

## **DECLARATION OF COVENANTS AND RESTRICTIONS OF SUGAR HILL**

THIS DECLARATION, made on the date hereinafter set forth, by SUGAR HILL RANCH, L.L.C., an Oklahoma Limited Liability Company; hereinafter referred to as "Declarant";

### **W I T N E S S E T H**

WHEREAS, Declarant is the owner of certain real property described on EXHIBIT "A" attached hereto and hereinafter referred to as SUGAR HILL, an unrecorded plat to Oklahoma County, Oklahoma, and does by this Declaration create a real estate development pursuant to 60 O.S. §§ 851 to 855, and

WHEREAS, Declarant desires to create a residential community with permanent open spaces, and other common facilities, and

WHEREAS, Declarant desires to provide for the preservation of the values and amenities in such community and for the maintenance and improvement of Common Areas and common facilities now existing or hereafter erected thereon; and, desires to subject the property to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which are for the benefit of such property and each Owner thereof; and,

WHEREAS, Declarant has deemed it desirable, for foregoing purposes, to incorporate under the laws of the State of Oklahoma, as a non-profit corporation, SUGAR HILL HOMEOWNERS ASSOCIATION, INC. for the purpose of exercising the powers of maintaining and administering the community properties and facilities, administering and enforcing the covenants and restrictions, and collecting and disbursing the assessment and charges hereinafter created;

NOW THEREFORE, Declarant hereby declares that all of the real property described on Exhibit "A" shall be held, sold and conveyed subject to the following easements, restrictions, covenants, rights, powers and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described real property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each Owner thereof and such Owner's heirs, devisees, personal representatives, trustees, successors and assigns.

### **ARTICLE I**

#### **DEFINITIONS**

The following words, when used in this Declaration or any Supplemental Declaration (unless the context shall so prohibit), shall have the following meanings:

Section 1.01 "Design Review Committee" shall mean the committee created pursuant to ARTICLE VIII hereof.

Section 1.02 "Architectural and Design Rules" shall mean the rules adopted by the Design Review Committee, the original of which are attached hereto as EXHIBIT "B".

Section 1.03 "Certificate of Incorporation" shall mean the Certificate of Incorporation of Sugar Hill Homeowners Association, Inc., filed in the Office of the Secretary of State of the State of Oklahoma, as said Certificate may be amended from time to time.

Section 1.04 "Association" shall mean Sugar Hill Homeowners Association, Inc., an Oklahoma non-profit corporation, its successors and assigns.

Section 1.05 "Association Rules" shall mean the rules adopted by the Association as they may be amended from time to time.

Section 1.06 "Board" shall mean the Board of Directors of the Association.

Section 1.07 "Sugar Hill" shall mean all real property which is subject to the Declaration.

Section 1.08 "By-Laws" shall mean the By-Laws of the Association, as such By-Laws may be amended from time to time.

Section 1.09 "Commons"/"Common Elements"/"Common Area" shall mean those areas described on EXHIBITS "C" and "D" attached hereto, and shall include: (a) the private street easement described on EXHIBIT "D" attached hereto, in which each Owner holds an easement for the common use and enjoyment, (b) the ponds and nature trails, (c) the entranceway, gate, and traffic islands, (d) water wells, irrigation system, electric system and all related fixtures.

Section 1.10 "Declarant" shall mean Sugar Hill Ranch, L.L.C., an Oklahoma Limited Liability Company.

Section 1.11 "Declaration" shall mean this Declaration of Covenants and Restrictions of Sugar Hill and the covenants, conditions, and restrictions set forth in this entire document, as same may from time to time be amended, relating to all or part of Sugar Hill .

Section 1.12 "Improvement" shall mean any improvements, including but not limited to, structures, roads, driveways, bridges crossings, parking areas, fences, walls, mail boxes, hedges, plantings, trees and shrubs, and all other structures or landscaping improvements of every type and kind.

Section 1.13 "Lot" shall mean any one of the thirty-three (33) parcels of real property described on EXHIBIT "E", and shall not include the Common Area or the property described on EXHIBIT "F" which are reserved exclusively by the Declarant for ingress and egress to future phases of Sugar Hill. The ownership of each Lot shall include with it and have appurtenant an easement for the use and enjoyment of the Commons. A Lot shall be deemed "Improved" when a Single Family Residence or other substantial improvement has been completely constructed thereon, but in no event later than one year after the start of construction or until occupied, whichever shall first occur. All other Lots shall be deemed "Unimproved" Lots.

Section 1.14 "Owner(s)" shall mean the record owner, whether one or more persons or entities, of legal title to any Lot. The foregoing does not include persons or entities who hold an interest in any Lot and the appurtenant Commons merely as security for the performance of an obligation. Owner shall not include a lessee or tenant of a Residence. Each Owner shall be a member of the Association.

Section 1.15 "Property" shall mean that certain real property which is described on EXHIBIT "A".

Section 1.16 "Project" shall mean and refer to the entire property, including all structures and improvements erected or to be erected thereon.

Section 1.17 "Purchaser" shall mean any person or other legal entity, other than Declarant, who becomes an Owner within Sugar Hill.

Section 1.18 "Residence" shall mean a building, house or unit used as a residence for a Single Family.

Section 1.19 "Residential Use" shall mean the occupation or use of a Residence in conformity with this Declaration and the requirements imposed by applicable zoning laws or other state, county, or municipal rules and regulations.

Section 1.20 "Single Family" shall mean one or more persons each related to the other by blood, marriage, or legal adoption or a group of not more than three persons not all so related, together with their domestic servants, who maintain a common household in a Residence.

Section 1.21 "Subdivision Plat" shall mean the unrecorded plat of Sugar Hill, EXHIBIT "H", together with any other real property as may from time to time be annexed thereto.

Section 1.22 "Visible From Neighboring Property" shall mean, with respect to any given object, that such object is or would be visible to a person six feet tall, standing on any part of Sugar Hill, or on any public rights of way adjacent thereto, but is not applicable to objects approved in writing by the Design Review Committee and continuously maintained, landscaped and screened in accordance with the requirements of the Design Review Committee.

## **ARTICLE II**

### **DECLARATION**

Section 2.01 General Declaration Creating Sugar Hill. Declarant shall develop Sugar Hill by subdivision into various residential Lots and Commons. Declarant intends to sell and convey Lots so developed to Purchasers subject to this Declaration. Declarant hereby declares that all of the real property within Sugar Hill is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Declaration, as amended or modified from time to time. This Declaration is declared and agreed to be in furtherance of a general plan for the subdivision, improvement, and sale of said real property and is established for the purpose of enhancing and perfecting the value, desirability and attractiveness of said real property and every part thereof. All of this Declaration shall run with all of said real property for all purposes and shall be binding upon and inure to the benefit of Declarant, the Association, all Owners, and their successors in interest.

Section 2.02 Conveyance to Association. Declarant shall convey to Sugar Hill Homeowners Association, Inc. all of the common areas in Sugar Hill less and except all oil, gas and other minerals, and subject to this Declaration, easements, restrictions, rights of way and zoning ordinances of record, and free and clear of all mortgages and liens.

## **ARTICLE III**

### **PROPERTY RIGHTS**

Section 3.01 Owners' Easements of Enjoyment. Every Owner has the right and easement of enjoyment in and to the entire Commons which shall be appurtenant to and shall pass with the title to every Lot, subject to the right of the Association to control and limit the use of the Commons as provided in this Declaration, the Certificate, the By-Laws, the Design Review Committee, and the Association Rules. An Owner subject to the By-Laws and Association Rules, may delegate his right of enjoyment of the commons to the members of his family, his guests, and his tenants. The controls and limitations shall include, but not necessarily be limited to, the following:

a. The right of the Association to suspend the Owner's voting rights and right of the Owner and the Owner's invitees, including but not limited to members of the Owner's family and all of Owner's tenants and guests, to use the Commons and the facilities situated upon the Commons (except for ingress and egress to an Owner's Lot) for any period during which any assessment against his Lot remains unpaid, and for a period not to exceed 60 days for any infraction of this Declaration, the Certificate, the By-Laws, the Architectural and Design Rules, or the Association Rules by an Owner or an Owner's invitee;

b. The right of the Association by instrument executed by the President (or any Vice-President) and attested to by the Secretary (or any Assistant Secretary) of the Association to dedicate, transfer or grant an easement or right of way to all or any part of the Commons to any public or quasi-public agency, authority, or utility for such purposes and subject to such conditions as may be authorized by the Board. No such dedication or transfer shall be effective unless an instrument has first been executed by the President (or any Vice-President) and Secretary (or any Assistant Secretary) of the Association, certifying that a majority of the Board has agreed to such dedication or transfer, and filed of record. Such certificate shall be deemed conclusive as to the fact that a majority of the Board has authorized such dedication, transfer, or grant, as well as to the purposes and conditions thereof.

Section 3.02 No Right to Split Lots, etc. A Lot and the easement of use and enjoyment in the Commons appurtenant thereto shall not be separated or divided one from the other by any means; nor shall any Lot be physically split or subdivided into two or more parcels by any means without the prior written approval of the Design Review Committee. For the purpose of the preceding sentence, "any means" includes but is not limited to deeds, mortgages or liens, mortgage or lien foreclosures, partition suits or any other means whatsoever.

Section 3.03 Maintenance by Association. The Association may, at any time, as to any part of the Commons:

a. Repair. Repair, maintain, reconstruct, replace, refinish or complete any Improvement or portion thereof upon any such area in accordance with the last plans thereof approved by the Design Review Committee; the original plans for the Improvement; or, if neither of the foregoing is applicable and if such Improvement was in existence prior to this Declaration, then in accordance with the original design, finish, or standard of construction of such Improvement as same existed;

b. Roads, Etc. Construct, reconstruct, repair, replace, maintain, resurface or refinish any road improvement or surface upon any portion of the Commons, whether used as a road, street, walk, driveway, parking area, or drainage area;

c. Maintenance. Maintain, remove, replace or treat injured and diseased trees or other vegetation in any such area, and plant trees, shrubs, and ground cover to the extent that the Association deems desirable for the conservation of water and soil or for aesthetic purposes;

d. Signs. Place and maintain upon any such area such signs as the Association may deem appropriate for the proper identification, use, and regulation thereof; and,

e. Other. Do all such other and further acts which the Association deems necessary to maintain, preserve and protect the Commons and the beauty thereof, in accordance with the general purposes specified in this Declaration. The Association shall be the sole judge as to the appropriate maintenance, preservation and protection of all grounds within the Commons.

Section 3.04 Damage or Destruction of the Commons by Owners. In the event any part of the Commons is damaged or destroyed by an Owner or any of an Owner's invitees, guests, tenants, licensees, agents or family members, such Owner does hereby authorize the Association to repair said damaged area, and the Association shall so repair said damaged area in a good and workmanlike manner in conformance with the original plans and specifications of the area involved, or as the area may have been modified or altered subsequently by the Association, in the discretion of the Association. The amount necessary for such repairs shall be paid by such Owner, upon demand, to the Association, and the Association may enforce collection of same in the same manner as provided elsewhere in this Declaration for collection and enforcement of assessments.

