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**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF
STILLWATER AT SARATOGA SPRINGS
A PLANNED UNIT DEVELOPMENT**

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**DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS OF
STILLWATER AT SARATOGA SPRINGS
A PLANNED UNIT DEVELOPMENT**

This Declaration of Covenants, Conditions, and Restrictions is made and executed this 6th day of April, 2005 by Stillwater at Saratoga Springs, LLC, hereinafter referred to as "Declarant."

RECITALS:

Declarant is the Owner of a certain tract of Real Property located in the City of Saratoga Springs, Utah County, Utah, more particularly described in Exhibit "A" that is attached hereto and incorporated herein (the Project).

Declarant desires to develop the property into single family Lots or Units and Condominiums, together with appurtenant Common Areas and facilities, utilizing a coordinated and comprehensive development plan. The plan will provide for a common architectural theme, harmonious and attractive landscaping and Improvements, and the establishment of expansive areas of open space to facilitate the use of the property for residential purposes; to enhance the value, desirability, and attractiveness of all Lots or Units in the Project, and to prevent nuisances and the impairment of the property. Thereby securing to each Owner the full benefit, enjoyment, and value of the property.

For the efficient management of the Project and to preserve its appearance and value, a non-profit corporation shall be created which shall be assigned the powers and delegated the duties to manage the Project, including but not limited to maintaining and administering the Common Areas, collecting Assessments and charges, disbursing funds, establishing rules, and to perform such other acts to benefit the Project and the Owners.

It is anticipated that certain Parcels of the property will be developed as distinct Condominium developments, pursuant to a Condominium Declaration applicable only to those portions of the Project, which shall supplement this Declaration.

The purpose of this Declaration is to provide for the possession, enjoyment, use, repair, maintenance, and Improvements of the Project for each Owner thereof and to establish thereon a planned development.

The purpose of this Declaration is to provide for the possession, enjoyment, use, repair, maintenance, and Improvements of the Project for each Owner thereof and to establish thereon a planned development.

Now therefore it is hereby declared that the Project shall be held sold, conveyed leased, rented, encumbered, and used subject to the provisions of this Declaration, hereby specifying that this Declaration shall constitute covenants that shall run with the land and shall be binding on and for the benefit of the Declarant, the Association, and all subsequent Owners of all or any part of the Project, their successors and assigns together with their grantees, heirs executors administrator, devisees, and assigns for the benefit of the Project.

ARTICLE I

Definitions

The following terms used in this Declaration are defined as follows:

- 1.1 "Association" shall mean the Stillwater at Saratoga Springs Home Owners Association, Inc., a Utah non-profit corporation, its successors, and assigns. Association shall include all Owners of Lots or Units within the Stillwater at Saratoga Springs Planned Unit Development.
- 1.2 "Design Review Committee" or "Committee" shall mean the committee created pursuant to article XII.
- 1.3 "Architectural Design Guidelines" or "Guidelines" shall mean the Architectural Review Guidelines of Stillwater at Saratoga Springs which are attached as Exhibit "B" and made part of this Declaration by reference, and the review standards adopted by the Design Review Committee as provided in section XII.
- 1.4 "Articles" shall mean the Articles of Incorporation of the Association as amended from time to time.
- 1.5 "Assessments" shall mean the Regular Assessments, Special Assessments, Additional Assessments, Working Capital Fund Assessments and other individual charges levied against each Lot or Unit and its Owner as provided in this Declaration.
- 1.6 "Board" shall mean the Board of Trustees of the Association.
- 1.7 "Bylaws" shall mean the Bylaws of the Association as amended from time to time.
- 1.8 "Condominium Association" shall mean any Condominium Home Owners Association organized on any Parcel of property in the Project pursuant to the Utah Condominium Ownership Act.

conditions and restrictions created on one or more Parcels in the Project.

- 1.10 "Common Area" shall mean all property on the Map labeled as open space, all real property, and Improvements within the Project which are owned by the Association for the use and benefit of its Members.
- 1.11 "Declarant" shall mean Stillwater at Saratoga Springs, LLC or its successors in interest or assigns.
- 1.12 "Declaration" shall mean this instrument as may be amended from time to time.
- 1.13 "Developer" shall mean any person, party, or entity other than the Declarant who owns 30 or more Lots or Units either improved or unimproved in the Project for the purpose of selling them to the general public.
- 1.14 "Dwelling" shall mean a residential Dwelling Unit together with garage and/or other Structures on the same Lot or Unit.
- 1.15 "Improvement" shall mean any Structures, landscaping including trees, grass, bushes, or other plants, swimming pools, ponds, parkways, signs, roads, any excavation, fill, detention ponds, ditch, pipe, or other device which affects or alters the natural flow of surface water upon or across any portion of the Project, any utility line, conduit pipe, or related equipment.
- 1.16 "Lot or Unit" shall mean any individual Parcel shown upon the P.U.D. plat or to be created in the Project which may be conveyed by reference to the number of such Lot or Unit designated on the plat. The term Lot or Unit shall also include any Condominium Unit created in the Project.
- 1.17 "Map" shall mean the subdivision Map or P.U.D. plat entitled Stillwater at Saratoga Springs, a Planned Unit Development, filed in the office of the Recorder of Utah County, the same as may be amended from time to time.
- 1.18 "Member" shall mean a person or entity entitled to Membership in the Association. Owners, Condominium Unit Owners, Lot or Unit Owners, and Home Owners as described herein are presumed to be Members. Lot or Unit Owners shall be Members whether or not they have improved their Lot or Unit. Because Declarant is constructing the Improvements it shall not be liable for payment of dues at any time.
- 1.19 "Mortgage" shall mean a Mortgage or deed of trust or other security instrument by which a Lot or Unit is encumbered.
- 1.20 "Mortgagee" shall mean the beneficiary under a Mortgage or deed of trust, or a security

a Lot or Unit is encumbered.

- 1.20 “Mortgagee” shall mean the beneficiary under a Mortgage or deed of trust, or a security party of any other security instrument. A “First Mortgagee” is one having priority as to all other Mortgages encumbering the same Lot or Unit. Declarant as the holder of a deed of trust or other security interest on any Lot or Unit or other portion of the Project shall have any and all Mortgagee protections contained in the Project Documents.
- 1.21 “Owner” shall mean the person or persons or entity holding a fee simple Ownership interest in a Lot or Unit including Declarant. In the event a Lot or Unit is the subject of any executory contract for sale, the contract purchaser shall, unless the seller and the purchaser have otherwise agreed and have informed the Association in writing of such agreement, be considered the Owner for purposes of voting. The term Owner shall not mean or include a Mortgagee or beneficiary or trustee under a deed of trust unless and until such party has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof. The term “Owner” shall include Owners of Condominium Units.
- 1.22 “Parcel” shall mean a portion of the Project designated on the Map as a Parcel. Upon recordation of the Map in the office of the Utah County Recorder, each Parcel shall be a legally valid Lot or Unit which may be conveyed, encumbered, subdivided, or otherwise treated as a legally distinct Parcel of property.
- 1.23 “Project” shall mean the 113 acre property located in Utah County, Utah more particularly described on attached Exhibit “A”, and all Improvements thereon.
- 1.24 “Project Documents” shall mean the Articles, Bylaws, Declaration, Rules, and Regulations of the Association, and the Architectural Design Guidelines.
- 1.25 “Rules and Regulations” shall mean the Rules and Regulations as adopted by the Association to govern the Project, as may be amended from time to time.
- 1.26.1 “Structure” shall include but not be limited to any Dwelling, building, garage, porch, patio, shed, greenhouse, fence, asphalt or concrete pad, driveway, sidewalk, pool, barn, wall, or tangible thing permanently or temporarily fixed or attached to real property.
- 1.26.2 “Unit” shall mean any individual Dwelling Unit within the Condominium portion of the Project that may be conveyed by reference to the number of such Unit designated on the plat.

