

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND EASEMENTS FOR AFTON AIRPARK

BarrMore, LLC, a Wyoming limited liability company (herein “**Declarant**” or “**Developer**”), hereby declares that all of the lands within Afton Airpark, as more particularly described as Lots 1 through 57, as laid out and shown in that Plat prepared by Surveyor Scherbel, Ltd., approved by the Town Council, Town of Afton, on June 14, 2005, and recorded in the Office of the County Clerk Lincoln County, Wyoming as Instrument No. 910442 (herein the “**Plat**”) shall be subject to the express covenants, conditions, restrictions and easements (herein “**Covenants**”), as set forth hereinafter. To further the purposes hereinafter expressed, the Declarant, for itself, its successors and assigns, hereby declares that all real property hereinafter described, whether or not referred to in any deed of conveyance of such properties, at all times is and shall be held, transferred, sold, conveyed and occupied subject to these Covenants as hereinafter set forth.

1. NOTICE TO ALL OWNERS – THIS SUBDIVISION IS IN EXTREMELY CLOSE PROXIMITY OF THE AFTON AIRPORT AND ITS RUNWAY, AND THERE SHALL BE TAXIWAYS WITHIN THE SUBDIVISION FOR THE EXPRESSLY INTENDED USE AND OPERATION OF AIRCRAFT ONLY, IN CLOSE PROXIMITY TO THE RESIDENCES. BUYERS OF ANY LOT EXPRESSLY UNDERSTAND AND AGREE TO BE SUBJECT TO THE NOISE ASSOCIATED WITH BEING NEXT TO AN AIRPORT AND WITH HAVING AIRCRAFT OPERATE WITHIN THE SUBDIVISION.

2. SUBDIVISION / LOTS DEFINED. These Covenants shall apply to all that land located in the E ½ of Section 36, Township 32 North, Range 119 West of the 6th P.M., Lincoln County, Wyoming, consisting of approximately 83.70 acres, more or less, which is more specifically described and shown on said Plat of Afton Airpark -- said subdivision shall be defined and described herein as “**Afton Airpark**” or the “**Subdivision**,” and which is more specifically described on said Plat, attached hereto and incorporated herein by reference as Exhibit “A”.

Each and all of the lots described in Afton Airpark shall be expressly subject to these Covenants, and shall be referred to herein as “**Lot**” or “**Lots**”. The record owner of each Lot, whether one or more individuals or entities, shall be referred to herein as the “**Owner**”.

No Lot shall be further subdivided.

Developer may bring other land in and outside Afton Airpark under the provisions of this Declaration by recorded supplemental declaration (which shall not require the consent of the existing Owners or the Home Owner’s Association, as defined hereafter as the “**HOA**”) and thereby add to Subdivision. Nothing in this Declaration shall obligate Developer to add to the Subdivision or to develop additions to Afton Airpark under such common scheme, nor to prohibit Developer from changing the development plans with respect to such future portions and/or the Developer from adding additional property to Afton Airpark under such common scheme. All Owners, by acceptance of a deed to or other conveyance of their Lots, thereby automatically consent to any such change, addition or deletion thereafter made by the Developer and shall evidence such consent in writing if requested to do so by the Developer at any time (provided, however, that the refusal to give such written consent shall not obviate the general effect of this provision).

Developer reserves the right to amend this Declaration unilaterally at any time, without prior notice and without the consent of any person or entity, for the purpose of removing certain portions of the Subdivision then owned by the Developer or its affiliates or the HOA from the

provisions of this Declaration to the extent included originally in error or as a result of reasonable changes in the plans for Afton Airpark desired to be effected by the Developer.

3. DECLARANT'S INTENT/GENERAL PURPOSE OF COVENANTS. The Developer owns the land described herein as Afton Airpark and desires to create this planned residential/airpark development subject to these Covenants for the purposes which include but are not limited to:

- a. creating a residential planned unit development for those Owners who are aviation pilots and/or aviation enthusiasts and who wish to reside in a subdivision with taxiways where aircraft shall be permitted to travel within the bounds of the Subdivision;
- b. discouraging any conflicts between the use of aircraft within the planned unit development and the residential uses by the homeowners therein;
- c. creating and keeping the Subdivision desirable, attractive, beneficial, valuable and suitable in architectural design, materials and appearance for a high quality residential use mixed with an airpark;
- d. guarding against fires and other hazards and the unnecessary interference with the natural beauty of the Subdivision and the surrounding area; and
- e. for the mutual benefit and general protection of each Lot, the Owners, the Declarant and the adjoining Afton airport.

The Developer desires to preserve the values and amenities of the Subdivision by and through a Home Owners' Association (herein "HOA"). These Covenants, and matters relating to the Subdivision, shall be administered, controlled, maintained and enforced by the HOA and its Board of Directors, which are described in more detail below and the HOA shall be comprised of the Owner of each Lot. The HOA and its Board of Directors shall administer and enforce these Covenants and restrictions and shall collect and disburse the assessments and charges hereinafter created. For these purposes, the Developer shall cause to be incorporated under the laws of the State of Wyoming as a corporation or association, Afton Airpark HOA, Inc. (herein "HOA"), and shall execute the Articles of Incorporation, By-Laws and other governing documents for said HOA.

4. HOME OWNERS' ASSOCIATION ("HOA") – MEMBERSHIP/VOTING RIGHTS AND BOARD OF DIRECTORS

4.1 Membership. Every person or entity who is a record owner of a fee interest in any Lot which is subject to these Covenants of record and to assessment by the HOA, shall be a member of the HOA, subject to the terms hereof and the by-laws and other governing documents of the HOA. Notwithstanding the foregoing, any such person or entity who merely holds record ownership as security for the performance of an obligation shall not be a Member of the HOA.

4.2 Voting Rights. The HOA shall have one class of voting Members and a Board of Directors. Members shall be the record owners of all Lots, including the Developer for those Lots it owns. Members shall be entitled to one vote for each Lot owned. When more than one person are Owners of any Lot, all such persons shall be Members, but the single vote for such Lot shall be exercised as they among themselves determine, subject however, to the limitation that in no event shall more than one (1) vote be cast with respect to any such Lot.

4.3 General Matters. When reference is made in this Declaration (or in the articles, by-laws, rules and regulations, or other documents hereafter established by and/or for the HOA) to a majority of Members of the HOA, such reference shall be deemed to reference a simple majority (51%) at a duly constituted meeting thereof (i.e., one for which proper notice has been given and at which a quorum of 51% of the total Lots exists) and not of the Members themselves or their Lots.

4.4 Board of Directors Of Home Owners' Association. The HOA shall have a Board of Directors (hereinafter the "Board"), which said Board is created by this Declaration, and shall be subject to the terms and conditions set forth in the HOA's Articles and By-Laws, as may hereafter be amended from time to time by the HOA. The Board shall have the powers and duties otherwise set forth in the HOA's Articles and By-Laws, and shall specifically have the powers enumerated in Section 9 below as the sole governing body for all architectural review, approval, control and variance for the improvement requirements of each Lot and the Subdivision.

