



**HUMBOLDT**  
**RIVER**  
**RANCH**

**Articles of Incorporation**  
**Bylaws**  
**Covenants, Conditions &**  
**Restrictions**

**Re-recorded September 24, 2003**

**Amendments Added July 2, 2004**

**Amendments Added September 4, 2005**

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**Amendments Added July 24, 2010**

**Amendments Added July 23, 2011**

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**THIS IS A RESTATEMENT OF THE ARTICLES OF INCORPORATION OF THE HUMBOLDT RIVER RANCH ASSOCIATION AND SHALL SUPERSEDE AND REPLACE ALL PREVIOUS RECORDINGS.**

THE ORIGINAL RECORDING WAS ON JUNE 12, 1986 AS DOCUMENT NO. 147941, IN BOOK 179, AT PAGE 206. THE AMENDMENTS WERE RECORDED ON SEPTEMBER 17, 1987, AS DOCUMENT NO. 158021, IN BOOK 199, AT PAGE 256; JULY 1, 1996, AS DOCUMENT NO. 207436, IN BOOK 304, AT PAGE 433; AND ON JUNE 9, 1997, AS DOCUMENT 213729, IN BOOK 319, AT PAGE 429. ALL REFERENCES ARE TO THE OFFICIAL RECORDS OF PERSHING COUNTY, NEVADA. DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS WITH SPECIAL POWERS OF ATTORNEY RYE PATCH RANCH ESTATES PHASE A

**These Articles were amended by a majority vote of the Board of Directors on February 19, 2002. The Board members were Casey Mahaney, President, Bruce Luke, Vice President, Sandi Houston, Secretary, Mary Lou Ashe, Treasurer, and Jim Ilecki. The amendments were approved by a majority vote of the Membership on May 20, 2003. The Articles have been reviewed for accuracy and completeness by the law firm of Belanger & Plimpton, 1135 Central Ave., Lovelock NV 89419**

**All previous amendments have been incorporated into this filing for the purpose of having one set of Governing Documents.**

## **ARTICLES OF INCORPORATION OF HUMBOLDT RIVER RANCH ASSOCIATION**

We, the undersigned, a majority of whom are residents of the State of Nevada, do hereby associate together for the purpose of forming a non-stock non-profit cooperative corporation, pursuant to NRS 81.410 through 81.540, inclusive, and certify as follows:

### **ARTICLE ONE NAME**

The name of the organization shall be "HUMBOLDT RIVER RANCH ASSOCIATION", hereinafter called the "Association", (formerly known as Rye Patch Ranch Association)<sup>I</sup>

### **ARTICLE TWO PURPOSES**

The purposes for which the Association is formed are to engage in any lawful act or activity for which a corporation may be organized under the non-stock, non-profit cooperative corporation law of the State of Nevada (NRS 81.410 to NRS 81.540, inclusive) including, but not limited to, the following purposes:

- A. To exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Conditions and Restrictions (CC&Rs) with Special Powers of Attorney, Rye Patch Ranch Estates, Phase A, dated June 11, 1986, and recorded June 12, 1986, in the Office of the County Recorder of Pershing County, Nevada, in Roll 179 at Page 206, as Document No. 147941, as the same may be amended from time to time (the "Declaration").<sup>IV</sup>
- B. To further promote the interest and welfare of the Lot Owners in that certain real property and improvements located or to be constructed thereon, if any, commonly known as Humboldt River Ranch Estates, located in Pershing County, State of Nevada (the "Property"), as more particularly described in the Declaration.

### **ARTICLE THREE PLACE OF BUSINESS**

The principal place where the business of the Association shall be transacted and carried on will be at 2205 Rye Patch Reservoir Rd., Lovelock, Nevada 89419, Pershing County at (775) 538-7431.<sup>IV</sup>

### **ARTICLE FOUR TERM**

The term for which the Association shall exist shall be for twenty (20) years, from the date of latest Amendment dated May 20, 2003. Nothing stated in these Articles of Incorporation shall prohibit the filing of a certificate of amendment at any time subsequent to the expiration of

the initial term extending the term for additional terms of ten (10) years each.<sup>IV</sup>

## **ARTICLE FIVE NO CAPITAL STOCK**

The Association is not authorized to have, and shall not issue, capital stock. The Members of the Association shall be each Lot Owner in the Property and each shall remain a Member thereof until he ceases to own a Lot.<sup>IV</sup>

**Memberships.** Members shall be all of the Lot Owners and subject to the provisions of the next following sentence, shall be entitled to one vote for each Lot owned. When more than one person or entity owns a Lot, all such persons and entities shall be Members and the vote for such Lot will be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.<sup>IV</sup>

Notwithstanding the foregoing, each of the incorporators who have executed and subscribed these Articles of Incorporation shall be Members of the Association. The status of such incorporators as members of the Association shall terminate immediately upon the convening of the first meeting of the Members of the Association. Such incorporators are designated as members solely for the purpose of complying with the provisions of NRS 81.450(1) and, unless they are also Lot Owners, shall have no rights, duties, liabilities or obligations as Members, or otherwise, under the Declaration, the Articles of Incorporation or the Bylaws of the Association.<sup>IV</sup>

## **ARTICLE SIX BOARD OF DIRECTORS**

a. The initial number of the directors of the Association shall be five (5), the names and addresses of those persons who are appointed to act as the first board of directors of the Association until the election of their successor in accordance with the Bylaws of the Association are:

Jim Bordycott, 100 No. Arlington Avenue, Suite 340, Reno, Nevada 89501

John Frankovich, 241 Ridge Street, Suite 440 Reno, Nevada 89501

Sharon Ann Torell, 100 No. Arlington Avenue, Suite 340, Reno, Nevada 89501

David Wood, 100 No. Arlington Avenue, Suite 340, Reno, Nevada 89501

David Zaid, 25790 Morgantown Sun City, California 92381

b. Election of directors shall be conducted by voting in accordance with the provisions of the Bylaws of the Association.<sup>IV</sup>

c. The number of directors of the Association may be changed either by an amendment to these Articles or by a Bylaw adopted by the Members; provided, the number of directors shall not be less than five (5).

d. All persons serving or who have served as officers or directors of this corporation, or who may have served at this corporation's request as officers or directors of another corporation in which this corporation owned shares of capital stock or for which it is a creditor, shall be indemnified by this corporation against expenses actually and necessarily incurred by them in connection with the defense of any action, suit or proceeding in which they or any of them are made parties or a party by reason of having been or being officers or directors or an officer or director of this corporation or of such other corporation except in relation to matters as to which any such officer or director or former officer or director or person shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty. Such indemnification shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any Bylaw, agreement, vote of members or otherwise.

## **ARTICLE SEVEN DISSOLUTION AND LIQUIDATION**

The Association is one that does not contemplate pecuniary gain or profit to the Members thereof, and is organized solely for non-profit purposes. In no event shall the net earnings, income or assets of this Association be distributed to, or inure to the benefit of any Member, director or officer of this Association or other private individual, either directly or indirectly, except upon winding up and dissolution. Upon the winding up and dissolution of this Association, after paying and adequately providing for the debts and obligations of the Association, the remaining assets may be distributed to the Members of the Association as provided in the Bylaws. Notwithstanding the foregoing, without the approval of 100% of the Members, so long as there is any Common Area for which this Association is obligated to provide management, maintenance, preservation or control:

a. The Association or any person acting on its behalf shall not:

- (1) Transfer all or substantially all of its assets, or
- (2) File a certificate of dissolution; and

b. No court shall enter an order declaring the Association duly wound up and dissolved.



**THIS IS A RESTATEMENT OF THE BYLAWS OF THE HUMBOLDT RIVER RANCH ASSOCIATION AND SHALL SUPERSEDE AND REPLACE ALL PREVIOUS RECORDINGS.**

THE ORIGINAL RECORDING WAS ON JUNE 12, 1986 AS DOCUMENT NO. 147941, IN BOOK 179, AT PAGE 206. THE AMENDMENTS WERE RECORDED ON SEPTEMBER 17, 1987, AS DOCUMENT NO. 158021, IN BOOK 199, AT PAGE 256; JULY 1, 1996, AS DOCUMENT NO. 207436, IN BOOK 304, AT PAGE 433; AND ON JUNE 9, 1997, AS DOCUMENT 213729, IN BOOK 319, AT PAGE 429. ALL REFERENCES ARE TO THE OFFICIAL RECORDS OF PERSHING COUNTY, NEVADA. DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS WITH SPECIAL POWERS OF ATTORNEY RYE PATCH RANCH ESTATES PHASE A

These Bylaws were amended by a majority vote of the Board of Directors on February 19, 2002. The Board members were Casey Mahaney, President, Bruce Luke, Vice President, Sandi Houston, Secretary, Mary Lou Ashe, Treasurer, and Jim Ilecki. The amendments were approved by a majority vote of the Membership on May 20, 2003. An amendment to these Bylaws was approved by a majority vote of the Membership on July 5, 2003. The Bylaws have been reviewed for accuracy and completeness by the law firm of Belanger & Plimpton, 1135 Central Ave., Lovelock NV 89419

All previous amendments have been incorporated into this filing for the purpose of having one set of Governing Documents.

**BYLAWS  
OF HUMBOLDT RIVER RANCH  
ASSOCIATION**

**ARTICLE ONE  
GENERAL PROVISIONS**

**Section 1. Name.** The name of the organization shall be "HUMBOLDT RIVER RANCH ASSOCIATION", hereinafter called the "Association," (formerly known as Rye Patch Ranch Association)<sup>1</sup> The principal office of the Association shall be 2205 Rye Patch Reservoir Rd.,

Lovelock, Nevada 89419, 775-538-7431, or such other place as the Board of Directors may designate.<sup>IV</sup>

**Section 2. Definitions.** Unless expressly indicated to the contrary, the terms used herein shall have the following meanings:

- (a) **Declaration.** That certain Declaration of Covenants, Conditions and Restrictions With Special Powers of Attorney, Rye Patch Ranch Estates, Phase A, dated June 11, 1986 and recorded June 12, 1986, in the Office of the County Recorder of Pershing County, Nevada, in Roll 179 at Page 206, as Document No. 147941, as the same may be amended from time to time.
- (b) **(B) Additional Terms.** The balance of the terms defined in the Declaration shall have the same meaning when used in these Bylaws as when used in the Declaration.

**Section 3. Purpose.** The Association has been formed for the purpose of exercising the powers and performing the duties of the Association set forth in these Bylaws, the Articles of Incorporation of the Association and the Declaration.

**ARTICLE TWO  
MEMBERSHIP AND VOTING RIGHTS**

**Section 1. Membership in Association.** The Members of the Association shall be each Lot Owner in the Property and each shall remain a Member thereof until he ceases to own a lot.<sup>IV</sup>

**Section 2. Transfer of Membership.** The membership of each Lot Owner in the Association is appurtenant and inseparable from his ownership of a Lot and shall be automatically transferred upon any authorized transfer or conveyance of the ownership of his Lot to any transferee or grantee and except as provided herein, said membership shall be non-transferable whether by gift, bequest, assignment or otherwise.

**Section 3. Voting Rights.**

**Memberships.** Members shall be all of the Lot Owners and subject to the provisions of the next following sentence, shall be entitled to one vote for each Lot owned. When more than one person or entity owns a Lot, all such persons and entities shall be Members and the vote for such Lot will be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.<sup>IV</sup>

**Section 4. Joint Owner Disputes.** If any Lot Owner casts a vote representing a certain Lot, it will thereafter be

conclusively presumed for all purposes that he or they were acting with the authority and consent of all other Owners of the same Lot.<sup>IV</sup>

**Section 5. Member's Rights and Duties.** Each Member shall have the rights, duties and obligations set forth in these Bylaws, the Articles and the Declaration, as the same may be amended from time to time.

**Section 6. Voting.** In any election of the Board in which two (2) or more positions on the Board are to be filled, every Lot Owner entitled to vote at such election shall have the number of votes equal to the number of Directors to be elected pursuant to the Declaration, the Articles of Incorporation and these Bylaws. Only one vote per candidate per lot is allowed. Subject to the provisions of Article Six, Section 1 hereof, the candidates receiving the highest number of votes, up to the number of Board members to be elected, shall be deemed elected. Voting for members of the Board shall be by secret written ballot.<sup>IV</sup>

### ARTICLE THREE MEMBERSHIP, ASSESSMENTS AND LIEN RIGHTS

**Section 1. Membership Assessments.** All assessments of the Members provided for in the Declaration shall be paid by the Members at the time, in the manner and subject to the conditions and limitations set forth in the Declaration, and the Board shall fix, levy, collect and enforce such assessments at the time, in the manner and subject to the limitations set forth in the Declaration. The Declaration is hereby incorporated herein and made a part hereof by reference.<sup>IV</sup>

**Section 2. Enforcement, Lien Rights.** For the purpose of enforcing and collecting assessments, this Association shall have the lien rights set forth in the Declaration, which lien rights shall be enforceable by the Board in the manner set forth in the Declaration. The Board shall also have and be entitled to exercise all other rights and remedies set forth in the Declaration or otherwise provided for at law or in equity.

### ARTICLE FOUR MEMBERSHIP RIGHTS AND PRIVILEGES

**Section 1. Rights and Privileges of Members.** No Member shall have the right, without the prior approval of the Board, to exercise any of the powers or to perform any of the acts delegated to the Board by these Bylaws or the Declaration. Each Member shall have all of the rights and privileges including, but not limited to, property rights and rights to access over, and use and enjoyment of the

Common Areas and Facilities granted to the Members by these Bylaws and the Declaration or by separate, subsequent grant, subject to such limitations as may be imposed in accordance therewith.

**Section 2. Rules.** The Board of Directors may adopt, amend, publish and enforce, from time to time, rules and regulations, which may include fines for violations, relating to the possession, use and enjoyment of the Common Areas and Facilities, which rules and regulations shall be consistent with the provisions of the Declaration.<sup>VI</sup>

**Section 3. Suspension of Privileges.** If any Lot Owner shall be in breach of the Declaration, the Bylaws, the rules and regulations, or the Contract of Sale including, but not limited to, the failure of such Lot Owner to pay any assessment on or before the due date thereof, subject to the limitations set forth in subparagraph 9.2(a) of the Declaration which is incorporated herein by reference, the Association may suspend the right of such Lot Owner to participate in any vote or other determination provided for herein and the right of such Lot Owner to use and otherwise enjoy the Common Areas and Facilities.