Section 3.05 Use by Motor Vehicles. No motor vehicle of any description, other than vehicles used in maintenance of the Commons, shall be allowed on the unpaved portion of the Commons, unless specifically authorized by the Board. The Board's right to control the use of the hard-surfaced portion of the Commons shall include but not be limited to, establishing speed limits and parking rules.

Section 3.06 Regulation. The Association shall have the exclusive right to make, promulgate, supplement, amend, change, or revoke the Association Rules pertaining to the use and operation of the Commons and all other property within Sugar Hill. All Owners shall abide by the Association Rules and shall be responsible for all acts of the Owner's invitees.

Section 3.07 Uniform Maintenance. Declarant, and each Owner of any Lot in Sugar Hill, and the Association, hereby covenant each with the other that any maintenance provided by the Association for the Commons, and the Improvements located thereon, shall be in a substantially uniform manner and to uniform standards consistent with the intent of this Declaration. Such maintenance shall be performed by the Association.

Section 3.08 Improvements. No Improvements shall be placed or constructed upon or added to the Commons except with the prior written approval of the Design Review Committee and the Board, except as otherwise specifically provided herein.

Section 3.09 Existing Improvements. The maintenance of the streets, drainage easements, entry, and ponds in the Commons shall be the responsibility of and at the expense of the Association. Notwithstanding anything herein contained to the contrary, the Declarant is not under any obligation whatsoever to make any improvements or provide utilities or other facilities beyond those which exist in Sugar Hill as of the date a Purchaser acquires his Lot. Declarant makes no warranties (implied or otherwise) regarding any Improvements in Sugar Hill, but assigns to the Association all warranties (if any) made by third parties with respect to Improvements.

Section 3.10 Additional Improvements. Though Declarant has no obligation for additional Improvements, Declarant or any other party may, with the consent of the Board and the prior written approval of the Design Review Committee, build or construct Improvements which shall become part of Sugar Hill and be for the benefit of all Owners.

#### Section 3.11 Lot Access Easement

Each Owner shall have a nonexclusive easement in, on and through the Commons for access to said Owner's Lot.

#### Section 3.12 Blanket Easement for Utilities, Police and Fire Protection, City Services, Maintenance and Repair to Common Areas.

There is hereby created a blanket easement in, on, through, upon, across, over and under all of the Commons for ingress and egress, installation, replacement, repair and maintenance of all Commons improvements and all utilities, including, but not limited to, water, sewer, gas, telephones and electricity. By virtue of this easement, it shall be expressly permissible for the utility company providing service to erect and maintain the necessary poles, under ground lines, and other necessary equipment on said Commons and to affix and maintain utility lines, wires, circuits, and conduits on, above, across and under the roof and exterior walls of the buildings, if any, upon the Commons. An easement is further granted to all police, fire protection and ambulance personnel, and all similar persons to enter upon the Commons in the performance of their duties. Further, an easement is hereby granted to the Declarant and to the Association to enter in, onto, above, across or under the Commons and any Lot to perform the duties of improvement, maintenance and repair to the Commons. Notwithstanding anything contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said Commons except as approved by Declarant of the Association. Should any utility furnishing a service covered by the general easement herein provided request a specific easement, Declarant or the association may grant such an easement to the Commons by a separate recorded instrument without conflicting with the terms hereof and without consent of the Owners being required. The easements provided for in this paragraph shall in no way affect any other recorded easement to said Commons.

## ARTICLE IV

### CLASSIFICATIONS, USES, AND RESTRICTIONS

Section 4.01 Permitted Uses and Restrictions. The permitted uses, easements, and restrictions for Lots (excluding the Commons) within Sugar Hill covered by this Declaration shall be as follows:

a. Single Family Residential Use. All of the thirty-three (33) residential Lots shall be used, improved, and devoted exclusively to Residential Use and recreational facilities incidental thereto. No gainful occupation, profession, trade, or other non-residential use shall be conducted on such Lots. No structure whatever, other than one Residence together with a private garage for not more than four cars, a guest house, and servant quarters, and such other structures as are contemplated herein shall be erected, placed, or permitted to remain on any of said Lots.

b. Maintenance of Lawns and Plantings. Each Owner of an improved Lot within Sugar Hill shall, at the Owner's expense, keep all shrubs, trees, grass, ground cover and plantings of every kind on his Lot properly mowed and maintained, and free of washes, deadwood, weeds, green-briar, and other unsightly material. The Design Review Committee shall have the power to interpret and enforce the requirements of this subparagraph as it applies to any particular area, Lot or group of Lots in Sugar Hill with the objective of maintaining the overall uniform appearance of Sugar Hill. In the event an Owner fails to perform such maintenance as provided above, Declarant or the Association, or its authorized agents, shall have the right at any reasonable time to perform such maintenance (and to enter upon a Lot, if necessarily incidental to performing such maintenance), and the cost thereof shall be assessed to the Owner of the Lot, as hereinafter provided.

c. Trees and Shrubs on Lots and Common Area. No Owner shall remove, alter, injure, or interfere in any way with any shrubs, trees or plantings upon the Commons without the prior written consent of the Design Review Committee having first been obtained. No Owner shall remove, alter or interfere with trees on his Lot with a diameter of six inches or over, measured three feet from ground level, without the prior written approval of the Design Review Committee. The Design Review Committee may establish in the Architectural and Design Rules a diameter smaller or larger than six inches for the standard requiring prior written approval.

d. Maintenance by Declarant or the Association. Declarant or the Association shall have the right, at any time, to plant, replace, maintain and cultivate shrubs, trees, grass and plantings on any property within Sugar Hill and on such easements over an Owner's Lot as may have been granted to Declarant or the Association, regardless of whether any Owner or the Association is responsible hereunder for maintenance of such areas. The Association or its authorized agents shall have the right to enter upon any property within such areas, at any reasonable time, for the purpose of planting, replacing, maintaining or cultivating such shrubs, trees, grass or plantings, and shall not be liable for trespass for so doing.

e. Animals. No livestock shall be maintained on any of said Lots. No other animals, including but not limited to birds, fowl, poultry, fish or reptiles, shall be maintained on any of said Lots, other than a reasonable number of generally recognized house or yard pets, and then only if they are kept, bred, or raised thereon solely as domestic pets and not for commercial purposes. No animal shall be allowed to make an unreasonable amount of noise, or to become a nuisance. No structure for the care, housing, exercise or confinement of any animal shall be maintained on any of said Lots so as to be Visible From Neighboring Property without the prior written consent of the Design Review Committee. Upon the written request of any Owner, the Association may conclusively determine, in its sole and absolute discretion, whether, for the purposes of this paragraph, a particular animal is a generally recognized house or yard pet, or a nuisance or whether the number of animals on any such property is reasonable; provided however, that horses, mules, donkeys, cattle, pigs, goats and sheep shall not be considered as house or yard pets hereunder. Any decision rendered by the Association shall be enforceable as other restrictions contained herein.

f. Easements and Tenants. No Lot within Sugar Hill shall be further subdivided or separated into smaller Lots or parcels nor shall any easement or other such partial interest in a Lot be conveyed or transferred by any Owner without the prior written approval of the Association. No portion of a Lot but for the entire Lot, together with the Improvements thereon, may be rented, and then only to a Single Family.

g. Grading and Excavation. No grading, scraping, excavation or other rearranging or puncturing of the surface of any Lot shall be commenced without the prior approval of the Design Review Committee. No grading, scraping, excavation or other rearranging or puncturing of the surface of any Lot shall be commenced which will or may tend to interfere with, encroach upon or alter, disturb or damage any surface or subsurface utility line, pipe, wire or easement, or which will or may tend to disturb the minimum or maximum subsurface depth easement. Any such interference, encroachment, alteration, disturbance or damage due to the negligence of an Owner or his Agents contractors, or representatives will be the responsibility of such Owner, and the Owner of the line, pipe, wire, or easement, or the Association, may effect all necessary repairs and charge the cost of same to such Owner. No Improvement shall be constructed or maintained upon any Lot which would in any way impede natural drainage.

h. Repair of Buildings. No building or structure upon any property within Sugar Hill shall be permitted to fall into disrepair, and each such building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished.

i. Nuisances. No rubbish, junk, materials, or debris of any kind, nor an excessive number of motor vehicles shall be placed or permitted to accumulate upon any Lot and no odors shall be permitted to arise therefrom, so as to render any such Lot or any portion thereof unsanitary, unsightly, offensive, or detrimental to any other property in the vicinity thereof or to its occupants. No nuisance shall be permitted to exist or operate upon any such Lot so as to be offensive or detrimental to any other property in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions no exterior horns, whistles, bells, or other such devices, except security devices used exclusively for security purposes, shall be located, used, or placed on any of said Lots. The Board in its sole discretion shall have the right to determine the existence of any such nuisance, rubbish, junk, materials, debris, or excessive number of motor vehicles, based upon the standard rules, categories, and definitions adopted by the Association.

j. Mineral Exploration. No property within Sugar Hill shall be used in any manner to explore for or to remove any oil or other hydrocarbons, minerals of any kind, gravel, or substantial amounts of earth or any earth substance of any kind for commercial purposes.

k. Machinery and Equipment. No machinery or equipment of any kind shall be operated upon or adjacent to any Lot within Sugar Hill, except such machinery or equipment as is customary in connection with the use, maintenance, or construction of a Residence, appurtenant structures, or other Improvements. No machinery or equipment of any kind shall be parked, placed, maintained, constructed, reconstructed, or repaired upon any of said Lots within Sugar Hill in such a manner as will be Visible From Neighboring Property; provided, however, that the provisions of this paragraph shall not apply to machinery and equipment which are actually in temporary use in conjunction with the maintenance or construction of a Residence, appurtenant structures, or other Improvements.

l. Clothes Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes will not be erected, placed, or maintained on any Lot within Sugar Hill unless in such a manner that they shall not be Visible From Neighboring Property.

m. Diseases and Insects. No Owner shall permit any thing or condition to exist upon any Lot within Sugar Hill which shall induce, breed, or harbor infectious plants, diseases or noxious insects.

n. Access. During reasonable hours, Declarant, any member of the Design Review Committee, any member of the Board, or any authorized representative of any of them, shall have the right to come upon and inspect

any Lot within Sugar Hill and the Improvements thereon, (except for the interior portions of any Residence) for the purpose of ascertaining whether or not the provisions of this Declaration have been or are being complied with, and such persons shall not be deemed guilty of trespass by reason of such entry.

o. Signs. No signs whatsoever (including, but not limited to, commercial, political, and similar signs) shall be erected or maintained on any Lot within Sugar Hill except:

1. Signs as may be required by legal proceedings;
2. During the time of construction of any building or other Improvement, one job identification sign not larger than 18 by 24 inches in height and width and having a face area not larger than three square feet;
3. Signs used or installed by Declarant;
4. Signs, the nature, number, and location of which have been approved in advance and in writing by the Design Review Committee.
5. All signs must be set back a minimum of ten (10) feet from the curb.

