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AMENDED AND RESTATED DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
HIDDEN OAKS, A PLANNED UNIT DEVELOPMENT

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HIDDEN OAKS HOMEOWNERS ASSOCIATION  
OF SANDY, INC.  
A Utah non-profit corporation  
11238 South Wyngate Lane  
Sandy, Utah 84092

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WHEN RECORDED RETURN TO:  
JAMES R. BLAKESLEY  
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AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF HIDDEN OAKS PLANNED UNIT DEVELOPMENT

July 5, 1996

THIS DECLARATION is made on the date hereinafter set forth by the Hidden Oaks Homeowners Association of Sandy, Inc., a Utah corporation, with its principal place of business at 11238 South Wyngate Lane, Sandy, Utah 84092, hereinafter referred to Declarant.

WITNESS

WHEREAS, Declarant is the agent of all of the owners of the Lots, and the owner of the Common Areas and Facilities for and in behalf of the Lot Owners, of the Hidden Oaks Planned Unit Development in the City of Sandy, County of Salt Lake, State of Utah, which is more particularly described as follows:

Beginning at a point which is North 0°09'47" West along the center Section line 250.399 feet from the South 1/4 corner of Section 22, Township 3 South, Range 1 East, Salt Lake Base and Meridian; thence South 77 degrees 16' 22" West 25.389 feet; thence South 70 degrees 38' 20" West 97.249 feet; thence South 77 degrees 31' 35" West 208.854 feet; thence North 68 degrees 59' 53" West 216.296 feet; thence North 81 degrees 43' 45" West 134.721 feet; thence North 87 degrees 13' 29" West 113.204 feet; thence South 73 degrees 05' 28" West 60.433 feet; thence West 116.683 feet; thence North 72' West 77.551 feet; thence North 52 degrees 56' 56" West 604.87 feet; thence North 30.00 feet; thence South 89 degrees 43' 25" East 408.225 feet to a point on the Southerly Right-of-way line of 11700 South Street, said point also being on a arc of 607.655 foot radius curve, the center of which bears North 22 degrees 00' 00" East thence Southeasterly along said Right-of-Way line and said curve to the left through a central angle of 21 degrees 55' 57" a distance of 232.607 feet, thence South 89 degrees 55' 57" East along said Right-of-Way line 864.161 feet to said center Section line; thence South 0 degrees 09' 47" East along said center Section line 373.072 feet to the point of beginning.

WHEREAS, a Declaration of Covenants, Conditions and Restrictions of Hidden Oaks Planned Unit Development was recorded on September 30, 1985 as Entry No. 4143787 in the office of the County Recorder of Salt Lake County, Utah (the "Original Declaration").

WHEREAS, the Original Declaration was amended by a written instrument entitled Supplement to Declaration of Covenants, Conditions and Restrictions of Hidden Oaks Planned Community for Phase II recorded April 2, 1987 as Entry No. 4429505 in the office of the County Recorder of Salt Lake County, Utah (the "First Supplement").

WHEREAS, the Original Declaration was amended by a written instrument entitled Second Supplement to Declaration of Covenants, Conditions and Restrictions of Hidden Oaks Planned Community for Phase 3 recorded April 28, 1988 as Entry No. 4617216 in the office of the County Recorder of Salt Lake County, Utah (the "First Supplement").

WHEREAS, Section 11.03 of the Original Declaration, as amended, requires that any amendment to the Declaration be approved by at least two-thirds (2/3) of all votes.

WHEREAS, the Secretary of the Association has certified that the voting requirements to amend the Declaration have been satisfied.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed, subject to the following easements, restrictions, covenants, and conditions, which are recorded for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

#### ARTICLES - DEFINITIONS

When used in this Declaration the following terms shall have the meaning indicated.

1.01 Declaration shall mean and refer to this Amended and Restated Declarations of Covenants, Conditions and Restrictions of Hidden Oaks Planned Unit Development as the same may hereinafter be modified amended, supplemented or expanded in accordance with the law and the provisions, hereof.

1.02 Owner or Lot Owner shall mean and refer to the person who is the owner of record (in the office of the county recorder of Salt Lake County, Utah) of a fee or undivided fee interest in a Lot. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term Owner shall not mean or include a mortgagee or a beneficiary, or trustee under a deed of trust unless and until such part., has acquired title pursuant to foreclosure or any arrangement or proceeding in lieu thereof.

1.03 Association shall mean and refer to Hidden Oaks Homeowners Association, Inc., a Utah nonprofit corporation, its successors and assigns.

1.04 Property shall mean and refer to the entire tract of real property now or hereinafter covered by the plat of Hidden Oak Planned Unit Development. A description of the real property covered by the plat on the effective date of this Declaration is set forth in the witnesses paragraph above.

1.05 Lot shall mean and refer to any of the separately numbered and individually described parcels of land now or hereinafter shown on the plat.

1.06 Common Areas or Common Areas and Facilities shall mean and refer to that part of the property which is not included within the Lots, including all improvements other than utility lines now or hereafter constructed or located thereon.

1.07 Living Unit shall mean and refer to a structure or portion of a structure which is designed and intended for use and occupancy as a single-family residence, together with all improvements located on the Lot concerned which are used in conjunction such residence.

1.08 Member shall mean and refer to every person who holds membership in the Association.

1.09 Articles or Articles of Incorporation shall mean and refer to the Articles of Incorporation of the Association filed with the office of the Utah Secretary of State.

1.10 Mortgage shall mean and include both a first mortgage or a first deed of trust on any Lot.

1.11 Mortgagee shall mean and include both a first mortgage and a beneficiary under a first deed of trust on any Lot.

1.12 Hidden Oaks shall mean and refer to the Lots and common areas described in the subdivision plat of Hidden Oaks Planned Unit Development.

1.13 Developer shall mean and refer to Big Willow, Inc. , a Utah corporation, and/or any successor to any of said entity, either by operation of law or through a voluntary conveyance, transfer, or assignment comes to stand in the same relation to the property as did its predecessor.

1.14 Governing Board shall mean and refer to the Board of Directors charged with governing the Association.

1.15 Project shall mean and refer to the Property and the schematic of the development and ownership of the Property created and governed by this Declaration and the Articles.

1.16 Eligible Insurer shall mean and refer to an insurer or governmental guarantor of a mortgage or trust deed who has requested notice in writing of certain matters from the Association in accordance with this Declaration.

1.17 Eligible Mortgagee shall mean and refer to a mortgagee, beneficiary under a trust deed, or lender who has requested notice in writing of certain matters from the Association in accordance with this Declaration.

1.18 Eligible Votes shall mean and refer to those votes available to be cast on any issue before the Association or the Board of Directors. A vote which is for any reason suspended is not an "eligible vote".

1.19 Majority shall mean and refer to those eligible votes of Owners or other groups as the context may indicate totaling more than fifty (50%) percent of the total eligible number.

1.20 Recreational, Oversized or Commercial Vehicle shall mean and refer to any motor home, mobile home, truck other than a pick-up, snow removal equipment, garden and maintenance equipment, snowmobile, camper not on a truck, tractor, golf cart, mobile home or trailer (either with or without wheels), boat or other watercraft, boat trailer, buses, camping vehicles, boats, boat trailers, two, three or four wheeled motor vehicles, or any recreational, commercial or oversized vehicle or device of any kind.

1.21 Single Family Home or Residence shall mean and refer to both the architectural style of a Living Unit and the nature of the residential use permitted.

## ARTICLE 2 MEMBERSHIP VOTING RIGHTS

2.01 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.

2.02 Voting Rights. Each Member shall be entitled to one vote for each Lot owned. In no event, shall more than one vote exist with respect to any Lot.

2.03 Multiple Ownership Interest. In the event there is more than one Owner of a particular Lot, the vote relating to such Lot shall be exercised as such Owners may determine among themselves. A vote cast at any Association meeting by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the vote attributable to the Lot concerned unless an objection is immediately made by another Owner of the same Lot. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever other than to determine whether a quorum exists.

