

AFTER RECORDING PLEASE MAIL ORIGINALS TO:

STILLCREEK LLC
c/o Hawkins Homes & Communities
Attn: Mike Flood
39 East Eagleridge Drive, Suite 200
North Salt Lake, UT 84054



W2436375

EH 2436375 PG 1 OF 16
ERNEST D ROWLEY, WEBER COUNTY RECORDER
25-SEP-09 11:49 AM FEE \$68.00 DEP SPY
REC FOR: STILLCREEK LLC

***AMENDMENT TO THE DECLARATION OF
COVENANTS, CONDITIONS, AGREEMENTS &
RESTRICTIONS
OF
STILLCREEK VILLAGE PRUD master community
A Group of Residential Subdivisions & Developments
Plain City, Utah***

(Stillcreek Village PRUD Phase 1D)

STILLCREEK LLC
an Idaho limited liability company
DEVELOPER

**AMENDMENT TO THE
DECLARATION OF COVENANTS, CONDITIONS, AGREEMENTS & RESTRICTIONS
OF THE STILLCREEK VILLAGE PRUD MASTER COMMUNITY**

This Amendment to Declarations of Covenants, Conditions, Agreements and Restrictions of the STILLCREEK VILLAGE PRUD master community (hereinafter known as "Original Declaration"), filed with Weber County January 21, 2009, as Entry No. 2386189, Pages 1 through 38, is made and executed this 25 day of SEPTEMBER, 2009 by, STILLCREEK LLC, an Idaho limited liability company, which shall be known hereinafter as the "Declarant."

**ARTICLE I
RECITALS**

WHEREAS, the Declarant previously recorded the Original Declaration as referenced above, wherein "future lots or parcels that are recorded and developed as future phases of STILLCREEK VILLAGE PRUD master community that were made a part of and given preliminary plat approval by Plain City" were referenced in Article I - Recitals of said Original Declaration, and made subject to and bound by the Original Declaration, and

WHEREAS, at the time of this recording, the Declarants are record owners of certain land situated in Plain City, Weber County, Utah, which is and shall be held, transferred, sold, conveyed, and occupied subject to the provisions of this Declaration, and consists of the following described real property (hereinafter known as "Property"):

1. All of Lots 5 through 33 of STILLCREEK VILLAGE PRUD PHASE 1D – PATIO HOMES 1st AMENDMENT, located in the City of Plain City, according to the official approved final plat thereof, as recorded in the office of the County Recorder of Weber County, State of Utah; said phase also part of what is known as Spring Villas at Stillcreek; and

WHEREAS, at the time of this recording, the Declarant and record owner of Property has agreed that their land which is and shall be held, transferred, sold, conveyed, and occupied subject to the provisions of this Declaration,

WHEREAS, it is the desire and intention of the Declarant to subdivide and sell Property as described above, and, by the execution of this instrument,

WHEREAS, Declarant intends by this Declaration to impose upon the Property mutually beneficial restrictions under a general plan of improvement for the benefit of all of said Lots and the Owners thereof.

THEREFORE, it is the intention and desire of the Declarant that the Property shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold, and improved subject to the provisions and conditions of the covenants, conditions, agreements, restrictions, easements, reservations, limitations and equitable servitudes set forth in the Original Declaration, together with the amendments set forth herein; and shall be enforceable equitable servitudes, where reasonable, shall run with the land, and shall be binding upon Declarant, upon its successors and assigns, and upon all parties having or acquiring any right, title or interest in or to any portion of said Property.

