

W-572-12-220

**DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS
OF
SIENNA HEIGHTS GARDEN HOMES SUBDIVISION**

THIS IS A DECLARATION of Covenants, Conditions and Restrictions that establishes a planned development known as SIENNA HEIGHTS GARDEN HOMES SUBDIVISION.

PURPOSE AND INTENT

Declarant owns certain real property (the "Properties") in Washington City, Washington County, Utah, which is more particularly described below. Declarant desires and intends to protect the value and desirability of the Properties as a harmonious and attractive residential community. Therefore, Declarant will convey the Properties subject to the following covenants, conditions, and restrictions, which, along with the Articles and Bylaws, provides for a governance –structure and a system of standards and procedures for development, maintenance, and preservation of the Properties as a residential community. Furthermore, the Properties are located within an area that is subject to the Declaration of Covenants, Conditions, Restrictions, and Easements for Sienna Hills which was recorded on January 30, 2006, as Document No. 2006000034 (the "Master Declaration"). Notwithstanding anything in this Declaration to the contrary, the Association's Articles of Incorporation, Bylaws, Rules and Regulations, the Property, the Lots, the Association, and all Owners and Members are subject to and subordinate to the Master Declaration, the Sienna Hills Community Association's articles of incorporation, bylaws, design review committee guidelines, and rules and regulations adopted by Sienna Hills Community Association, as well as the Tract Declaration recorded in the Office of the Washington County Recorder on January 30, 2006 as Document No. 2006000034.

DECLARATION

Declarant hereby declares that all of the Properties described below shall be held, sold, conveyed and occupied subject to the following covenants, conditions, restrictions, easements, assessments, charges and liens, and to the recorded Plat. This Declaration and the Plat shall be construed as covenants of equitable servitude; shall run with the Properties and be binding on all parties having any right, title or interest in the Properties or any part thereof, their heirs, successors and assigns; and shall inure to the benefit of each Owner thereof.

The Properties are located in Washington City, Washington County, Utah, and are more particularly described in Exhibit A that is attached hereto.

**ARTICLE 1
DEFINITIONS AND CONCEPTS**

The following definition shall control in this Declaration:

1.1. "Articles" means and refers to the Articles of Incorporation of Sienna Heights Garden Homes Owners Association.

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1.2. "Association" means Sienna Heights Garden Homes Owners Association its successors and assigns.

1.3. "Bylaws" means and refers to the Bylaws of Sienna Heights Townhome Owners Association.

1.4. "Common Area" means all real property (including the improvements thereto and facilities thereon) owned or hereafter acquired by the Association for the common use and enjoyment of its Members and includes that portion of Property owned by the Association, shown on the Plat as Common Area. Common Area is dedicated to the common use and enjoyment of the Owners, and is not dedicated for the use of the general public, except as specifically determined by the Directors. Specifically exempted from Common Area are Lots and dedicated public streets, if any, that are identified on the Plat. Common Area also includes all land in which the Association has an easement right.

1.5. "Declarant" means COLCO DEVELOPMENT, INC., and its heirs, successors, and assigns.

1.6. "Declaration" means this instrument and any amendments, restatements, supplements, or annexations thereto, which are recorded in the office of the Washington County Recorder.

1.7. "Directors", "Board of Directors", or "Board" means the governing body of the Association.

1.8. "Entire Membership" means all Members, regardless of class of membership. When a vote of the Entire Membership is referenced it means all potential votes for both Class A and Class B members.

1.9. "Governing Documents" is a collective term that means and refers to this Declaration, the Articles of Incorporation for the Owners Association, the Bylaws, and the Association's Rules and Regulations, the Master Declaration, the Articles of Incorporation for the Master Association, the Master Bylaws and the Master Rules and Regulations.

1.10. "Limited Common Area" means that portion of Property owned by the Association, shown on the Plat as Limited Common Area. The Owner of the Lot to which such Limited Common Area is adjacent and/or appurtenant has the use and enjoyment of that Limited Common Area to the exclusion of other Owners. Limited Common Area is subject to the rights of the Association set forth in this Declaration.

1.11. "Lot" means a separately numbered and individually described plot of land shown on the Plat designated as a Lot for private ownership, but specifically excludes the Common Area and Limited Common Area.

1.12. "Lot Owner" means and is synonymous with the term "Owner".

1.13. "Master Association" means Sienna Hills Community Association.

1.14. "Master Bylaws" means the Master Association's Bylaws.

1.15. "Master Declaration" means the Declaration of Covenants, Conditions, Restrictions, and Easements for the Master Association.

1.16. "Master Governing Documents" is a collective term that means and refers to the Master Declaration, the Articles of Incorporation for the Master Association, the Master Bylaws and the Master Rules and Regulations.

1.17. "Master Rules and Regulations" means the Master Association's Rules and Regulations.

1.18. "Member" means every person or entity with membership in the Association.

1.19. "Mortgage" includes "deed of trust" and "mortgagee" includes "trust deed beneficiary."

1.20. "Open Space" if any, means that area shown on the plat entitled Open Space, which is designated as Common Area and shall be treated as Common Area for purposes of ownership, repair, maintenance, etc.

1.21. "Owner" means the entity, person, or group of persons owning fee simple title to any Lot that is within the Properties. Regardless of the number of parties participating in ownership of each Lot, the group of those parties shall be treated as one "Owner." The term "Owner" includes contract purchasers but does not include persons who hold an interest merely as security for the performance of an obligation unless and until title is acquired by foreclosure or similar proceedings. Membership is appurtenant to and may not be separated from Lot ownership.

1.22. "Plat" or "Map" means the subdivision Plat entitled Sienna Heights Garden Homes Subdivision consisting of one (1) sheet and an attached legal description, prepared and certified by a Utah Registered Land Surveyor or any replacements thereof, or additions thereto.

1.23. "Properties", "Property", or "Project" means that certain real property hereinbefore described, and such annexations and additions thereto as may hereafter be subjected to this Declaration.

1.24. "Rules" or "Regulations" means and refers to any rules or regulations created by the Board of Directors, pursuant to its authority under the Articles and Bylaws, to govern the Association.

1.25. "Separation Walls" means: (1) the perimeter block landscaping walls, if any, which border the Project and separate it from other developments, public rights-of-way, and adjacent Lots; (2) the walls serving as rear-lot walls and side-lot walls of each Lot in the Project;

and (3) other yard/privacy walls and fences constructed by Declarant as part of the individual Unit construction.

1.26. "Unit" or "Residence" means a single family dwelling, with or without walls or roofs in common with other single family dwellings. When the term "Unit" is used it includes fee title to the real property lying directly beneath the single family dwelling and within Lot boundary lines. This however, is not all the Lot in some instances as there may be Lot boundaries outside the Unit walls.

ARTICLE 2 PROPERTY RIGHTS

2.1. Title to the Common Area. The Declarant will convey fee simple title to the Common Area and Limited Common Area, if any, to the Association, free and clear of all encumbrances and liens, prior to the conveyance of the first Lot, but subject to this Declaration, the Master Declaration, and easements and rights-of-way of record. In accepting the deed to the Common Area and Limited Common Area, if any, the Association will covenant to fulfill all the terms of this Declaration and the Master Declaration, to maintain the Common Area in good repair and condition at all times and to operate the Common Area at its own expense in accordance with high standards and as further set forth herein.

2.2. Limited Common Area and Designated Parking. A Lot Owner is entitled to use of the Limited Common Area adjacent and appurtenant to that Owner's Lot, if any, and to use of the parking area, if any, designated with the Owner's Lot number on the Plat, all to the exclusion of other Owners. The Association, through its Directors, may adopt rules and regulations concerning use of any Limited Common Area. Limited Common Area is subject to the rights of the Association set forth in this Declaration and the rights of the Master Association as set forth in the Master Declaration.

2.3. Delegation of Use. An Owner or one having a right of use of facilities is deemed to delegate any right of enjoyment to the Common Area and facilities to family members, tenants, or contract purchasers who reside on the Property. Damage caused to the Common Area and facilities, including personal property owned by the Association, by a Member, or by a person who has been delegated the right to use and enjoy such Common Area and facilities by the Member, shall create a debt to the Association. Debts owed to the Association as a result of damage to the Common Area and facilities shall be an assessment charged to the Lot Owner.

2.4. Lots. Each Lot is owned in fee simple by the Owner. However, area within the surveyed Lot boundaries but outside the Unit walls even though part of the Lot and owned in fee simple by the Owner shall be treated as Limited Common Area for use purposes, and as exterior area for maintenance purposes. The purpose of laying out a Lot larger than the Unit is to allow flexibility in the original Unit construction. After the initial construction on a Lot, subsequent construction, if any, may occupy any portion of the surveyed Lot, subject to all other provisions of this Declaration.