p. Temporary Structures. No trailer, mobile home, basement of any incomplete building, tent, garage, and no temporary buildings or temporary structure of any kind shall be used at any time for a temporary or permanent Residence on any Lot within Sugar Hill. Temporary buildings or structures used during the construction of a dwelling on any Lot shall be approved in advance by the Design Review Committee in writing, and shall be removed after the substantial completion of construction.

q. Vehicles and Equipment. No truck, boat, motor home, camper, trailer, or any other vehicle specified in writing by the Association shall be parked, kept, stored, placed or maintained upon any Lot within Sugar Hill unless they are totally contained in a garage or carport. No vehicle or equipment of any kind shall be constructed, reconstructed or repaired upon any Lot within Sugar Hill in such a manner as will be Visible From Neighboring Property. The provisions of this paragraph shall not apply to emergency vehicle repairs.

r. Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot within Sugar Hill except in covered containers of a type, size, and style and placed in such structure and location which may be prescribed by the Design Review Committee. Provided however, Builders may use trash containers on Lots during construction at a location which is convenient to the Builder but not offensive to neighboring property. In no event shall such containers be maintained so as to be Visible From Neighboring Property except if necessary to make the same available for collection and, then only the shortest time reasonably necessary to effect such collection. All rubbish, trash or garbage shall be removed from the Lots and shall not be allowed to accumulate thereon. No incinerators shall be kept or maintained on any Lot.

s. Utility and Drainage Easements. The easements over and under the Commons are reserved for ingress, egress, drainage, installing, repairing, and maintaining all utility and service lines and systems, including, but not limited to, water, sewers, gas, telephones, electricity, television cable or communication and security lines and systems. Nothing herein contained shall prevent the Owner from granting, for the purpose of installing any underground utilities, such easements as may be necessary for the provision of such service; provided, however, any such easements shall require the prior written approval of the Association.

t. Utility Service. No lines, wires, or other devices for the communication or transmission of electric current or power, including telephone, television, and radio signals, shall be erected, placed or maintained anywhere in or upon any Lot within Sugar Hill unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under, or on buildings, or other structures, or otherwise are not Visible From Neighboring Property, unless underground distribution systems are not available. No provision hereof shall be deemed to forbid: the erection of temporary power or telephone structures incident to the



construction of Improvements approved by the Design Review Committee; the installation of overhead lines bringing utility service from outside the Property to a utility pole located within Sugar Hill, provided, that the utility service must go underground from such pole and that the location of such pole is approved in advance by the Design Review Committee.

u. Fluid Storage. No tank for the storage of any fluid may be maintained outside a building above or below the ground on any of the Lots without the prior consent of the Design Review Committee.

v. Antennas. No antenna or other device for the transmission or reception of television or radio signals or any other form of electromagnetic radiation shall be erected, used, or maintained outdoors on any Lot whether attached to a building or structure or otherwise, without the prior written consent of the Design Review Committee.

w. Declarant's Exemption. With respect to any Lot owned by Declarant and with respect to the Commons, nothing contained in this Declaration shall be construed to prevent the operation, erection, maintenance or storage by Declarant, or its duly authorized agent, of structures, Improvements, signs, materials, fluids or equipment necessary or convenient to the maintenance, development or sale of Property within Sugar Hill . Such use shall be in a location not Visible from Neighboring Property. No lot may be used for the purposes described above for more than one (1) year, provided however, that the Declarant or the Association may permanently use a portion of the Commons for such uses necessary or convenient to the maintenance of the Commons.

## **ARTICLE V**

### **SUGAR HILL HOMEOWNERS ASSOCIATION**

Section 5.01 The Association. The Association is a non-profit Oklahoma corporation charged with the duties and invested with the powers prescribed by law and set forth in the Certificate, By-Laws (attached hereto and marked Exhibit "G"), and this Declaration. Neither the Certificate nor the By-Laws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

Section 5.02 Board of Directors. The Association shall have a Board of Directors, as provided in this Declaration. Any action taken pursuant to the rights, powers, and duties granted to the Association by the Declaration, Certificate, By-Laws, Association Rules and Architectural and Design Rules may be taken by the Association only upon the vote of its Board. The affairs of the Association shall be conducted by, and the Association shall act through, its Board and such officers as the Board may elect or appoint, in accordance with the Declaration, the Certificate, and the By-Laws, as the same may be amended from time to time. The Association may act only as determined by a majority vote of the Board, except where a vote of more than a majority of the Board is specifically required in this Declaration, the Certificate or the By-Laws.

Section 5.03 Powers and Duties of the Association. The Association shall have such rights, powers, and duties as set forth in this Declaration, the Certificate, and By-Laws, as same may be amended from time to time, which shall include, but not be limited to, the following:

a. Property Taxes and Assessments. To the extent not assessed to or paid directly by the Owners, the Association shall pay all real and personal property taxes and assessments levied upon any portion of the Commons or other property owned by the Association, and all charges for water provided to the Commons.

b. Property Insurance. The Association may keep any Improvements in the Commons insured against loss or damage from such hazards and with such policy limits as it may deem desirable. The Association may also insure any other property, whether real or personal, owned by the Association, against loss or damage from such hazards as the Association may deem desirable, with the Association as the Owner and beneficiary of such insurance. Premiums for all insurance carried by the Association shall be a common expense included in

the assessments made by the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property on which the insurance was carried or otherwise utilized as determined by the Association.

c. Liability Insurance. The Association shall have the power to obtain comprehensive public liability insurance, in such limits as it shall deem desirable, and workmen's compensation insurance and other liability insurance as it may deem desirable. Insureds may include the Association, the Owners, the Board, the Declarant and managing agents (if any). The premiums for liability insurance are common expenses included in the assessments made by the Association.

d. Other Insurance. The Board, at its option, may elect to cause the Association to obtain one or more blanket insurance policies or umbrella insurance policies, as to one or more of the types of insurance required or deemed advisable by the Association or its Members with such policy limits as may be deemed advisable by the Board and if such policy or policies are obtained, the Association shall prorate the cost thereof among the Members of the Association.

e. Management Contract. The Association shall have the power to enter into management agreements with management organizations of its choosing for the maintenance of the Commons and the Improvements located thereon. Any such agreement or any other contract providing for such services, may not exceed a term of three years. Any such agreement shall be terminable by either party without cause and without payment of any termination fee upon ninety days written notice.

Section 5.04 The Association Rules. The Association may, from time to time, adopt, amend, repeal, and enforce rules and regulations to be known as the "Association Rules". The Association Rules may restrict and govern the use of any area by any Owner, or by any invitee of such owner; provided however, that The Association Rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Certificate, or By-Laws. A copy of The Association Rules, as they may from time to time be adopted, amended, or repealed, shall be mailed or otherwise delivered to each Owner and may be recorded. Upon such recording, said Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration.

Section 5.05 Enforcement of Rules. For each violation by an Owner or an Owner's invitee of the provisions of this Declaration, the Certificate, the By-Laws, the Architectural and Design Rules, or the Association Rules, the Board may, upon ten days' written notice, suspend an Owner's voting rights and (except for ingress and egress to and from an Owner's Lot) the right of the Owner and any invitee of the Owner to use the Commons and the facilities situated upon the Commons for a period not to exceed 60 days. In addition to the suspension provided herein, the Board may seek an injunction or other redress in a court of law. Any Owner against whom such injunction or redress is sought shall be liable for attorney's fees and costs incurred by the Board on behalf of the Association, and such amounts may be collected in the same manner as assessments as provided herein. Any suspension or injunctive action must be approved by the Board, and all decisions of the Board shall be final. The remedies provided in this paragraph are cumulative and may be exercised simultaneously with, and in addition to, the remedies provided in this Declaration for collection of assessments.

Section 5.06 Personal Liability. No member of the Board, or of any Committee of the Association, or any officers of the Association, or the manager, or the Declarant shall be personally liable to any Owner, or to any other party, including the Association, for any damage, loss, or prejudice suffered or claimed on account of any act, omission, error, or negligence of the Association the Board, the Officers, or any other representative or employee of the Association, or the Design Review Committee, or any other Committee, or any officer of the Association, provided that such person has, upon the basis of such information as may be possessed by him, acted in good faith, without willful misconduct.

## **ARTICLE VI**

### **MEMBERSHIP AND VOTING RIGHTS**

Section 6.01 Membership. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 6.02 Directors. The Association shall have five (5) directors. The Directors shall be elected by vote of all of the Owners, including the Declarant.

Section 6.03 Voting. Owners shall vote only by Lot, and each Lot shall have one vote. Fractional votes shall not be allowed. In the event Owners of a Lot are unable to agree among themselves as to how the vote for that Lot shall be cast, they shall lose their right to cast the vote for such Lot on the matter in question. When any Owner casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he or they were acting with the authority and consent of all other Owners of the same Lot, unless the other Owner or Owners are present and object at the time the vote is cast. Notwithstanding anything contained herein to the contrary, Declarant shall have five (5) votes for each Lot owned by Declarant. A mortgagee who becomes an Owner by foreclosure or by deed in lieu of foreclosure shall succeed to the number of votes of the mortgagee's predecessor in title.

Section 6.04 Election of Directors. In any election of the members of the Board, one ballot shall be taken after nominations have been received. Each Lot Owner shall list five (5) nominees and the five (5) nominees receiving the highest number of votes shall be deemed elected to the Board. Any tie votes shall be broken by lottery.

Section 6.05 Rights of Members. Each member shall have such other rights, duties, and obligations as set forth in the Certificate, By-Laws, Architectural and Design Rules, and Association Rules as same may be amended from time to time.

Section 6.06 Transferability. The Association membership of an Owner shall be appurtenant to the Lot of said Owner. The rights and obligations of an Owner and membership in the Association shall not be assigned transferred, pledged, conveyed, or alienated in any way except upon transfer of record of ownership to the Owner's Lot and then only to the transferee of ownership to such Lot, or by intestate succession, testamentary disposition, foreclosure of a mortgage of record, or such other legal process as is now in effect or as may hereafter be established under or pursuant to the laws of the State of Oklahoma. Any attempt to make a prohibited transfer shall be void. Any transfer of record of ownership to a Lot shall operate to transfer said membership to the new Owner thereof.

Section 6.07 Power to Borrow. The Association may borrow, for Association purposes, but borrowings in the excess of \$1,000 of aggregate Association debt shall require the prior approval of at least 2/3rds of the votes of the Lots. No Owners shall be required to become personally obligated on debts of the Association to third parties, unless they do so voluntarily. The Association may not pledge or mortgage its real estate or the Improvements located thereon, but may pledge its tangible personal property to secure its debts.

