

DOC # 20240015252

Bylaws

Page 1 of 21

Gary Christensen Washington County Recorder
05/16/2024 10:30:48 AM Fee \$ 40.00
By SILVERCREEK TOWNHOMES ASSOCIATION



When Recorded Mail To:

Silvercreek Townhomes Association
1732 W. 540 N. #127
St. George, UT 84770

**AMENDED AND RESTATED
BYLAWS**

March 21st, 2024

THE SILVERCREEK
TOWNHOMES ASSOCIATION
A Utah Nonprofit Corporation

Pursuant to the provisions of the Utah Nonprofit Corporation Act and Article XI of the Articles of Incorporation of The Silvercreek Townhomes Association, the Board of Trustees, by unanimous vote, do hereby adopt and ratify these Amended and Restated Bylaws (the "Bylaws"), on the 21st day of March, 2024. These Bylaws shall supersede and replace any and all previous versions of the Bylaws.

ARTICLE I

NAME AND PRINCIPAL OFFICE

1.1. **Name and Location.** The name of the nonprofit corporation is The Silvercreek Townhomes Association (hereinafter called the "Association"). Silvercreek is a community of Lot Owners that is subject to the Declaration of Covenants Conditions and Restrictions of Silvercreek Townhomes, and any amendments thereto, recorded as Entry No. 00486539 on December 12, 1994 in the Recorder's Office of Washington County, State of Utah (the "Declaration").

1.2. **Principal Office.** The principal office of the Association shall be at the Silvercreek Townhomes located at 1732 West 540 North, St. George, Utah 84770 (hereinafter called the "Property") or such other office as may be designated from time to time by the Board of Trustees.

1.3. **Registered Office and Agent.** The Association shall have and continuously maintain in the State of Utah a registered office and agent. Unless otherwise stated with the Utah Division of Corporations, the registered office is the same as the principal office of the Association and the registered agent shall be the President of the Board of Trustees. The address of the registered office may be changed at any time by the Board of Trustees.

1.4. **Purposes.** This Association is formed to serve as a means through which the Lot Owners may take action with regard to the administration, management and operation of the Association, the Property, Common Area and Lots therein.

1.5. **Applicability of Bylaws.** The Association, all Lot Owners and all persons using the Property shall be subject to these Bylaws and to all rules and regulations which may be adopted pursuant to the Declaration and these Bylaws.

1.6. **Composition of Association.** The Association shall be composed of all Lot Owners within the Property.

1.7. **Incorporation of Association.**

1.7.a. The Association is and shall be incorporated under the Utah Revised Nonprofit Corporation Act. The Articles of Incorporation of the Association shall be consistent with the Declaration and these Bylaws, and these Bylaws shall constitute the Bylaws of the incorporated association.

1.7.b. In the event the incorporated Association shall at any time be dissolved, whether inadvertently or deliberately, it shall automatically be succeeded by an unincorporated association of the same name. In that event, all of the property, powers and obligations of the incorporated association

existing immediately prior to its dissolution shall thereupon automatically vest in the successor unincorporated association, which vesting shall thereafter be confirmed and evidenced by appropriate conveyances and assignments by the incorporated association. To the greatest extent possible, any such successor unincorporated association shall be governed by the Articles of Incorporation, the Declaration and the Bylaws, as if they had been made to constitute the governing documents of the unincorporated association.

1.8. **Membership.** The Association Members comprise the voting membership. Every person, groups of persons, or entities, that is and/or are a record Owner of a Lot within the Property is a Member of the Association.

1.9. **Definitions.** Except as otherwise provided herein or required by the context hereof, the definitions contained in or adopted by the Declaration shall be applicable to these Bylaws.

ARTICLE II

MEETING OF ASSOCIATION

2.1. **Annual Meetings.** The annual meeting of the Members shall be held on the third Saturday night in January of each year at the Property or other location designated by the Trustees, for the purpose of electing Trustees and for transacting such other business as may come before the meeting; provided, however, that whenever such date falls upon a Legal Holiday, the meeting shall be held on the next succeeding business day. If the election of Trustees or Committee Members shall not be held on the day designated herein for the annual meeting of the Members, or at any adjournment thereof, the Board of Trustees shall cause the election to be held at a special meeting of the Members as soon thereafter as may be convenient. The Board of Trustees may from time to time by resolution change the date and time for the annual meeting of the Members.

2.2. **Special Meetings.** Special meetings of the Members may be called by the Board of Trustees, the President, or by the written request signed by Members holding not less than fifty-one percent (51 %) of the total votes of the Association, made to the Board of Trustees. Such written request must state the purpose or purposes of the meeting and be delivered to the Board of Trustees or the President. Business transacted at a special meeting shall be confined to the purposes stated in the notice.