### ARTICLE 3 - PROPERTY RIGHTS IN COMMON AREAS

3.01 Easement of Enjoyment. Each Member shall have a right and easement of use and enjoyment in and to the 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 family members, household guest, tenant, lessee, contract purchaser, or other person who resides on such Member's Lot.

3.02 Form for Conveyancing. 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 No. contained within Hidden Oaks a Planned Unit Development, as said Lot is Identified in the Plat of said Development and in the Declaration of Covenants, Conditions and Restrictions of Hidden Oaks Planned Unit Development recorded in the Recorder's Office of Salt Lake County, State of Utah, TOGETHER WITH a right and easement of use and enjoyment in and to the 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 inure to the benefit of any party who acquires interest in a Lot.

3.03 Transfer of Title. The original Developer has conveyed to the Association title to the Common Areas free and clear of all liens.

3.04 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 suspend a Member's voting right in the Association and a Member's right to the use of any recreational facilities included in the Common Areas for any period during which an assessment on such Member's lot remains unpaid, and for a period not exceeding ninety (90) days for any infraction by such Member of the provisions of this Declaration or of any rule or regulation promulgated by the Association;

b) The right of the Association to impose reasonable limitations on the number of guests per Member who at any given time are permitted to use the Common Areas;

c) The right of Sandy City 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 street, parking area,



walkways or open area contained within the Property for purposes of providing police and fire protection, transporting school children, and providing other governmental or municipal service;

d) The right of the Association to dedicate or transfer all or any part of the 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 votes which Members present in person or proxy are entitled to cast at a meeting and the action proposed shall be sent to all Members at least ten (10) but not more than thirty days prior to the meeting date; and

e) The right of the Association to charge a reasonable user's fee for the clubhouse (or any portion thereof), and to lease or rent a portion of the clubhouse for residential, commercial or mixed purposes..

#### ARTICLE 4 - ASSESSMENTS

4.01 Budget. The Board of Trustees shall have the duty to prepare an estimated annual budget for each fiscal year. The proposed budget, which must be made available to each Lot Owner at least thirty (30) days prior to the Annual Association Meeting shall:

(1) Itemization. Set forth an itemization of the anticipated Common Expenses for the twelve (12) month calendar year, commencing with the following January 1.

(2) Basis. Be based upon advance estimates of cash requirements by the Board of Trustees to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Areas and regulation of the Association, which estimate shall include but is not limited to expenses of management, grounds maintenance, taxes and special assessments, premiums for all insurance which the Board is required or permitted to maintain, common lighting and heating, water charges, trash collection, sewer service charges, carpeting, painting, repairs and maintenance of the Common Areas and replacement of those elements of the Common Areas that must be replaced on a periodic basis, wages for the Association's employees, legal and accounting fees, any deficit remaining from a previous period; the creation of a reasonable contingency reserve, surplus or sinking fund, capital improvement reserve, and other expenses and liabilities which may be incurred by the Association for the benefit of the Owners under and by reason of this Declaration.

4.02 Personal Obligations and Lien. Each Owner shall by acquiring, or in any way becoming vested lien with his interest in a Lot, be deemed to covenant and agree to pay to the Association the monthly and the special assessments on a pro rata basis described in this Article together with the hereinafter provided for interest and costs of collection. 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 the Common Areas, or by abandonment of his Lot. For purposes of this Article, the term "owner" includes both the Buyer and Seller under an executory contract of sale, both of whom shall be jointly and severally liable for all assessments levied during the term of the contract.

4.03 Purpose of Assessments. Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation health, safety and welfare of residents of the Property. The use made by the Association of funds obtained from assessments shall include payment of the cost of: taxes and insurance on the Common Areas; maintenance, repair, and improvement of the Common Areas; management and supervision of the Common Areas; establishment and funding of a reserve to cover major repairs of the Improvements within the Common Areas; 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.

4.04 **Amount of Monthly Assessment.** The Board of Directors shall determine the amount of the monthly assessment based upon the current and future needs of the Association. The maximum monthly assessment shall not be increased by fifteen percent (15%) or more for any year if the proposed increase is disapproved by at least a majority of the Members.

4.05 **Special Assessments.** From and after the date set under this Article 6, the Association may 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 any, improvement or of personal property upon the Common Areas. Any such special assessment must be asserted to by sixty percent (60%) of the votes 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 meeting date.

4.06 **Specific Assessments.** The Board of Directors shall also have the power specifically to assess the Owners in a particular area pursuant to this Section as, in its discretion, it shall deem necessary or appropriate, provided the Lot Owner has the choice to accept or reject the benefit:

a) **Benefit only To Specific Lot.** If the expense benefits less than all of the Lots, then those Lots benefitted May be specifically assessed, and the specific assessment shall be equitably apportioned among those Lots according to the benefit received.

b) **Unequal or Disproportionate Benefit.** If the expense benefits all Lots, but does not provide an equal benefit to all Lots, then all Lots shall be specifically assessed, but the specific assessment shall be equitably apportioned among all Lots according to the benefit received.

Failure of the Board of Directors to exercise its authority under this Section shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board of Directors's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board of Directors has not previously exercised its authority under this Section.

4.07 **Individual Assessments.** Individual Assessments shall be levied by the Board of Directors against a Lot and its Owner to pay, compensate or reimburse the Association for: fines levied and costs incurred in enforcing the Project Documents; costs associated with the maintenance, repair or replacement of Common Area for which the Lot Owner is responsible; any other charge, fee, due, expense, or cost designated as an Individual Assessment in the Project Documents; and attorneys' fees, interest, and other charges relating thereto as provided in this Declaration.

4.08 **Quorum Requirements.** A quorum is defined as: At the first meeting called, the presence of Members or of proxies entitled to cast at least sixty percent (60%) of all the votes of members shall constitute a quorum. If a quorum is not present at the first meeting called, another meeting may be called at which those Members present in person or by proxy shall constitute a quorum. No such subsequent meeting shall be held earlier than twenty four (24) hours or later than forty-five (45) days following the immediately preceding meeting.

4.09 **Uniform Rate of Assessment.** Both monthly and special assessments shall be fixed at a uniform rate for all Lots.

4.10 **Monthly Assessment Due Dates.** The monthly assessments provided for herein shall commence as to all Lots when the first Common Areas need maintenance work to keep such Common Areas functional. 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 assessment concerned.

4.11 Certificate Regarding Payment. Upon the request of 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 all be conclusive in favor of all persons who in good faith rely thereon.

4.12 Equitable Adjustments. The Board of Directors may make equitable adjustments in the annual assessment from time to time during the course of the fiscal year as necessary to pay common expenses provided each Lot Owner is given at least thirty (30) days notice of any change in the amount of his monthly assessment.

4.13 Effect of Nonpayment -- Remedies. Assessments must be paid in a timely manner and shall be collected as follows:

a) Time is of the Essence. Time is of the essence and all Assessments shall be paid promptly when due.

b) Delinquent Assessments. Any Assessments which are not paid when due are delinquent and a lien against the Lot affected shall attach automatically, regardless of whether a notice of lien is recorded.

c) Late Assessments and Accruing Interest. Any Assessments delinquent for a period of more than ten (10) days shall incur a late charge of Ten Dollars (\$10.00) or five percent (5%) of the delinquent amount, whichever is greater. Interest at the rate of One and ½ percent (1.5%) per month shall accrue on all delinquent accounts. The Board of Directors May, in its sole discretion, change the amount of the late fee or waive late Assessments and accruing interest but is not required to do so.

d) Notice of Lien. If any Assessment is a notice of lien evidencing the unpaid amounts, accruing interest, late charges, attorney's fees, the cost of a foreclosure or abstractor's report, and any other Additional Charges permitted by law should be filed with the County Recorder. The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all other Owners. It May be executed by the Association's attorney, manager, Board of Directors or other designated agent.

e) Foreclosure of Lien and/or Collection Action. If any Assessments remain unpaid, the Association May, as determined by the Board of Directors institute suit to collect the amounts due and/or to foreclose the lien.