## **ARTICLE VII**

### **COVENANT FOR MAINTENANCE ASSESSMENTS**

Section 7.01 Creation of Lien and Personal Obligation of Assessments. The Declarant, for each Lot within Sugar Hill, hereby covenants, and each Purchaser of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association such assessments as may become applicable to their Lots, as provided below. There is hereby created in favor of the Association the right to claim a lien for the amount of any such assessment, together with interest, costs

with power of sale, and a reasonable attorney's fees on each and every Lot within Sugar Hill to secure payment to the Association of any and all assessments levied against such Lot as provided herein. Each such assessment, together with interest, costs, and attorney's fee shall also be the personal obligation of the Owner of such Lot at the time when the assessment was levied against such Lot. The personal obligation for delinquent assessments shall not pass to successor Owners unless expressly assumed by them, but shall remain a lien on such Lot (except as provided in Section 7.10 below) and the personal obligation of the Owner who was Owner at the time the assessment was made.

**Section 7.02 Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in Sugar Hill, for the maintenance and improvement of the Commons, and for maintaining the overall aesthetic beauty of Sugar Hill, and to cover the cost incidental to the operation of the Association. The regular assessment shall include the establishment of adequate reserves for repair and replacement of capital items. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Commons or by the abandonment of his Lot.

**Section 7.03 Amount of Regular Assessment.** Regular assessments shall be made on an annual basis, and shall be fixed at a uniform rate per month for all Lots subject to assessment. The maximum regular assessment for the calendar year 2007 shall be \$150.00 per Lot per month. For calendar years after 2007, the maximum regular assessment per Lot per month shall be twenty percent (20%) above the maximum regular assessment per Lot per month permissible for the previous year. For calendar year 2008, and after, the Board may set the regular assessment in any amount per Lot per month not in excess of the maximum regular assessment per Lot per month for the year for which the assessment is made. The regular assessment per Lot per month may be set in excess of the maximum only if first recommended by the Board and approved by 2/3rds of the votes of the Lots.

**Section 7.04 Regular Assessment Obligation.** Lots and the Owners thereof (except for the Declarant and Lots owned by the Declarant) shall be obligated for any regular assessment per Lot made by the Association.

**Section 7.05 Special Assessments.** Special assessments are applicable to all Owners of Lots, and must first be recommended by the Board and then approved by two-thirds (2/3rds) of the votes of all Lots. Special assessments shall be applicable to not more than three calendar years after the date of assessment. Special assessments shall be only for Association purposes including, but not limited to, defraying the cost of any construction, reconstruction, repair, or replacement of roads, paving, culverts, buildings, bridges, fences, signs, and any other improvements in the Commons; the establishment of reserves for such costs; and the provisions of special services such as security patrols.

**Section 7.06 Regular and Special Assessment Obligations.** Lots and the Owners thereof shall be obligated for any regular assessment or special assessment per Lot made by the Association, provided that notwithstanding anything herein to the contrary, Declarant shall not be required to pay any regular or special assessment, except with respect to any Improved Lot owned by Declarant which is occupied as a Residence. Written notice of any meeting called for the purpose of approving any regular or special assessment requiring Owner approval shall be sent to all Owners not less than 10 days nor more than 30 days in advance of the meeting. At the first meeting called, the presence at the meeting of Owners, or of proxies, entitled to cast sixty percent (60%) of all the votes shall constitute a quorum. If the required quorum is not forthcoming at that meeting, another meeting may be called, after five days written notice, and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty days following the preceding meeting.

**Section 7.07 Uniform Rate of Assessment.** Both annual and special assessments must be fixed at a uniform rate for all Lots to which the assessment applies, and may be collected on a monthly, quarterly, semi-annual or annual basis.

Section 7.08 Date of Commencement of Assessments; Due Dates. The regular assessment period shall be the calendar year, commencing January 1, 2007. Written notice of the regular assessment and each special assessment shall be sent to every Owner subject thereto. The due date (or dates, if made payable in installments) shall be established by the Board. The Association shall, upon demand, and for reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 7.09 Effect of Non-payment of Assessments; Remedies of the Association. Each Owner of any Lot shall be deemed to covenant and agree to the enforcement of the assessments in the manner herein specified. If any assessment, or installment thereof, is not paid by the due date specified by the Board, the Owner or Owners of the Lot for which the delinquent assessment or installment is unpaid shall lose the right to cast the vote of that Lot in the Association until all amounts due are paid in full. The Association may employ an attorney or attorneys for collection of any delinquent assessment or installment thereof, whether by suit or otherwise, or to enforce compliance with or for specific performance of the terms and conditions of this Declaration, or for any other purpose in connection with the breach of this Declaration, the Certificate, By-Laws, Architectural and Design Rules or the Association Rules. In addition to any amounts due or any relief or remedy obtained by the Association against an Owner, such Owner agrees to pay the Association its reasonable attorneys' fees, plus interest and costs thereby incurred, and a one-hundred dollars (\$100.00) processing fee. Any interest provided in this Declaration shall be compounded monthly and charged at an annual rate of eighteen percent (18%). In the event an assessment or installment thereof is not paid when due, and this becomes a delinquent obligation, or in the event an Owner fails to perform or comply with any other obligation of this Declaration, the Certificate, By-Laws, Architectural and Design Rules or the Association Rules, then (in addition to any other remedies herein or by law or by equity provided) the Association may enforce each such obligation by either or both of the following procedures:

a. Enforcement by Suit. The Board may cause a suit to be commenced and maintained in the name of the Association against an Owner to collect such delinquent assessments; to cause a temporary and/or permanent injunction or mandatory injunction to issue for compliance with or performance of said obligations by an Owner and/or his invitees; and to seek damages against an Owner or his invitee for violation of said obligation. Any judgment rendered in favor of the Association in any such action shall include (but not necessarily be limited to) the amount of any delinquency, together with interest thereon from the date of delinquency at the rate provided above, court costs, and reasonable attorneys' fees in such amount as the court may adjudge against the Owner.

b. Enforcement by Lien. There is hereby created a claim of lien, with power of sale, on each and every Lot within Sugar Hill to secure payment to the Association of any and all assessments levied against any and all Owners of such Lots together with interest thereon as specified in this Section from the date of delinquency, and all costs of collection which may be paid or incurred by the Association in connection therewith, including reasonable attorneys' fees. At any time within ninety days after the occurrence of any default in the payment of any such assessment, the Association, or any authorized representative may, but shall not be required to, make a written demand for payment to the defaulting Owner, on behalf of the Association. Said demand shall state the date and amount of the delinquency. Each default shall constitute a separate basis for a demand or claim of lien or a lien, but any number of defaults may be included within a single demand or claim of lien. If such delinquency is not paid within ten days after delivery of such demand, or, even without such a written demand being made, the Association may elect to file such a claim of lien on the behalf of the Association, against the Lot of the defaulting Owner. The Association may file of record a lien in favor of the Association, against any Lot with a delinquent assessment. Such a lien shall be executed and acknowledged by any officer of the Association, and shall contain substantially the following information:

- (1) The name of the Owner of the Lot with the delinquent assessment;
- (2) The legal description and street address of the Lot against which lien is filed;

(3) The total amount claimed to be due and owing for the amount of the delinquency, interest thereon, court costs, and reasonable attorneys' fees, all of which constitute the amount of the lien;

(4) A recital to the effect that the lien is filed by the Association pursuant to the Declaration.

Upon recording of a duly executed original or copy of such a lien, then the lien shall immediately attach and become effective in favor of the Association as a lien upon the Lot against which such assessment was levied, and shall secure the amounts claimed therein. Such a lien shall have priority over any claim of homestead or other exemption and over all liens, mortgages, deeds of trust, or claims or encumbrances created subsequent to the recording of the lien provided hereby, except only tax liens for real property taxes on any Lot, and assessments on any Lot in favor of any municipal or other governmental assessing unit. Any such lien may be foreclosed by appropriate action in court or in the manner provided by law for the foreclosure of a realty mortgage or trust deed as set forth by the laws of the State of Oklahoma, as the same may be changed or amended. The lien provided for herein shall be in favor of the Association and shall be for the benefit of the Association. The Association shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage, and convey any Lot. In the event such foreclosure is by action in court, reasonable attorneys' fees, court costs, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by law. Each Owner, by becoming an Owner of a Lot in Sugar Hill, hereby expressly waives any objection to the enforcement and foreclosure of this lien substantially in the manner provided herein, or in any other manner provided by law.

Section 7.10 Priority of Lien. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. The sale or transfer of any Lot shall not affect the assessment lien. However, the sale, transfer, acceptance of a deed in lieu of foreclosure, a judicial foreclosure, or foreclosure by Power of Sale of any Lot pursuant to the foreclosure of any prior lien shall extinguish all existing liens of such assessments as to payments which became due or accrued prior to such sale, transfer, deed in lieu of foreclosure or foreclosure. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, nor shall the Owner or Owners prior to foreclosure sale or transfer be relieved of his or their personal liability for the assessments unpaid prior to such sale or transfer. Any other sale or transfer of any Lot shall not affect the assessment lien.

## **ARTICLE VIII**

### **ARCHITECTURAL AND DESIGN CONTROL**

Section 8.01 Organization, Power of Appointment and Removal of Members. The Association shall have a Design Review Committee, organized as follows:

a. Committee Composition. The Design Review Committee shall consist of five (5) regular members. None of such members shall be required to be an architect or to meet any other particular qualifications for membership. A member of the Committee need not be, but may be, a member of the Association, a member of the Board, or an officer of the Association.

b. Quorum. The presence in person of three (3) members of the Design Review Committee shall constitute a quorum at all meetings of the Design Review Committee. The majority vote of the members present shall be required to transact the business of the meeting.

c. Appointment and Removal. The right to appoint and remove all members of the Design Review Committee at any time shall be and is hereby vested solely in the Declarant, so long as it owns any Lot in Sugar Hill, unless waived from time to time by Declarant. After the Declarant no longer owns any Lots, the right to appoint and remove all members of the Design Review Committee at any time shall be and hereby is vested solely in the Board. Exercise of the right of appointment and removal, as set forth herein, shall be evidenced by the execution of appropriate minutes filed in the minute book of the Association. Any mortgagee which

succeeds Declarant shall also succeed to this right to appoint and remove members of the Design Review Committee.

d. Resignations. Any regular or alternate member of the Design Review Committee may at any time resign from the Committee by giving written notice thereof to Declarant or to the Board, whichever then has the right to appoint Committee members.

e. Vacancies. Vacancies on the Design Review Committee however caused, shall be filled by the Declarant or the Board, whichever then has the power to appoint Committee members. A vacancy or vacancies on the Design Review Committee shall be deemed to exist in case of the death or resignation or removal of any regular or alternate member.

Section 8.02 Duties and Authority. It shall be the duty of the Design Review Committee to consider and act upon any and all proposals or plans submitted to it pursuant to the terms hereof, to adopt Architectural and Design Rules which may be more stringent than, but which shall not be inconsistent with, this Declaration, and to carry out all other duties imposed upon it by the Declaration. The prior approval of the Design Review Committee shall be required for the construction or alteration of any Improvement located within Sugar Hill, except for those installed by the Declarant and for such other matters as may be provided in this Declaration, the Certificate, By-Laws, and Architectural and Design Rules.