### ARTICLE FIVE MEETINGS OF MEMBERS

**Section 1. Place of Meeting.** All meetings of the Members shall be held on the Property or as close thereto as practical or as may be determined at the sole discretion of the Board.<sup>IV</sup>

**Section 2. Annual Meetings of Members.** The annual meeting of Members shall be held each year at a time and place as determined by the Board of Directors. The Members may also transact such other business of the Association as may properly come before them at each annual meeting.<sup>IV</sup>

Written notice of the annual meeting shall be given to each Member by the Secretary in the manner hereinafter provided. All such notices of the annual meeting shall be sent to each Member not less than ten (10) days and not more than ninety (90) days before the scheduled date of such meeting, and shall specify the place, the day and the hour of such meeting and shall generally state those matters which the Board, at the time of mailing of the notice intends to present for action by the Members (but any proper matter may be presented for action at such meeting). The notice of any meeting at which Directors are to be elected shall include the names, addresses and brief biographical sketches of those who are nominees at the time the notice is sent to Members.<sup>IV</sup>

**Section 3. Special Meetings.** Special meetings of Members, for any purposes whatsoever, may be called at any time by a majority of the Board or by Members representing five percent (5%) or more of the total voting



power of all Members. Except in special cases where other express provision is made by statute, these Bylaws or the Declaration, notice of such special meetings shall be given in the same manner as for annual meetings and may be given by any person or persons entitled to call such meeting. Notices of any special meetings shall specify in addition to the place, day and hour of such meeting, the general nature of the business to be transacted, and no other business may be transacted.<sup>IV</sup>

If a special meeting is called by Members, the request shall be submitted by such Members in writing, specifying the general nature of the business proposed to be transacted, and shall be delivered personally or sent by certified mail or by telegraphic or other facsimile transmission to the President, Vice President or the Secretary of the Association. The officer receiving the request shall cause notice to be promptly given to the Members entitled to vote, that a meeting will be held, and the date for such meeting, which date shall be not less than ten (10) nor more than ninety (90) days following the receipt of the request. If the notice is not given within twenty (20) days after receipt of the request, the persons requesting the meeting may give the notice.<sup>IV</sup>

**Section 4. Notice of Certain Agenda Items.** If action is proposed to be taken at any meeting for approval of any of the following proposals, the notice shall also state the general nature of the proposal. Member action on such items is invalid unless the notice or written waiver of notice states the general nature of the proposal(s):

- (I.) Removing a Director without cause;
- (II.) Filling vacancies on the Board by the Members;
- (III.) Amending the Articles;
- (IV.) Approving a contract or transaction in which a Director has a material financial interest;
- (V.) Approving a plan of distribution of assets, other than cash, in liquidation.<sup>IV</sup>

**Section 5. Method of Placing Items on Agenda by Members.** Any member eligible to vote may place an item of business on the Agenda (via ballot) of any Annual or Special Meeting by filing a request signed by members representing five percent (5%) or more of the total number of ballots cast in the previous year's election for Directors. Such request(s) shall be received at the Association office no later than 90 days prior to the date of the Meeting at which the action is to be taken.

Any such item of business requested to be placed on the Agenda must be appropriate for action by the Association according to its Articles of Incorporation, Bylaws and the Declaration.

The Board of Directors shall adopt and publish Standards for the format, length, and language permitted for such ballot questions.<sup>VII</sup>

**Section 6. Manner of Giving Notice.** Notice of any meeting of the Members shall be given either personally, by first-class mail, telegraphic or any other written form of communication, charges prepaid, addressed to each Member at the last address given by the Member to the Association for the purpose of notice. Notice shall be deemed to have been given at the time when delivered personally or deposited in the mail or sent by telegram or other means of written communication. An affidavit of the mailing or other means of giving any notice of any Members' meeting may be executed by the Secretary, Assistant Secretary, or other party of the Association giving the notice, and if so executed, shall be filed and maintained in the minute book of the Association.<sup>IV</sup>

**Section 7. Adjourned Meetings and Notices Thereof.** Any membership meeting, annual or special whether or not a quorum is present, may be adjourned from time to time by the affirmative vote of a majority of the votes entitled to be cast and represented at such meeting in person or by written vote, but in the absence of a quorum, no other business may be transacted at any such meeting.<sup>IV</sup>

When any membership meeting either annual or special, is adjourned for thirty (30) days or more, notice of the reconvening of the adjourned meeting shall be given as in the case of the original meeting so adjourned. Except as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting, other than by an announcement at the meeting at which such adjournment is taken.<sup>IV</sup>

**Section 8. Quorum.** At a Member's meeting, presence either in person or by written vote of Members representing and entitled to cast at least twenty-five percent (25%) of that number of votes (the "Net Total Votes") which is equal to the difference between the total number of votes in the Association (the "Total Votes") and the number of votes as to which voting rights are suspended at the time of the subject meeting in accordance with these Bylaws, the Articles or the Declaration, and twenty-five percent (25%) of the Net Total Votes present at a meeting at which a quorum is present shall prevail at such meetings unless a different percentage is required by the Bylaws, the Articles or the Declaration. Unless otherwise expressly authorized by these Bylaws or the Declaration, all action required or permitted to be taken by the Members may be taken only at a duly called and properly noticed annual or special meeting at which a quorum is present. The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members so that less than a quorum is present, if any action taken (other than adjournment) is approved by at least a majority of the Members required to constitute a quorum. If any meeting cannot be held because a quorum is not present, a majority of the Members present either in person or by written vote and en-

titled to vote, may adjourn the meeting to a time not less than five (5) minutes nor more than thirty (30) days from the time the original meeting was called at which meeting the quorum requirement shall be twenty-five percent (25%) of the Net Total Votes. If a time and place for the adjourned meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed in this Article Five, Section 2, above.<sup>II, IV</sup>

**Section 9. Action by Written Consent.** Any action, except the election of Directors, which may be taken by a vote of Members at a meeting, may be taken without a meeting if authorized by the written consent of a Majority of Voting Owners, as defined in the CC&Rs, provided:<sup>IV</sup>

- (a) That if any greater proportion of the voting power is required for such action at a meeting, then such greater proportion of written consent shall be required; and
- (b) A written ballot must be distributed to every Member entitled to vote setting forth the proposed acts, providing an opportunity to signify approval or disapproval of each proposed act set forth in the proposal and providing a reasonable time for the Member to return the ballot to the Association and with the choice specified; and
- (c) The number of votes cast by such ballot shall equal or exceed the quorum required to be present at a meeting authorizing such action; and
- (d) The number of votes cast approving such action shall equal or exceed the number of votes required to approve the action at a meeting at which the total number of votes cast was the same as the number of votes cast by written ballot.

In no instance where action is authorized by written consent of the Members need a meeting of the Members be called or noticed.

The waiver of notice or consent shall specify either the general nature of business to be transacted or the purpose of any annual or special meeting of Members. All such waivers, consents or approvals shall be filed with the corporate records and made a part of the minutes of the meeting.

**Section 10. Waiver by Attendance.** Whenever Members entitled to vote at any meeting consent, either by:

- (a) A writing on the records of the meeting or filed with the secretary; or

- (b) Presence at such meeting and oral consent entered on the minutes; or
- (c) Taking part in the deliberation at such meeting without objection;

The business transacted at such meeting shall be valid as if transacted at a meeting regularly called and noticed.

At such meeting any business may be transacted which is not excepted from the written consent or to the consideration of which no objection for want of notice is made at the time.

If any meeting is irregular, for want of notice or of such consent, provided a quorum was present at such meeting, the proceedings of the meeting may be ratified and approved and rendered likewise valid and the irregularity of defect therein waived by a writing signed by all parties having the right to vote at such meeting.

Such consent or approval of Members may be by written vote or power of attorney, but all such votes or powers of attorney must be in writing.<sup>IV</sup>

**Section 11. Record Date.** The Board of Directors may fix a date in the future as a record date for the determination of Members entitled to notice of and to vote at any meeting of Members. The record date so fixed shall not be more than sixty (60) days prior to any other action. When a record date is so fixed, only Members of record on that date shall be entitled to notice of and to vote at the meeting, notwithstanding any transfer of or issuance of Membership certificates on the books of the Association after the record date.

If no record date is fixed in accordance with the provisions of the preceding paragraph, the record date for determining those Members entitled to receive notice of, or to vote at, a meeting of Members shall be the next business day preceding the day on which notice is given, or, if notice is waived, the next business day preceding the day on which the meeting is held. The record date for determining those Members entitled to vote by ballot on corporate action without a meeting, when no prior action by the Board has been taken, shall be the day on which the first written consent is given. When prior action of the Board has been taken, it shall be the day on which the first written consent is given. When prior action of the Board has been taken, it shall be the day on which the Board adopts the resolution relating to that action. For purposes of this paragraph and the preceding paragraph, a person holding membership as of the close of business on the record date shall be deemed the Member of record.

**Section 12. Votes.** At any meeting of the Members any Member may be represented by written vote. No such vote shall be valid after the expiration of thirty (30) days from the date of the meeting.<sup>IV</sup>

## ARTICLE SIX DIRECTORS

### Section 1. Number, Qualifications, Term of Office.

The affairs of the Association shall be managed by a Board of five (5) Directors. At each annual meeting of the Members, the Members shall elect a new Director to fill each vacancy created by the expiration of a Director's term of office. Such new Director shall serve for a term of two (2) years or until the later election of their successors. **The terms of two (2) Directors shall expire in even-numbered years and the terms of three (3) Directors shall expire in odd-numbered years.** The number of Directors may be changed by an amendment to these Bylaws by the Members as hereinafter provided, provided that the number of Directors must be not less than five (5).<sup>IV VII</sup>

### Section 2. Elections.<sup>IV</sup>

(a) Nominations for directors shall be made as set forth in Section 2 of this Article Six.<sup>IV VIII</sup>

(b) The election of Directors shall be conducted by secret ballot.<sup>VIII</sup>

(c) Nominations shall be concluded at least ninety-five (95) days before the date of the election.<sup>IV</sup>

(d) The Secretary shall forward to each Member, with the notice of meeting required by Article Five, Section 2, a list of candidates nominated.

(e) Members representing five percent (5%) of the membership may nominate candidates for the position of Director at any time before the fiftieth (50th) day preceding the first day of the month in which such election shall be held. On timely receipt of a petition signed by the required number of Members, the Secretary shall cause the names of the candidates named on it to be placed on the ballot along with those candidates named by the nominating committee. At the meeting to elect Directors, any Member present at the meeting, in person or in writing, may place names in nomination.<sup>IV</sup>

**Section 3. Removal and Vacancies.<sup>VII</sup>** The entire Board or any individual Director may be removed from office, with or without cause, at any duly called, noticed and held annual or special meeting of the Members, at which a quorum is present, by a majority of the total votes present at such meeting either in person or by written vote, and entitled to vote, provided, however, that unless the entire Board is removed from office by the vote of the members of the Association, no individual Director shall be removed prior to the expiration of his term of office if the votes cast against removal or not consenting in writing to such removal would be sufficient to elect the Director if voted at an election at which the same number of votes were cast and the entire number of Directors authorized at

the time of the most recent election of the Director were then being elected. A Director who has been elected to office by the votes of Members may be removed from office prior to the expiration of his term of office only by the vote of at least a simple majority of the voting power residing in members. A vacancy on the Board created by the removal of a Director shall be filled by a majority of the remaining Directors at a meeting of the Board and each Director so appointed shall hold office until his successor is elected at an annual meeting of Members or at a special meeting duly called for that purpose. A vacancy or vacancies shall be deemed to exist in case of the death, resignation or removal of any Director, or if the Members shall increase the authorized number of Directors but shall fail at the meeting at which such increase is authorized or any adjournment thereof to elect the additional Director(s) so provided for, or in case the Members fail at any time to elect the full number of authorized Directors. In the event of any increase in the authorized number of Directors, no more than one Director may be appointed, rather than elected, to fill a vacancy created thereby. If the Board accepts the resignation of a Director tendered to take effect at a future time, the Board shall have the power to elect a successor to take office when the resignation shall become effective.<sup>IV</sup>

### Section 4. [Intentionally omitted]<sup>IV</sup>

**Section 5. Organization Meeting of the Board.** Immediately following the annual meeting of the Members, the Board shall hold a regular meeting at the same place for the purpose of organization, election of officers and the transaction of other business. Notice of such meeting is hereby dispensed with.<sup>IV</sup>

**Section 6. Regular Meetings.** Regular meetings of the Board shall be held at a time and at such place on the Property or as close thereto as reasonably possible, which place may be designated by the Board from time to time. Notice of the time and place of such meeting shall be communicated to each Director no less than thirty (30) days prior to the meeting.<sup>IV</sup>

**Section 7. Special Meetings.** Special meetings of the Board for any purpose or purposes may be called by written notice at any time by any two Directors or the President.

Notice of the time and place of special meetings and of the nature of any special business to be considered shall be given to each Director by written notice given by first-class mail at least seventy-two (72) hours prior to the scheduled time of such meeting.

Whenever any Director has been absent from any special meeting of the Board and notice of such meeting has been duly given to such Director, an entry in the minutes to the effect that notice has been duly given shall be made.

**Section 8. Meetings by Telephone.** Any meeting, regular or special, may be held by conference telephone or similar communication equipment, and any member of the Board may participate by conference telephone or similar communication equipment in a meeting at which other Members of the Board are physically present, so long as all Directors participating in the meeting can hear one another, and all such Directors shall be deemed to be present in person at such meeting.

**Section 9.** The Board may hold an Executive Session only for the purpose(s) of:

- (a) Consulting with the attorney for the Association on matters relating to proposed or pending litigation;
- (b) Discussing matters relating to personnel; or
- (c) **Holding a hearing on an alleged violation, or appeal of a violation, of the governing documents, unless the property owner requests in writing that the hearing be held in a regular or special meeting of the Board, except where other express provision is made by applicable statute.** <sup>x</sup>
- (d) Other matter(s) only when required or allowed by applicable State or Federal statute(s).

Executive Sessions may be called by written notice at any time by any two Directors or the President. Notice of the time and place of Executive Sessions and of the nature of any qualified business to be considered shall be given to each Director by written notice given by first-class mail at least seventy-two (72) hours prior to the scheduled time of such meeting. Members are not entitled to attend nor to speak at Executive Sessions unless the member is a party to the issue(s) to be considered during the session.

**Section 10. Quorum Requirement, Waiver of Notice.** The transaction of any business at any meeting of the Board, however called and noticed, or wherever held, shall be as valid as though made at a meeting duly held after regular call and notice, if a quorum is present, unless a quorum is expressly not required pursuant to these Bylaws, and if, either before or after the meeting, each of the Directors not present signs a written waiver of notice, or a consent to the holding of such meeting, or an approval of the minutes thereof. All such waivers, consents or approvals shall be filed with the corporate records and made a part of the minutes of the meeting.

**Section 11. Action Without Meeting.** Any action required or permitted to be taken by the Board by law, according to the Articles or according to these Bylaws or the Declaration may be taken without a meeting, if all members of the Board shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board, and shall have the same force and effect as a unanimous vote of such Directors.

**Section 12. Quorum.** A majority of the Board shall constitute a quorum thereof. Every act or decision done or made by a majority of the Directors present at a meeting duly held at which a quorum is present, in person, or by telephone, shall be regarded as the act of the Board, unless the provisions of these Bylaws, the Articles or the Declaration shall require or permit the particular action involved to be taken by the Board under other circumstances.

**Section 13. Adjournment.** A quorum of the Directors may adjourn any Director's meeting to meet again at a stated day and hour; provided, however, that in the absence of a quorum, a majority of the Directors present at the Director's meeting, either regular or special, may adjourn from time to time until the time fixed for the next regular meeting of the Board. Notice of the hours, in which case personal notice of the time and place shall be given before the time of the adjourned meeting to the Directors who were not present at the time of adjournment.

