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**DECLARATION OF
 HOMEOWNERS ASSOCIATION
 COVENANTS, CONDITIONS AND RESTRICTIONS
 OF
 The Village at Riverwalk Town Home, PUD
 South Jordan, UTAH**

This Declaration is made and executed this 30th day of August, 2005, by Arbor / Gardner L.L.C, a Utah limited liability company, a Utah limited liability company for themselves, their successors, grantees and assigns (hereinafter referred to as "Developer").

RECITALS

- A. Developer is the record owner of that certain tract of Property more particularly described in Article II of this Declaration. Developer desires to create on said Property a planned unit development.
- B. Developer desires to provide for preservation of the values and in said development and for the maintenance of all street & sidewalk snow removal, common areas both limited and joint (Excluding snow removal on porches steps or fenced in areas.) roadways, street lighting and exteriors of Town Homes and gate entrances within The Village at Riverwalk Plat. To this end and for benefit of the Property and of the Owners thereof, Developer desires to subject the Property described in Article II of this Declaration to the covenants, restrictions, easements, charges, and liens hereinafter set forth.
- C. Developer deems it desirable, for the efficient preservation of the values and amenities in the development, to create an entity which possesses the power to maintain and administer the maintenance of all street & sidewalk snow removal, common areas both limited and joint (Excluding snow removal on porches, steps or fenced in areas.) roadways, street lighting and exteriors of Town Homes and gate entrances within The Village at Riverwalk Plat. Also to preserve the covenants, to collect and disburse the assessments and charges hereinafter provided for, and otherwise to administer and enforce the provisions of this Declaration. For such purpose Developer has, in conjunction with recordation of this Declaration, caused to be incorporated under the laws of the State of Utah, as a non-profit corporation, The Village at Riverwalk PUD, HOMEOWNERS ASSOCIATION.

ASSOCIATION

ASSOCIATION. The Association is, or will be prior to the close of Buyer's escrow, incorporated as a Utah non-profit corporation. The sole purpose and reason for the formation and existence of the Association is to administer the maintenance of all street & sidewalk snow removal, common areas both limited and joint (Excluding snow removal on porches, steps or fenced in areas.) roadways, street lighting and exteriors of Town Homes and gate entrances within The Village at Riverwalk Plat.

Also to administer the covenants in satisfaction of a condition imposed by the City for development of the project and to collect maintenance assessments from project homeowners.

By acquiring title to a Unit in the project, Buyer becomes a member of the Association and has one vote to cast at elections of the Association's Board of Directors ("Board") and at other meetings of the members of the Association in accordance with the development agreement and CCR's, and the Articles of Incorporation and Bylaws of the Association.

Seller is permitted to appoint all of the five (5) positions on the Board until Seller sells seventy-five percent (75%) of the 72 Town Homes. Any positions on the Board not appointed by Seller will be filled by election of the project homeowners. Positions to be appointed are President, Secretary, Treasurer, and two additional board members.

NOW, THEREFORE, for the foregoing purposes, Developer declares that the Property described in Article II to this Declaration is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants restrictions, easements, charges and liens here-in after set forth.

1. DEFINITIONS

When used in this Declaration (including in that portion hereof headed "Recitals") the following terms shall have the meaning indicated.

- 1.1 Declaration shall mean this Declaration of Covenants, Conditions, and Restrictions.
- 1.2 Plat shall mean the subdivision plat covering the Property, entitled "The Village at Riverwalk Plat, executed and acknowledged by Developer on the 31st day of August, 2005, prepared and certified by Civil Science Engineering, (a duly registered Utah Land Surveyor) and filed for record in the office of the County Recorder of Salt Lake County, Utah.
- 1.3 Property shall mean the entire tract of real property covered by The Village at Riverwalk PUD Plat, a description of which is set forth in Article II of this Declaration.
- 1.4 Lot shall mean any of the 72 Town Homes within The Village at Riverwalk PUD, which are separately numbered and individually described as shown on the plat. Also including the 52 single family homes for the purpose of calculating maintenance fees for the shared common areas. (Any future homes developed along Jordan Creek Drive shall be added to the association and used for calculating joint common area maintenance fees.)
- 1.5 Common Areas shall mean that part of the Property which is not included within the Town Homes, including jointly maintained common areas & Town Home common areas as described on The Village at Riverwalk plat, entrance gates and improvements along Jordan Creek Drive, but including roadways within or adjacent to the Lots together with all improvements other than utility lines which are now or hereafter constructed.
- 1.6 Town Home shall mean and refer to a single family Living Unit constructed by Declarant on a lot.
- 1.7 Owner shall mean and refer to the record Owner, whether one or more persons or entities of a fee simple title to any Lot which is a part of the Properties, including contract purchasers, but excluding those having an interest merely as security for the performance of an obligation.
- 1.8 Association shall mean The Village at Riverwalk Town Home PUD, HOMEOWNERS ASSOCIATION, a Utah nonprofit corporation.

- 1.9 Member shall mean every person who holds membership in the Association.
- 1.10 Any additional homes constructed within The Village at Riverwalk PUD as shown on the recorded plat will be subject to all CC&R's as well as any architectural requirements. All home plans and color schemes must be approved by the architectural committee.
- 1.11 "Time-sharing" shall mean any form of shared contractual Ownership of a Living Unit whereby each Owner's right to use the Unit is limited to a certain period of the year. Time-sharing shall include plans that employ contract rights and those that employ, estates in land, such as (a) vacation leases whereby the Owner or Declarant conveys recurring leasehold interest to time-share purchasers and retains a reversion in fee simple and (b) interval Ownership whereby the Owner or Declarant conveys recurring leasehold interest to time-share purchasers and also conveys to them a co-Ownership of a remainder in fee simple.

2. PROPERTY DESCRIPTION

The Property which is and shall be held, transferred, sold, conveyed, and occupied subject to the provisions of this Declaration consists of the following described real property situated in Salt Lake County, State of Utah:

The Village At Riverwalk Town PUD

See attached Title Report

Joint Common Areas

The shared Joint Common area as defined By Civil Science a duly registered land surveyor on The Village at Riverwalk Plat is 156,225 square feet or 3.59 acres. This is for calculating shared common area expenses between The Village at Riverwalk Estates HOA and The Village at Riverwalk Town Homes HOA.

Town Home Common Areas

The Town Home common area as defined By Civil Science a duly registered land surveyor on The Village at Riverwalk Plat is 129,025 sq. ft. or 2.96 Acres. This is for calculating common area expenses for The Village at Rivewalk Town Home HOA.

Parcel A

Parcel A Open Space is reserved for future Development.

Excluding all presently existing or to be constructed or installed sewer lines, water mains, gas lines, electrical conduits, telephone lines, and related facilities to the extent they are located outside the Lots included within the above-described tract.

