

RETURNED

SEP 04 2012

2684570
BK 5598 PG 211

E 2684570 B 5598 P 211-272
RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
09/04/2012 09:48 AM
FEE \$149.00 Pgs: 48
DEP RT REC'D FOR SPRING CREEK HOME
OWNERS ASSOC

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
SPRING CREEK HOMEOWNERS
ASSOCIATION, A NON-PROFIT
CORPORATION**

**Amending the Declaration of Covenants,
Conditions and Restrictions for the
Spring Creek P.R.U.D. Amended,
Filing #1502680**

TABLE OF CONTENTS

Recitals		Page 1
Article I	Definitions	Page 2
Article II	Owners Property Rights	Page 6
Article III	Membership in the Association	Page 8
Article IV	Voting Rights	Page 8
Article V	Duties and Powers of the Association	Page 9
Article VI	Covenants for Assessments	Page 10
Article VII	Effect of Non-Payment of Assessments	Page 13
Article VIII	Architectural Control	Page 15
Article IX	Maintenance and Repair Obligation	Page 18
Article X	Use Restrictions	Page 20
Article XI	Fences	Page 23
Article XII	Damage or Destruction to Common Area	Page 24
Article XIII	Insurance	Page 25
Article XIV	Property Protection Clause	Page 27
Article XV	General Provisions	Page 30
Article XVI	Party Walls	Page 32

Lot 1 thru 50 plus 52 plus common
area of Spring Creek P_{RUD}

09-289-0001 thru 0052

THIS DECLARATION, made this _____ day of _____

By Spring Creek Home Owners Association, Inc.

RECITALS:

A. Declarant is the owner of certain property in the County of Davis, State of Utah, which is more particularly described as follows:

PART OF THE SOUTHWEST QUARTER OF SECTION 8. T4N. R1W. SLB&M: SPRING CREEK PRUD (ALL OF PARCEL 3 ROBINS ESTATES). DESCRIBED AS FOLLOWS BEGINNING AT A POINT ON THE EAST LINE OF 1200 WEST (ANGEL STREET) SAID POINT BEING N00 09'57" E 1,580.63 FEET AND N89 55'23" E 33.00 FEET FROM THE SOUTHWEST CORNER OF SECTION 8, T4N, R12, SLB&M, THENCE ALONG SAID EAST LINE OF 1200 WEST STREET

- | | |
|---------------|---------------------|
| N00 09'57" E | 400.21 FEET: THENCE |
| N89 55'23" E | 718.66 FEET: THENCE |
| S00 09' 57" w | 660.26 FEET: THENCE |
| S89 55' 23" w | 528.40 FEET: THENCE |

2684570
BK 5598 PG 214

N00 09' 57" E

260.05 FEET; THENCE

S89 55' 23" W

191.26 FEET TO THE POINT OF BEGINNING

CONTAINS 424,762 SQ FT 9.751 ACRES

BASIS OF BEARING N89 55' 10" E FROM THE SOUTHWEST CORNER OF SECTION 8 TO THE
SOUTH QUARTER CORNER OF SAID SECTION

This Declaration, made this _____ day of _____
By Spring Creek Homeowners Association, Inc., a Utah Non-Profit Corporation.

RECITALS:

A. Declarant is the owner of certain property in the County of Davis, State of Utah, which is more particularly described as follows:

PART OF THE SOUTHWEST QUARTER OF SECTION 8. T4N. R1W. SLB&M; SPRING CREEK PRUD (ALL OF PARCEL 3 ROBINS ESTATES). DESCRIBED AS FOLLOWS BEGINNING AT A POINT ON THE EAST LINE OF 1200 WEST (ANGEL STREET) SAID POINT BEING N00 09'57" E 1,580.63 FEET AND N89 55'23"E 33.00 FEET FROM THE SOUTHWEST CORNER OF SECTION 8. T4N, R1W, SLB&M, THEN ALONG SAID EAST LINE OF 1200 WEST STREET

N00 09'57"E	400.21 FEET; THENCE
N89 55'23"E	718.66 FEET; THENCE
S00 09'57"W	660.26 FEET; THENCE
S89 55'23"W	527.40 FEET; THENCE
N 00 09'57"E	260.05 FEET; THENCE
S89 55'23" W	191.26 FEET TO THE POINT OF BEGINNING

CONTAINS: 424,782 SQ FT 9.751 ACRES

BASIS OF BEARING. N89 55'10" E FROM THE SOUTHWEST CORNER OF SECTION 8 TO THE SOUTH CORNER OF SAID SECTION.

Together with all easements and rights-of-way appurtenant thereunto; excluding, however, Lots 1 through 50 and 52 inclusive, Spring Creek, a Planned Residential Unit Development, together with a perpetual easement for the encroachment of the eaves of the buildings, provided, however, the exclusive use of the driveways, patios, porches, and decks, and AC pads are reserved for the use of the Lot to which it is appurtenant.

B. Declarant has deemed it desirable, for the efficient preservation of the values and amenities in the real property described above ("Properties"), to create a non-profit corporation under the Utah Non-Profit Corporation and Cooperative Association Act to which should be delegated and assigned the powers of owning, maintaining and administering the Common Area and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created, which said corporation is sometimes hereafter referred to as the Association.

Declarant has caused such corporation to be created, the members of which shall be the respective owners of lots.

C. The Properties have been subdivided into 51 lots and common area. Each owner of a lot shall be members of the Association. Each of the lots shall have one (1) vote in the Association. The common obligation shall be distributed in like percentages.

D. Declarant hereby declares that all of the Properties shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved, subject to the following easements, restrictions, covenants, conditions, and equitable servitudes, all of which are for the purpose of uniformly enhancing and protecting the value, attractiveness and desirability of the Properties, in furtherance of a general plan for the protection, maintenance, subdivision, improvement and sale of the Properties, or any portion thereof. The covenants, conditions, restrictions, reservations, easements and equitable servitudes set forth herein shall run with the Properties and shall be binding upon all persons 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 every portion of the Properties and any interest therein; and shall inure to the benefit of and be binding upon Declarant, its successors in interest and may be enforced by any Owner and his/her successors in interest and by the Association.

Notwithstanding the foregoing, no provision of this Declaration shall be construed as to prevent or limit Declarant's rights to construction of improvements therein.

ARTICLE I

Definitions

Unless otherwise expressly provided, the following words and phrases, when used herein, shall have the meaning hereinafter specified:

Section 1. "Architectural Committee" shall mean the committee created pursuant to Article VIII hereof.

Section 2. "Articles" shall mean the Articles of Incorporation of the Association which have been filed in the office of the Utah Department of Commerce, Division of Corporations, and as such Articles may be amended, from time to time.

Section 3. "Assessment" shall mean the charge against a particular Owner and his/her Lot, representing a portion of the total costs to the Association of maintaining, improving, repairing, replacing, managing and operating the Properties.

Section 4. "Association" shall mean Spring Creek Homeowners Association, Inc., an Association formed under the Utah Non-Profit Corporation and Cooperative Association Act, its successors and assigns.

Section 5. "Beneficiary" shall mean mortgagee under a mortgage or a beneficiary or holder under a Deed of Trust, as the case may be and the assignees of such mortgagee, beneficiary or holder.

Section 6. "Executive Committee" shall mean the Executive Committee of the Association (Board of Trustees), elected in accordance with the Bylaws of the Association.

Section 7. "Bylaws" shall mean the Bylaws of the Association which have been adopted by the Association, and as such Bylaws may be amended from time to time.

Section 8. "Capital Improvement Assessment" shall mean a charge against each owner and his/her Lot representing a portion of the costs to the Association for installation or construction or any improvement on any portion of the Common Area which the Association may, from time to time, authorize.

Section 9. "Common Area" shall mean all the real property and improvements, including without limitation, any landscaped areas, walkways, water and sanitary storm sewer facilities, fences, picnic area and easements and rights-of-ways appurtenant to the Properties which are owned by the Association for the common use and enjoyment of the Owners of Lots.

Section 10. "Common Expenses" shall mean the actual and estimated costs of: maintenance, management, operation, repair and replacement of the common area (including unpaid special assessments, reconstruction assessments and capital improvement assessments), including those costs not paid by the owner responsible for payment, costs of management and administration of the Association, including, but not limited to, compensation paid by the Association to a management firm, accountants, attorneys and other employees, the costs of all utilities, gardening and other services benefiting the common area and all recreational facilities thereon; the costs of fire, casualty and liability insurance, workmen's compensation insurance and other insurance covering the Properties and the costs of bonding of the members of the management body; taxes paid by the Association; amounts paid by the Association for discharge of any lien or encumbrance levied against the Properties or portions thereof; and the costs of any other item or items designated by or in accordance with other expenses incurred by the Association for any reason whatsoever in connection with the Properties, for the benefit of all of the Owners of Lots.

Section 11. "Declarant" shall mean and refer to Spring Creek Homeowners Association, Inc., A Utah Non-Profit Corporation.

Section 12. "Declaration" shall mean and refer to this instrument as it may be amended from time to time.

Section 13. "Deed of Trust" shall mean and refer to a mortgage or a Deed of Trust, as the case may be.

Section 14. "Dwelling Unit" shall mean and refer to a building located on a Lot designed and intended for the use and occupancy as a residence by a single family.

Section 15. "Family" shall mean:

- (1). A group of natural persons related to each other by blood or legally related to each other by marriage or adoption, or
- (2). A group of not more than three persons not all so related, exclusive of their domestic servants, who maintain a common household in a residence on a Lot.

Section 16. "Improvement" shall mean all structures and appurtenances of every type and kind.

Section 17. "Lot" shall mean and refer to any residential Lot or parcel of land shown upon the most recent recorded subdivision plat of Spring Creek, with the exception of the Common Area.

Section 18. "Maintenance Funds" shall mean the accounts created for the receipts and disbursements of the Association pursuant to Article VI hereof.