**Section 14. Compensation.** No Director of the Association shall receive any salary or other compensation for services rendered as a Director or officer of the Association. However, Directors and Officers shall be reimbursed for expenses incurred in connection with the business of the Association and authorized by the Board. Nothing herein shall preclude any Director from serving the Association in any capacity other than as an officer or a Director and receiving compensation therefor as authorized and approved by the Board. Any Director receiving any special compensation for services in such other capacity shall be excluded from deliberations and voting by the Board relative to the authorization thereof and fixing compensation with regard thereto.

**Section 15. Sub-Committees of the Board.** <sup>IV</sup> The Board shall have the power to appoint an Executive Committee and other sub-committees and to delegate to such sub-committees any of the powers and authority of the Board in the management of the business and affairs of the Association except the power to:

- (a) adopt, amend or repeal the Articles of Incorporation or Bylaws;
- (b) fill vacancies on the Board or in any committee;
- (c) amend or repeal any resolution of the Board;
- (d) appoint any other sub-committees of the Board or the members of these committees; or <sup>IV</sup>
- (e) approve any transaction (1) to which the Association is a party and one or more Directors have a material financial interest or (2) between the Association and one or more of its Directors or (3) between the Association and any entity in which one or more of its Directors have a material financial interest.

Each sub-committee shall be composed of two (2) or more Directors (one member of the Executive Committee shall be the President) and shall keep regular written minutes of the proceedings and report the same to the Board.<sup>IV</sup>

**Section 16. Powers and Duties.** Subject to the limitation of the Articles, these Bylaws, the Declaration and the applicable statutes of the State of Nevada as to action required to be taken, authorized or approved by the Members of the Association, or a portion or percentage thereof, all Association powers and duties including those set forth in the Declaration shall be exercised by, or under the authority of the Board, and the business and affairs of the Association shall be controlled by the Board.

## ARTICLE SEVEN OFFICERS

**Section 1. Enumeration of Officers.** The officers of the Association shall be a President, Vice President, a Secretary, a Treasurer and such other officers as the Board may deem necessary. Any person may hold more than one office, provided that neither the Secretary nor the Treasurer may serve concurrently as the President.

**Section 2. Subordinate Officers.** The Board may appoint and may authorize the President or another officer to appoint any other officers that the business of the Association may require, each of whom shall have the title, hold office for the period, have the authority, and perform the duties specified in these Bylaws or determined from time to time by the Board.

**Section 3. Election.** The initial officers shall be chosen by a majority vote of the Directors at the first meeting of the Board, and thereafter, officers shall be removed or chosen at any subsequent meeting by the Board by a majority vote of the total number of Directors on the Board.

**Section 4. Term.** All officers shall hold office at the pleasure of the Board.

**Section 5. Resignation of Officers.** Any officer may resign at any time by giving written notice to the Board. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the Association under any contract to which the officer is a party.

**Section 6. President.** The President shall be the chief executive officer of the Association and shall, subject to the control of the Board, have supervision, direction and control of the business and affairs of the Association. He

shall preside at all meetings of the Members and at all meetings of the Board. He shall be ex-officio a member of all standing committees, including the Executive Committee, if in existence, except the Nominating and Architectural Review Committees, and shall have the general powers and duties of management usually vested in the office of President of a Nevada non-profit mutual benefit corporation, and shall have such powers and duties as may be prescribed by the Board or by these Bylaws.<sup>IV</sup>

**Section 7. Vice President.** In the absence or disability of the President, the Vice President shall perform all the duties of the President, and when so acting shall have all powers of, and be subject to all the restrictions upon, the President. The Vice President shall have other such powers and perform such other duties as from time to time may be prescribed for him by the Board or by these Bylaws.

**Section 8. Secretary.** The Secretary shall keep or cause to be kept, a book of minutes at the principal office of the Association or such other place as the Board may order, of all meetings of Directors and Members, with the time and place of holding, whether regular or special, and if special, how authorized, the notice thereof given, the name of those persons present at the Directors' meetings, the number of Members present or represented at Members' meetings and the proceedings thereof.

The Secretary shall give, or cause to be given, notice of all the meetings of the Members and of the Board required by the Bylaws or by law to be given, and he shall keep the seal of the Association in safe custody, and shall have such other powers and perform such other duties as may be prescribed by the Board or the Bylaws.<sup>IV</sup>

The Secretary shall keep, or cause to be kept, at the principal executive office as determined by resolution of the Board, a record of the Association Members, showing the names and addresses of all Members.<sup>IV</sup>

**Section 9. Treasurer.** The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the Association, including accounts of its assets, liabilities, receipts, disbursements, gains losses, capital and surplus. The books of account shall at all times be open to inspection by any Director. The Treasurer shall deposit all monies and other valuables in the name and to the credit of the Association with such depositories as may be designated by the Board. He shall disburse the funds of the Association as may be ordered by the Board, shall render to the President and Directors, whenever they request it, an account of all of his transactions as Treasurer and of the financial condition of the Association, and shall have such other powers and perform such other duties as may be prescribed by the Board or the Bylaws.

The Board may delegate the performance of the foregoing duties, subject to supervision by the Treasurer, to a professional manager retained by the Association.

## **ARTICLE EIGHT INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES, AND OTHER AGENTS**

**Section 1. Definitions.** For the purpose of this Article.

(a) "Agent" means any person who is or was a Director, officer, employee, or other agent of this Association, or is or was serving at the request of this Association as a Director, officer, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise.

(b) "Proceeding" means any threatened, pending, or completed action or proceeding, whether civil, criminal, administrative or investigative; and

(c) "Expenses" includes, without limitation, all attorneys' fees, costs, and any other expenses incurred in the defense of any claims or proceeding against an agent by reason of his position or relationship as an agent and all attorney's fees, costs, and other expenses incurred in establishing a right to indemnification under this Article.

**Section 2. Successful Defense By Agent.** To the extent that an agent of this Association has been successful on the merits in the defense of any proceeding referred to in this Article, or in the defense of any claim, issue, or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection with the claim. If an agent either settles any such claim or sustains a judgement rendered against him then the provisions of Sections 3 through 5 shall determine whether the agent is entitled to indemnification.

**Section 3. Actions Brought by Persons Other Than Association.** Subject to the required findings to be made pursuant to Section 5 below, this Association shall indemnify any person who was or is a party, or is threatened to be made a party, to any proceeding other than an action brought by, or on behalf of, this Association, by reason of the fact that such person is or was an agent of this Association, for all expenses, judgements, fines, settlements and other amounts actually and reasonably incurred in connection with the proceeding.

**Section 4. Action Brought By or On Behalf of the Association.**

(a) Claims settle out of court. If any agent settles or otherwise disposes of a threatened or pending action brought by or on behalf of this Association, with or

without approval, the agent shall receive no indemnification for either amounts paid pursuant to the terms of the settlement or other disposition or for any expenses incurred in defending against the proceeding.

(b) Claims and suits awarded against agent. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit brought by or on behalf of this Association by reason of the fact that the person is or was an agent of this Association, for all expenses actually and reasonably incurred in connection with the defense of that action, provided that both of the following provisions are met:

- (I.) The determination of good faith conduct required by Section 5 below, must be made in the manner provided for in that Section; and
- (II.) Upon application, the court in which the action was brought must determine that, in view of all of the circumstances of the case, the agent should be entitled to indemnity for the expenses incurred. If the agent is found to be so entitled, the court shall determine the appropriate amount of expenses to be reimbursed.

**Section 5. Determination of Agent's Good Faith Conduct.** The indemnification granted to an agent in Sections 3 and 4 above, is conditioned on the following:

(a) Required standard of conduct. The agent seeking reimbursement must be found, in the manner provided below, to have acted in good faith, in a manner he believed to be in the best interest of this Association, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use in similar circumstances. The termination of any proceeding by judgement, order, settlement, conviction, or on a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith or in a manner which he reasonably believed to be in the best interest of this Association or that he had reasonable cause to believe that the conduct was unlawful, in the case of a criminal proceeding, the person must have had no reasonable cause to believe that his conduct was unlawful.

(b) Manner of determination of good faith conduct. The determination that the agent did act in a manner complying with subparagraph (a) above shall be made by:

- (I.) The Board by a majority vote of a quorum consisting of Directors who are not parties to the proceeding; or
- (II.) If such a quorum of disinterested Directors so orders, by independent legal counsel in a written opinion; or

(III.) If such a quorum of disinterested Directors cannot be obtained, by independent legal counsel in a written opinion; or

(IV.) The affirmative vote or written ballot of a majority of the votes of the Members represented and voting at a duly held meeting with the persons to be indemnified not being entitled to vote thereon; or

(V.) The Court in which the proceeding is or was pending. Such determination may be made on application brought by this Association or the agent or the attorney or other person rendering a defense to the agent, whether or not the application by the agent, attorney or other person is opposed by this Association.

**Section 6. Limitations.** No indemnification or advance shall be made under this Article, except as provided in Sections 2 or 5 (b) (V), in any circumstances when it appears:

(a) That the indemnification or advance would be inconsistent with a provision of the Articles, a resolution of the Members, or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or

(b) That the indemnification would be inconsistent with any condition expressly imposed by a court in approving a settlement.

**Section 7. Advance of Expenses.** Expenses incurred in defending any proceeding may be advanced by this Association before the final disposition of the proceeding on receipt of an undertaking by or on behalf of the agent to repay the amount of the advance unless it is determined ultimately that the agent is entitled to be indemnified as authorized in this Article Eight.

**Section 8. Contractual Rights of Nondirectors and Nonofficers.** Nothing contained in this Article Eight shall affect any right to indemnification to which persons other than Directors and officers of this Association, or any subsidiary hereof, may be entitled by contract or otherwise.

**Section 9. Insurance.** The Board may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of the Association against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, whether or not this Association would have the power to indemnify the agent against that liability under the provisions of this Section.

## ARTICLE NINE<sup>IV</sup> COMMITTEES

**Section 1. Nominating Committee.** A Nominating Committee of three members, serving staggered, three-year terms, shall be elected by the Members at the annual meeting. The committee shall select its own Chair. The committee formulates a slate of one or more candidates for each vacancy on the Board of Directors and Nominating Committee. The committee shall solicit recommendations for candidates from the Members, but may also select candidates on its own volition. Members of the Board shall not serve concurrently as members of the Nominating Committee. The member(s) elected shall assume the position immediately following the annual meeting and shall serve until his/her successor is elected. Vacancies on the nominating committee caused by death, resignation, or termination of membership shall be filled by appointment by the Board until the next election at which time the vacancy shall be filled by election by the Members for the remaining portion of the term.<sup>IV</sup>

**Section 2. Architectural Review Committee.** An Architectural Review Committee of not less than three (3) nor more than five (5) Members of the Association shall be appointed by and serve at the pleasure of the Board. Members of the Board shall not serve concurrently as members of the Architectural Review Committee.<sup>IV</sup>

**Section 3. Other Committees.** Other committees may be created by the Board. Members of other committees shall be appointed by and serve at the pleasure of the Board.<sup>IV</sup>

**Section 4. Absence of Active Committees.** In the event the positions on the Nominating Committee and or the Architectural Review Committee cannot be filled as set forth in this Article, the Board of Directors will assign the purpose and functions of the Committee(s) to the Executive Director and/or his/her designee. The purpose and functions of the Committee(s) are to be assigned until such time active Committees are in place. The assignment shall be reviewed at least every 90 days by the Board of Directors for possible appointments to the Committee(s).<sup>XI</sup>

## ARTICLE TEN MISCELLANEOUS

**Section 1. Checks, Drafts, Etc.** All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness, issued in the name of or payable to the Association, shall be signed or endorsed by such person or persons and in such manner as, from time to time, shall be determined by resolution of the Board.

**Section 2. Contracts, Etc. How Executed.** The Board, except as otherwise provided in these Bylaws, may authorize any officer or officers, agent or agents, to enter into any contract or execute any instrument in the name and on behalf of the Association, and such authority may be general or confined to specific instances; and unless so authorized by the Board, no officer, agent or employee shall have any power or authority to bind the Association by a contract or engagement or to pledge its credit or to render it liable for any purpose or to any amount.

**Section 3. Inspection of Bylaws.** The Association shall keep in its principal office the original or a copy of these Bylaws, as amended or otherwise altered to date, certified by the Secretary, which shall be open to inspection by the Members at all reasonable times during office hours. The Association shall furnish a copy of the Articles of Incorporation of the Association to a Member upon written request of such Member.

**Section 4. Fiscal year.** The fiscal year of the Association shall commence on January 1, each year or such other fiscal year as the Association may from time to time designate.

**Section 5. Maintenance and Inspection of Other Corporate Records.** The accounting books, records and minutes of proceedings of the Members and the Board and any committee(s) of the Board shall be kept at such place or places designated by the Board or, in the absence of such designation, at the principal executive office of the Association. The minutes shall be kept in written or typed form, and the accounting books and records shall be kept either in written or typed form or in any other form capable of being converted into written, typed or printed form. The minutes and accounting books and records shall be open to inspection on the written demand of any Member, at any reasonable time during usual business hours, for a purpose reasonably related to the Member's interests as a Member. The inspection may be made in person or by an agent or attorney, and shall include the right to copy and make extracts.

The Board shall establish reasonable rules with respect to:

(a) Notice to be given to the custodian of records by the Member desiring to make the inspection.

(b) Hours and days of the week when such an inspection may be made.

(c) Payment of the cost of reproducing copies of documents requested by a Member.

Each Director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of

inspection by a Director includes the right to make extracts and copies of documents.

**Section 6. Annual Report to Members.** Nothing in these Bylaws shall be interpreted as prohibiting the Board from issuing annual or other periodic reports to the Members as they consider appropriate. However, the Association shall provide to the Directors and to the Members the financial reports referred to in the Declaration, as follows:

(a) A pro forma operating statement (the "Budget") of "Maintenance Expenses" (as that term is defined in the Declaration) for the Association shall be distributed to Lot Owners not less than forty-five (45) days before the beginning of each Fiscal Year.

(b) An annual report of the Association shall be distributed within one hundred twenty (120) days after the end of each Fiscal Year, consisting of the following: (a) a balance sheet as of the last day of such Fiscal Year; (b) an operating (income) statement for such Fiscal Year; (c) a statement of net changes in financial position during such Fiscal Year; (d) in any Fiscal Year in which the gross income to the Association exceeds Seventy-Five Thousand Dollars (\$75,000), a copy of the review of the annual report prepared by an independent accountant in accordance with generally accepted accounting principles and (e) a list of the names, mailing addresses and telephone numbers of the members of the Board. If the annual report is not prepared by an independent accountant, it shall be prepared by the Managing Agent or an officer of the Association and shall be accompanied by a certificate of the person preparing the report that the statements were prepared from the books and records of the Association without independent audit or review.

## ARTICLE ELEVEN EVIDENCE OF MEMBERSHIP

**Section 1. Evidence of Membership.** The membership of each Member shall be evidenced by a Certificate of Membership or other written documentation issued by this Association. Failure to issue such Certificate or other written documentation shall in no event affect the rights, privileges, or liabilities of membership.