2.3. **Place and Notice of Meeting.** The Board of Trustees may designate any place in Washington County, State of Utah as the place of meeting for any annual meeting or for any special meeting called by the Board. The Board of Trustees shall cause written or printed notice of the time, place, and purposes of all meetings of the Members (whether annual or special) to be delivered, not more than fifty (50) nor less than ten (10) days prior to the meeting, to each Member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his registered address, with first class postage thereon prepaid. If sent electronically (email), such notice shall be deemed to be delivered when sent to the email address registered with the Association. Each Member is responsible for providing and maintaining valid contact information with the Association, including a valid email address and mailing address. Such registered addresses may be changed from time to time by notice in writing to the Association. If no addresses are registered with the Association, the address of the Member's Lot at the Property shall be deemed to be his registered address for purposes of notice hereunder. The notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

2.4. **Members of Record.** Upon purchasing a Lot at the Property, each Owner shall promptly furnish to the Association a copy of the recorded instrument by which ownership of such Lot has been vested in such Owner, which copy shall be maintained in the records of the Association. For the purpose of determining Members entitled to notice of, or to vote at any meeting of the Members, the Board of Trustees may designate a record date, which shall not be more than sixty (60) nor less than ten (10) days prior to the meeting, for determining Members entitled to notice of, or to vote at any meeting of the Members. If no record date is designated, the date on which the first notice of the meeting is mailed shall be deemed to be the record date for determining Members entitled to notice of, or to vote at the meeting. The persons or entities appearing in the records of the Association on such record date, as the Owners of record of Lots at the Property, shall be deemed to be the Members of record entitled to notice of, and to vote at the meeting of the Members.

2.5. **Quorum.** Except as otherwise provided in the Declaration or these Bylaws, at any meeting of the Association, Owners holding more than fifty percent (50%) of the total votes of the Association, present in person or by proxy, or absentee ballot if permitted under Section 2.6(b) below, shall constitute a Quorum for the transaction of business, except with respect to matters for which, by express provision of the Declaration, the Articles of Incorporation, these Bylaws or the statutes of the State of Utah, a different Quorum is required, in which case such express provisions shall govern and control the question of whether there is a Quorum.

2.6. **Proxies, Absentee Ballots and Rights of Mortgagees.**

2.6.a. **Proxies.**

2.6.a.1. A vote may be cast in person or by proxy. A proxy given by an Owner to any person who represents the Owner at meetings of the Association shall be in writing, dated and signed by such Owner and shall be filed with the secretary in accordance with procedures adopted by resolution of the Board of Trustees.

2.6.a.2. No proxy shall be valid after the meeting for which it was solicited, unless otherwise expressly stated in the proxy; however, no proxy may be valid for more than eleven (11) months after the date of execution.

2.6.a.3. No proxy shall be valid if it purports to be revocable without notice.

2.6.a.4. An Owner may not revoke a proxy given except by actual notice of revocation to the person presiding over a meeting of the Association or to the Board of Trustees if a vote is being conducted by written ballot in lieu of a meeting pursuant to Section 2.8 below.

2.6.a.5. Every proxy shall automatically terminate upon sale of the Lot subject to the proxy.

2.6.b. **Absentee Ballots.** In accordance with Section 2.8 below, and at the discretion of the Board of Trustees, a vote may be cast by absentee ballot.

2.6.c. **Mortgage Rights.**

2.6.c.1. An Owner may pledge or assign the owner's voting rights to a first mortgagee. In such a case, the first mortgagee, or its designated representative, shall be entitled to receive all notices to which the owner is entitled hereunder and to exercise the owner's voting rights from and after the time that the first mortgagee shall have given written notice of the pledge or assignment to the Board of Trustees.

2.6.c.2. Any first mortgagee may designate a representative to attend all or any meetings of the Association.

2.7. **Votes.** With respect to each matter, including the election of Trustees and Committee Members, submitted to a vote of the Members, each Member entitled to vote at the meeting shall have the right to cast, in person, by proxy or electronically in the manner approved by the Board of Directors, the number of votes appertaining to the Lot or Lots of such Member, as determined in accordance with the Declaration. The affirmative vote of a majority of the votes entitled to be cast by the Members present or represented by proxy, or voting electronically in the manner approved by the Board of Directors, at a meeting at which a Quorum is represented, shall be necessary for the adoption of any matter voted on by the Members, unless the question is one upon which a greater proportion is required by the express provisions of the Articles of Incorporation, these Bylaws, the Declaration, or Utah law, in which case such express provisions shall govern and control the determination of such question. The election of Trustees shall be by secret ballot. If a membership is jointly held, all or any holders thereof may attend each meeting of the Members, but such holders must act unanimously to cast the votes relating to their joint membership.

2.8. **Action by Written or Electronic Ballot In Lieu of a Meeting.**

2.8.a. **Action by Written or Electronic Ballot.** At the discretion of the Board of Trustees, any action, except election or removal of Trustees, which may be taken at any annual, regular or special meeting of the Association, may be taken without a meeting or in conjunction with a meeting, by written or electronic ballot. In either event, the Association will deliver a written ballot or instructions for voting by electronic ballot, to every Owner that is entitled to vote on the matter not less than twenty (20) days prior to the date on which the ballots must be received by the Association in order to be counted.

2.8.b. **Form and Effect of Ballot.**

2.8.b.1. The written or electronic ballot must set forth each proposed action and provide an opportunity to vote for or against each proposed action.

2.8.b.2. A written or electronic ballot may not be revoked.