Reserving unto Developer its employees, agents, and successors, however, such easements and rights of ingress and egress over, across, through, and under the above-described tract and any improvements now or hereafter constructed thereon as may be reasonably necessary for the Developer, its employees, agents and successors (in a manner not inconsistent with the provisions of this Declaration) to engage in construction upon or to improve the Roadways with such structures and facilities (including, but not limited to parking areas, sidewalks, parking area and sidewalk lighting, and various landscaped areas) designed for the use and enjoyment of all the Members, as Developer may reasonably determine to be appropriate. If, pursuant to this

reservation, the above-described tract or any improvement thereon is traversed or partially occupied by a permanent improvement or utility line, a perpetual easement for such improvement or utility line shall exist. With the exception of such perpetual easements, the reservation hereby effected shall, unless sooner terminated in accordance with its terms, expire thirty (30) years after the date on which this Declaration is filed for record in the office of the County Recorder of Salt Lake County, Utah.

All of the foregoing is subject to all liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all patent reservations and exclusions; all instruments of record which affect the above-described tract or any of record which affect the above-described tract or any portion thereof, including, without limitation, any mortgage or deed of trust; all visible easements and rights-of-way; and all easements and rights-of-way of record.

III. MEMBERSHIP AND VOTING RIGHTS

- 3.1 Membership. Every Owner shall be a Member of the Association. Membership in the Association shall be mandatory, shall be appurtenant to the Lot in which the Owner has the necessary interest, and shall not be separated from the Lot to which it appertains. Neither the issuance nor the holding of shares of stock shall be necessary to evidence membership in the Association. Regarding Joint Common Areas within The Village of Riverwalk PUD'S, both Associations board of Directors shall have to approve any and all matters. Each board member has 1 vote, there must be a majority for any item approved. If there is a tie between the votes cast by the board of directors then that matter shall be put to a vote of the general membership of both Associations and follow voting procedures as outlined in both Association agreements.
- 3.2 Voting Rights. The Association shall have the following described classes of voting membership:
- (a) Class A. Class A Members shall be all Owners other than the Developer until the Class B membership ceases, at which time the Developer shall become a Class A Member with respect to any Lot or Lots which the Developer may own at that time or from time to time. Class A Member shall be entitled to one (1) vote in each Lot in which the interest required for membership in the Association is held. In no event, however, shall more than one (1) Class A vote exist in any Lot.
 - (b) Class B. The Class B Member shall be the Developer. The Class B Member shall be entitled to six (6) votes for each Lot in which the Developer holds the interest required for membership in the Association. The Class B membership shall automatically cease and be converted to Class A membership on the first to occur of the following events:
 - (1) When the total number of votes held by all Class A Member equals the 75% of the 72 currently planned Town Homes.
 - (2) The expiration of thirty (30) years after the date on which this Declaration is filed for record in the office of the County Recorder of Salt Lake County, Utah.

IV. PROPERTY RIGHTS IN ROADWAYS & COMMON AREAS

- 4.1 Easement of enjoyment. Each Member shall have a right and easement of use and enjoyment in and to the Roadways, Common Areas and Joint Common Areas. Such right and easement shall be appurtenant to and shall pass with title to each Lot and in no

event shall be separated therefrom. Any Member may delegate the right and easement of use and enjoyment described herein to any tenant, lessee, or contract purchaser who does business on such Members Lot.

- 4.2 Transfer of Title. Developer agrees that it shall, at or prior to the time the Class B membership is converted to Class A membership, convey to the Association title to the Roadways, Common Areas and Joint Common Areas free and clear of all liens (other than the lien of any assessments, or for easements or rights of way reserved to the Developer or otherwise enforceable in law or equity).
- 4.3 Limitation on Easement. A Member's right and easement of use and enjoyment concerning the Roadways, Common Areas and Joint Common Areas shall be subject to the following:
- (a) The right of Salt Lake County and any other governmental or quasi-governmental body having jurisdiction over the Property to access and rights of ingress and egress over and across any parking area, walkway, or open area contained within the Property for purposes of providing police and fire protection, and providing any other governmental or municipal service;
 - (b) The right of the Association to dedicate or transfer all or any part of the Roadways, Common Areas and Joint Common Areas to any public agency or authority for such purposes and subject to such conditions as may be agreed to by the Association. Any such dedication or transfer must, however, be assented to by two-thirds (2/3) of the vote of each class of membership in which Members are present in person or by proxy and are entitled to cast at a meeting duly called for the purpose. Written or printed notice setting forth the purpose of the meeting and the action proposed shall be sent to all Members at least ten (10), but not more than thirty (30), days prior to the meeting date.
 - (c) The right to the Developer, prior to conveyance of the Roadways, Common Areas and Joint Common Areas to the Association, and after said conveyance, the right of the Association to grant and reserve easements and right-of-way through, under, over and across the Roadways, Common Areas and Joint Common Areas, for the installation, maintenance and inspection of the lines and appurtenances for public or private water, sewer, drainage, gas, electricity, telephone and other utilities.
 - (d) Owners' Easements of Enjoyment to Limited Common Areas. Each Unit Owner is hereby granted an irrevocable and exclusive license to use and occupy the Limited Common Areas appurtenant to certain Common Area and identified on the official Plat filed for the Project. The exclusive right to use and occupy each Limited Common Area shall be appurtenant to and shall pass with the title to every Unit with which it is associated. A Unit owner's exclusive right of use and occupancy of Limited Common Areas reserved for their Unit shall be subject to and in accordance with the Declaration and Bylaws.
 - (e) Delegation of Use. Any member may designate, in accordance with the Bylaws, his right of enjoyment to the Common Area and Joint Common Area and facilities to the members of his family, his tenants, guests or contract purchasers who reside on the property. All such use by family members, tenants, contract purchasers or guests shall be subject to the Declaration, including all supplements and amendments thereto, the Bylaws and the Rules and Regulations to be promulgated by the Board of Directors. Any damage caused to the Common Area and Joint Common Area including facilities and personal property owned by the Association, by one to whom a Member's right to use and

enjoyment has been delegated shall create a debt to the Association owed by the Owner and shall be assessed by the Association.

- 4.4 Utility Easement. The Developer for itself and its successors and assigns, including but not limited to the Association, hereby grants easements over, under, in, on and through the Roadways, Common Areas and Joint Common Areas for the installation, construction, reconstruction, relocation, removal, maintenance, repair, operation and inspection of sewer, water, drainage, electric, gas and telephone facilities and wires, lines, cables, conduits, pipes and other necessary and proper attachments therewith, for the benefit of the Property or any part thereof, to the Developer, the Association, any federal, state or local authority, commission or agency having jurisdiction there over and any corporation, be it public, quasi-public or private, supplying or servicing such facilities.
- 4.5 Form for Conveyance. Any deed, lease, mortgage, deed of trust, or other instrument conveying or encumbering title to a Lot shall describe the interest or estate involved substantially as follows: Lot Numbers contained within the The Village at Riverwalk PUD, as the same is identified in the Plat recorded in the office of the County Recorder of Salt Lake County, Utah, and in the "Declaration of Covenants, Conditions, and Restrictions of The Village at Riverwalk PUD, recorded in the office of the County Recorder of Salt Lake County, Utah. TOGETHER WITH a right and easement of use and enjoyment in and to the Roadways, Common Areas and Joint Common Areas described, and as provided for, in said Declaration of Covenants, Conditions, and Restrictions. Whether or not the description employed in any such instrument is in the above specified form, however, all provisions of this Declaration shall be binding upon and shall insure to the benefit of any party who acquires any interest in a Lot.