## ARTICLE TWELVE AMENDMENTS, CONFLICTS

**Section 1. Amendments.** An amendment to these Bylaws may be enacted only with the vote or written assent of a Majority of Voting Owners, as defined in the CC&Rs. The percentage of the voting power of the Association necessary to amend a specific clause or provision of these Bylaws shall not be less than the percentage of affirmative votes prescribed for action to be taken un-



der that clause or provision. Amendments shall be kept by the Secretary with the other records and books of the Association and shall become effective upon the execution of such written instrument as required by the Section without any further action or requirement.<sup>IV</sup>

**Section 2. Conflicts.** In the event of any inconsistency between these Bylaws and the Articles, the Articles shall control, and in the event of any inconsistency between Bylaws or the Articles and Declaration, the Declaration shall control.

## **ARTICLE THIRTEEN DISSOLUTION**

Upon the winding up and dissolution of the Association, after paying or adequately providing for the debts and obligations of the Association, the remaining assets may be distributed to the Members of the Association as provided in the Declaration.

## **ARTICLE FOURTEEN<sup>IV</sup> PARLIAMENTARY AUTHORITY**

The rules contained in the current edition of *Robert's Rules of Order, Newly Revised*, shall govern the Association in all cases to which they are applicable and in which they are not inconsistent with these Bylaws; Articles of Incorporation; Covenants, Conditions and Restrictions; and state and/or federal law.<sup>IV</sup>

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## COVENANTS CONDITIONS & RESTRICTIONS

**THIS IS A RESTATEMENT OF THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND SHALL SUPERSEDE AND REPLACE ALL PREVIOUS RECORDINGS.**

THE ORIGINAL RECORDING WAS ON JUNE 12, 1986 AS DOCUMENT NO. 147941, IN BOOK 179, AT PAGE 206. THE AMENDMENTS WERE RECORDED ON SEPTEMBER 17, 1987, AS DOCUMENT NO. 158021, IN BOOK 199, AT PAGE 256; JULY 1, 1996, AS DOCUMENT NO. 207436, IN BOOK 304, AT PAGE 433; AND ON JUNE 9, 1997, AS DOCUMENT 213729, IN BOOK 319, AT PAGE 429. ALL REFERENCES ARE TO THE OFFICIAL RECORDS OF PERSHING COUNTY, NEVADA. DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS WITH SPECIAL POWERS OF ATTORNEY RYE PATCH RANCH ESTATES PHASE A

**These Covenants, Conditions and Restrictions were amended by a majority vote of the Board of Directors on February 19, 2002. The Board members were Casey Mahaney, President, Bruce Luke, Vice President, Sandi Houston, Secretary, Mary Lou Ashe, Treasurer, and Jim Ilecki. The amendments were approved by a majority vote of the Membership on May 20, 2003. Other amendments to these Covenants, Conditions and Restrictions were approved by a majority vote of the Membership on July 5, 2003. The Covenants, Conditions and Restrictions have been reviewed for accuracy and completeness by the law firm of Belanger & Plimpton, 1135 Central Ave., Lovelock NV 89419.**

**All previous amendments have been incorporated into this filing for the purpose of having one set of Governing Documents.**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS WITH SPECIAL POWERS OF ATTORNEY is made this 11th day of June, 1986, by Rye Patch Ranch, Inc., a Nevada corporation ("Declarant"), and L.T. of Reno, Inc., a Nevada corporation, as trustee ("Trustee"), under the L.T. of Reno, Inc. Trust No. 1111 (the "Trust").

## RECITALS:

A. The Trustee is the holder of the bare legal title in that certain real property (the "Subject Property") situated in the County of Pershing, State of Nevada, and more particularly described as follows:

Lots 1 through 511, inclusive, as shown on the map of Rye Patch Ranch Estates Phase A, recorded in the Office of the County Recorder of Pershing County, Nevada on September 5, 1985 as Document No. 144399.

The Trustee and Declarant also hold bare legal title to certain additional parcels of real property located in the County of Pershing, State of Nevada. Said additional parcels are adjacent to or in the vicinity of the Subject Property and are more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof (the "Additional Property").

B. Declarant is the Second Beneficiary under the Trust and, subject to the limitations contained in the trust agreement creating the Trust, has the sole and exclusive right to the possession, control and management of the Property (as hereinafter defined) and the right to deal with the Property as if the Property was not otherwise impressed with said Trust and for purposes of this Declaration shall be deemed the Owner of all unsold Lots in the Trust.

C. Declarant intends to establish a common scheme and plan for the use, enjoyment, repair, maintenance, restoration and improvement of the Subject Property and the interests therein conveyed or reserved. Declarant may, at Declarant's option, pursuant to the provisions of Article XI, subject all or a portion or portions of the Additional Property to the terms and conditions of this Declaration. From and after the recordation of each Declaration of Annexation (as hereinafter defined) in the official records of the County of Pershing, State of Nevada, the real property described in the Declaration of Annexation (the "Annexed Property") shall become part of the Property (as hereinafter defined) and be held and conveyed subject to the covenants, conditions, restrictions, limitations, easements and reservations set forth in this Declaration. As used herein, the term "Property" shall mean the Subject Property and the Annexed Property.

NOW THEREFORE, in furtherance of such intent, Declarant and Trustee hereby declare that the Property is and shall be held, conveyed, hypothecated, mortgaged, encumbered, leased, rented, used, occupied and improved subject to the declaration, limitations, covenants, conditions and restrictions set forth in this Declaration, as this Declaration may from time to time be further amended, and set forth in such other rules and regulations as are instituted pursuant to the provisions of this Declaration all of which limitations, covenants, conditions and restric-

tions are declared to be in furtherance of a common plan established for the purpose of enhancing and perfecting the value, desirability and enjoyment of the Property and the interest or interests therein to be conveyed or reserved. All such declarations, limitations, covenants, conditions and restrictions shall constitute covenants running with the land, and equitable servitudes and liens, and shall be binding upon and for the benefit of Declarant and Trustee and each such interest conveyed, and upon and for the benefit of all parties having or acquiring any right, title, interest or estate in the Property, including without limitation the heirs, executors, administrators, successors and assigns of any such parties and all subsequent owners and lessees of all or any part of the Property.

## ARTICLE I DEFINITIONS

In addition to other definitions provided for herein, as used herein the following terms shall have the following meanings:

1.1 "**ARC**" shall mean and refer to the Architectural Review Committee established pursuant to Article II of this Declaration.

1.2 "**Annexed Property**" shall have the meaning ascribed thereto in Recital C above.

1.3 "**Articles**" means the Articles of Incorporation of the Association which have been or shall be filed in the office of the Nevada Secretary of State, as the same may be amended from time to time.

1.4 "**Association**" means the Humboldt River Ranch Association, a Nevada non-stock, non-profit cooperative corporation, whose members consist of Lot Owners.

1.5 "**Board**" means the Board of Directors of the Association.

1.6 "**Bylaws**" means the Bylaws of the Association adopted by the Board, as the same may be amended from time to time.

1.7 "**Common Areas and Facilities**" means all property, real or personal, which has been, or may in the future be, leased, used or occupied by, conveyed to or otherwise acquired or constructed by the Association for the common use and enjoyment of all of the owners of Lots in the Property including, without limitation, that certain real property more particularly described in Exhibit "B" attached hereto and by this reference made a part hereof.

1.8 "**Contract of Sale**" means an agreement between the Trustee and a Vendee for the purchase and sale of one or more Lots wherein the conveyance of title to each Lot by Original Deed shall occur upon the satisfaction of spe-

cified conditions set forth in the agreement and is not required to occur within one year from the date of formation of the contract of sale.

1.9 "**Declaration**" means this instrument, as this instrument may be amended from time to time in the manner provided herein.

1.10 "**Execution Date**" means, with respect to a Contract of Sale, the date upon which such Contract of Sale is executed by Vendee thereunder, or, if a Contract of Sale is not used, the date upon which an Original Deed is recorded.

1.11 "**Fiscal Year**" means the fiscal year of the Association which commences on January 1 each year or such other fiscal year which the Association may, from time to time, designate.

1.12 "**HRRA**" means and refers to Humboldt River Ranch Association, Inc.<sup>IV</sup>

1.13 (Intentionally Omitted)<sup>IV</sup>

1.14 "**Improvement**" means any structure or appurtenance thereto of every type and kind, including but not limited to buildings, walkways, sprinkler pipes, pools, spas, windbreaks, patio covers, patios, driveways, fences, block walls, screening walls, retaining walls, decks, railings, outbuildings, exterior air conditioning equipment, exterior water conditioning equipment, landscaping, planted trees and shrubs.

1.15 "**Lot**" shall mean and refer to each of the legally subdivided plot of land shown upon any recorded subdivision map of the Property or any portion thereof. As of the date hereof, Declarant contemplates that the maximum number of Lots comprising the Property shall not exceed Two Thousand Three Hundred Fifty-Two (2,352), with each such Lot containing at least one and one-quarter acres. Notwithstanding the foregoing, the Lots contained within the Phase B Property (as hereinafter defined) may be used or divided into smaller Lots or parcel sizes that are currently existing as of the date hereof, but only so long as the maximum number of Lots contained therein does not exceed Three Hundred Forty-Nine (349).

1.16 "**Lot Owner**" means and includes as to each Lot (a) the grantee or the grantees collectively named in the Original Deed or (b) the Vendee or the Vendees collectively named in the Contract of Sale; (c) the successor(s) to each person described in clauses (a) or (b).<sup>IV</sup>

1.17 "**Majority of Owners**" means Lot Owners, who together own in the aggregate in excess of 50% of all voting rights in the Association.<sup>IV</sup>

1.18 "**Majority of Voting Owners**" means Lot Owners who concur in a given determination (by vote, written

consent, request, approval, disapproval or otherwise) owning together in excess of 50% of all voting rights of said Lot Owners participating in making such determination.

1.19(Intentionally Omitted)

1.20"**Mortgage**" means the (a) beneficiary of a recorded deed of trust or the holder of a recorded mortgage encumbering any Lot or (b) vendor under a Contract of Sale, or (c) the successor(s) to each person named in clauses (a) and (b). "**Mortgage**" means a mortgage, deed of trust, or Contract of Sale.

1.20A "**Phase B Property**" shall mean and refer to the real property more particularly described in Exhibit "A" to that certain Declaration of Annexation made by Declarant as of November 5, 1986 and recorded on November 18, 1986 in Book 186, Page 88 as File No. 151184 in the Office of the County Recorder of Pershing County, Nevada.

1.21"**Original Deed**" means each initial grant, bargain and sale deed recorded after the date hereof by which each Lot is conveyed by Trustee.

1.22"**Property**" means the Subject Property and Annexed Property.

1.23"**Roads**" shall mean and include roads, utility and drainage easements and taxiways as shown on the Recorded Map of Rye Patch Ranch Estates Phase A and any maps covering Annexed Property.

1.24"**Rules and Regulations**" means the rules and regulations, which may include fines for violations, adopted and promulgated by the Board from time to time pursuant to Subparagraph 7.2 (d) of this Declaration relating to the possession, use and enjoyment of the Property and the Common Areas and Facilities.<sup>VI</sup>

1.25"**Super Majority of Owners**" Lot Owners, who together own in excess of 75% of all voting rights in the Association.<sup>IV</sup>

1.26"**Trustee**" shall mean L.T. of Reno, Inc., A Nevada corporation, an affiliate of Lawyer's Title of Northern Nevada, as trustee under the Trust and any replacement or substitute trustee appointed pursuant to and in accordance with the provisions of the Trust.

1.27"**Vendee**" means the person(s) or entity (ies) named as "Buyer" or "Purchaser" in a Contract of Sale which has not been terminated or consummated by delivery of a Original Deed to Buyer.

## ARTICLE II ARCHITECTURAL REVIEW COMMITTEE

**2.1 Purpose and Function.** The purpose of the ARC is to carry out and maintain the aesthetic goals of the HRRRA, The function of the ARC is to enforce the restrictions contained in Articles II and III hereof, by the review of plans and specifications for structures, additions, fences, pools, patio structures, outbuildings and all other improvements to be made to any Lot submitted to it for approval, and by inspection of construction in progress to insure its conformity with the plans and specifications as approved by the ARC. The ARC shall review and approve, conditionally approve or disapprove all plans and specifications submitted to it for any proposed improvement, alteration or addition solely on the basis of aesthetic considerations and the overall benefit or detriment which would likely result to the immediate vicinity and the Property generally. The ARC shall take into consideration the aesthetic aspects of the architectural designs, placements of the improvement, color scheme, landscaping, exterior finishes and materials, and similar features. The ARC shall approve plans and specifications submitted for approval only if it deems that the installation, construction or alteration of, or the addition to, the improvement in the locations indicated in the plans and specifications will be in harmony with the surrounding improvements and will not detract from the beauty, wholesomeness and attractiveness of the appearance of the surrounding Lots and the Property as a whole. The ARC's approval or disapproval shall be based solely on the consideration set forth in Articles II and III, and the ARC shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes. Each Lot Owner shall be responsible for obtaining all necessary permits and for complying with all applicable governmental requirements with respect to the design and construction of any and all improvements upon his/her Lot. The ARC shall have the right and duty to promulgate reasonable standards against which to examine any request made pursuant to Articles II or III. The ARC may also issue rules or guidelines setting forth procedures for the submission of plans for approval, requiring a fee payable to the Association to accompany each application for approval, or stating additional factors which the ARC will take into consideration in reviewing submissions. The ARC may provide that the amount of such fee shall be uniform or that it be determined in any other reasonable manner, such as by the reasonable cost of the construction, alterations or additions contemplated.<sup>IV</sup>

**2.2 ARC Members.** The ARC shall consist of not less than three (3) nor more than five (5) persons who shall be Association members. The Board shall have the power to appoint and remove all members of the ARC. In

the event the positions on the ARC cannot be filled, the Board of Directors will assign the purpose and functions of the ARC to the Executive Director and/or his/her designee. The assignment shall be reviewed at least every 90 days by the Board of Directors for possible appointments to the Committee. <sup>IV, XI</sup>

**2.3 Action by the ARC.** The members of the ARC shall work as a panel, first individually reviewing plans and specifications submitted to the ARC as hereinafter contemplated, and then subsequently discussing said plans and specifications jointly. A written approval of a majority of the members of the ARC will constitute approval of the preliminary or final submittals as the case may be, or if no written disapproval from the ARC is received within thirty (30) days after the date of receipt of said submittals, such inaction shall be deemed to be approval by the ARC of the plans and specifications as submitted. All Decisions of the ARC will be made available to the Board for review and may be changed, amended or modified by the Board, and are further subject to judicial action or arbitration if called for.