f) Personal Obligation. Each Owner, by acceptance of a deed or as a party to any other type of conveyance, vests in the Association or its agents the right and power to bring all actions against him or her personally for the collection of the charges as a debt or to foreclose the lien in the same manner as mechanics liens, mortgages, trust deeds or encumbrances May be foreclosed.

g) No Waiver. No Owner may waive or otherwise exempt himself or herself from liability for the Common Area Assessments provided for herein, including but not limited to the non-use of Common Areas or the abandonment of his Lot.

h) Duty to Pay Independent. No reduction or abatement of Common Area Assessments shall be claimed or allowed by reason of any alleged failure of the Association or Board of Directors to take some action or perform some function required to be taken or performed by the Association or Board of Directors under this Declaration or the By Laws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay Common Area Assessments being a separate and independent covenant on the part of each Owner.

l) Application of Payments. All payments shall be applied as follows: Additional Charges, Delinquent Common Area Assessments and Current Common Area Assessments.

j) Foreclosure of Lien as Mortgage or Trust Deed. The lien for nonpayment of Common Area Assessments may be enforced by sale or foreclosure of the Owner's interest therein by the Board of Directors. The sale or foreclosure shall be conducted in the same manner as foreclosures in deeds of trust or mortgages or in any other manner permitted by law. In any foreclosure or sale, the Owner shall pay the costs and expenses of such proceedings, including but not limited to the cost of a foreclosure report, reasonable attorney's Assessments, and a reasonable rental for the Lot during the pendency of the foreclosure action. The Association in the foreclosure action may require the appointment of a receiver to collect the rental without regard to the value of the mortgage security. The Board of Directors may bid for the Lot at foreclosure or other sale and hold, lease, mortgage, or convey the same.

k) Appointment of Trustee. If the Board of Directors elects to foreclose the lien in the same manner as foreclosures in deeds of trust, then the Owner by accepting a deed to the Lot hereby irrevocably appoints the attorney of the Association, provided he is a member of the Utah State Bar, as Trustee, and hereby confers upon said Trustee the power of sale set forth with particularity in Utah Code Annotated, Section 57-1-23 (1953), as amended. In addition, Owner hereby transfers in trust to said Trustee all of his right, title and interest in and to the real property for the purpose of securing his performance of the obligations set forth herein.

l) Attorney in Fact. Each Owner by accepting a deed to a Lot hereby irrevocably appoints the Association as his attorney in fact to collect rent from any person renting his Lot, if the Lot is rented and Owner is delinquent in his Common Area Assessments. Rent due shall be paid directly to the Association, upon written demand, until such time as the Owner's Common Area Assessments are current; and the Owner shall credit the Renter, against rent due, for the amount of money paid to the Association.

#### ARTICLE 5 OPERATION AND MAINTENANCE

5.01 Maintenance of Living Units. Each Living unit and Lot shall be maintained by the Owner thereof 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 Living Unit or Lot. The Association shall have no obligation regarding maintenance or care of Living Units or Lots except as set forth in Article 5.02.

5.02 Operation, Maintenance and Alterations. The Lots and Common Area shall be maintained by the Lot Owners and the Association as follows:

a) Area of Common Responsibility. The Association shall maintain, repair and replace, as needed from time to time, the Common Areas and Facilities.

b) Area of Personal Responsibility. Each Lot Owner shall maintain, repair and replace, as needed from time to time, his Lot and all improvements constructed thereon.

c) Standard of Care. The Property shall be maintained in a usable, clean, functional, attractive and good condition, consistent with Community Standards.

d) Standard of Care/Landscaping. All landscaping in the Project shall be maintained and cared for in a manner consistent with Community Standards and the quality of design and construction originally established by Declarant or the Board of Directors from time to time. All landscaping shall be maintained in a neat and orderly condition. Any weeds or diseased or dead lawn, trees, ground cover or shrubbery shall be removed and replaced. All lawn areas shall be neatly mowed and trees, shrubs and bushes shall be properly pruned

and trimmed. All landscaping shall be aesthetic, tasteful and harmonious with the other landscaping in the Project so as not to affect adversely the value or use of any other Lot, or to detract from the uniform design and appearance of the Project.

e) Neglect. If the Board of Directors determines that any Owner has failed or refused to discharge properly his obligation with regard to the maintenance, repair, or replacement of items for which he is responsible hereunder; or that the need for maintenance, repair, or replacement of the Common Area is caused through the willful or negligent act of any Owner, his family, guests, lessees, or invites, and it is not covered or paid by insurance, in whole or in part, then the Association may, but is not obligated to, provide such maintenance, repair or replacement at the Owner's sole cost and expense, subject to the following:

(1) Assessment. Such costs as are incurred by the Association in the performance of an item included in the Area of Personal Responsibility shall be added to and become a part of the assessment to which such Owner and Lot is subject, and shall be secured by a lien against his Lot regardless of whether a notice of lien is filed.

(2) Notice of Intent to Repair. Except in an emergency situation, the Association shall give the Owner written notice of the Association's intent to provide necessary maintenance, repair, or replacement at Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Board of Directors. The Owner shall have ten (10) days after receipt of notice within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within ten (10) days.

(3) Emergency Situation. If the Board of Directors determines that an emergency exists, then notice and the opportunity to cure the default is not necessary.

(4) Optional Repairs. The Association may, but is not obligated to, provide any such maintenance, repair, or replacement in the manner described above.

(5) Right of Entry. The Association or its agents or employees shall have a right to entry upon or into any Lot or Common Area as necessary to perform such work and shall not be liable for trespass for such entry or work.

f) Alterations to the Common Area. No Owner or resident may make any structural alterations, modifications, changes or improvements to the Common Area, including but not limited to any additions, extensions, enclosures, fencing, decks, patios, walkways, structures or sheds not shown on the approved plans and specifications, without the prior written consent of the Board of Directors.

g) Storm Drain System. A reciprocal easement on, over, under, through and across all Lots and Common Area for the drainage of surface waters on, over, under, through and across the Project. The Declarant established a sub-drain and storm drainage system designed to serve the entire Project (the "Master Subdrain and Storm Drain System"). No Lot Owner shall interfere with the Master Subdrain and Storm Drain System established by the Declarant, or its successors or assigns. Each Lot Owner shall be responsible to develop his Lot in a manner consistent with the Master Subdrain and Storm Drain System, and so as not to detract therefrom or interfere therewith, or the Established Drainage Pattern on any other Lot in the Project. No changes to the Established Drainage Pattern on any Lot shall be permitted without the prior written consent of the Board of Directors. For purposes of this Section, the term "Established Drainage Pattern" is defined as the approved drainage pattern, facilities and improvements in existence at the time such Lot is conveyed to a home purchaser by the Declarant, its successor or assign. The cost of all improvements, maintenance, repairs and replacements of the subdrain or storm drainage system located within the boundaries of any Lot shall be the responsibility of the Lot Owner. The cost of all improvements, maintenance, repairs and replacements of the subdrain and storm drainage system located in the Common Area shall be the responsibility of the Association.

h) Structures. No sheds, shacks, or similar structures may be installed or constructed on a Lot if it can be seen from the roads or common area.

5.03 Utilities. The Association shall pay for all utility services furnished to the Common Areas and each Lot except telephone and any other services which are separately billed or metered to individual Lots by the utility or other party furnishing such service.