The Board is initially comprised of one member who shall be the Declarant, BarrMore, LLC, or its assignee, who shall serve as the sole Member of the Board initially. After Seventy-Five Percent (75%) of the Lots in the Subdivision available for sale are sold and transferred of record to the purchaser thereof, then the Board shall thereafter be made up of three (3) members, who shall be: (i) BarrMore, LLC, or its successor or assignee, (ii) a Lot Owner appointed by BarrMore, LLC, or its successor or assignee, in its sole discretion, and (iii) a separate Lot Owner who shall be elected by the Members of the HOA at each annual meeting of the Association.

After the Board attains its three-member status, any action taken by the Board shall require an affirmative vote by at least 2/3rds of its members. BarrMore, LLC, or its successor or assignee, shall have the right in its discretion, but not the requirement, to vacate its position on the Board at any time after 75% of the the Lots are sold. If it does vacate, BarrMore, LLC, or its successor or assign, shall have the right to assign its position on the Board to another Lot Owner, in its sole discretion, to so serve until the next annual meeting of the HOA, at which time all three seats on the Board shall be elected by the HOA for that year and each year thereafter.

5. COMMON AREA/EASEMENTS – PROPERTY RIGHTS/GRANTS/RESERVATIONS

5.1 Ownership of Taxiways. Taxiways within the Subdivision shall be privately owned, subject to the easements specifically granted to the HOA on the Plat and/or herein (except Aviat Taxiway, the ownership and control of which shall be retained by Developer), as follows:

5.2 Members' Easements For Common Areas/Easements. Each Member of the HOA as an Owner of a Lot, and each tenant, agent and invitee of such Member, is hereby granted and shall have a permanent and perpetual non-exclusive easement for the use and enjoyment of all Common Areas, which for purposes herein shall include: (i) the common area(s) designated on the Plat (ie., Lot 57 is intended by Declarant to be a Common Area for the non-exclusive benefit of each and every Lot owner for an area used for aircraft to travel to/from Zulu Taxiway through the fence to the Afton Airport), and (ii) the taxiway and street easements granted on the Plat, and (iii) all other common easements/areas as shown, designated and granted on the Plat (which excludes that portion of Aviat Taxiway east of Lot 57, which does not and is not required to provide aircraft access to any Lot but may be used by Declarant, or its successor and assigns for access to other properties), in common with all other Members of the HOA, their tenants, agents and invitees.

All rights of use and enjoyment of such areas/easements are subject and subordinate to the following:

(a) Easements over and upon the Common Areas are granted in favor of all Owners and their invited guests, as shown and described on said Plat; provided, however, that this section shall not in itself be deemed to grant any easements or use rights which are not specifically granted on the Plat or elsewhere herein or in any other documents to which the Subdivision is not now or hereafter made subject.

(b) The right and duty of the HOA to levy and collect assessments against each Lot for the purpose of maintaining the Common Areas, the streets and taxiways for which easements

were granted on the Plat, and easements and facilities thereto in compliance with the intent and provisions of this Declaration.

(c) The right of the HOA to suspend the right of an Owner and his designees to use the Common Areas (except for legal access) and common facilities for any period during which any applicable assessment remains unpaid, and for a period not to exceed sixty (60) days for any infraction of lawfully adopted and published rules and regulations.

(d) The right of the HOA to charge reasonable admission and other fees for the use of any recreational facility situated on the Common Areas, if any.

(e) The right of the HOA to adopt and enforce rules and regulations governing the use of the Common Areas, common facilities and easements, including the right to fine Members as elsewhere provided herein.

(f) The right of HOA, by a 2/3rds affirmative vote of the membership, to dedicate portions of the Common Areas to a public agency under such terms as the HOA deems appropriate and to create or contract with community development and special taxing districts for lighting, roads, recreational or other services, security, communications and other similar purposes deemed appropriate by the HOA (to which such creation or contract all Owners hereby consent).

(g) Anything to the contrary in this Declaration notwithstanding, the Developer shall reserve the right to permit persons other than Members of the HOA and designated persons to use certain portions of the Common Areas, common facilities, easements and/or any taxiway(s) that may be constructed thereon under such terms as Developer, its successors and assigns, may from time to time desire, so long as such easements do not unreasonably interfere with or unreasonably restrict the rights granted herein for the benefit of the HOA and Owners.

(h) The right hereby reserved by the Developer and the HOA to grant non-exclusive perpetual easements over, under and through the Common Areas, taxiways or said common easements.

(i) The right to the use and enjoyment of the Common Areas, and any facilities thereon, taxiways and common easements in the case Members shall extend to each permitted user's immediate family who reside with him, subject to regulation from time to time by the HOA in its adopted rules and regulations.

5.3 Maintenance. The HOA shall at all times maintain in good repair, operate, manage and insure, any and all improvements situated on the Common Areas, streets and taxiways, common easements including, but not limited to, all recreational facilities, landscaping, paving, drainage structures, street lighting fixtures and appurtenances, sidewalks, swimming pools (if any) and structures (except public utilities). Without limiting the generality of the foregoing, the HOA shall assume all of Developer's responsibility of any kind with respect to such areas and shall indemnify Developer and its affiliates and hold Developer and its affiliates harmless with respect thereto. All work pursuant to this Section and all expenses hereunder or otherwise allocated to the HOA shall be paid for by the HOA through assessments imposed in accordance herewith. No Owner may waive or otherwise escape liability for the assessments for such maintenance by nonuse of such common areas.

5.4 Utility Easements. Public utilities shall be installed underground along those easement routes shown on the Plat when necessary for the service of the Lots and/or other properties, and the right thereto is granted herein. The Developer, its designees and HOA shall have the right also to install and maintain community and/or cable TV and security and other communications lines, equipment and material (and all future technological advances not now

known) in Subdivision and perpetual easements are hereby reserved for the Developer and its affiliates and such designees over the Common Areas and said easement routes for this purpose.

5.5 Public Easements. Fire, police, health and sanitation and other public service personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across such Common Areas in the performance of their respective duties.

5.6. Easements and Setback Requirements – Further Grants/Reservations Made as Follows:

(1) A 115 foot wide clear zone (object-free) easement is granted and reserved along the Lot lines fronting the outer boundaries of the taxi lane, and as otherwise shown on the Plat. Said clear zone easement is measured 57 ½ feet from the centerline of said taxi lane along the Lots lying in the interior of the Subdivision, all said clear zone easement routes being as shown on the Plat. This easement is granted and reserved for a safety zone, and no aircraft, trees or other buildings or obstacles are allowed above-ground in this easement area.

(2) A 10 foot easement along all sides of all Lots is reserved for underground utility and or drainage purposes.