Section 19. "Manager" shall mean the person, firm or corporation appointed by the Association hereunder as its agents and delegated certain duties, powers or functions of the Association.

Section 20. "Member" shall mean any person or entity holding a membership in the Association as provided herein.

Section 21. "Mortgage," "Mortgagee" shall mean any mortgage or Deed of Trust or other conveyance of a Lot to secure the performance of an obligation, which will be void and reconveyed upon the completion of such performance. The term "Deed of Trust" or "Trust Deed" when used herein, shall be synonymous with the term "Mortgage." The term "Mortgagee" shall mean a person or entity to whom a mortgage is made and shall include

the beneficiary of a Deed of Trust; "Mortgagor" shall mean a person or entity who mortgages his/her property to another (i.e., the maker of a mortgage) and shall include the Trustor of a Deed of Trust. The "Trustor" shall be synonymous with the term "Mortgagee" and the term "Beneficiary" shall be synonymous with the term "Mortgagee."

Section 22. "Notice and Hearing" shall mean written notice and a public hearing before a Tribunal appointed by the Executive Committee at which the Owner concerned shall have opportunity to be heard in person or by counsel at Owner's expense, in the manner further provided in the Bylaws.

Section 23. "Owner" shall mean and refer to a person or persons or other legal entity or entities holding fee simple interest of record to any Lot which is part of the properties, including sellers upon executor contract of sale, but excluding those having such interest merely as security for the performance of an obligation. For purposes of Article X only, unless the context otherwise requires, owners shall also include the family, invitees, licensees and lessees of any Owner.

Section 24. "Person" shall mean an individual or any other entity with the legal right to hold title to real property.

Section 25. "Properties" shall mean and refer to all of the real property described in paragraph A of the Recitals to this Declaration.

Section 26. "Reconstruction Assessment" shall mean a charge against each owner and his/her Lot representing a portion or portions of the improvements on the Common Area pursuant to the provisions of this Declaration.

Section 27. "Record, Recorded, Filed and Recordation" shall mean, with respect to any document, the recordation of such document in the office of the County Recorder of the County of Davis, State of Utah.

Section 28. "Special Assessments" shall mean a charge against a particular owner and his/her Lot, directly attributable to the Owner for corrective action performed pursuant to the provisions of this Declaration, plus interest thereon as provided for in this Declaration.

Section 29. "Subdivision" shall mean a parcel of real property which has been divided or separated into Lots, shown on a recorded subdivision map, pursuant to the law and provisions of the "Zoning Ordinances of Layton City.

Section 30. Party Walls. Shall mean walls dividing twin home structures.

ARTICLE II

Owner's Property Rights

Section 1. Owner's Easement of Enjoyment. Every owner shall have a right and easement of ingress and egress and of enjoyment in, to and over the Common Area which shall be appurtenant to and shall pass with title to every Lot and unit, subject to the following provisions:

- (a) The right of the Association to reasonably limit the number of guests of owners using the Common Area facilities
- (b) The right of the Association to establish uniform rules and regulations pertaining to the use of the Common Areas and the recreational facilities thereof, including but not limited to, the right and obligation of the Association to enforce all parking restrictions within the Common Area as set forth in Section 3 of Article II herein.
- (c) The right of the Association to charge uniform and reasonable admission and other fees for the use of the recreational facilities, if any, situated upon a portion of the Common Area; provided, however, that none of the Common Area facilities, recreational facilities, parking spaces, or other amenities in the Properties shall be leased to the Owners.
- (d) The right of the Association, in accordance with its Articles of Incorporation, Bylaws, and this Declaration, with the vote of or written assent of two-thirds (2/3rds) of the members to borrow money for the purpose of improving the Common Area and facilities and in aid thereof, and subject to the provisions of Article XIV of this Declaration, to mortgage, pledge, deed in trust or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, provided that the rights of such mortgagee shall be subordinated to the rights of the Owners.
- (e) The right of the Association to suspend the voting rights and right to use the Common Area facilities by the owner for any period during which any assessment against his/her Lot remains unpaid or delinquent; and for a period not to exceed thirty (30) days for any single infraction of the published rules and regulations of the Association, provided that any suspension of such voting rights or right to use Common Area facilities shall be made only by the

Executive Committee after notice and an opportunity for a hearing as provided in the Bylaws of the Association.

- (f) Subject to the provisions of Article XIV of this Declaration, the Association shall have the right to dedicate, release, alienate or transfer all or any part of the common area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication, release, alienation or transfer shall be effective unless an instrument signed by the Members entitled to cast two-thirds (2/3rds) of the voting power of the Members agreeing to such dedication, release, alienation, or transfer has been recorded.
- (g) The right of the Association (by action of the Executive Committee) to reconstruct, replace, or refinish any improvement or portion thereof upon the Common Area, in accordance with the original design, finish or standard of construction of such improvements, or of the general improvements within the Properties, as the case may be; and not in accordance with such original design, finish or standard of construction only with the vote or written consent of the Owners holding seventy-five (75%) of the voting power of the Association.
- (h) The right of the Association to replace destroyed trees or other vegetation and plant trees, shrubs and ground cover upon any portion of the Common Area.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his/her right of enjoyment to the Common Areas and facilities to the members of his/her family, his/her tenants or contract purchasers who reside in his/her dwelling unit, subject to the reasonable regulation by the Executive Committee.

Section 3. Easements for Parking. The Association, through its officers and Committees, is hereby empowered to establish "parking" and "no parking" areas within the Common Area, as well as to enforce these parking limitations by all means lawful for such enforcement, including the removal of any violating vehicle by those so empowered.

Section 4. Easements for City and County Use. In addition to the foregoing easements over the Common Area, there shall be and Declarant hereby reserves and covenants for itself and all future Owners, easements for city, county and federal public services, including but not limited to, the right of the police to enter upon any part of the Common Area for the purpose of enforcing the laws and permanent easement in favor of Layton City pursuant to the ordinances of the City of Layton to guarantee that the open spaces remain perpetually in the uses for which intended.

Section 5. Waiver of Use. No owner may exempt themselves from personal liability for assessments duly levied by the Association nor release the Lot or other property owned by him/herself from the liens and charges hereof, by waiver of the use and enjoyment of the Common Area and the facilities thereon, or by abandonment of his/her Lot or any other property in the Properties.

Section 6. Real Property Taxes. The payment of real property taxes assessed against the Common Area is the responsibility of the Association. Provided, however, if for any reason the same are not timely paid, the payment of the taxes shall be the responsibility of and assessed against the Owners of the Lots, on a prorata basis.

ARTICLE III

Membership in the Association

Section 1. Membership. Each Owner of a Lot shall be a member of the Association. Membership in the Association shall not be assignable, except to the successor in interest of the Member, and every membership in the Association shall be appurtenant to and may not be separated from the fee ownership of such Lot.

Section 2. Transfer. The Association membership held by any Owner of a Lot shall not be transferred, pledged, or alienated in any way, except upon the sale or encumbrance of such Lot and then only to the purchaser or mortgagee of such Lot. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. A member who has sold his/her Lot to a contract purchaser under an agreement to purchase shall be entitled to delegate to such contract purchaser his/her membership rights in the Association. Such delegation shall be in writing and shall be delivered to the Executive Committee before such contract purchaser may vote. However, the contract seller shall remain liable for all charges and assessments attributable to his/her Lot until fee simple title to the Lot sold is transferred. In the event the Owner of any Lot shall fail or refuse to transfer the membership registered in his/her name to the purchaser of such Lot upon transfer of fee title thereto, the Executive Committee shall have the right to record the transfer upon the books of the Association.

ARTICLE IV

Voting Rights

Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. When more than one person holds such interest or interests in any Lot ("co-owner"), all such co-owners shall be members and may attend any meeting of the Association, but only one such co-owner shall be entitled to exercise the vote to which the Lot is entitled. Fractional votes shall not be allowed and the vote for each Lot shall not be exercised, if at all, as a unit. Where no voting co-owner is designated or if such designation has been revoked, the vote of such Lot shall be exercised as the majority of the co-owners of the Lot mutually agree. Unless the Executive Committee receives a written objection from a co-owner, it shall be presumed that the corresponding co-owner is acting with the consent of his/her co-owners. No vote shall be cast for any Lot where the majority of the co-owners present in person by proxy and representing such Lot cannot agree to said vote or other action. The non-voting co-owner or co-owners shall be jointly and severally responsible for all of the obligations imposed upon the jointly owned Lot and shall be entitled to all other benefits of ownership. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established herein, or by the Bylaws of the Association, shall be deemed to be binding on all Owners, their successors and assigns. Said voting rights shall be subject to the restrictions and limitations provided in this Declaration and in the Articles of Incorporation and Bylaws of the Association.

ARTICLE V

Duties and Powers of the Association

The Association, acting through the Executive Committee, shall also have the power and duty to:

- (a) Maintain, repair and otherwise manage the Common Area and all facilities, improvements and landscaping thereon in accordance with the provisions of Article VI of this Declaration.
- (b) Maintain all private streets within the Properties, including cleaning and periodic resurfacing.
- (c) Grant easements, rights-of-way or strips of land, where necessary, for utilities and sewer facilities over the Common Area to serve the Common Area and the Lots.

- (d) Maintain such policy or policies of liability and fire insurance with respect to the common area and personal property, if any, owned by the Association as provided herein in furthering the purposes of and protecting the interests of the Association and Members and as directed by this Declaration and the Bylaws of the Association.
- (e) Employ or contract with a professional manager to perform all or any part of the duties and responsibilities of the Association and shall have the power to delegate its powers to committees, offices and employees. Any such agreement shall be for a term of not in excess of three (3) years, subject to the cancellation of either party without cause or payment of a termination fee upon ninety (90) days or less written notice.
- (f) After fifteen (15) days written notice, without being liable to any Owner, enter upon any Lot for the purposes of enforcing, by peaceful means, the provisions of this Declaration or for the purpose of maintaining or repairing any such area if for any reason whatsoever the Owner thereof fails to maintain or repair any such area as required by this Declaration, all at the cost and expense of the Lot Owner, which said cost and expense shall be a lien upon said Owner's Lot.
- (g) From time to time promulgate rules and regulations which shall be binding upon the Owners of the Lots.
- (h) Do and perform any and all things as may be convenient or necessary in connection with the Properties.