V. ASSESSMENTS

- 5.1 Personal Obligation and Lien. Each Owner shall, by acquiring or in any way becoming vested with his interest in a Lot, be deemed to covenant and agree to pay to the Association the monthly and the special assessments described in this Article, together with all other fines, penalties, interest and costs of collection as described in this agreement. All such amounts shall be, constitute, and remain: (i) a charge and continuing lien upon the Lot with respect to which such assessment is made; and (ii) the personal obligation of the person who is the Owner of such Lot at the time the assessment falls due. No Owner may exempt himself or his Lot from liability for payment of assessments by waiver of his rights concerning street & sidewalk snow removal, common areas both limited and joint, roadways, street lighting and exteriors building of Town Homes and gate entrances within The Village at Riverwalk Plat or by abandonment of his Lot.
- 5.2 Purpose of Assessments. Assessments levied by the Association shall be used exclusively for the purpose of street & sidewalk snow removal, common areas both limited and joint (Excluding snow removal on porches, steps or fenced in areas.) roadways, street lighting and exteriors of Town Homes and gate entrances within The Village at Riverwalk Plat. The use made by the Association of funds obtained from Assessments may include payment of the cost of: taxes, if any, and insurance on the Above Mentioned Items. Improvements of the Above Mentioned Items and; management and supervision of the Homeowners Association; establishing and funding a reserve to cover major repair or replacement of improvements within the The Village at Riverwalk PUD items listed above; and any expense necessary or desirable to enable the Association to perform or fulfill its obligations, functions, or purposes under this Declaration or its Articles of Incorporation.
- 5.3 Maximum Monthly Assessment. As of the date set under Section 5.7, each Lot shall be subject to a monthly assessment of not more than one seventy second (1/72). When

calculating joint common area each lot shall not be subject to a monthly assessment of not more than $(1/124)$ (To be adjusted if future development occurs on Jordan Creek Drive up to $1/131$) of the yearly assessment rate. From and after January 1, 2008, the maximum monthly assessment may be increased or decreased so long as the change is assented to by sixty percent (60%) of the votes of each class of membership which Members present in person or represented by proxy are entitled to cast at a meeting duly called for such purpose. Written notice setting forth the purpose of the meeting shall be sent to all Members at least ten (10), but not more than thirty (30), days prior to the meeting date. The Board of Directors of the Association may from time to time and in its discretion set the amount of the monthly assessment at any sum not in excess of the then applicable maximum amount.

- 5.4 Special Assessments. From and after the date set under Section 5.7, the Association may levy special assessments for the purpose of defraying, in whole or in part: (i) any expense or expenses not reasonably capable of being fully paid with funds generated by monthly assessments; or (ii) the cost of any construction, reconstruction, or unexpectedly required repair or replacement of an improvement or of personal property upon the common areas both limited and joint. Any such special assessment must be assented to by one (51%) of the votes of each class of membership, which Members present in person or represented by proxy are entitled to cast at a meeting duly called for the purpose. Written notice setting forth the purpose of the meeting shall be sent to all Members at least ten (10), but not more than thirty (30) days prior to the meeting date.
- 5.5 Quorum Requirements. The quorum required for any action authorized by Section 5.3 or Section 5.4 above shall be as follows: At the first meeting called, the presence of Members or of proxies entitled to cast fifty-one percent (51%) of all the votes of each class of membership shall constitute a quorum. If a quorum is not present at the first meeting or any subsequent meeting, another meeting may be called (subject to the notice requirement set forth in Section 5.3) at which a quorum shall be one-half ($1/2$) of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting.
- 5.6 Uniform Rate of Assessment. Both monthly and special assessments shall be divided at a uniform rate. All assessments shall be allocated among the Owners based on not more than one seventy second ($1/72$). When calculating joint common area each lot shall not be subject to a monthly assessment of not more than $(1/124)$ (To be adjusted if future development occurs on Jordan Creek Drive up to $1/131$) of the yearly assessment rate. Assessments shall begin at the point landscaping is installed or occupancy which ever occurs first.
- 5.7 Monthly Assessment Due Dates. The first monthly and special assessments provided for herein shall commence and be paid to the Association at the Title Company at the closing of the property by the owner. The Association must give owner at least fifteen (15) days prior to the effective date of any change in amount of the monthly assessment, the Association shall give each Owner written notice of the amount and first due date of the assessed changes.
- 5.8 Certificate Regarding Payment. Upon the request of any Owner or prospective purchaser or encumbrance of a Lot, the Association shall issue a certificate stating whether or, not all assessments respecting such Lot are current and, if not, the amount of the delinquency. Such certificate shall be conclusive in favor of all persons who in good faith rely thereon.
- 5.9 Effect of Non-payment -- Remedies. Any assessment not paid when due shall, together with the hereinafter provided for interest and costs of collection, be, constitute and remain

a continuing lien on the Lot. The person who is the Owner of the Lot at the time the assessment falls due shall be and remain personally liable for payment. Such personal liability shall not pass to the Owner's successors in title unless expressly assumed by them. If the assessment is not paid within thirty (30) days after the date on which it becomes delinquent, the amount thereof shall bear interest from the date of delinquency at the rate of ten percent (10%) per annum, and the Association may bring an action either against the Owner who is personally liable or to foreclose the lien against the Lot. Any judgment obtained by the Association shall include reasonable attorney's fees, court costs, and each and every other expense incurred by the Association in enforcing its rights.

- 5.10 Exception for Developer. Notwithstanding anything to the contrary contained in this Declaration, if at the time specified in Section 5.7 for the commencement of monthly assessments the Developer retains title to any Lot, the rate of all assessments made upon such Lot under the provisions of Section 5.3 shall be one-half (1/2) the amount specified therein and the rate of any assessment made upon such Lot under the provisions of Section 5.4 shall be one-half (1/2) of the amount charged to other Owners thereunder. The terms of this Section 5.10 shall continue in operation and effect as to any Lot retained by the Developer until either (i) the Developer sells, leases, or otherwise conveys any interest in such Lot, or (ii) the expiration of one (1) year from the date upon which the Developer conveys the Roadways, Common Areas, Joint Common Areas, Street Lighting and Entrance Gates to the Association, whichever shall first occur.
- 5.11 Reserve Fund. The Association shall maintain a reserve fund, funded by annual assessments. Special assessments for the purpose of defraying, in whole or in part, the cost of any construction (including new construction), reconstruction, repair or replacement of any capital improvement upon the Common Area and Joint Common Areas including fixtures and personal property related thereto, and any expense necessary or desirable to enable the Association to perform or fulfill its obligations, functions, or purposes under the Declaration or the Articles on Incorporation, will be allowed only after the reserve fund has been expended and not replenished.
- 5.12 Right to Bring Action. Each Owner, by his acceptance of a deed to a Unit, hereby expressly grants to the Association, its successors, assigns or agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by action brought in the name of the Association in a like manner as a mortgage or deed of trust lien on real property, and such Owner hereby expressly grants to the Association a power of sale in connection with said lien. The lien provided for in this Section shall be in favor of the Association and shall be for the benefit of all other Unit Owners. The Association, acting on behalf of the Unit Owners, shall have the power to bid in an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same.