5.04 Insurance. The Association shall at all times maintain in force insurance meeting the following requirements:

a) Hazard Insurance. Fire and extended coverage insurance covering the insurable portions of the Common Areas and in an amount not less than one hundred percent (100%) of replacement cost Of such insurable portions of the Common Areas and Facilities. The name of the insured under such policy or policies shall be in form and substance similar to, "The Hidden Oaks homeowners Association for the use and benefit of the individual Lot Owners in Hidden Oaks Planned, Unit Development."

b) Fidelity Insurance. Fidelity coverage against dishonest acts on the part of directors, managers, trustees, employees, or volunteers responsible for handling funds collected and held for the benefit of the Owners. The fidelity bond or insurance shall name the Association as the insured and shall be written in an amount sufficient to afford the protection reasonably necessary, but in no event less than one and one-half times the Association's estimated annual operating expenses and reserves. An appropriate endorsement to such policy shall be secured to cover any persons who serve without compensation if such policy would not otherwise cover volunteers.

c) Liability Insurance. A comprehensive policy of public liability insurance covering all of the Common Areas and Facilities. Such policy 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. The Scope of coverage shall include all other coverage in the kinds and amounts commonly by private institutional Mortgage investors for projects similar in construction, location, and use. The property damage shall be for at least \$1,000,000.00 per occurrence.

d) General Requirements Concerning Insurance. Each maintained pursuant to the foregoing paragraphs nos. a, b and c above shall be written by an insurance carrier which is licensed transact business in the State of Utah and which has a financial rating by Best's Insurance Reports of Class VI or better. No such policy shall be maintained where: (1) under the terms of the carrier's charter, bylaws, or policy, contributions may be required from, or assessments may be made against an Owner, a Mortgagee, or the Association; (2) by terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon action by the carrier's board of directors, policy holders, or members; or (3) the policy includes any limiting clauses (other than insurance conditions) which could prevent an Owner, a Mortgagee, or the Association from collecting insurance proceeds. The provisions of this Article 5.04 shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage, in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Association may deem appropriate from time to time.

5.05 Deductible. On any claim made by a Lot Owner or Resident on an Association's insurance policy, the deductible (if any) shall be paid by the party who would be liable for the loss or repair in the absence of insurance and in the event of multiple parties shall be allocated in relation to the amount each party's loss bears to the total.

5.06. Primary Coverage. If a claim is covered by the Lot Owner's or Resident's insurance and by the Association's insurance, the insurance coverage of the Lot Owner shall be primary.

5.07 **Manager.** The Association may carry out through a Property Manager and of its functions which are properly the subject of delegation. Any manager so engaged shall be an independent contractor and not an agent or employee of the Association, shall be responsible for managing the Property for the benefit of the Association and the Owners, and shall, to the extent permitted by The law and the terms of the agreement with the Association, be authorized to perform any of the functions or acts requirements or permitted to be performed by the Association itself.

#### ARTICLE 6 - GENERAL USE INSTRUCTIONS

6.01 **Use of Common Areas.** The Common Areas shall be used only in a manner consistent with their community nature and with the use restrictions applicable to Lots and Living Units. No admission fees, charges for use, leases, or other income generating arrangement of any, type shall be employed or entered into with respect to any portion of the Common Areas, except for the clubhouse. Anything to the contrary notwithstanding, the Board of Trustees may in its sole discretion lease or rent, for a reasonable fee, a portion of the clubhouse for residential, commercial or mixed purposes in order to offset common expenses.

6.02 **Use of Lots and Living Units.** All Lots are intended to be improved with Living Units and are restricted to such use. Each Living Unit shall be used only as a single-family residence, referring to both the architectural style of the structure and the nature of the use permitted. No Lot or Living Unit shall be used, occupied, or altered in violation of law, so as to jeopardize the support of any other Living Unit, so as to create a nuisance or interfere with the rights of any Owner, or in any way which would result in an increase in the cost of any insurance covering the Common Areas.

6.03 **Dwelling, Quality and Size** All Living Units shall be of good a quality of workmanship and material Complying with material guidelines of Article 8.03. The ground floor area of Living Units in Hidden Oaks Planned Unit Community Phase 1, exclusive of open porches and garages, shall not be less than 1,700 square feet for a one story Living Unit or less than 1,300 square feet, for a Living Unit of more than one story with the total minimum size of the two story being not less than 2400 finished square feet above ground level. The Architectural Control Committee may allow smaller plans if the circumstances so justify it.

6.04 **Leases.** Any agreement for the leasing, rental, or occupancy of a Living Unit (hereinafter in this Section referred to as a "lease") shall be in writing and a copy thereof shall be delivered to the Association upon request. Every lease shall provide (or be deemed by this reference to provide) that the terms of such lease and lessee, by virtue of taking possession of the premises, agrees and shall be subject in all respects to the provisions of the Project Documents, and shall further provide that any failure by the lessee, his family members, guests or invitees to comply with the terms of the foregoing documents shall be deemed to be a default under the lease. No Owner shall be permitted to lease his Living Unit for transient, hotel, seasonal, vacation or corporate/executive use purposes, which shall be deemed to be any rental with an initial term of less than six (6) months. Daily or weekly rentals are prohibited. No Owner may lease individual rooms to separate persons or less than his entire Living Unit. Any Owner who shall lease his Living Unit shall be responsible for assuring the lessee's compliance with the Project Documents. Failure by an Owner to take legal action, including the institution of eviction proceedings against any lessee who is in violation of the Project Documents within ten (10) days after receipt of written demand so to do from the Board of Directors, shall entitle the Association to take any and all such action including the institution of eviction proceedings for and in behalf of such Owner. Neither the Association nor any agent retained by the Association to manage the Project shall be liable to the Owner or lessee for any action taken or eviction commenced pursuant to this Section that is made in good faith. Any expenses incurred by the Association, including attorneys' fees and costs of suit, shall be repaid to it by such Owner. This obligation is a debt of the Owner at the time the claim or assessment is made and is collectible as such. Suit to recover a money judgment for unpaid obligations is maintainable without foreclosing or waiving the lien securing it. If any Owner fails or refuses to make any payment of his obligation to the Association when due, that amount constitutes a lien on the interest of the Owner in the Property, and upon the recording of notice of lien, it is a lien upon the Owner's interest in the Property prior to all other liens and encumbrances, recorded or unrecorded, except: tax and special

assessment liens on the Lot in favor of any assessing unit or special improvement district; and encumbrances on the interest of the Lot Owner recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

6.05 Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

6.06 Nuisances. No Lot Owner or Resident shall create, maintain or permit a nuisance in, on or about the Project. For purposes of this section a "nuisance" includes behavior which annoys, disturbs or interferes with other Residents and interferes with their right to the quiet and peaceful enjoyment of their property. A nuisance includes but is not limited to the following:

- a) The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about a Lot or the Common Areas;
- b) The storage of any item, property or thing that will cause any Lot or the Common Area to appear to be in an unclean or untidy condition or that will be noxious to the senses;
- c) The storage of any substance, thing or material upon any Lot or in the Common Areas that will emit any foul, unpleasant or noxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the other residents at the Project;
- d) The creation or maintenance of any noxious or offensive condition or activity in or about any Lot or the Common Areas;
- e) Actions or activities tending to cause embarrassment, discomfort, annoyance, distress or a disturbance to any other residents, their guests or invites, particularly if the police or sheriff must be called to restore order;
- f) Maintaining any plants, animals, devices or items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature as May diminish or destroy the enjoyment of the Community by other residents, their guests or invites;
- g) Too much noise in, on or about any Lot or the Common Area, especially after 10:00 p.m. and before 7:00 a.m.;
- h) Too much traffic in, on or about any Lot or the Common Area, especially after 10:00 p.m. and before 7:00 a.m.;
- i) Allowing a pet to run at large (and unleashed) throughout the Project;
- j) Allowing your pet to urinate or defecate in the Common Areas or failing to clean up immediately any feces deposited in the Common Area by your pet; and
- k) Gang like or gang related activity.



6.07 Animals. No animals of any kind shall be raised, bred or kept except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose. Such animals as are permitted shall be Strictly controlled and kept pursuant to the Sandy City ordinances. If it becomes the opinion of the Association that any of the foregoing animals or pets become an annoyance, nuisance or obnoxious to other Lot owners throughout the Property, the Association may require a reduction in the number of animals or pets permitted or elimination of such animal or pet considered dangerous or unsafe to the neighborhood. Pets must be restrained on their owner's Lot.