(3) A 20 foot easement along the exterior boundaries of the Subdivision, as shown on said Plat, is reserved for a drainage or underground utility easement and for the purpose of erecting (if desired by the HOA) a privacy fence or hedge.

(4). No structure or building may be constructed within 25 feet of the front street-side property boundary.

(5). The maintenance of all drainage easements, privacy fences or hedge rows is the responsibility of the HOA. If the easements are not currently being used for one of the purposes stated herein, then the Owner of the Lot encumbered by said easement is responsible for the maintenance thereof (eg., mowing, raking, etc.).

5.7 Easements Appurtenant. The easements granted herein and on the Plat shall be appurtenant to and shall run with land and with the title to each Lot.

6. COMMON AREAS/EASEMENTS – MAINTENANCE, REPAIRS, LANDSCAPING –

6.1 Maintenance. Without limiting the generality of other provisions hereof, the common areas, streets and taxiways (except Aviat Taxiway which does not provide aircraft travel rights adjacent to any Lot and which has not been granted herein or on the Plat), and common areas, as shown and described herein and on said Plat, shall be maintained by the HOA, beginning upon the date these covenants are recorded, in a continuous and satisfactory manner without cost to the general taxpayers of the Town of Afton, and without direct, individual expense to the Owners of the Lots upon which the such areas are situated or abut, except for their share of the general common expenses levied by assessment. Such maintenance shall extend to all, paving and concrete, street lighting fixtures and the payment for electricity consumed in their illumination, and other desired improvements thereto. All work pursuant to this section and all expenses hereunder shall be paid for by the HOA through assessments imposed in accordance herewith. No Owner may waive his right to use or otherwise escape liability for assessments for such maintenance under this section.

6.2 Limitations on Use. The commons areas as shown or designated herein and on the Plat shall be used for the purposes of common enjoyment by the Owners for such purposes as a park, pedestrian/recreational areas, parking, landscaping a planted screen buffer, aircraft taxiing

on the taxiway easements granted on the Plat, for installation and maintenance of underground utilities and lines, and any other future use expressly permitted by the HOA or Declarant. Such common areas shall not be used by Owners of their respective Lots for parking or for any other purposes no expressly permitted by the HOA. No driveway access or vehicular access shall be permitted to any Lots across such common areas except as may be expressly permitted by the HOA or Declarant.

7. HOA'S RIGHTS OF ASSESSMENTS/LIENS.

7.1 Creation of the Lien and Personal Obligation of Assessments. The owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the HOA: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as herinafter provided. The annual and special assessments, together with interest, costs and reasonable attorneys' fees for collection, shall be a charge on and continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. Annual assessments may include reasonable reserves as the HOA may deem necessary, for the future repair, maintenance or improvement of the Common Areas. All assessments shall be imposed equally against all Lots within the Subdivision and those that may in the future be subject to liens of the HOA. In the case of any multi-unit or rental project located or to be located on any property subject to these Covenants, the Owner thereof shall be assessed for each unit contained or expected to be contained (on the basis of building permits issued) in such multi-unit or rental project as if each such existing (or permitted) unit were a Lot for this purpose and he total of such assessments shall be a lien against the underlying Lot.

7.2 Purpose of Assessments. The assessments levies by the HOA shall be used for maintenance, operation, management and insurance of the Common Areas as provided herein, the payment of expenses allocated to the HOA's purposes and to promote the health, safety, welfare and recreational opportunities of the Members of the HOA and their families residing with them and their tenants, agents and invitees.

7.3 Capital Improvements. Funds in excess of \$10,000, in any one case, which are necessary for the addition of capital improvements (as distinguished from repairs and maintenance) relating to the Common Areas and which have not previously been collected as reserves or are otherwise available to the HOA may be levied as special assessments by the HOA upon approval by a majority of the favorable vote of Members voting at a meeting or by ballot as may be provided by the HOA. It is the intent of this Section that any capital improvements having a cost of less than \$10,000 be paid for by regular assessments, with an appropriate adjustment to the budget of the HOA and the assessments levied thereunder to be made, if necessary.

7.4 Date of Commencement of Annual Assessments; Due Dates and Amounts. The annual assessments provided for in this Article shall commence on the day that the first Lot within the Subdivision is sold and conveyed to an Owner, which is expected to be in the year of 2005. Each subsequent annual assessment by the HOA shall be imposed for the year beginning January 1 and ending December 31 and will be payable in advance by each Owner on or before January 31 of each year.

The due date of any special assessment or capital improvement assessment shall be fixed in the HOA resolution authorizing such assessment and will be payable within 30 days of assessment.

The annual HOA assessment shall initially be set as follows, unless otherwise agreed and directed by the HOA:

(i) Assessment Prior to Home Occupancy. Upon the purchase of a Lot and prior to occupancy thereon, each Owner shall pay no more than \$100.00 per month to the HOA for payment toward the maintenance, repair and other duties and responsibilities of the HOA;

(ii) Assessment Post Home Occupancy. Upon the completion of a home upon a Lot, and the issuance of the certificate of occupancy permitting such home to be occupied, each Owner shall thereafter pay no more than \$200.00 per month to the HOA for payment toward the maintenance, repair and other duties and responsibilities of the HOA;

(iii) The above-described initial assessments may be increased each year thereafter if reasonably required for the HOA's financial requirements; however, such annual increase may not be more than 20% above the above-described maximum assessment for the previous year without the approval of at least a majority of the Members of the HOA.

7.5 Duties of the HOA. The HOA shall fix the date of commencement and the amount of the assessment against each Lot for each assessment period each year at its annual meeting, and shall, at that time, prepare a roster of the Owners thereof and assessments applicable thereto. Said roster shall be kept in the office of the HOA and shall be open to inspection by any Owner.

Written notice of the applicable assessment shall be sent to every Owner thirty (30) days prior to payment, except as to emergency assessments. In the event no such notice is given, the assessment amount payable shall continue to be the same as the amount payable for the previous period until changed in the manner provided for herein.

The HOA shall upon demand furnish to any Owner liable for an assessment a certificate in writing signed by a officer of the HOA setting forth whether such assessment has been paid as to any particular Lot.

The HOA shall have a Board of Directors. The HOA, through the action of the Board of Directors, shall have the power, but not the obligation, to acquire, by purchase, lease or otherwise, one or more Lots, with a residence thereon or to be constructed, for occupancy by its employees or independent contractors, and to enter into an agreement or agreements from time to time with one or more persons, firms or corporations (including affiliates of the Developer) for management services. The HOA shall have all other powers provided in its Articles of Incorporation and By-Laws, which shall be adopted hereafter by the HOA.