VI. PARTY WALLS

- 6.1 General Rules of Law to Apply. Each wall built as a part of the original construction of a Town home or Town home garage upon the properties and placed between two (2) separate Living Units or garage units intended for use and occupancy as a residence by a single family or appurtenant garage shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

- 6.2 Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared equally by the Owners who make use of the wall. Mechanical equipment and appurtenances located within any one Unit, or located without said Unit, but designated and designed to serve only that Unit; including, but not in any way limited to, electrical receptacles and outlets, air conditioning, heating, and other ventilation apparatus, fixtures and the like, pipes, wires, conduits, or other public utility lines or installations, shall be considered part of the Unit; and to the extent such equipment and appurtenances penetrate, are attached to, or located between the party wall, the Owner of the Unit shall be responsible for their repair and maintenance. In the event that any such equipment and appurtenances service more than one Unit, the cost for the repair of any damage or adverse condition created thereby, and the maintenance of such shall be shared equally between the Owners of the Units jointly serviced thereby.
- 6.3 Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of same, any Owner who has used the wall may restore it, and if the Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligence or willful acts or omissions. The word "used" as referred to herein means Ownership of a Living Unit or other structure which incorporates such wall or any part thereof.
- 6.4 Weatherproofing . Notwithstanding any other provisions of this Article, to the extent that such damage is not covered and paid by the insurance provided for herein, an Owner who by his negligence or willful act causes the party wall to be exposed to the elements shall bear the whole cost of any and all repairs and maintenance resulting there from, as well as the cost of furnishing the necessary protection against such elements.
- 6.5 Right to Contribution Runs With Land. The right of an Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.
- 6.6 Arbitration. In the event of any dispute arising concerning a party wall, under the provisions of this Article, each party shall choose one arbitrator, and the decision shall be by a majority of all the arbitrators. Should any party refuse to appoint an arbitrator within ten (10) days after written request therefore, the Board of Directors of the Association shall select an arbitrator for the refusing party.
- 6.7 Encroachment. If any portion of a party wall or other part of a building or structure now or hereafter constructed upon said property encroaches upon any part of the Common Areas or upon the Lot or Lots used or designated for use by another Unit Owner, an easement for the encroachment and for the maintenance of same is granted and reserved and shall exist and be binding upon the Declarant and upon all present and future Owners of any part of said property for the benefit of the present and future Owners of such encroaching building or structure for the purpose of occupying and maintaining the same; in the event a structure consisting of more than one Living Unit becomes partially or totally destroyed or in need of repair or replacement, mutual and reciprocal easements are granted and reserved upon the Common Areas and in and upon each Living Unit and Lot for the benefit of the Association and the adjacent Owner or Owners to the extent reasonably necessary or advisable to make repair and replacements, or both, and the maintenance thereof are hereby granted and reserved for the benefit of the present and future Owners thereof. The easements for encroachment herein granted and reserved shall run with the land.

VI.I OPERATION AND MAINTENANCE

- 6.1.1 Repair of Damage Caused By an Owner, his Tenants, Guests, Invitees and Pets. Any damage caused to the Common Area and facilities, including personal property owned by the Association, by an Owner his tenant, guests, invitees, minor child or any animal or pet under the control of or owned by an Owner, or any one or a combination of the foregoing, shall create an assessable debt owed by such Owner to the Association. If the Owner does not adequately repair the damage, the Association, after approval of a majority vote of the Board of Directors, shall have the right, through its agents, employees, or through an independent contractor, to repair the damage. The costs incurred by the Association, after approval of a majority vote of the Board of Directors, shall have the right, through its agents, employees, or through an independent contractor, to repair the damage. The costs incurred by the Association in repairing the damage shall be added to and become an assessment against the Unit. Any repair of damage undertaken by the Owner or agent of Owner pursuant to this Section must first have submitted plans to the Architectural Control Committee and will have obtained the approvals required before commencing repair work.
- 6.2.1 Maintenance of Common Areas, Joint Common Areas, Lots and Living Units. The Common Areas, Joint Common Areas, the roofs, exteriors, and any extension of the Living Units shall be maintained by the Association so as not to detract from the appearance of the property and so as not to affect adversely the value or use of any Living Unit. The Owner of each Lot and Living Unit shall maintain such Lot and Living Unit in an attractive appearance, including and free from all trash, rubbish, garbage and debris.
- 6.3.1 Maintenance of Residential Units. Each Residential Unit shall be maintained by the Owner there of at his own cost and expense (except described herein) so as not to detract from the appearance of the Property and so as not to affect adversely the value or use of any other Residential Units. The Association shall have no obligation regarding maintenance or care of Residential Units.
- 6.4.1 Operation and Maintenance by Association. The Association, by its duly delegated representative(s), shall provide for such maintenance and operation of the Common Areas and Joint Common Areas as may be necessary or desirable to make them appropriately usable in conjunction with the Units and to keep them clean, functional, attractive and generally in good condition and repair. (Excluded is snow removal on steps, porches and fenced areas) The Association shall maintain repair and restore those improvements located upon the Common Areas and Joint Common Areas, including, but not by way of limitation, the following; pathways, gardening areas, and any common recreational amenities, grass, landscaping, shrubs, watering and sprinkling system, as may or may not, be included as part of the development. The patio areas of each Living unit may be used and decorated at the discretion of the Owner so long as the use and decoration does not adversely affect other unit Owners or the Association. The Association shall maintain any landscaped areas within the patio areas (Excluded is snow removal on steps, porches and fenced areas) unless and until (1) Owner installs or causes to be installed any exotic landscape materials, or plants; or any landscaping not consistent with that of the Common Areas and Joint Common Areas in general, which may require additional care resulting in increased maintenance costs to the Association, and/or (2) the Owner restricts accesses to the limited common area. In addition, the Association shall maintain the exterior appearance and roof of each Living Unit, excluding mechanical systems, glass, light bulb replacement or damage to doors including garage exterior electrical and hardware which shall be the responsibility of Unit Owners. In the event that special needs for maintenance or repair of the Common Areas and Joint Common Areas (including personal property of the Association related thereto) or the building exteriors should be necessitated through willful or negligent act of an Owner, his

family, guests, or invitees, the cost of such maintenance shall be added to become a part of the assessment to which such Unit is subject.