ARTICLE II

Project Description, Declarant, and Owner Rights

Section 1: Project Description. The Project consists of all of the real property described

in Exhibit "A" attached hereto. The City of Saratoga Springs has approved a Development Plan for the Project consisting of 237 single family Lots and 144 Condominium Units which may be constructed on one or more Parcels in the Project.

Declarant reserves the right to change or modify the Project by increasing or decreasing the number of Lots or Units, or Parcels in the Project or by changing the location configuration or size of any Lot or Unit, Parcel, or of the Common Area or Open Space in the Project as deemed necessary or desirable. Any such changes shall be reflected in the plat Maps submitted for approval to the City of Saratoga Springs and their acceptance thereof.

Section 2: Condominium Associations. There may be one or more Condominium Associations (commonly referred to as Condominium Associations) created for the purpose of maintaining and governing the Improvements, Common Areas, and facilities of the Condominium Units constructed on Parcels in the Project pursuant to a Condominium Plat. Each Condominium Association may collect Assessments and fees from its Members in accordance with the provisions of its governing instruments.

Section 3: Common Areas. The Common Area of the Project shall consist of all real property and Improvements within the Project owned and maintained by the Association including the clubhouse, swimming pool, storm drainage and detention facilities, all property identified on the Map as Open Space, and any easements, leases, or other rights over Project property which are owned by the Association.

Section 4: Lot or Unit Owners Easement for Enjoyment. Ownership of any Lot or Unit in the Project shall have appurtenant to and inseparable from it the following interests: Membership in the Association, a non-exclusive easement for use enjoyment, ingress and egress over the Common Area subject to the Rules and Regulations of the Association, and limitations and restrictions contained in the Project Document. Lots and Units included in a Condominium Association shall have the rights of Membership in such Condominium Association. Any sale, conveyance, hypothecation, encumbrance, or other transfer of a Lot or Unit shall automatically transfer these interests to the same. Any attempted sale, conveyance, hypothecation, encumbrance, or other transfer of these interests without the Lot or Unit shall be null and void.

Section 5: Limitation on Easement. A Member's right and easement of use and enjoyment concerning the Common Areas shall be subject to the following:

(a) The right of the Association to charge reasonable admission, use, service, and other fees for the use of any service or recreational storage, or parking facility situated upon the Common Area;

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

(c) The right of the Association to suspend the voting rights and/or common utility service of a Member for any period during which any Assessment or portion thereof against his

Lot or Unit remains unpaid; and for a period of not to exceed sixty (60) days for any infraction of its published Rules and Regulations;

(d) The right of the Association to enter into agreements or leases which provide for the use of the Common Areas and Facilities by a similar Association in consideration for use of the Common Areas and facilities of the other Association, or for cash consideration;

(e) The right of the Association to dedicate or transfer all or any part of the Common Areas, and any sewer, water, and storm drain trunk lines 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 all holders of first Mortgages secured by Lots or Units and by sixty-seven percent (67%) vote of Members present in person or by proxy at a meeting duly called for that 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 such meeting date;

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

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

(h) The terms and conditions of this Declaration; and

(i) The right of the Association, through its Trustees, to adopt Rules and Regulations concerning use of the Common Areas.

Section 6: Owners Obligation to maintain Lot or Unit. In order to preserve the appearance and value of the Project, each Owner shall maintain his Lot or Unit, together with the Improvements thereon, in a safe, sanitary, and attractive condition. Should an Owner fail to maintain his Lot or Unit in a manner acceptable by the Board, the Board shall provide written notification to the Owner specifying the work required and providing a reasonable amount of time for the Owner to complete the maintenance specified. If the Owner fails to complete the maintenance within the period specified the Board shall have the right to enter upon the Lot or Unit to cause the maintenance to be completed and shall have the right to recover the cost from the Owner.

Section 7: Condominium Associations Obligation to Maintain. Each Condominium Association shall maintain, repair, and replace its portion of the Project as identified in its recorded Condominium Plat. Condominium Associations shall be responsible to repair and replace all Common Areas including private roads included in its area of responsibility and to maintain all Improvements thereon in a safe, sanitary, and attractive condition. In the event a Condominium Association fails to maintain its portion of the Project in a manner deemed acceptable by the Board, the Board may provide written notification to the Condominium Association specifying the maintenance required and providing a reasonable time period for the Condominium Association to complete the maintenance required. If the Condominium Association fails to complete the maintenance within the specified period, the Board shall have the right to enter upon the property and cause the maintenance to be completed and shall have the right to recover the cost from the Condominium Association.

Section 8: Delegation of Use. Any Owner may delegate his right of use and enjoyment to the Common Area and Facilities in the Project to the Members of his family, his guests, and invitees. If an Owner leases or rents his Lot or Unit, the Owner, Members of his family, his guests, and invitees shall not be entitled to use of the Projects Common Areas and Facilities while such lease is in force. Lessee or tenants shall be entitled to use of the Projects Common Areas and Facilities and may delegate the rights of use in the same manner as if they were an Owner during the period of his occupancy. Each Owner shall notify the secretary of the Association of the name of tenants or lessees of Owner's Lot or Unit. All Common Area fees and Assessments must be paid whether or not a Member is using the facilities

Section 9: Responsibility for Common Area Damage. The cost to repair or replace any portion of the Common Areas or Facilities or equipment caused by the willful or negligent act of an Owner, his lessees, tenants, family, guests, or other invitees shall be the joint responsibility of the Owner and the responsible party to the extent that the cost is not covered by insurance maintained by the Association. The Association shall cause the needed repairs or replacement to be made and the cost thereof to be levied as a charge against the Owner.

Section 10: Declarants Reservation of Easement. Declarant reserves for itself, its successors, assigns, and for other Developers and builders who develop or purchase Lots or Units in the Project:

(a) Easements for activity necessary to sell, improve, lease, or otherwise dispose of the Lots or Units. This easement shall include, upon written assignment by Declarant, the right to use portions of the Clubhouse as a sales facility;

(b) Easements for all acts reasonably necessary to complete the Improvement or repair of the Project, for ingress and egress, drainage, utilities, operation and storage of construction equipment, and the installation and maintenance of temporary Structures;

These easements shall exist until the last Lot or Unit is sold by Declarant or any other builder or Developer.

ARTICLE III **Association**

Section 1: Association: The name of the Association is Stillwater at Saratoga Springs Owner's Association Inc., a Utah nonprofit corporation.

Section 2: Project Management: After completion of Improvements, and sale of the Lots or Units, the Project shall be managed by the Association in accordance with the Project Documents and all applicable laws, regulations, and ordinances of any governmental or quasi governmental body or agency having jurisdiction over the Project.

Section 3: Membership: Declarant and persons or entities owning one (1), or more Lots or Units and/or Condominium Units within Stillwater at Saratoga Springs, as described in the legal description attached as Exhibit A, shall be entitled and required to be a Member of the Association and shall be subject to the Project Documents. Membership shall begin automatically upon becoming an Owner and terminate automatically upon ceasing to be an Owner. Membership in the Association shall not be transferred, pledged, or alienated in any way except pursuant to a conveyance of a Lot or Unit or Condominium.

Section 4 Board of Trustees. The business of the Association shall be managed by a Board of Trustees who do not need to be Members of the Association. At the first annual meeting of the Association not less than three (3), nor more than five (5), Trustees shall be elected. Trustees shall be elected for staggered terms of one (1), two (2), and three (3) years. Thereafter, each trustee shall be elected for a three (3) year term.

Nominations may be made by Members of the Association from the floor at the annual meeting: Election to the Board of Trustees shall be by secret written ballot. Members or their proxies may cast as many votes as they are entitled to exercise under the provisions of the Declaration for each Trustee position. The person receiving the greatest number of votes shall be elected.

Section 5: Declarant's Right to Appoint Trustees. Notwithstanding the provisions of Section 7 above, until such time as the responsibility for electing the Board of Trustees is turned over to the Members, Declarant shall have the exclusive right to appoint and remove all Trustees.