7.6 Effect of Non-Payment of Assessment; the Personal Obligation; the Lien; Remedies of the HOA. If an assessment is not paid on the due date, then such assessment shall become delinquent and shall, together with late charges, interest and the cost of collection become a continuing lien on the appropriate Lot and shall bind such Lot in the hands of the Owner, his heirs, personal representatives, successors and assigns. Except as specifically provided herein, the personal obligation of the Owner to pay such assessment shall pass to his successors in interest with recourse against the Owner or his successor's.

All assessments, late charges, interest, penalties, fines, attorney's fees and other sums provided for herein shall accrue to the benefit of the HOA.

Owners shall be obligated to deliver the documents originally received from the Developer or closing agent for their purchase of a Lot, which includes a copy of this Declaration and other declarations and documents, to any grantee of such Owners.

The HOA shall have such other remedies for collection and enforcement of assessments as may be permitted by their Articles, by-laws and/or applicable Wyoming laws. All remedies are intended to be cumulative.

7.7 Subordination of the Lien. The lien of the assessment provided for in this Article shall be subordinate to real property tax liens and to the lien of any first mortgage recorded prior to recordation of a claim of lien. The order of priority of liens hereunder shall be: tax liens, first mortgage liens, the lien created herein, and liens junior thereto, if any.

7.8 Collection of Assessments. Assessments levied pursuant hereto shall be collected in the manner established by the HOA or its Board of Directors.

7.9 Effect on Developer. Notwithstanding any provision that may be contained to the contrary in this instrument, for so long as Developer (or any of its affiliates) is the owner of any Lot or undeveloped property within the Subdivision, the Developer shall have the option, in its sole discretion, to (i) pay assessments on the Lots owned by it, (ii) pay assessments only on certain designated Lots (e.g. those under construction or those containing a Unit for which a certificate of occupancy has been issued) or (iii) not paying assessment on any Lots and in lieu thereof funding any resulting deficit in the HOA's operation expenses not produced by assessments receivable from owners other than the Developer. The Deficit to be is the difference in the actual operating expenses of the HOA (exclusive of capital improvement costs, reserves and management fees) less the sum of all monies receivable by the HOA, (including, without limitation, assessments, interest, late charges, fines and incidental income) and less any surplus carried forward from the preceding year(s). The Developer may from time to time change the option stated above under which the Developer is making payments to the HOA. If Developer at any time elects option (ii) above, it shall not be deemed to have elected option (iii) as to the Lots which are not designated under option (ii). When all Lots within the Subdivision are sold and conveyed to purchasers, the Developer shall have no further liability of any kind to the HOA for the payment of assessment, deficits or contributions.

7.10 HOA Funds. The portion of all regular annual assessments collected by the HOA for reserves for future expenses, and the entire amount of all special assessments, shall be held by the HOA and may be invested in interest bearing accounts or in certificates of deposit or other like instruments or accounts available at banks or savings and loan institutions, the deposits of which are insured by and agency of the United States.

7.11 Specific Damage. Owners (on their behalf and on behalf of their children and guests) causing damage to any portion of the Common Areas as a result of misuse, negligence, failure to maintain or otherwise shall be directly liable to the HOA and a special assessment may be levied therefor against only such Owner(s).

8. HOA'S RULES AND REGULATIONS AFFECTING LOTS/SUBDIVISION.

8.1 Compliance by Owners. Every Owner and his tenants, guests, invitees, employees and agents shall comply with any and all rules and regulations herein or as hereafter adopted and promulgated by the HOA.

8.2 Enforcement. Failure to comply with such rules and regulations shall be grounds for immediate action which may include, without limitation, an action to recover sums due for damages, injunctive relief or any combination thereof. The HOA shall have the right to suspend voting rights and use of Common Areas as specified herein for such failure to comply.

8.3 Fines. In addition to all other remedies, in the sole discretion of the HOA, a fine or fines may be imposed upon an Owner for failure of an Owner, his tenants, family, guests, invitees, employees or agents, to comply herewith or with any rule or regulation, provided the following procedures are adhered to:

(a) Notice: The HOA shall notify the Owner of the infraction or infractions. Included in the notice shall be the date and time of a special meeting of the HOA or its Board of Directors at which time the Owner shall present reasons why penalties should not be imposed. At least seven (7) calendar days' notice of such meeting shall be given.

(b) Meeting: The non-compliance shall be presented to the HOA or its Board of Directors after which it shall hear reasons why a fine should not be imposed. A written decision shall be submitted to the Owner by not later than twenty-one (21) days after said meeting. The Owner shall have a right to be represented by counsel and to cross-examine witnesses. If the impartiality of the Board is in question, the Board shall appoint three (3) impartial Members of the HOA to a special hearing panel.

(c) Amounts of Fines: If findings are made against the Owner, the HOA or its Board of Directors may impose special assessments against the Lot owned by the Owner as follows:

First non-compliance or violation: a fine not in excess of \$100. (2)
Second non-compliance or violation: a fine not in excess of \$500. (3)
Third and subsequent non-compliance, or violation or violations which are of a continuing nature: a fine not in excess of \$1,000.

(d) *Payment of Fines*: Fines shall be paid not later than five (5) days after notice of the imposition or assessment of the penalties.

(e) *Collection of Fines*: Fines shall be treated as a special assessment subject to the provisions for the collection of assessments as set forth herein.

(f) *Application of Fines*: All monies received from fines shall be allocated as directed by the Board of Directors.

(g) *Non-exclusive Remedy*: These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the HOAs may be otherwise legally entitled; however, any penalty paid by the offending Owner shall be deducted from or offset against any damages which the HOA may otherwise be entitled to recover by law from such Owner.

8.4 Other rules and regulations:

(a). The Common Areas and facilities and taxiways, shall not be obstructed nor used for any purpose other than the purposes intended therefor. No vehicles, carts, bicycles, carriages, chairs, tables or any other objects shall be stored therein.

(b) The personal property of Owners must be stored within the structures on their Lot or in outside storage areas approved by the Board.

(c) Other than garbage cans, no supplies, milk bottles or other articles shall be placed on the exterior portions of any Lot, and no linens, cloths, clothing, curtains, rugs, mops, or laundry of any kind, or other articles, shall be hung outside on any Lot.

(d) Employees of the HOA, if any, are not to be sent out by Owners for personal errands. The Board shall be solely responsible for directing and supervising employees of the HOA.

(e) Vehicles which are not in running condition or are in a state of disrepair, and all trailers, campers, boats, recreational vehicles, motorcycles and other like vehicles, machinery and equipment shall not be placed or stored anywhere on a Lot unless enclosed in a garage or accessory building and out of the view of other Lot owners. Private vehicles which are properly licensed and are used on a daily basis do not need to be stored in such a manner.

Off-street parking for at least two vehicles, which said parking area shall be surfaced with either asphalt or concrete, shall be provided by the Owner on each Lot. No trailer, RV, boat, camper or any other recreational type vehicle shall be situated or parked on any Lot within the Subdivision for more than four consecutive days, nor more than a total of two weeks within any calendar year, unless such vehicle is enclosed in the garage or accessory building.