Section 8.03 Approval. Any approval granted by the Design Review Committee shall be in writing and, unless otherwise specified in said approval, it shall be conditioned upon and require the continued maintenance, landscaping, and screening, as appropriate, of any Improvements on a Lot by the Owner and of any Improvements on the Commons by the Association, and the satisfaction of such other requirements as the Design Review Committee may determine. Any Improvements submitted to and approved by the Design Review Committee must be commenced within one year from the date of said approval, or said approval shall be deemed revoked, and the Owner must again seek approval pursuant to the Architectural and Design Rules. After commencement of the work on an Improvement, the work thereon must be diligently and continuously pursued to completion.

Section 8.04 General Considerations. Pursuant to its rule-making power, the Design Review Committee shall establish a procedure for the preparation, submission, and determination of applications for any alteration or Improvement. The Design Review Committee shall have the right to disapprove any plans or specifications or grading or other plans, which are not suitable or desirable, in its opinion, for aesthetic or other reasons, and in so passing upon such plans, and without any limitation of the foregoing, it shall have the right to take into consideration the suitability of the proposed Improvement, its size, the materials of which it is to be built, the site upon which it is proposed to erect the same, the harmony thereof with the surroundings and the topography, the effect upon view and light, and the effect of the building or other structure as planned on the outlook from the adjacent or neighboring property. All decisions of the Design Review Committee shall be final, and no Owner or other parties shall have recourse against the Design Review Committee for its disapproval of any such plans and specifications or plot plan, including lawn area and landscaping. Any approval by the Design Review Committee may be made contingent upon the satisfaction of such conditions as the Committee may specify in the Architectural and Design Rules or in any approval.

Section 8.05 Meetings and Compensation. The Design Review Committee shall meet from time to time as necessary to perform its duties hereunder. Subject to the provisions of paragraph b. of Section 8.01, above, the vote or written consent of any three (3) regular members, at a meeting or otherwise, shall constitute the act of the Design Review Committee. The Design Review Committee shall keep and maintain a written record of all actions taken by it at such meetings. Members of the Design Review Committee shall not be entitled to compensation for their services. However, the Design Review Committee may hire engineers or other consultants at Association expense.

Section 8.06 Waiver. The approval of the Design Review Committee of any plans, drawings, or specifications for any work done or proposed, or for any other matter requiring the approval of the Design Review Committee under the Declaration shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification, or matter subsequently submitted for approval. Failure of the Design Review Committee to enforce a conditional approval or rule now or hereafter contained in the Architectural and Design Rules shall in no event be deemed a waiver of the right to do so thereafter.

Section 8.07 Liability. Neither the Design Review Committee nor any member thereof shall be liable to the Association, any Owner, or to any other party, for any act or omission resulting in any claim for any damage, loss, or prejudice suffered including, but not limited to, (a) the approval or disapproval of any plans, drawings, or specifications, whether or not defective, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications, (c) the development of any Property within Sugar Hill, or (d) the execution and filing of any estoppel certificate, whether or not the facts therein are correct; provided, however, that with respect to the act or omission of a member, such member has acted in good faith on the basis of such information as may be possessed by him.

Section 8.08 Time for Approval. In the event the Design Review Committee fails to approve or disapprove a matter, within sixty (60) days after said plans and specifications have been submitted to it in due form as requested by the Design Review Committee, such matter will be deemed approved, and the prior written approval required by this Article will be deemed to have been complied with fully. However, such matter must be promptly accomplished in accordance with said plans and specifications, and such matter shall in all respects be and continue in the future to be in compliance with this Declaration.

Section 8.09 Architectural and Design Standards.

a. Construction Requirements. Any Residence constructed upon said Lots in Sugar Hill shall have a minimum square footage of four thousand (4,000) square feet and may not exceed ten thousand (10,000) square feet unless a variance is granted by the Design Review Committee. The square footage of a Residence shall be computed exclusive of basements, open porches, carports, garages, and outbuildings. The principal first floor material, other than glass, of the exterior of each wall in all the buildings on any Lot in Sugar Hill shall be not less than 75 percent brick or stone unless the Design Review Committee grants specific approval in writing to a lesser percentage and/or alternate materials in advance of construction. A determination of the Design Review Committee as to the nature of the permissible other materials and percentages thereof on the exterior of the first floor shall be final and binding on all persons. Garages may be attached or detached, and must be at least two cars wide, unless otherwise approved by the Design Review Committee. Every outbuilding erected on any of said Lots shall, unless the Design Review Committee otherwise consents in writing, correspond in style and architecture to the Residence to which it is appurtenant.

b. Building Lines. No Residence or any part thereof or any other building shall be constructed on any Lot nearer to any street easement than fifty feet. No Residence or garage may be placed on a Lot so that it is closer to the side Lot line than thirty-five (35) feet. The actual location of any Improvements on a Lot shall be designated on a plot plan that has been approved in writing by the Design Review Committee prior to the commencement of construction. The Design Review Committee shall have the authority to grant variances to any building set-back lines by reducing or increasing such set backs to preserve natural features, trees, topography, views and harmony of Sugar Hill.

c. Driveways. Driveways from the private street to a Residence located on any Lot and garage and carport parking areas shall be concrete or asphalt with concrete curbing or edging, or other hard-surface approved the Design Review Committee, and shall be continuously maintained so as to avoid unsightly deterioration and the growth of grass or any other plant on or through such surface. No driveway shall be constructed or altered without the prior written consent of the Design Review Committee, which shall consider the appearance, design and materials of said driveway and the effect the driveway may have on drainage, trees, natural



features, traffic flow, site distance, adjoining property and harmony of Sugar Hill. Shared driveways may be required on certain lots.

d. Improvements and Alterations. No Improvement shall be placed on any Lot within Sugar Hill and no alterations, repairs, excavation, or other work which in any way alters the appearance of any Lot within Sugar Hill or the Improvements located thereon shall be made or done without the prior written approval of the Design Review Committee. No building, fence, wall, residence or other structure shall be commenced, erected, maintained, improved, altered, made, or done without the prior written approval of the Design Review Committee.

e. Adoption of Additional Architectural and Design Rules. The Design Review Committee, in its sole discretion, may from time to time amend the Architectural and Design Rules which shall be used as a guide for the orderly development of Sugar Hill and to ensure the aesthetic harmony of all structures and landscaping within Sugar Hill. The initial Architectural and Design Rules are attached hereto and marked Exhibit "B".

## **ARTICLE IX**

### **MAINTENANCE AND IMPROVEMENTS BY DECLARANT**

Section 9.01 Maintenance by Declarant. Declarant shall contract with the Association, immediately after the Association is organized, for specified maintenance of the Commons at a cost set forth in said Contract. The Declarant may provide maintenance or services in addition to those specified in the contract. However, the Association shall not be obligated to pay for or reimburse the Declarant for such additional maintenance and services unless approved by the Board.

Section 9.02 Existing Improvements. Declarant shall, at its expense, initially provide the Association with an asphalt road in the Commons, as described in EXHIBIT "D". The maintenance of said asphalt road shall be the responsibility of and at the expense of the Association. Notwithstanding anything herein contained to the contrary, the Declarant is not under any obligation whatsoever to make any Improvements (other than providing said asphalt road) or provide utilities or other facilities beyond those which exist in Sugar Hill as of the date a Purchaser acquires his Lot. Declarant makes no warranties (implied or otherwise) regarding any Improvements in Sugar Hill, but assigns to the Association all warranties (if any) made by third parties with respect to Improvements.

## **ARTICLE X**

### **SECURITY GATE**

Section 10.01 Acknowledgment of Security Gate and Controlled Access - Release of Liability. The Owner of each Lot, on their own behalf, and on behalf of their families, guests, tenants, invitees, successors and assigns, does acknowledge that the Declarant, Homeowners Association and/or the Board of Directors has installed and maintains a security gate controlling access to the Project by Owners and the public and that such security gate may affect and delay or prevent the timely response of police, ambulance, fire and other emergency personnel and services to locations within Sugar Hill. In consideration of the privacy and security afforded by the security gate, each Owner, for himself, his family, guests, lessees, invitees, heirs, successors and assigns, covenants and agrees, concurrent with acquisition of an equitable or legal interest in a Lot, to release and hold harmless the Declarant, Homeowners Association, Board of Directors, and the individual Owners, from any and all injuries, claims, causes of action, liabilities or other losses incurred by such Owner, his family, guests, tenants or invitees, arising from or associated with the security gate and/or the proper functioning of the security gate.

## ARTICLE XI

### ANNEXATION AND AMENDMENT BY DECLARANT

Section 11.01. Right to Annex Additional Property. Notwithstanding anything herein contained to the contrary, if Declarant should from time to time desire to develop for residential purposes, additional property in Section 25, Township 14 North, Range 2 West of the I.M., Oklahoma County, Oklahoma, Declarant may annex such property to Sugar Hill upon the terms and conditions contained in this Article.

Section 11.02. Amendments Authorized. Such annexation shall be accomplished by Declarant filing an amendment to this Declaration specifying the property that is annexed and thus becomes subject to this Declaration. The amendment to this Declaration by Declarant, and any incidental amendments to the Association's Certificate, By-Laws and Rules shall be accomplished by Declarant at its expense. This Declaration, when so amended, shall be substantially unchanged, except as to the definition of the Property; the number of Lots; the number of Owners who are members of the Association; additional mutual and reciprocal easements; and, such other matters as are reasonably incidental to implementing such annexation. Provided, however, that the provisions regarding maximum regular assessments shall not be modified by Declarant in the amended Declaration without the consent of two-thirds (2/3rds) of the Owners, which majority shall be determined with reference only to those who are Owners prior to the amendment affecting regular assessments.

Section 11.03. Effect of Amendments. Upon the amendment of the Declaration to annex additional property, then the Lots, Common Areas, easements, rights of way, Owners and Property which comprise the annexed property shall in all respects be treated as Lots, Common Areas, easements, rights of way, Owners and Property of Sugar Hill, and shall be the subject of this Declaration, as so amended, and the Certificate, By-Laws and Rules of the Association, for all purposes.

Section 11.04. Maximum Area that May be Annexed. The total amount of additional property which may be annexed hereto by Declarant to the initial Subdivision Plat containing thirty-three (33) Lots shall not exceed 160 acres in area.

Section 11.05. Extension of Streets and Utilities. Upon the filing of an Amended Declaration, Declarant, at Declarant's expense, may extend the private roads of Sugar Hill into the annexed property over and across the property described on EXHIBIT "F". All roads to be developed in property annexed to Sugar Hill shall be of a quality and standard equal to or better than the existing private roads in Sugar Hill. Declarant may utilize existing utility easements in Sugar Hill to extend utility services to the annexed property. Declarant may construct an entrance, entryway, and appropriate roads and streets on any of the existing Commons to provide appropriate access to the annexed property.

Section 11.06. Consent to Annexation. Each Owner of a Lot in Sugar Hill, by acceptance of a conveyance of said Lot, does thereby consent to the annexation of additional property by Declarant substantially in accordance with the terms and conditions contained herein; consents to the amendment of the Declaration by Declarant as contemplated herein; and, agrees to cooperate in such incidental amendments to the Certificate, By-Laws, and Rules of the Association as may be appropriate. No further consent by Owners of the Association shall be required for such annexation of the property by Declarant or the amendment incidental thereto of the Declarant, Certificate, By-Laws, and Rules.