ARTICLE IV

Association Powers, Rights, and Duties

Section 1: Association Organization. The Association shall be organized as a non-profit corporation under the laws of the State of Utah. The Association shall have the power to take any action as enumerated in the Project Documents or as may be reasonably necessary to operate the Project. The Association shall act through its appointed or elected Board of Trustees which shall have the right, power, and duty to act for the Association in matters that do not first require approval of Members of the Association.

Section 2: Rights and Duties. The Association shall have the following rights and duties:

(2.1) **Maintain Common Areas.** The Association shall manage, maintain, repair, and operate the Common Area facilities and open space in an attractive, safe condition. Common Area facilities include but shall not be limited to the clubhouse, swimming pool, waterscape, landscaping, fences, entry feature, paths, trails, roads and walkways, storm water detention and discharge systems, and personal property.

(2.2) **Enter Contracts.** The Association shall have the right to enter into contracts for the

care and maintenance of Common Area facilities and to purchase goods and services for the Project.

(2.3) Establish and Enforce Rules and Regulations. The Association shall have the right to establish Rules and Regulations relating to the use by Association Members, their guests, and assigns of the Common Areas and Facilities. The right to establish rules regarding the conduct of Members, Member's guests, renters, and others using the Common Area facilities, including the right to charge fees for the use of the facilities and limit the number of guests of an Owner using the Common Area or the manner in which the Common Area may be used.

(2.4) Borrow Money. The Association shall, upon two-thirds majority vote of the Members, have the right to borrow money, Mortgage, or pledge its real or personal property as security for money borrowed.

(2.5) Dedicate Property and Grant Easements. The Association shall have the right, upon approval by two-thirds majority vote of the Members, to grant, dedicate or transfer part or all of the Common Area to the City of Saratoga Springs or to any public agency or authority for purposes as may be agreed upon by the Association.

(2.6) Enforce Rules. The Association shall have the duty to enforce rules pertaining to Lot or Unit Owners and Condominium Associations including the right to enter upon any portion of the Project or Lot or Unit, upon written notification to the Owner, for the purpose of performing the duties of the Association and to enforce the Project Documents.

(2.7) Utility and Other Services. The Association shall have the right to grant utility easements, and to enter into agreements to acquire and pay for water, electricity, sewer or other utility services necessary for the Common Areas.

(2.8) Levy and Collect Assessments. The Association shall levy and collect regular and special Assessments and charges from Members as provided for in Article IX.

(2.9) Pay Taxes and Assessments. The Association shall pay real and personal property taxes and Assessments levied against the Projects Common Areas, facilities, and personal property.

(2.10) Bank Accounts. The Association shall maintain bank accounts and deposit funds collected from Members, only in federal insured financial institutions. Provided, however, that funds collected for reserves for capital expenditures and other contingencies may be deposited in a federally insured financial institution or invested in Treasury Bills or Certificates of Deposit. "General Account," and "Reserve Account" funds shall be held separately and used only for the purposes for which they have been collected.

(2.11) Annual Reports. The Association shall prepare annual financial statements and reports including an annual balance sheet and operating (income) statement for the financial year, which shall be prepared and distributed within ninety (90) days of the close of each financial year, a proforma operating statement (budget) at least thirty (30) days prior to the beginning of each financial year, and reports required by the Utah non-profit Corporation and Cooperative Association Act which shall be filed in a timely manner.

(2.12) Design Review Committee. The Board shall appoint Members of the Design Review Committee pursuant to Article IX.

(2.13) Books and Records. The Association shall keep accurate minutes of Board of Trustee and Member meetings, of all corporate acts, of all financial accounts, an up to date

Membership register including names, addresses, and voting rights of Members. Said records shall be made available to any Owner or its duly appointed representative at any reasonable time and at the appointed place as determined by the Board of Trustees. The Association shall also provide, upon written request of any Owner or Mortgagee, a written statement setting forth any unpaid Assessments against any Owner.

(2.14) Insurance. The Association shall obtain liability and hazard insurance on property owned by the Association and other insurance and bonds as deemed necessary.

(2.15) Reserve Fund. The Association shall establish and maintain a reserve fund adequate to provide for the periodic maintenance, replacement, and repair of Common Area Improvements and equipment. The reserve fund must be maintained in a segregated account. Contributions to the reserve fund shall be included in each years operating budget.

(2.16) Legal and Accounting. The Association shall obtain legal and accounting services as necessary to conduct the business operations of the Association and enforce the Project Documents.

ARTICLE V

Members' Meetings

Section 1: Annual Meetings. Regular meetings of the Members shall be held annually on the second Tuesday of March at the Project or at any meeting place in the City of Saratoga Springs, Utah as designated by the Board of Trustees.

Section 2: Notice of Meetings. Written notice of any meeting shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. Such notice shall include an agenda for the meeting as well as specifying the date, hour, and place of the meeting.

Section 3: Members of Record. The Board of Trustees will secure a current record of all Members before any meeting of the Members. Only those on this record will receive notification of the meetings, and be eligible to participate in the discussions and voting.

Section 4: Quorum. Any number of Members over 25% of the total membership of the Association appearing in person or by proxy, must be present at any annual or specially scheduled Members meeting to constitute a quorum and conduct business. If a quorum is not present, the very same agenda may be rescheduled within sixty (60) days for a second meeting to conduct the same business.

New business cannot be added to the second meeting's agenda, nor can any of the agenda be deleted. At any Members meeting, Members may continue to transact business until the adjournment of any meeting, even if some Members leave early, leaving less than the required quorum.

Section 5: Voting. While all Owners shall be Members of the Association, for voting

purposes only one vote is allowed for each Lot or Unit, no matter how many Owners of that Lot or Unit may exist. Only Members holding the voting right for their Lot or Unit shall have the right to cast votes. Persons holding Lots or Units in joint tenancy or after partition must designate who among them shall act as their representative and hold the ability to cast the single vote for that Lot or Unit.

There shall be 237 votes in the Association for the single family Lots or Units and 144 votes in the Association for Condominiums. However, in the event the City of Saratoga Springs shall modify the total number of Lots or Units and/or Condominiums which can be constructed in the Project, the total number of votes in the Association shall be adjusted accordingly.

Voting rights for each Lot or Unit and/or Condominium shall not vest until the Association has levied Assessments against those Lots or Units and Condominiums as set forth herein. Provided however that Declarant's voting rights shall vest upon recordation of this Declaration.

An affirmative vote of the majority present at a scheduled meeting, in person or by proxy, is considered to be an act of the Members. No vote may be taken unless quorum requirements set forth above are satisfied. In cases where amendments to the Declaration are proposed, a sixty-seven percent (67%) affirmative vote of all members of the Association is required.

Section 6: Proxies. At all meetings of Members, a Member may vote by proxy executed in writing by a Member or by his duly authorized attorney-in-fact. Such proxy shall be delivered to the secretary of the corporation or to the officer or person who may be acting as secretary prior to the meeting. The secretary shall enter a record of all proxies in the minutes of the meeting. Proxies can vote to approve amendments to the Declaration but cannot sign the documents.

Section 7: Action Taken Without a Meeting. Any action that requires a meeting or any action that may be proposed at a meeting may be taken without a meeting if: a written ballot is distributed to every Member entitled to vote setting forth the proposed action, providing an opportunity to signify approval or disapproval of the proposal and providing a reasonable time for the Member to be present at a meeting authorizing the action, also provided that the number of votes equals or exceeds the quorum requirements authorizing such action.

Section 8: Special Meetings. Special meetings may be called as necessary by the Board of Trustees or by request of Members holding thirty-five percent (35%) of all the votes of the Membership.

ARTICLE VI

Trustees

Section 1: General Powers. The Board of Trustees shall manage the business of the Association.

Section 2: Number and Tenure. At the first annual meeting of the Association, not less

than three (3) nor more than five (5) Trustees shall be elected. Trustees may change the number of Trustees by majority vote, provided that a reduction in the number of Trustees will not have the effect of removing a Trustee. At the first annual meeting, Trustees will be elected for staggered terms of one (1), two (2), and three (3) years. Thereafter, each Trustee will be elected for a three (3) year term.