2.8.c. **Information Required in Ballot Solicitations.** All solicitations for votes by written or electronic ballot must:

2.8.c.1. State the number of responses needed to meet any applicable Quorum requirements and the total percentage of votes needed for approval.

2.8.c.2. Specify the period during which the Association will accept written or electronic ballots for counting.

2.8.d. **Secrecy Procedure.** The Board of Trustees may elect to conduct a vote pursuant to this section by a secrecy procedure, instructions for which will be provided at the time of the requested vote.

2.8.e. **Determination of the Vote.** The outcome of a vote by written or electronic ballot in lieu of a meeting shall be determined by the Board of Trustees within forty-eight (48) hours of the deadline for return of ballots, or in the event the ballot return date is postponed, within forty-eight (48) hours of the postponed date. Matters that may be voted on by written or electronic ballot shall be deemed approved or rejected as follows:

2.8.e.1. If approval of a proposed action would otherwise require a meeting at which a certain Quorum must be present and at which a certain percentage of total votes cast is required to authorize the action, the proposal will be deemed to be approved when the date for return of ballots has passed, a Quorum of owners has voted, and the required percentage of approving votes has been received. Otherwise, the proposal shall be deemed to be rejected.

2.8.e.2. If approval of a proposed action otherwise would require a meeting at which a specified percentage of owners must authorize the action, the proposal shall be deemed to be approved when the percentage of total votes cast in favor of the proposal equals or exceeds such required percentage. The proposal shall be deemed to be rejected when the number of votes cast in opposition renders approval impossible or when both the date for return of ballots has passed and such required percentage has not been met.

2.8.e.3. Except as may be prescribed in the procedure set forth in 2.8.d., votes may be counted from time to time before the final return date to determine whether the proposal has passed or failed by the votes already cast on the date they are entered.

2.8.f. **Owner Notification of Ballot Results.** Each Owner shall be notified within ten (10) business days after the ballots have been counted, by mail or other delivery of written notice, of the results of the ballot meeting or that a Quorum of ballots was not returned.

2.9. **Waiver of Irregularities.** All inaccuracies and/or irregularities in calls or notices of meetings and in the manner of voting, form of proxies, and/or method of ascertaining Members present shall be deemed waived if no objection thereto is made at the meeting.

2.10. **Informed Action by Members.** Any action that is required or permitted to be taken at a meeting of the Members may be taken without a meeting, if a consent in writing, setting forth the action so taken, shall be signed by all of the Members entitled to vote with respect to the subject matter thereof.

ARTICLE III

BOARD OF TRUSTEES

3.1. **General Powers and Responsibilities.** The property, affairs, and business of the Association shall be managed by its Board of Trustees. The Board of Trustees may exercise all of the powers of the Association, whether derived from law or the Articles of Incorporation, except such powers as are by law, by the Articles of Incorporation, by these Bylaws, or by the Declaration, vested solely in the Members. It shall be the responsibility of the Board of Trustees to:

3.1.a. Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Members who are entitled to vote;

3.1.b. Supervise all officers, agents, independent contractors and employees of the Association, and to see that their duties are properly performed;

3.1.c. As more fully provided in the Declaration, to:

3.1.c.1. Fix the amount of the annual assessment or any special assessment against each Lot at least thirty (30) days in advance of each annual or other assessment period;

3.1.c.2. Send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual or special assessment period; and

3.1.c.3. Foreclose the lien against any Lot for which assessments are not paid or to bring an action at law against the Owner personally obligated to pay the same.

3.1.c.4. Issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board of Trustees for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

3.1.c.5. Procure and maintain adequate liability and hazard insurance on property owned by the Association as provided in the Declaration;

3.1.c.6. Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

3.1.c.7. Cause the Common Areas to be maintained;

3.1.c.8. Cause the exterior of the Lots and Townhomes to be maintained as provided in the Declaration;

3.1.c.9. Adopt and publish rules and regulations governing the use of the Common Areas and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof.

3.2. **Manager.** The Board of Trustees may, by written contract, delegate, in whole or in part, to a professional management organization or person, such of its duties, responsibilities, functions, and powers as are properly delegable.

3.3. **Number, Tenure, and Qualifications.** The number of Trustees of the Association shall be between three (3) and fifteen (15), as periodically determined by the Trustees. The initial Board of Trustees specified in the Articles of Incorporation shall serve until the Declarant turns over to the Members, in accordance with the Articles of Incorporation, the responsibility for electing Trustees. The intent of these Bylaws is to have a staggered Board of Trustees so that the term of all trustees does not expire at the same time. Therefore, if not already established, the incumbent trustees shall determine amongst themselves to limit the term of one (1) of the trustees to one (1) year, one (1) trustee to serve for two years, and the remaining one (1) trustee to serve for three years. Thereafter, the successors to the trustees shall serve for terms of three (3) years. At each annual meeting thereafter, the Members shall elect for three (3) year terms the appropriate number of Trustees to fill all vacancies created by expiring terms of Trustees. Trustees, except the initial Trustees specified in the Articles of Incorporation, must be Members of the Association.