Section 11.07. No Obligation to Annex Property. The provisions of the Article are intended to apply only to property annexed to Sugar Hill by Declarant. This Article is not intended to in any way restrict development by Declarant or any third party of any property in Section 25, Township 14 North, Range 2 West of the I.M. in Oklahoma County, Oklahoma, that Declarant does not elect to annex to Sugar Hill.

## ARTICLE XII

### GENERAL PROVISIONS

Section 12.01 Enforcement. Any Owner, as well as the Association, shall have the right to enforce by any proceeding at law or in equity all conditions, covenants, reservations, liens, charges, and rules now or hereafter imposed by the provisions of this Declaration. Failure by any Owner or the Association to enforce any such restriction, condition, covenant, reservation, lien, charge, or rule now or hereafter contained in the Declaration shall in no event be deemed a waiver of the right to do so thereafter.

Section 12.02 Severability. Every term and provision of this Declaration, and of the Certificate, By-Laws, Architectural and Design Rules and Association Rules referenced herein, is intended to be severable. If any such term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the legality or validity of any other such terms and provisions.

Section 12.03 Amendment and Duration. The covenants and restrictions of this Declaration shall run with and bind the Property and each Owner hereof and inure to the benefit of each Owner and the Association from and after the date this Declaration is recorded for a period of twenty-one years and shall automatically be extended thereafter for successive periods of ten (10) years. The Owners of at least two-thirds (2/3rds) of the Lots may amend this Declaration at any time. Any such amendment to the Declaration must be recorded.

Section 12.04 Violations and Nuisance. Every act or omission whereby any provision of this Declaration is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by the Association or any Owner or Owners of Lots within Sugar Hill. However, any other provisions to the contrary notwithstanding, only the Association, the Board or the duly authorized agents of any of them, may enforce by self-help any of the provisions of this Declaration.

Section 12.05 Violation of Law. Any violation of any state, municipal, or local law, ordinance or regulation, pertaining to the ownership, occupation, or use of any property within Sugar Hill is hereby declared to be a violation of the Declaration and subject to any or all of the enforcement procedures set forth in said Declaration.

Section 12.06 Remedies Cumulative. Each remedy provided by this Declaration is cumulative and not exclusive.

Section 12.07 Delivery of Notices and Documents. Any written notice or other documents relating to or required by this Declaration may be delivered either personally or by mail. If by mail, it shall be deemed to have been delivered 48 hours after a copy of same has been deposited in the Certified United States Mail, postage prepaid, addressed as follows:

If to the Association: % of the registered agent of Sugar Hill  
Homeowners Association, Inc.,  
an Oklahoma non-profit corporation

If to an Owner: to the address last furnished by an  
Owner to the Association

Provided, however, that any such address may be changed at any time by the party concerned by recording a written notice of change of address and delivering a copy thereof to the registered agent of the Association. Each Owner of a Lot shall file the correct mailing address of such Owner with the registered agent of the Association, and shall promptly notify the Association in writing of any subsequent change of address. If no

address has been furnished to the Association by an Owner, notice may be given an Owner by posting written notice on the Owner's Lot.

Section 12.08 Right to Assign. The Declarant, upon prior written approval of any first mortgagee of Lots owned by Declarant, by an appropriate instrument or instruments, may assign or convey to any person, persons or entity any or all of the rights, reservations, easements, powers of appointment and privileges herein reserved by it, and upon such assignment or conveyance being made, its assignees or grantees may, at their option, exercise, transfer or assign such rights, reservations, easements, and privileges or any one or more of them at any time or times in the same way and manner as though directly reserved by them or it in this instrument.

Section 12.09 The Declaration. By becoming an Owner of a Lot, each Owner for himself, or itself, his heirs, personal representatives, successors, transferees, and assigns, becomes bound, accepts and agrees to all of the rights, powers, easements, provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed and granted by this Declaration and any amendments thereof. In addition, each such Owner, by so doing, thereby acknowledges that this Declaration sets forth a general plan for the improvement and development of Sugar Hill and hereby evidences his interest that all rights, powers, easements, provisions, restrictions, conditions, covenants, rules and regulations contained herein shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, successors and transferees thereof. Furthermore, each such person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the various future owners of Lots in Sugar Hill .

Section 12.10 Enumeration of Specifics. As used in this Declaration, the enumeration of items within a class shall not be deemed to limit the intended expression to those items only, but shall be broadly interpreted to effect the overall intent of this Declaration so that such expression shall include all things which might reasonably fall within such class of items so enumerated and similar or closely related classes, so long as such interpretation is beneficial to and in the furtherance of the purposes of this Declaration.

Section 12.11 Descriptive Headings. Captions and headings contained in this Declaration are for convenience and reference purposes only, and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Declaration or of any portion hereof.

Section 12.12 Oklahoma Law. The interpretation and enforcement of this Declaration shall be governed by the laws of the State of Oklahoma.

IN WITNESS WHEREOF, the undersigned, being the Declarant and the Lenders and Owner above designated have hereunto set their hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

SUGAR HILL RANCH, L.L.C.,

By: \_\_\_\_\_  
Barry T. Rice, Manager

# DECLARATION OF COVENANTS AND RESTRICTIONS OF SUGAR HILL

STATE OF OKLAHOMA ]  
]SS:  
COUNTY OF OKLAHOMA ]

Before me, the undersigned, a Notary Public in and for said County and State, on this \_\_\_\_\_ day of \_\_\_\_\_, 2005, personally appeared Barry T. Rice, to me known to be the identical person who subscribed the name of the maker thereof to the foregoing instrument as the Manager of SUGAR HILL RANCH, L.L.C., and acknowledged to me that he executed the same as his free and voluntary act and deed and as the free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and seal of office the day and year last above written.

\_\_\_\_\_  
My Commission Expires: Notary Public

## **EXHIBIT "G"** **BY-LAWS OF SUGAR HILL HOMEOWNERS ASSOCIATION, INC.**

### **ARTICLE 1**

#### **NAME AND LOCATION**

The name of this corporation is SUGAR HILL HOMEOWNERS ASSOCIATION, INC. (hereinafter the "Owners' Association"), a non-profit corporation.

### **ARTICLE 2**

#### **PURPOSE AND PARTIES**

2.01 The administration of every Property described in EXHIBIT "A" and the Declaration of Covenants and Restrictions of SUGAR HILL of which these By-Laws are a part and which have been submitted to the provisions of 60 Okla. Stat. §§ 851 et seq., by the recording of said Declaration of Covenants and Restrictions and the Exhibits thereto, including a true and correct copy of the By-Laws, shall be governed by these By-Laws. All definitions and terms contained in said Declaration of Covenants and Restrictions shall apply hereto and are incorporated herein by reference.

2.02 All present and future owners, future tenants of any lot, mortgagees and other persons who may use the facility of the Property in any manner are subject to these By-Laws, the Articles of Incorporation of SUGAR HILL HOMEOWNERS ASSOCIATION, INC., the Declaration of Covenants and Restrictions, the rules and regulations of the Owners' Association, and all agreements and easements relating thereto. The acceptance of a deed or conveyance or the entering into of a lease or the act of occupancy of a lot shall constitute an agreement by such owner or occupant that these By-Laws, the Articles of Incorporation of SUGAR HILL HOMEOWNERS ASSOCIATION, INC., the Declaration of Covenants and Restrictions, and the rules and

regulations promulgated by the Owners' Association or its Board of Directors, as they may be amended from time to time, are accepted as conditions and covenants running with the land and will be complied with.

2.03 The purpose of the corporation is to provide management, maintenance, preservation, control, and rules and regulations and to enforce all mutual, common or reciprocal interests and all restrictions upon all property which may be within SUGAR HILL .

## **ARTICLE 3**

### **LOT OWNERS**

3.01 Membership. Any person on becoming an owner of a lot shall automatically become a member of the Owners' Association and be subject to these By-Laws. Such membership shall terminate without any formal action by the Owners' Association whenever such person ceases to own a lot, but such termination shall not relieve or release any such former owner from any liability or obligation incurred under or in any way connected with the Owners' Association during the period of such ownership and membership in the Owners' Association, or impair any rights or remedies which the owners have either through the Board of Directors of the Owners' Association or directly against such former owner or member arising out of or in any way connected with ownership and membership and the covenants and obligations incident thereto. The membership shall be deemed conveyed or encumbered with the lot even when such interest is not expressly mentioned or described in the conveyance or other instrument.

3.02 Annual Meetings. Regular meetings of members of the Owners' Association shall be held on the Project or such other suitable place convenient to the members as may be designated by the Board. The first meeting of the Owners' Association shall be held on May 1, 2006.

3.03 Special Meetings. A special meeting of members of the Owners' Association shall be promptly called by the Board upon the vote for such a meeting by a majority of a quorum of the Board or upon receipt of a written request therefore signed by members representing twenty-five percent (25%) of the total voting power of the Owners' Association or by members representing fifteen percent (15%) of the voting power residing in members other than Declarant.

3.04 Notice of Meetings. The Board shall give written notice of regular and special meetings to members by mailing a notice to each member which shall specify the place, day and hour of the meeting and, in the case of a special meeting, the nature of the business to be undertaken. Except in the case of an emergency, notice shall be mailed to each member at least ten (10) days prior to the meeting and shall be posted in a conspicuous place on the Common Elements.

3.05 Quorum. Except as otherwise provided in these By-Laws, the presence in person or by proxy of a majority of lot owners shall constitute a quorum at all meetings of the lot owners. The members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum. An affirmative vote of a majority of the owners present, either in person or by proxy, shall be required to transact the business of the meeting except wherein the Declaration of Covenants and Restrictions, the By-Laws or by law a higher percentage vote is required.

3.06 Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary before the appointed time of each meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his lot or upon receipt of notice by the secretary of the death or judicially declared incompetence of such member.

3.07 Adjournment. In the absence of a quorum at the commencement of a members' meeting, a majority of those present in person or by proxy may adjourn the meeting to another time, but may not transact any other business. Any meeting adjourned for lack of a quorum shall be continued to a date not less than five (5) days and not more than thirty (30) days from the original meeting date. The quorum for such a reconvened meeting shall be twenty-five percent (25%) of the total voting power of the Owners' Association.

3.08 Voting. The owner or owners of each lot shall be entitled to one vote for each lot owned by said owner or owners. Provided, however, that the Declarant shall be entitled to five (5) votes for each lot in which it holds the interest required for membership by Section 6.01 of the Declaration of Covenants and Restrictions of SUGAR HILL. Whenever more than one person holds such interest in any lot, the vote for such lot shall be exercised as those Owners themselves determine and advise the secretary prior to the meeting. In the absence of such advice, the lot's vote shall be suspended in the event more than one person seeks to exercise it. Each vote shall have equal value.