- 6.5.1 **Liability of Owner During Construction.** The Owner, in the course of building, shall not be liable to the Owners of adjacent Lots affected by such work for any inconvenience, annoyance, disturbance or loss of business to the Owner effected by the performance of such work (or his tenants) arising out of or during the performance of such work (unless occasioned by the negligence of the Owner of the improvement with respect to which the work in question was being performed or its agents); but the Owner of the Lot or Residential Unit with respect to which such work is being performed shall make all reasonable efforts to keep any such inconvenience, annoyance, disturbance, or loss of business to the minimum reasonably required by the work in question.
- 6.6.1 **Utilities.** Each Lot Owner shall pay for all utility services which are separately billed or metered to individual Lots, including, but not limited to electrical, gas, telephone service, trash removal, culinary water and sewer as the same may be provided by the City of South Jordan and/or other utility companies or entities furnishing such service. The Association shall pay their proportionate share of the general utility services of irrigation water, street lighting, and entrance gate power. The board of Directors shall determine what additional utility services, if any, shall be included in the general utility services for which the Association will be responsible for payment as an Association debt.
- 6.7.1 **Indemnification by Declarant.** The Declarant, by this instrument and recording of the same, agrees to indemnify the Association against loss or damage arising or accruing on the Common Areas and Joint Common Areas as a result of the construction activities of the Declarant or his agents.
- 6.8.1 **Management Agreements.** The Board of Directors may employ a manager or other persons who may contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association. Any contract with a person or firm appointed as a manager or managing agent shall be terminable by the Association for cause upon thirty (30) days' written notice thereof. Any such contract, and any other contract with a third person wherein the third person is to furnish goods or services for any Common Area, Joint Common Area or the Association, shall be limited to a duration of on (1) year; provided, however, that such contracts may be renewable for successive one (1) year periods with the approval, for each such period, by a vote or written consent of a majority of the Board of Directors.
- 6.9.1 **Rules and Regulations.** The Association shall have authority to promulgate and enforce such reasonable rules, regulations and procedures as may be necessary or desirable to aid the Association in carrying out any of its functions or to ensure that the Property and the Common Area, Joint Common Area is maintained and used in a manner consistent with the interests of the Owners. The Association also has authority to adopt a schedule of monetary fines that may be imposed on Owners fro the willful violation of rules that have been duly adopted and published by the Association, provided by the Association, provided that such fines in all cases shall be reasonable and shall be subject to review and hearing by the Board if contested. Any such fine imposed and not contested, or any such fine upheld after review and hearing by the Board shall be payable within 30 days. Unpaid fines may be assessed against a Unit and collected. Reasonable rules may include, but shall not be limited to, rules to allocate the fair use of all amenities between children, adolescents and adults. The Board of Directors shall have, in exercising its reasonable discretion, the power to protect Association property by restriction use of the recreational and social amenities and other common facilities in such a manner as to reduce the risk of personal harm to user, which risk management may also relate to obtaining lower insurance premiums on Common Areas and Joint Common Areas.

VII. INSURANCE

The Association shall secure and at all times maintain the following insurance coverage:

- (i) Assessments. Funds for insurance shall be provided for from annual assessment of one hundred and seventy second (1/72). Insurance for the Jointly maintained common area shall be paid by both Riverwalk Associations at a one hundred and twenty fourth (1/124) insurance for (To be adjusted if future development occurs on Jordan Creek Drive up to 1/131).
- (ii) Multi-peril Coverage. A multi-peril type policy covering the entire project (including all living Units in the Town Homes only, which shall be the sole responsibility of the Riverwalk Town Homes HOA, common areas, joint common areas which cost shall be shared by both HOA's and any facilities). Such policy shall provide coverage against loss or damage by the special form coverage including: debris removal, cost of demolition, vandalism, malicious mischief, windstorm, fire, hailstorm, water damage, and such other risks as customarily are covered with respect to projects similar to this Project in its construction, location, and use. As a minimum, such policy shall provide coverage on a replacement cost basis in an amount not less than that necessary to comply with any co-insurance percentage specified in the policy, but not less than 100 % of the full insurable value (based upon current actual replacement cost). Such policy shall include an "agreed amount endorsement" or its equivalent, and "demolition endorsement" or its equivalent. An "increased cost of construction endorsement" or its equivalent, and a "contingent liability from operation of building laws endorsement" or its equivalent, shall also be provided, if necessary.
- (iii) Broad-form Public Liability Coverage. A comprehensive policy insuring the Owners, the Association, its Directors, officers, agents and employees against all damage or injury caused by their negligence to the public, invitees, tenants or Owners on the Common Area and Joint Common Area. Limits of the liability under such coverage shall not be less than \$1,000,000 for all claims for personal injury or property damage, or both, arising out of a single occurrence. Such policy or policies shall be issued on a comprehensive liability basis, shall provide that cross-insurers as between themselves are not prejudiced, and shall contain "a severability of interest" clause or endorsement to preclude the insurer from denying the claim of a Owner in the development because of negligent acts of the Association or others.
- (iv) Fidelity Coverage. A fidelity policy or policies to protect against dishonest acts on the part of a Directors(s), officers(s), manager, employee(s) of the Association and all others, including volunteers, who handle or are responsible for handling funds of the Association. The fidelity coverage shall name the Association as the obligee or insured and shall be written in an amount sufficient to offer the protection reasonably required, but in no event less than 3 months of Association fees, plus 100 % of reserves. The fidelity bond or insurance shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of employee or similar expression. Said policy shall also provide that it may not be canceled or substantially modified (including cancellation for non-payment of premiums) without at least thirty (30) days' prior written notice to all first mortgages of Units.

The following additional provisions shall apply with respect to insurance:

- (a) Approval of Policies. All policies shall be written by a reputable company approved by the Board of Directors.
- (b) Contribution. Insurance secured and maintained by the Association shall not be brought into contribution with insurance held by the individual owners or their mortgagees. Individual Unit Owners' policies are primary in case of a loss within the unit.
- (c) Flood Insurance In Common Areas & Joint Common Areas. In the event that some part of the Project is now or may in the future be classified by the Housing and Urban Development as an area having special flood hazards, a blanket policy of flood insurance on the flood areas shall be maintained in an amount customarily required in projects of this type to ensure against flood damage in common areas & joint common areas.
- (d) Policies Maintained in the Name of the Association as Director. Policies for all insurance coverage obtained by the Association shall be written in the name of the Association as Director for each of the Unit owners.
- (e) Insurance on Living Unit and Lot. The Association shall have no duty or responsibility to procure or maintain any fire, liability, earthquake or similar casualty coverage for the contents of any living Unit or Lot. The Association also shall have no duty to insure against any negligent acts or events occurring at or on the Living Unit or Lot. Accordingly, each Owner should secure and keep in force at all times public liability insurance coverage and a broad-based casualty insurance coverage for the contents of the Living Unit and Lot.
- (f) Review of Insurance Policies. The Board of Directors shall periodically, and whenever demand is made by twenty-five percent (25%) or more of the Owners, review the adequacy of the Association's insurance program and shall report in writing the conclusions and actions of any mortgagee or any Lot Owner who shall have requested a copy of such report. Copies of every policy of insurance procured by the Board of Directors shall be available for inspection by the Owners.
- (g) Rebuilding After Damage or Destruction. In the event of damage or destruction by fire or other casualty to any Properties covered by insurance written in the name of the Association as Trustee for the Owners, the Board of Directors shall, with concurrence of the mortgagee, if any and upon receipt of insurance proceeds, contract to rebuild or repair such damage or destroyed portions of the properties to as good a condition as formerly. All such insurance proceeds shall be deposited in a bank or other financial institution, whose accounts are insured by a federal governmental agency, with the provision agreed to by said bank or institution that such funds may be withdrawn only by the signatures of at least two (2) members of the Board of Directors. The Board of Directors shall advertise for sealed bids with any licensed contractors. Then contractors shall be required to provide a full performance and payment bond for the repair, construction, or rebuilding of destroyed property. In the event the insurance proceeds are insufficient to pay all of the costs of repairing or rebuilding, or both, to the same condition as formerly, the Board of Directors deems fair and equitable in light of the damage sustained.