The actions or inaction of the ARC or its agents, when said ARC is exercising its discretion in enforcing this Declaration in good faith, shall not be a basis for damages to any Lot Owner or any other person, nor shall any such actions or inaction by the ARC or any member of the ARC, or their officers or agents, individually or collectively, constitute a cause of action for damages or equitable relief to any Lot Owner herein or any other person. The ARC or any member of the ARC, or their officers or agents, all acting singular or together, shall not be responsible for any loss or damage, or be liable in any other way for any errors or defects, either latent or patent, in the plans and specifications submitted for approval, or any building or structure erected in accordance with such plans and specifications. <sup>IV</sup>

**2.4 Submission of Preliminary Plans.** The Owner of any Lot upon which any construction, alteration or addition is contemplated shall submit to the ARC two sets of preliminary working drawings or plans which shall consist of:

- A. In the case of a residence, a grading plan, plot plan, floor plan and elevation.
- B. In the case of any addition or accessory building, a plot plan, floor plan and elevation.
- C. In the case of pools, patios, grade changes, fences and other improvements, a plot plan.
- D. In the case of a manufactured or modular home, the name of the manufacturer, the model number, year, dimensions, grading plan and plot plan. <sup>IV</sup>

Upon review, the ARC may request additional drawings and information for clarification.

**2.5 Submission of Final Plans and Specifications.** Upon approval of the preliminary plans, two (2) sets of

final plans and specifications shall be submitted to the ARC for final approval. Such plans and specifications shall describe the floor plan arrangement, elevations, use of material, heights, and dimensions, site placement, fences, grading, drainage plans, access, landscape and patio plans and any other pertinent data as may be required to fully illustrate the intended design, construction and use. Before giving such final approval, the ARC may require that said plans and specifications comply with any such requirements that the ARC may impose as to structural features, types of building materials, or characteristics not otherwise expressly covered by the provisions herein. The approval by the ARC shall not relieve the Lot Owner from complying with any governmental requirements and shall not be deemed to be a waiver by the ARC of its right to object to any of the features or elements embodied in such plans or specifications if any when the same features or elements are embodied in any subsequent plans and specifications submitted for approval for other building sites. <sup>IV</sup>

**2.6 Diligence in Construction.** The work of constructing and erecting any building or other structure shall be prosecuted diligently from the commencement thereof and the same shall be completed within a reasonable time in accordance with the requirements herein contained.

**2.7 Inspection of Work and Correction and Completion.** The ARC may inspect any work, and correction of defects or deviations therein, for which approval of plans is required under this Declaration at any time; and further,

(a) Upon the completion of any work for which approved plans are required, the Lot Owner shall give written notice to the ARC of such completion.

(b) Within ninety (90) days thereafter, the ARC or its duly authorized representative may inspect such improvement. If the ARC finds that such work was not done in substantial conformance with the approved plans, it shall notify the Lot Owner in writing of such noncompliance within such 90-day period and specifying the particulars of noncompliance. The ARC shall have the authority to require the Lot Owner to take such action as may be necessary to remedy the noncompliance.

**2.8 Violation.** Prior to making any decision regarding an alleged violation of any restrictions contained in Articles II and III of the Declaration, the ARC shall send written notice to the Lot Owner specifying the nature of the violation and provide an opportunity to the Lot Owner to a hearing before the ARC regarding such violation. Said notice shall be given at least fifteen (15) days prior to said hearing. **In the event that the ARC determines that a violation has occurred, the Board of Directors may bring an action to require the Lot Owner to comply with the ARC findings.** <sup>X</sup> In the event this matter goes before a court or arbitration hearing and such hearing brings forth an order giving the ARC the right to enter upon the Lot to rectify the situation involved, the cost of

such performance shall be charged to the Lot Owner in question which cost shall be due within five (5) days after receipt of written demand therefor, and may be recovered by the ARC in an action at law against such individual Lot Owner, including reasonable attorney's fees and costs of suit.

**2.9 No Compensation.** The members of the ARC shall receive no compensation for services rendered, other than reimbursement by the Lot Owners for expenses incurred by ARC members in the performance of their duties hereunder.

#### **2.10 On-Site Construction.**

(a) No alteration in the exterior design or color of any structure, including additions, shall be made without the prior written approval of the ARC. The material used for any such approved alteration must harmonize and complement the original building or buildings and must be approved by the ARC in writing prior to such alteration. No approval is required to repaint or re-stain any improvement with the same color scheme as previously used and approved.

(b) The location of any structure or structures on each Lot and the landscaping thereon shall bear such an overall relation to the other Lots as to create an aesthetically pleasing and consistent appearance.

(c) All fences proposed by Lot Owners, including the location, style, material, color, height and function thereof, shall be subject to the written approval of the ARC prior to installation. The Lot Owner will maintain and keep in good condition and repair the fences located on his Lot. If the Lot Owner fails or refuses to comply fully and faithfully with and conform to these provisions, then the ARC shall have the right to enter upon the Lot and perform peaceably, at the Lot Owner's expense, such work as may be necessary to fulfill the requirements of this paragraph, after this decision has been reached by a court order or a decision arises from arbitration which would authorize the ARC to do so. Lot Owners shall have no obligation to construct or install fencing on any Lot regardless of whether a neighboring Lot Owner has installed fencing.<sup>IV</sup>

(d) All landscaping shall be maintained in a neat and orderly condition at all times after installation so as to present a pleasing appearance to the Lot Owners and occupants of other Lots. The ARC has the right at all times, upon evidence, written or visual, of any inadequately maintained Lot, to enter into or upon said Lot after given authorization by a court or arbitration order, at Lot Owner's expense, to plant, cut or replant, trim, cut back, remove, replace and/or maintain hedges, trees, shrubs and/or remove plants on any portion of the Lot. ARC members, or any agent thereof, shall not thereby be deemed guilty of any manner of trespass.<sup>IV</sup>

#### **2.11 Additional ARC Controls.**

**(a) No Lot, regardless of land use designation, shall be used for commercial or industrial transit of any kind or nature. No Lot, regardless of land use designation may be used as a commercial or industrial thoroughfare or roadway or any other transport of material or machine or vehicle or other item to any adjacent property for commercial or industrial purposes, whether such property is within or without the Association's boundaries.**<sup>XIII</sup>

(b) Alteration of grade, level or drainage of any Lot or the construction of fish or wildlife ponds or the diversion or interruption of any water source (exception: well water for landscaping) must be approved by the ARC.<sup>IV</sup>

(c) All questions of interpretation or construction of any of the terms or conditions in these covenants, conditions and restrictions contained in Articles II and III hereof, shall be resolved by the ARC, and its decision shall be final, binding and conclusive on any party affected, subject to the provisions of paragraph 2.3 hereinabove.

(d) The ARC may authorize variances from compliance with any of the architectural provisions of this Declaration when circumstances such as topography, natural obstructions, hardships, aesthetic or environmental consideration may require. Such variances must be evidenced in writing and must be signed by at least a majority of members of the ARC. If such variances are granted, no violation of the covenants, conditions and restrictions contained in Articles II and III of this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such variance shall not operate to waive any of the terms and provisions of the Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall it affect in any way the Lot Owner's obligation to comply with any governmental laws and regulations affecting Lot Owners use of the premises, including but not limited to, any zoning ordinances and lot setback lines or requirements imposed by the County Of Pershing or any other governmental authority.

**2.12 County Ordinances.**<sup>VII</sup> All of the Lots are subject to all applicable Pershing County ordinances and as such ordinances may be amended from time to time and may only be used as set forth therein. The Lots are presently zoned by Pershing County as follows:

Residential with Mobile Home Overlay: Lots 42 through 200, inclusive and Lots 229 through 474, inclusive.

Commercial: Lots 1 through 41, inclusive, Lots 201 through 228, inclusive, Lots 475 through 511, inclusive.

**2.13 Nuisance.** A Lot Owner shall not permit or suffer anything to be done or kept upon his/her Lot which will obstruct or interfere with the rights of other Lot Owners, or annoy them by unreasonable noise or otherwise, nor will any Lot Owner commit or permit any nuis-

ance on his/her Lot or commit or suffer any offensive or illegal act to be committed thereon. The Lot Owner shall comply with all ordinances and requirements of Pershing County, the State Health Department or any governmental agency, where applicable, as now exist or as may be amended from time to time.

**2.14 Building Permit.** No construction shall commence until a building permit for said construction has been obtained from or waived by the local government body having jurisdiction over the proposed improvement. Upon commencement of construction of any improvement the work on the improvement shall be diligently pursued to completion in a workmanlike manner.

### 2.15 Signs.

(a) No signs, advertisements, billboards or advertising structures of any kind may be erected or maintained on any of the Residential Lots without the consent in writing of the ARC; provided, however, that permission is hereby granted for the erection of not more than one advertising board on each Lot, which advertising board shall not be more than six (6) square feet in size and shall be used for the sole and exclusive purpose of advertising for sale or lease the Lot upon which it is erected<sup>IV VII</sup>

(b) All Advertising signs for Non Residential Properties (including those with residential use as provided by Pershing County Development Code, Humboldt River Ranch Area Plan Regulations) must come before the Architectural Review Committee (ARC).

(c) All plans for Non Residential signs must be complete with location, size, colors, illumination, height and ground clearance. Non Residential signs must be on the appropriate property and must be pertinent to the business to occur on that property. A sign shall not be erected in a manner that would confuse or obstruct the view of or interfere with exit signs, official traffic signs, signals or devices. Signs must be prepared in a professional and quality manner. Signs and sign support structures shall be kept in good repair at all times. The display surfaces of the signs shall be kept neatly painted or posted at all times. Signs shall not be erected constructed or maintained so as to obstruct any fire escape window or door or opening used as a means of egress or so as to prevent free passage from one part of a roof to any other part thereof. A sign shall not be attached in any form, shape or manner to a fire escape, nor be placed in such a manner as to interfere with any opening required for ventilation.

(d) Ground signs, roof signs and wall signs used for advertising on Non Residential Lots shall be considered appropriate for Humboldt River Ranch Association (HRRRA) properties and shall be granted by action of the ARC only. All advertising signs are subject to Rules promulgated by the ARC from time to time, subject to review and approval by the Board.<sup>VII</sup>

**2.16 Livestock.** No animals, birds, or poultry of any kind shall be raised, bred or kept on any of said Lots.

Personal pets such as dogs, cats or other household pets may be kept, but shall be kept fenced or leashed at all times and in such a manner as not to create a public nuisance. Subject to rules promulgated by the Board, including but not limited to rules pertaining to animal equivalencies, health and safety a Lot Owner may keep horses and ranch pets such as rabbits, lambs, and chickens on any lot as permitted by the zoning law applicable to the Lot from time to time. The Lot Owner shall not keep such animals without proper fencing, cages, controls, or other improvements reasonably necessary to keep and raise such animals in compliance with the rules. The Lot Owner shall not keep any such animal without first obtaining written approval from the ARC to construct any fencing, cages, controls, or other improvements. All submissions, consideration, and ruling by the ARC shall comply with this Article.<sup>V, VI</sup>

## ARTICLE III USE RESTRICTIONS AND BUILDING REQUIREMENTS

### 3.1 Permanent Homes and Miscellaneous Structures.

(a) The term "permanent homes" as used herein shall mean a residence constructed on a Lot, whether frame, stucco, or masonry, but shall not include storage rooms, carports, garages, etc.<sup>IV</sup>

(b) The term "miscellaneous structures" as used herein shall mean any structure erected on any Lot except for manufactured homes and permanent homes, and shall include but not be limited to patios, porches, cabanas, fences, walls, storage rooms, garages, carports and other buildings.<sup>IV</sup>

(c) No permanent home shall be erected on any Lot which shall have less than one thousand (1000) square feet of ground floor space including inside storage but exclusive of any portion thereon used for a garage, carport, outside porch, or outside storage.<sup>III</sup>

(d) Prefabricated, pre-erected or modular permanent homes and miscellaneous structures are specifically permitted, provided that they are approved as set forth in Article II herein prior to construction.

### 3.2 Manufactured Home<sup>IV</sup>

(a) The term "manufactured home" as used herein shall mean a factory-built permanent home without motive power designed or equipped for living purposes, but shall not include camping trailers, tent trailers, pickup truck campers, motor homes, or recreational vehicles.<sup>IV</sup>

(b) Manufactured homes are permitted on any Lot zoned Residential with Mobile Home overlay by Pershing County as set forth in paragraph 2.12 hereinabove, provided, however, that said manufactured home is at least twenty-six (26) feet wide and forty (40) feet long.<sup>IV</sup>

(c) At the time any manufactured home is placed upon a Lot, it shall not exceed five (5) years of age from the date of original manufacture.<sup>IV</sup>

(d) Manufactured homes placed on Lots must be professionally manufactured and not "home made" or "owner built" and, prior to being placed thereon, shall be approved as set forth in Article II herein.<sup>IV</sup>

(e) Decks and porches must be adjacent to, but not attached directly to the manufactured home.

(f) Any manufactured home placed on said Lots shall either be set on a permanent concrete footing or shall have skirting placed completely around the base of said unit within three (3) months of the date the manufactured home is placed upon the Lot. It is the intention of this paragraph to provide for concealment of or to eliminate the space between the manufactured home and the ground. Further, no tires, stones or other unsightly objects shall be placed on the roof of any manufactured home.<sup>IV</sup>

**3.3 Storage of Items on Lot. The following may be stored on any lot, subject to rules promulgated by the Board from time to time:**

- a) Automobile, truck, motor home, recreational vehicle, camper, trailer (boat, camping, equipment, horse, livestock, travel, utility [designed for use of public roads], etc.), all of which must have a current registration/license issued by the Nevada Department of Vehicle or comparable agency of another state.
- b) Boat, which must have a current registration/license issued by the Nevada Department of Wildlife or comparable agency of another state.
- c) Farm/maintenance equipment (wheeled tractor with/without front loader, backhoe, small grader, drag, mower attachment, garden tractor/lawn mower and utility trailer not designed for use on public roads, etc.).<sup>VIII, IX</sup>

Storage of the above must not be unsightly and may require fencing, hedge or shrubbery, which screening and the adequacy thereof, shall be subject to the approval of the ARC. No such fencing shall be erected in such a manner as to preclude or block any roads or preclude access to any other lot or parcel. All submissions, consideration, and rulings by the ARC shall comply with this article.<sup>III, IV</sup>

**3.4 No Tents, Trailers, Shacks, Etc.** No tent, shack, trailer, basement, garage, construction shed or outbuilding shall at any time be used on any Lot as a residence, either temporarily or permanently, nor shall any residence of a temporary character be constructed, placed or erected on any Lot unless approved in writing by the ARC with the following exception: During active construction or re-

modeling, a Lot Owner may live in a recreational vehicle or trailer for up to ninety (90) days with prior approval of the ARC, provided that said vehicle shall have its own completely self-contained sanitary system or have the ability to use an existing approved septic system. The Lot Owner may, by written notice to the ARC, request an extension of this privilege provided that construction is proceeding. Camping in recreational vehicles shall be permitted at any time on any residential Lots and Lot Owners may temporarily use a recreational vehicle upon any of said Lots for not more than ninety (90) days in any calendar year and further provided that said vehicle shall have its own completely self-contained sanitary system.<sup>IV</sup>

**3.5 Improvements.** Lot Owners are not required to build or erect improvements on their Lot(s) and may resell their Lot(s) without building if they so choose. **No improvements may be placed on any Lot, regardless of land use designation, that would be used as a commercial or industrial thoroughfare or any other transport of material or machine or vehicle or other item to any adjacent property for commercial or industrial purposes, whether such property is within or without the Association's boundaries.**<sup>XIII</sup>

**3.6 Setbacks.** No buildings, permanent homes, or other improvements, other than fences, driveways, trees or hedges, shall be erected or permitted on any Lots nearer than fifty (50) feet from the front property line or nearer than twenty (20) feet from the side property line or nearer than twenty-five (25) feet from the rear property line of any Lot.<sup>IV</sup>

**3.7 Height.** No improvements may be constructed on any Lot which exceeds two stories in height or twenty-five (25) feet above the ground line, whichever is less.