Motorcycles, atv's, snow machines and similar vehicles may be used only to enter and exit from the public roads to a Lot, and no such vehicle shall be operated on a Lot in any unsafe, noisy or offensive manner.

No portion of the Common Areas may be used for parking purposes, except those portions specifically designed and intended therefore by the HOA, if any. Areas designated for guest parking by the HOA, if any, may be used only for this purpose and neither Owners nor occupants of a Lot shall be permitted to use these areas.

(f) No vehicles shall park or drive on Afton Airport taxiways, as said taxiways are designated for taxiing aircraft only.

Vehicles which are in violation of these rules and regulations shall be subject to being towed by the HOA as provided in the Declaration, subject to applicable laws and ordinances.

(g) No Owner shall make or permit any disturbing noises on the Lot by himself or his family, servants, employees, agents, visitors or licensees, nor permit any conduct by such persons that will interfere with the rights, comforts or convenience of other Owners. No Owner shall play or permit to be played any musical instrument, nor operate or permit to be operated a phonograph, television, radio or sound amplifier or any other sound equipment on his Lot in such a manner as to disturb or annoy other residents (applying reasonable standards). No Owner shall conduct, nor permit to be conducted, vocal or instrumental instruction at any time which disturbs other residents.

(h). No electronic equipment may be permitted in or on any Lot which interferes with the television or radio reception of another Owner. Household electronic equipment (eg., ham radio, satellite dish, etc.) shall not interfere with existing or planned future aviation and/or navigational aids.

Additionally, only standard residential lighting shall be used to illuminate a Lot. All outside lighting shall be arranged, directed and/or shielded so as to prevent any such light shining onto an adjacent road and/or other Lots.

(i). No awning, canopy, shutter, enclosure satellite dish on other projection shall be attached to or placed upon the outside wall or roof of any building on the Lot, except as approved by the Board.

(j). No Owner may alter in any way portions of the Common Areas, including, but not limited to, landscaping, without obtaining the prior written consent of the Board.

(k). Except as otherwise provided herein, no commercial use shall be permitted on a Lot or within the Subdivision even if such use would be permitted under applicable zoning ordinances; provided however, this restriction shall not prohibit an owner from leasing his home or hanger provided that the tenant's use thereof is consistent with the terms herein.

(l). No flammable, combustible or explosive fluids, chemicals or substances shall be kept, stored or distributed on a Lot or on the Common Areas, except as otherwise permitted by the Board; provided however, this restriction shall not prohibit the parking of a vehicle or aircraft on the Lot which contains fuel in its internal fuel tank.

(m). An Owner shall not cause anything to be affixed or attached to, hung, displayed or placed on the exterior walls, doors, balconies or windows of a structure on his Lot without the prior written approval of the Board.

(n). Children will be the direct responsibility of their parents or legal guardians, including full supervision of them while within The Properties and including full compliance by them with these Rules and Regulations and all other rules and regulations of the HOA. Loud noises will not be tolerated. All children under twelve (12) years of age must be accompanied by a responsible adult when entering and/or utilizing recreation facilities,

(o). Pets and other animals shall neither be kept nor maintained in or about a Lot or Subdivision except in accordance with the Declaration and with the following:

No pet shall be permitted outside of its Owner's home or Lot unless attended by an adult or child of more than ten (10) years of age and said pet must be on a leash of reasonable length, unless it can be demonstrated that said pet is disciplined to its attendants voice command and will not interfere with the privacy of any person or their property. In no event shall said pets ever be allowed to be walked or taken on or about any recreational facilities contained within the Common Areas. Commercial animal husbandry shall not be practiced in any form, and all pets shall be maintained for personal and family use only. No Lot owner shall keep more than three (3) dogs nor more than three (3) cats on a Lot, and all such dogs/cats shall be kept restrained on an Owner's Lot in a reasonable manner and shall at all times be kept from creating a nuisance or disturbance (particularly a noise disturbance) to other Lot owners within the Subdivision.

(p). No livestock of any nature shall be kept, raised or maintained on a Lot ("Livestock" shall include but not be limited to: horses, donkeys, cattle, sheep, pigs, goats, llamas, peacocks, turkeys, chickens or any other such animals not customarily kept as household pets in the area).

(q) No hazardous, illegal, noxious, or unreasonably loud or offensive activities shall be permitted within the Subdivision, nor shall anything be done or placed within the Subdivision which is or may become a nuisance. Each Owner shall maintain his Lot at all times in a safe, sound and sanitary condition and shall repair or correct any condition and refrain from any activity which might interfere with the reasonable enjoyment by other Owners of their Lots.

(r). Every Owner and occupant shall comply with these rules and regulations as set forth herein, any and all rules and regulations which from time to time may be adopted, and the provisions of this Declaration, and By-Laws and Articles of the HOA, as amended from time to time. Failure of an Owner or occupant to comply shall be grounds for action which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof. The HOA shall have the right to suspend voting rights and use of recreation facilities, in the event of failure to comply. In addition to all other remedies, in the sole discretion of the Board of Directors of the HOA, a fine or fines may be imposed upon an Owner for failure of an Owner, his tenants, family, guests, invitees or employees, to comply with any covenant, restriction, rule or regulation herein or in the Declaration, or Articles of Incorporation or By-Laws, as provided in the Declaration.

(s). No well or septic system shall be constructed or maintained on any Lot when ever water and sewer connections and facilities are available to the Lot.

(t). All electrical lines and telephone lines shall be run underground.

(u). All aircraft shall have the right-of-way when taxiing on designated rights of way or taxiways. Aircraft shall run up only in designated areas. But in any event, the "run up" shall not be done in such a manner as to cause damage to the property of others. FAA regulations will be strictly enforced for the protection of the Lot owners.

(v). If any installment of an assessment is not paid within Thirty (30) days after the due date, at the option of the HOA, a 20% late charge may be imposed and the HOA may bring an action at law against the Owner(s) personally obligated to pay the same or may record a claim of lien against the property on which the assessments and late charges are unpaid, or may foreclose the lien against the property on which the assessments and late charges are unpaid, or pursue one or more of such remedies at the same time or successively, and attorneys' fees and costs of preparing and filing the claim of lien and the complaint (if any) in such action, and in prosecuting same, shall be added to the amount of such action, and in prosecuting same, shall be added to the amount of such assessments, along with interest at 18% per annum from the due date of the assessment. In the event a judgment is obtained, such judgment shall include all such sums as above provided and attorney's fees actually incurred in the applicable action together with the costs of the action, and the HOA shall be entitled to attorney's fees in connection with any appeal of any such action.

(w). In addition to the rights of collection of assessments stated herein, any and all persons acquiring the title to or the interest in a Lot as to which the assessment is delinquent, including, without limitation, persons acquiring title by operation of law and by judicial sale, shall not be entitled to the occupancy of such Lot or the enjoyment of the Common Areas until such time as all unpaid and delinquent assessments due and owing from the selling Owner have been fully paid, and no sale or other disposition of Lots shall be permitted until an estoppel letter is received from the HOA acknowledging payment in full of all assessments and other sums due.