2.5. Activities within Residence. No rule of the Association shall interfere with the

activities carried on within the confines of a Residence, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Units, that generate excessive noise or traffic, that create unsightly conditions visible outside the Residence, or that create an unreasonable source of annoyance.

2.6. Reasonable Rights to Develop. No rule or action by the Association shall unreasonably impede Declarant's right to develop the Properties.

2.7. Household Composition. No rule shall interfere with the freedom of Owners to determine the composition of their households, except that the Association shall have the power to require that all occupants be members of a single housekeeping unit and to limit the total number of occupants permitted in each Unit on the basis of the size and facilities of the Unit and its fair use of the Common Area.

ARTICLE 3 MEMBERSHIP AND VOTING RIGHTS

3.1. Membership. Every Owner is a Member of the Association. Membership in the Association automatically transfers upon transfer of title by the record Owner to another person or entity.

3.2. Voting Rights. The Association has two classes of voting membership, Class "A" and Class "B".

(a) CLASS A. Class A Members are all Members with the exception of the Declarant, until Declarant's membership converts to Class A membership as provided for herein. Class A Members are entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, the group of such persons shall be a Member. 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. A vote cast at any Association meeting by any of such co-Owners, whether in person or by proxy, is conclusively presumed to be the vote attributable to the Lot concerned unless written objection is made prior to that meeting, or verbal objection is made at that meeting, by another co-Owner of the same Lot. In the event an objection is made, the vote involved shall not be counted for any purpose except to determine whether a quorum exists.

(b) CLASS B. The Class B member is the Declarant. The Class B member is entitled to five (5) votes for each Lot owned. Class B membership will cease and be converted to Class A membership on the happening of one of the following events, whichever occurs earlier:

1. upon conveyance of 100% of the Lots in the Project that are Subject to this Declaration.
2. the expiration of seven (7) years from the first Lot conveyance to a

purchaser; or

3. the surrender of Class B membership status by the express written Action of the Declarant.

ARTICLE 4
FINANCES AND OPERATIONS

4.1. Authority to Assess Owners. The Association is hereby authorized to levy Assessments as provided for in this Article and elsewhere in the Governing Documents.

4.2. Creation of Lien and Personal Obligation of Assessments. Excepting Declarant and or its successors or assigns, each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, covenants and agrees to pay to the Association all assessments authorized in the Governing Documents, including but not limited to: (1) annual assessments or charges; (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided; (3) additional assessments; (4) emergency assessments; (5) any other amount or assessment levied or charged by the Association or Board of Directors pursuant to this Declaration; and (6) interest, costs of collection and reasonable attorney fees, as hereinafter provided.

All such amounts shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such assessment or amount is charged. Such assessments and other amounts shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment became due. No Owner may exempt himself from liability for assessments by non-use of Common Area, abandonment of the Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, of for inconvenience or discomfort arising from the making or repair or improvements, or from any other action it takes.

4.3. Purpose of Assessments. The assessments levied by the Association shall be used (a) for the purpose of promoting the recreation, health, safety, and welfare of the residents of the Properties; and (b) for the improvement and maintenance of any property, services, and facilities devoted to this purpose. The assessments must provide for, but are not limited to, the payment of taxes on Association property and insurance maintained by the Association; the payment of the cost of repairing, replacing, maintaining and constructing or acquiring additions to the Common Area and/or Limited Common Area; the payment of the cost of repairing, replacing, and maintaining the exteriors of each Lot or Unit; the payment of administrative expenses of the Association; the payment of insurance deductible amounts; the establishment of a reserve account for repair, maintenance and replacement of Common Area which must be replaced on a periodic basis; the payment of any professional services deemed necessary and desirable by the Board; and other amounts required by this Declaration or that the Directors shall determine to be Necessary to meet the primary purposes of the Association. The assessments may provide, at the Discretion of the Directors, for the payment of other charges including (without limitation)

maintenance, management, utility, cable television, trash collection, sewer and water charges.

4.4. Maximum Annual Assessment. The maximum annual assessment for 2010 will be One Hundred Dollars (\$100.00) per Lot. This amount will be the basis of calculation for future maximum annual assessments.

(a) From and after the date referred to above the maximum annual assessment may be increased each year by a maximum of fifteen percent (15%) from the maximums established for the prior year without a vote of the membership.

(b) The Association may change the basis and maximum of the assessments fixed by this Section prospectively for any annual period provided that such change may be made by the Board if there is Class B membership and if there is no Class B membership, any such change shall have the assent of fifty-one percent (51%) of the votes of the Entire Membership, voting in person or by proxy, at a meeting duly called for this purpose.

The actual annual assessment need not increase annually. The Board shall set the actual annual assessment on an annual basis. The Board shall give notice to each owner as provided in Section 4.9. The Board shall set the actual annual assessment to be an amount at or less than the Maximum Annual Assessment.

4.5. Special Assessments for Capital Improvements. In addition to the annual assessments, the Board may levy in any assessment year a special assessment, applicable to that year only. Special assessments may only be levied to defray, in whole or in part, the cost of any construction, reconstruction, repair or replacement of Common or Limited Common Area structures, fixtures and personal property related thereto. If there is no Class B membership, special assessments must have the assent of fifty-one percent (51%) of the votes of the Entire Membership authorized to vote, in person or by proxy, at a meeting duly called for this purpose.

4.6. Additional Assessments. In addition to the annual assessments and special assessments for capital improvements authorized herein, the Association shall levy such additional assessments as may be necessary from time to time for the purpose of repairing and restoring the damage or disruption resulting to streets or other Common or Limited Common Areas from the activities of the City of Washington (the "City") or other utility provider in maintaining, repairing or replacing the utility lines and facilities thereon. It is acknowledged that the ownership of said utility lines, underground or otherwise, is in the City or other utility provider up to and including the meters for individual units, and that they are installed and shall be maintained to City or utility provider specifications. The Association may also levy such additional assessments as may be necessary from time to time for the payment of any professional services deemed necessary and desirable by the Board.

4.7. Emergency Assessments. Notwithstanding anything contained in this Declaration, the Board, without Membership approval, may levy emergency assessments, increase annual assessments, or levy special assessments in response to an emergency situation. Prior to the imposition or collection of any assessment due to an emergency situation, the Board shall pass a

resolution containing the written findings as to the necessity of such expenditure and why the expenditure was not or could not have been reasonably foreseen or accurately predicted in the budgeting process and the resolution shall be distributed to the Members with the notice of the assessment. If such expenditure was created by an unbudgeted utility maintenance or similar expense or increase, the assessment created thereby shall be discontinued by the Board by a similar resolution, if such expense is subsequently reduced, or to the extent the next succeeding annual budget incorporates said increase into the annual assessment. An emergency situation is one in which the Board finds:

- (a) An expenditure, in its discretion, required by an order of a court, or to settle litigation;
- (b) An expenditure necessary to repair or maintain the Properties or any part of it for which the Association is responsible where a threat to personal safety on the Property is discovered; or
- (c) An expenditure necessary to repair, maintain, or cover actual Association expenses for the Properties or any part of it that could not have been reasonably foreseen by the Board in preparing and distributing the pro forma operating budget (for example: increases in utility rates, landscape or maintenance contract services, attorney fees incurred in the defense of litigation, etc.).

4.8. Single Lot Assessment. The Association may also levy a special assessment against any Member and/or Member's Lot to reimburse the Association for costs incurred in bringing a Member and/or the Member's Lot into compliance with the provisions of the Governing Documents. A Single Lot Assessment may be levied upon the vote of the Board after Notice to the Lot Owner and the opportunity to be heard.

4.9. Notice and Quorum for Any Action Authorized Under Sections 4.4, and 4.5. Written notice of any meeting of Members called for the purpose of taking any action authorized under Sections 4.4 and 4.5 shall be sent to all Members at least thirty (30) days in advance of said meeting. At the first meeting called, the presence at the meeting of Members, or of proxies, entitled to cast fifty-one percent (51%) of the votes of the Entire Membership shall constitute a quorum. If the quorum requirement is not met at such a meeting, another meeting may be called, on at least thirty (30) days advance written notice, and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

4.10. Uniform Rate of Assessment: Periodic Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots; provided, however, that no assessments shall accrue against the Declarant so long as the Declarant owns a Lot within the Project.