I. AMMEND ARTICLE III – DEFINITIONS:

A. DEFINITIONS:

1. SVS: Spring Villas at Stillcreek Village which include Stillcreek Village PRUD Phase 1D – Patio Homes 1st Amendment.
2. SCV Master HOA: The Stillcreek Village PRUD Master Homeowners Association, Inc. or otherwise referred to as SCV Master HOA.
3. SVS-HOA: The Spring Villas at Stillcreek Homeowners Association, Inc. or otherwise referred to as SVS-HOA.
4. SCV Master ACC: The Stillcreek Village Master Architectural Control Committee.
5. SVS-ACC: The Spring Villas at Stillcreek Architectural Control Committee.
6. Building: Any residential structure located and/or constructed on a Lot or Unit (fee simple pad) on the Property. This is not to include outbuildings as defined herein.
7. Common Area: Portions of the Property as defined on the Plat that is owned, or will be owned at some time, in common by the Members of the Association. Common Area property located outside the Property is owned, or will be owned in common and controlled by the Stillcreek Village PRUD Master Homeowners Association, Inc. Common Area property located inside the legal boundary of the recorded plat for the Property is owned, or will be owned in common and controlled by the Spring Villas at Stillcreek Homeowners Association as provided for and defined herein.
8. Limited Common Area: Limited Common Area is designated by this Declaration as Common Area around each Lot that generally consists of an exterior parking area immediately in front of the garage serving that Lot, a front yard area for approved landscaping improvements, and, a rear yard area for a patio and other approved improvements within that Limited Common Area. Limited Common Areas are owned in common by the members of the SVS-HOA, but are reserved for the exclusive use of the Owners and Occupants of the Lot it is appurtenant to. The approved SVS Community Fencing Plan delineates fence boundary lines for each lot over and across the Common Areas defining the appurtenant property approved as Limited Common Areas for each respective Lot.

All building improvements including but not limited to exterior walls, shutters, awnings, window boxes, doorsteps, porches, balconies, patios, or other apparatuses intended to serve the individual Lot, and located on the outside of the structure and/or on the Lot possibly within Limited Common Area, shall not be constituted as Limited Common property, but rather private property of the relative Lot Owner. Any and all maintenance, replacement, liability, etc for these improvements shall be the responsibility of the respective Lot Owner it is intended to serve.

No portions of Limited Common Area may be owned in common or controlled by the SCV Master HOA, but rather the SVS-HOA as provided for and defined herein.

9. SVS Fence Plan: As noted on the recorded plat, an initial approved SVS Community Fencing Plan (hereinafter referred to as "SVS Fencing Plan") is included and made part of these CC&R's attached as "Exhibit A", and is on file with the SVS-HOA. Said plan delineates approved locations for rear and side yard fencing defining Limited Common Areas for each lot. Any alterations to the initial approved plan can be obtained from the SVS-HOA.

I. AMMEND ARTICLE V – PERMITTED USES AND PERFORMANCE STANDARDS:

- A. **Article 5 Section 5.2.c. Dwelling Exterior Materials.** The Original Declaration defined the dwelling exterior materials covenant for "Patio Home Single Family Residential (attached and detached) structures" labeled as "3." It should be referenced as "2." All exterior material requirements found within this section are applicable with the following additions to Article 5 Section 5.2.c.2.:

In accordance with the Plain City Planned Residential Unit Development Ordinance and its Architectural Standards, in order to insure exterior design variation, "no more than two buildings which have the same or very similar exterior design, as determined by the City, shall be allowed adjacent to each other." This is to mean that no two exact elevations are to be allowed adjacent to each other.

There are twenty-nine (29) single-family residential Buildings that are a part of the Property. The residential Buildings are of specific architectural style, single story and two-story. These buildings are to be of wood frame construction, reinforced concrete footings & foundations, and concrete slabs, with cultured stone, stucco, and vinyl sided exterior walls and asphalt/fiberglass shingle roofs. The principal materials of which these Buildings are to be constructed are wood, glass, concrete, masonry, asphalt/fiberglass shingle, and drywall.

- a. At the time of final plat approval of the Property, elevations were reviewed by the Planning Commission and City Council for construction in said phase. Additional elevations and plans may be constructed on the Property upon review by the City's governing commissions & councils (if required), and approval by the SVS-ACC (see amended Article 5 Section 5.3 herein).
- b. The dwelling's exterior shall not deviate from the original elevation without approval of the SVS-ACC. This is including, but not limited to exterior color changes, exterior material changes, window boxes, shutters, railings, concrete, or remodeling of any sort.
- c. Detached structures are expressly prohibited on Common Area except for those areas designated as Limited Common Area. Detached structures are generally defined as sheds or outbuildings. Placement and Construction of said detached structures requires SVS-ACC approval in accordance with the processes outlined in Article X of the Original Declaration.