3.4. **Regular Meetings.** The regular annual meeting of the Board of Trustees shall be held without other notice than this Bylaw, immediately after and at the same place as the annual meeting of the Members. The Board of Trustees may provide by resolution the time and place, within Washington County, State of Utah, for the holding of additional regular meetings without other notice than such resolution.

3.5. **Special Meetings.** Special meetings of the Board of Trustees may be called by or at the request of any Trustee. The person or persons authorized to call special meetings of the Board of Trustees may fix any place, within Washington County, State of Utah, (or, until the Declarant turns over to the Members the responsibility for electing the Trustees, at any place within Washington County, State of Utah) as the place for holding any special meeting of the Board of Trustees called by such person or persons. Notice of any special meeting shall be given at least five (5) days prior thereto by written notice delivered personally, or mailed to each Trustee at his registered address, or sent via electronic mail (email) to the email address referenced in the records of the Board of Trustees. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with first class postage thereon prepaid.

3.6. **Open Meetings; Executive Sessions.**

3.6.a. **Open Meetings.** Except as provided in Subsection (b) of this section, all meetings of the Board of Trustees shall be open to Lot Owners. However, no Owner shall have the right to participate in the Board meeting unless the Owner is also a member of the Board. The President shall have the authority to exclude an Owner who disrupts the proceedings at a Board meeting.

3.6.b. **Executive Sessions.** In the discretion of the Board, the following matters may be considered in executive session:

3.6.b.1. Consultation with legal counsel concerning the rights and duties of the Association regarding existing or potential litigation or criminal matters;

3.6.b.2. Personnel matters, including salary negotiations and employee discipline;

3.6.b.3. The negotiation of contracts with third parties;

3.6.b.4. Collection of unpaid assessments.

3.6.c. **Executive Session Procedure.**

3.6.c.1. Except in the case of an emergency, the Board of Trustees shall vote in an open meeting whether to meet in executive session. If the Board votes to meet in executive session, the President or other presiding officer shall state the general nature of the action to be considered and, as precisely as possible, when and under what circumstances the deliberations can be disclosed to Owners. The statement, motion or decision to meet in executive session must be included in the minutes of the meeting.

3.6.c.2. A contract or an action considered in executive session does not become effective unless the Board, following the executive session, reconvenes in open meeting and votes on the contract or action, which must be reasonably identified in the open meeting and included in the minutes.

3.7. **Meetings by Telephonic or Electronic Communication.** In the event that circumstances prevent the Board of Trustees from meeting in person, meetings may be conducted by electronic or telephonic communication or by the use of a means of communication that allows all members of the Board participating to hear each other simultaneously or otherwise be able to communicate during the meeting.

3.8. **Quorum and Manner of Acting.** A majority of the number of Trustees in office shall constitute a Quorum for the transaction of business at any meeting of the Board of Trustees. The act of a majority of the Trustees present at any meeting at which a Quorum is present shall be the act of the Board of Trustees. The Trustees shall act only as a Board, and individual Trustees shall have no powers as such.

3.8.a. **Transaction of Business between Regular Meetings.** In the event Board of Trustees action is required between regularly scheduled meetings, a majority of Trustees must provide written consent of any such action. Furthermore, any such action taken must be ratified and written into the minutes of the following regular meeting of the Trustees.

3.9. **Compensation.** No Trustee shall receive compensation for any services that he may render to the Association as a Trustee; provided, however, that Trustees may be reimbursed for expenses incurred in performance of their duties as Trustees and, except as otherwise provided in these Bylaws, may be compensated for services rendered to the Association other than in their capacities as Trustees.

3.10. **Resignation and Removal.** A Trustee may resign at any time by delivering a written resignation to either the President or the Board of Trustees. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Trustee, except those appointed by the Declarant, may be removed at any time, for or without cause, by the affirmative vote of two thirds (2/3) of the total votes cast by the Members of the Association at a special meeting of the Members duly called for such purpose at which a Quorum is present.

3.11. **Vacancies and Newly Created Trusteeships.** If vacancies shall occur in the Board of Trustees by reason of the death or resignation of a Trustee or if the authorized number of Trustees shall be increased, the Trustees then in office shall continue to act, and such vacancies or newly created Trusteeships shall be filled by a vote of the Trustees then in office, though less than a Quorum, in a way approved by such Trustees at the meeting. Any vacancies in the Board of Trustees occurring by reason of removal of a Trustee may be filled by election by the Members at the meeting at which such Trustee is removed. Any Trustee elected or appointed hereunder to fill a vacancy shall serve for the unexpired term of his predecessor or for the term of the newly created Trusteeship, as the case may be.

3.12. **Informal Action by Trustees.** Any action that is required or permitted to be taken at a meeting of the Board of Trustees, may be taken without a meeting, if a consent in writing, setting forth the action so taken, shall be signed by a Quorum of the Trustees.

ARTICLE IV

OFFICERS

4.1 **Number.** The officers of the Association shall be a President, one or more Vice Presidents, a Secretary, a Treasurer, and such other officers as may from time to time be appointed by the Board of Trustees.