VIII. USE RESTRICTIONS

- 8.1 Use of Common Areas and Joint Common Areas. The Common Areas and Joint Common Areas shall be used only in a manner consistent with the planned unit residential concept and with the use restrictions applicable to Lots and Residential Units

& Town Homes. The Interests in General Common Elements & Joint Common Areas shall be allocated among all Residential Units & Town Homes. Each Residential Unit in the Project shall have an equal undivided Interest in the General Common Areas and Joint Common Areas.

- 8.2 Use of Lots and Residential Units. All Lots are intended to be improved with Residential Units or Town Homes and are restricted to such use. No Lot or Residential Unit shall be used, occupied, or altered in violation of law, so as to jeopardize the support of any other Residential Unit, so as to create a nuisance or interfere with the rights of any Owner, or in a way which would result in an increase in the cost of any insurance covering the Common Areas and Joint Common Areas.
- 8.3 Non-harmonious Use. No use or operation will be made, conducted or permitted on any Lot, or any portion of a Lot, which is obnoxious to or out of harmony with the residential use of all property in The Riverwalk Villages PUD. Prohibited activities include, but are not limited to, the following: any public or private nuisance; any noise or sound that is objectionable due to its intermittent character, beat, frequency, shrillness or loudness; any obnoxious odor; any noxious, toxic, caustic or corrosive fuel or gas; any dust, dirt or fly ash in excessive quantities; any unusual fire explosion or other damaging or dangerous hazards; any assembly, manufacture or distillation operation; and the raising of animals except as generally permitted in residential developments in Salt Lake County, Utah.
- 8.4 Recreational Vehicles. No snow mobile, recreational equipment, trailer, camper, boat or truck larger than one (1) ton or any other similar equipment shall be permitted to remain upon any Lot, or any portion of a Lot, for more than a 24-hour period unless written approval is granted by the Association. The Association may levy a fine for any violation of this paragraph 8.4 of up to Fifty Dollars (\$50.00) for each day the violation continues.
- 8.5 On Street Parking. On street parking is intended for temporary visitors only. No motor vehicle, boat, recreational equipment, or any similar item may be parked, stored or left on or next to the streets in and around the Property for more than a six (6) hour period unless written approval is granted by the Association. The Association may levy a fine for any violation of this paragraph 8.5 of up to Fifty Dollars (\$50.00) for each day the violation continues.
- 8.6 Garages Required. Each home within The Village at Riverwalk PUD shall have at minimum one, two-car garage.
- 8.7 Use of Garage. Any garage constructed on a Lot is intended for the parking of motor vehicles. Although incidental storage in a garage otherwise used for the parking of motor vehicles is permitted, no garage may be used for storage to such an extent or in such manner that the storage prohibits or otherwise interferes with its primary use in the parking of motor vehicles. The Association may from time to time prescribe detailed rules regarding the use of garage space for storage. The Association may levy a fine for any violation of this paragraph 8.6 or the rules issued by the Association of up to Fifty Dollars (\$50.00) for each day the violation continues.
- 8.8 Height Limitation. No dwelling shall exceed the height limitation for the Zone of South Jordan City as specified at the time of recordation of The Village at Riverwalk final plat.
- 8.9 Dwelling Size. The minimum dwelling sizes shall be as required by the city of South Jordan.
- 8.11 Fencing of Town Home lots shall be restricted to the court yard only. Must be white vinyl and be no more than 6ft in height.

- 8.12 Temporary Structures and Equipment. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other out building shall be used on any Lot at any time as a Residential Unit, either temporarily or permanently unless approved in writing by the Association. No trailer, camper, boat, truck larger than one (1) ton, or similar equipment shall be permitted to remain upon any Lot, unless written approval is given by the Association; provided, however, that this sentence shall not apply to any Lot during the construction of a Residential Unit thereon, except as to any camper, boat, detached garage, sheds & outbuildings. Any structure given written approval by the association must be comprised of the same building materials as the main structure. The structure must match in color and be approved by both The Association and The City of South Jordan.
- 8.13 Electronic Antennas. No television, radio or other electronic antenna shall be erected, constructed, place or permitted to remain on any of the Lots unless and until the same shall have been approved in writing by the Association; (Antennas should be placed inside attic spaces). The approval shall not be withheld unreasonably. Satellite Dishes that are less than 36 inches in diameter may be installed without written approval as long as they are not visible from the front yard.
- 8.14 Exception for Developer. Notwithstanding the restrictions contained in this Article VIII, for the five (5) year period following the date on which this Declaration is filed for record in the office of the County Recorder of Salt Lake County, Utah, Developer shall have the right to use any Residential Unit owned by it, and any part of the Common Areas and Joint Common Areas, Roadways, Entrance Gates and Street Lighting reasonably necessary or appropriate, in furtherance of any construction, marketing, sales, management, promotional, or other activities designed to accomplish or facilitate improvements of the above mentioned items or improvement and/or sale of all Lots owned by Developer / Builder.
- 8.15 Household Pets Permitted. No animals, livestock or poultry of any kind may be raised, bred, or kept on any lot or in the Common Areas and Joint Common Areas, except that dogs, cats or other household pets may be kept within the Unit, or upon any Lot, subject to the rules and regulations adopted by the Board of Directors. All dogs or cats in the Common Areas and Joint Common Areas, including the Limited Common Areas and Joint Common Areas shall be on a leash. Any damage requiring repairs to the Common Areas and Joint Common Areas, including the Limited Common Areas and Joint Common Areas caused by a pet of an Owner, his guest, or invitee, shall be an additional assessment.
- 8.16 Signs. No sign of any kind shall be displayed to the public view on or from any Lot or the Common Areas and Joint Common Areas except that an Owner may display a "For Sale" sign, subject to all restrictions of this provision. Each "For Sale" sign displayed shall be of a dimension, color, and print style as determined by the Association and all such signs shall be made to the exact specifications designated by the Association, including dimension, color, printed information, etc. No more than one "For Sale" sign shall be displayed on any one Unit at a time and the location of sign placement on the Unit shall be determined by the Association. Banners, flags, lighting, or any decoration of the exterior of Unit, for the purpose of promoting the Unit for sale is strictly prohibited. This restriction is applicable to all Units offered for sale within the Project, whether by owner or through a real estate broker. This provision is not applicable to the Declarant for so long as the Declarant is engaged in the development of the project and selling New Town Home Units therein.
- 8.17 Obstruction of the Common Areas and Joint Common Areas. There shall be no obstruction of the Common Areas and Joint Common Areas. Nothing shall be stored in

the Common Areas and Joint Common Areas without the prior consent of the Board of Directors. Personal property of Owners shall not be stored on the Limited Common Areas and Joint Common Areas adjacent to Units. Motor vehicles in an inoperable condition or not currently legally registered shall not be stored on the Common Areas and Joint Common Areas, including driveways, visitor parking areas or any where within The Villages at Riverwalk PUD and may be towed or removed at Owner's expense. Motor Vehicles may not be parked within the Common Areas and Joint Common Areas, guest parking areas, or upon the driveways of each unit for longer than forty eight (48) hours. The Board of Directors are specifically empowered to enforce this provision by having vehicles in violation towed and stored at Owner's expense. All such fees and expenses, including attorney fees if necessary, and all towing and storage charges, may be made a part of the unit Owner's assessment and enforced and collected accordingly, Owners shall be assessed for all costs and expenses related to property removal and storage for a violation of this provision by any lessees, guest or invitee of Owner.