4.11. Date of Commencement of Annual Assessment: Payment; Due Dates.

4.11.1. The annual assessment provided for herein shall commence to accrue upon Issuance of a certificate of occupancy for a Unit on a Lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year.

4.11.2. At least thirty (30) days prior to the commencement of each new assessment period, the Directors shall send or cause to be sent a written notice of the annual assessment to each Owner subject thereto. This notice shall not be a pre-requisite to validity of the assessment. Failure of the Board to fix assessment amounts or rates or to deliver or mail to each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

4.11.3. The assessment due dates shall be established by the Directors. The Directors may provide for the payment of annual, special, and/or additional assessments in equal installments throughout the assessment year on a monthly or quarterly basis.

4.11.4. The Board may require advance payment of assessments at closing of the Transfer of title to a Lot.

4.11.5. The Directors shall prepare a roster of Lot Owners in the Properties and the assessments applicable thereto at the same time that it shall fix the amount of the annual assessment, which roster shall be kept by the Treasurer of the Association, who shall record payments of assessments and shall allow inspection of the roster by any Member at reasonable times.

4.11.6. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessment on a specified Lot has been paid. Such certificates, when properly issued, shall be conclusive evidence of the payment of any assessment or fractional part thereof which is therein shown to have been paid.

4.12. Effect of Non-Payment of Assessment - Remedies of the Association. Any assessment or installment thereof not paid within thirty (30) days after the due date therefore shall be delinquent and shall bear interest from the due date at the rate of eighteen percent (18%) per annum (or such lesser rate as the Directors shall determine appropriate) until paid. In addition, the Directors may assess a late fee for each delinquent installment which shall not exceed ten percent (10%) of the installment.

4.12.1. The Directors may, in the name of the Association, (a) bring an action at law against the Owner personally obligated to pay any such delinquent assessment without waiving the lien of assessment, or (b) may foreclose the lien against the Lot in accordance with the laws of the State of Utah applicable to the exercise of powers of sale in deeds of trust or to the foreclosure of mortgages, or in any other manner permitted by law, and/or (c) may restrict, limit, or totally terminate any or all services performed by the Association on behalf of the delinquent Member or any and all rights such Member has to the use and enjoyment of the Common Area and facilities.

4.12.2. There shall be added to the amount of any delinquent assessment the costs

and expenses of any action, sale or foreclosure, and reasonable attorney fees, together with an account for the reasonable rental for the Lot from time to time of commencement of the foreclosure. The Association shall be entitled to the appointment of a receiver to collect the rental income or the reasonable rental without regard to the value of the other security.

4.12.3. A power of sale is hereby conferred upon the Association which it may exercise. Under the power of sale the Lot of an Owner may be sold in the manner provided by Utah law pertaining to deeds of trust as if said Association were beneficiary under a deed of trust. The Association may designate any person or entity qualified by law to serve as trustee for purposes of power of sale foreclosure.

4.13. Exempt Property. The following property subject to this Declaration is exempt from the assessments created herein:

- (a) All property dedicated to and accepted by any local public authority;
- (b) All Common Area and Limited Common Area; and
- (c) All Lots owned by Declarant and its successors or assigns.

4.15. Subordination of Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage held by an institutional lender if the mortgage was recorded prior to the date the assessment became due. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure of a first mortgage or any proceeding in lieu thereof, shall extinguish the assessment lien as to payments which became due prior to such sale or transfer. No sale or transfer, however, shall relieve a Lot or Owner from personal liability for assessments coming due after he takes title or from the lien of such later assessments.

4.16. Books, Records, and Audit. The Association shall maintain current copies of the Declaration, Articles, Bylaws, Rules and other similar documents, as well as its own books, records and financial statements which shall all be available for inspection by Lot Owners and insurers as well as by holders, insurers and guarantors of first mortgages during normal business hours upon reasonable notice. Charges shall be made for copying, researching or extracting from such documents. A Lot Owner or holder, insurer or guarantor of a first mortgage may obtain an audit of Association records at its own expense so long as the results of the audit are provided to the Association.

ARTICLE 5 INSURANCE

5.1. Casualty Insurance on Insurable Common Area. The Directors shall keep all insurable improvements and fixtures of the Common Area insured against loss or damage by fire for the full insurance replacement cost thereof, and may obtain insurance against such other hazards and casualties as the Association may deem desirable. The Association may also insure any other property whether real or personal, owned by the Association, against loss or damage by fire and such other hazards as the Association may deem desirable, with the Association as

the Owner and beneficiary of such insurance. The insurance coverage with respect to the Common Area shall be written in the name of, and the proceeds thereof shall be payable to, the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried. Premiums for all insurance carried by the Association are common expenses which shall be included in the regular annual assessments made by the Association.

In addition to casualty insurance on the Common Area, the Directors may elect to obtain and continue in effect, on behalf of all Owners, adequate blanket casualty and fire insurance in such form as the Directors deem appropriate in an amount equal to the full replacement value, without deduction for depreciation or coinsurance, of all of the Units including the structural portions and fixtures thereof. Insurance premiums from any such blanket insurance coverage, and any other insurance premiums paid by the Association shall be a common expense of the Association to be included in the regular annual assessments as levied by the Association. The Insurance coverage with respect to the Units shall be written in the name of, and the proceeds thereof shall be payable to the Association as trustee for the Owners.

OWNERS AND THE DECLARANT SHALL MAINTAIN AT THEIR OWN EXPENSE HAZARD (FIRE) AND LIABILITY INSURANCE ON THEIR RESPECTIVE LOTS, UNITS AND CONTENTS.

The Association policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements herein. In the event of an insured loss, the deductible shall be treated as a common expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and opportunity to be heard, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner and the Owner's Lot.

5.2. Replacement or Repair of Property. In the event of damage to or destruction of any part of the Common Area improvements, the Association shall repair or replace the same from the insurance proceeds available. If such insurance proceeds are insufficient to cover the costs of repair or replacement of the property damaged or destroyed, the Association may make a reconstruction assessment against all Lot Owners to cover the additional cost of repair or replacement not covered by the insurance proceeds, in addition to any other common assessments made against such Lot Owner.

In the event that the Association is maintaining blanket casualty and fire insurance on the Units, the Association shall repair or replace the same to the extent of the insurance proceeds available.

In the event of damage or destruction by fire or other casualty to any portion of the development covered by insurance written in the name of the Association, the Directors are empowered to and shall represent the Members in any proceedings, negotiations, settlements or agreements. The Association is appointed attorney-in-fact of each Owner for this purpose.

5.3. **Liability Insurance.** The Directors shall obtain a comprehensive policy of public Liability insurance covering all of the Common and Limited Common property for at least \$1,000,000.00 per occurrence for personal or bodily injury and property damage that results from the operation, maintenance or use of the Common Areas. Liability insurance policies obtained by the Association shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association or other Owners.

5.4. **Directors and Officers Insurance.** The Board shall cause all officers or employees having fiscal responsibilities to be bonded, as the Board of Directors may deem appropriate; and purchase Directors' and Officers' Liability Insurance as it deems necessary

5.5. **Fidelity Insurance.** The Directors may elect to obtain fidelity coverage against dishonest acts on the part of managers, Directors, officers, employees, volunteers, management agents or others responsible for handling funds held and collected for the benefit of the Owners or Members. In procuring fidelity insurance the Directors shall seek a policy which shall (1) name the Association as obligee or beneficiary, plus (2) be written in an amount not less than the sum of (i) three months' operating expenses and (ii) the maximum reserves of the Association which may be on deposit at any time, and (3) contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee."

5.6. **Annual review of Policies.** All insurance policies shall be reviewed at least annually by the Directors in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacements of the property which may be damaged or destroyed.

ARTICLE 6 ARCHITECTURAL CONTROL COMMITTEE

The Declarant shall not be required to comply with the provisions of this Article during the initial construction of the Properties.

6.1 ARCHITECTURAL CONTROL COMMITTEE.

(a) Until every Lot subject to these covenants, including Lots in any phases subsequent to the first phase, has been transferred to a bona fide purchaser, the Architectural Control Committee shall be the Declarant, or any other person appointed in writing by Declarant. When title to all of the Lots in the Property has been transferred by the Declarant, the Board of Directors shall appoint an Architectural Control Committee composed of three (3) or more representatives. Said Architectural Control Committee shall thereafter be vested with the powers described herein and shall have jurisdiction over all of the Property subject to this Declaration. In the event the Board fails to appoint an Architectural Control Committee, the Board shall act as the Architectural Control Committee.