Section 3: Meetings. Meetings of the Board of Trustees shall be held at least quarterly at the convenience of the Board Members, providing they are scheduled by the president and notice is provided at least seventy-two (72) hours in advance. If a Member of the Board was not notified of the meeting, and objects to any of the business conducted therein, such business will be deemed inconclusive and deferred to the next scheduled Board meeting. Special meetings of the Board of Trustees shall be held when called by the Association president, or by any two (2) Trustees, after not less than seventy-two (72) hours notice.

Section 4: Quorum. A simple majority of the Board of Trustees in attendance at a Board meeting shall constitute a quorum.

Section 5: Board Actions. An act of the majority of the Board in attendance at a meeting shall be an act of the Board of Trustees, except when unanimous Board approval is required by the Declaration.

Section 6: Presumption of Assent. Any Member of the Board of Trustees present at the Board meeting shall be assumed to be in assent unless his/her dissent is so registered as a "no" vote.

Section 7: Nomination and Election. Trustees shall be nominated for election from the floor at the annual meeting. Nomination may also be made by a nominating committee appointed by the Board of Trustees. Appointments to the nominations committee shall be for a term of one (1) year. Nominations may be made from among Members of the Association or non members of the Association.

Section 8: Election. Members or their proxies shall cast their vote for election to the Board of Trustees by secret written ballots.

Section 9: Resignation and Removal. Trustees may be removed with or without cause at any time by a vote of the Members holding a majority of the votes entitled to vote. Such vacancy may be filled by the remaining trustees then in office, though less than a quorum, to hold office until the next annual meeting or until his or her successor is duly elected and qualified, except that any trusteeship may be filled by election by the Members at a meeting at which the trustee is removed. A trustee may resign from the Board upon prior written notification to all other trustees.

Section 10: Vacancies. Work that must be done when Board Members resign or are removed from the Board of Trustees will be conducted by other Board Members until the next annual meeting.

Section 11: Compensation. Trustees shall not receive compensation for services rendered as a Trustee, except for reimbursements incurred during the performance of his or her duties or services rendered to the Association other than as a Trustee.

Section 12: Declarant Control. Notwithstanding any provision to the contrary contained herein, the Declarant shall have the exclusive right to appoint and remove all Trustees until such time as the responsibility for electing Trustees is turned over to the Owners. This exclusive right shall terminate upon the first to occur of the following: when Declarant waives this right, two (2) years from the time the first Lot or Unit in the Project is sold, or when fifty-one percent (51%) of the Lots or Units in the Project are sold whichever occurrence is last.

ARTICLE VII

Powers and Duties of the Board of Trustees

Section 1: Powers. The Board of Trustees shall have power to exercise on behalf of the Association all power, duties, and authority not reserved to the Membership by other provisions of the Bylaws, the Articles, or Declaration, adopt rules governing the use of the Common Area of the Project, the clubhouse, pool, and other facilities and equipment, including the right to suspend for a specified period the right of Members to use the facilities for infraction of the rules, suspend the voting right of a Member, so long as the Member is in default in the payment of any Assessment levied by the Association, hire employees, independent contractors, or others as they deem necessary to prescribe their duties.

Section 2: Duties. The Board of Trustees shall have the duty as provided in the Declaration to prepare annual operating budgets and fix the amount of annual Assessments, provide notice of the same to Members, collect any and all Assessments as provided for in the Declaration, file and foreclose liens against any Lots or Units for which Assessment payments are in default and/or bring legal action against the Owner personally obligated to pay the same, and provide for the maintenance and upkeep of the Common Areas and facilities, and take any actions necessary to enforce this Declaration.

ARTICLE VIII

Officers

Section 1: Enumeration of Officers. The officers of the Association shall be elected from among Members of the Board of Trustees. Elected officers shall include a President, Vice President, Secretary, and Treasurer. The Board will appoint other officers as needed, from trustees or non-trustees.

Section 2: Election and Term of Office. The officers of the Association shall be elected annually by the Board of Trustees at the meeting of the Board of Trustees held after each annual meeting of Members. If the election of officers is not conducted at such meeting, the election shall be held as soon thereafter as is conveniently possible. Vacancies may be filled or new offices filled by appointment of the Board of Trustees. The officers of the Association shall hold office for one (1) year unless he or she resigns or is removed or otherwise disqualified to serve.

Section 3: Special Appointments/Multiple Officers. The Board of Trustees may elect other officers to serve for a period of time and perform such duties as the Board may determine. The offices of secretary and treasurer may be held by the same person.

Section 4: Resignation and Removal. Any officer may resign from office at any time by giving written notice to the Board of Trustees. Such resignation shall be effective as of the date of the written notice. Any officer may be removed from office by vote of the Board of Trustees.

Section 5: Duties of Officers. The duties of the officers are as follows:

President: The president shall preside at all meetings of the Board of Trustees, execute all written instruments on the behalf of the Board, see that orders, resolutions, and rules adopted by the Board are carried out.

Vice President: The vice president shall act in place and instead of the president in the event of his absence and shall discharge such other duties as may be required of him by the Board.

Secretary: The secretary shall keep minutes of all meetings of the Board and of the Members of the Association and record the actions and proceedings of the same. The secretary shall keep current records of the Members of the Association together with their addresses, shall serve notice of meetings of the Board and Association, and perform other duties as required by the Board.

Treasurer: The treasurer shall be responsible for the collection of funds, the maintenance of bank accounts for the Association, disbursement of funds as directed by the Board, shall, together with the president, sign all checks, and prepare annual budgets, income, and expense statements, and keep proper books of account. The treasurer shall be required to post a bond paid for by the Association.

ARTICLE IX

Assessments

Section 1: Creation of the Lien and Personal Obligation of Assessments. Declarant, each Owner, and each subsequent Owner of any Lot or Condominium Unit by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, covenants and agrees to pay to the Association: (a) regular annual Assessment or charges; (b) special Assessments (as determined by the Board) such Assessments to be fixed, established, and collected from time to time as hereinafter provided; (c) additional Assessments levied or charged

by the Association or Board of Trustees pursuant to this Declaration and (d) any individual charges, late fees, interest, costs of collection, and reasonable attorney's fees levied against any Owner as hereinafter provided. All such amounts shall be a charge on the Property and shall be a continuing lien upon the Lot or Unit or Condominium Unit against which each such Assessment or amount is charged. Such Assessment and other amounts shall be the personal obligation of the person who was the Owner of such Lot or Unit at the time when the Assessment fell due. No Owner may exempt himself or his Lot or Unit from liability for payment of Assessments by waiver of his rights concerning the Common Areas or by abandonment of his Lot or Unit. In a voluntary conveyance of a Lot or Unit, the grantee shall be jointly and severally liable with the grantor for all such unpaid Assessments, late payment fees, interest, and costs of collection, including reasonable attorneys' fees, which shall be a charge on the Lot or Unit at the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee there for. Assessments against Lots or Units shall be levied directly against such Lot or Unit. Assessments against Lots or Units in Condominium Associations shall be levied against the Association in which the Condominium is included. Each Condominium Association shall be responsible to collect and tender for each of its Members the pro-rata share of such Assessments pursuant to the Rules and Regulations of the Condominium Association. The Association shall have at its discretion the right to record and foreclose any lien for unpaid Assessments or special Assessments at any time after the Assessment or special Assessment is more than 60 days overdue.