**3.8 Appliances.** No washing machine, dryer, refrigerator, freezer, or other appliance, and no machinery or tools which detract from the appearance of the area shall be kept upon any Lot, except concealed from view within a roofed and enclosed building area or inside of a residence and except as authorized by Article III. 3.3.<sup>VIII</sup>

**3.9 Drying Yards.** No clothes drying yards shall be permitted unless screened from all views exterior to the Lot on which the drying yard is located by fence, hedge or shrubbery, which screening and the adequacy thereof shall be subject to the approval of the ARC.

**3.10 Commercial Activity.** Commercial activity is restricted to those Lots zoned for Commercial Use by Pershing County at the time of the final recorded map by the Declarant and is subject to all Pershing County ordinances and as such ordinances may be amended from time to time and may only be used as set forth therein, subject to further approval by the State Health Department or other governmental bodies



where applicable. Commercial activity shall not include any type of commercial or industrial transit of any kind or nature and shall not include a commercial or industrial thoroughfare or roadway or any other transport of material or machine or vehicle or other item to any adjacent property for commercial or industrial purposes, whether within or without the Association's boundaries. The zoning of any Lot cannot be used to prevent enforcement of any provision of this Declaration. This Declaration shall control and even if zoning would allow some activity, if it is restricted or prohibited by this Declaration, the Declaration shall control.<sup>XIII</sup>

**3.11 Garbage Containers, Butane/Propane Tanks.** Disposal of garbage and refuse shall be an individual responsibility, and all garbage or trash containers, oil tanks, bottled gas tanks (other than those carried as an integral part of a mobile home) and other such facilities must be located and maintained in such manner as not to create a unsanitary, offensive, unsightly or unsafe condition.

## ARTICLE IV UTILITY EASEMENTS

**4.1 Utility Easements.** The HRRRA reserves and covenants for itself, and all Lot Owners, nonexclusive easements over and under the Lots and the Common Areas and Facilities for the installation, maintenance and repair of electric lines, telephone lines, water lines, or other public and private utilities and for drainage from the Lots of water resulting from the normal use of adjoining Lots. The easements shall consist of a ten (10) foot strip of land along and inside all side and rear lot lines, and seven and one-half (7.5) foot strips abutting the street right-of-way of all front lot lines. Such easements shall be for the benefit of all of the Lots and real property within the Property and of all of the Lot Owners.<sup>IV</sup>

## ARTICLE V<sup>IV</sup> (Intentionally Omitted)

## ARTICLE VI THE ASSOCIATION

**6.1 Association.** The Association is or shall be incorporated under the name Humboldt River Ranch Association (formerly known as Rye Patch Ranch Association), as a Nevada non-stock, non-profit cooperative corporation.<sup>I</sup>

**6.2 Membership in Association.** The members of the Association ("Member") shall be each Lot Owner in the Property. Each Lot Owner shall remain a Member until

he/she ceases to own a Lot at which time his/her membership in the Association shall automatically cease.

**6.3 Transfer of Membership.** Each membership in the Association is appurtenant to and inseparable from the ownership of a Lot and shall be automatically transferred upon any authorized transfer or conveyance of the ownership of the Lot to any transferee or grantee; and except as provided herein, said membership shall be non-transferable whether by gift, bequest, assignment or otherwise.

**6.4 Voting.** In accordance with the provisions of the Bylaws, the Association shall have one class of voting membership:<sup>IV</sup>

(a) Memberships. Members shall be all owners of Lots and subject to the provisions of the next following sentence, shall be entitled to one vote for such Lot owned. When more than one person or entity owns a Lot, all such persons and entities shall be Members and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. Voting rights attributable to all Lots within the Subject Property shall vest and become effective concurrently with the commencement of the Maintenance Assessments as specified in Paragraph 8.5.<sup>IV</sup>

(b) All voting rights shall be subject to the restrictions and limitations provided in this Declaration and in the Articles and Bylaws.<sup>IV</sup>

**6.5 Board of Directors.** The initial Board shall be the persons named in and executing the Articles of Incorporation of the Association.<sup>IV</sup>

## ARTICLE VII MANAGEMENT

**7.1 Powers and Duties Generally.** The management, maintenance, repair, replacement, and restoration of the Roads and the Common Areas and Facilities and any alterations or additions thereto, shall be the responsibility of the Association, unless the responsibility for a portion or all such repairs and maintenance shall be assumed by a governmental agency, including but not limited to, the County of Pershing, State of Nevada. The association, acting through its Board, its officers, or other duly authorized representatives may, subject to the provisions of the Articles, the Bylaws and this Declaration, exercise any and all rights and powers hereinafter enumerated and, except as specifically limited herein, all the rights and powers of a non-stock, non-profit cooperative corporation under the laws of the State of Nevada.

**7.2 Specific Powers and Duties of the Association.** The management, maintenance, repair, replacement and

restoration of the Roads and the Common Areas and Facilities, and any alterations or additions thereto, and the administration of the affairs of the Association, and the payment, as agent, of expenses and costs enumerated in this Declaration shall be under the direction and control of the Association. The Association shall have the duty to maintain and repair the Roads and the Common Areas and Facilities, to administer the operation provided herein and to levy, collect and enforce the Assessments enumerated in this Declaration. The Association shall have the power to do all things that are required to be done by it pursuant to this Declaration, commencing on the Execution Date of the sale of the first Lot in the Subject Property. Without limitation of the foregoing powers and duties, the Association is expressly authorized in its discretion and on behalf of the Lot Owners to do all of the following:

(a) Repair and Maintenance. To repair and maintain the Roads and the Common Areas and Facilities or any part thereof; to enter upon any Lot as may be necessary in connection with the construction, maintenance or emergency repair for the benefit of the Common Areas and Facilities or the Lot Owners in common; to establish reserves for anticipated major repairs, replacements and additions; and to acquire and pay for materials, supplies, labor or services which the Association deems necessary or proper for the maintenance and operation of the Roads and the Common Areas and Facilities.<sup>IV</sup>

(b) Taxes and Assessments. To pay all taxes and assessments, and other costs affecting or relating to the operation of the Association and the Roads or the Common Areas and Facilities; and to discharge, contest or protest liens or charges affecting the Association and the Roads and the Common Areas and Facilities.

(c) Utilities. To pay the costs of electrical, telephone, gas and other utility services for the Association and the Roads and the Common Areas and Facilities.

(d) Rules and Regulations. To adopt, amend, publish and enforce, from time to time, Rules and Regulations relating to the possession, use and enjoyment of the Property and the Common Areas and Facilities, which Rules and Regulations shall be consistent with the provisions of this Declaration.

(e) Legal and Accounting. To obtain and pay the cost of legal and accounting services necessary or proper in the operation and management of the Association and the enforcement of this Declaration, the Bylaws and the Rules and Regulations.

(f) Insurance. To obtain and pay the cost of the following insurance coverages, the limits and costs of which shall be reviewed at least annually by the Board and adjusted in its discretion.

(i.) Insurance against loss or damage to the Roads and the Common Areas and Facilities, by fire and other risks and hazards customarily covered by an insurance policy written on an all risk basis. The stipulated amount of such insurance shall be based on an amount not less than eighty percent (80%) of the then full replacement cost thereof, and such stipulated amount shall be updated annually by the Association to reflect the then-current estimated replacement cost of the Common Areas and Facilities. Such insurance shall name the Association, with respect to any property, real or personal, to which it holds title, and as agent for each Lot Owner, with respect to any property, real and personal, which may be held by all Lot Owners as tenants in common.

(ii.) To the extent available at a reasonable cost, insurance covering the Common Areas and Facilities against hazards such as burglary and theft.

(iii.) A policy or policies insuring the Association and the Board against any liability to the public or to the Lot Owners, or any other person resulting from or incident to the ownership, management or use of the Property, the Roads or the Common Areas and Facilities by the Association, the Board and agents, the Lot Owner and members of the public. Such insurance shall insure, without limitation, against loss due to claims for bodily injury, death and property damage with a combined single limit liability with regard thereto of not less than One Million Dollars (\$1,000,000.00) per occurrence. The Association shall also procure and maintain one or more umbrella liability insurance policies against loss or damage due to claims for personal injury, death and property damage with a cumulative limit with regard thereto of not less than Five Million Dollars (\$5,000,000.00) per occurrence. Such policy or policies shall contain appropriate waivers of subrogation by the insurer against any Lot Owner and a provision that no act or omission by any Lot Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or operate as a condition to recovery by any other person under such policy.<sup>IV</sup>

(iv.) State Industrial Insurance and, to the extent available at a reasonable cost, directors' and officers' liability insurance, insuring the Board and each member thereof and committees of the Board and the officer, against any liability for any act or omission carrying out their obligations hereunder or resulting from their membership on the Board or any committee thereof or office held.

(v.) A fidelity bond in favor of the Association in such amounts as the Association deems necessary and proper, insuring against any losses that may occur as a result of the acts of any employee, officer or agent of the Association who may have charge of

funds of any Lot Owner or of the Association or who may have check signing authority.

(vi.) To the extent available at a reasonable cost, errors and omissions insurance coverage in favor of the Association in an amount satisfactory to the Association, insuring against any losses that may occur as a result of the act of any employee or officer of the Association.

(vii.) Such additional and/or other insurance deemed necessary or desirable by the Association. Such other policy or policies shall cover such risks, be written by such insurers, and be in such amounts as the Association shall deem necessary and proper under the circumstances.

(g) Levy and Collection of Assessments. To Levy, collect and enforce Assessments against the Lot Owners in the manner provided in Articles VIII and IX hereof in order to pay the expenses of the Association, and to do all things necessary to enforce each Lot Owner's obligations hereunder.

(h) Financial Statements and Audit. To cause regularly to be prepared, on an accrual basis, financial statements for the Association and copies thereof distributed to all Lot Owners as follows:

(i.) A copy of the pro forma operating statement (the "Budget") of "Maintenance Expenses" (as that term is defined in Paragraph 8.3 hereof) for the Association for each Fiscal Year shall be distributed to each Member not less than forty-five (45) days nor more than sixty (60) days prior to the beginning of such Fiscal Year, except for the first Fiscal Year, with respect to which the Budget shall be distributed at the time of sale. The Budget shall include all of the following: (A) the estimated revenue and expenses of the Association on an Accrual basis; (B) the amount of the total cash reserves currently available for replacement or major repair of the Common Areas and Facilities and for contingencies; (C) the identification of the estimated remaining life and the methods of funding used to defray the future repair, replacement, or additions to the major components of the Common Areas and Facilities and other Improvements or Property for which the Association is responsible; and (D) a general statement setting forth the procedures used by the Association in the calculation and establishment of those reserves to defray the future repair, replacement, or additions to major components of the Common Areas and Facilities and other Improvements or Property for which the Association is responsible. The Budget shall be accompanied by a statement of the Association's policies and practices in enforcing its remedies against Lot Owners for defaults in payment of Assessments, including

the recordation and foreclosure of liens against the Lots.

(ii.) An annual report of the Association shall be distributed within one hundred twenty (120) days after the end of each Fiscal Year, consisting of the following; (a) a balance sheet as of the last day of such Fiscal Year; (b) an operating (income) statement for such Fiscal Year; (c) a statement of net changes in financial position during such Fiscal Year; (d) in any Fiscal Year in which the gross income to the Association exceeds Seventy-Five Thousand Dollars (\$75,000.00), a copy of the review of the annual report prepared by an independent accountant in accordance with generally accepted accounting principles and (e) a list of the names, mailing addresses and telephone numbers of the members of the Board. If the annual report is not prepared by an independent accountant, it shall be prepared by an Officer of the Association and shall be accompanied by a certificate of the person preparing the report that the statements were prepared from the books and records of the Association without independent audit or review.

(i) Bank Accounts. To deposit all funds collected from Lot Owners, pursuant to Article VIII hereof and all other amounts collected by the Association in connection with its duties provided herein as follows:<sup>IV</sup>

(i.) All funds shall be deposited in a separate bank account or accounts (the "General Account") with one or more banks or savings and loan associations located in the State of Nevada. Funds deposited in the General Account may be used by the Association for the general purposes of the Association.

(ii.) Funds which the Association shall collect for "Reserve Expenses" (as defined in subparagraph 8.3 (ii)) pursuant to the provisions of subparagraph 8.3 (ii) may, within 10 days after deposit in the General Account, be deposited in an interest bearing account or accounts with one or more banks or savings and loan associations selected by the Association (the "Reserve Account"), and the Association shall keep accurate books and records reflecting the amount in the Reserve Account. Funds deposited in the Reserve Account, with the exception of interest earned thereon may be used by the Association only for the purposes for which such funds have been collected. Interest earned on the funds deposited in the Reserve Account may be deposited into the General Account and used for the general purposes of the Association.

(j) Statements of Status. Upon the written request of a Lot Owner, to issue a written statement to the Lot Owner, Mortgagee, prospective Mortgagee, purchaser or other prospective transferee of a Lot, setting forth any amounts unpaid with respect to such Lot. Such statement, for which a reasonable fee may be charged shall be binding

upon the Association in favor of any person who may rely thereon in good faith.

(k) Delegation. To delegate the authority, power and responsibilities of the Association hereunder to one or more committees, officers, agents or employees of the Association.

### 7.3 (Intentionally Omitted)

**7.4 Limitation on Powers of the Association.** Notwithstanding the powers of the Association as set forth in Paragraphs 7.1 and 7.2, the Association (and any delegate of the Association's powers and duties pursuant to Paragraph 7.2 (k) hereof) shall be prohibited from taking any of the following actions unless authorized by a Majority of Voting Owners:<sup>IV</sup>

(a) Entering into a contract with a third person or entity whereby such person or entity will furnish goods or services for the Common areas and Facilities or the Association for a term longer than one year, except for:

(i.) A contract with public utility company if the rates charged for the materials or services are regulated by the Public Service Commission, State of Nevada or the Public Utilities Commission; provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate;

(ii.) Prepaid casualty and/or liability insurance policies not to exceed three (3) years' duration provided that the policy permits short-rate cancellation by the insured; and

(iii.) Agreements for cable television services and equipment or satellite dish television services and equipment of not to exceed five (5) years duration;<sup>IV</sup>

(b) Selling during any Fiscal Year property having a fair market value greater than five percent (5%) of the "Maintenance Expenses" as set forth in the budget for such Fiscal Year.

(c) Paying compensation to directors on the Board or to officers of the Association for services performed in the conduct of the Association's business; provided, however, that the Association may cause a director or officer to be reimbursed for expenses incurred in carrying on the business of the Association.