(b) The Architectural Control Committee shall adopt reasonable rules and regulations for

the conduct of its proceedings and to carry out its duties and may fix the time and place for its regular meetings and such extraordinary meetings as may be necessary, and shall keep written minutes of its meetings, which shall be open for inspection upon request. The Architectural Control Committee shall, by majority vote, elect one of its members as chairman and one of its members as secretary and the duties of each will be such as usually appertain to such offices. Notice of meetings shall be given to members who have made application to the Architectural Control Committee for approval of plans.

(c) Unless authorized by resolution of the Board, the members of the Architectural Control Committee shall not receive any compensation for services rendered. Members shall be entitled to reimbursement for reasonable expenses incurred by them in connection with the performance of any Committee function or duty. Professional consultants retained by the Architectural Control Committee shall be paid such compensation as the Architectural Control Committee determines.

(d) Declarant shall be exempt from the provisions, restrictions, and requirements of this Article, as the same exists or as it may be amended, supplemented, or replaced in accordance with other provisions of the Declaration.

6.2. SUBMISSION AND APPROVAL. Prior to the commencement of any excavation, construction or remodeling of any structure or of any addition to any structure, or modification of the natural topography of any Lot, or installation of fences or landscaping elements, approval of the Architectural Control Committee is required.

(a) Two (2) complete sets of building plans and specifications shall be filed with the Architectural Control Committee, together with a site or plot plan showing grading, landscaping and all lighting, indicating the exact part of the building site which the improvements will cover, with such a fee as the Architectural Control Committee may determine from time to time, and an application and such supporting material, such as samples of building materials, as the Architectural Control Committee deems necessary. No work shall commence unless and until the Architectural Control Committee shall endorse on one set of such plans its written approval that such plans are in compliance with the covenants herein set forth and with the standards herein or hereafter established by said Architectural Control Committee pursuant hereto. The second set of such plans shall be filed as a permanent record with the Architectural Control Committee.

(b) Said Architectural Control Committee shall have the right to refuse to approve any such plans and specifications and shall have the right, in so doing, to take into consideration the suitability of the proposed building, the materials of which it is to be built, the site upon which it is proposed to be erected, the harmony thereof with the surroundings, and the effect of said building, or other structure so planned, on the outlook from adjacent or neighboring property.

(c) The Architectural Control Committee shall promulgate and maintain a list of standards for guidance in approving or disapproving plans and specifications pursuant to this Article.

(d) In the event said Architectural Control Committee fails to approve or disapprove in writing any such plans within thirty (30) days after the submission thereof to the Architectural Control Committee, then approval shall be deemed to have been given.

(e) The Architectural Control Committee shall not be held liable for damages by reason of any action, inaction, approval, or disapproval by it with respect to any request made pursuant to this Article. Any errors or omissions in the design of any building, other improvement or landscaping and any violation of any governmental ordinance are the sole responsibility of the Lot Owner and the Lot Owner's designer, architect, or contractor. The Architectural Control Committee's review of plans shall in no way be concerned with structural or mechanical integrity or soundness.

(f) The approval of the Architectural Control Committee of any plans and specifications for any work done or proposed shall not constitute a waiver of any right of the Architectural Control Committee to disapprove any similar plans and specifications subsequently submitted.

6.3 LANDSCAPING: Notice is hereby given that the total area of landscaping requiring irrigation on any given Lot shall be restricted to a maximum of five thousand (5,000) square feet, in order to comply with conservation requirements set by the City of Washington and Washington County Water Conservancy District.

After Declarant no longer owns a Lot within the Project, neither the Association nor the Architectural Control Committee shall have the power, by act or omission, to change, waive or abandon any plan, scheme or regulations pertaining to the architectural design or the exterior appearance or maintenance of Units and Lots, and the maintenance of the Common Areas, without the prior written approval of at least sixty-seven percent (67%) of the Entire Membership.

ARTICLE 7 EXTERIOR MAINTENANCE

7.1. Exterior Maintenance by Owner. Each Owner shall be responsible for maintenance to the exterior of the Unit owned, any Limited Common Area adjacent and appurtenant to the Unit, and any Separation Walls surrounding the Owner's Lot. The Directors shall, however, in the default of the Owner to perform maintenance which is the Owner's responsibility, and after a two-thirds (2/3) vote, and after ten (10) days written notice (which notice shall not be required in the event of emergency or threat to life, health, property or safety), provide exterior maintenance upon each Unit, Lot or Separation Wall and any Limited Common Area adjacent and appurtenant thereto. The cost of such maintenance shall be assessed against the Lot and/or Unit as a Single Lot Assessment, as provided in Article 4.

7.2. Exterior Maintenance by Association. The Association shall be responsible for maintenance upon the Common Area. The cost of such maintenance shall be a common expense.

7.3. Access at Reasonable Hours. For the sole purpose of performing the maintenance required by this Article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot or Limited Common Area at reasonable hours.

7.4. Alteration of Certain Maintenance Duties by Rule. The duty of maintenance for the area of a Lot outside the walls of the Unit, and the Limited Common Areas adjacent and appurtenant to the Units may be altered by Rule of the Association.

ARTICLE 8 USE RESTRICTIONS AND REQUIREMENTS

8.1. Construction, Business, Marketing and Sales. Notwithstanding any provisions to the contrary herein contained, it shall be expressly permissible for Declarant to maintain such facilities and conduct such activities as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the construction and sale of Lots during the period of construction and sale of said Lots and upon such portion of the premises as Declarant deems necessary including but not limited to a business office, storage areas, construction yard, signs, model units and sales offices. As part of the overall program of development of the Properties into a residential community and to encourage the marketing thereof, the Declarant shall have the right of use of the Common Area and facilities thereon, including any community buildings, without charge during the sales and construction period to aid in its marketing activities.

8.2. General Use Restrictions. All of the Properties which are subject to this Declaration are hereby restricted to residential dwellings, and buildings in connection therewith, including but not limited to community buildings on the common Property. All buildings or structures erected in the Properties shall be of new construction and no buildings or structures shall be removed from other locations to the Properties. After the initial construction on a Lot, no subsequent building or structure dissimilar to that initially constructed shall be built on that Lot. No building or structure of a temporary character, trailer, basement, tent, camper, shack, garage, barn or other outbuilding shall be placed or used on any Lot at any time.

8.3. Signs; Restrictions: Commercial Activity. Until such time as Declarant no longer owns a Lot in the Property, there shall be a restriction on signage within the Property. An Owner may not post a sign anywhere within the Property, and specifically may not post a sign on an Owner's Lot or in a window of a Unit.

In order to provide for an uncluttered streetscape within the Property there shall be a restriction against signs. An Owner may sell or rent the Owner's Lot/Unit, but shall not be allowed to post signs offering the same for sale or rent. An Owner can use any of the following mediums for advertising a Unit for Sale or Rent:

1. A Multiple Listing Service
2. Newspapers, magazines, and other such publications.
3. A real estate agent, property management agent of the Owner's choice
4. Word of mouth.

The foregoing restrictions shall not apply to the commercial activities signs and billboard, if any, of the Declarant or its agents during the construction and sales period, or by the Association in furtherance of its powers and purposes.

After Declarant no longer owns a lot in the Property, the foregoing restrictions shall expire, and all future restrictions on signage shall be governed by the following provision:

Except for one "For Rent" or "For Sale" sign of not more than seven and one-half (7 ½) square feet, no advertising signs, billboards, objects of unsightly appearance, or nuisances shall be erected, placed, or permitted to remain on any Lot or any portion of the Properties. No commercial activities of any kind whatever shall be conducted in any building or on any portion of the Properties. The foregoing restrictions shall not apply to the commercial activities, signs and billboards, if any, of the Declarant or its agents during the construction and sales period or by the Association in furtherance of its powers and purposes set forth hereinafter and in its Articles of Incorporation, Bylaws and Rules and Regulations, as the same may be amended from time to time.