(x). It shall be the legal duty and responsibility of the HOA to enforce payment of the assessments hereunder. Failure of the HOA to send or deliver bills or notices of assessments shall not, however relieve Owners from their obligations hereunder.

9. CONSTRUCTION REQUIREMENTS; ARCHITECTURAL CONTROL; GENERAL POWERS/PROVISIONS.

9.1 Construction Requirements. All new construction shall comply with the following requirements unless a variance is granted by the Board:

9.1.1 New Construction/Time For Completion. Any buildings erected on the Lot shall be on-site new construction with new quality materials. No owner of a Lot shall erect or place any mobile homes, factory constructed or other modular residential buildings on a Lot. Trailers shall not be used as a permanent residence during construction. Once construction of a structure is commenced on a Lot, construction of that structure shall be completed within fourteen (14) months of commencement. Mobile homes shall not be used as temporary or permanent residences at any time.

9.1.2 Compatibility of Improvements. All buildings, fencing and any other improvements constructed on a Lot shall be appropriate in character, design, color and architecture in relation to the general area and to the other homes in the subdivision. No unusual design, styles or construction methods shall be allowed (for illustration purposes only -- there shall be no geodesic domes, A-frames, entirely underground buried homes, or no other structures of inferior construction quality or design than what is typical in the area.

9.1.3 Colors of Improvements. All buildings and improvements will be painted, stained, sided and roofed in primarily earth tone colors so that they shall blend with the land and the surrounding area and homes as much as possible.

9.1.4 Number of Buildings Per Lot. No buildings shall be erected, altered, placed or permitted to remain on a Lot other than one (1) detached single-family primary residential dwelling, with a private attached garage, and a maximum of two (2) additional accessory building for use as a aircraft hanger, barn, studio, carriage or guest house, additional garage, workshop, living quarters for domestic employees, recreation room, storage area, or any combination thereof, if permitted by the local government's applicable regulations. All building plans must be approved prior to construction by the Board, as set forth hereafter. No more than three (3) buildings per Lot shall be permitted unless the prior written approval of the Board.

9.1.5 Minimum/Maximum Square Footage for Homes. Every primary residential dwelling that is a single story home shall have a minimum of 1,600 square feet of above-grade finished living area. Every primary residential dwelling that is a two story home (above grade), where such two-story homes may be permitted, shall have a minimum total above-grade finished living area of no less than 2,000 square feet of finished living area on the ground level. No primary residential dwelling shall exceed two stories above finished grade (not including a standard basement level). A two-story home may be permitted only when specifically allowed by the Board in its discretion and in conformity with the height restrictions that may be established by applicable municipal ordinance, rule, regulation or by the FAA.

No basement area will be considered a part of the finished floor area requirements, and no basement shall extend higher than thirty six inches (36") from the highest point of the finished grade elevation of the primary residential dwelling.

9.1.6 Accessory Buildings. Each accessory building, and the size, design and location thereof, on a lot shall be subject to the prior approval of the Board. All such building shall be of properly framed construction, and shall be sided only with materials allowed in the following paragraph. Each accessory building constructed on a Lot shall be constructed in a style that matches the primary residential dwelling constructed thereon, and the siding and roof materials and colors of both buildings shall be the same.

In an effort to promote a higher quality look than an average pole-type barn, each accessory building shall have one or more architectural details that provide a higher-than-average appearance (examples of such intended details include but are not limited to: varying or multiple roof lines, covered porch or landing, a roof cupola or other such architectural details). The architectural details required by this paragraph shall be subject to the approval of the architectural control committee.

9.1.7 Permitted Sidings. Each primary residential dwelling, and all additional accessory buildings, shall be sided with one or more of the following materials:

- i. properly painted, stained or treated exterior-quality wood siding which shall be properly maintained after installation;
- ii. properly stained, painted or treated logs with a minimum diameter or thickness of seven inches (7") which shall be properly maintained after installation;

- iii. traditional stucco, Drivite or other high quality stucco-like siding;
- iv. masonry (natural or cultured stone or brick);
- v. Metal siding with 40% masonry combined therewith;
- vi. high quality manufactured/composite siding [examples of such permitted composite siding include: CertainTeed's "WeatherBoards"; James Hardie's "Hardiplank Lap Siding" or "Hardishingle Siding" and other such higher-than-average manufactured/composite siding approved by the committee] that is in the form of a traditional lap siding or shake and which meets all of the following minimum criteria: (A) the color warranty on the siding product is a minimum of fifteen (15) years; (B) the durability warranty on the siding product is a minimum of fifty (50) years; (C) the reveal of such a lap siding does not exceed six and a quarter (6 ¼) inches; (D) that the siding is properly installed according to manufacturer specifications; and (E) there are no butt joints on any course of such lap siding on the front elevation of the building that require connectors/clips or caulking [ie., all runs of lap siding shall be full-length runs at least on the front elevation].

9.1.8. Soffit and Fascia. All soffit and fascia shall be considered a part of the siding and shall be installed using new quality material and in accord with the siding materials permitted above; Provided However, metal soffit and fascia may be used without requesting a variance so long as such metal soffit and fascia meets the following minimum quality specifications: all such metal shall be of a high quality and thickness and shall be properly installed; and fascia over seven inches (7") in height shall have a stepped appearance. Provided further, whenever metal soffit and fascia is used, that area where the rake fascia board meets the horizontal soffit from the side of the house, that connection shall be finished by boxing in the connection so that it has a finished appearance.

9.1.9. Trim Boards/ Window&Door Casing. Should any building be sided with any material other than those permitted sidings listed in paragraph 9.1.7(ii), (iii) and (iv), above, then all exterior windows and doors shall have a minimum of 3½ inch, and a maximum of 6 inch, trim boards which case all windows and doors and shall have corner boards with a minimum width of 3½ inches, and a maximum of 6 inches, on each corner of the building.

9.1.10 Front Elevation – Masonry Requirement. A minimum of twenty percent (20%) of the front elevation of all primary residential dwellings and all accessory buildings that faces the road shall be faced with masonry (ie., either natural or cultured stone or brick), unless a greater percentage of masonry is otherwise required herein.

The intent of this paragraph is to require a certain portion of all improvements that you see from road in front of each home to be faced with a better-than-average attractive and natural appearance. For purposes of calculating the masonry requirement, the total area of the building that faces the road shall be calculated by excluding the area of the windows, doors, garage doors, and gable ends of that elevation – the remaining area of the building's elevation shall be the total area of which the applicable percentage must be faced with masonry.