3.09 Order of Business. The order of business of all meetings of the Owners' Association shall be as follows:

- (a) Roll call and certifying proxies;
- (b) Proof of notice of meeting or waiver of notice;
- (c) Reading and disposal of unapproved minutes;
- (d) Reports of officers;
- (e) Reports of Board of Directors;
- (f) Reports of committees;
- (g) Unfinished business;
- (h) New business;
- (i) Adjournment.

## **ARTICLE 4**

### **BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE**

4.01 Number and Term of Directors. The Board shall consist of five (5) directors, each of whom shall be a lot owner or an agent of Declarant (while Declarant remains a lot owner). The directors shall serve concurrent terms of one (1) year. The initial directors, who shall be appointed by the Declarant, shall serve until the first meeting of the Owners' Association; thereafter, all directors shall be elected and removed according to these By-Laws. So long as the Declarant owns one or more lots, the Declarant shall be entitled to appoint at least one (1) member of the Board who need not be a lot owner. After the Declarant has conveyed all lots and is no longer entitled to elect one member of the Board, all directors shall be lot owners.

4.02 Election of Board of Directors.

(a) Nominations. Nominations for election to the Board shall be made by written nominations at the annual meeting or at such other meeting specially called for the purpose of electing members of the Board. Each lot owner may list up to five (5) nominees.

(b) Cumulative Voting. Elections of Board members shall be by secret written ballot. The five (5) nominees receiving the highest number of votes shall be deemed elected to the Board.

4.03 Removal. Unless the entire Board is removed from office by a majority vote of the Owners' Association's members, an individual director shall not be removed prior to the expiration of his term of office if the number of votes cast against his removal is greater than the quotient arrived at by dividing the total number of votes that may be cast by the authorized number of directors. No director, other than the Declarant or Declarant's agent, shall continue to serve on the Board if, during his term of office, he shall cease to be a lot owner.

4.04 Vacancies. Vacancies in the Board caused by any reason other than the removal of a director by vote of the members shall be filled by a vote of the majority of the remaining directors, even though they may constitute less than a quorum, and each person so elected shall be a director until a successor is elected at the next annual meeting of the Owners' Association or at a special meeting of the members called for that purpose.

## **ARTICLE 5**

### **MEETINGS OF DIRECTORS**

5.01 Regular Meetings. Regular meetings of the Board shall be conducted at least quarterly at a time and place within or near the Project as may be fixed by the Board. Notice of the time and place of regular meetings shall be given to each director personally or by mail or telephone at least three (3) days prior to the day named for the meeting and shall also be posted at a prominent place or places within the Common Elements.

5.02 Special Meetings. A special meeting of the Board may be called by written notice signed by the president of the Owners' Association or by any two (2) directors other than the President. Notice shall be provided to all directors in the manner prescribed for notice of regular meetings and shall include a description of the nature of any special business to be considered by the Board.

5.03 Waiver of Notice. Before or at any meeting of the Board, any director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice to that director. Attendance by a director at any meeting of the Board shall be a waiver of notice by him of the time and place of the meeting.

5.04 Quorum. The presence in person of a majority of the directors at any meeting of the Board shall constitute a quorum for the transaction of business and the acts of a majority of the directors present at a meeting at which a quorum is present shall be the acts of the Board. If at any meeting of the Board there shall be less than a quorum present, a majority of those present may adjourn from time to time. At any such subsequent meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

5.05 Adjournment: Executive Session. The Board may, with the approval of a majority of a quorum of the directors, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Owners' Association is or may become involved and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

5.06 Board Meetings Open to Members. Regular and special meetings of the Board shall be open to all members of the Owners' Association; provided, however, members who are not on the Board may not participate in any deliberation or discussion unless expressly so authorized by vote of a majority of a quorum of the Board.

5.07 Managing Agent and/or Manager. The Board may employ for the Project a managing agent and/or manager at a compensation established by the Board to perform such duties and services as the Board shall authorize.

5.08 Fidelity Bonds. The Board shall attempt to obtain adequate fidelity bonds for all officers and employees of the Project handling or responsible for Project funds. The premium for such bonds shall constitute a common expense.



5.09 Compensation. No member of the Board shall receive any compensation from the Owners' Association or lot owners for acting as such.

5.10 Liability of the Board of Directors. The members of the Board shall not be liable to the lot owners for any mistake of judgment, negligence or otherwise except for their own individual willful misconduct or bad faith. The lot owners shall indemnify and hold harmless each of the members of the Board against all contractual liability to others arising out of contracts made by the Board on behalf of the Owners' Association unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration of Covenants and Restrictions or of these By-Laws. It is intended that the members of the Board shall have no personal liability with respect to any contract made by them on behalf of the Owners' Association or the Project. It is understood and permissible for the original Board, who are members of or employed by Declarant, to contract with the Declarant and affiliated corporations without fear of being charged with self-dealing. It is also intended that the liability of any lot owner arising out of any contract made by the Board or out of the aforesaid indemnity in favor of the members of the Board shall be limited to such proportion of the total liability thereunder as his interest in the Common Elements bears to the interests of all the lot owners in the Common Elements. Every agreement made by the Board or by the managing agent or by the director on behalf of the Owners' Association shall provide that the members of the Board, or the managing agent or the manager, as the case may be, are acting only as agents for the lot owners and shall have no personal liability thereunder (except as lot owners) and that each lot owner's liability thereunder shall be limited such proportion of the total liability thereunder as his interest in the Common Elements bears to the interest of all lot owners in the Common Elements.

## **ARTICLE 6**

### **POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

6.01 Powers and Duties. The Board shall have the powers and duties necessary for the administration of the Property and may do all such acts and things except as by law or by the Declaration of Covenants and Restrictions or by these By-Laws may not be delegated to the Board by the lot owners. Without limitation on the generality of the foregoing powers and duties, the Board shall be vested with, and responsible for, the following powers and duties:

(a) To select, appoint, supervise and remove all officers, agents and employees of the Owners' Association; to prescribe such powers and duties for them as may be consistent with law and with the Articles of Incorporation of SUGAR HILL HOMEOWNERS ASSOCIATION, INC. the Declaration of Covenants and Restrictions and these By-Laws; and to require from them security for faithful service when deemed advisable by the Board;

(b) To enforce the applicable provisions of the Declaration of Covenants and Restrictions, these By-Laws and other instruments relating to the ownership, management and control of the Project;

(c) To adopt and publish rules and regulations governing the use of the Common Elements and facilities and the personal conduct of the members and their guests thereon and to establish procedures and penalties for the infraction thereof, subject to approval of the membership;

(d) To pay all taxes and assessments which are or could become a lien on the Common Elements or a portion thereof;

(e) To contract for, casualty, liability and other insurance on behalf of the Owners' Association as provided in the Declaration of Covenants and Restrictions;

(f) To cause the Common Elements to be maintained and to contract for goods and/or services for the Common Elements or for the Owners' Association, subject to the limitations set forth in this Article;

(g) To delegate its powers to committees, officers or employees of the Owners' Association or to a management company pursuant to a written contract as expressly authorized by the Declaration of Covenants and Restrictions and these By-Laws;

(h) To prepare budgets and financial statements for the Owners' Association as prescribed in these By-Laws;

(i) To initiate and execute disciplinary proceedings against members of the Owners' Association for violations of the provisions of the Declaration of Covenants and Restrictions, these By-Laws and such rules as may be promulgated by the Board in accordance with procedures set forth in these By-Laws;

(j) To enter upon any privately owned lot as necessary in connection with inspection, construction, maintenance, enforcement or emergency repair for the benefit of the Common Elements of the owners;

(k) To borrow money and incur indebtedness for purposes of the Owners' Association and to cause to be executed and delivered therefore in the Owners' Association's name promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations or other evidences of debt and securities therefore;

(l) To fix and collect regular and special assessments according to the Declaration of Covenants and Restrictions and these By-Laws and, if necessary, to record a notice of assessment and foreclose the lien against any lot for which an assessment is not paid within thirty (30) days after the due date or bring an action at law against the owner personally obligated to pay such assessment. All reserves for capital expansion, repair and maintenance shall be transferred to and held in a trust fund or funds for such purpose established by a vote of a majority of members and shall be expended only in the manner prescribed;

(m) To prepare and file annual tax returns with the federal government and the State of Oklahoma and to make such elections as may be necessary to reduce or eliminate the tax liability of the Owners' Association. Without limiting the generality of the foregoing, the Board may, on behalf of the Owners' Association, elect to be taxed, if possible, under Section 528 of the Internal Revenue Code or any successor statute conferring income tax benefits on owners' associations. In connection therewith, the Board shall take such steps as are necessary to assure that the income and expenses of the Owners' Association for any taxable year shall meet the following limitations and restrictions;

(n) At least eighty percent (80%) of the gross income of the Owners' Association for any taxable year shall consist solely of amounts received as membership dues, fees or assessments from lot owners.

(o) At least ninety percent (90%) or more of the expenditures of the Owners' Association for any taxable year shall be for the acquisition, construction, management, maintenance and care of the Owners' Association's Property;

(p) No part of the net earnings of the Owners' Association shall inure (other than by acquiring, constructing or providing management, maintenance and care of the Owners' Association's Property and other than by a rebate of excess membership dues, fees or assessments) to the benefit of any private individual;

**6.02 Limitation of the Board's Power.** Except with the vote or written assent of a majority of the voting power of the Owners' Association residing in members other than Declarant, the Board shall be prohibited from taking any of the following actions:

(a) Incurring aggregate expenditures for capital improvements to the Common Elements in any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Owners' Association for that fiscal year.

(b) Selling during any fiscal year Property of the Owners' Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Owners' Association for that fiscal year.

(c) Paying compensation to directors or to officers of the Owners' Association for services performed in the conduct of the Owners' Association's business, provided, however, that the Board may cause a director or officer to be reimbursed for expenses incurred in carrying on the business of the Owners' Association.

(d) Entering into a contract with a third person wherein the third person will furnish goods or services for the Common Elements or the Owners' Association for a term longer than one (1) year with the following exceptions:

1. Management contract;

2. A contract with public utility company if the rates charged for the materials or services are regulated by the Corporation Commission; provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate;

3. Prepaid casualty and/or liability insurance policies of not to exceed three (3) years duration provided that the policy permits for short rate cancellation by the insured;

4. Any agreement for professional management of the Project or any other contract providing for services by Declarant shall provide for termination by either party without cause or payment of a termination fee on ninety (90) days or less written notice and shall provide for a maximum contract term of three (3) years.

## **ARTICLE 7**

### **OFFICERS AND DUTIES**

7.01 Enumeration and Term. The officers of this Owners' Association shall be a president and vice-president, who shall at all times be members of the Board, a secretary, treasurer and such other officers as the Board may from time to time be resolution create. The Officers shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign or shall be removed or otherwise disqualified to serve.

7.02 Election of Officers. Except as to the initial officers who shall be elected by the Board appointed by the Declarant as herein provided, the election of officers shall take place at the first meeting of the Board following each annual meeting of the members.

