take office until the effective date.

ARTICLE V Corporate Documents and Records

5.1 Corporate Records. The Association shall keep as permanent records minutes of all meetings of its Executive Board and Members, a record of all actions taken by the Executive Board and Members without a meeting and of actions taken by a committee in place of the Executive Board, and a record of all waivers of notices of meetings of Members, the Executive Board or any committee. The Association shall also maintain the following records: (i) appropriate accounting records; (ii) its Articles of Incorporation and Bylaws; (iii) a list of the names and business or home addresses of its current Members, EBMs and officers; (iv) a copy of its most recent corporate report delivered to the Utah Division of Corporations; (v) all financial statements prepared for periods during the last three years.

ARTICLE VI Contracts, Loan, and Deposits

6.1 Contracts. The Executive Board may authorize, subject to limitations imposed as to matters which must be approved by the Members, any officer or officers, agent or agents to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances.

6.2 Loans. No loans shall be contracted for on behalf of the Association and no evidence of indebtedness shall be issued in the name of the Association unless authorized by a resolution of the Executive Board. Such authority may be general if confined to a specific dollar limit determined from time to time by resolution of the Executive Board and shall otherwise be confined to specific instances. No loan shall be made to any officer or EBM of the Association.

6.3 Checks, Drafts, and Notes. All checks, drafts, or other orders for payment of money, notes, or other evidence of indebtedness issued in the name of the Association shall be signed by such officer or officers, agent or agents of the Association and in such manner as shall from time to time be determined by resolution of the Executive Board.

6.4 Deposits. All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, financial institutions, or other custodians as the Executive Board may select.

6.5 Fiscal Year. The fiscal year of the Association shall be the calendar year.

ARTICLE VII Sale of Property

Only the Members, by a super-majority of 90% may: (i) authorize the sale, long-term lease, exchange or other disposition of all or substantially all of the Association's property, within or without, the usual and regular course of business; and (ii) mortgage, pledge, dedicate to the repayment of indebtedness (with or without recourse), or otherwise encumber all or substantially all of its property whether or not in the usual and regular course of business. Any procedures set forth in the Utah Nonprofit Revised Corporation Act §16-6a-18, *et seq.*, Utah Code Annotated ("Act") shall be followed by the Association in connection with such sales.

ARTICLE VIII Indemnification

8.1 Definitions. For purposes of this Article:

a. The terms "EBM or officer" shall include a person who, while serving as a EBM or officer of the Association, is or was serving at the request of the Association as an EBM, officer, partner, member, manager, trustee, employee, fiduciary or agent of another foreign or domestic association, nonprofit association or other person or employee benefit plan. An EBM or officer shall be considered to be serving an employee benefit plan at the request of the if the EBM's or officer's duties to the Association also impose duties on or otherwise involve services to the plan or to participants in or beneficiaries of the plan. The term "EBM or officer" shall also include the estate or personal representative of a EBM or officer, unless the context otherwise requires.

b. The term "proceeding" shall mean any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, whether formal or informal, any appeal in such an action, suit, or proceeding, and any inquiry or investigation that could lead to such an action, suit, or proceeding.

c. The term "party" includes an individual who is, was, or is threatened to be made a named defendant or respondent in a proceeding.

d. The term "liability" shall mean any obligation to pay a judgment, settlement, penalty, fine (including an excise with respect to an employee benefit plan), or reasonable expense incurred with respect to a proceeding

e. When used with respect to an EBM, the phrase "official capacity" shall mean the office of EBM in the Association, and, when used with respect to a person other than an EBM, shall mean

the office in the Association held by the officer or the employment, fiduciary or agency relationship undertaken by the employee or agent on behalf of the Association, but in neither case shall include service for any foreign or domestic association or for any other person, employee benefit plan, or other enterprise.

8.2 General Provisions. The Association may indemnify any person who is or was a party or is threatened to be made a party to any proceeding by reason of the fact that such person is or was an EBM or officer of the Association, against expenses (including attorneys, fees), liability, judgments, fines, and amounts paid in settlement actually and reasonably incurred by such person in connection with such proceeding if such person: [i] acted in good faith, [ii] reasonably believed, in the case of conduct in an official capacity with the Association, that the conduct was in the best interests of the Association, and, in all other cases, that the conduct was at least not opposed to the best interests of the Association, and [iii] with respect to any criminal proceeding, had no reasonable cause to believe that the conduct was unlawful. However, no person shall be entitled to indemnification under this Section 2 either: [i] in connection with a proceeding brought by or in the right of the Association in which the EBM or officer was adjudged liable to the Association; or [ii] in connection with any other proceeding charging improper personal benefit to the EBM or officer, whether or not involving action in that person's official capacity, in which the officer or EBM is ultimately adjudged liable on the basis that the EBM or officer improperly received personal benefit. Indemnification under this Section 2 in connection with a proceeding brought by or in the right of the Association shall be limited to reasonable expenses incurred in connection with the proceeding. The termination of any action, suit, or proceeding by judgment, order, settlement, or conviction or upon a plea of nolo contendere or its equivalent shall not of itself be determinative that the person did not meet the standard of conduct set forth in this Section 2.

8.3 Successful Defense on the Merits: Expenses. To the extent that an EBM or officer of the Association has been wholly successful on the merits in defense of any proceeding to which such EBM was a party, such person shall be indemnified against reasonable expenses (including attorneys' fees) actually and reasonably incurred in connection with such proceeding.