- B. **Article 5 Section 5.3. Approval of Use and Plans.** The covenants outlined in Article 5 Section 5.3 of the Original Declaration do not apply to the Property in Spring Villas. The following covenants apply:

The overall architectural style and detailing of each improvement (including each Building) and site use within the Patio Home phases of Stillcreek Village PRUD was approved generally by the City upon final plat approval, and is subject to SVS-ACC review and approval. Only those approved elevations and floorplans approved by the SVS-ACC shall be allowed to be constructed within SVS. No Initial Construction, including any site preparation or excavation of the Lot or other preparatory construction of Improvements for such Initial Construction shall be undertaken, built, constructed, erected or placed on a Lot unless and until the plans, specifications and site plan therefore have been reviewed in advance and approved by the SVS-ACC in accordance with the provisions of Article X of the Original Declaration, and as referenced above in Section 5.2. After Initial Construction, no other work of construction, excavation, or any exterior alteration to Improvements on a Lot shall be undertaken without obtaining the same advance approvals as are required with respect to Initial Construction.

The Owner shall submit two sets of site, building, fencing, and landscaping plans to the SVS-ACC for approval.

THE SVS-ACC MAY REQUIRE THE OWNER, ITS CONTRACTOR OR AGENT, TO PAY A \$200.00 NON-REFUNDABLE REVIEW FEE, PER PLAN BEING REVIEWED FOR ARCHITECTURAL CONTROL COMPLIANCE AND APPROVAL. THE SVS-ACC HAS THE AUTHORITY TO ENGAGE THE SERVICES OF AGENTS TO REVIEW SUCH PLANS. ALL PLANS REPLICATED FROM THE AFOREMENTIONED PRE-APPROVED PLANS FOR ANY LOT IN SVS MAY BE SUBJECT TO A \$50.00 RE-REVIEW FEE, AS THE SVS-ACC HAS PRE-APPROVED THE PLANS.

ALL DWELLING SIZES, FLOOR PLANS AND EXTERIOR MATERIALS MUST BE SUBMITTED TO THE SVS-ACC IN WRITING, AS OUTLINED IN ARTICLE 5.2 OF THESE COVENANTS, AND APPROVALS MUST BE OBTAINED IN WRITING PRIOR TO THE BEGINNING OF CONSTRUCTION ON THE HOME. IF SAID APPROVALS ARE NOT OBTAINED AND CONSTRUCTION BEGINS, OWNER SHALL BE SUBJECT TO A \$1000.00 FINE, WHICH MAY BE LEVIED AS A LEIN, AT THE SOLE DISCRETION OF THE SVS-ACC. THE DECLARANT AND OR ITS AFFILIATED BUILDING AND BUSINESS ENTITIES ARE EXEMPT FROM THE REQUIREMENT TO SUBMIT PLANS FOR APPROVAL.

- C. **Article 5 Section 5.9. Animals (Pets).** The covenants outlined in Article 5 Section 5.9 of the Original Declaration do not apply to the Property in Spring Villas. The following covenants apply:

No more than two (2) common domestic pets (i.e cats, dogs and other indoor pets) per Lot are allowed unless the Management Committee grants a variance in writing. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on or about the property. Residents with pet(s) shall abide by the pet rules and regulations adopted by the Committee from time to time. No pet may be allowed to create a nuisance. The following activities are deemed to be a nuisance: (1) Pets outside a Dwelling Unit and not

in a fenced yard or on a leash as defined below; (2) the deposition of and non-removal by pet owner of waste or feces on Common Areas or Limited Common Areas; and (3) Pets in violation of the rules and regulations. Pets, which constitute a nuisance, in the sole discretion of the SVS-HOA Management Committee, must be permanently removed from the Property.

No dog will be allowed to roam unattended or unrestrained on the Property. Dogs shall be kept in the house, a dog run, kennel, or a fenced yard. Dog runs, dog houses, kennels, and pet cages are expressly prohibited on any outside portion of the Property or Lot without approval by the SVS-ACC; this includes Common Areas and Open Spaces. All dog runs or kennels shall be screened off and out of the direct view from any street, and shall be in the rear yard of the home. At all other times, dogs shall be on a leash and under the direct control and supervision of the owner.

If brought outside, a pet must be: 1) detained within a fenced rear Limited Common Area, and under the Owners direct supervision and oversight, or, 2) constrained by a leash when outside of the Owners home or fenced rear Limited Common Area. Dogs are not allowed to be left outside for extended periods of time. When allowed outside under these conditions and other pet rules as approved by the SVS-HOA, pet waste must be immediately cleaned up by the Owner. Fencing allowances for pets is found herein below.