Section 2: Purpose of Assessment. Assessments levied by the Association shall be used exclusively for the purpose of promoting health, safety, and welfare of residents of the Project, maintaining or constructing Common Area, and maintaining and improving the appearance and aesthetics of the Development and administration of the Project. The use made by the Association of funds obtained from Assessments must provide for but are not limited to, the payment of taxes on Association property and insurance maintained by the Association; the payment of the cost of repairing, replacing, maintaining, and constructing or acquiring additions to the Common Area; the payment of the cost of lawn care, sprinkler maintenance, and snow removal in Common Areas; retaining professionals such as attorneys and accountants; the payment of administrative expenses of the Association; insurance premium or deductible amounts; the establishment of a reserve account for repair, maintenance, and replacement of those Common Areas which must be replaced on a periodical basis; and other amounts required by this declaration or that the Trustees shall determine to be necessary to meet the primary purposes of the Association. The Assessments may provide for the payment of other charges, for example, including (without limitation) the management of the Association; utilities used in common; cable television; trash collection; and sewer and water charges.

Section 3: Regular Assessment.

(1) Not less than sixty (60) days prior to the beginning of the Association's financial year, the Board shall prepare or cause to be prepared a proforma operating budget for the forthcoming year. The budget shall include adequate replacement reserves and contingency funds necessary for the repair and replacement of Common Area Improvements and personal property. A copy of the proposed budget shall be sent to all Association Members.

Not more than thirty days prior to the beginning of each financial year, the board shall meet to establish the budget and regular Assessments for the forthcoming financial year. After review of the proforma operating budget, the regular Assessment shall be established by the Board. From and after January 1, 2006, the maximum monthly Assessment may be increased each year not more than ten percent (10%) above the maximum monthly Assessment for the previous year by the Board of Trustees without the vote of the Members. The annual Assessment may be increased by more than ten (10%) provided that any such increase shall have the assent of a majority of Members present at an annual or special meeting where the Assessment has been properly noticed, provided that quorum requirements of Article V, section 4 above are satisfied.

(2) The Association may change the basis and maximum of the Assessments fixed by this Section prospectively for any annual period provided that any such change shall have the assent of a majority of members present voting in person or by proxy, at a meeting duly called for this purpose, again provided that quorum requirements of Article V, section 4 above are satisfied.

Not less than thirty (30) days before the beginning of the financial year the Board shall distribute to each member of the Association a copy of the budget for the forthcoming financial year. Regular Assessments shall be payable in equal monthly installments, or collected in any other form as adopted by the Board.

Notwithstanding anything contained herein to the contrary, until January 1 of the year immediately following the conveyance of the first Lot or Condominium Unit in the Project the annual Assessment of any Lot or Condominium Unit shall be \$948.00 payable in twelve monthly installments of \$79.00.

In the event, and for whatever reason, the Board of Trustees fails to prepare an operating budget and establish an annual Assessment for the upcoming fiscal year the annual Assessment for each Lot or Condominium Unit shall remain the same as established by the Board or the Declarant for the previous year.

Section 4: Special Assessments. From and after January 1, 2006, the Board, in its discretion, may levy Special Assessments for the purpose of defraying, in whole or in part: (a) any expenses not reasonably capable of being fully paid with funds generated by monthly Assessments; or (b) the cost of any construction, reconstruction, or unexpectedly required repair or replacement in connection with Common Areas. The Board shall determine the amount necessary to defray such expenses which amount shall become a special Assessment. The Board may levy the Assessment against each Lot or Unit immediately or provide for installments of the special Assessment over the remaining months in the financial year. Special Assessments shall be due the month following notice of their levy. Any such special Assessments, which would amount to more than ten percent (10%) of the financial year's budgeted gross expense of the Association, shall have the assent of a majority of Members present at an annual or special meeting where the special Assessment has been properly noticed, provided that quorum requirement of Article V, section 4 above are satisfied. 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.

Section 5: Working Capital Fund and Additional Assessments. The Declarant shall establish and maintain for the Project a working capital fund equal to one-fourth of the annual Assessment for each Lot or Unit. Upon the closing of each Lot or Condominium Unit the working capital

fund must be collected along with an amount equal to the first monthly installment of the regular annual Assessment and said amounts transferred to the Association. Payments into the working capital fund are not to be considered advance payment of any regular Assessments. The purpose of the working capital fund is to ensure that the Association will have cash available to meet unforeseen expenditures or to acquire equipment or services deemed necessary by the Association. The working capital fund shall be maintained in a segregated account.

In addition to the monthly Assessments and special Assessments authorized herein, the Association shall levy such additional Assessments as may be necessary from time to time for the purpose of repairing and restoring the damage or disruption resulting to the Common Areas from the activities of the City of Saratoga Springs in maintaining, repairing, or replacing utility lines and facilities hereon and such damage or disruption not being repaired or restored at the expense of the City of Saratoga Springs. It is acknowledged that the Ownership of utility lines, underground or otherwise is in the city, up to and including the meters for individual Units, and that they are installed and shall be maintained to City Specifications.

Section 6: Notice and Quorum for any Action Authorized Under Section 3, 4, and 5.

Except as otherwise provided herein, notices of and meetings of Members called for the purpose of taking any action authorized under Sections 3, 4, or 5 shall comply with the notice provision of the Bylaws and of this Declaration.

Section 7: Uniform Rate of Assessment: Periodic Assessment. Regular, special and additional Assessments (collectively "Assessments") shall be allocated equally among all Lots or Condominium Units in the Project. Each Lot or Unit Owner covenants and agrees for each Lot or Unit owned to pay all Assessments and all individual charges to the Association as provided in this Declaration and in the Project Documents. All Assessments against Condominiums shall be levied against the Condominium Association in which such Condominium is located. Each Condominium Association shall be responsible for collecting from its Members each Member's pro-rata share of such Assessments and covenants and agrees to pay the same to the Association as provided in this Declaration and the Project Documents. The Assessments to Condominium Associations shall be calculated by multiplying the total amount of such Assessment by a fraction, the numerator of which is the number of Condominiums included in the Condominium Association, the denominator of which is the total number of Condominiums for which Assessments are to be levied. The method of determining Assessments, dues, and charges may not be changed without the written approval of all first Mortgagees. Regular, special, and additional Assessments may be collected on a monthly, quarterly, or yearly basis as the Board determines.

Section 8: Date of Commencement of Assessments: Due Dates. The right to levy the Assessments against Lots or Units in the Project shall commence upon the first day of the month following closing of the first sale of a Lots or Units in the Project. Assessments commence upon transfer of Lots or Units unless waived by Declarant.

To enforce the collection of Assessments, the Trustees may, in the name of the Association, (a) bring an action at law against the Owner personally obligated to pay any such delinquent Assessment without waiving the lien of Assessment, or (b) may foreclose the lien against the

property in accordance with the laws of the State of Utah applicable to the foreclosure of Mortgages, or in any other manner permitted by law, and/or , (c) may restrict, limit, or totally terminate any or all services performed by the Association in behalf of the delinquent Member. If there is a change in the annual Assessment, then at least thirty (30) days prior to the commencement of each new annual Assessment period, the Trustees shall send or cause to be sent a written notice of the monthly Assessment to each Owner subject thereto. Receipt of notice shall not be a prerequisite to the validity of the Assessment.

ARTICLE X

Mortgage Protection

Section 1: Subordination. The lien for the Assessments provided for herein shall be subordinate to the lien of any first Mortgage that encompasses any Lot or Unit. Sale or transfer of any Lot or Unit shall not affect any Assessment lien; provided, however, the sale or transfer of any Lot or Unit pursuant to foreclosure of a first institutional Mortgage or any proceeding in lieu thereof, shall extinguish the Assessment lien as to payments which became due prior to such sale or transfer; further provided, that such extinguishment shall not relieve the original Owner from personal liability for such Assessments, but an Owner who acquires a Lot or Unit pursuant to the sale or transfer by foreclosure or in lieu thereof shall have no personal liability for such past Assessments. No sale or transfer pursuant to a foreclosure, however, shall relieve an owner of a Lot or Unit from personal liability for Assessments coming due after he/she takes title or from the lien of such later Assessments.

Section 2: Books, Records, and Audit. The Association shall maintain current copies of the Bylaws, Articles, Rules, and other similar documents, as well as its own books, records, and financial statements which shall be available for inspection by Lot or Unit Owners as well as by holders, insurers, and guarantors of the first Mortgages during normal business hours upon reasonable notice.