4.2 **Election, Tenure, and Qualifications.** The officers of the Association shall be chosen by the Board of Trustees annually, at the regular annual meeting of the Board of Trustees. In the event the Board of Trustees shall fail to choose officers at such regular annual meeting of the Board of Trustees, officers may be chosen at any regular or special meeting of the Board of Trustees. Each such officer (whether chosen at a regular annual meeting of the Board of Trustees or otherwise) shall hold his office until the next ensuing regular annual meeting of the Board of Trustees and until his successor shall have been chosen and qualified, or until his death, or until his resignation or removal in the manner provided in these Bylaws, resignation or removal in the manner provided in these Bylaws, whichever first occurs.

Any one person may hold any two or more of such offices. No person holding two or more offices shall act in or execute any instrument in the capacity of more than one office.

4.3 **Subordinate Officers.** The Board of Trustees may from time to time, appoint such other officers or agents as it may deem advisable, each of whom shall have such title, hold office for such period, have such authority, and perform such duties as the Board of Trustees may from time to time delegate to any officer or agent the power to appoint any such subordinate officers or agents and to prescribe their respective titles, terms of office, authorities, and duties. Subordinate officers need not be Members or Trustees of the Association.

4.4 **Resignation and Removal.** Any officer may resign at any time by delivering a written resignation to the President or the Board of Trustees. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed by the Board of Trustees at any time, for or without cause.

4.5 **Vacancies and Newly Created Offices.** If any vacancy shall occur in any office by reason of death, resignation, removal, disqualification, or any other cause, or if a new office shall be created, such vacancies or newly created offices may be filled by the Board of Trustees at any regular or special meeting.

4.6 **The President.** The President shall preside at meetings of the Board of Trustees and at meetings of the Members. He shall sign on behalf of the Association all conveyances, mortgages, documents and contracts, and shall do and perform all other acts and things that the Board of Trustees may require of him.

4.7 **Vice President.** The Vice President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board of Trustees.

4.8 **The Secretary.** The Secretary shall keep the minutes of the Association and shall maintain such books and records as these Bylaws, the Declaration, or any resolution of the Board of Trustees may require him to keep. He shall be the custodian of the seal of the Association, if any, and shall affix such seal, if any, to all papers and instruments requiring the same. He shall perform such other duties as the Board of Trustees may require of him.

4.9 **The Treasurer.** The Treasurer shall have the custody and control of the Funds of the Association, subject to the action of the Board of Trustees, and shall, when requested by the President to do so, report the state of the finances of the Association at each annual meeting of the Members and at any meeting of the Board of Trustees. He shall perform such other duties as the Board of Trustees may require of him.

ARTICLE V

COMMITTEES

5.1. Architectural Control Committee. The Board of Trustees shall serve as the Architectural Control Committee (the "ACC"), as provided for in Article VI of the Declaration. Notwithstanding the same, the Board may, from time to time, designate and appoint, by written resolution, an Architectural Control Committee outside of the Board, to carry out its duties, responsibilities, functions and powers. The extent of and limits to those duties, responsibilities, functions and powers will be set forth in the written resolution designating the same. In the event the Board so designates such a committee, its membership must always include at least one (1) Trustee which will report the actions of the ACC to the Board at its monthly meeting.

The Declaration states, to wit:

"No structure, building, fence, wall or addition, extension or expansion of any of the foregoing shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition or change or alteration to any Lot or Townhome be made until the plans and specifications showing the nature, kind, shape, height, materials, colors and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Trustees or, if such a committee is in existence, by an Architectural Control Committee composed of three (3) or more representatives appointed by the Trustees. In the event said Trustees, or their designated committee fail to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and compliance with this article will be deemed to have been made.

Notwithstanding the foregoing, without the prior approval of at least sixty-seven percent (67%) of the voters of each class of the Members authorized to vote, in person or by proxy, at a meeting duly called for this purpose at which a Quorum is present, neither the Association nor the Architectural Control Committee shall have the power, by act or omission, to alter, waive or abandon any plan, scheme or regulations pertaining to the architectural design or the exterior appearance or maintenance of Townhomes, Lots, and Common and Limited Common Areas, including walls, fences, driveways, lawns and plantings."

5.1.a. Application Process for Architectural Approval.

5.1.a.1. Scope of Work. For purposes of this Section 5.1.a, the "Scope of Work" or "Work" is defined as all of the proposed changes, additions, extensions, expansions, colors, locations, alterations or improvements of any kind requested to be made to any Lot or Townhome by the legal Owner of that Lot or Townhome. The scale and extent of the Scope of Work must be clearly set forth on the Architectural Review Application as defined herein.

5.1.a.2. Architectural Review Application. Application for review of any Work requested by any Owner must be made on the approved Architectural Review Application form (the "**ARA**"), and comply with the requirements set forth thereon. The ARA must include detailed plans and specifications showing the nature, kind, shape, height, materials, colors and location of the Work requested. An ARA for Work on any Lot or Townhome may only be made by its Owner of record.