Owners are completely and solely responsible for the care, maintenance, liability, and actions of their pets. Any costs and liability related to such shall be born solely by the Owner, this includes but is not limited to damages caused to lawns, fencing, sprinklers, or other common and private property. If an Owner keeps a pet or pets on the Property, they are required to carry homeowners insurance that covers any and all actions, including but not limited to attacking, biting, destruction, etc. The Association shall have the right to levy Special Assessments for related expenses, issue fines for damaging activities and, at the sole discretion of the Management Committee, require that the offending pet be permanently removed from the Property.

D. **Article 5 Section 5.11. Maintenance.** The covenants outlined in Article 5 Section 5.11 of the Original Declaration do not apply to the Property in Spring Villas. The following covenants shall govern the maintenance of Lots and all improvements within the Property:

(a) At the time of recordation of the plat, the Common Area and Limited Common Areas of the Property are maintained by a landscape maintenance contractor hired by the SVS-HOA. Snow removal is not included in the maintenance provided by the SVS-HOA, but rather is the responsibility of each lot owner. Clearing of snow from sidewalks appurtenant or adjacent to each lot shall be the responsibility of the respective lot owner.

(b) General maintenance of the Buildings and personal property are required of each Owner of a Lot, and shall be in good and sufficient repair. Owners shall keep said personal property painted or stained, windows unbroken and glazed, rubbish and debris removed, and otherwise maintain the same in a neat and aesthetically pleasing condition.

- (c) All damage to any Improvements shall be repaired as promptly as is reasonably possible.
- (d) A Building that is vacant for any reason shall be kept locked and the windows glazed in order to prevent entrance by vandals.
- (e) All structures, facilities, equipment, objects and conditions determined by the SVS-ACC, in its sole discretion, to be offensive, shall be enclosed within an approved structure, appropriately screened from public view, or may not be allowed at all on the Property. All trash, debris, garbage and refuse shall be kept at all times in a covered container and all such containers are encouraged to be kept on a Lot within an enclosed structure or screened from public view.
- (f) No articles, goods, machinery, materials or similar items shall be stored, kept or maintained on a Lot in the required set-back area along a public or private right-of-way or otherwise kept in the open or exposed to public view.
- (g) Any event or condition on a Lot which in the sole discretion of the SVS-ACC creates an unsightly or blighting influence, shall in a manner satisfactory to the SVS-ACC be corrected, removed or screened from public view, as the case may be, by the Owner of the Lot, notwithstanding the fact that such event or condition may not be specifically described and/or prohibited in this Declaration.
- (h) In the event that any Owner shall permit any Improvement, including any personal landscape plantings, which is the responsibility of such Owner to maintain, to fall into disrepair so as to create a dangerous, unsafe, unsightly or unattractive condition, the Board and/or its assignees, upon fifteen (15) days prior written notice to the Owner of such Lot, shall have the right to correct such condition, and to enter upon said Lot and into any building or structure thereon, if necessary, for the purpose of correcting or repairing the same, and such Owner shall immediately become responsible to the Association for the cost thereof, and be subject to promptly reimburse the Association for said expenses. The Owner of the offending Lot shall be personally liable, and such Owner's Lot may be subject to a mechanic's lien for all costs and expenses incurred by the Association in taking such corrective action, plus all costs incurred in collecting the amounts due. Each Owner shall pay all amounts due for such work within ten (10) days after receipt of written demand therefore, or the amounts may, at the option of the Board, be levied as a Limited Assessment against said Lot and shall be enforceable in the same manner as other assessments set forth in Article VIII of this Declaration and the Original Declaration.

The foregoing provisions shall not apply to subdivided land owned by builders or by the Declarant that is used for open space or is otherwise in a predevelopment status.

- E. **Article 5 Section 5.17. Fences, Walls & Hedges.** The covenants outlined in Article 5 Section 5.17 of the Original Declaration do not apply to the Property in Spring Villas. The following covenants apply:

(a) All fencing placement, locations, and style, other than that installed by the Declarant in conjunction with the development (if any), shall be in accordance with the conditions and restrictions found herein, and as approved by the SVS-ACC. This includes but is not limited to Limited Common Areas and adjacent Open Spaces that may be fenced to provide privacy, and pet detainment. As noted herein, an SVS Fence Plan which is available from the SVS-HOA for review, delineates the approved fence placement and Limited Common Area for each lot on the Property. Any and all changes or modifications to said plan and placement must be obtained in writing from the SVS-ACC prior to an placement of fencing. Approval of said modifications shall be at the sole discretion of the SVS-ACC.