6.08 Temporary and Other Structures. No structures of a temporary nature, trailer, basement-house, tent, shack, garage, barn or other outbuildings shall be used at any time as a residence either temporarily or permanently, nor shall raid structures be permitted on the Property at any time. No old or second-hand structures shall be moved onto any lot, it being the intention hereof that all Living Units and other buildings erected on lots or within the Property shall be new construction of good quality workmanship and material.

6.09 Unsightly Articles. No unsightly articles shall be permitted to remain on a Lot so as to be visible from other lot or the common area Areas. Refuse, garbage and trash shall be kept at all times in a covered, noiseless container and any such container shall be kept within an enclosed structure or appropriately screened from view. Service areas, storage piles, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from view. No lumber, grass, shrub or tree clippings or plant waste, metals, bulk materials or scrap or refuse or trash shall be kept stored or allowed to accumulate on any Lot except within an enclosed structure or when appropriate screened from view.

6.10 No Further Subdividing. No Lot or Common Areas may be further subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Architectural Committee; provided, however, that nothing herein shall be deemed to prevent or require the approval of the Architectural Committee for the transfer or sale of any Lot or Living Unit to more than one person to be held by them as tenants in common, joint tenants, or tenants by the entirety.

6.11 Signs. No sign of any kind shall be displayed to the public view without the approval of the Architectural Committee, except such signs as may be used by Developer in connection with the development of Hidden Oaks Planned Unit Development and the sale of Living Units and/or Lots and except such signs of customary and reasonable dimensions as may, be displayed on a Lot". advertising a Lot. or Living Unit for sale or lease. Display of any "for sale" or "for lease" sign more than three (3) feet by two (2) feet shall require the prior written approval of the Architectural Committee. A residential identification sign is permitted but should not exceed one (1) square foot in surface area. Numbers on residences shall be located in a position clearly legible from the street, but not more than six (6) feet above main floor level, and should be lighted to insure night time visibility.

6.12 No Hazardous Activities, Substances or Products. No activities shall be conducted on the Property and any improvements constructed on the Property which are or might be unsafe or hazardous to any person or property. No open fires nor incinerators shall be lighted or permitted on the Property except in a contained barbecue unit while attended and in use for cooking purposes or within a safe and well designed interior fireplace. No pollutants, environmental toxins or hazardous substances or products shall be allowed to contaminate the Property.

6.13 Repair of Buildings. No improvement upon the Property shall be permitted to fall into Disrepair, and each such improvement shall- at all times be kept in good condition and repair and adequately painted or otherwise finished by the Owner thereof.

6.14 Improvements and Alterations. There shall be no excavation, vegetation removal, construction or Alteration which in any way alters the exterior appearance of a Lot or any improvement the Property nor

removal of any improvement within the Property (other than repairs or rebuilding) without the prior approval of the Architectural Committee pursuant to Article 7 hereof.

6.15 Antennas. No television, ham radio, citizens band or radio antenna or other similar electronic receiving or sending device shall be permitted upon the roof top or side of any home or elsewhere if exposed to view from any other Lot without first obtaining the written approval of the Architectural Control Committee. Such antenna may not be more than twelve (12) feet above the rooftop and, if possible, of the type that are installed within the natural building structure. Satellite dishes shall, wherever possible, be small, inconspicuous and integrated with the residential structure and surrounding landscape. The installation of a satellite dish larger than 18" in diameter must be approved by the Architectural Control Committee in writin in order to maintain the aesthetics of the Project. If possible, a satellite dish should be installed so that it is not visible from the road. In no case will any such receiving or sending antenna or other device be allowed to create a nuisance or interfere with the peace and quiet enjoyment of any neighboring Lot Owner's premises or home entertainment facilities or equipment. Anything to the contrary notwithstanding, the consent of the Architectural Control Committee shall not be unreasonably withheld and shall be in conformity with applicable local, state and federal law, including any regulations of the FCC.

6.16 Access. All travel within the Property is restricted to street rights-of-way. Anyone taking "short-cuts" between streets, whether paved or gravel, is trespassing either on a private Lot or on a dedicated green belt. Nothing herein is to be construed as prohibiting proper use of Common Areas and walkways.

6.17 Off Road Vehicles. No off road motor vehicles, including but not limited snow mobiles, three wheelers or four wheelers may be driven on the roads, streets, footpaths, walkways, or common area within the Project.

6.18 Firearms, Incendiary Devices and Graffiti. The use of firearms and incendiary devices, or the painting or graffiti, within the Project is prohibited. The term firearms includes but is not limited to all guns, pistols, handguns, rifles, automatic weapons, semi-automatic weapons, BB guns, pellet guns, sling shots, wrist-rockets, blow-dart guns, and other firearms of all types, regardless of size.

6.19 Trees, Shrubs and Bushes; Maintenance of Proper Sight Distance at Intersections. All property located at or near driveways, entrances, exits, walkways, paths and street intersections or corners shall be landscaped so as to remove any obstructions and to permit safe sight. No fence, wall, hedge, shrub, bush, tree or monument, real or artificial, shall be planted or placed by any Owner or resident in, on or about the Common Areas without the prior written consent of the Board of Directors. The Board of Directors May alter or remove any objects planted or placed in violation of this subsection.

6.20 Energy Conservation Equipment. No solar energy collector panels, other energy conservation equipment or attendant hardware shall be constructed or installed on the Project without the prior written consent of the Board of Directors.

6.21 Business Use. No commercial trade or business may be conducted in or from any Lot unless: a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the residence; b) the business activity conforms to all zoning requirements for the Project; c) the business activity does not involve persons coming onto the Project who do not reside in the Project or door-to-door solicitation of residents of the Project; and d) the business activity is consistent with the residential character of the Project and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Project, as may be determined in the sole discretion of the Board of Directors. Provided, however:

a) The terms business and trade, as used in this subsection, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the

provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (1) such activity is engaged in full or part-time; (2) such activity is intended to or does generate a profit; or (3) a license is required therefor.

b) Notwithstanding the above, the leasing of a residence shall not be considered a trade or business within the meaning of this sub-Section.

6.22 Storage and Parking of Vehicles. The driving, parking, standing and storing of motor vehicles in, on or about the Project shall be subject to the following:

a) The parking rules and regulations adopted by the Board of Directors from time to time;

b) No vehicles of any kind, including but not limited to, automobiles, trucks, buses, tractors, camping vehicles, boats, bus trailers, snowmobiles, mobile homes, two, three or four wheeled motor vehicles, or other wheeled vehicles, shall be permitted to be parked on any street within the property between the hours of 2:00 A.M. and 6:00 A.M.

c) No recreational, commercial or oversized vehicles shall be allowed within the Project unless said vehicle or trailer is kept at all times in a location approved by the Architectural Control Committee and that location is screened from view and not visible from the street, or it is parked within the garage and the garage door is closed, or for purposes of loading or unloading passengers or supplies (for a period of time up to twenty-four (24) hours).

d. No motor vehicle or trailer, including but not limited to any car, automobile, truck, van, or any other transportation device of any kind may be parked or stationed in such a manner so as to block access to any Lot, Building or parking space, or to create an obstacle or potentially dangerous

e. Residents may only park their motor vehicles within their garages and driveways.

f. No resident shall repair or restore any vehicle of any kind in, on or about any Lot (outside the garage) or the Common Area, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility.

g. No garage may be altered in such a manner that the number of motor vehicles which May reasonably be parked therein after the alteration is less than the number of motor vehicles that could have been reasonably parked in the garage as originally designed and constructed.

h. All parking areas shall be used solely for the parking and storage of vehicles.

i. Garage doors shall remain closed except when the garage is in use.

j. Vehicles parked in violation of this Declaration may be impounded or towed without further notice, and at the Owner's sole expense.

6.23 Insurance. Nothing shall be done or kept in, on or about any Lot or the Common Area which may result in the cancellation of the insurance on the Property or an increase in the rate of the insurance on the Project over what the Board of Directors, but for such activity, would pay.