Provided further, certain architectural details that are faced with masonry shall apply in fulfilling this masonry requirement. That is, details like masonry porch columns or pillars, masonry retaining walls, fireplaces with masonry exposed to the exterior elevation, and other such masonry details, shall be apply toward this masonry

requirement.

9.1.11 Prohibited Sidings. No primary residential dwelling nor any accessory building erected on a Lot shall be sided with any other materials such as the following materials, which are prohibited as such are typically inferior and less-than-average in quality and appearance, including but not limited to: plywood or any wood sheet panel siding; vinyl lap-style siding; metal siding (unless otherwise permitted as set forth herein); pressed board, hard board siding or other such inferior grade composite siding; exposed unfinished cement or concrete block, or any other inferior siding.

9.1.12 Roofing Requirements. All major roof lines of any primary residential dwelling shall be pitched with at least a 6/12 pitch; provided however, the roof pitch of porches, dormers and other ancillary roof lines shall not be less than a 4/12 pitch. All buildings constructed on a Lot shall have a roof of at least eighteen inch (18") overhang. No roof of any other structure erected on a Lot shall be pitched less than a 4/12 pitch. Permitted roofing materials shall not be in any unusual color and are limited to: (i) tile or slate; (ii) asphalt shingles (provided however, if asphalt shingles are used, they shall be the architectural design with the "shake" look and shall be of a quality with at least a 40-year rating, (iii) high quality composite shakes, (iv) real cedar shakes, (v) metal roofing with high quality finish and in an architectural grade with concealed screws/fasteners, or (vi) other such higher-than-average quality roofing material.

9.1.13 Sheathing & Exterior Framing Requirements. All construction shall use sheathing (except in types of construction where sheathing is not required, like logs) meeting at least the following minimum requirements: (i) all wall sheathing shall be at least 7/16" plywood, OSB or comparable sheathing product; (ii) all roof sheathing shall be at least 5/8" plywood, OSB or comparable sheathing product; and (iii) all subflooring shall be at least 3/4" plywood, OSB or comparable subflooring product. Additionally, all exterior stud walls shall be framed with studs on at least 16" centers. The purpose of these requirements is to ensure the quality of the exterior appearance of the buildings shall be long lasting and shall not sag or develop a lower quality appearance because of lesser construction products used for exterior sheathing/framing.

9.1.14 Fences. There shall be no chain-link fences, no woven or barbed wire fences (except for the exterior fences of the subdivision for purposes of keeping livestock out), no concrete block fences nor any other unusual type of fence not common to the area on any Lot. Fences of any kind shall not be permitted in the Common Area. All permanent fences to be constructed on a Lot shall be subject to approval by the Board, as such approval process is set forth herein. Provided however, temporary fences (ie., fencing to temporarily protect trees or vegetation) do not require such approval.

9.2 Review of Proposed Construction – Architectural Control by the Board.

a. **Architectural Control Review and Approval by Board** – The Board, as defined hereinbefore, is created by this Declaration, and it shall have the exclusive right, as a Board, to govern, control and enforce the architectural review and approval of the building requirements for all construction and landscaping on a Lot and any other improvements to a Lot. The Board shall further be responsible for the approval/denial of any variance to the construction, design, elevation, landscaping or other general building requirements for each Lot, as set forth herein.

The Board is initially made up of one member who shall be the Declarant, BarrMore, LLC, or its assigns. Once Seventy-Five Percent (75%) of the Lots in the Subdivision available for sale are sold and transferred to the purchaser thereof, then the Board shall thereafter be made up of three (3) members, who shall be: (i) BarrMore, LLC, or its successor or assign, (ii) a Lot Owner appointed by BarrMore, LLC, or its assigns, in its sole discretion, and (iii) a separate Lot Owner who shall be elected by the Members of the HOA at each annual meeting of the Association. Any action taken by the Board shall require an affirmative vote by at least two of the three members. BarrMore, LLC shall have the right, in its discretion, to vacate its position on the Board and it can assign its position to another Lot Owner, in its discretion.

The Board members shall hold office for two (2) years from the date of their appointment. Other than BarrMore, LLC, any elected Board member may be removed at any time without cause by the Members of the HOA at their annual meeting or special meeting.

b. *Purpose/Intent of Architectural Control* -- The Board's purpose and intent as it relates to its duties of architectural control, review and approval is for it to serve as the exclusive architectural control committee for the Subdivision to protect the generally required characteristics of construction described herein and to prohibit any construction or improvement on a Lot in violation of such requirements and the theme intended for the subdivision. In its capacity as an architectural control committee, the Board's approval shall be required to commence construction. The Board shall have the sole and exclusive control over such construction requirements and all decisions made by the Board, in its sole discretion, shall be binding on the Subdivision and all Lots thereof.

c. *Submission of Proposed Plans to Board -- Review and Approval Process.* Whenever an Owner of a Lot wishes to construct a primary residential dwelling, an accessory building or any permanent improvement/construction, or landscaping, the Owner shall submit to the Board three (3) full sets of building and site plans for such proposed construction. Such plans shall show all exterior elevations of the proposed building(s) and shall designate all the materials and colors to be used for all exterior materials so that the ACC has sufficient information to evaluate if the proposal meets the requirements set forth herein. Additionally, the Owner shall submit color samples of all such materials, and a landscaping plan for the Lot, for the Board's review and approval process.

Upon receipt of such plans, the Board shall call a meeting for the purpose of the Board's review of the plans and samples submitted as soon as possible, but in no event shall such meeting occur later than twenty (20) calendar days from the date of the Board's receipt of the plans and samples. At said meeting, the Board shall have the opportunity to comment on the plans and discuss the same. At the conclusion of the discussion, the Board shall vote on its approval of the proposed plans and samples. The approval of such plans shall require at least a two-thirds approval by the member(s) of the Board, and such approval or denial shall be in the sole discretion of the Board. The Board shall issue a written statement outlining the result of said vote and whether the Board approved or denied the proposed plans and samples. If denied, the Board shall provide a written summary of the reasons for such denial and shall provide the same to the Lot owner who proposed the plans within ten (10) days from the date of said meeting. No construction shall commence until the plans therefore have been approved by the Board.

No building, fence, wall or other structure or improvement shall be constituted on any Lot until the plans and specifications are approved in writing by the Board. The Board may condition its approval of proposals and plans and specifications as it deems appropriate, and may require submission of additional plans and specification or other information prior to approving or disapproving material submitted. The Board may also issue rules or guidelines setting forth procedures for the submission of plans for approval. The Board may require such detail in plans

and specifications submitted for floor plans, site plans, drainage plans, elevation drawings and descriptions or samples of exterior materials and colors..

All plans, including any changes or alterations, shall also be subject to all applicable governmental laws, statutes, ordinances, rules, regulations, orders and decrees.

d. *Intent of Architectural Control and Possibility For Variance.* It is the intent of these Covenants to ensure that the homes and accessory buildings constructed within the Subdivision are higher-than-average homes in terms of quality, appearance and styling. The Developer and Lot owners wish to promote a high quality of construction and appearance for each building to be constructed in the Subdivision to protect each Owner's desired lifestyles and property values.