5.1.a.3. Architectural Review Committee. An Architectural Review Committee ("**ARC**") consisting of no less than three (3) members, including at least one (1) Board member, will review the ARA for completeness and compliance with the requirements for submission to the ACC. Within ten (10) business days of receipt, the applicant will be notified of any deficiencies to the ARA. Once the deficiencies, if any, are corrected, the ARC will formally submit the ARA, together with its recommendations, to the ACC for review and action. All submissions to the ACC must be made no later than five (5) business days prior to a regularly scheduled, monthly meeting of the Board of Trustees (the "**ARA Submission Date**"). Any ARA that has not received an ARA Submission Date within 30 days of receipt by the ARC, will be deemed disapproved by the ACC.

5.1.a.4. ACC Review Window. The ACC will have 30 days from the ARA Submission Date to approve or disapprove the ARA. In the event the ACC does not provide written notice to applicant of either approval or disapproval within 30 days of the ARA Submission Date, then ACC approval will not be required and compliance with Article VI of the Declaration will be deemed to have been made.

5.2. Other Committees. The Board of Trustees may also designate and appoint, by written resolution, other committees as it may deem appropriate, to carry out its duties, responsibilities, functions and powers. The extent of and limits to those duties, responsibilities, functions and powers, of any committee so established, will be set forth in the written resolution designating the same. The membership of each such committee designated hereunder shall include at least one (1) Trustee which will report the actions of said committee to the Board at its regular monthly meeting. No committee member shall receive compensation for services that he may render to the Association as a committee member; provided, however, that committee members may be reimbursed for expenses incurred in performance of their duties as committee members and, except as otherwise provided in these Bylaws, may be compensated for services rendered to the Association other than in their capacities as committee members.

5.3. Proceedings of Committees. Each committee designated hereunder by the Board of Trustees shall appoint its own presiding and recording officers and shall meet at such places and times

and upon such notice as such committee may from time to time determine. Each such committee shall keep a record of its proceedings and shall report the same at the regularly scheduled monthly meeting of the Board of Trustees.

5.4. Quorum and Manner of Acting. At each meeting of any committee designated hereunder by the Board of Trustees, the presence of members constituting at least two-thirds of the authorized membership of such committee shall constitute a Quorum for the transaction of business, and the act of a majority of the members present at any meeting at which a Quorum is present shall be the act of such committee. The members of any committee designated by the Board of Trustees hereunder shall act only as a committee, and the individual members thereof shall have no powers as such.

5.5. Resignation and Removal. Any member of any committee designated hereunder by the Board of Trustees, may resign at any time by delivering a written resignation either to the President, the Board of Trustees, or the presiding officer of the committee of which he is a member. Unless otherwise specified therein, such resignation shall take effect upon delivery. The Board of Trustees may at any time, for or without cause, remove any member of any committee designated by it hereunder.

5.6. Vacancies. If any vacancy shall occur in any committee designated by the Board of Trustees hereunder, due to disqualifications, death, resignation, removal, or otherwise, the remaining members shall, until the filling of such vacancy, constitute the then total authorized membership of the committee, and, provided that two or more members are remaining, may continue to act. Such vacancy may be filled at any meeting of the Board of Trustees.

5.7. Informal Action by Committees. Any action that is required or permitted to be taken at a meeting of any committee designated hereunder by the Board of Trustees may be taken without a meeting, if a consent in writing setting forth the action that was taken shall be signed by all of the members of such committee.

ARTICLE VI

INDEMNIFICATION

6.1 Indemnification against Third Party Actions. The Association shall have the power to indemnify any person who was or is a party to or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceedings, whether civil, criminal, administrative, or investigative (other than an action by or under the rights of the Association) by reason of the fact that he is or was a Trustee, officer, employee or agent of the Association as a director, trustee, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorney's fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association, and with respect to any criminal action or proceedings, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit, or proceeding by an adverse judgment, order, or settlement, conviction, or upon a plea of nolo

contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

6.2 **Indemnification against Association Actions.** The Association shall have the power to indemnify any person who was or is a party to or is threatened to be made a party to any threatened, pending, or completed action or suit by or in the right of the Association or procure a judgment in its favor by reason of the fact that he is or was a Trustee, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorney's fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association and except that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Association unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

6.3 **Determination.** To the extent that a Trustee, officer, employee, or agent of the Association has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in section 6.1 or 6.2 hereof, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by him in connection therewith. Any other indemnification under section 6.1 or 6.2 hereof shall be made by the Association only upon a determination that indemnification of the Trustee, officer, employee, or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in section 6.1 or 6.2 hereof. Such determination shall be made either (1) by the Board of Trustees, by a majority vote of a Quorum consisting of Trustees who were not parties to such action, suit, or proceeding, (2) by independent legal counsel in written opinion, or (3) by the Members by a vote of at least fifty percent (50%) of the total votes of the Association at any meeting duly called for such purpose.

6.4 **Advances.** Expenses incurred in defending a civil or criminal action, suit or proceeding, as contemplated in this Article, may be paid by the Association in advance of the final disposition of such action, suit or proceeding upon a majority vote of a Quorum of the Board of Trustees and upon receipt of an undertaking by or on behalf of the Trustee, officer, employee or agent to repay such amount or amounts unless it ultimately be determined that he is entitled to be indemnified by the Association as authorized by this Article.