Section 3: Notice of Action. The holder of any First Mortgage shall, upon written request, be entitled to written notification of any delinquency in payment of Assessments which remains uncured for ninety (90) days or more, any default by a Lot or Unit Owner relating to the Project Declaration which remains uncured for ninety (90) days or more, any condemnation, loss, or casualty loss which affects any Lot or Unit or Parcel upon which the requesting party holds a First Mortgage.

Section 4: Distribution of Insurance and Condemnation Proceeds. The First Mortgagee of a Lot or Unit, pursuant to its Mortgage, shall have priority over an Owner or any other party in the event of a distribution of insurance proceeds or condemnation awards for losses to or the taking of a Lot or Unit.

Section 5: Taxes. First Mortgagees of Lots or Units may singly or jointly pay taxes or other charges assessed against the Project's Common Areas that are in default, and may pay overdue insurance premiums on hazard insurance policies, or secure new insurance coverage if a policy has lapsed. First Mortgagees shall be reimbursed by the Association for making such payments.

ARTICLE XI

Insurance

Section 1: Casualty Insurance. The Association Trustees shall keep all insurable improvements and fixtures of the Common Areas insured against loss or damage by fire and other hazards that are normally covered by a standard extended coverage endorsement, and by vandalism, malicious mischief, and such other risks as are covered by a standard "all risk" Cause of Loss-Broad Form policy of insurance for the full insurance replacement cost thereof, and may obtain insurance against such other hazards and casualties as the Association may deem desirable. The Association may also insure any other property whether real or personal, owned by the Association, against loss or damage by fire and such other hazards as the Association may deem desirable, with the Association as the owner and beneficiary of such insurance. The insurance coverage with respect to the Common Area shall be written in the name of, and the proceeds thereof shall be payable to the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried. Premiums for all insurance carried by the Association are common expenses which shall be included in the regular monthly assessments made by the Association.

Section 2: Replacement and Repair of Property. In the event of damage to or destruction of any part of the Common Area improvements, the Association shall repair or replace the same from the insurance proceeds available. If such insurance proceeds are insufficient to cover the costs of repair or replacement of the property damaged or destroyed, the Association may make a Special Assessment against all Lot or Unit Owners to cover the additional cost of repair or replacement not covered by the insurance proceeds, in addition to any other common assessments made against such Lot or Unit Owner.

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

Section 3: Liability Insurance. The Association Trustees shall obtain a comprehensive policy of public liability insurance covering all of the Common Areas and Common Property for at least \$1,000,000.00 per occurrence for personal or bodily injury and property damage that results from the operation, maintenance, or use of the Common Areas. Liability insurance policies obtained by the Association shall contain a "severability of interest: clause or endorsement which

shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association or other Owners. All premiums for liability insurance carried by the Association shall be common expenses that shall be included in the regular monthly assessments made by the Association.

Section 4: Other Insurance. The Trustees may elect to obtain fidelity coverage against dishonest acts on the part of managers, Trustees, officers, employees, volunteers, management agents, or others responsible for handling funds held and collected for the benefit of the owners or members, to the extent required by law. The Trustees shall purchase and maintain workers compensation insurance for employees of the Association and uninsured contractor. In procuring fidelity insurance the Trustees shall seek a policy which shall name the Association as obligee or beneficiary, and be written in an amount not less than one hundred fifty percent (150%) of the annual operating expense including reserves. Fidelity insurance policies shall contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee."

Section 5: Annual Review of Policies. All insurance policies shall be reviewed at least annually by the Trustees in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the property which may be damaged or destroyed.

ARTICLE XII

Architectural Control

Section 1: Approval of Improvements. To enhance the architectural harmony of Stillwater at Saratoga Springs and give architectural design direction to Owners and builders, no Improvements may be constructed, added, altered, or in any other way changed without the prior written approval of the Design Review Committee "Committee." Additionally, no Structure, wall, fence, partition, or different or unusual landscaping feature of any kind shall be commenced, erected, nor shall any alteration, addition, or expansion, which changes or alters the exterior appearance of any Structure on any Lot or Unit be made until the plans and specifications showing the nature, kind, shape, height, materials, colors, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding Structures and topography by the Design Review Committee.

Section 2: Exception. Notwithstanding Section 1, no committee approval shall be required for initial Improvements constructed by, or with the express written approval of the Declarant, for normal maintenance of previously approved Improvements or for changes made to the interior of a previously approved Structure.

Section 3: Design Review Committee. The Committee shall be composed of three (3) to

five (5) Members. Declarant shall appoint all of the committees initial Members and, reserves the right to appoint a majority of the committee Members until all Lots or Units to be created in the Project have been sold. After the first 30 Lots or Units have been sold the Association shall have the right to appoint one Member of the Committee. After all Lots or Units have been sold the Board shall have the right to appoint all Members of the committee. Members appointed to the committee do not need to be Members of the Association. Two of the committee Members shall be appointed to serve for a term of three (3) years. The remaining committee Members shall be appointed to serve for a term of two (2) years. A new Member appointed to replace a Member who has resigned or been removed shall serve for the Member's un-expired term. Declarant reserves the right to change its designated Members of the committee at any time without the consent of the Board. No other committee Member may be removed without the vote or written consent of the Board. Declarant reserves the right to veto any approval or determination of the Committee.

Section 4: Duties and Operations. The address of the Committee shall be the principal office of the Association. Plans and specifications submitted for review by the committee shall be submitted to that address. The Committee shall meet as necessary to perform the duties imposed upon it by the Project Documents or as may be delegated by the Board. The Committee shall maintain a record of all meetings and actions taken as well as files of all documents submitted to it. The requirements for valid Committee meetings and actions shall be the same as that required for valid Board meetings and actions as provided in the Bylaws. Members of the Committee may receive compensation for their service as determined by the Association.

Section 5: Architectural Guidelines. The Architectural Design Guidelines for Stillwater at Saratoga Springs which are incorporated herein by reference and attached as Exhibit "B" are applicable to all Improvements made within the Project. All actions of the Design Review Committee shall comply with the provisions of the Architectural Design Guidelines. The Guidelines may not be amended without the written consent of the City of Saratoga Springs. So long as Declarant owns any Lots or Units or Parcels in the Project, whether platted or un-platted, the Guidelines may not be amended without the consent of Declarant. Additions or supplemental guidelines may be adopted from time to time with Board Approval. All guidelines shall be in compliance with all applicable laws and regulations of the City of Saratoga Springs and any other governmental entity having jurisdiction over the Project and any Improvements made thereon.

Section 6: Committee Approval Process. Any Lot or Unit Owner, builder, or Developer (hereafter applicant) proposing to construct, add to, alter, or in any way change any Improvement in the Project shall apply in writing to the Committee for approval of the proposed work to be performed. The Committee may charge a reasonable application fee for Design Review. The Committee shall review plans to insure compliance with the Architectural Review Guidelines, and will consider the compatibility of the proposed Improvements to adjacent, existing, or proposed architecture, to facilitate neighborhood harmony and street appeal.

The Design Review Process shall consist of a Preliminary Design Review and Final Design Review:

Preliminary Design Review. The applicant shall submit plans and specifications of the

proposed Improvements in the form and context reasonable required by the Committee. Such plans and specifications may include, but are not limited to, a site plan showing the Lot or Unit, the location of the proposed Improvements, alterations, or additions, the driveway proposed, finished floor elevations, grade line location and height of any proposed retaining walls, rock walls, or other permanent Structures, exterior building elevations illustrating the architectural detailing, the rooflines and pitch, and the proposed color, size, shape, and kind of materials proposed.

Upon receipt of all documents required by the Committee to consider the preliminary application, the Committee shall within fifteen (15) working days meet to review the submittal to determine whether the proposed Improvements comply with the Architectural Design Guidelines and Project Documents. Within ten (10) working days following the Committee meeting the Committee will provide a written response to the applicant. If the Committee determines that modifications to the plans and specifications or other submittals are required the applicant shall resubmit the revised design review documents to the Committee for its review for conformance to the revision requirements. When the Committee is satisfied with the Preliminary Design Review the applicant will be allowed to submit for Final Design Review.