ARTICLE VI

Covenants for Assessments

Section 1. Creation of the Lien and Personal Obligations of Assessments.

Each owner of any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (1) monthly assessments for common expenses; (2) capital improvement assessments; (3) special assessments; and (4) reconstruction assessments; such assessments to be established and collected as here and after provided. Such assessments, together with interest, costs and reasonable attorney's fees for the collection thereof, shall be a charge on the land and shall be a continuing lien upon the property against which such assessment is made. Each assessment, together with interests, costs and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. Subject to provisions of the Declaration

protecting first mortgagees, the personal obligation for delinquent assessments shall pass to the successors in interest of such Owner. The Executive Committee shall establish no fewer than two (2) such separate accounts ("Spring Creek Maintenance Funds") into which shall be deposited all monies paid to the Association and from which disbursements shall be made, as provided herein, in the performance of functions by the Association under the provisions of this Declaration. Maintenance funds shall include:

- (1) an Operating Fund for current expenses of the Association; and
- (2) a Common Area Reserve Fund for replacements, painting and repairs (which would not reasonably be expected to recur on an annual or less frequent basis) of the Common Area facilities to the extent necessary under the provisions of this Declaration.

The Executive Committee shall not co-mingle any amounts deposited into any of Spring Creek Maintenance Funds with one another.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used to promote the common health, safety, benefit, recreation and welfare of Owners as provided herein, and for the improvements and maintenance of the Common Area.

The Association shall be responsible for the exclusive management, control and maintenance of the sub-surface drainage system serving the Properties. The annual assessment shall include the amount sufficient to cover on-site and off-site maintenance of the sub-drain system and relocated parts thereof serving the Properties. The sub-surface drainage system assessments shall be assessed for those portions of the sub-surface drainage system serving the Properties which are located in public streets or dedicated public rights-of-way (provided, however, each Lot Owner shall be solely responsible for maintenance of the sub-surface drainage facilities beneath said Lot Owner's Lot).

The assessment shall also be for an adequate reserve to be used as appropriate for maintenance, repairs and replacement of those elements of the common property that must be replaced on a periodic basis. However, disbursements from the Common Area Reserve Fund shall be made by the Executive Committee only for the specific purpose specified in this Article VI. Disbursements from the Operating Fund shall be made by the Executive Committee for such purposes as are necessary for the discharge of its responsibilities herein for the common benefit of all the Owners, other than those purposes for which disbursements from the Common Area Reserve Fund are to be used. Nothing in this Declaration shall be construed in such a way as to permit the Association to

use any assessments to abate any nuisance or annoyance emanating from outside the boundaries of the Properties. Nothing contained herein shall limit, preclude or impair the establishment of additional Spring Creek Maintenance Funds by the Association, so long as the amounts deposited into any such fund are earmarked for specified purposes authorized by this Declaration.

Section 3. Damage to Common Area by Owners. The foregoing maintenance, repairs or replacements within the Common Area arising out of or caused by the willful or negligent act of the owners, his/her family, guests or invitees, shall be done at the Owner's expense or a Special Assessment therefore shall be made against his/her Lot; provided, however, that the liability of an individual Owner for such damage to the Common Area shall not be absolute, but shall only be that for which the Owner is legally responsible under state law.

Section 4. Maximum Monthly Assessment. The Executive Committee, without a vote of the Membership, may increase the monthly assessment a maximum of ten percent (10%) in any given year. The maximum monthly assessment may be increased above ten percent (10%) by a vote of a majority of Members who are voting in person or by proxy at a meeting duly called for this purpose. The Executive Committee may fix the monthly assessment at an amount not in excess of the maximum. Monthly assessments are delinquent the 10th day into said month and will be charged a \$15.00 penalty for each delinquent month.

Section 5. Capital Improvement and Reconstruction Assessments. In addition to the Assessments authorized above, the Executive Committee may levy, in any assessment year, a Capital Improvement Assessment and/or Reconstruction Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction and/or reconstruction, repair or replacement of a Capital Improvement or other such addition upon the Common Area, including fixtures and personal property related thereto; provided, however, that any such total assessment in excess of Two Thousand (\$2,000.00) dollars shall have the vote or written assent of a majority of the votes of Members who are subject to such assessment.

Section 6. Notice of Quorum for Authorizations under Sections 4 and 5. Written notice of any meeting called for the purpose of taking any action by the Members authorized under Sections 4 and 5 shall be sent to all Members not less than thirty (30) days, or more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or proxies entitled to cast fifty-one percent (51%) of all votes shall constitute a quorum. If the required quorum is not present, another meeting must be called subject to the same notification requirement, and the required quorum at

the subsequent meeting shall be twenty-five percent (25%) of the voting power of the Association.

Section 7. Uniform Rate of Assessments. Assessments, Capital Improvement Assessments and Reconstruction Assessments provided for in this Article VI must be fixed at a uniform rate for all Lots within the Properties; provided, however, that the Association may, subject to the provisions of Section 3 of this Article, Levy Special Assessments against selected Owners who have caused the Association to incur special expenses due to the willful or negligent acts of said Owners or their guests. All Assessments shall be collected on a regular basis by the Executive Committee, at such frequency as the Executive Committee shall determine.

Section 8. Date of Commencement of Assessments; Due Date. The Executive Committee shall prepare an annual balance sheet and operating statement reflecting income and expenditures of the Association for each fiscal year, including deposits in and withdrawals from the Common Area Reserve Fund and the Operating Fund, and distribute a copy of each such statement to each Member, and to each first mortgagee who has filed a written request for copies of the same with the Executive Committee, in the manner provided in the Bylaws of the Association. By November 1st, the Executive Committee shall prepare and distribute to the Members, a written itemized estimate (budget) of the expenses and disbursements to be incurred by the Association during the fiscal year in performing its functions under this declaration.

Each assessment shall constitute an aggregate of separate assessments for each of the maintenance Funds reflecting an itemization of the amounts assessed and attributable to perspective deposits into the Common Area Reserve Fund, the Operating Fund and any other maintenance fund maintained by the Association. If the estimated sums prove inadequate for any reason, including non-payment of any Owner's Assessment, the Executive Committee may, at any time, levy supplemental Assessments subject to the provisions of Section 4 of this Article for any of the Maintenance Funds which shall be assessed equally against the Owner of each Lot in the Properties.

ARTICLE VII

Effect of Non-Payment of Assessments; Remedies of the Association.

Section 1. Effect of Non-Payment of Assessments; Remedies of the Association. Any installment of an Assessment, other than monthly assessment, not paid within thirty (30) days after the due date, shall bear interest from the due date of such assessment at the rate of eighteen percent (18%) per annum. If any installment of an

assessment is not paid within thirty (30) days after it is due, the Owner responsible therefore may be required further by the Executive Committee to pay a late charge of Fifteen (\$15.00) Dollars or ten percent (10%) of the amount of the delinquent installment, whichever is greater. The Association may bring an action at law against the Owner, personally obligated to pay the same, or foreclose the lien against the Lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot. If any installment of an Assessment is not paid within thirty (30) days after its due date, the Executive Committee shall mail an acceleration notice to the owner and to each first mortgagee of a Lot which has requested a copy of the notice. The notice shall specify: (1) The fact that the installment is delinquent; (2) The action required to cure the default; (3) A date, not less than thirty (30) days from the date the notice is mailed to the Owner by which such default must be cured; and (4) That failure to cure the default on or before the date specified in the notice may result in acceleration of the balance of the installments of the Assessment for the then current fiscal year and sale of his/her lot. The notice shall further inform the Owner of his/her right to cure after acceleration and to bring a court action to assert the non-existence of a default or any other defense of the Owner to acceleration and sale. If the delinquent installments of Assessments and any charges thereon are not paid in full on or before the date specified in the notice, the Executive Committee at its option, may declare all of the unpaid balance payable without further demand and may enforce the collection of the full Assessment and all charges thereon in any manner authorized by law and this Declaration.

Section 2. Notice of Assessment. No action shall be brought to enforce any assessment lien herein, unless at least thirty (30) days has expired following the date a Notice of Assessment is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of the Lot and a copy thereof has been recorded by the Association in the office of the County Recorder in which the Properties are located; said Notice of Assessment must recite a good and sufficient legal description of any such Lot, the record Owner or reputed Owner thereof, the amount claimed (which may, at the Association's option, include interest on the unpaid assessment at eighteen percent (18%) per annum plus reasonable attorney's fees and expenses of collection in connection with the debt secured by said lien) and the name and address of the claimant. Such notice of Assessment shall be signed and acknowledged by an officer of the Association and said lien shall be prior to any Declaration of Homestead recorded after the date on which this Declaration is recorded. The lien shall continue until fully paid or otherwise satisfied.

Section 3. Foreclosure Sale. Any such sale provided for above may be conducted by the Executive Committee, it's attorneys or other persons authorized by the Executive Committee in accordance with the provisions of the Utah Code Annotated, 1953 as amended, applicable to the exercise of powers of sale in mortgages and deeds of trust, or

in any other manner permitted by law. The Association, through duly authorized agents, shall have the power to bid on the Lot at foreclosure sale and to acquire and hold, lease, mortgage and convey the same.