6.5 **Scope of Indemnification.** The indemnification authorized by this Article shall apply to all present and future Trustees, officers, employees, and agents of the Association and shall continue as to such persons who cease to be Trustees, officers, employees, or agents of the Association and shall inure to the benefit of the heirs, executors, and administrators of all such persons and shall be in addition to all other rights to which such persons may be entitled as a matter of law.

6.6 **Insurance.** The Association may purchase and maintain insurance on behalf of any person who is or was a Trustee, officer, employee, or agent of the Association, or is or was serving at the request of the Association as a director, trustee, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the laws of the State of Utah, as the same may hereafter be amended or modified.

6.7 **Payments Out of Common Expense Fund.** All payments made pursuant to this Article shall constitute expenses of the Association and shall be paid with funds provided by annual or special assessments pursuant to the Declaration.

ARTICLE VII

FISCAL YEAR AND SEAL

Fiscal Year. The fiscal year of the Association shall be fixed by resolution of the Board of Trustees.

7.1 **Seal.** The Board of Trustees may by resolution provide a corporate seal which shall be circular in form and shall have inscribed thereon the name of the Association, the state of incorporation, and the words "Corporate Seal."

ARTICLE VIII

RULES AND REGULATIONS

8.1 **Rules and Regulations.** The Board of Trustees may, from time to time, adopt, amend, repeal, and enforce reasonable rules and regulations governing the use and operation of the Property, including any fines or assessments associated therewith, to the extent that such rules and regulations are not inconsistent with the rights and duties set forth in the Articles of Incorporation, these Bylaws, or the Declaration. The Members shall be provided with copies of all rules and regulations adopted by the Board of Trustees, and with copies of all amendments and revisions thereof.

ARTICLE IX

RECORDS AND AUDITS

9.1 **General Records.** The Association shall maintain within the State of Utah, all documents, information and other records of the Association in accordance with the Declaration, these Bylaws and the Utah Revised Nonprofit Corporation Act, in the manner prescribed by a resolution adopted by the Board of Trustees.

9.1.a The Board of Trustees, and managing agent or manager, if any, shall keep detailed records of the actions of the Board of Trustees and managing agent or manager, including minutes of the meetings of the Board, and minutes of the meeting of the Association.

9.1.b The Board of Trustees shall maintain a book of resolutions containing the rules, regulations, and policies adopted by the Association and Board of Trustees.

9.1.c The Board of Trustees shall maintain a list of Owners and a list of all mortgagees, if provided notice by any such mortgagees, of Lots. The list of Owners shall specify whether the Owner is an Owner in good standing or a suspended Owner.

9.1.d The Association shall retain within the state, all records of the Association for not less than the period specified in applicable law, except that:

9.1.d.1 Documents of a permanent nature such as the following, if available, must be maintained as permanent records of the Association:

9.1.d.1.A Electrical and plumbing plans; as-built architectural, structural, engineering, and mechanical;

9.1.d.1.B The original specifications, indicating all subsequent material changes;

9.1.d.1.C The plans for underground site services for all utilities, site grading, drainage and landscaping;

9.1.d.1.D Any other plans and information relevant to future repair or maintenance of the property; and

9.1.d.1.E A list of the general contractor and the electrical, heating and plumbing subcontractors responsible for construction or installation of common areas;

9.1.e Proxies and ballots must be retained for one year from the date of determination of the vote.

9.2 **Records of Receipts and Expenditures.** The Board of Trustees, or its designee, shall keep detailed, accurate records, in chronological order, of the receipts and expenditures affecting the Association, itemizing the maintenance and repair expenses of the common area or Association property, and any other expenses incurred.

9.3 **Assessment Roll.** The assessment roll shall be maintained in a set of accounting books in which there shall be an account for each Lot. The account shall designate the Lot number, the name and address of the Owner or Owners, the amount of each Assessment against the Owners, the

dates and amounts in which the Assessment comes due, the amounts paid upon the account, and the balance due on the Assessments.

9.4 **Payment of Checks/Vouchers.** All checks/vouchers must be signed by the Treasurer or President. Any checks/vouchers in excess of One Thousand Dollars (\$1, 000) must be signed by two members of the Board of Trustees.

9.5 **Financial Reports and Audits.**

9.5.a An annual report of the receipts and expenditures of the Association, and a balance sheet showing assets and liabilities, shall be rendered by the Board of Trustees to all Owners and to all mortgagees of Lots, who have requested the same in writing, within ninety (90) days after the end of each fiscal year.

9.5.b From time to time, the Board of Trustees, at the expense of the Association, may obtain an audit by a certified public accountant, or other financial review of the books and records pertaining to the Association, and furnish copies thereof to the Owners and mortgagees of Lots. At any time any Owner or mortgagee may, at such Owner's or mortgagees own expense, cause an audit or inspection to be made of the books and records of the Association.

9.6 **Inspection of Records by Owners.**

9.6.a Except as otherwise provided in Section 9.7 below, all records of the Association shall be reasonably available for examination by an Owner and any mortgagee of a Lot pursuant to rules adopted by resolution of the Board of Trustees.

9.6.b The Board of Trustees shall maintain a copy, suitable for the purposes of duplication, of the following:

9.6.b.1 The Declaration, Bylaws and any amendments in effect, or supplements thereto, and rules and regulations of the Association.