8.4. Quiet Enjoyment. No noxious or offensive activity shall be carried on upon any part of the Properties nor shall anything be done thereon which may be or may become an annoyance or nuisance to the Lot Owners, or which shall in any way interfere with the quiet enjoyment of each of the Owners or which shall in any way increase the rate of insurance

8.5. Household Pets Permitted. Pets are a privilege in the Sienna Heights Townhome Subdivision, not a right. All pets must be registered with the Association by using an approved registration form that is available from the Association. Failure to register a pet shall result in a \$250.00 fine, which shall be treated as a Single Lot Assessment on the Lot of the Owner or tenants that is in violation and shall be added to the annual assessment for that Lot as provided in Article 4. No animals, livestock or poultry of any kind may be raised, bred or kept on any Lot or in the Common Area, except that dogs, cats or other household pets, no more than two (2) in number, as approved by the Directors, may be kept in a Unit, or upon a Lot, subject to the rules and regulations adopted by the Board. All dogs or cats, while not in a Unit or in a contained rear-yard area of a Lot shall be on a leash. Dogs and other pets may be kept in the rear-yard of a Lot; provided, however, that a pet owner is solely responsible for the conduct and actions of the Owner's pet and shall not allow any dog (or other pets) to disturb the peace, quiet and enjoyment of any other Owners. Household pets shall not be bred on the premises of any Lot as a commercial venture. No more than two (2) approved pets may be kept on any Lot at any one time, without the express written approval of the Board. Animal owners shall not allow their pets to defecate or urinate on any Common Area or Lots belonging to others. Pet owners shall immediately clean up after their pets. No dog runs are allowed within the Property.

8.6. Hazardous Activities and Substances. No Owner shall engage in or permit any of said Owner's guests, visitors, tenants, or invitees to engage in any activity that will cause an increase in insurance premiums for insurance coverage on the Properties nor shall any Owner or any Owner's guests, visitors, tenants, or invitees engage in any activity that will cause or permit any hazardous substance or material to be stored, used or disposed of on or within the Properties.

8.7. Use of Common Area.

8.7.1. Except for the rights of ingress and egress, Owners are prohibited from using any Common Area or facilities other than as permitted in this Declaration or as may be allowed by the Directors. For this purpose, the Directors are authorized to establish rules and regulations to govern the use of the Common Area and facilities. It is expressly acknowledged and agreed that this restriction is for the mutual benefit of all Owners in the Properties and is necessary for the protection of the interests of said Owners in and to the Common Area.

8.7.2. As part of the overall program of development of the Properties into a Residential community and to encourage the marketing thereof, the Declarant shall have the right of use of the Common Area and facilities thereon, including any community buildings, without charge during the sales and construction period to aid in its marketing activities.

8.8. Parking.

8.8.1. No motor vehicle which is inoperable shall be allowed within the Properties, and any motor vehicle which remains parked on any street within the Properties for over 72 hours shall be subject to removal by the Association, at the vehicle Owner's expense. Upon demand, the owner of the vehicle shall pay any expense incurred by the Association in connection with the removal of that owner's vehicle. If the offending vehicle is owned by a Lot Owner, any amounts payable to the Association shall be secured by alien on the Owner's Lot and the Association may enforce collection of said amounts in the same manner provided for in this Declaration for the collection of assessments.

8.8.2. If parking spaces are designated on the Plat with numbers corresponding to Lot numbers, each such space is for the exclusive use of the Lot Owner with the corresponding number. If parking areas are not designated on the Plat with Lot numbers, the Directors may assign vehicle parking space for each Lot, if applicable. Parking spaces within the Properties shall be used for parking of motor vehicles actually used by the Owner or the Owner's immediate family or guests for personal use and not for commercial use, and for guest parking. Recreational vehicles, boats, travel trailers and similar property may not be parked within the Properties unless permitted by rule of the Association. There shall be four (4) parking spaces specifically designated for guest parking. Owners and immediate family members of owners may not park in said guest parking spaces. Any vehicle that is parked in violation of this provision may be towed without any further notice as soon as reported by any Member or guest of the Association. All parking violations shall be reported to the Association or Manager. The owner of the vehicle found to be in violation shall be responsible for all fines and costs associated with any towing, as established by the towing company.

8.8.3. Other than service vehicles that are parked on a short term basis (no longer than 3 hours) there shall be absolutely no parking along any curb on any private street within the Properties. Owners will use their Garages and/or Driveways for parking of vehicles. Any vehicle that is parked in violation of this provision may be towed without any further notice as soon as reported by any Member or guest of the Association. All parking violations shall be reported to

the Association or Manager. The owner of the vehicle found to be in violation shall be responsible for all fines and costs associated with any towing, as established by the towing company.

8.8.4 Each Owner shall use the garage portion of the Owner's Lot for the storage of motor vehicles. No Owner shall use a garage for any purpose which prevents storing of motor vehicles, unless doing so would not result in additional motor vehicles being stored outside the Owners garage. No Owner shall remodel a garage or use a garage on any Lot for residential purposes.

8.8.5. No boats, trailers, campers, recreational vehicles, or other such vehicles, shall be parked or stored upon any Lot except within an enclosed garage.

8.9. Landscaping. Planting and Gardening. Declarant, as part of development of the Project, shall install all landscaping for the front yard areas of each Lot. The Association shall maintain all front yard landscaping on all of the Lots and Common Areas, including the watering and maintenance of plants, lawns, sprinkling systems, etc., within the Project.

For the sole purpose of performing the maintenance required by this Article, the Association, through its duly authorized agents or employees, shall have the right, after Reasonable notice to the Owner, to enter upon any Lot or Limited Common Area at reasonable hours.

8.10 External Apparatus. No Lot Owner shall cause or permit anything (including, without limitation, awnings, canopies or shutters) to hang, be displayed or otherwise affixed to or placed on the exterior walls or roof of a Unit or any part thereof, or on the outside of windows or doors of Unit, without the prior written consent of the Architectural Control Committee.

8.11 Exterior Television or Other Antennas. Antennas for radio, television, or device for the reception or transmission of radio, microwaves or other similar signals are restricted to the attic or interior of the Unit. Satellite dish antennas shall be allowed provided they are located in such areas as may be designated by the Architectural Control Committee. In no event shall satellite dish antennas exceed 20 inches in diameter or width.

8.12 Garbage Removal. All rubbish, trash and garbage shall be regularly removed from the Lots and shall not be allowed to accumulate thereon. Garbage shall be placed in proper containers. Garbage containers shall be kept in the side or rear yard area of a Lot so that the garbage containers are not in view from the Lot front yard area or street. Garbage containers are allowed on the street only on the day of garbage pickup.

8.13 Pest Control. No Lot Owner or Unit occupant shall permit anything or condition to exist upon the Lot or Unit which would induce, breed, or harbor infectious plant diseases or noxious insects. In addition to such pest control services as may be provided by the Association, each Owner shall perform such pest control activities on his Lot and in his Unit as may be necessary to prevent insects, rodents, and other pests from being present on his Lot and in his Unit.

8.14 Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in the Properties. No derrick, lift, shaft or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon the Properties.

8.15 Interior Utilities. All utilities, fixtures and equipment installed within a Lot, commencing at a point where the utility lines, pipes, wires, conduits or systems enter boundaries of a Lot, shall be maintained and kept in repair by the Owner thereof. An Owner shall do no act nor any work that will impair any easement or hereditament nor do any act nor allow any condition to exist which will adversely affect the other Lots or Owners.

8.16 Leases. No Owner shall lease a Unit for transient or hotel purposes. Timeshare is prohibited. No Unit shall be made subject to any timeshare program, interval ownership, or similar program whereby the right to exclusive use of the Unit rotates among multiple owners or members of a program on a fixed or floating time schedule over a period of years.

By operation of law, an Owner may rent or lease the Owner's Unit to another individual(s). Any Owner so doing shall comply with the provisions of this Section 8.16.

(a) Any temporary or other occupancy, other than by the titled Owner, the Owner's family, friends, and invited guests, must be for a period of at least six (6) months. No Owner may designate a tenant as family, friends or invited guests in order to avoid the intent of this Section 8.16.

(b) Each such occupancy shall be established between the parties by a written lease/rental occupancy agreement, a copy of which shall be submitted by the Owner to the Board, together with a signed copy of the temporary Occupancy Notification Form (available from the Board). Notwithstanding anything herein, any occupancy that is for a period of longer than two (2) consecutive weeks must comply with the provisions of this Section 8.16.

(c) Any lease agreement between an Owner and a lessee/renter shall provide that the terms of the lessee shall be subject in all respects to the provisions of the Governing Documents.

(d) The temporary Occupancy Notification Form may require the following information: (1) that the Owner has conducted credit and reference checks and concluded, thereby, that the lessee/renter will be a responsible, qualified renter, and (2) the lessee has read the Governing documents, and by signature of the lessee/renter, agrees to abide by the same. The Temporary Occupancy Notification Form shall also bear the signature of the Owner, indicating thereby that the Owner has performed all of the above. Failure of the Owner to provide a copy of the properly referenced lessee/rental agreement and Lease Notification Form to the Association shall result in the Association imposing on the Owner a fine of two hundred fifty dollars (\$250.00), which shall be alien upon such

Owner's Lot and shall be added to the annual assessment as provide in Article 4, (and permits the Association to pursue any remedy of law available to it in the enforcement of this provision.) (A modified version of the Temporary Occupancy Notification form may be used in cases of family, friends and guests occupying the Unit for a period longer than two (2) consecutive weeks.