Section 4. Curing of Default. Upon the timely curing of any default for which a Notice of Assessment was filed by the Association, the officers thereof shall record an appropriate Release of Lien, upon payment by the defaulting Owner of a fee, to be determined by the Association, but not to exceed Seventy Five (\$75.00) Dollars to cover the cost of preparing and recording such release. A certificate executed and acknowledged by any two (2) members of the Executive Committee stating the indebtedness secured by the liens upon any Lot created hereunder shall be conclusive upon the Association and the Owners as to the amount of such indebtedness as of the date of the certificate, in favor of all persons who rely thereon in good faith. Such certificate shall be furnished to any Owner upon request at a reasonable fee, not to exceed Fifteen (\$15.00) Dollars.

Section 5. Cumulative remedies. The assessment liens and the rights to foreclosure and sale thereunder shall be in addition to and not in substitution for all other rights and remedies which the Association and its assigns may have hereunder and by law including a suit to recover a money judgment for unpaid assessments, as above provided.

Section 6. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage (meaning any recorded mortgage with first priority or seniority over mortgages) may in good faith and for value and recorded prior to the date on which the assessment came due. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure shall extinguish the lien of such assessment as to installments which became due prior to such sale or transfer. However, no sale or transfer shall relieve such Lot from liability for any installment of assessments thereafter becoming due or from the lien thereof.

ARTICLE VIII

Architectural Control

Section 1. Members of Committee. The Architectural Committee shall consist of at least three (3) members. New members of the Committee shall be appointed by the Executive Committee and shall hold office until such time as he/she has resigned or has

been removed or his/her successor has been appointed as provided herein. Members of the Committee may be removed at any time without cause. The Executive Committee shall have the right to appoint and remove all members of the Committee.

Section 2. Review of Proposed Construction. Subject to Article IX, of this Declaration, no building, fence, wall, patio cover, or other structure shall be commenced, painted, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and color and location in relation to surrounding structures and topography by the Architectural Committee. The Committee shall approve proposals of plans and specifications submitted for its approval only if it deems that the construction, alteration or additions contemplated thereby in the locations indicated will not be detrimental to the appearance of the surrounding area of the Properties as a whole; that the appearance of any structure affected thereby will be in harmony with the surrounding structures, and that the upkeep and maintenance thereof will not become a burden on the Association. The Committee 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 additional factors which it will take into consideration in reviewing submissions. The Committee 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, provided that in no event shall such fee exceed Five Hundred (\$500.00) Dollars. The Committee may require such detail in plans and specifications submitted for its review as it deems necessary and proper, including, without limitation, floor plans, site plans, drainage plans, elevation drawings and description or samples of exterior materials and colors. Upon receipt by the Committee of any required plans and specifications, the Committee may postpone review of any plans submitted to approval. Such construction is also subject to the approval of the City of Layton.

Section 3. Meetings of Committee. The Committee shall meet, from time to time, as necessary to perform its duties hereunder and shall complete its review and report of proposed construction within thirty (30) days after submittal of a request. The Committee may, from time to time, by resolution, unanimously adopt in writing, designate a Committee Representative (who may, but need not be one of its members) to take any action or perform any duties for and on behalf of the committee, except the granting of variances pursuant to Section 8 hereof. In the absence of such designation the vote of any three (3) members of the Committee taken without a meeting shall constitute an act of the Committee.

Section 4. No Waiver of Future Approvals. The approval of the Committee to any proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring the approval and consent of the Committee shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matter whatever subsequently or additionally submitted for approval or consent.

Section 5. Compensation of Members. The members of the Committee shall receive no compensation for services rendered, but shall be reimbursed for expenses incurred by them in the performance of their duties hereunder. Hiring of any outside professional help must be approved by the Executive Committee.

Section 6. Inspection of Work. Inspection of work and correcting defects therein shall proceed as follows:

(a) Upon the completion of any work for which approved plans are required under this Article VIII, the Owner shall give written notice of completion to the Committee within fifteen (15) days.

(b) Within thirty (30) days thereafter, the committee, or its duly authorized representative, may inspect such improvement. If the Committee finds that such work was not done in substantial compliance with the approved plans, it shall notify the Owner, in writing, of such non-compliance within such thirty (30) day period, specifying the particulars of non-compliance and shall require the Owner to remedy the same.

(c) If, upon the expiration of thirty (30) days from the date of such notification the Owner shall have failed to remedy such non-compliance, the Committee shall notify the Executive Committee, in writing, of such failure. Upon notification and hearing, the Executive Committee shall determine whether there is a non-compliance and if so, the nature thereof and the established cost of correcting or removing the same. If a non-compliance exists, the owner shall remedy or remove the same within a period of not more than forty-five (45) days from the date of announcement of the Executive Committee's ruling within such period. The Executive Committee, at its option, may either remove the non-complying improvement or remedy the non-compliance and the Owner shall reimburse the Association, upon demand, for all expenses incurred in connection therewith. If such expenses are not promptly repaid by the Owner to the Association, the Executive Committee shall levy a Special Assessment against such Owner for reimbursement.

(d) If, for any reason the Committee fails to notify the Owner of any non-compliance within thirty (30) days after receipt of the said written notice of completion from the Owner, the improvement shall be deemed to be in accordance with said approved plans.

Section 7. Non-Liability of Committee Members. Neither the Committee nor any member thereof, nor its duly authorized Committee representative shall be liable to the Association, or to any Owner for any loss, damage or injury arising out of or in any way connected with the performance of the Committee's duties hereunder, unless due to the willful misconduct or bad faith of the Committee. The Committee shall review and approve or disapprove all plans 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 result in the immediate vicinity and the properties generally. The Committee shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features, but shall not be responsible for reviewing nor shall its approval of any plans or designs be deemed approval of any plans or designs from the standpoint of structural safety or conformance with buildings or other codes.

Section 8. Variance. The Committee may authorize variances from compliance with any of the architectural provisions of this Declaration or any Supplemental Declaration, including restrictions upon height, size, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require. Such variances must be evidenced in writing and must be signed by at least two (2) members of the Board of Adjustment of Davis County. If such variances are granted, no violation of the covenants, condition and restrictions contained in this Declaration or any Supplemental Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration or of any Supplemental Declaration for any purpose except as to the particular property and particular provisions hereof covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting his/her use of the premises, including but not limited to, zoning ordinances and lot set back lines or requirements imposed by any governmental or municipal authority.

ARTICLE IX

Maintenance and Repair Obligations

Section 1. Maintenance of Common Area. The Association shall maintain or provide for the maintenance in good order and repair and shall reconstruct, replace or refinish any and all improvements within the Common Area.

Section 2. Exterior Maintenance. In addition to maintenance upon the Common Area, the Association shall provide maintenance upon each Lot which is subject to assessment hereunder as follows: existing trees, shrubs, and grass.

In the event that the need for maintenance or repair of a Lot or the improvements thereon is caused through the willful or negligent acts of its Owner, or through the willful or negligent acts of the family, guests or invitees of the Owner of the Lot needing such maintenance or repair, the cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

Section 3. Maintenance Obligation of Association. Subject to the provisions of Section 2 of this Article, the Association shall maintain or provide for the maintenance, of all Common Areas and all improvements thereon, including fences, entrance, gates, streets, common use sidewalks, Common Area landscaping, landscaping equipment and lighting and utility mains, and any and all utility laterals to the Lot lines.

Section 4. Damage and Destruction Affecting Residences—Duty to Rebuild. If all or any portion of any Lot or dwelling unit is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner of said Lot or dwelling unit to rebuild, repair or reconstruct such residence in a manner which will restore it substantially to its appearance and condition immediately prior to the casualty.

Section 5. Variance and Exterior Appearance and Design. Any Owner who has suffered damage may apply for approval to the Architectural Committee for reconstruction, rebuilding or repair of his/her residence in a manner which will provide for an exterior appearance and design different from that which existed prior to date of the casualty. Application for such approval shall be made in writing, together with full and complete plans and specifications, working drawings and elevations showing the proposed reconstruction and the end result thereof. The Architectural Committee shall grant such approval only if the design proposed by the Owner should result in a finished residence that is in harmony with the exterior design of other residences on the Properties. Failure of the Architectural Committee to act within thirty (30) days after receipt of such a request in writing coupled with the drawings and plot plans showing the full and complete nature of the proposed designs, shall constitute approval thereof. If the obligation for repair falls upon the Association, Architectural Committee approval will not be required prior to the commencement of such work. Such variance and construction is also subject to the approval of Layton City.

Section 6. Time Limitation. The Owner or Owners of any damaged residence, the Association and the Architectural Committee shall be obligated to proceed with all due diligence hereunder and the responsible party shall commence reconstruction within three

(3) months after the damage occurs, unless prevented by causes beyond their reasonable control.

ARTICLE X

Use Restrictions

All real property within the Properties shall be held, used and enjoyed subject to the following limitations and restrictions:

Section 1. Single Family Residence. Each Lot shall be used as a residence for a single family residence and for no other purpose.

Section 2. Business or Commercial Activity. No part of the Properties shall ever be used or caused to be used or allowed or authorized, in any way for any business, commercial, manufacturing, mercantile, storing, vending or other non-residential purposes.

Section 3. Nuisances. No noxious or offensive activity (including but not limited to the repair of motor vehicles) shall be carried on, in or upon any Lot or the Common Area nor shall anything be done therein which may be or become an unreasonable annoyance or a nuisance to any other Owner. No loud noises or noxious odors shall be permitted on the Properties and the Executive Committee shall have the right to determine, in accordance with the Bylaws, if any noise, odor or activity producing such noise, odor, or interference constitutes a nuisance. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes), noisy or smoky vehicles, large power equipment or large power tools, unlicensed off-road motor vehicles or other items which may unreasonably interfere with television, internet or radio reception of any Owner in the Properties, or exposed to the view of other Owners without the prior written approval of the Architectural Committee.