9.6.b.2 The most recent financial statement prepared pursuant to Section 9.5 above.

9.6.b.3 The current operating budget of the Association.

9.6.c The Association, within five (5) business days after receipt of a written request by an Owner, shall make available the requested information required to be maintained under Subsection (b) of this section.

9.6.d The Board of Trustees, by resolution, may adopt reasonable rules governing the frequency, time, location, notice and manner of examination and duplication of Association records and the imposition of a reasonable fee for furnishing copies of any documents, information or records described in this section. The fee may include reasonable personnel costs incurred to furnish the information.

9.7 **Records Not Subject to Inspection.** Records kept by or on behalf of the Association may be withheld from examination and duplication to the extent the records concern:

9.7.a Personnel matters relating to a specific identified person or a person's medical records.

9.7.b Contracts, leases and other business transactions that are currently under negotiation, to purchase or provide goods or services.

9.7.c Communications with legal counsel that relate to matters specified in Subsections (a) and (b) of this section.

9.7.d Disclosure of information in violation of law.

9.7.e Documents, correspondence or management or board reports, compiled for or on behalf of the Association or the Board of Trustees by its agents or committees for consideration by the Board of Trustees in executive session held in accordance with Section 3.6 above.

9.7.f Files of individual Owners, other than those of a requesting Owner or requesting mortgagee of an individual Owner, including any individual Owner's file kept by or on behalf of the Association.

ARTICLE X

AMENDMENTS

10.1 **Amendments.** Except as otherwise provided by law, or by the Articles of Incorporation, or by the Declaration, these Bylaws may be amended, altered, or repealed, and new bylaws may be established and adopted, by the affirmative vote of the majority of the Board of Trustees, at a regular or special meeting attended by a Quorum, if notice of the proposed alteration, repeal or adoption be contained in the notice of such meeting; provided that the Board of Trustees shall not be permitted to amend the Bylaws contrary to the provisions of the Declaration or the Articles of Incorporation. In case of any conflict between the Articles of Incorporation and these Bylaws, the Articles of Incorporation shall control; and in case of any conflict between these Bylaws and the Declaration, the Declaration shall control.

10.2 **Challenge to Validity.** No action to challenge the validity of an adopted amendment may be brought more than one (1) year after the amendment is recorded.

ARTICLE XI

MISCELLANEOUS

11.1 Notices.

11.1.a **Form of Notice.** Notwithstanding anything contained herein to the contrary, any Notice, including written notice, or any consent, including written consent, as may be required under these Bylaws, may be given electronically, via electronic mail (email), as stipulated herein.

11.1.b **Association.** All Notices to the Association or the Board of Trustees shall be sent care of the managing agent, or, if there is no managing agent, to the registered office of the Association, or to such other address as the Board of Trustees may hereafter designate from time to time.

11.1.c Owners.

11.1.c.1 Except as otherwise provided in the Declaration, these Bylaws or under applicable law, all Notices to any Owner shall be sent to such address as may have been designated by him or her, from time to time, in writing, to the Board of Trustees, or if no address has been designated, then to the Owner's Lot.

11.1.c.2 If a Lot is jointly owned or the Lot has been sold under a land sale contract, Notice shall be sent to a single address, of which the secretary has been notified in writing by such parties. If no address has been given to the secretary in writing, then mailing to the Lot shall be sufficient.

11.2 **Waiver, Precedent and Estoppel.** No restriction, condition, obligation, or provision contained in these Bylaws, or rules and regulations adopted pursuant hereto, shall be deemed to have been abrogated or waived by the Association, by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur, and any failure to enforce the same, and shall not be deemed to constitute precedent or estoppel impairing the right of the Association as to any similar matter.

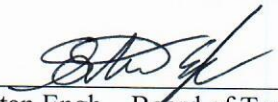
11.3 **Invalidity; Number; Captions.** The invalidity of any part of these Bylaws shall not impair or affect in any manner, the validity, enforceability, or effect of the balance of these Bylaws. As used herein, the singular shall include the plural and the plural the singular. The masculine and neuter shall each include the masculine, feminine, and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of these Bylaws.

11.4 **Conflicts.** In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

CERTIFICATION

I, THE UNDERSIGNED, do hereby certify that I am the acting President of The Silvercreek Townhomes Association, a Utah nonprofit corporation, and that the foregoing Bylaws constitute Bylaws of said nonprofit corporation, as duly adopted by the requisite vote of the Board of Trustees thereof on the 21st day of March, 2024

IN WITNESS WHEREOF, I have hereunto subscribed my name this 16 day of May, 2024.



Stan Engh – Board of Trustees President

NOTARY

STATE OF UTAH)
) ss
County of Washington)

On the 16th day of May, A. D. 2024, personally appeared before me, Stan Engh, who being by me duly sworn, says that he is the President of The Silvercreek Townhomes Association, that executed the herein instrument and acknowledged the instrument to be a free and voluntary act and deed of The Silvercreek Townhomes Association for the uses and purposes herein mentioned, and on oath stated that he/she is authorized to execute this instrument on behalf of said Association.



Nichelle Hammer