Notwithstanding any other rights of enforcement under the Governing Documents, or by Applicable law, the Association may impose a fifty dollar (\$50.00) fine on an Owner, which shall constitute a lien upon such Owner's Lot and shall be added to the annual assessment for the Owner's Lot as provided in Article 4, for each violation by Owner's lessee/renter of the Governing Documents. Such fine shall be imposed after a ten (10) day notice is given to the Owner of such violation, which notice shall be deemed given on the date such notice is mailed, prepaid, first class U.S. mail, to Owner's address as shown on the Association records. The Association may impose an additional fifty dollar (\$50.00) fine on an Owner for each day such Violation continues after the ten (10) day notice period provided herein, which additional fines Shall constitute a lien upon such Owners Lot and shall be added to the annual assessment as provided in Article 4.

8.17 Violation Constitutes a Nuisance Any act or omission whereby any restriction, Condition or covenant as set forth in this Declaration if violated in whole or in part is declared to be and shall constitute a nuisance, and may be abated by Declarant or affected property Owners and such remedy shall be deemed to be cumulative and not exclusive.

ARTICLE 9 WALLS

9.1. Separation Walls. Declarant may construct perimeter walls which border the Property and separate the Project from other developments and the public rights-of-way. Said perimeter walls shall be constructed of brown ornamental iron and may be up to six (6) feet tall. Declarant may also construct geneva brown block walls which separate adjacent Lots within the Project, and such walls shall be deemed Separation Walls. The Separation Walls that are built as a part of the original construction upon the Properties and placed on the dividing line between the Lots shall constitute a party wall.

9.2. General Rules of Law to Apply. To the extent not inconsistent with the Provisions of this Article, general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to the Separation Walls.

9.3. Repair and Maintenance. It is the intent of Declarant that Separation Walls be owned and maintained by the Association. Separation Walls shall also include other yard/privacy walls and fences constructed by Declarant as part of the individual Unit construction. The Owners of the Lots on which Separation Walls are constructed, shall have exclusive use to such Separation Wall. The Association shall be responsible for any repair and/or maintenance of the Separation Walls, unless the repair or maintenance is caused by the willful act of an Owner or an Owner's guest, lessee, invitee, etc., in which event the cost of said repair or maintenance shall be the responsibility of said Owner and shall become alien against

the Owner's Lot and shall be added to the annual assessment as provided in Article 4. No changes or alteration shall be made to a Separation Wall by a Lot Owner without prior written approval of the Architectural Control Committee.

9.4. Destruction by Fire or Other Casualty. If a Separation Wall is destroyed or damaged by fire or other casualty the Association shall bear the responsibility to repair or replace the Separation Wall. However, if the Board reasonably determines, after notice and opportunity to be heard, that the damage or loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the offending Owner shall be responsible to repair and/or replace the Separation Wall and if said Owner fails to do so, the Board may take steps to repair the damage and the Board may assess the full amount of the cost of maintenance and/or repair against such Owner and the Owner's Lot and shall be added to the annual assessment as provided in Article 4.

9.5. Decoration. No Owner shall paint, construct any addition to, color, or otherwise decorate the interior or exterior surface of a Separation wall. Any Owner found in violation hereof shall bear the entire cost of refurbishing and restoring the affected Separation wall to its original condition, consistent with other portions of the Separation Walls.

9.6. Weather proofing. Notwithstanding any other provision of this Article, an Owner who by negligent or willful act causes a separation Wall to be damaged or exposed to the elements shall bear the entire cost of furnishing the necessary protection against such elements.

9.7. Arbitration. In the event of any dispute arising in connection with a Separation Wall, each party shall choose one arbitrator and such arbitrator shall choose one additional Arbitrator, and the decision shall be by a majority of all of the arbitrators.

9.8. Applicability. This Article shall be applicable to walls built by Declarant for the purposes stated in Section 9.1. This Article shall not apply to additional walls constructed by Owners, as approved by the Architectural Control Committee, as provided in this Declaration.

ARTICLE 10 DESIGN RESTRICTIONS

10.1 In order to promote a harmonious community development and protect the character of the Property, the following guidelines, together with any guidelines hereafter established by the Architectural Control Committee, are applicable to the Property:

(a) Purpose and Intent. The intent of these Architectural Guidelines is to encourage a blending of styles within the Property with the natural surroundings and prevailing architecture of the created environment of the Property. These standards allow design latitude and flexibility while ensuring that the value of the Property will be enhanced through the control of site planning, architecture and landscape elements.

The Architectural Guidelines serve as an evaluative aid to owners, builders, project developers, design professionals, City staff, the Planning Commission, City Council and the

Architectural Control Committee in the design review of individual, private and public developments within the Property. The City of Washington Zoning Regulations will apply for any area of design not addressed in these guidelines.

(b) **Permitted and Required Structures.** The only building or structure permitted to be erected, placed or permitted to be located on any Lot within the Property shall be a detached single family Residence placed within the building envelope for each Lot and not to exceed the height requirements found in this section. Each Residence must include a minimum two car, private, enclosed and attached garage. All construction shall be of new materials. All structures shall be constructed in accordance with the zoning and building ordinances of the City of Washington, Utah, in effect from time to time.

(c) **Minimum Area.** The minimum total square footage of living area on the ground floor located within the building envelope and foundation for any single-story residential Residence constructed on any Lot within the Property shall be not less than 1,200 square feet, exclusive of porches, balconies, patios and garages.

(d) **Setbacks.** The setback standards currently in effect for the City of Washington shall apply to the Lot. All measurements shall be made from the applicable Lot Line to the exterior wall, porch or other extension of such building, whichever is nearer to such Lot line.

(e) **Building Height.** Maximum building height shall be 25 feet. Height is measured from a base line parallel to the existing Lot grade to a parallel line intersecting the highest point of any roof element.

(f) **Residence Elevations.** Elevations should be consistent with the intended architectural style of the Residence.

(g) **Facades.** Facades shall be synthetic stucco, with masonry, brick or stone accents, or such other material as approved by the Architectural Control Committee.

(h) **Garages.** All residences constructed on a Lot in the Property shall include a fully enclosed, private attached garage, built to accommodate not less than two (2) vehicles. Carports are not a substitute for a garage and are not allowed. An Owner shall use the garage portion of the Owner's Lot for the storage of not less than two (2) motor vehicles. No Owner shall use a garage for any purpose which prevents storing of motor vehicles, unless doing so would not result in additional motor vehicles being stored outside the Owners garage. No Owner shall remodel a garage or use a garage on any Lot for residential purposes.

(i) **Roof Materials.** Roof material shall be limited to slate, clay, or concrete tiles. Colors shall be subdued earth tones or such other colors as may be allowed by the Architectural Control Committee.

(j) **Reflective Exterior Surfaces or Materials.** No reflective exterior surfaces or materials shall be used. Sheet metal, flashing, vents and pipes must be colored or painted to match the material to which they are attached or from which they project.

(k) Colors. Base building colors shall be in subdued earth tones. Pastels or high gloss finishes may not be used. Complementary accent colors can be used on facia, window trim, shutters and doors.

(l) Prohibited Structures. Dome structures, log homes, pre-manufactured homes; relocated homes; and Earth or Berm homes of any type are not allowed.

(m) Temporary or Other Structures. No structure of a temporary nature, and no trailer, bus, basement, outhouse, tent, shack, garage, or other out building shall be used at any time as a Residence either temporarily or permanently, nor shall any such structures be erected or placed on the Property at any time. No old or secondhand structures shall be moved onto any of said Lots. It is the Declarant's intention that all Residences and other buildings to be erected within the subdivision be new construction, of good quality, workmanship, and materials.

(n) Accessory Buildings. No storage or utility buildings are allowed. All such structures intended for such uses must be built so as to be part of the Residence.

(o) Driveways and Parking. There shall be area on the driveway (excluding sidewalk areas) to park not less than two (2) guest vehicles per Lot. Each driveway on a Lot shall be constructed out of cement, brick, stamped concrete, or interlocking pavers. Cinders, sand, gravel, asphalt or dirt shall not be permitted for driveway material in the front and side yard area of any Lot. A driveway in the front and side yard areas of each Lot, if any, shall be in a color which blends with the exterior of the structure located on such Lot.