Section 4. Signs. No sign, poster, display, billboard, or any other advertising device of any kind shall be displayed to the public view on any portion of the Properties or any Lot, without the prior written consent of the Architectural Committee, except for one sign for each dwelling unit of not more than two (2) feet by two (2) feet, plain white or black blocked letters, advertising the property for sale or rent. All signs or billboards and the condition promulgated for the regulation thereof shall conform to the requirements of the Layton City Ordinances.

Section 5. Parking and Vehicular Restrictions. No Owner of any lot shall park, store or keep any vehicle except wholly within the parking area designated therefore and

any inoperable vehicle shall be stored only in garages. No Owner shall park, store or keep on any property or street (public or private) within the Properties, any camper type or small truck, large commercial type vehicle (dump truck, cement mixer truck, delivery truck, and any other vehicular equipment, mobile or otherwise, deemed to be a nuisance by the Executive Committee), any recreational vehicle (camper unit, motor home, truck, trailer, boat, mobile home or other similar vehicle) upon any uncovered parking space, so as to be visible from anywhere in the Properties, except as otherwise provided by the Executive Committee. The above excludes campers or small trucks up to and including three quarter ton (3/4) when used for every day type transportation, which may be parked in a driveway or garage. No Owner of a Lot shall conduct major repairs or major restoration of any motor vehicle, boat, trailer, aircraft or other vehicle upon any portion of any Lot or upon the Common Area. Provided, however, recreational vehicles may be temporarily parked, from time to time, for periods not to exceed forty-eight (48) hours for purposes of loading, unloading and cleaning, except as otherwise authorized by the Executive Committee.

Section 6. Animal Restrictions. No animals, livestock, reptiles or poultry of any kind shall be raised, bred or kept on any Lot or the Common Area, except usual and ordinary dogs, cats, fish, birds and other household pets may be kept on Lots, subject to rules and regulations adopted by the Association, provided that they are not kept, bred or maintained for commercial purposes or in unreasonable quantities. As used in this Declaration, "unreasonable quantities" shall ordinarily mean more than two (2) pets per household, provided, however, that the Association (or Architectural Committee or such other person or entity as the Association may, from time to time, designate) may determine that a reasonable number in any instance may be more or less. The Association, acting through the Executive Committee, shall have the right to prohibit maintenance of any animal which constitutes, in the opinion of the Executive Committee, a nuisance to any Owner. Animals belonging to owners, occupants or their licensees, tenants or invitees within the Properties must be either kept within an enclosure, an enclosed patio or on a leash held by a person capable of controlling the animal. The enclosure must be so maintained that the animal cannot escape therefrom and shall be subject to the approval of the Architectural Committee. Should any animal belonging to an owner be found unattended out of the enclosure and not being held on a leash by a person capable of controlling the animal, such animal may be removed by a person designated by the Executive Committee to do so, to a shelter under the jurisdiction of the local municipality in which the Properties are situated and subject to the laws and rules governing said shelter, or to a comparable animal shelter. Furthermore, any Owner shall be absolutely liable to each and all remaining Owners, their families, guests, tenants and invitees, for any unreasonable noise or damage to person or property caused by any animal brought or kept upon the Properties by an owner or by members of his/her family, his/her tenants or his/her guests; and it shall be the absolute duty and responsibility of each such owner to clean up after such animal.

Section 7. Trash. No rubbish, trash, garbage or other waste material shall be kept or permitted upon any Lot or Common Area, except in sanitary containers located in appropriate areas screened and concealed from view, and no odors shall be permitted to arise therefrom so as to render the Properties, or any portion thereof, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or to its occupants. There shall be no exterior fires whatsoever except barbeque fires contained within receptacles therefore and fire pits in the patios designed in such a manner that they do not create a fire hazard. No clothing or household fabrics shall be hung, dried or aired in such a way in the Properties as to be visible to other property and no lumber, grass, shrub or tree clippings or plant waste, metals, bulk material or scrap, or refuse or trash shall be kept, stored or allowed to accumulate on any portion of the properties.

Section 8. Temporary Buildings. No outbuildings, basement, tent, shack, shed or other temporary buildings or improvement of any kind shall be placed upon any portion of Properties, either temporarily or permanently. No garage, trailer, camper, motor home or recreational vehicle shall be used as a residence in the Properties, either temporarily or permanently.

Section 9. Common Area Facilities. Nothing shall be altered or constructed in or removed from the Common Area except upon written consent of the Executive Committee.

Section 10. Outside Installation. No radio station or short wave operators of any kind shall operate from any Lot or dwelling unit unless approved by the Executive Committee. Exterior radio antennas, television antenna or other antenna may be erected or maintained in the Properties, subject to the approval of the Architectural Committee.

Section 11. Insurance Rates. Nothing shall be done or kept in the Properties which will increase the rate of insurance on any property insured by the Association without the approval of the Executive Committee nor shall anything be done or kept in the Properties which would result in the cancellation of insurance on any property insured by the Association or which would be in violation of any law.

Section 12. Drilling. No oil drilling, oil development operations, or refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot nor shall oil wells, tanks, tunnels or any mineral excavations or shafts be permitted upon the surface of any Lot or within five hundred (500') feet below the surface of the properties. No derrick or other structure designed for use in boring for water, oil or natural gas be erected, maintained or permitted upon any Lot.

Section 13. Further Subdivision. No Owner shall further partition or subdivide his/her Lot.

Section 14. Drainage. There shall be no interference with the established drainage pattern within the Properties. In this connection, no irrigation water, or water from any roof or eaves of any building or from any other source shall be permitted to discharge and spread upon the surface of any sidewalk or street.

Section 15. Water Supply Systems. No individual water supply, sewage disposal system or water softener system shall be permitted upon any Lot in the Properties unless such system is designed, located, constructed and equipped in accordance with the requirements, standards and recommendations of the Layton City Water Department, the Architectural Committee, and all other applicable governmental authorities.

ARTICLE XI

Fences

There shall be no fences or walls within or on the Properties except as approved by Architectural Committee.

ARTICLE XII

Damage or Destruction to Common Area

Damage to or destruction of all or any portion of the Common Area shall be handled in the following manner, notwithstanding any provision in this Declaration to the contrary:

- (a) In the event of damage or destruction to the Common Area, and the insurance proceeds are sufficient to affect total restoration, then the Association shall cause such Common Area to be repaired and reconstructed substantially as it previously existed.
- (b) If the insurance proceeds are within Five Thousand (\$5,000.00) Dollars or less of being sufficient to affect total restoration, then the Association shall cause such Common Area to be repaired and reconstructed substantially as it previously existed and the difference between the insurance proceeds and the actual cost shall be levied as a Reconstruction Assessment equally against each of the Lot Owners, in accordance with the provisions of Article VI, Section 5 of this Declaration.
- (c) If the insurance proceeds are insufficient by more than Five Thousand (\$5,000.00) Dollars to affect total restoration to the Common Area, then by written consent or vote of a majority of the Owners, they shall determine whether:
- (1) To rebuild and restore in substantially the same manner as the improvements existed prior to the damage and to raise the necessary funds over any insurance proceeds by levying equal Reconstruction Assessments against all Lots;
 - (2) To rebuild and restore in a way which utilizes all available insurance proceeds and an additional amount not in excess of Five Thousand (\$5,000.00) Dollars and which is assessable equally to all Owners but which is less expensive than replacing these improvements in substantially the same manner as they existed prior to being damaged; or
 - (3) Subject to the provisions herein, to not rebuild and to transfer the available insurance proceeds to the Reconstruction Funds.
- (d) Each Owner shall be liable to the Association for any damage to the Common Area not fully covered by insurance which may be sustained by reason of the negligence or willful misconduct of said Owner or of his/her family and guests, both minor and adult. Notwithstanding the foregoing, the Association reserves the right to charge a Special Assessment equal to the increase, if any, in the insurance premium directly attributable to the damage caused by such Owner. In the case of joint ownership of a Lot, the liability of such Owners shall be joint and several, except to the extent that the Association has previously contracted in writing with such joint Owners to the contrary. The cost of

correcting such damage shall be a Special Assessment against the Lot and may be collected as provided herein for the collection of Assessments.

ARTICLE XIII

Insurance

Section 1. Insurance for Fire and Other Perils. The Association must obtain, maintain and pay the premiums upon, as a common expense, a "master" or "blanket" type policy of property insurance covering all of the common elements and other common personal property belonging to the Association.

Such policy must be consistent with state and local insurance laws and at least equal to such coverage as is commonly required by prudent institutional mortgage investors in the area. The policy shall be in an amount equal to 100% of current replacement costs of the structures.

The name of the insured under such policies must be set forth therein substantially as follows: "Spring Creek Homeowners Association."

Policies are unacceptable whereby the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the carrier's Board of Directors, policyholders or members.

The policies should also provide for the following:

- (a) Recognition of any Insurance Trust Agreement.
- (b) A waiver of the right of subrogation against Lot Owners individually.
- (c) That the insurance is not prejudiced by any act or neglect of individual Lot Owners.

The insurance policy shall afford, as a minimum, protection against loss or damage by fire and other perils normally covered by the standard extended coverage endorsement. In addition, such policies shall include an "Agreed Amount Endorsement" and, if available, an "Inflation Guard Endorsement."

Section 2. Replacement or Repair of Property. In the event of damage to or destruction of any part of the Common Area facilities or other improvements in the Properties insured by the Association, the Association shall repair or replace the same from the insurance proceeds available, subject to the provisions herein of this Declaration.

Section 3. Waiver of Subrogation. As to each policy of insurance maintained by the Association which will not be voided or impaired thereby, the Association hereby waives and releases all claims against the Executive Committee, the Owners, the Manager, and the agents and employees of each of the foregoing with respect to any loss covered by such insurance, whether or not caused by negligence or of breach of an agreement by said persons, but only to the extent that insurance proceeds are received in compensation for such loss.