Final Design Review The applicant shall submit a site plan as required for public agency plan check, including proposed and existing topography, finished floor elevations, and final grading plan, building plans and specifications, showing all exterior elevations including architectural details and materials used, and a materials Board showing the final architectural color scheme. The materials Board shall include any proposed stucco, brick, stone, siding, and roofing material.

A detailed landscaping plan showing the size, species, and location of any plants, trees, shrubs, and other landscaping, and proposed fencing shall also be submitted.

Upon receipt of all documents required by the Committee to consider the Final Design Review application, the Committee shall within fifteen (15) working days meet to review the submittal to determine whether the proposed Improvements comply with the Architectural Design Guidelines and Project Documents. Within ten (10) working days following the Committee meeting the Committee will provide a written response to the applicant either approving the Final Design Review application or notifying applicant of the specific matters to which it objects. If the Committee determines that modifications to the plans and specifications or other submittals are required, the applicant shall resubmit the revised design review documents to the Committee for its review for conformance to the revision requirements.

In the event the Committee fails to notify applicant within forty-five (45) days after receipt of all documents required to consider an application for Final Design Review or a correction or re-submittal thereof of the action taken by the committee, the application shall be deemed approved.

The Committee will keep one set of plans as finally approved as a permanent record. The determination of the Committee shall be final and conclusive.

Final Design Review Approval from the Committee shall be effective for a period of one (1) year unless otherwise extended by the Committee. If the approved work is not commenced within one year and the approval is not extended by the Committee, the applicant shall be required to resubmit the application to the Committee prior to commencing any work.

Section 7: Inspection & Non-compliance. The Committee shall have the right at any reasonable time, after reasonable notice, to enter upon any portion of the Project to determine if the work being performed or was performed is in compliance with the Design Review Submittals or Architectural Review Guidelines. If the work is not in compliance with the submittals or the Guidelines in any way the Committee shall notify the Owner of such non-compliance and provide a reasonable time period for the Owner to remedy the non-compliance.

If the Owner fails to remedy such non-compliance within the specified period, the Committee shall notify the Board of the non-compliance. Subject to the provision of the Project Documents, the Board shall have the right to remedy the non-compliance as permitted by law, or in equity. The Board shall have the right to assess the cost incurred in enforcing these provisions against the Owner and the Owner shall have the obligation to reimburse the Association for the same.

Section 8: Waiver. The Committee's approval of any plans, specifications, or drawings for any proposed or constructed Improvements shall not be deemed to constitute a waiver of any right of the Committee to withhold approval for any similar plan, drawing, or specification submitted for approval.

Section 9: Liability. The Declarant, and Members of the Board and Committee, shall not be liable to any Owner, third party, or the Association for any claim for damages, loss, or prejudice suffered or claimed due to the approval or disapproval of any plans drawings or specifications, nor due to construction of any Improvements on any portion of the Project. It is understood that approval by the Declarant, Committee, or Board of any plans, drawings, or specifications does not constitute approval of the same by the City of Saratoga Springs nor of any governmental agency having authority over the Project. Neither the Committee, its Members, the Board, the Association, the Members, nor Declarant assume any liability or responsibility for any defects in plans or specifications for Improvements or for any defect in any Structure built from plans or specifications.

ARTICLE XIII

Use Restrictions

Section 1: General Use Restrictions. All of the properties, which are subject to this Declaration, are hereby restricted to residential Dwellings in connection therewith, except for the community use buildings as located on the Common Property. All buildings or Structures erected on the Project shall be used in accordance with applicable zoning and land ordinances of the City of Saratoga Springs.

Each Owner, tenant, lessee, guest, invitee, or other occupant of a Lot or Unit shall be

required to comply with the provisions of the Declaration.

No building or Structure of a temporary character, trailer, camper, shack, garage, barn, or other outbuilding shall be placed or used on any Lot or Unit at any time without prior consent of the Design Review Committee. Patio Structures, trellises, sunshades, gazebos, and any other appurtenant buildings shall be constructed of materials consistent with colors, textures, and materials approved for the Dwelling and shall be integral to the architecture of the house and subject to the approval of the Design Review Committee.

Section 2: Garbage and Refuse. Except for pick up days all refuse containers shall be screened and concealed from view from the street. Rubbish, trash, and garbage shall not be allowed to accumulate on any improved or unimproved Lot or Unit.

Section 3: Signs. Without prior approval of the Board, no advertising signs, billboards, objects of unsightly appearance, or nuisances shall be erected, placed, or permitted to remain on any Lot or Unit or any portion of the Project, excluding such signs as may be required by legal proceedings or "For Sale, Lease, or Rent" signs not exceeding four (4) square feet.

Section 4: Quiet Enjoyment. No noxious or offensive activity shall be carried on in any Lot or Unit or Dwelling or other part of the Project, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the Owners or which shall in any way increase the rate of insurance which the Association is required to provide under this Declaration.

Section 5: Animals. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any of said Lots or Units, except that dogs, cats, or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose. Owners shall be limited to 4 total household pets, but may not have more than two of any species. Notwithstanding the foregoing, no animals or fowl, unless otherwise determined by the Board, may be kept on the property which result in an annoyance or are obnoxious by noise, smell, or otherwise, to Lot or Unit Owners. All pets must be kept in the Lot or Units or on a leash when in the Common Areas. This provision may be made more restrictive by rule of the Association. Keeping of pets must be in keeping with the ordinances of the City of Saratoga Springs.

Section 6: Use of Common Area. Except for the right of ingress and egress, Owners are hereby prohibited and restricted from using any of said Common Area, other than for the intended use as permitted in this Declaration or as may be allowed by the Rules and Regulations of the Association. It is expressly acknowledged and agreed by all parties concerned that this restriction is for the mutual benefit of all Owners of Lots or Units in the Project and is necessary for the protection of the interests of all said Owners in and to the Common Area.

Section 7: Leases. Any lease or rental agreement shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, the Articles of incorporation, and the Rules and Regulations of the Association and that any failure by

lessee to comply with the terms of such documents shall be a default under the lease. A lease of any Condominium or home in the Project shall be for at least four (4) months. Any lease shall comply with the ordinances of the City of Saratoga Springs, and any applicable State or Federal Regulations regarding the definition of a family. Within the constraints of City, State and Federal law, homes or Condominium Units may only be leased to families.

Section 8: Maintenance, Parking, and Storage. The Owner of a Lot or Unit, in accordance with the Ordinances of the City of Saratoga Springs, must maintain and repair any and all Improvements to insure a clean, safe, and attractive property. Any equipment, R.V.'s, trailers, boats, etc. shall be parked in the side yard setback, screened from street view. All storage of materials or items of any kind must be in side yards or rear yards, screened from street view. Inoperable vehicles may not remain in front of any Lot or Unit for more than seventy-two (72) hours. All maintenance, parking, and storage of items must comply with the ordinances of the City of Saratoga Springs, Utah County, and the State of Utah. No car maintenance, other than emergency repair, shall be permitted outside of any garage.

Section 9: Fair Housing. No conveyance, lease, mortgaging, encumbrance, or occupancy of any Lot or Unit shall be denied or restricted on the basis of race, color, religion, ancestry, or national origin.

ARTICLE XIV

Enforcement of Restrictions

Section 1: General. The Association or any Owner shall have the right to enforce compliance with the Project Documents by any lawful means including proceedings at law or in equity against any persons violating or attempting to violate any provisions of the Project Documents either by bringing an action to enjoin the violation or to recover damages. Prior to bringing an enforcement action, written notice of violation shall be provided to the Owner of the non-compliant Member, and a reasonable time to correct any non-compliance shall be granted.