**7.5 Limited Liability.** Neither the Association, any member of the Board, nor any officer of the Association shall be personally liable for the acts, omissions or conduct of any of the Lot Owners or for the breach of any of the obligations of any of the Lot Owners hereunder, under the Rules and Regulations or as a member.

## ARTICLE VIII ASSESSMENTS

**8.1 Creation of Personal Obligations for Assessments.** Each Lot Owner, by purchasing a Lot, whether or not it shall be so expressed in the Contract of Sale or Original Deed for such Lot, shall be deemed to have covenanted and agreed, for each Lot owned, to pay to the Association the Maintenance Assessment and all Special Assessments, as hereinafter described in Paragraphs 8.5 and 8.7 respectively (all of which are sometimes herein individually and collectively referred to as "Assessment(s)"), which shall be established, made and collected as hereinafter provided. The Assessments, together with the interest, costs and reasonable attorney's fees, shall be the personal obligation of each Lot Owner at the time the Assessment becomes due and payable and shall be a lien and charge upon the Lot against which the Assessment is made. The personal obligation for any prior delinquent Assessments shall not pass to successors-in-title unless expressly assumed by them. No Lot Owner may waive or otherwise avoid liability for the Assessments by non-use or abandonment of his Lot.<sup>IV</sup>

**8.2 Purpose of Assessments.** Assessments shall be used exclusively to promote the common recreation, health, safety and welfare of the Lot Owners, the improvement, management and maintenance of the Roads and the Common Areas and Facilities, reimbursement of expenses incurred by the Association and other expenditures incurred in the performance of the duties of the Association set forth in this Declaration.

**8.3 Maintenance Expenses.** As used herein, "Maintenance Expenses" means the estimated aggregate amount of costs, as set forth in the Budget, to be incurred by the Association during the applicable Fiscal Year (i) to administer the affairs of the Association; (ii) to manage, maintain and repair the Roads and the Common Areas and Facilities; (iii) to provide for reserves to ensure payment when due of the cost of capital expenditures relating to the repair, replacement and any addition to the Roads and the Common Areas and Facilities, and for such other purposes as are required by good business practice (the "Reserve Expenses"); (iv) to provide for a contingency allowance for the late payment of assessments, unforeseen cost increases and emergency expenditures; and (v) to provide, at the option of the Board, a fund to promote the common recreational opportunities of the Lot Owners. Without limiting the generality of the foregoing, Maintenance Expenses shall include: all estimated charges, costs, and expenses whatsoever to be incurred by the Association for or in connection with the administration and operation of the Association, the Roads and the Common Areas and Facilities, the real property taxes and other taxes assessed against the Association, the Roads and the Common Areas and Facilities; assessments and other similar governmental charges levied on or attributable to the Association.

ciation, the Roads and the Common Areas and Facilities; insurance, including fire and other casualty and liability insurance obtained pursuant to this Declaration; any liability for loss or damage arising out of or in connection with the operation of the Association, the Roads and the Common Areas and Facilities or any fire, accident or nuisance therein; cost of repair, reinstatement, rebuilding, replacement of or any addition to the Roads and the Common Areas and Facilities, the cost of all basic utility services, including water, electricity, refuse removal, telephone and any other similar service required in the operation of the Association or attributable to the Roads and the Common Areas and Facilities; the unpaid share of any Assessment or Assessments levied during any previous Fiscal Year(s) against any Lot, the Lot Owner of which has defaulted in payment thereof to the extent that the same becomes uncollectible; wages, accounting and legal fees, management fees, and other necessary expenses of upkeep, maintenance, management and operation actually incurred with respect to the Association, the Roads and the Common Areas and Facilities. The Board may not impose a Maintenance Assessment that is more than twenty percent (20%) greater than the Maintenance Assessment for the Association's immediately preceding fiscal year without the vote or approval of at least a Majority of Owners. This limitation in no way restricts, prohibits or prevents the Board from increasing the Maintenance Assessment or levying a Special Assessment to defray some or all of the additional costs and expense incurred by the Association in "emergency situations" (as hereinafter defined.) For purposes of this Paragraph 8.3, an "emergency situation" is any of the following: (1) an extraordinary expense require by an order of a court; (2) an extraordinary expense necessary to repair or maintain the Subject Property, the Common Areas and Facilities or any portion thereof for which the Association is responsible where a threat to personal safety on the Subject Property is discovered; or (3) an extraordinary expense necessary to repair or maintain the Subject Property, the Common Areas and Facilities or any portion thereof for which the Association is responsible that could not have been reasonably foreseen by the Board in preparing and distributing the Budget as required under subparagraph 7.2 (h)(i) above provided, however, that the Board shall, prior to the imposition or collection of the increased Maintenance Assessment or Special Assessment, pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process, and the resolution shall be distributed to the Owners with the notice of increased Maintenance Assessment or notice of Special Assessment.<sup>IV</sup>

**8.4 Revision and Reduction of Budget.** In the event of annexation of Additional Property pursuant to Article XI hereof, the Board shall, not later than 15 days following the date of such annexation (the "Annexation Date"), cause to be prepared a revised budget for the remainder of the Fiscal Year, commencing on the Annexation Date (the

Revised Budget) and the Board shall determine and levy for such period a revised Maintenance Assessment for each Lot, including Lots within the Annexed Property, superceding the balance of the Maintenance Assessment allocable to the remainder of the Fiscal Year. Each Lot Owner hereby agrees that in the event the Board shall determine at any time during the Fiscal Year that the Budget is or will be, in excess of the amount needed to meet the costs and expenses (other than Reserve Expenses) for such Fiscal Year, the Board shall have the authority, exercisable in its sole discretion, to cause to be prepared an estimate of the amount of such excess, which excess shall then be subtracted from the previously prepared Budget for the Fiscal Year to which such excess is applicable. The Maintenance Expenses reflected in the reduced total Budget shall then be allocated as provided in Paragraph 8.5 below. No Lot Owner shall, by reason of such revision or reduction, be entitled to a refund of all or any portion of any Maintenance Assessment already paid, provided, however, that said Lot Owner shall be entitled to a credit for any over-payment made by such Lot Owner. Each Lot Owner hereby agrees that any amount assessed and collected in excess of the amount required to meet the costs and expenses (other than the Reserve Expenses) of the Association in any given Fiscal Year shall be applied to reduce the total amount assessed to meet the Maintenance Expenses for the next succeeding Fiscal Year. Any reduction in the Budget, as provided herein, shall not relieve any Lot Owner from his obligation to pay any Assessment.

**8.5 Maintenance Assessment.** On a Fiscal Year basis, an equal and uniform assessment for each Lot shall be determined by dividing the Maintenance Expenses by the total number of Lots in the Property (the "Maintenance Assessment"). The initial Maintenance Assessment shall commence on all Lots within the Subject Property on the first day of the first calendar month following the Execution Date of the sale of the first Lot in the Subject Property and shall be prorated according to the number of months remaining in the Fiscal Year from and after such commencement date.

**8.6 Payment of Maintenance Assessment.** The Maintenance Assessment for each Lot Owner shall be payable in periodic installments, payable no more frequently than monthly or less frequently than annually, as determined from time to time by the Association. Each portion of the Maintenance Assessment which is attributable to Reserve Expenses shall be deposited in the Reserve Account provided for in subparagraph 7.2(i).<sup>IV</sup>

**8.7 Special Assessments.** If the Maintenance Assessment with respect to each Lot is, or will become, inadequate to meet all expenses incurred by the Association hereunder for any reason, other than the annexation of additional Lots, including nonpayment of Assessments on a current basis, the Association shall immediately determine the approximate amount of such inadequacy, pre-

pare and distribute a supplemental budget and levy a special assessment (the "Special Assessment") in an amount sufficient to provide for such inadequacy; provided, however, that Special Assessments shall not, individually or in the aggregate, exceed five percent (5%) of Maintenance Expenses for the applicable Fiscal Year without the vote or written assent of a Majority of Voting Owners. The Special Assessment shall be levied against each Lot. Any Special Assessment shall be payable in one lump sum or periodically, in installments, as determined by the Association, and shall be payable within 15 days of the due date set forth on a statement therefor.<sup>IV</sup>

## **ARTICLE IX ENFORCEMENT OF RESTRICTIONS**

**9.1 In General.** In the event that any Lot Owner should fail to comply with any of the provisions of this Declaration, the Bylaws and the Rules and Regulations, the Association or any other Lot Owner(s) shall have full power and authority to enforce compliance with this Declaration, the Bylaws and the Rules and Regulations in any manner provided for herein by law or in equity, including, without limitation, bringing (a) an action for damages, (b) an action to enjoin any violation or specifically enforce the provisions of this Declaration, the Bylaws and the Rules and Regulations, and (c) an action to enforce the liens provided for herein and any statutory lien provided by law, including the foreclosure of any such lien, the appointment of a receiver of such Lot Owner, and the right to take possession of the Lot of such Lot Owner. In the event the Association or any Lot Owner(s) shall employ an attorney to enforce any provision(s) of this Declaration, the Bylaws or the Rules and Regulations against any Lot Owner, the prevailing party shall be entitled to recover from the losing party, reasonable attorney's fees and costs incurred in connection with such enforcement in addition to any other amounts as provided for herein. All sums payable hereunder by the Lot Owner shall bear interest at twelve percent (12%) per annum from the due date. All enforcement powers of the Association shall be cumulative. Each Lot Owner shall be deemed to covenant and agreed that the Association shall have all of the rights, powers and remedies set forth in this Article IX and elsewhere in this Declaration.

**9.2 Certain Specific Enforcement Powers.** In amplification of, and not in limitation of, the general powers specified in Paragraph 9.1 above, the Association shall have the following rights and powers:

(a) **Suspension of Privileges.** If any Lot Owner shall be in a breach of this Declaration, the Bylaws, or the Rule and Regulations, including, but not limited to, the failure of such Lot Owner to pay any Assessment or installment payment thereon on or before the due date thereof, subject to the limitations hereinafter in this Subparagraph 9.2 (a) set forth, the Association may suspend the right of such Lot Owner to participate in any vote or other determina-

tion provided for herein and may further suspend such Lot Owner's rights to use and enjoy the Common Areas and Facilities. If such suspension of privileges is based on the failure of a Lot Owner to pay Assessments or any other amount(s) due hereunder when due, the suspended privileges of such Lot Owner shall be reinstated automatically at such time as the Lot Owner shall have paid to the Association (or other person or entity to whom payment is due) all amounts due as of the date of such reinstatement. If such suspension of privileges is based on any act or omission other than the failure of a Lot Owner to pay Assessments or any other amount(s) due hereunder when due, no such suspension shall be made except after a meeting of the Board at which a quorum of the Board is present, duly called and held for such purpose in the same manner as provided in the Bylaws for the noticing, calling and holding of a special meeting of the Board. Written notice of such meeting and the purpose thereof, including the reasons for the suspension sought, shall be given to the Lot Owner whose privileges are being sought to be suspended at least 15 days prior to the holding of such meeting. Such notice shall be given as provided in Paragraph 12.3 below. Such Lot Owner shall be entitled to appear in person at such meeting and present his case or to submit a statement in writing as to why his privileges should not be suspended. The decision as to whether such privileges should be suspended shall be made by a majority of the members of the Board present at such meeting. Written notice of the Board's decision shall be given to the Lot Owner and if such decision is that of suspension, the reasons therefor shall be given to the suspended Lot Owner and the suspension shall become effective on the date such notice is given.

(b) **Enforcement by Lien.** There is hereby created a claim of lien, with power of sale, on each Lot to secure the prompt and faithful payment to the Association of any and all Assessments levied against the Lots under this Declaration, together with interest thereon at the rate of 12% per annum from the date of delinquency, and all costs of collection which may be paid or incurred by the Association in connection therewith, including reasonable attorney's fees. At any time within 90 days after the occurrence of any default in the payment of such Assessment or installment payment thereon or performance secured, the Board or its authorized representative may, but shall not be required to, make a written demand for payment or performance to the defaulting Lot Owner. The demand shall state the date and amount of the delinquency or the particular performance with respect to which the Lot Owner is in default. Each default shall constitute a separate basis for a demand or claim of lien, but any number of defaults may be included within a single demand or claim of lien. If such delinquency is not paid or default is not cured within 10 days after delivery of such demand, or within 90 days after the date of delinquency or default if no written demand is made, the Board or its authorized representative may elect to file and record a notice of default and claim of lien (with a copy to the

Mortgagee of such defaulting Lot Owner if such Mortgagee has requested a copy and furnished its name and address to the Association) on behalf of the Association against the Lot of the defaulting Lot Owner in the Office of the County Recorder of Pershing County, State of Nevada. Such a notice of default and claim of lien shall be executed and acknowledged by any officer of the Association, and shall contain substantially the following information:

- A. the name(s) and address of the defaulting Lot Owner;
- B. a description of the Lot against which the lien claimed is to attach;
- C. the total amount of the delinquency, interest thereon, costs, penalties and reasonable attorneys' fees;
- D. that the notice of default and claim of lien is made by the Association pursuant to this Declaration; and
- E. that a lien is claimed and will be foreclosed against the Lot in an amount equal to the amount stated.

Upon such recordation of a duly executed original or copy of such a notice of default and claim of lien, and mailing a copy thereof to the address of the defaulting Lot Owner, the lien claimed therein shall immediately attach and become effective. Any such lien may be foreclosed by appropriate action in court or in the manner provided by law for the foreclosure of a deed of trust by exercise of a power of sale contained therein or in the manner provided by law for the enforcement of a judgement as the laws of the State of Nevada may from time to time be changed or amended. The Association shall have the power to bid in at any foreclosure sale, trustee's sale or judgement sale and to purchase, acquire, lease, hold, mortgage and convey the Lot acquired at such sale, subject to the provisions of this Declaration. Reasonable attorneys' fees, court costs, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by law.

The proceeds of any foreclosure, trustee's or judgment sale provided for in this Declaration shall first be paid to discharge court costs, court reporter charges, reasonable attorney's fees, title costs and costs of the sale, and all other expenses of the proceedings and sale, and the balance of the proceeds after satisfaction of such charges and unpaid Assessments hereunder or any liens, shall be paid to the defaulting Lot Owner. The purchaser at any such sale shall obtain title to the Lot free from the sums or performance claimed (except as stated in this subparagraph) but otherwise subject to the provisions of this Declaration, the Bylaws and the Rules and Regulations. No such sale or transfer shall relieve such Lot or the purchaser thereof from liability for any Assessments, other payments or performance thereafter becoming due or from the lien therefore as provided for in this subparagraph. All sums assessed hereunder but still unpaid shall remain the obli-

gation of and shall be payable by the person foreclosed upon. If such sum should prove uncollectible, then it shall be deemed to be an operating expense of the Association.

Notwithstanding the foregoing, there is no purported power in the Association to cause a forfeiture of a Lot Owner's rights to the full use and enjoyment of his Lot on account of a failure by the Lot Owner to comply with any provision of this Declaration, the Bylaws and the Rules and Regulations, except where such forfeiture is the result of a judgement of a court or a decision arising out of arbitration or on account of a foreclosure or sale under a power of sale for failure by the Lot Owner to pay Assessments or installment payments thereon levied by the Association.