The following fencing guidelines apply:

1. All allowed fences shall be constructed of white vinyl fencing material, with style, type, and brand as approved by the SVS-ACC. If allowed by the City, five (5) foot fences will be the standard. Fencing of more than five (5) feet in height shall not be allowed in the Property without express approval by the SVS-ACC,
2. No fence may extend or continue beyond the designated point towards the front of the Lot, unless delineated on the SVS Fence Plan or approved as provided herein.
3. The fence separating the rear yard areas must be located at the center point between the two buildings, and generally extends perpendicular to the rear/side common fence, or ending point as delineated on the SVS Fence Plan or approved as provided herein.
4. If fencing is installed on a Lot, a minimum 4' gate is required on the front fence providing access to the rear yard for landscape maintenance and must be accessible on a regular basis for HOA maintenance personnel. If a gate is desired on the perimeter fence by an individual Owner, they must first be approved by the SVS-ACC for placement, mechanical operation, and locking capabilities.

F. **Article 5 Section 5.18. Open Space Landscaping.** The following is an addition to the covenants found in the Original Declaration:

At time of the recording of these covenants, all Common Area and Limited Common Area landscaping is maintained as generally defined herein, by the relative Association. Any changes or modifications to the Common Area landscaping must be submitted to and approved by the SVS-ACC in accordance with Article 10 Section 10.7 of the Original Declaration. These changes may include but are not limited to the addition of plantings (shrubs, small trees, etc.) within the Limited Common Areas. Approval of said plantings shall be at the discretion of the SVS-ACC and/or the Association.

G. **Article 5 Section 5.19. Landscaping of Lots & Limited Common Area.** The covenants outlined in Article 5 Section 5.19 of the Original Declaration do not apply to the Property in Spring Villas. The following covenants apply:

Each Owner shall be responsible to have installed at a minimum sod, automatic sprinklers (with exterior controller accessed by the SVS-HOA), and flower beds with approved edging and bark, at the time of closing or within 6 months (weather permitting). The SVS-ACC may grant variances to this time provision. All landscaping shall be submitted to and approved by the SVS-ACC, including but not limited to proposed trees, shrubs, flower & vegetable gardens, etc. Grass seeding (broadcast or hydroseed) shall not be permitted except for in areas approved by the SVS-ACC.

At the time of recording of this Declaration, the maintenance of sod and sprinklers is provided by the SVS-HOA. This is to include mowing, fertilization, lawn weed control, sprinkler adjustment and repair, and watering control. Due to the close proximity of each home, it is imperative that the SVS-HOA be responsible for the sprinkler clock adjustment and watering schedule to reduce conflicts and complications with irrigation. The sprinkler clocks must be mounted to the outside of the home and a key provided to the SVS-HOA for clock adjustment. In such cases where an Owner makes adjustments to the watering schedules without the approval of the SVS-HOA, said Owner shall be subject to fines levied by the SVS-HOA and may be subject separately to civil action by affected parties.

Upon written approval of the SVS-ACC, Owners may plant personal plantings and gardenings in Limited Common Areas, on the condition that Owner understands that maintenance of said personal plantings may be required solely by the Owner. Examples of said personal plantings may be small vegetable gardens, special flowers or shrubs, and, small ornamental and fruit trees. Pruning, spraying, thinning of fruit, and clean-up around all trees planted shall be the responsibility of the Owner. If the existence and/or location of said personal plantings limit access to or make maintenance of Common Area plantings and improvements difficult or unreasonable, the Association may at its sole discretion: 1) limit or restrict the personal plantings; 2) make special assessments to the relative Owner for additional costs relating to working around and/or with said personal plantings; 3) require the Owner to maintain the personal plantings themselves.

Areas on the lot that are not encumbered by the home (ex: jogs in the foundation behind the garage) will be landscaped and maintained as if it were Limited Common Area. The personal planting provisions herein will apply to these plantings as well.

H. **Article 5 Section 5.26. Other.** The following is an addition to the covenants found in the Original Declaration:

- (h) Flag Poles. Installation and placement of an individual yard flag pole shall be approved in writing by the SVS-ACC before its installation. Generally, the following conditions shall apply:
1. Only one (1) flag pole is allowed per Lot.
 2. The pole shall not extend above the roof peak on the relative Building.