(p) Sight Obstructions. No structure, fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points forty (40) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight line limitation shall apply on any Lot within the (10) feet from the Intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at such height to prevent obstruction of such sightlines. No fence, wall, hedge, shrub or other structure shall be placed along any front property line. No fence, wall, hedge, tree, plant, shrub or foliage shall be planted, kept or maintained in such manner as, in the opinion of the Architectural Control Committee, shall create a serious potential hazard or an aesthetically unpleasant appearance to the other residents of the Property.

(q) Fencing. Fencing, walls and other barriers shall be approved by the Architectural Control Committee and constructed of an approved material and color. No fences shall be constructed in the front set back area.

(r) Retaining Walls. All Retaining walls must be approved by the Architectural Control Committee. Retaining Walls are restricted to a maximum height of five (5) feet, and must comply with Washington City ordinances.

(s) **External Illumination.** Light used to illuminate garages, patios, parking areas or for any other purposes, shall be recessed canned lights, or otherwise shielded and directed downward in order to reflect light away from adjacent Residences and away from the vision of passing motorists. Low-level outdoor illumination may be used for particular landscape features (trees, rock formations, etc.), as approved by the Architectural Control Committee.

(t) **External Television or Other Antennas.** Antennas for radio, television, or device for the reception or transmission of radio, microwaves or other similar signals are Restricted to the attic or interior of the Residence. It is mandatory that all Residences be pre-wired for triple play fiber optic services. Satellite dish antennas shall be allowed provided they are located in such areas as may be designated by the Architectural Control Committee. In no event shall satellite dish antennas exceed 20 inches in diameter or width.

(u) **Location of Air Conditioning, Heating, and Soft Water Equipment.** Air conditioning, heating equipment, and soft water tanks must be screened from view so as not to be visible from neighboring property or from the streets of the development, and shall be insulated for sound attenuation. Air conditioning units are not permitted on roofs or through windows.

(v) **Utility Meters.** Utility meters shall be placed in as inconspicuous a location as possible. Locations of meters are to be shown on the plans. The area immediately around the meters should be cleared to allow for access. Electric meters, switches, or circuit breaker boxes are not to be located in the same enclosure with the gas meter and regulator. Enclosures for gas meters and regulators are to be vented in compliance with the Uniform Building Code.

(w) **Mailboxes.** Declarant shall install cluster mailboxes. Said cluster mailboxes shall be the only allowed mail receptacles.

(x) **External Apparatus.** No Lot Owner shall cause or permit anything (including, without limitation, awnings, canopies or shutters) to hang, be displayed or otherwise affixed to or placed on the exterior walls or roof or any part thereof, or on the outside of windows or doors, without the prior written consent of the Architectural Control Committee.

(y) **Slope and Drainage Control.** No structure, planting or other material shall be placed or permitted to remain or other activities undertaken which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of flow of drainage channels. The slope control areas of each Lot and all improvements in them shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible. Lot owners are responsible to see that no nuisance or damage is created by drainage location or flow to any adjacent property.

(z) **Easements.** Easements for installation and maintenance of utilities, drainage facilities and ingress and egress are reserved as shown upon the recorded plat. Within these easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow or drainage channels in the easements or which may impede ingress and

egress. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

(aa) Lateral and Subjacent Support and Drainage. An owner's activities which affect the lateral or subjacent support, or both, of adjacent landowners shall be responsible for damages proximately caused by such activities. Owners shall be responsible for all damage proximately caused by drainage from their lot(s) to adjacent landowners.

10.2 Construction and Contractor Provisions. In order to promote a harmonious community development and protect the character of the Property, the following guidelines shall be applicable to the Property:

(a) Completion of Construction. The construction of any building on any portion of the Property shall be continuously and diligently pursued from and after the commencement of such construction, and in any event shall be substantially completed within twelve (12) months after such commencement.

(b) Building Materials Storage. No Lot, part or portion of the Property shall be used or maintained as a storage for building materials except during a construction phase. Once a Residence is occupied or made available for sale all building materials shall be removed or stored inside such Residence, out of public sight.

ARTICLE 11 EASEMENTS

11.1 Encroachments. Each Lot and the Property included in the Common and Limited Common Areas shall be subject to an easement for encroachments created by construction, settling and overhangs, as designed or constructed by the Declarant. A valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist. In the event the structure containing Lots is partially or totally destroyed, and then rebuilt, the Owners of the Lots so affected agree that minor encroachments of parts of the adjacent Lots or Common or Limited Common Areas due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

11.2. Utilities. There is hereby created a blanket easement upon, across, over and under all of the Properties for public utility purposes. By virtue of this easement, it shall be expressly permissible for all public utilities serving the Properties to lay, construct, renew, operate and maintain conduits, cables, pipes, mains, ducts, wires and other necessary equipment on the Properties, provided that all such services shall be placed underground, except that said public utilities may affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under roofs and exterior walls. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Properties in such a way as to unreasonably encroach upon or limit the use of the Common Area or Limited Common Area or any structure thereon. In the initial exercise of easement rights under this Section, a utility shall make reasonable efforts to occupy and use the

same physical location or lane as other utilities after a utility service has initially exercised its easement rights under this Section, the utility shall make reasonable efforts to occupy and use the same physical location as its prior installations. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Declarant or the Association shall have the right to grant such easement on said Property without conflicting with the terms hereof. Declarant reserves the right to convey to itself and to other adjoining landowners, easements for roadway and utility use in the Common and Limited Common Areas, and the right to connect to and use roadways and utilities owned or controlled by the Association or serving the Properties. The Declarant reserves the right to execute agreement(s) which may confer on itself or adjacent land owners or Owners associations the right to use Common and Limited Common Areas and common facilities, including (without limitation) recreational facilities.

11.3. Police. Fire and Ambulance Service. An easement is hereby granted to all police, fire protection, ambulance services and all similar persons to enter upon the streets and Common and Limited Common Area in the performance of their duties.

11.4. Maintenance by Association. An easement is hereby granted to the Association, its officers, agents, employees and to any maintenance company selected by the Association to enter in or to cross over the Common and Limited Common Areas and any Lot to perform the duties of maintenance and repair.

11.5. Easement for Declarant. The Declarant shall have a transferable easement over and on the Common Areas and facilities and utilities for the purpose of making improvements on the Property or on any additional land under the Declaration, or any development, related or unrelated, on land described herein or adjacent to the Property and for the purpose of doing all things reasonably necessary and proper in connection with the same.

11.6. Owners' Easements of Enjoyment. Every Owner has a right and easement of use and enjoyment in and to the Common Area and Limited Common Area. This easement is appurtenant to and passes with the title to every Lot, subject to:

(a) The right of the Association to charge reasonable fees for the use of any service of the Association or provided upon the Common Area, or parking facility situated upon the Common Area. No fees shall be charged for parking specifically designated on the Plat as appurtenant to a Lot.

(b) The right of the Association to limit the number of guests of Members using the Common Area.

(c) The right of the Association to suspend the voting rights and/or common utility service of a Member for any period during which any assessment or portion thereof against the Member's Lot remains unpaid; and for a period of not to exceed sixty (60) days for any infraction of its published rules and regulations.

(d) The right of the Association to enter into agreements or leases which provide for

use of the Common Areas and facilities by a similar Association in consideration for use of the Common Areas and facilities of the other Association, or for cash consideration;

(e) The right of the Association, if there is no Class B membership, with the approval of sixty-seven percent (67%) of the Entire Membership, to sell, exchange, hypothecate, alienate, mortgage, encumber, dedicate, release or transfer all or part of the Common Area to any private individual, corporate entity, public agency, authority, or utility.

(f) The right of the Association to grant easements for public utilities or other public purposes consistent with the intended use of the Common Area by the Association.

(g) The right of the Association to take such steps as are reasonably necessary or Desirable to protect the Common Area against foreclosure.

(h) The terms and conditions of this Declaration.

(i) The right of the Association, through its Directors, to adopt rules and regulations concerning use of the Common Area.

(j) The right of the Declarant to take such actions as it may deem necessary so long as the expansion of the Properties shall not be complete, including granting leases, easements, and modifying the improvements and design of the Common Area.

11.7 Easements of Record. The easements provided for in this Article shall in no way Affect any other recorded easement.

ARTICLE 12 AMENDMENT

This Declaration may be amended by an instrument signed by not less than fifty-one percent (51%) of the Entire Membership. Any amendment must be properly recorded in the records of Washington County, Utah, to become effective. Notwithstanding the foregoing, so long as Declarant owns a Lot within the Property, it has the right to unilaterally amend this Declaration. Declarant's right to amend shall be construed liberally and shall include, without limitation, the right to amend and/or restate this Declaration in part or in its entirety.