Section 4. Liability Insurance. The Association shall obtain comprehensive public liability insurance, including medical payments, liquor liability insurance and malicious mischief, in an amount determined by the Executive Committee per occurrence for personal injury and/or property damage arising from the activities of the Association or with respect to property under its jurisdiction, including if obtainable, a cross-liability endorsement insuring each insured against liability to each other. Such insurance shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of a "Lot Owner" because of negligent acts of the Association or other Lot Owners.

The Association shall obtain liability coverage on members of the Executive Committee for negligent conduct.

Section 5. Fidelity Coverage. The Association shall obtain fidelity coverage against dishonest acts on the part of directors, managers, trustees, employees or volunteers responsible for handling funds collected and held for the benefit of the Lot Owners. The fidelity bond or insurance must name the Association as the named insured and shall be written in an amount sufficient to provide protection which is in no event less than one and one-half (1-1/2) times the insured's estimated annual operating expenses and reserves. In connection with such coverage, an appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers.

Section 6. Other Insurance and General. The Executive Committee may also obtain for the Association, Workman's Compensation Insurance and other liability insurance as it deems desirable, insuring each Lot Owner and the Association, Executive Committee and Manager from liability in connection with the Common Area and the premiums for which are Common Expenses included in the Assessments made against the Owners. Such insurance policies shall have severability of interest clauses or endorsements which shall preclude the insurer from denying the claim of a Lot Owner because of the negligent acts of the Association or other dwelling Lot Owners.

All policies shall be reviewed at least annually by the Executive Committee and the limits increased at its discretion.

Notwithstanding any other provision herein, the Association shall continually maintain in effect such casualty, flood and liability and bonds and other insurance meeting the requirements for Planned Residential Unit Developments (PRUD) established by the Federal Home Loan Mortgage Corporation (FHLMC), the Government National Mortgage Association (GNMA), the Federal National Mortgage Association (FNMA), Housing and Urban Development (HUD), Federal Housing Administration (FHA), Veterans Administration (VA), State of Utah Finance Agency and conventional lending institutions, so long as there are any mortgages on any of the properties.

Section 7. Homeowner's Insurance. Each homeowner shall be responsible for obtaining and maintaining homeowner's insurance on his/her property. The Spring Creek Homeowners Association assumes no responsibility for homeowner's insurance for individual homes.

ARTICLE XIV

Property Protection Clause

Notwithstanding any and all provisions hereof to the contrary, in order to induce the Federal Home Loan Mortgage Corporation (FHLMC), the Government National Mortgage Association (GNMA), Federal National Mortgage Association (FNMA), Housing and Urban Development (HUD), Federal Housing Association (FHA), Veterans Administration (VA), State of Utah Finance Agency and conventional lending institutions, and to participate in the financing of and sale of Lots within the Properties, the following provisions are added hereto (and to the extent these added provisions conflict with any other provisions of the Declaration, these added provisions shall control):

- (a) Each first mortgagee of a mortgage encumbering any Lot, at written request is entitled to written notification from the Association of any default by the mortgagor of such Lot in the performance of such mortgagor's obligations under this Declaration, the Articles of Incorporation of the Association or the Bylaws of the Association, which default is not cured within thirty (30) days after the Association learns of such default.
- (b) Each Owner, including every first mortgagee of a mortgage encumbering any Lot which obtains title to such Lot pursuant to the remedies provided in such mortgage, or by foreclosure of such mortgage or by deed (or assignment) in lieu of foreclosure, shall be exempt from any right of first refusal.

- (c) Each first mortgagee of a mortgage encumbering any Lot which obtains a title to such Lot pursuant to the remedies provided in such mortgage or by foreclosure of such mortgage, shall take title of 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 the mortgagee.
- (d) At least sixty-seven percent (67%) of first mortgagees (based upon one vote for each mortgage owned), and Owners have given their prior written approval, neither the Association or the Owners shall:
- (1) By any act or omission seek to abandon, partition, alienate, subdivide, release, hypothecate, encumber, sell or transfer the Common Area and the improvements thereon, directly or indirectly which are owned by the Association. The granting of easements for public utilities or for other public purposes consistent with the intended use of such property by the Association or the transfer of the Common Area or improvements to an unincorporated association of the Owners in accordance with the Articles of Incorporation of the Association shall not be deemed a transfer within the meaning of this clause;
 - (2) change the method of determining the obligations, assessments due or other changes which may be levied against a Lot Owner;
 - (3) by act or admission change, waive or abandon any scheme or regulations or enforcement thereof, pertaining to the architectural design of the exterior appearance of the dwelling units, the maintenance of common property sidewalks, party walls or common fences, and common driveways or the up-keep of lawns and plantings in the Properties;
 - (4) fail to maintain fire and extended coverage insurance on Common Area property on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurance value (based on current replacement costs);
 - (5) Receive hazard insurance proceeds for losses to any Common Area property for other than the repair, replacement or reconstruction of such improvements.
- (e) First mortgagees shall have the right to examine the books and records of the Association during normal business hours, by appointment.

- (f) All first mortgagees shall be given: (1) Thirty (30) days written notice prior to the effective date of any proposed material amendment to this Declaration or the Articles of Incorporation or Bylaws of the Association and prior to the effective date of any termination of an agreement for professional management of the Properties following a decision of the Owners to assume self-management of the Properties; and (2) Immediate notice following any damage to the Common Area whenever the cost of reconstruction exceeds Five Thousand (\$5,000.00) Dollars and as soon as the Executive Committee learns of any threatened condemnation proceedings or proposed acquisition of any portion of the properties.
- (g) First mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or become a charge against any Common Area property and may pay any overdue premiums or hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy or such property, and the first mortgagee making such payments shall be owed immediate reimbursement therefore from the Association.

In addition to the foregoing, the Executive Committee may enter into such contracts or agreements on behalf of the Association as are required in order to satisfy the guidelines of the VA, FHA, FHLMC, FNMA, or the GNMA or any similar entity so as to allow for the purchase, insurance or guaranty, as the case may be, by such entities of first mortgages encumbering Lot with dwelling units thereon. Each Owner hereby agrees that it will benefit the Association and the membership of the Association, as a class of potential mortgage borrowers and potential sellers of their dwelling units, if such agencies approve the Properties as a qualifying subdivision under their respective policies, rules and regulations, as adopted from time to time.

Neither this Declaration nor the Articles of Incorporation nor the Bylaws of The Association will be amended in such a manner that the rights of any mortgagee will be adversely affected.

ARTICLE XV

General Provisions

Section 1. Enforcement. This Declaration, the Articles of Incorporation and the Bylaws may be enforced by the Association as follows:

- (a) Breach of any of the covenants contained in the Declaration or the Bylaws and the continuation of any such breach may be enjoined, abated or remedied by appropriate legal proceedings by an Owner, by the Association or the successor in interest of the Association. Any judgment rendered in any action or proceeding pursuant hereto shall include a sum for attorney's fees in an amount as the courts may deem reasonable, in favor of the prevailing party, as well as the amount of any delinquent payment, interest thereon, cost of collection and court costs.
- (b) The result of every act or omission whereby any of the covenants contained in this Declaration or the Bylaws are violated in whole or in part is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such result and may be exercised by any Owner, by the Association or its successor in interest.
- (c) The remedies herein provided for breach of the covenants contained in this Declaration or in the Bylaws, shall be deemed cumulative and none of such remedies shall be deemed exclusive.
- (d) The failure of the Association to enforce any of the covenants contained in this Declaration or in the Bylaws shall not constitute a waiver of the right to enforce the same thereafter.
- (e) A breach of the covenants, conditions or restrictions contained in this Declaration or in the Bylaws shall not effect or impair the lien or charge of any bona fide first mortgage or Deed of Trust made in good faith and for value and any residential Lot or the improvements thereon, provided, however, that any subsequent owner of such property shall be bound by said covenants, whether such Owner's title was acquired by foreclosure in a Trustee's Sale or otherwise.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way effect any other provisions which shall remain in full force and effect.

Section 3. Term. The covenants 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 land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, perpetually, unless otherwise provided by an appropriate amendment.

Section 4. Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community and for the maintenance of community recreational facilities and the Common Area. The article and section headings have been inserted for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine and neuter shall each include the masculine, feminine and neuter.

Section 5. Amendments. Except as provided and subject to any rights of the VA or the FHA hereunder, this Declaration may be amended only by the affirmative vote or written consent of the Owners holding not less than sixty-seven percent (67%) of the voting power of the members.

Section 6. No Public Right or Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Properties to the public or for any public use. (Except as shown on the recorded plat.)

Section 7. Constructive Notice and Acceptance. Every person who owns, occupies or acquires any right, title, estate or interest in or to any Lot or other portion of the Properties does and shall be conclusively deemed to have consented and agreed to every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to these restrictions is contained in the instrument by which such person acquired an interest in the Properties, or any portion thereof.