3. The moving hardware, weights, or other parts of the flag pole apparatus shall be buffered or concealed so as to not create a "clanging" or "banging" sound in the wind.
4. Lighting of flag poles shall not be directed towards or into the direct line of site, or shining into any windows of adjacent Buildings on the Property.
5. Only official flags that represent the United States, and/or the State of Utah, may be flown on a flag pole. This excludes but is not limited to decorative, novelty, collegiate, and religious flags or banners. Only one (1) flag may be flown on a flag pole at any time. The Declarant is exempt from these flag covenants while marketing the community.
6. Flag holders attached to the Building are allowed. If at any time the SVS-ACC or the Association deems at their sole discretion the flag displayed on these flag holders offensive or inappropriate, they must be immediately removed by the Owner upon written notice. If the flags are not removed, the Association and/or SVS-ACC shall have the right to remove them.

ALL OTHER PROVISIONS CITED IN "ARTICLE V" AS RECORDED IN THE ORIGINAL DECLARATION (OTHER THAN THOSE CHANGES MADE HEREIN) ARE STILL APPLICABLE. WHERE THE TERM "ACC" IS USED IN THE ORIGINAL DECLARATION, IT SHALL BE INTERPRETED TO MEAN "SVS-ACC".

II. AMMEND ARTICLE VI – OPEN SPACES AND ASSOCIATION PROPERTIES:

- A. **Article 6 Section 6.2. Association Property.** The Association may own, hold and control real property and easements within the Subdivision, together with facilities, equipment and other related personal property, and operate and maintain the same, for the use, enjoyment and/or benefit of the Owners of Lots and property within the Subdivision. Each Owner of a Lot, the Owner's family, licensees, invitees, lessees and contract purchasers who reside on the Lot, shall be entitled to use the property owned by the Association subject to the following:
 1. Articles, etc. The provisions of the Articles and Bylaws of the Association applicable to the Lot, this Declaration, and the rules, regulations and standards promulgated thereunder, and each Owner, in using the Association properties, shall comply with the same.
 2. Suspension of Rights. The right of the Association to suspend the rights to use properties owned by it (except roads and other means of access by the Owner) for any period during which any Assessment against that Owner's Lot remains unpaid; and for any infraction of published rules and regulations of the Association.
 3. Dedications. The right of the Association to dedicate or transfer all or any part of properties owned by it to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Board.

4. Mortgage or Conveyance of Association Property. Except as provided in subsection (c) above or in the Bylaws, after governance of the Association vests in the Class A Members, no portion of the Association's property shall be mortgaged or conveyed by the Association without the prior approval of at least two-thirds (2/3) of all Members, which approval may be obtained in writing or by a vote of the respective Members at a meeting called for such purpose.

III. AMMEND ARTICLE VII -- STILLCREEK VILLAGE MASTER HOMEOWNERS ASSOCIATION, INC.

The following is an addition to the covenants found in the Original Declaration:

- A. **Article 7 Section 7.8. Organization of a Sub-association.** A Sub-association shall be organized by the Declarant for the Property as a Utah non-profit corporation and shall be charged with the duties and vested with the powers prescribed by law and set forth in its Articles of Incorporation, its Bylaws and this Declaration. Neither said Articles nor Bylaws shall, for any reason, be amended or otherwise changed or interpreted as to be inconsistent with this Declaration.

The Sub-associations' organization, membership, governance, voting rights, architectural control, liability, litigation, and financial oversight & responsibility for the Property shall be the sole responsibility of the Owners within said property as stated herein. Owners of Lots within the Property are still members of the SCV Master HOA, and retain all privileges and responsibilities that pertain to respective membership.

- B. **Article 7 Section 7.9. Members of the Sub-association.** Each Owner (including the Declarant) of a Lot by virtue of being such an Owner and for so long as such ownership is maintained shall be a Member of the Association. No Owner shall have more than one membership in the Association, but shall have such voting rights as hereafter set forth. A membership in the Association shall not be assignable, except to the successor-in-interest of the Owner and a membership in the Association shall be appurtenant to and inseparable from the Lot owned by such Owner. A membership in the Association shall not be transferred, pledged or alienated in any way except upon the transfer of title to said Lot and then only to the transferee of title to said Lot. Any attempt to make a prohibited transfer of a membership shall be void and shall not be reflected on the books of the Association.

- B. **Article 7 Section 7.10. Classes of Sub-association Membership.** The Sub-association shall have two (2) classes of membership as follows:

- (a) Class A Members. Class A Members of the Sub-association shall be all Owners of Lots within the Property, which shall be entitled to one (1) vote per Lot. When more than one person holds an interest in any Lot, the vote for such Lot shall be exercised as the several owners determine, but in no event shall more than one vote be cast or counted with respect to any Lot. In the event that multiple votes are cast for any Lot, the votes shall be deemed void and shall not be counted for any purpose. The Declarant is not an owner in this class.