6.24 Laws. Nothing shall be done or kept in, on or about any Lot or Common Area, or any part thereof, which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.

6.25 Damage or Waste. No damage to, or waste of, the Common Area shall be committed by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Board of Directors and the other Owners harmless against all loss resulting from any such damage or waste caused by that Owner or an invitee; provided, however, that any invitee of the Declarant shall not under any circumstances be deemed to be an invitee or any other Owner.

## ARTICLE VII ARCHITECTURAL

7.01 Architectural Control Committee. The Board of Trustees of the Association shall appoint a three members committee, the function of shall be to insure that all improvements and landscaping within the Property harmonize with existing surroundings and structures. The Committee need not be composed of Owners If such a Committee is not appointed the board itself shall perform the duties required of the committee.

7.02 Standard. In deciding whether to approve or disapprove plans and specifications submitted to the Committee shall use its best judgment to insure that all improvements, construction, landscaping and alterations on Lots in a consistent manner conforming to the conceptual and specific guidelines contained in this Declaration, Covenants, and Restrictions.

7.03 Land Use and Building Type. No Lot shall be use except for residential purposes. No building shall be erected, altered, placed or permitted on any Lot other than one detached single family dwelling not to exceed two stories in height and a private garage for not more than three (3) cars. Carports are prohibited. The term "Family" is defined to mean persons related by blood, or marriage, by legal adoption, or by operation of law.

7.04 Approval Procedures. Any plan and specifications for building upon a Lot by an Owner/builder must be submitted to the Architectural Control Committee for approval prior to commencing construction. Such approval is conditioned upon compliance with the following procedure:

a) The Owner-builder signing a notice indicating that he has read and understood this Declaration.

b) The Owner-/builder depositing a \$500.00 security deposit to insure compliance with the provisions of this Declaration. Four Hundred Dollars (\$400.00) of such deposit shall be refundable if all provisions of this Declaration are complied with through the completion of the home and yard. One Hundred Dollars (\$100.00) of said deposit shall be retained by, the Architectural Control Committee to reimburse it for plan approved costs. The amount of said security deposit and the amount to be retained by the Architectural Control Committee may be Increased by the Board of Trustees or the Association without a vote of the members or amending this Declaration.

c) The Owner/builder.- receiving a plat map describing such Owner/builder Lot.

d) The Owner/builder.- submitting a site layout plan showing the following:

- 1) The proposed home as it will be situated on the Lot;
- 2) All drives, walkways, patios, barbecues, outbuild- ings, etc. and all related dimensions between such;
- 3) Elevation of sewer as it relates to home elevation.

e) The Owner/builder submitting a finish grading plan specifying the elevations of basement floors, main floors, patios, etc. indicating their relationship to the grade and contour of the particular Lot.

- f) The Owner/builder submitting a complete set of architectural plans including:
- 1) A cross section of the proposed wall of the home indicating type of support, insulation, and exterior finish.
  - 2) One complete set of all exterior colors in the form (paint samples or color chips, with detailed information as to the location of the color, including brick, siding, roofing material, etc.
- g) The Owner/builder submitting a set of landscape plans for front Yards defined herein.)
- h) The Owner/builder selecting a driveway to asphalt approach plan prepared by Developer.

Any subsequent changes, Improvements, or alterations in such plans must be submitted to the Committee for written approval.

Any approval or disapproval must be made in writing within thirty (30) days after submission. In the extent the Committee fails to take any action within such period, it shall be deemed to have approved the material submitted.

7.05 Construction. Once begun, any improvements, construction, landscaping, or alterations approved by the Committee shall be diligently prosecuted 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 occupy unimproved portions of the Common Areas and of the Lot in the vicinity of the activity.

7.06 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 7.

7.07 Sandy Home Placement Approval. The foregoing is in addition to the submission of a grading and home placement plan requirement of Sandy City as part of 15-21-7(h) of its Hillside Overlap Zone Statute which must also be complied with, with which the Lot Owner must also comply.

7.08 Waiver. The approval of any plans or specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the Architectural Control Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans, specifications, drawings or matters subsequently or additionally submitted for approval or consent.

7.09 Variance. The Board of Directors or Architectural Control Committee may authorize variances from compliance with any of the provisions of the design guidelines when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations require, but only in accordance with its duly adopted rules and regulations. For purposes of this section, the inability to obtain approval of any governmental agency, the issuance of any permit or the terms of financing shall not be considered a hardship warranting a variance.

7.10 Limitation of Liability. Neither the Association, Board of Trustees, nor the Architectural Control Committee, any member thereof, or their agents, representatives or employees shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of this Declaration, nor for any structural or other defects in any work done according to such plans and specifications.

ARTICLE 8 - BUILDING INSTRUCTIONS

8.01 Building Location. The following minimum yard requirements shall apply to all Living Units and the determination of the Board of Directors as to what constitutes the front, rear and side yards of each Lot shall be conclusive:

a) Front Yard. No building shall be located on any Lot nearer than twenty (2) feet to the front lot line.

b) Variable Side Yard. Each Lot shall have a side yard of at least (5) feet on one side with a total of both sides being not less than 20 feet . Adjacent homes must have side yards sufficient to provide at least- 20 feet between homes i.e., a side yard adjacent to a Neighbor having a five, (5) foot side yard must have a minimum of fifteen (15) feet for a total of twenty (20) feet between homes. The Committee must approve each side yard combination so as to avoid undue burden on any one Lot Owner.

c) Side Yard Corner Lots. On corner Lots the side yard contiguous to the street an twenty (20) feet in width and shall not be used for vehicular such portion as is devoted to driveway use for access to a garage.

d) Side Yard Driveway. When used for access to a garage or parking area, a side yard shall be wide enough to provide an unobstructed twelve (12) foot paved driveway which shall have a maximum grade of 6%.

(e) Side Accessory Building An accessory building may, be located on the property only if, all of the following conditions are met:

1) The accessory building is located more than six (6) feet to the rear of any main building on the same Lot or the Lot adjacent to the property line on which said building is being placed.

2) It has no openings on the side which is contiguous to the property line and is of one hour fire resistant construction on said side.

3) It has facilities for the discharge of all roof drainage onto the subject Lot or parcel of land.

An accessory building which is more than six (6) feet to the rear of a main building, but which does not conform to the above conditions, shall have a side yard of at least five (5) feet. All other accessory buildings shall maintain the same side yard as a main building.

f) Rear Yard. Each Lot or parcel of land shall have a rear yard of not less than twenty (20) feet.

g) Rear Yard - Accessory Buildings, An accessory building may be located on the rear property line when said building:

1) Has no opening on the side which is contiguous to the property line and is one hour fire resistant construction on said side.

2) Provides facilities to retain all roof drainage on the property on which it is located. An accessory building which does not meet the above requirements shall be located not less than five (5) feet, or more from the rear property line.

8.02 Projections into Yard.

- a) The following structures may be erected or projected into any required yard:
  - 1) Fences and walls in conformance with Article 8.07 of this document.
  - 2) Landscape elements, including trees, shrubs and other plants.
  - 3) Necessary appurtenances for utility services.
- b) The structures listed below may project into a minimum front or rear yard not more than four (4) feet and into a minimum side yard not more than two (2) feet:
  - 1) Cornices, eaves, belt courses, sills, buttresses or other similar architectural features.
  - 2) Fireplace structures and bays, provided they are not wider than eight (8) feet and are generally parallel to the wall of which they are a part.
  - 3) Stairways, balconies, door stoops, fire escapes, awnings and planter boxes or twenty-four masonry planters not exceeding (24) inches in height.