- 8.18 Time Sharing Prohibited. Neither the Declarant nor the Owner of any Unit shall allow or permit any form of time sharing ownership.

IX. ARCHITECTURAL CONTROL

- 9.1 Architectural Control Committee. The Board of Directors of the Association shall serve as the Architectural Control Committee, the function of which shall be to insure that all improvements and landscaping within the Property harmonizes with the existing surroundings and structures. (The initial Architectural Control Committee shall be 4 members Cory J. Gust, Christian Gardner, Babcock Design, and Dawnee Johnston.) These persons shall serve on this committee until the association is turned over to the homeowners as outlined in the agreement at which time the Association shall then become the Architectural Control Committee.
- 9.2 Submission to Committee. No Residential Unit, accessory or addition to a Residential Unit, landscaping, sign or other improvement of a Lot shall be constructed or maintained, and no alteration, repainting, or refurbishing of the exterior or any Residential Unit shall be performed, unless complete plans and specifications therefor have first been submitted to and approved by the Architectural Control Committee, whose judgment shall be final in all cases.
- 9.3 Standard. In deciding whether to approve or disapprove plans and specifications submitted to it, the Committee shall use its best judgment to insure that all improvements, construction, landscaping, and alterations on Lots within the Property conform to and harmonize with existing surroundings and structures. Any construction, which commences without approval from the Architectural Committee, will result in a minimum (\$ 50.00 per day fine.)
- 9.4 Approval Procedure. Any plans and specifications submitted to the Committee shall be approved or disapproved by it in writing within forty five (45) days after submission. In the event the Committee fails to take any action within such period, it shall be deemed to have approved the material submitted.
- 9.5 Building Materials. All Residential Units shall have masonry elevations. Masonry shall consist of brick, stone, or stucco in any combination so as to comprise the building material for the complete elevation. Hardyboard may be used as an accent, but may not be placed on the entire structure. The Architectural Control Committee must approve all siding.

- 9.6 **No Liability for Damages.** The Committee shall not be held liable for damages by reason of any action, inaction, approval, or disapproval by it with respect to any request made pursuant to this Article IX.
- 9.7 **Exception for Developer.** The foregoing provisions of this Article X shall not apply to any improvement, construction, landscaping, or alteration which is carried out by Developer on any Lot or on any part of the Common Areas and Joint Common Areas, Roadways, Street Lighting or Entrance Gate and which occurs at any time during the twenty (20) year period following the date on which this Declaration is filed for record in the office of the County Recorder of Salt Lake County, Utah.
- 9.8 **Swamp Coolers.** Swamp Coolers or any other rooftop units are not permitted in River Walk; central air-conditioning is permitted for cooling which must be located at ground level outside the structure.
- 9.9 **Roof Vents.** All metal roof vents must be painted to match the roof color of the structure.
- 9.10 **Construction.** Once begun, any improvements, construction, landscaping, or alterations approved by the committee shall be diligently pursued to completion. If reasonably necessary to enable such improvement, construction, landscaping or alteration, the person or persons carrying out the same shall be entitled to temporary use and occupancy of unimproved portions of the Common Areas and Joint Common Areas in the vicinity of the activity.
- 9.11 **Disclaimer of Liability.** Neither the Architectural Control Committee, nor any member thereof acting in good faith, shall be liable to the Association or any Owner for any damage, loss, or prejudice suffered or claimed on account of:
- (a) The approval or rejection of, or the failure to approve or reject, any plans, drawings or specifications;
 - (b) The development or manner of development of any of the property; or
 - (c) Any engineering or other effect in approved plans and specifications.
- 9.12 **Non Waiver.** The approval of the Architectural Control Committee, of any plans and specifications for any work done or proposed shall not constitute a waiver of any right of the Architectural Control committee to disapprove any similar plans and specifications.

X. MISCELLANEOUS

- 10.1 **Notices.** Any notice required or permitted to be given to any Owner or Member under the provisions of this Declaration shall be deemed to have been properly furnished if mailed postage prepaid to the person who appears as a Member or Owner, at the latest address for such person appearing, in the records of the Association at the time of mailing.
- 10.2 **Rules and Regulations.** The Association shall have authority to promulgate and enforce such reasonable rules, regulations, and procedures as may be necessary or desirable to aid the Association in carrying out any of its functions or to insure that the Property is maintained and used in a manner consistent with the interests of the Owners.
- 10.3 **Amendment.** Any amendment to this Declaration shall require: (i) the affirmative vote of at least two-thirds (2/3) of all Class A membership votes which members present in person or represented by proxy are entitled to cast at a meeting duly called for such purpose; and, so long as the Class B membership exists, (ii) the written consent of

Developer. Written notice setting forth the purpose of the meeting and the substance of the amendment proposed shall be sent to all members at least ten (10), but not more than thirty (30), days prior to the meeting date. The quorum required for any such meeting shall be as follows: At the first meeting called the presence of Members or of proxies entitled to cast fifty percent (51%) of all the votes of the Class A membership shall constitute a quorum. If a quorum is not present at the first meeting or any subsequent meeting, another meeting may be called (subject to the notice requirement set forth in the foregoing portion of this Section 10.1) at which a quorum shall be one-half (1/2) of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting. Any amendment authorized pursuant to this Section shall be accomplished through the recordation of an instrument executed by the Association (and by the Developer if the Class B membership then exists). Any amendment to joint Common Areas and Joint Common Areas as shown on The Village at Riverwalk plat must be approved by both The Village at Riverwalk Estates HOA and The Village at Riverwalk Town Home HOA. All of the above rules will apply with any amendment.

- 10.4 Consent in Lieu of Vote. In any case in which this Declaration requires for authorization or approval of a transaction, the assent or affirmative vote of a stated percentage of the votes present or represented at a meeting, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Members entitled to cast at least the stated percentage of all membership votes outstanding in connection with the Class of membership concerned.
- 10.5 Mortgage Protection. In the event an Owner neglects for a period of thirty (30) or more days to cure any failure on his part to perform any of his obligations under this Declaration, the Association shall give written notice of such fact to the holder of any first mortgage (or trust deed) covering such Owner's Lot.
- 10.6 Failure of Residents to Elect a Board. In the event that the residents fail to appoint and maintain a Board for any period longer than thirty (30) days, after they have been given control as outlined in this agreement to administer the homeowners association, any one (1) resident, or the developer still has the right to turn the management of the association to a third party in the form of a management company. The Management Company will then be the administrator of the association and enforce this agreement and charge the market rate for the services for management. (Homeowners should be aware that this would mean a significant increase in monthly fees.)