As further provided hereafter in the Covenants, the Board, in exercising its architectural control of the Subdivision, may grant a variance to an Owner upon the Owner's written request to allow the primary residential dwelling or accessory building to be constructed, sided or roofed in some material other than those expressly permitted above. The Declarant acknowledges that there may be a type of construction, siding, roofing or other materials proposed that may be otherwise prohibited herein but because of the overall high quality of construction, appearance and style of the proposed residence or building the Board may allow such and grant a variance.

9.3 Meetings of the Board. The Board shall meet from time to time as necessary to perform its duties hereunder. The Board may from time to time, by resolution unanimously adopted in writing, designate a Board representative to take any action or perform any duties for and on behalf of the Board, except the granting of variances pursuant to provisions hereof. In the absence of such designation, the vote of any two (2) members of the Board shall constitute an act of the Board.

9.4 Compensation of Members. The members of the Board may receive reasonable compensation for services rendered, and shall receive reimbursement for expenses incurred by them in the performance of their duties hereunder.

9.5 Inspection of Work. Inspection of work and correction of defects therein shall proceed as follows:

(a) Upon the completion of any work for which such approval plans are required under this Article, the applicant for such approval (the Applicant) shall give written notice of completion to the Board.

(b) Within thirty (30) days thereafter, the Board or its duly authorized representative may inspect such improvement. If the Board finds that such work was not effected in substantial compliance with the approved plans, it shall notify the Applicant in writing of such non-compliance within thirty (30) day period, specifying the particulars of noncompliance, and shall require the Applicant to remedy the same.

(c). If, upon the expiration of thirty (30) days from the date of such notification, the Applicant shall have failed to remedy such non-compliance, the Board shall notify the Applicant in writing of such failure. The Board shall then determine whether there is a non-compliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a noncompliance exists, the Applicant shall remedy or remove the same within a period of not more than forty-five (45) days from the date of announcement of the Board ruling. If the Applicant does not comply with the Board ruling within such period, the Board, at its option, may either remove the non-compliance improvement or remedy the noncompliance, and the Applicant shall reimburse the HOA, upon demand, for all expenses incurred in connection therewith, plus an administrative charge to be determined by the HOA. If such expenses are not promptly repaid by the Applicant to the HOA, the Board shall levy a special assessment against such Applicant and his property for reimbursement.

(d). If for any reason the Committee fails to notify the Applicant of any non-compliance within thirty (30) days after receipt of said written notice of completion from the Applicant the improvement shall be deemed to have been made in accordance with said approved plans.

9.7 Non-Liability of Board Members. Neither the Board nor any member thereof, nor its duly authorized Board representative, shall be liable to the HOA, or to any Owner or any other person or entity for any loss, damage or injury arising out of or in any way connected with the performance of the Board's duties hereunder. The Board shall review and approve or disapprove all plans submitted to it for any proposed improvement, alteration or addition solely on the basis of aesthetic consideration and the benefit or detriment which would result to the immediate vicinity and to Afton Airpark and the overall Development. The Board shall take into consideration the buildings, landscaping, color schemes, exterior finishes and material and similar features, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, or warranty as to, any plan or design from the standpoint of structural safety or conformance with building or other codes.

9.8 Variance. The Board may authorize variances from compliance with any of the architectural provisions in this Article 9 or otherwise in this Declaration when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations require. Such variance must be evidenced in writing which must be signed by at least 2/3^{rds} of the Members of the Board. No variance shall effect in any way the Owner's obligation to comply with all governmental laws and regulations, including, but not limited to, zoning ordinances and setback lines or requirements imposed by any governmental or municipal authority.

9.9 Exemptions. Developer and its affiliates shall be exempt from the provisions hereof with respect to alterations and additions desired to be effected by any of them and shall not be obligated to obtain Board approval for any construction or changes which any of them may elect to make at any time.

10. GENERAL PROVISIONS

10.1 Duration of Covenants. The covenants and restrictions of this Declaration shall run with and bind each Lot and the Subdivision, and shall inure to the benefit of and be enforceable by the Developer or the HOA, the Owner of any land subject to this Declaration and the Committee, and their respective legal representatives, heirs, successors and assigns, for a term of Twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then Owners of Seventy Five Percent (75%) of the Lots has been recorded agreeing to change said covenants and restrictions in whole or in part.

10.2 Notice Requirement. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when personally delivered or mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the HOA at the time of such mailing.

10.3 Enforcement. Enforcement of these covenants and restrictions shall be accomplished by means of a proceeding at law or in equity against any person violating or attempting to violate any covenant or restriction in accord with the laws of the State of Wyoming.

10.4 Severability. Invalidation of any one of these covenants or restrictions or any part, clause or word hereof, or the application thereof in specific circumstances, by judgement or court order shall not effect any other provisions or applications in other circumstances, all of which shall remain in full force and effect.

10.5 Amendment. In addition to any other manner herein provided for the amendment of this Declaration, the covenants, restrictions, easements, charges and liens of this Declaration may be amended, changed, or added to at any time and from time to time upon the by approval at a meeting of Owners holding not less than 2/3rds of the votes of the membership of the HOA, provided that so long as the Developer or its affiliates is the Owner of any Lot affected by this Declaration, the Developer's consent must be obtained if such amendment is, in the sole opinion of the Developer, such amendment affects Developer's interest. Any such approved amendment shall be executed by no less than 2/3rds of the Owners and Developer and recorded with the Lincoln County Clerk in the county real estate records.

10.6 Conflict. This Declaration shall take precedence over conflicting provisions in the articles of Incorporation and By-Laws of the HOA and the Articles shall take precedence over the By-Laws.

10.7 Effective Date. This Declaration shall become effective upon its recordation in the Lincoln County, Wyoming Public Records.

10.8 CPI. Whenever specific dollar amounts are mentioned in this Declaration, or (unless limited by law) such amounts may be increased from time to time by the HOA by application of a nationally recognized consumer price index.

10.9 Covenants Running with the Land. It is the intention of all parties affected hereby and their respective heirs, personal representatives, successors and assigns that these covenants and restrictions shall run with the land and with title to the properties.

EXECUTED this ____ day of July, 2005.

DECLARANT/DEVELOPER:

BARRMORE LLC, A WYOMING LIMITED LIABILITY COMPANY

By: _____
Brad Morehouse

By: _____
Barr McCutcheon

STATE OF WYOMING)
) ss.
COUNTY OF LINCOLN)

On this ____ day of July, 2005, the foregoing Declaration was acknowledged before me by Brad Morehouse and Barr McCutcheon, both of BarrMore, LLC, who appeared before me and was personally known to me.

GIVEN under my hand and notary seal the day and year first above written.

Notary Public

My Commission expires: _____.