8.4 Determination of Right to Indemnification. Any indemnification under Section 2 of this Article (unless ordered by a court) shall be made by the Association only as authorized in each specific case upon a determination that indemnification of the EBM or officer is permissible under the circumstances because such person met the applicable standard of conduct set forth in Section 2. Such determination shall be made: [i] by the Executive Board by a majority vote of a quorum of disinterested EBMs who at the time of the vote are not, were not, and are not threatened to be made parties to the proceeding; or [ii] if such a quorum cannot be obtained, by the vote of a majority of the Members of a committee of the Executive Board designated by the Executive Board, which committee shall consist of two or more EBM who are not parties to the proceeding (EBM who are parties to the proceeding may participate in the designation of EBM to serve on such committee); or [iii] if such a quorum of the Executive Board cannot be obtained or such a committee cannot be established, or even if such a quorum is obtained or such a committee is so designated, but such quorum or committee so directs, then by independent legal counsel selected by the Executive Board in accordance with the preceding procedures. Authorization of indemnification and evaluation as to the reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that, if the determination that indemnification is permissible is made by independent legal counsel, authorization of indemnification and evaluation of legal expenses shall be made by the body that selected such counsel.

8.5 Advance Payment of Expenses: Undertaking to Repay. The Association may pay for or reimburse the reasonable expenses (including attorneys, fees) incurred by an EBM or officer who is a party to proceeding in advance of the final disposition of the proceeding if: [i] the EBM or officer furnishes the Association a written affirmation of the EBM's or officer's good faith belief that the person has met the standard of conduct set forth in Section 2; [ii] the EBM or officer furnishes the Association with a written undertaking, executed personally or on the EBM's or officer's behalf, to repay the advance if it is determined that the person did not meet the standard of conduct set forth in Section 2, which undertaking shall be an unlimited general obligation of the EBM or officer but which need not be secured and which may be accepted without reference to financial ability to make repayment; and [iii] a determination is made by the body authorizing indemnification that the facts then known to such body would not preclude indemnification.

8.6 Reports to Members. In the event that the Association indemnifies, or advances the expenses of, an EBM or officer in accordance with this Article in connection with a proceeding by or on behalf of the Association, a report of that fact shall be made in writing to the Members with or before the delivery of the notice of the next meeting of the Members.

8.7 Other Employees and Agents. The Association shall indemnify such other employees and agents of the Association to the same extent and in the same manner as is provided above in Section 2 with respect to EBM and officers, by adopting a resolution by a majority of the Members of the Executive Board specifically identifying by name or by position the employees or agents entitled to indemnification

8.8 Insurance. The Executive Board may exercise the Association's power to purchase and maintain insurance (including without limitation insurance for legal expenses and costs incurred in connection with defending any claim, proceeding, or lawsuit) on behalf of any person who is or was an EBM, officer, employee, fiduciary, agent or was serving as an EBM, officer, partner, member, trustee, employee, fiduciary of another domestic or foreign association, nonprofit association or other person or an employee benefit plan of the Association against any liability asserted against the person or incurred by the person in any such capacity or arising out of the person's status as such, whether or not the Association would have the power to indemnify that person against such liability under the provisions of this Article.

8.9 Nonexclusivity of Article. The indemnification provided by this Article shall not be deemed exclusive of any other rights and procedures to which one indemnified may be entitled under the Articles of Incorporation, any bylaw, agreement, resolution of the disinterested EBMs, or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be an EBM or officer, and shall inure to the benefit of such person's heirs, executors, and administrators.

ARTICLE IX Amendments

These Bylaws may be amended, altered, or repealed and new Bylaws may be adopted only by the Members of the Association by a vote of 75% percent of the Members present at any meeting of the Members at which a quorum is present, and not otherwise, provided that notice of the proposed amendment, alteration, or repeal shall have been delivered to each Members of the Association with the notice of the meeting at which the proposed amendment, alteration, or repeal will be presented to the Member for action.

ARTICLE X Miscellaneous

10.1 Seal. The Executive Board may adopt a corporate seal, which may be circular in form and shall contain the name of the Association and the words, "Seal, Utah".

10.2 Gender. The masculine gender is used in these bylaws as a matter of convenience only and shall be interpreted to include the feminine and neuter genders as the circumstances indicate.

10.3 Conflicts. In the event of any irreconcilable conflict between these Bylaws and either the Association's Articles of Incorporation or applicable law, the latter shall control.

10.4 Definitions. Except as otherwise specifically provided in these Bylaws, all terms used in these Bylaws shall have the same definition as in the Act.

10.5 Priority of Conflicting Provisions. Where any provision hereof shall conflict with the mandatory provisions of the Utah Community Association Act, the Utah Revised Non-Profit Corporation Act, the Declaration, or the Association's Articles of Incorporation, the provisions thereof shall govern in that order.

10.6 Receipt of Notices by the Association. Notices, EBM writings consenting to action, and other documents or writings shall be deemed to have been received by the Association when they are actually

received: (1) at the registered office of the Association in Moab, Utah; (2) at the principal office of the Association (as that office is designated in the most recent document filed by the Association with the Utah Division of Corporations designating a principal office) addressed to the attention of the secretary of the Association; (3) by the secretary of the Association wherever the secretary may be found; or (4) by any other person authorized from time to time by the Executive Board or the President to receive such writings wherever such person is found.

The above Bylaws were approved and adopted by the Executive Board of Mulberry Grove Homeowners Association, Inc. on the _____ day of _____, 2009.

Susan A. Harrington

Douglas K. Jones

Peter Q. Lawson

Daniel B. Stenta

Michelle L. Stenta

Anne L. Wilson