8.03 Dwelling Construction. In order to promote a harmonious community development any protect the character of the neighborhood, the following guidelines are set out:

- a) Dwelling styles, design, alterations or additions will conform to standards determined by the Architectural Control Committee.
- b) Exterior construction materials will be limited to stone veneer, brick or brick veneer, rough sawn or resawn wood siding, or stucco and shall be in earth tones indigenous to the area. White brick may also be used. Siding is discouraged but allowed in limited amounts as approved by the Architectural Control Committee. Specifications regarding the color, texture, finish and quality for the above will be posted and made available by the Architectural Control Committee. The roof vent cap louvers, plumbing stacks, chimney flashing, basketball backboards, down spouts, etc. are to be painted to match the color of the field, roof or the trim.
- c) Roof designs shall be limited to a minimum of a 4/12 pitch and a maximum of 9/12" pitch. Pitch may be increased to 12/12 pitch with Architectural Control Committee approval. All roofs in the subdivision shall be of shake or bar tile construction, unless the Committee specifically authorizes otherwise in writing. A limited style of asphalt, shingles shall be permitted only with the written approval of the Architectural Control Committee.
- d) Location of all storage or utility buildings, garbage and refuse containers, air conditioning equipment, clothes drying lines and utility pipes, etc., must be placed at the rear of the dwelling and located on site in such a manner as not to be conspicuous from the frontage street.
- e) Any light used to illuminate garages, patios, parking areas or for any other purpose shall be so arranged as to reflect light from adjacent residences and away from the vision of passing motorists.
- f) Each residence constructed on the property must include a garage large enough for at least two (2) cars, which garage shall be fully enclosed.
- g) Evaporative coolers shall not be allowed without the prior written approval of the Architectural Control Committee.

8.04 Fences.

a) Materials. Fences or walls shall be of wood, brick, wrought iron or such other suitable material approved by the Architectural Control Committee in writing. No fence or walls of chain link, wire mesh, slump block or unpainted concrete block shall be allowed.

b) Height. Fences, walls or hedges shall not exceed six (6) feet and shall not extend beyond the front yard set back at any point.

c) Dimensions. No wall fence or opaque hedge or screening materials higher than thirty-six (36) inches shall be maintained within a required front yard, except that a masonry privacy wall may be erected upon approval. If said wall does not extend more than eighteen (18) feet into the required front yard, does not exceed more than six (6) feet in height, and does not extend closer to a side property line than the forward extension of the line of the required side yard. In no case shall such a privacy wall extend into the clear vision area of a corner Lot as defined by the Architectural Control Committee, nor shall it be a sight distance hazard to vehicular or pedestrian traffic.

8.05 Landscaping. All open areas between the front Lot line and the rear line of the main buildings, except driveways, parking areas, walkways, utility areas, improved decks, patios, porches, etc., shall be maintained with suitable landscaping of plants, shrubs, trees, grass and similar landscaping materials. Within nine (9) months of occupancy of any home, the homeowner must have substantially completed the landscaping of his Lot. Such landscaping shall include, but not be limited to the preparation for and planting of lawn, grass or other appropriate ground cover, appropriate visions of this Article, the Architectural Control Committee shall have power to obtain an order from a court of proper jurisdiction requiring specific performance or alternatively may complete the landscaping and require the Homeowner to pay a reasonable amount for each completion. The cost of towing shall constitute a lien on the homeowner's Lot and home until such payment is made. Upon approval and/or completion of the landscaping plan Pursuant to this Article, no healthy tree shall be removed, nor other major changes be made without approval of the Architectural Control Committee. However, notwithstanding this Article all diseased trees must be removed by, the homeowner within a reasonable time after the diseased condition is discovered.

8.06 Drainage. There shall be no interference with the established drainage pattern over any property unless adequate provision is made for property drainage and is approved by the Architectural Control Committee. For the purposes hereof, "established" drainage is defined as the drainage -which exists at the time of the overall grading of the Association property, tract or Lot, as the case may be, is completed, or which is shown on any plans approved by the Architectural Control Committee.

8.07 Exterior Lamp Posts. If desired, any free-standing light fixture located in a front yard shall be of such uniform and standardized design that has been selected and approved by the Architectural Control Committee.

8.08 Exposed Concrete. Any exposed concrete which, in the discretion of the Architectural Control Committee, does not harmonize with the existing surroundings and structures shall be painted the color of such surroundings and structures shall be covered with approved siding, or hidden from view with appropriate landscaping of the Owner's choice.

8.09 Mail Boxes. Mail boxes are to be of the uniform standardized design picked by the Architectural Control Committee.

8.10 Compliance with Sandy Hillside Overlap Zone. As a condition to construction; Lot Owners shall comply with Sandy Hillside OVERLAY ZONE STANDARDS, which are basically outlined in



Exhibit "A" attached hereto and incorporated herein by this reference. Enforcement and clarification of this city ordinance shall be by Sandy City.

#### ARTICLE 9 - LOT CLEAN UP AND TRASH DISPOSAL

In order to prevent any building site from becoming an eyesore during the construction phase, the following must be complied with:

9.01 Garbage. All garbage and waste material must be kept in a sufficiently large container to prevent blowing debris and unhealthy open accumulation. Containers should be emptied frequently.

9.02 Dirt Pile-ups. Careful attention must be given not to pile dirt and/or material on adjacent Lots or green belts. All vehicles and equipment must be kept off adjacent Lots and green belts. Lot owners and/or contractors will be held responsible for all damages to adjacent Lots and green belts and charges for repair of the damage. The contractor and/or owner will have 72 hours after notification to repair the damage or accomplish the same. After that period of time, the Architectural Control Committee will make arrangements to have the damage repaired and/or the cleanup done. The bill for the responsible party or parties. The responsible party shall be responsible for all costs, including reasonable attorneys' fees, involved in legal proceedings required to collect for the damage. The Lot Owner shall ultimately be responsible for such costs if the responsible party is working for the lot owner Owner.

9.03 Large Vehicles and Equipment. Cement trucks should be cleaned on the building site after delivery of concrete, not on the road, right-of-way or adjacent Lots.

9.04 Damage to Improvements. Care should be taken to avoid damage to asphalt pavement by cement trucks or other heavy equipment and to keep such equipment from interfering with the proper drainage of the area. Builders yard Lot Owner will be held responsible for road damage due to negligence in this area.

#### ARTICLE 10 - MISCELLANEOUS

10.01 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.

10.02 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 interest of the Owners.

10.03 Amendment. Any amendment to this Declaration shall require the affirmative vote of at least two-thirds (2/3) of all votes which Members present in person or represented by proxy are entitled to cast at a meeting fully called for such purpose. 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 sixty percent (60%) of all membership votes 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 Article 11.03) at which time a quorum shall be one-half 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 in the office of the Salt Lake County Recorder of an instrument executed by the Association. In such instrument an officer or Trustee of the Association shall certify that the vote required by this Section for amendment has occurred.

10.04 Mortgagee Protection. No "right of first-refusal" contained in this Declaration or the Articles shall impair the rights of a Mortgagee to: (i) obtain title to the Lot encumbered by its Mortgage pursuant to the remedies provided for in said Mortgage, pursuant to foreclosure of said Mortgage, pursuant to exercise of a power of sale available under said Mortgage, or pursuant to a deed or assignment in lieu of foreclosure; or (ii) sell or lease such Lot after title thereto is obtained by such Mortgagee.

The lien or claim against a Lot for unpaid assessments or charges levied by the Association pursuant to this Declaration shall be subordinate to the Mortgage affecting such Lot, and the Mortgagee hereunder which comes into possession of or which obtains title to the Lot shall take the same free of such lien or claim for unpaid assessment or charges, but only to the extent of assessments or charges which accrue prior to foreclosure of the Mortgage, exercise of a power of sale available thereunder, or taking of a deed or assignment in lieu of foreclosure. No assessment, charge, lien, or claim which is described in the preceding sentence as being subordinate to a Mortgage or as not to burden a Mortgage which comes into possession or which obtains title shall be collected or enforced by the Association from or against a Mortgagee, a successor in title to a Mortgagee, or the Lot affected or previously affected by the Mortgage concerned.