The lien for unpaid assessments provided for under Article V shall be subordinate to any first mortgage (or trust deed) affecting a Lot, but only to the extent of assessments which become due prior to foreclosure of the mortgage, exercise of a power of sale available thereunder, or deed or assignment in lieu of foreclosure.

Unless all holders of first mortgages (or trust deeds) on the individual Lots have given their prior written approval, neither the Association nor any other party shall be entitled to:

- (a) Alter the provisions of Section 5.6 (pertaining to uniform rate of assessment);
- (b) Partition or subdivide any Lot or roadway's or dedicate or transfer (pursuant to Section 4.3 (c)) all or any part of the roadway's; or
- (c) By act or omission seek to abandon or materially alter the arrangement, which is established by this Declaration.

- 10.7 Developer's Rights Assignable. The rights of Developer under this Declaration or in any way relating to the Property may be assigned.
- 10.8 Interpretation. The captions, which precede the Articles and Sections of this Declaration, are for convenience only and shall in no way affect the manner in which any provision hereof is construed. Whenever the context so requires, the singular shall include the plural, the plural shall include the singular, the whole shall include any part thereof, and any gender shall include both other genders. The invalidity or un-enforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder hereof. This Declaration shall be liberally construed to affect all of its purposes.
- 10.9 Covenants to Run with Land. This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitude, as the case may be, and shall be binding upon and shall inure to the benefit of Developer, all parties who hereafter acquire any interest in a Lot or in the Common Areas and Joint Common Areas, and their respective grantees, transferees, heirs, devisees' personal representatives, successors, and assigns. Each Owner or occupant of a Lot or Residential Unit shall comply with, and all interests in all Lots shall be subject to, the terms of this Declaration and the provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration. By acquiring any interest in a Lot, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.
- 10.10 Effective Date. This Declaration and any amendment hereof shall take effect upon its being filed for record in the office of the County Recorder of Salt Lake County, Utah.
- 10.11 Street Lighting. Shall be paid by the Association and divided as part of the assessment (1/124). (To be adjusted if future development occurs on Jordan Creek Drive up to 1/131) Any lot designated by the developer to contain a street light must stay a part of that lot. Maintenance of the bulbs and fixtures will be the responsibility of the Association.

EXECUTED the day and year first above written.

"DEVELOPER"
 Arbor / Gardner L.L.C.
 Company, L.C.

By *Cory Gust*
 Cory Gust, Member

STATE OF UTAH)
):SS.
 COUNTY OF SALT LAKE)

On this 30 day of Aug. 2005, Cory Gust personally appeared before me, who having been first duly sworn, deposed and said that he is a member of Arbor / Gardner L.L.C. and has executed the foregoing document on behalf of said limited liability company.



My Commission Expires: 7-16 05

Sharon Lewis
 NOTARY PUBLIC
 Residing at: County of Salt Lake

HOMEOWNERS ASSOCIATION
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
The Village at Riverwalk PUD
SOUTH JORDAN, UTAH
PHASE 1

COMMON AREAS, PRIVATE ROADS AND ALL OF UNITS 1,2 AND 3 IN BUILDINGS 1 THROUGH 24, THE VILLAGE AT RIVERWALK A PLANNED RESIDENTIAL DEVELOPMENT AS RECORDED IN THE OFFICE OF THE SALT LAKE COUNTY RECORDER IN BOOK 2005P AT PAGE 278 AS ENTRY NO. 9478426.

SAID UNITS AND BUILDINGS ALSO BEING DESCRIBED AS:

BEGINNING AT A POINT WHICH IS NORTH 0°04' 29" EAST 98.24 FEET AND SOUTH 89°44'17"EAST 2005.28 FEET AND SOUTH 22°38'54"WEST 110.83 FEET FROM THE SOUTH QUARTER CORNER OF SECTION 11, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN;

RUNNING THENCE NORTH 00°28'10"WEST 367.48 FEET; THENCE EAST 304.61 FEET; THENCE SOUTH 22° 40'36" EAST 571.95 FEET; THENCE SOUTH 10°11'39" EAST 128.01 FEET; THENCE SOUTHERLY 124.58 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT, (CHORD BEARS SOUTH 44° 48'23" EAST 117.26 FEET); THENCE SOUTH 10° 29'22" EAST 234.64 FEET; THENCE SOUTH 02°51'26" EAST 93.65 FEET; THENCE SOUTH 88°42'05" EAST 143.94 FEET; THENCE SOUTH 01°17'55" WEST 132.22 FEET TO A POINT ON AN EXISTING FENCE LINE; THENCE ALONG SAID FENCE LINE THE FOLLOWING EIGHT (8) COURSES AND DISTANCES (1) NORTH 87°56'44" WEST 58.66 FEET; (2) NORTH 87°38'23" WEST 73.09 FEET; (3) SOUTH 89°49'44"WEST 47.95 FEET; (4) NORTH 87°32'40" WEST 49.14 FEET; (5) NORTH 88°41'06" WEST 99.83 FEET; (6) NORTH 88°47'31" WEST 107.39 FEET; (7) NORTH 88°45'37" WEST 252.61 FEET; (8) NORTH 88°26'22" WEST 114.38 FEET; THENCE NORTH 24°43'25" EAST 221.13 FEET; THENCE WESTERLY 27.96 FEET ALONG THE ARC OF A 44.00 FOOT NON-TANGENT RADIUS CURVE TO THE RIGHT, (CHORD BEARS NORTH 77°51'17"WEST 27.49 FEET); THENCE NORTHWESTERLY ALONG THE ARC OF 255.00 FOOT NON-TANGENT RADIUS CURVE TO THE RIGHT, (CHORD BEARS NORTH 52° 00'48" WEST 67.79 FEET); THENCE NORTHWESTERLY 38.13 FEET ALONG THE ARC OF A 109.86 FOOT NON-TANGENT CURVE TO THE RIGHT, (CHORD BEARS NORTH 34° 25'51" WEST 37.94 FEET); THENCE NORTH 30°23'26" WEST 20.23 FEET; THENCE NORTH 29°08'07" EAST 147.02 FEET; THENCE NORTH 20°41'51" EAST 71.13 FEET; THENCE NORTH 93.25 FEET; THENCE NORTH 21°23'24" WEST 98.16 FEET; THENCE NORTH 21°23'24" WEST 32.09 FEET; THENCE NORTH 22°38'50" WEST 110.83 FEET TO THE POINT OF BEGINNING.

SIDWELL Nos. 27-14-276-026, 27-11-476-025, 27-14-226-019, 27-14-226-020, 27-14-226-021, 27-14-226-022, 27-14-203-024, 27-14-203-028, 27-11-451-018, 27-11-476-019, 27-14-203-030, 27-14-203-020.