Section 8. Reservations of Easements. Reciprocal easements are hereby reserved for the benefit of adjoining Lot Owners for the control, maintenance and repair of the utilities of adjoining Lot Owners. Declarant expressly reserves, for the benefit of all of the real property in the Properties and the Owners, reciprocal easements of access, ingress and egress over all Lots and over the Common Area, for the use and enjoyment of the Lots in accordance with this Declaration, including without limitation, for installation and repair of utility services, for drainage over, across and under adjacent Lots for water resulting from the normal use of adjoining Lots, and for maintenance and repair of any dwelling. Such easements may be used by Declarant, its successors, purchasers, and all Owners, their guests, tenants and invitees, residing on or temporarily visiting the Properties, for pedestrian walkways, vehicular access and such other purposes reasonably necessary for the use and enjoyment of a Lot and the Common Area. No owner of a Lot shall interfere with the established drainage pattern over his/her Lot from adjoining or other Lots. Each Owner of a Lot shall make adequate provisions for drainage in the event he/she changes the established drainage over his/her lot. For purposes of this

Declaration, "established drainage" on any Lot is defined as the drainage pattern and facilities in existence at the time that such Lot is conveyed to a purchaser. In the event that any dwelling unit encroaches upon the Common Area and facilities as a result of construction, reconstruction, repair, shifting, settlement or movement of any portion of the Properties, a valid easement for encroachment and for the maintenance of the same shall exist so long as a valid need for encroachment exists. Declarant and the Lot Owners of each Lot of which there is constructed a dwelling unit along or adjacent to said Lot shall have an easement appurtenant to said Lot over the Lot line to and over the adjacent Lot, for the purposes of accommodating any natural movement or settling or any dwelling unit located on said Lot, any encroachment of any dwelling units due to minor engineering variances and any encroachment of eaves, roof overhangs and architectural features as part of the original construction of any dwelling unit located on said Lot. Declarant reserves the right to grant exclusive easements over certain limited portions of the Common Area, if necessary, to certain Lot owners for yard purposes, as required by the FHA. Declarant further expressly reserves for the benefit of the Association, its agents and employees, easements of access, ingress and egress over the Lots and Common Area, for the purpose of maintaining, repairing and installing sewer pipe lines and laterals in accordance with the provisions of this Declaration and as otherwise provided by law. None of the above shall be allowed to adversely affect an adjacent dwelling unit.

Section 9. Notices. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered as provided either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the United States Mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice or to the residents of such person if no address has been given to the Association. Such address may be changed, from time to time, by notice in writing to the Association.

ARTICLE XVI

Party Walls

Party walls exist between the units of twin home structures. Neither Owner of a party wall may interfere with it to the detriment of the other, or do anything to its

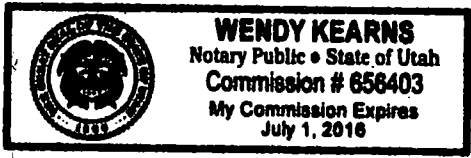
structure that will weaken it. Common party walls shall not be removed, remodeled, damaged or changed in any manner whatsoever by either Owner.

SPRING CREEK HOMEOWNERS ASSOCIATION, INC.,
A UTAH NON-PROFIT CORPORATION

By: Richard W. Gilbert
Declarant

STATE OF UTAH)
) ss.
COUNTY OF DAVIS)

On this the 4th day of Sept., 2012, personally appeared before me Richard W. Gilbert personally known to me to be President, SPRING CREEK HOMEOWNERS ASSOCIATION INC., a Utah Non-Profit Corporation, executed the foregoing instrument in the name of SPRING CREEK HOMEOWNERS ASSOCIATION INC., and be acknowledged that he executed the same as the act and deed of said corporation for the uses and purposes therein mentioned.



Wendy Kearns
NOTARY PUBLIC

AMENDED BYLAWS

FOR

SPRING CREEK HOMEOWNERS
ASSOCIATION

A UTAH NON-PROFIT CORPORATION

2008

TABLE OF CONTENTS

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
I	Plan of Lot Ownership & Incorporation	3
II	Association	3
III	Executive Committee	5
IV	Responsibilities of the Officers	7
V	Fiscal Year	9
VI	Amendment to Bylaws	9
VII	Notice	9
VIII	Compliance, Conflict and Miscellaneous Provisions	9

**BYLAWS
OF
SPRING CREEK HOMEOWNERS ASSOCIATION,
A UTAH NON-PROFIT CORPORATION
2008**

The following are adopted by the Declarant as the administrative Bylaws of the Spring Creek Homeowners Association.

ARTICLE I

PLAN OF LOT OWNERSHIP AND INCORPORATION

1. **Submission.** These Bylaws are referred to and incorporated by reference in the foregoing Declaration of Covenants, Conditions and Restrictions of Spring Creek, a Planned Residential Unit Development (PRUD) (the "Declaration"), which is located in Davis County, State of Utah. These Bylaws shall govern the administration of Spring Creek, PRUD and its Association of Lot Owners.
2. **Conflict.** In the event of any conflict, incongruity or inconsistency between the provisions of these Bylaws and the provisions of the Declaration, the latter shall in all instances govern and control.
3. **Office and Registered Agent.** Registered Agent of the Association shall be the President of the Association and the Registered Office of the Association shall be the home of the President or such other place as be designated by him/her
4. **Bylaws Applicability.** All present and future Owners, residents, tenants, renters, lessees, and their guests, licensees, invitees, servants, agents or employees, and any other person or persons who shall be permitted entrance at Spring Creek, PRUD shall be subject to and abide by these Bylaws.

ARTICLE II

ASSOCIATION

1. **Composition.** The association of Lot Owners is a mandatory association consisting of all Lot Owners at the Project.
2. **Voting.** Each Lot shall have one (1) vote. Multiple owners must elect a representative to cast their vote. A vote cast, without objection, by an apparent representative of multiple owners shall be binding upon the parties. Entities may vote by means of their authorized agent.
3. **Place of Meeting.** Meetings of the Association shall be held at the principle office of the Association or at such other suitable place as may be designated by the Executive Committee from time to time and stated in the notice of meeting.

4. **Association Meetings.** The President will preside over four meetings of the Association each calendar year.
5. **Special Association Meetings.** The President shall call a special meeting (a) if he/she so desires, (b) if a majority of the members of the Executive Committee direct him/her to do so, or (c) upon receipt of a petition signed and presented to the Secretary by at least twenty-five percent (25%) of the members of the Association. The notice of any special meeting shall state the date, time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.
6. **Notice of Meeting.** It shall be the duty of the Secretary to hand deliver or mail, by regular U.S. mail postage prepaid, a notice of (a) each meeting of the Owners not less than ten (10) and not more than thirty(30) days in advance of such meeting; and (b) each special meeting of the Owners at least three (3) days and not more than twenty (20) days in advance of such meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Owner of record, at the address of his/her respective Lot or such address as each Owner may designate by notice in writing to the Secretary. The mailing of a notice of meeting in the manner provided in this Section shall be considered service of notice.
7. **Voting Requirements.** An Owner shall be deemed to be in "good standing" and "entitled to vote" at any meeting of the Association if, and only if he/she shall be in full compliance with all of the terms, covenants, and conditions of the Association Documents, and shall have fully paid all assessments and/or additional charges due.
8. **Proxies.** The vote appertaining to any Lot may be cast pursuant to a proxy duly executed by or on behalf of the Lot Owner, or in cases where the Lot Owner is more than one person, by or on behalf of all such persons. No such proxy shall be revocable except by actual written notice to the person presiding over the meeting, by the Lot Owner or by any of such persons, that it be revoked. Any proxy shall be void if it is not dated, if it purports to be revocable without notice, or if it is not signed by a person having authority, at the time of the execution thereof, to execute deeds on behalf of that person. Unless it expressly states otherwise, a proxy shall terminate automatically upon the adjournment of the first meeting held on or after the date of that proxy. Each proxy must be filed with the Secretary of the Executive Committee before the meeting. Only individual Lot Owners or the legal representative of an Organizational Lot Owner may be proxies.
9. **Quorum.** A majority of the members of the Association shall constitute a quorum for the adoption of decisions. If, however, such quorum shall not be present or represented at any meeting, the Owners entitled to vote thereat, present in person or represented by proxy, shall have power to adjourn the meeting and reschedule. Notice of the second meeting shall be made in accordance with Article II, paragraph 7. The Owners present at the rescheduled meeting shall constitute a quorum for the adoption of decisions. When a quorum is present at any meeting, the vote of the Lot Owners representing a majority of the members of the Association present at the meeting either in person or by proxy, shall decide any question brought before the meeting; provided, however, if the Declaration requires a fixed percentage of Lot Owners to approve any action, that percentage shall be required, anything to the contrary notwithstanding.

10. **Order of Business.** The order of business at all meetings of the Association shall be as follows:

- A. roll call;
- B. proof of notice of meeting;
- C. recap and approval of previous Association meeting minutes;
- D. reports of officers;
- E. report of special committees, if any;
- F. election of special committees, if applicable;
- G. unfinished business; and
- H. new business.

12. **Conduct of Meeting.** The President shall, or in his/her absence, the Vice President, preside over all meetings of the Association. The Secretary shall keep the minutes of the meeting and record in a Minute Book all resolutions adopted at the meeting as well as a record of all transactions occurring thereat.

ARTICLE III

EXECUTIVE COMMITTEE

1. **Executive Committee.** The Executive Committee shall be comprised of the officers of the Association which are the President, Vice President, Secretary, and Treasurer who shall be elected by the Association. The Committee may appoint assistants, as deemed necessary.
2. **Powers and Duties.** The affairs and business of the Association shall be managed by the Executive Committee. It shall have all of the powers and duties necessary for the administration of the affairs of the Association in accordance with the provisions of the Declaration, and may do all such acts and things necessary to operate and maintain the Project.
3. **Qualification.** Only individual Owners shall be eligible for Executive Committee membership.
4. **Election and Term of Office of the Officers.** The term of office shall be two (2) calendar years and each officer shall serve until such time as his/her duly-qualified successor is elected. The officers of the Association shall be elected during the third Association meeting of odd numbered years (i.e. 2007, 2009, etc.) just prior to the annual meeting of the Association. Those elected will be announced at the annual Association meeting and will assume full leadership January 1st of even-numbered years.
5. **New Executive Committee Meeting.** The first meeting of the members of the newly elected Executive Committee shall be immediately following the annual meeting of the Association or at such other time and place designated by the Executive Committee.
6. **Regular Meetings.** Regular meetings of the Executive Committee shall be held from time to time at such time and place as shall be determined by a majority of the members of the Executive Committee.
7. **Special Meetings.** Special meetings of the Executive Committee may be called by the President, Vice President or a majority of the members of the Executive Committee on at least forty-eight (48) hours prior notice to each meeting.