Unless at least two-thirds (2/3) of the Eligible Mortgagees (based upon one vote for each Mortgage), or Owners (other than Developer) of the individual Lots have given their prior written approval, the Association shall not be entitled, by act, omission, or otherwise:

a) To abandon, petition, subdivide, encumber, sell, or transfer all or any part of the common Areas and Facilities (except for the granting of easements for utilities and similar purposes consistent with the intended use of the Common Areas);

b) To change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner;

c) To waive or abandon any scheme or regulations, or enforcement thereof, pertaining to "the architectural design or the exterior appearance of Living Units, the exterior maintenance of Living Units, or the maintenance of the Common Areas and Facilities (including maintenance of walks, fences and driveways and the upkeep of lawns and plantings);

d) To fail to maintain the insurance coverage required by paragraph (I) of Article 5.04 of this Declaration;

e) To use hazard insurance proceeds resulting from damage to any part of the Common Areas and Facilities for purposes other than the repair, replacement, or reconstruction of the Common Areas and Facilities so damaged.

In the event any taxes or other charges which may or have become a lien on the Common Areas are not timely paid, or in the event the required hazard insurance described in paragraph (I) of Article 5.04 lapses, is not maintained, or the premiums therefore are not paid when due, any Mortgagee or any combination of Mortgagees may, jointly or singly pay such taxes or premiums or secure such insurance. Any Mortgagee which expends funds for any of such purposes shall be entitled to immediate reimbursement therefore from the Association.

No provision of this Declaration or the Articles gives or may give an Owner or any other party priority over any rights of Mortgagees pursuant to their respective Mortgages in the case of a distribution to Owners of

insurance proceeds or condemnation awards for loss to or taking of all or any part of the Common Areas and Facilities.

The Association shall establish an adequate reserve to cover the cost of reasonably predictable and necessary major repairs and replacements of the Common Areas and Facilities and shall cause such reserve to be funded by regular monthly or other periodic assessments against the Lots rather than by special assessments.

From and after the time a Mortgagee makes written request to the Association therefore, the Association shall notify such Mortgagee in writing in the event that the Owner of the Lot encumbered by the Mortgage held by such Mortgagee neglects for a period of sixty (60) or more days to cure any failure on his part to perform any of his obligations under this Declaration or the Articles.

Any agreement for professional management of the project which may be entered into by the Association and any other contract (to which the Association is a part) providing for services by Developer, shall call for a term not exceeding three (3) years and shall provide that either party without cause and without payment of any termination fee, may terminate the same upon not in excess of ninety (90) days written notice.

Any Mortgagee shall have the right, to its request and expense and upon reasonable notice, to examine the books and records of the Association.

In the event another provision or clause of this Declaration deals with the same subject matter as is dealt with in any provision or clause of this Section, the provision or clause which results in the greatest protection and security for a Mortgage shall control. The rights, obligations, or limits of authority, in the case may be, applicable to the Association with respect to the subject concerned.

No amendment to this Section which has the effect of diminishing the rights, protection, or security afforded to Mortgagees shall be accomplished or effective unless all of the Mortgagees of the individual Lots have given their prior written approval to such amendment. Any amendment to this Section shall be accomplished by an instrument, executed by the Association and filed for record in the office of the Salt Lake County recorder. In any such instrument an officer of the Association shall certify that any prior written approval of Mortgagees required by this Section as a condition to amendment has been obtained.

10.05 Developer's Rights Assignable. The rights of Developer under this Declaration or in any way relating to the Property may be assigned.

10.06 Interpretation. The captions which precede the Articles and Sections of this Declaration are for convenience only and 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 unenforceability of any portion of this Declaration shall not affect the validity or enforceability of the remainder thereof. This Declaration shall be liberally construed to effect all of its purposes.

10.07 Covenants to Run With Land. This Declaration and all of the provisions hereof shall constitute covenants to run with the land or equitable servitudes, 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 their respective grantees, transferees, heirs, devisees, personal representatives, successors and assigns. Each Owner or occupant of a Lot or Living Unit shall comply with, and all interests in a Lot or in the Common Areas 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 or in the common Areas, the party acquiring such interest consents to, and agrees to be bound by each and every provision of this Declaration.

10.08 Enforcement and Right to Recover Attorney's Assessments. The Association, Board of Directors, or any Lot Owner may take action, at law or in equity, to enforce the terms, covenants or conditions of the Project Documents. Should the Association, Board of Directors or Lot Owner be required to take action to enforce the Project Documents, or to pursue any remedy provided hereunder or by applicable law, whether such remedy is pursued by filing suit or otherwise, they may recover all Additional Charges, including a reasonable attorney's fee, which may arise or accrue.

10.09 Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Project designed to make the Project safer than it otherwise might be. However, neither the Association nor the Board of Directors shall in any way be considered insurers or guarantors of security within the Project. Neither the Association nor the Board of Directors shall be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. All Owners and residents, their guests and invites, as applicable, acknowledge that neither the Association nor the Board of Directors represent or warrant that any security measures undertaken will insure their safety. All Owners and residents, their guests and invites, acknowledge and understand that the Association and Board of Directors are not insurers of their safety and they hereby assume all risks for loss or damage to their person or property and further acknowledge that the Association and Board of Directors have made no representations or warranties, nor have they relied upon any representations or warranties, expressed or implied, including any warranty or merchantability or fitness for any particular purpose, relative to any security measures undertaken within the Project.

10.10 Mechanics Liens. Mechanics liens shall be filed in the office of the County Recorder as follows:

a) Association/Goods or Services. Mechanics liens for labor, materials or supplies purchased by the Association shall be filed against all Lot Owners in the Project and their appurtenant interest in the Common Area, and shall be indexed in the public records under the name of the Association and Community. If the Association has encumbered the Common Areas and thereafter defaults on its obligations, the lienholder must exercise its rights against the Common Areas before it may proceed against any Lot. Any Owner wishing to release that lien as to his Lot may pay the pro rata share of the total amount of the lien and that shall be sufficient to release the lien against his Lot.

b) Lot Owner/Goods or Services. Mechanics liens filed for labor, materials or supplies benefitting a particular Lot shall be filed against that Lot and its appurtenant interest in the Common Area.

c) Constructive Consent. Any person or entity who elects to perform labor or provide materials at this Project agrees to be bound by and subject to the terms of this Section.

10.11 Consent in Lieu of Vote. In any case in which this Declaration requires the vote of an Owner for authorization or approval of an act or a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Owners who collectively hold the required percentages, subject to the following conditions:

a) Ninety-Day Limit. All necessary consents must be obtained prior to the expiration of ninety (90) days from the time the first written consent is obtained; and

b) Change In Ownership. Any change in Ownership of a Lot which occurs after consent has been obtained from the Owner having an interest therein shall not be considered or taken into account for any purpose.

10.12 Effective Date. This Declaration and any amendment or supplement hereto shall take effect upon its being filed for record in the office of the County Recorder of Salt Lake County, Utah.

HIDDEN OAKS HOMEOWNERS ASSOCIATION, INC.  
a Utah Corporation

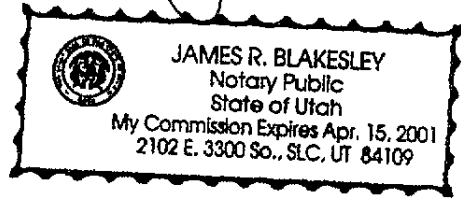
By: Holly Jolley  
Title: President

By: Lorraine Hall  
Title: Secretary

STATE OF UTAH )  
 ) ss.  
COUNTY OF SALT LAKE )

On the 30 day of September, 1998, personally appeared before me HOLLY JOLLEY and LORRAINE HALL, who being by me duly sworn, says that they are the President and Secretary of HIDDEN OAKS HOMEOWNERS ASSOCIATION, INC., a Utah non-profit corporation, that executed the above and foregoing instrument and that said instrument was signed in behalf of said corporation by authority of its by-laws or a resolution of its board of trustees, and said HOLLY JOLLEY and LORRAINE HALL acknowledged to me that said corporation executed the same.

[Signature]  
NOTARY PUBLIC  
Residing at:  
My Commission Expires:



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