Upon the timely curing of any default for which a notice or claim of lien was filed by the Association, the officers of the Association shall cause to be recorded an appropriate release of such lien in the Office of the County Recorder of Pershing County, State of Nevada, upon the payment by the defaulting Lot Owner of a fee, to be determined by the Board but not to exceed Two-Hundred Dollars (\$200.00) to cover the cost of preparing and recording such release.

**9.3 Subordination to Certain Mortgages.** The lien provided for in paragraph 9.2 above shall be prior to all encumbrances made by a Lot Owner or imposed by legal process upon any Lot Owner except taxes, bonds, assessments and other levies, which by law, are prior thereto, whether the notice of lien is recorded prior or subsequent to any such encumbrances; except that the lien provided for herein shall be subordinate to the lien of any Mortgage made in good faith and for value and recorded in the Office of the County Recorder of Pershing County, Nevada, with a first priority over other Mortgages on the same Lot (the "First Mortgage"). The sale or transfer of any Lot shall not defeat or affect the Lien provided for herein; provided, however, that each beneficiary of a First Mortgage encumbering any Lot who obtains title to such Lot pursuant to the remedies provided in its First Mortgage or by foreclosure of the First Mortgage, shall take title to such Lot free and clear of any claims of unpaid Assessments or charges against such Lot which accrued prior to the acquisition of title to such Lot by such Mortgagee. In the event that the beneficiary under a First Mortgage acquires title to the encumbered Lot by deed-in-lieu of foreclosure, title to such Lot will be acquired free and clear of any claim of or lien for unpaid assessments or charges against such Lot which accrued prior to the acceptance of the deed-in-lieu by such Mortgagee only if the beneficiary under the First Mortgage shall have given the Association, by certified

mail return receipt request, at least twenty (20) days prior written notice of its intention to accept a deed-in-lieu of foreclosure and stating how the default under the First Mortgage may be cured by the Association. If the Association does not cure the default in the manner stated in the written notice before the expiration of such twenty (20) days' period then such failure on the part of the Association to cure such default shall be deemed an irrevocable and unconditional waiver by the Association of its right to cure same and the beneficiary under the First Mortgage may accept the deed-in-lieu and acquire title to the Lot free and clear of any claims of or liens for unpaid assessments or charges against the Lot which accrued prior to such acceptance. No such sale or transfer shall relieve such Lot or the purchaser thereof, including without limitation the Mortgagee under a First Mortgage from liability for any payment or performance thereafter becoming due or from the lien thereof.

## **ARTICLE X DAMAGE, DESTRUCTION, CONDEMNATION**

10.1 **In General.** In the event of any damage or destruction of the Roads or the Common Areas and Facilities other than by ordinary wear and tear, whether resulting from an insured casualty, uninsured casualty or a partial taking in eminent domain proceedings, the Association shall, subject to the provisions of Paragraphs 7.1 and 10.2, forthwith cause such damage or destruction to be repaired and shall use any available insurance or condemnation proceeds for such purpose. If the damage is not covered by condemnation proceeds or by insurance proceeds, or if the available insurance or condemnation proceeds are insufficient to pay fully the cost of repair, the Association shall, subject to and in accordance with the provisions of Paragraphs 8.7 and 10.2, levy a Special Assessment applicable to that Fiscal Year only, equally and uniformly against all Lot Owners for the amount required to meet the cost of such repair or restoration.<sup>IV</sup>

10.2 **Extensive Damage or Destruction of Common Areas and Facilities.** In the event the amount of the Special Assessment which is required to be levied hereunder to repair the Common Areas and Facilities, shall require the vote and written assent of a Majority of Voting Owners pursuant to the provisions of Paragraphs 8.7 and 10.1 hereof, if such Special Assessment is not so approved within one hundred eighty (180) days following the date of such damage or destruction, the Association may sell the damaged or destroyed Common Areas and Facilities and any proceeds arising from such sale, together with any insurance proceeds or condemnation proceeds received as a result of such damage or destruction, shall

be distributed according to the priorities set forth in Paragraph 12.2 below.<sup>IV</sup>

## **ARTICLE XI ANNEXATION OF ADDITIONAL PROPERTY**

11.1 **Conditions of Annexation.** Except as otherwise provided herein, but only so long as a permit issued for the Property by the California Department of Real Estate remains in effect, the annexation of all or any part of the Additional Property as permitted hereunder shall require the affirmative vote or written assent of not less than sixty-six and two-thirds percent (66-2/3%) of the total votes residing in Lot Owners. Notwithstanding the foregoing provisions of Paragraph 11.1, all or any part of the Additional Property may be annexed to and become subject to this Declaration and subject to the jurisdiction of the Association without the approval, assent or vote of the Association or any Lot Owner, so long as<sup>IV</sup>

(a) the total number of Lots comprising the Property (inclusive of the proposed Annexed Property) shall not exceed the maximum number set forth for such Lots in Paragraph 1.15 hereof; or

(b) the proposed annexation is in substantial conformance with a detailed plan of phased development for the Property submitted by Declarant to the California Department of Real Estate, which plan shall include, but need not be limited to, evidence that

(i.) no proposed annexation will result in overburdening of the Common Areas and Facilities; and

(ii.) no proposed annexation will cause a substantial increase in the Maintenance Assessment which is greater than the increase allowed at the end of any Fiscal Year, as provided in Paragraph 8.3 hereinabove, against existing Lot Owners which was not disclosed in the Property Report issued by the Division of Real Estate, State of Nevada or the permit issued by the California Department of Real Estate, if any, under which pre-existing Lot Owners purchase their Lots.

11.2 **Effectuation of Annexation.** Upon the satisfaction of all of the conditions contained in Paragraph 11.2, the recording of a Declaration of Annexation in the official records of the County Recorder of Pershing County, Nevada, shall constitute and effectuate the annexation of the real property described therein (the "Annexed Property"), making the Annexed Property subject to this Declaration and subject to the functions, powers and jurisdictions of the Association. In no event, however, shall any Declaration of Annexation revoke, modify or add to the covenants established by this Declaration or by any prior Declaration of Annexation with respect to the Subject Property at the time of the recording of the Declaration of Annexation.



11.3 **Effect of Annexation.** The effect of annexation of all or any part of the Additional Property to this Declaration shall be as follows:<sup>IV</sup>

(a) The Association shall assume the maintenance of the Roads and Common Areas and Facilities, if any, within the Annexed Property and shall have the same rights, duties and responsibilities with respect to the Annexed Property as it then possesses with respect to the Subject Property.

(b) The owners of Lots within the Annexed Property shall automatically be members of the Association, shall possess the same rights and privileges with respect to voting and participation in Association business as the owners of Lots in the Subject Property, and shall be subject to the Declaration, the Bylaws and the Rules and Regulations.

## ARTICLE XII MISCELLANEOUS PROVISIONS

12.1 **Amendment.** This Declaration may be amended only by the affirmative written assent or vote of not less than a Majority of Voting Owners provided, however, that with respect to any specific clause or provision in this Declaration wherein there is prescribed a greater percentage of affirmative votes for action to be taken thereunder, such clause or provision may be amended only by the affirmative written assent or vote of such greater percentage of the voting Owners. No amendments shall require the consent or approval of any Mortgagee. Any amendment authorized hereby shall be evidenced by an instrument in writing signed and acknowledged by any two officers of the Association, which amendment shall be effective upon filing in the Office of the County Recorder of Pershing County, Nevada.<sup>IV</sup>

12.2 **Termination.** This Declaration shall remain in effect for a period of 20 years from the date of recordation hereof and thereafter shall remain in effect for successive periods of 10 years each unless, after the expiration of the original term, an election to terminate is made by the vote or written assent of a Super-Majority of Owners. Following such election, the Association shall cause the Common Areas and Facilities to be sold and each Lot Owner hereby grants to the Association a special power of attorney coupled with an interest to execute, deliver and complete all documents, papers and instruments made in connection with or necessary for the consummation of such sale. Subject to the rights of the First Beneficiary of the Trust, the Association shall distribute the proceeds from such sale to the Lot Owners at a uniform rate; provided, however, that there shall be deducted from the amount due any Lot Owner, the amount, if any, of all sums due the Association from such Lot Owner.<sup>IV</sup>

12.3 **Notices.** Notices provided for in this Declaration shall be in writing and shall be deemed sufficiently given when delivered personally at the appropriate address set forth below (in which event, such notice shall be deemed effective only upon such delivery) or 48 hours after deposit of same in any United States post office box in the state to which the notice is addressed, 72 hours after deposit of same in any such post office box other than in the state to which the notice is addressed, first class postage prepaid, addressed as set forth below. Any notice to a Lot Owner required under this Declaration shall be addressed to the Lot Owner at the last known address for such Lot Owner appearing in the records of the Association or, if there be none, at the address of the Property. Notices to the Association shall be addressed to 2205 Rye Patch Reservoir Rd., Lovelock, Nevada 89419. The addresses for purposes of this paragraph 12.3 may be changed by giving written notice of such change in the manner herein provided for giving notice. Unless and until such written notice is received, the last address and addressee as stated by written notice or as provided herein, if no written notice of change has been sent or received shall be deemed to continue in affect for all purposes hereunder.<sup>IV</sup>

12.4 **Notification of Sale of Lot.** No later than thirty (30) days before the voluntary or involuntary sale or transfer of any Lot under circumstances whereby the transferee becomes the Lot Owner thereof, the transferor shall notify the Association in writing and in whatever form, if any, required by the Association, of such proposed sale or transfer. Such notice shall set forth: (a) the name and address of the transferee and transferor; and (b) the date of proposed sale or transfer. In the absence of such notice from the transferor or, alternatively, a similar notice from the transferee accompanied by a copy of either the recorded instrument by which the transferee acquired title to the Lot or a title policy showing title to such Lot to be vested in the transferee, the Association shall not be required to recognize the transferee for any purpose, and any action taken, prior to the giving of such notice, by the transferor as a Lot Owner, may be recognized by the Association. Prior to the receipt of either form of notification by the Association as described herein, any and all communications required or permitted to be given by the Association shall be deemed duly given and made to the transferee if duly and timely made and given to the transferor.<sup>IV</sup>

12.5 **Severability.** If any provision of this Declaration, or any section, sentence, clause, phrase or word or the application thereof in any circumstances, shall be held invalid, the validity of the remainder of this Declaration and of the application of such provision, sentence, clause, phrase or word under any other circumstances shall not be affected thereby.

12.6 **Successors.** The provisions of this Declaration shall be binding upon all parties having or acquiring any Lot or any right, title or interest therein and shall be for the benefit of each Lot Owner and their respective heirs, successors and assigns. Each Lot Owner shall be fully discharged and relieved of liability on the covenants herein insofar as such covenants relate to each Lot upon ceasing to own such Lot and paying all sums and performing all obligations hereunder insofar as the same relate to each Lot up to the time his ownership interest terminated.

12.7 **Violation of Nuisance.** Every act or omission whereby any provision of this Declaration, the Bylaws or the Rules and Regulations is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated whether or not the relief sought is for negative or affirmative action, by the Association or any Lot Owner.<sup>IV</sup>

12.8 **Zoning Conflicts.** In the event of any conflict between these restrictions and any existing or future zoning regulations established by Pershing County or any other governmental body, the restriction or regulation, which is more restrictive, shall apply.

12.9 **Interpretation.** The captions of the Articles, Paragraphs and Subparagraphs hereof are for convenience only and shall not be considered to expand, modify or aid in the interpretation, construction or meaning of this Declaration. As used herein, the singular shall include the plural and the masculine shall include and feminine or neuter.

12.10 **No Waiver.** The failure to enforce any provision of this Declaration shall not constitute a waiver thereof or of the right to enforce such provision thereafter.

IN WITNESS WHEREOF, THE Declarant and Trustee have hereunto caused this Declaration to be executed as of the day and date first above written.

DECLARANT  
Rye Patch Ranch, Inc.

By /s/ Robert J. Beaumont  
Its President

STATE OF NEVADA )  
 )ss  
County of Washoe )

On June 11, 1986, personally appeared before me, a Notary Public, Robert J. Beaumont, who acknowledged that he executed the above instrument.

/s/ Kathy M. Conrad  
Notary Public

TRUSTEE:  
L.T. of Reno, Inc.

By /s/ Donald S. Allen  
Its President

STATE OF NEVADA )  
 )ss  
County of Washoe )

On June 11, 1986, personally appeared before me, a Notary Public, Donald S. Allen, who acknowledged that he executed the above instrument.

/s/ Dawn Ann Polinelli  
Notary Public

- <sup>I</sup> Amended 9-16-1994
- <sup>II</sup> Amended 4-24-2001
- <sup>III</sup> Amended 6-9-1997
- <sup>IV</sup> Amended 5-20-2003
- <sup>V</sup> Amended 7-1-1996
- <sup>VI</sup> Amended 7-5-2003
- <sup>VII</sup> [Amended 7-2-2004](#)
- <sup>VIII</sup> [Amended 9-4-2005](#)
- <sup>IX</sup> [Amended 9-3-2006](#)
- <sup>X</sup> [Amended 9-2-2007](#)
- <sup>XI</sup> [Amended 7-25-2009](#)
- <sup>XII</sup> [Amended 7-24-2010](#)
- <sup>XIII</sup> [Amended 7-23-2011](#)

## **EXHIBIT A**

### **Legal Description of Subject Property**

All of that certain real property situated in the county of Pershing, State of Nevada and described as:

Lots 1 through 511, inclusive, as shown on the map of Rye Patch Ranch Estates Phase A, recorded in the office of the County Recorder of Pershing County, Nevada on September 5, 1985 as Document No. 144399.

### **Legal description of Annexed Property**

All of that certain real property situated in the County of Pershing, State of Nevada and described as:

Lots 1 through 10, inclusive, Block A and Lots 1 through 4, inclusive, Block B of Section 9; Lots 1 through 6, inclusive, Block A and Lots 1 through 10, inclusive, Block B of Section 15; Lots 1 through 52, inclusive of Section 3; and Lots 1 through 47, inclusive of Section 11, all in T.30 N., R.33 E., M.D.B. & M. as shown on that certain plat entitled "Division Into Large Parcels", recorded on November 7, 1986 as County Recorders Certificate File Number 150764, Official Records of Pershing County, Nevada.

**A-1**

## **EXHIBIT B**

### **Legal Description of Common Areas and Facilities Property**

The following described parcel of land situated in the Northwest ¼ of Section 17, Township 30 North, Range 33 East, M.D.B. & M., County of Pershing, State of Nevada, and being more particularly described as follows:

Beginning at a point on the Southerly line of Rye Patch State Park Road from which the Northwest Corner of said Section 17 bears North 38°50'24" West, a distance of 2144.55 feet, said point also being 75.48 feet right of Nevada State Highway Department station "Ry2" 173+77.91; thence along the Southerly line of said Rye Patch State Park Road South 85°49'50" East, a distance of 1005.23 feet; thence South 17°40'15" West, a distance of 668.47 feet; thence North 85°49'50" West, a distance of 1005.23 feet; thence North 17°40'15" East, a distance of 668.47 feet to the Point of Beginning.

**B-1**