- (b) Class B Members. Class B Members of the Sub-association shall be the Declarant owners as defined in the Original Declaration, and its successor or successors in title to one or more Lots, which Lots are held by any such successor in an unimproved condition (i.e., without a residential dwelling thereon) for resale to a builder or other person for the purpose of constructing thereon a residential dwelling or if improved, held for initial sale to an Owner other than the Declarant, and to which successor the Declarant has specifically granted rights of Class B membership in writing; provided, that if such membership rights are not so granted, such successor shall be entitled to the membership rights of a Class A Member with respect to each Lot owned.

C. **Article 7 Section 7.11. Governance and Voting Rights of Members of a Sub-association.** The governance of the Sub-association and voting rights of the Class A and Class B Members shall be as follows:

- (a) Upon the effective date of the Sub-association's Articles of Incorporation, the right to govern the affairs of the Sub-association shall be vested solely in the Class B Members, as follows:
- (1) The right to govern the affairs of the Sub-association shall be in accordance with its Bylaws.
 - (2) Class A Members shall be entitled to one (1) vote per Lot as outlined herein.
 - (3) In order to assure its right of governance and voting control during this period, the Class B Members shall be entitled to ten (10) votes for each Lot owned. All Class B memberships shall automatically terminate and be converted to respective Class A memberships (with one (1) vote for each Lot then owned) on the happening of either of the following events, whichever occurs earlier:
 - (i) Transfer of ownership of the respective Lot to a new Owner other than the Declarants successor or assigns.
 - (ii) December 31, 2012; or
 - (iii) 120 days after the date on which 90% or more of the Lots have been conveyed to third party purchasers.
 - (iv) Upon early formal relinquishment by vote of the Class B members.
- (b) Upon the termination of governance by the Class B Members, the governance of the Sub-association shall thereupon be and remain vested in the Class A Members in accordance with its Bylaws.

D. **Article 7 Section 7.12. Sub-association Architectural Control Committee.** Said committee is separate from the SCV Master ACC and governs all architectural and design decisions for the Property afforded to the SCV Master ACC in both the Original Declaration and this Declaration. The Sub-association Board shall have the right to appoint and

remove members of the SVS-ACC. One or more members of the Board may serve on the SVS-ACC. The SVS-ACC shall be initially made up of three (3) members, who are:

Matt Hawkins, Hawkins Homes & Communities,
Mike Flood, Hawkins Homes & Communities, and
Cliff Allen, Hawkins Homes & Communities

See Article X of the Original Declaration for ACC policies, procedures and guidelines.

E. Article 7 Section 7.13. Sub-association Litigation.

- (a) In recognition of the expenses and disruption associated with litigation, the Sub-association shall not commence a judicial or administrative proceeding without the approval of the Declarant for so long as the Members govern the Sub-association and thereafter only upon the approval of Owners representing at least 75% of the total vote of the Sub-association.
- (b) Neither the Sub-association nor any Owner shall institute an action against any person which arises out of an alleged defect in the development of the Subdivision until: (i) Declarant and the person(s) who physically constructed the portion of the subdivision in which the alleged defect exists have been notified and given a reasonable time and opportunity in which to inspect, assess, correct, or redesign any alleged defect or other portions of the Subdivision (provided, however, that the terms of this Section shall not create an obligation of any person to effect a repair of an alleged defect); (ii) the Sub-association or Owner(s) have pursued their remedies under any express warranty covering all or any portion of the alleged defect; (iii) the Declarant and the affected contractor(s) have been given the opportunity to be heard at a meeting of the Sub-association regarding the alleged defect; and (iv) all proposed parties to the action have been given a reasonable opportunity to mediate any dispute or disagreement relating to the alleged defect, and have either participated or refused to participate in such mediation.
- (c) No action affected by this Section shall be conducted utilizing legal counsel who are compensated on a contingency fee or similar means of compensation in which litigation costs and attorneys fees are not paid on a current basis or are paid out of the settlement or judgment amount recovered by the Sub-association in such action.
- (d) This Section shall not apply to: (i) actions brought by the Sub-association to enforce this Declaration or the Bylaws (including, without limitation, the foreclosure of liens); (ii) the collection of assessments; (iii) proceedings involving challenges to ad valorem taxation; (iv) counterclaims brought by the Sub-association in proceedings instituted against it; or (v) actions brought by the Sub-association against any contractor, vendor, or supplier of goods or services arising out of an express contract with the Sub-association or its manager for services or supplies. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