In the event the Association or any Owner shall institute legal action against any Owner to enforce compliance with or due to a breach of any provisions of the Project Documents the prevailing party shall be entitled to reasonable attorneys' fees and costs in addition to any other amount due as provided herein.

Failure to comply with any of the provisions of any of the Project Documents or regulations adopted pursuant thereto shall be grounds for relief which may include, without limiting the same, an action to recover sums due for damages, injunctive relief, foreclosure of lien, or any combination thereof, which relief may be sought and liberally construed to effect its purpose. Any violation of the Project Documents shall be deemed to be a nuisance or unreasonable annoyance.

Failure by the Association or any Owner to enforce any provisions thereof shall not constitute a waiver of the right to enforce said provision or any other provisions hereof.

Section 2: Enforcement of Lien. All sums assessed to Owners of any Lot or Unit within the Project not paid when due together with penalties, interest, and costs of collection as provided herein shall constitute and remain a continuing lien on the Lot or Unit in favor of the Association.

To evidence a lien for sums assessed pursuant to this Declaration, the Association shall prepare a written notice of lien setting forth the amount of the Assessment, the date due, the amount remaining unpaid, the name of the Owner of the Lot or Unit, and a description of the Lot or Unit.

Such notice shall be signed by a duly authorized representative of the Association and shall be recorded in the office of the County Recorder of Utah County, Utah. Such lien may be enforced by sale or foreclosure of the Lot or Unit encumbered by the lien at a foreclosure sale conducted in accordance with the provisions of Utah law applicable to the exercise of powers of sale or judicial foreclosure of deeds of trust or Mortgages or in any other manner permitted by the law. The Owner of the Lot or Unit being foreclosed shall be required to pay the costs and expenses of such proceeding, including but not limited to a reasonable attorney's fee and court costs, and such costs and expenses shall be secured by the lien being foreclosed.

Section 3: Personal Liability of Lot or Unit Owner. A lien to secure payment for Assessments shall not be affected by the sale or transfer of a Lot or Unit except that upon foreclosure of a Lot or Unit by a First Mortgagee any lien for Assessments that were payable prior to the foreclosure sale shall be extinguished.

ARTICLE XV

General Provisions

Section 1: Notice of Transfer. In the event of a sale or transfer of any Lot or Unit in the Project the transferee shall within thirty (30) days of such transfer or sale provide notification to the secretary of the Association, setting forth the Lot or Unit involved, the name and address of the transferee and transferor, and the date of the sale. Prior to the secretary's receipt of such notice, the Association shall not be required to recognize the transferee for any purposes and any notice of communication required to be given by the Association shall be deemed duly given if made and given to the transferee's transferor.

Section 2: Notices. Notices to be given to Members pursuant to the Project Documents shall be in writing and shall be deemed given when delivered personally to the Member, or forty-eight (48) hours after the notice has been deposited in the United States addressed to Members at the address designated by Member to the Association for delivery notices, or if there is no designated address for the Member, at the Member's Lot or Unit.

Section 3: Binding Effect. This Declaration shall inure to the benefit of and be binding on the successors and assigns of the Declarant, and the heirs, personal representatives, grantees, tenants, successors and assigns of any Owner.

Section 4: Termination. This Declaration shall be constituted to run with the land and shall continue in full force and effect for a period of fifty (50) years from the date it is recorded and shall be automatically renewed in successive ten (10) year increments unless it is revoked by a vote of not less than sixty seven percent (67%) of the Owners of Lots or Units in the Project as evidenced by the recordation of an instrument in the office of the Utah County Recorder.

Section 5. Enforcement. The provisions of this Declaration shall be enforced by the Association, the Declarant, or any Member. In any action for enforcement of this Declaration in a court of law, the prevailing party shall be entitled to recover its costs and a reasonable attorney's fee.

Section 6. Choice of Law. The provisions of this Declaration shall be interpreted and enforced pursuant to the laws of the State of Utah.

ARTICLE XVI

Amendment

Amendment. Except as otherwise provided by law or elsewhere in this Declaration, any amendment to the Declaration shall require an affirmative vote of at least sixty-seven percent (67%) of the voting Members of the Association present in person or represented by proxy at a meeting called for such purpose by the Owners. Any amendment authorized pursuant to this section shall be accomplished by recording in the office of the Utah County Recorder, an instrument executed by the Association certified by a Trustee of the Association that the required vote had occurred. Anything in this section or this Declaration to the contrary notwithstanding the Declarant alone reserves the right to amend or terminate this Declaration prior to the closing of a sale of a Lot or Unit. Declarant also reserves the right to unilaterally amend all or any part of the Declaration to the extent required by the leading guidelines of FNMA, FHA, VA, or other such agencies as a condition precedent to lending funds secured by any Lot or Unit or Parcel in the Project or as requested by any federal, state, or local governmental agency as a condition precedent to such agency's approval of the Declaration.

THESE COVENANTS, CONDITIONS AND RESTRICTIONS APPLY TO AND GOVERN ALL THE REAL PROPERTY OF STILLWATER AT SARATOGA SPRINGS. (See exhibit "A" attached) IN WITNESS WHEREOF, the Developer has caused its corporate name to be hereunto affixed by its duly authorized officer this 6th day of April, A.D. 2004
2005

THESE COVENANTS, CONDITIONS AND RESTRICTIONS APPLY TO AND GOVERN ALL THE REAL PROPERTY OF STILLWATER AT SARATOGA SPRINGS. (See exhibit "A" attached) IN WITNESS WHEREOF, the Developer has caused its corporate name to be hereunto affixed by its duly authorized officer this 6th day of April, A.D. 2005.

STILLWATER AT SARATOGA SPRINGS, LLC

BY: *Michael Green*
MICHAEL GREEN

STATE OF UTAH)
)SS
COUNTY OF UTAH)

On the 6th Day of April, 2005, personally appeared before me Michael Green, who being by me duly sworn did say, that he, the said Michael Green, is the President, of Stillwater at Saratoga Springs, LLC, and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its Board of directors, and he duly acknowledged to me that said corporation executed the same.

Sicily Orton
Commission expires
June 03, 2008

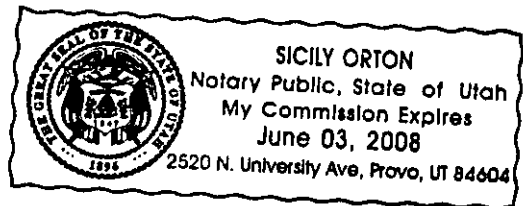


Exhibit A

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LEGAL DESCRIPTION

The following described tract of land situated in Utah County, State of Utah:

Beginning at the West quarter corner of Section 12, Township 6 South Range 1 West, Salt Lake Base and Meridian, a found g.l.o. brass cap; thence North 00 deg. 16' 23" East along the Section line 1313.92 feet to a found rebar and cap set by Cornerstone Land Surveying that represents the North 1/16th corner between Section 11 and 12; thence South 89 deg. 57' 16" East along the 1/16th line 2691.32 feet to a found rebar and cap set by Cornerstone Land Surveying that represents the North 1/16th corner of said Section 12; thence North 00 deg. 35' 58" West along the 1/4 section line 735.71 feet to a point on the Westerly right of way line of State Road SR 68 (Redwood Road); thence along said right of way and along the arc of a 1240.24 foot radius curve to the right 414.84 feet through a central angle of 19 deg. 09' 52", the chord of which bears South 44 deg. 41' 38" East 412.91 feet; thence South 35 deg. 06' 42" East along said right of way 390.66 feet; thence along said right of way and along the arc of a 3404.75 foot radius curve to the right 652.67 feet through a central angle of 10 deg. 59' 00", the chord of which bears South 29 deg. 37' 12" East 651.68 feet; thence South 24 deg. 07' 42" East along said right of way 938.59 feet to the quarter section line; thence South 89 deg. 50' 08" West along said quarter section line 1200.18 feet to a found rebar and cap set by Kunz Surveying that represents the center of Section 12; thence South 89 deg. 50' 08" West along said quarter section line 2710.59 feet to the point of beginning.