ARTICLE 13 GENERAL PROVISIONS

13.1 Enforcement. The Association, the Declarant or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, or any rule of the Association, including but not limited to any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants. Failure of the Association or of any Owner to enforce any covenant or

restriction herein contained or any rule of the Association shall in no event be deemed a waiver of the right of the Association or any Owner to do so thereafter. In the event action, with or without suit, is undertaken to enforce any provision hereof or any rule of the Association, the party against whom enforcement is sought shall pay to the Association or enforcing Owner the reasonable attorney fees incurred with respect to such enforcement. The Board may levy a fine or penalty not to exceed ten percent (10%) of the amount of the maximum annual assessment against any Owner who fails to refrain from violation of these covenants or a rule of the Association, provided the Board has given said Owner three (3) days written notice and an opportunity for a hearing. An Owner who cures his violation within the three (3) days of receiving notice may not be levied against.

13.2. Severability. All of said conditions, covenants, and restrictions contained in this Declaration shall be construed together, but if any one of said conditions, covenants, or restrictions, or any part thereof, shall at any time be held invalid, or for any reason become unenforceable, no other condition, covenant, or restriction, or any part thereof, shall be thereby affected or impaired, and the Declarant, Association and Owners, their successors, heirs and assigns shall be bound by each article, section, subsection, paragraph, sentence, clause and phrase of this Declaration, irrespective of the invalidity or unenforceability of any other article, section, subsection, paragraph, sentence, clause or phrase.

13.3. Duration. The covenants, conditions, and restrictions of this Declaration shall run with and bind the Properties, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years.

13.4. Interpretive Conflicts. In the event of any conflict between the provisions of this Declaration, the Articles, and/or the Bylaws, the provisions of this Declaration shall control. In the event of any conflict between this Declaration or subordinate documents and the Master Governing Documents, the Master Governing Documents shall control.

13.5 Notices. Any notice required to be sent under the provisions of this Declaration shall be deemed to have been properly sent when deposited in the U.S. Mail, postpaid, to the last known address of the person who is entitled to receive it.

13.6. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

13.7 Waivers. No provision contained in this Declaration shall be deemed to have been waived by reason of any failure to enforce it, irrespective of the number of violations which may occur.

13.8 Topical Headings. The topical headings contained in this Declaration are for

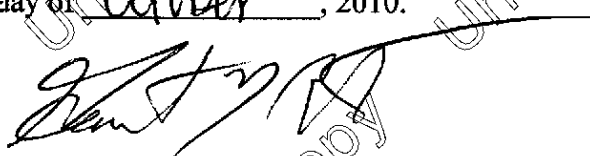
convenience only and do not define, limit, or construe the contents of this Declaration.

ARTICLE 14
ASSIGNMENT OF RIGHTS

All of the rights and powers of Declarant herein contained may be delegated, transferred, or assigned, in whole or in part. To be valid, said delegation, transfer, or assignment must be via a written instrument recorded in the office of the Washington County Recorder.

IN WITNESS WHEREOF, the undersigned, as the Declarant herein, has hereunto set its hand this 6th day of October, 2010.

DECLARANT:



COLCO DEVELOPMENT, INC.,
a Utah corporation

STATE OF UTAH)
) ss.
COUNTY OF WASHINGTON)

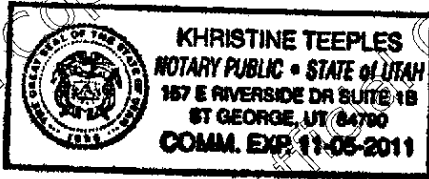

Notary Public

EXHIBIT A

Legal Description for Sienna Heights Garden Homes:

BEGINNING AT A POINT ON THE EAST RIGHT OF WAY LINE FOR RED STONE ROAD, SAID POINT BEING SOUTH 89°14'27" EAST 1165.91 FEET ALONG THE SECTION LINE FROM THE NORTH ¼ CORNER OF SECTION 13, TOWNSHIP 42 SOUTH, RANGE 15 WEST, SALT LAKE BASE AND MERIDIAN, SAID POINT IS ON A 835.00 FOOT RADIUS CURVE TO THE RIGHT (BEARING TO RADIUS POINT IS S 66°22'27" W); THENCE SOUTHEASTERLY THROUGH A CENTRAL ANGLE OF 11°40'32" AND 170.15 FEET ALONG THE ARC OF SAID CURVE; THENCE LEAVING RED STONE ROAD AND RUNNING NORTH 79°55'36" EAST 265.69 FEET TO A POINT ON A 75.00 FOOT RADIUS CURVE TO THE RIGHT (BEARING TO RADIUS POINT IS N 88°19'28" E); THENCE NORTHEASTERLY THROUGH A CENTRAL ANGLE OF 36°31'06" AND 47.80 FEET ALONG THE ARC OF SAID CURVE TO THE POINT OF A 150.00 FOOT RADIUS REVERSE CURVE TO THE LEFT; THENCE NORTHEASTERLY THROUGH A CENTRAL ANGLE OF 27°16'45" AND 71.42 FEET ALONG THE ARC OF SAID CURVE TO A POINT OF TANGENCY; THENCE NORTH 7°33'49" EAST 65.30 FEET TO THE POINT OF A 20.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE NORTHEASTERLY THROUGH A CENTRAL ANGLE OF 42°51'08" AND 14.96 FEET ALONG THE ARC OF SAID CURVE TO THE POINT OF A 12.00 FOOT RADIUS REVERSE CURVE TO THE LEFT; THENCE NORTHEASTERLY THROUGH A CENTRAL ANGLE OF 50°17'55" AND 10.53 FEET ALONG THE ARC OF SAID CURVE TO A POINT OF TANGENCY; THENCE NORTH 0°07'02" EAST 10.67 FEET TO THE POINT OF A 50.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE NORTHEASTERLY THROUGH A CENTRAL ANGLE OF 40°34'35" AND 35.41 FEET ALONG THE ARC OF SAID CURVE TO THE POINT OF A 95.00 FOOT RADIUS REVERSE CURVE TO THE LEFT; THENCE NORTHEASTERLY THROUGH A CENTRAL ANGLE OF 71°32'56" AND 118.63 FEET ALONG THE ARC OF SAID CURVE TO A POINT OF TANGENCY; THENCE NORTH 30°51'19" WEST 30.80 FEET; THENCE NORTH 44°44'59" WEST 65.36 FEET; THENCE NORTH 52°05'27" WEST 176.05 FEET TO THE POINT OF A 80.00 FOOT RADIUS CURVE TO THE LEFT; THENCE NORTHWESTERLY THROUGH A CENTRAL ANGLE OF 25°51'56" AND 36.12 FEET ALONG THE ARC OF SAID CURVE; THENCE NORTH 77°57'23" WEST 81.45 FEET TO THE POINT OF A 140.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE NORTHWESTERLY THROUGH A CENTRAL ANGLE OF 28°02'57" AND 68.54 FEET ALONG THE ARC OF SAID CURVE; THENCE SOUTH 40°05'34" WEST 5.79 FEET TO A POINT ON A 105.00 FOOT RADIUS CURVE TO THE RIGHT (BEARING TO RADIUS POINT IS S 34°20'12" W); THENCE SOUTHWESTERLY THROUGH A CENTRAL ANGLE OF 138°08'28" AND 253.16 FEET ALONG THE ARC OF SAID CURVE TO THE POINT OF A 95.00 FOOT RADIUS REVERSE CURVE TO THE LEFT; THENCE SOUTHWESTERLY THROUGH A CENTRAL ANGLE OF 29°49'45" AND 49.46 FEET ALONG THE ARC OF SAID CURVE TO THE POINT OF A 80.00 FOOT RADIUS REVERSE CURVE TO THE RIGHT; THENCE SOUTHWESTERLY THROUGH A CENTRAL ANGLE OF 63°24'53" AND 88.54 FEET ALONG THE ARC OF SAID CURVE TO A POINT ON THE EAST RIGHT OF WAY LINE FOR SAID RED STONE ROAD; THENCE SOUTH 34°14'48" EAST 147.38 FEET ALONG SAID RIGHT OF WAY LINE TO THE POINT OF A 835.00 FOOT RADIUS CURVE TO THE RIGHT; THENCE SOUTHEASTERLY THROUGH A CENTRAL ANGLE OF 10°37'15" AND 154.78 FEET ALONG THE ARC OF SAID CURVE TO THE POINT OF BEGINNING.

CONTAINING 4.72 ACRES