F. **Article 7 Section 7.14. Budgets and Financial Statements of the Sub-association.** Financial statements for the Sub-association shall be regularly prepared and copies distributed at the Sub-association's annual meeting as follows:

- (a) A pro forma operating statement (budget) for each fiscal year.
- (b) Within ninety (90) days after the close of each fiscal year, the Sub-association, or its agent, shall cause to be prepared a balance sheet as of the last day of the Sub-association's fiscal year and an annual operating statement reflecting the income and expenditures of the Sub-association for that fiscal year.

IV. AMMEND ARTICLE VIII -- ASSESSMENTS

The following is an addition to or amending the covenants found in the Original Declaration:

- A. **Article 8 Section 8.2(c). Regular Assessments.** At the time of this Declaration, the Regular Assessment for the Property in the Spring Villas is as follows:
 - (1) \$75.00 per lot per month for all lots in the Property (there are no exceptions for lots owned without homes on the lot). The Declarant is exempt from paying a Regular Assessment on its Lots.
- B. **Article 8 Section 8.4. Limited Assessments.** In addition to Regular, Special, and Limited Assessments found in the Original Declaration, the SVS-HOA shall have the right to levy fines for violations of covenants, conditions, agreements and restrictions found herein. Said fines shall be in accordance with a schedule of fines, procedures of fining, and procedures for hearings that is adopted, amended, or revised from time to time by the SVS-HOA in the sole discretion of its Board.
- C. **Article 8 Section 8.10. Transfer Fees.** Each new Owner (except the original Owner who pays a Capitalization Fee per Section 8.9 of the Original Declaration) shall pay at the time of closing, a Transfer Fee to the SVS-HOA. Said Transfer Fee, which at the time of this Declaration is \$300.00, may be changed from time to time by the SVS-HOA in the sole discretion of its Board. This Transfer Fee shall be in addition to any proration of assessments which may be due for the month and remaining calendar year in which the closing takes place. This fee, along with other said assessments shall be collected at the time of closing by the title officer and remitted to the Association as directed. Such fees shall become part of the Associations general fund or working capital reserve fund to be utilized as necessary.

ALL RIGHTS, PRIVILEGES, RESPONSIBILITIES AND OBLIGATIONS DEFINED AND OUTLINED IN:

ARTICLE VIII - ASSESSMENTS

ARTICLE IX - ENFORCEMENT OF ASSESSMENTS

ARTICLE X - ARCHITECTURAL CONTROL

ARTICLE XI – ANNEXATION, and,

ARTICLE XII – MISCELLANEOUS

THAT ARE AFFORDED TO THE MASTER ASSOCIATION IN THE ORIGINAL DELCARATION, ARE HEREBY AFFORDED TO THE SUB-ASSOCIATION IN THEIR ENTIRETY AS THEY ARE APPLICABLE.

ALL OTHER PROVISIONS CITED AS RECORDED IN THE ORIGINAL DECLARATION (OTHER THAN THOSE CHANGES MADE HEREIN) ARE STILL APPLICABLE.

IN WITNESS WHEREOF, the undersigned, being the Declarant and Record Owners herein, have hereunto set their hand this 25 day of SEPTEMBER, 2009.

DECLARANT:

STILLCREEK LLC
An Idaho limited liability company

BY: [Signature]

NAME: Michael C. Flood

TITLE: Authorized Representative

ACKNOWLEDGEMENT – Limited Liability Company

On the _____ day of _____, 2009, personally appeared before me **Michael C. Flood**, who being by me duly sworn did say that he is an Authorized Representative of Stillcreek LLC, an Idaho limited liability company, who acknowledged to me that said Limited Liability Company executed the same.

Signed: [Signature]

NOTARY PUBLIC

Residing at: Ogden, UT

My commission expires: July 21, 2013

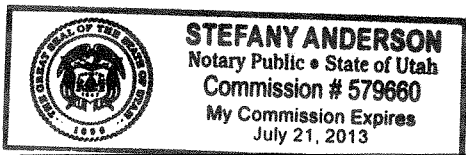


Exhibit A

SPRING VILLAS

SVS Community Fencing Plan