8 **Quorum.** At all meetings of the Executive Committee, a majority of the members then in office shall constitute a quorum for the transaction of business, and the acts of the majority of all the Executive Committee members present at a meeting at which a quorum is present shall be deemed to be the acts of the Executive Committee. If, at any meeting of the Executive Committee, there be less than a quorum present, the majority of those present may adjourn the meeting but for no longer than two (2) days. At any such rescheduled meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

9. **Vacancies.** Vacancies in the Executive Committee caused by any reason other than removal of a member by a vote of the Association shall be filled by vote of the majority of the remaining members of the Executive Committee at a special meeting of the Executive Committee held for that purpose promptly after the occurrence of any such vacancy, even though the total members remaining may constitute less than a quorum of the Committee. Each person so elected shall be a member for the remainder of the term of the member so replaced.

A vacancy created by the removal of a member by a vote of the members of the Association at a special meeting called for that purpose shall be filled by the election and vote of the members of the Association at said meeting.

10. **Removal of Executive Committee Member.** A member may be removed with or without cause and his/her successor elected at any meeting of the Association at which a quorum of the Association is present, by an affirmative vote of a majority of the members of the Association. Any member whose removal has been proposed by the Owners shall be given at least thirty (30) days notice of the calling of the meeting and the purpose thereof and an opportunity to be heard at the meeting. Any Executive Committee member who misses twenty-five percent (25%) or more of the Executive meetings or who misses three (3) consecutive meetings in any calendar year, shall be automatically removed from the Executive Committee.

11. **Compensation.** Executive Committee members shall not be compensated for their services but shall be reimbursed for all expenses reasonably incurred in connection with the Executive Committee or Association business and approved by the Executive Committee.

12. **Conduct of Meetings.** The President shall preside over all meetings of the Executive Committee. The Secretary shall keep a Minute Book of the Executive Committee recording therein all adopted resolutions and a record of all transactions and proceedings occurring at such meetings, subject to the following

A) **Open Meetings.** A portion of each meeting of the Executive Committee shall be open to all members of the Association, but members other than members of the Executive Committee may not participate in any discussion or deliberation unless expressly so authorized by a majority of a quorum of the Executive Committee. The Executive Committee shall establish procedures, policies, and guidelines for conducting of its meetings, retiring to executive session, and prohibiting photographs and/or any electronic (video or audio) recordation of the meetings, or any part thereof.

B) **Executive Committee Session.** The Executive Committee may, with approval of a majority of a quorum, adjourn a meeting and reconvene in an Executive Committee session to discuss and vote upon private, confidential, sensitive or personnel matters, litigation, and orders of business of a similar nature. The nature of any and all business to be considered in an Executive Committee session shall first be announced in open session.

C) **Action Without a Formal Committee Meeting.** Any action to be taken at a meeting of the Executive Committee may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all members of the Executive Committee.

14. **Report of Executive Committee.** The Executive Committee shall, when called for by vote of the Association, provide a full and clear statement of the business and condition of the Association.

ARTICLE IV

RESPONSIBILITIES OF THE OFFICERS

1. **President.** The President shall be the chief executive officer; he/she shall preside at meetings of the Association and the Executive Committee and shall be an ex officio member of all committees; he/she shall have general and active management of the business of the Committee and shall see that all orders and resolutions of the Association and Executive Committee are carried into effect. He/she shall have all of the general powers and duties which are usually vested in or incident to the use of president of a stock corporation organized under the laws of the State of Utah.

A) **Specific Responsibilities:**

- 1) Chairs both Association and Committee meetings;
- 2) Establishes agendas for all meetings;
- 3) Reviews accounts with other officers no less than quarterly;
- 4) Gathers bids for any work to be done within the parameter of the Bylaws;
- 5) Addresses owners concerns/problems/complaints within a reasonable time;
- 6) Approves vouchers and signs checks;
- 7) Welcoming host to new Owners; and
- 8) Renews "Articles of Incorporation" on an annual basis.

2. **Vice President.** The Vice President shall, in the absence or disability of the President, perform the duties and exercise the powers of the President, and shall perform such other duties as the Executive Committee or the President shall prescribe. If neither the President nor the Vice President is able to act, the Secretary and then Treasurer shall do so on an interim basis.

A) **Specific Responsibilities:**

- 1) Assists the President;
- 2) Approves vouchers and signs checks if President is not available;
- 3) Collects all accounts that are overdue 60 days;
- 4) Files necessary court documents;
- 5) Enforces covenants, contacts attorney and follows through on any legal aspects connected with the Association;
- 6) Coordinates work with lawn care, snow plowing and any other sub-contractor; and
- 7) Ensures mailbox area is free of snow.

3. **Secretary.** The Secretary shall attend all meetings of the Executive Committee and Association and record all votes and the minutes of all proceedings.

A) Specific Responsibilities:

- 1) Maintains agenda for both Association and Executive Committee meetings;
- 2) Provides notice of all meetings;
- 3) Records and publishes meeting minutes for the Executive and Association meetings;
- 4) Distributes said minutes to all other Association Owners within one week of the Association meeting;
- 5) Maintains electronic copy of all records;
- 6) Maintains a Minutes Book of all meetings; and
- 7) Maintains and updates list of all Owners and distributes as needed to Owners.

4. **Treasurer.** The Treasurer shall have custody of all funds and securities.

A) Specific Responsibilities:

- 1) Collects all Owners fees and makes deposits in a timely manner;
- 2) Pays all approved Association bills in a timely manner;
- 3) Notifies Vice President of overdue accounts;
- 4) Distributes expense reports at the Association meeting;
- 5) Makes transfers as needed to help pay Association bills;
- 6) Meets with bank when necessary;
- 7) Maintains an electronic back up with all current financial and vendor information;
- 8) Collects assessments and deposits the collections into a federally-insured interest-bearing account or accounts; and
- 9) Works with other officers for any special assessments when necessary.

5. **Responsibilities Shared by All Executive Committee Members.**

- A) Establish a budget;
- B) Determine the annual assessment of each Owner;
- C) Oversee the maintenance of the Common Area and Facilities;
- D) Adopt and amend rules and regulations;
- E) Open bank accounts on behalf of the Association and designate the signatories required therefore;
- F) Purchase and maintain insurance;
- G) Provide common utility services;
- H) Give notice of alleged violations of the Project Documents and provide the alleged violator the opportunity to be heard;
- I) Levy fines, sanctions and citations;
- J) Authorize emergency repairs; and
- K) Evict non-Owner residents in material violation of the

Project Documents or who have created and failed to abate a nuisance.

5. **Financial Authority.** Two Executive Committee members must sign all checks. An Executive Committee member cannot both approve his/her own voucher and then subsequently sign the check for payment. Single expenditures in excess of \$5000 shall require pre-approval of the Association.

ARTICLE V
FISCAL YEAR

The fiscal year of the Association shall be the calendar year commencing on January 1 of each year terminating on December 31 of the same year.

ARTICLE VI
AMENDMENT TO BYLAWS

These Bylaws may be modified or amended by the affirmative vote of a majority of the members of the Association.

ARTICLE VII
NOTICE

1. **Manner of Notice.** All notices, demands, bills, statements, or other communications provided for or required under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or sent by regular U.S. mail postage pre-paid, (a) if to an Owner, at the address of his/her Lot and at such other address as the Owner may be designated by notice in writing to the Secretary; or (b) if to the Executive Committee or Association at the principle office of the Executive Committee or at such other address as shall be designated by notice in writing to the Secretary.

2. **Waiver of Notice.** Whenever any notice is required to be given under the provisions of the statutes, the Declaration, or of these Bylaws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether signed before or after the time stated therein, shall be deemed equivalent thereto, unless such waiver is ineffective under the provisions of the Declaration

ARTICLE VIII

COMPLIANCE, CONFLICT, AND MISCELLANEOUS PROVISIONS

1. **Compliance.** These Bylaws are set forth in compliance with the requirements of the Declaration.

2. **Conflict.** These Bylaws are subordinate and are subject to all provisions of the Declaration. All of the terms hereof, except where clearly repugnant to the context, shall have the same meaning as they are defined to have in the Declaration.

3. **Severability.** If any provisions of these Bylaws or any section, sentence, clause, phrase, or word or the application thereof in any circumstance is held invalid, the validity of the remainder of these Bylaws shall not be affected thereby and to this end, the provisions hereof are declared to be severable.

4. **Waiver.** No restriction, condition, obligation, or provision of these Bylaws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

5. **Captions.** The captions contained in these Bylaws are for convenience only and are not part of these Bylaws and are not intended in any way to limit or enlarge the terms and provisions of these Bylaws.

6. **Construction.** Whenever in these Bylaws the context so requires, the singular number shall refer to the plural and the converse, and the term "shall" is mandatory and "may" permissive.

7. **Effective:** These Bylaws shall be effective upon their adoption by the members of the Spring Creek Homeowners Association, a Non-profit Corporation.

Dated the 3rd day of March, 2008

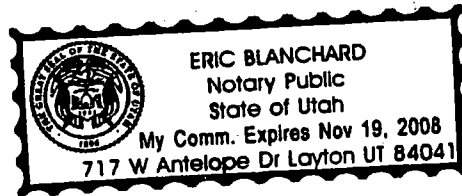
By: John M Lybbert
Association President

STATE OF UTAH)
) SS.
COUNTY OF DAVIS)

On the 3rd of March, 2008, John M. Lybbert personally appeared before me who by me being duly sworn, did duly acknowledged to me that he/she executed the same.

Eric Blanchard

NOTARY PUBLIC



Page 258 to 272

THIS PAGE WAS BLANK
OR NOT FILLED IN AT
TIME OF RECORDING
RICHARD T. MAUGHAN
Davis County Recorder