7.03 Resignation and Removal. Any officer may be removed from office by a majority of the Board at any time with or without cause. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. Such resignations shall take effect on the date of receipt of such notice or at any later time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

7.04 Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

7.05 Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to this Article.

7.06 Duties. The duties of the officers are as follows:

(a) President. The president shall preside at all meetings of the Board and the Owners' Association (members); shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages,

deeds and other written instruments and shall co-sign all checks (unless the authority to sign checks in the ordinary course of the Owners' Associations' business has been delegated to a management company as provided in these By-Laws) and promissory notes.

(b) 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.

(c) Secretary-Treasurer. The secretary-treasurer shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the owners' Association, together with their addresses; receive and deposit in appropriate bank accounts all monies of the Owners' Association and shall disburse such funds as directed by resolution of the Board; shall co-sign all checks and promissory notes of the Owners' Association; keep proper books of accounts and prepare or have prepared financial statements as required in these By-Laws; and shall perform such other duties as provided by the Board. The duty of the secretary-treasurer to receive and deposit funds and to sign checks in the ordinary course of the Owners' Association's business may be delegated to a management company as provided in these By-Laws.

7.07 Compensation of Officers. No officer shall receive any compensation from the Owners' Association or lot owners for acting as such.

## **ARTICLE 8**

### **MAINTENANCE AND ASSESSMENTS**

Pursuant to the procedures and guidelines as set forth in the Declaration of Covenants and Restrictions, the Board shall levy, collect and enforce regular and special assessments for the operation of the Owners' Association and for management, maintenance and operation of the Common Elements. The assessments shall be used exclusively to promote the recreation, health, safety and welfare of all residents in the entire Project for improvement and maintenance of the Common Elements for the common good of the Project. Regular assessments shall include an adequate reserve fund for maintenance, repairs and replacements of the Common Elements.

## **ARTICLE 9**

### **DISCIPLINE OF MEMBERS: SUSPENSION OF RIGHTS**

The Owners' Association shall have no power to cause a forfeiture or abridgment of an owner's right to the full use and enjoyment of his individually owned lot on account of a failure by the owner to comply with provisions of the Declaration of Covenants and Restrictions, these By-Laws or of duly enacted rules of operation for the Common Elements and facilities, except where the loss or forfeiture is the result of the judgment of a court or a decision arising out of arbitration or on account of a foreclosure or sale under a power of sale for failure of the owner to pay assessments levied by the Owners' Association. Notwithstanding the foregoing, the Board shall have the power to impose reasonable monetary penalties, temporary suspensions of an owner's rights as a member of the Owners' Association or other appropriate discipline for failure to comply with the Declaration of Covenants and Restrictions, these By-Laws or duly enacted rules; provided that an owner subject to such possible penalties shall be given reasonable notice and the opportunity to be heard by the Board with respect to the alleged violations before a decision to impose discipline is reached. In the case in which monetary penalties are to be imposed, such penalties shall be according to a schedule of penalties related to specific offenses, which schedule shall be proposed by the Board and approved by the vote or written assent of a majority of the voting power of each class of membership. Such penalties shall bear a reasonable relationship to the conduct for which the penalty is imposed and may only be imposed prospectively.

## **ARTICLE 10**

### **BUDGETS, FINANCIAL STATEMENTS, BOOKS AND RECORDS**

10.01 Budgets and Financial Statements. Financial statements for the Owners' Association shall be regularly prepared and copies shall be distributed to each member of the Owners' Association as follows:

- (a) A pro forma operating statement (budget) for each fiscal year shall be distributed not less than sixty (60) days before the beginning of the fiscal year.
- (b) A balance sheet (as of an accounting day which is the last day of the month closest in time to twelve (12) months from the date of closing of the first sale of a lot in the Project to an individual buyer) and an operating statement for the period from the date of the first closing to the said accounting date shall be distributed within sixty (60) days after the accounting date. This operating statement shall include a schedule of assessments received and receivable identified by the number of the lot and the name of the lot owner assessed.
- (c) A balance sheet as of the last day of the Owners' Association's fiscal year and an operating statement for said fiscal year shall be distributed within ninety (90) days after the close of the fiscal year.
- (d) In the event a holder, insurer or guarantor of any first mortgage that is secured by a lot in the Project submits a written request therefore, the Owners' Association will provide an audit statement for the preceding fiscal year.

10.02 Fiscal Year. The fiscal year of the Owners' Association shall be designated by resolution of the Board. In the absence of such resolution, the fiscal year shall be the calendar year.

10.03 Inspection of Owners' Association's Books and Records. The membership register, books of account and minutes of meetings of the members, of the Board and of committees of the Board or Owners' Association shall be made available for inspection and copying by any member of the Owners' Association or by his duly appointed representative at any reasonable time and for a purpose reasonably related to his interest as a member at the office of the Owners' Association or at such other place within the Project as the Board shall prescribe. Such inspection may take place on weekdays during normal hours following at least forty-eight (48) hours written notice to the Board by the member desiring to make the inspection. Any member desiring copies of any document shall pay the reasonable cost of reproduction. Every director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Owners' Association and the physical properties owned or controlled by the Owners' Association. The right of inspection by a director includes the right to make extracts and copies of documents.

## **ARTICLE 11**

### **AMENDMENT OF BY-LAWS**

Except as may be provided otherwise in these By-Laws, the By-Laws may be amended by a vote or written assent of owners of at least two-thirds (2/3rds) of the Lots; provided, however, that each of the particular requirements set forth in 60 Okla. Stat. §§ 850 through 855, inclusive, as it now reads or may be hereafter amended shall always be embodied in the By-Laws. Such modification or amendment shall not become operative unless set forth in an amended Declaration of Covenants and Restrictions and duly recorded in the office of the County Clerk of Oklahoma County, Oklahoma.

## **ARTICLE 12**

## **MISCELLANEOUS PROVISIONS**

12.01 Regulations. All owners, tenants or their employees or any other person that might use the facilities of the Project in any manner are subject to the regulations set forth in these By-Laws and in the Project documents and to all reasonable rules enacted pursuant to the Declaration of Covenants and Restrictions. Acquisitions, rental or occupancy of any lot shall constitute acceptance and ratification of the provisions each of the foregoing.

12.02 Indemnity of Officers and Directors. Each director and officer shall be indemnified by the Owners' Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him by judgment or settlement in connection with any proceeding to which he may be a party or in which he may become involved by reason of his being or having been a director or an officer of the Owners' Association, except in cases of fraud, gross negligence or bad faith of the director or officer in the performance of his duties.

12.03 Committees. In addition to the Design Review Committee, the Board shall appoint such other committees as deemed appropriate in carrying out its purpose.

12.04 Notices. Any notice permitted or required to be given by the Project documents may be delivered either personally or by mail or as otherwise specifically provided in the Project documents. If delivery is by mail, it shall be deemed to have been given seventy-two (72) hours after a copy of the same has been deposited in the U.S. Mail, postage prepaid, return receipt requested, addressed to each person at the current address given by such person to the secretary of the Owners' Association or addressed to the lot of such person if no address has been given to the secretary; provided, however, that notice of regular or special meetings of members may be mailed without a return receipt. Provided further that notice to members of the Design Review Committee may be addressed to such individuals % Sugar Hill Ranch, L.L.C., 17 East 1st Street, Edmond, Oklahoma 73034.

## **ARTICLE 13**

### **OBLIGATIONS OF THE OWNERS**

#### **13.01 Assessments.**

(a) Assessments. Assessments shall be due yearly in advance on the first day of each year. After yearly assessments have been set by the Board, the Board shall prepare and deliver or mail to each owner an individual statement of the owner's yearly assessment; thereafter, yearly statements shall be prepared and delivered or mailed annually, or more often in the event of a change in the assessment of the levying of a special assessment and/or if deemed desirable or necessary by the Board.

(b) Basis for Assessments. The assessments made for common expenses shall be based upon the estimated cash requirements as the Board determines is to be paid by all of the owners, including the Declarant, to provide for the payment of all estimated expenses growing out of or connected with the maintenance, repair, operation, additions, alterations and improvements of and to the Common Elements, which sum may include, but shall not be limited to, expenses of management; taxes and special assessments until separately assessed; premiums for fire insurance with extended coverage and vandalism and malicious mischief (with endorsements issued in the amount of the maximum replacement value of all of the Common Elements); casualty and public liability and other insurance premiums; landscaping and care of grounds; repair and replacement of the entrance gate; common lighting; repairs and renovations; removals of pollutants and trash collections; wages, utility charges for Common Elements; beautification and decoration; professional fees, including legal and accounting fees, management fees, expenses and liabilities incurred by the managing agent or Board on behalf of the owners under or by reason of the Declaration of Covenants and Restrictions and the By-Laws of the Owners' Association; for any deficit arising or any deficit remaining from a previous period; the creation of

a reasonable contingency fund, reserves, working capital and sinking funds as well as other costs and expenses relating to the Common Elements. In the event the cash requirements for Common Elements exceed the aggregate assessments made pursuant to this Article, the Board may from time to time and at any time make pro rata increases or decreases in the yearly assessments and/or shall be authorized to change the frequency of assessments. The omission or failure to fix the assessment for any period shall not be deemed a waiver, modification or a release of the owner from their obligations to pay the same.

(c) Special Assessments. In addition to those assessments described in paragraph (a) above, special assessments may be made from time to time by the Board to meet other needs or to construct or establish facilities deemed of benefit to the Owners' Association and the owners by the Board or to overcome deficits in the operating budgets; however, there shall be no special assessments for additions, alterations or improvements of or to the Common Elements requiring an expenditure by the Owners' Association in excess of \$20,000.00 in any one calendar year without the prior approval of the majority of the owners. Such limitations shall not be applicable, however, to special assessments for the replacement, repair, maintenance or restoration of any Common Elements which are to be paid for by the Owners' Association according to the Declaration of Covenants and Restrictions and these By-Laws.

(d) Owner's Personal Obligation for Payment of Assessments. The amount of total assessments against such lot shall be the personal and individual debt of the owner thereof. The Board shall have the responsibility to take prompt action to collect any unpaid assessment in accordance with the terms of the Declaration of Covenants and Restrictions.

#### ESTABLISHMENT OF BY-LAWS

The undersigned, being the Declarant and all of the directors appointed by Declarant and the incorporators of the corporation, pursuant to the Declaration of Covenants and Restrictions of SUGAR HILL HOMEOWNERS ASSOCIATION, INC. and the Articles of Incorporation, do hereby certify the foregoing to be the By-Laws of SUGAR HILL HOMEOWNERS ASSOCIATION, INC. and by our signatures hereto, do hereby adopt the foregoing By-Laws as of the \_\_\_\_\_ day of \_\_\_\_\_, 2005.

SUGAR HILL HOMEOWNERS ASSOCIATION, INC.

By: \_\_\_\_\_  
Barry T. Rice, President

\_\_\_\_\_  
Arleather L. Rice, Director

\_\_\_\_\_  
Robert O. Rice, Director

STATE OF OKLAHOMA ]  
]SS:  
COUNTY OF OKLAHOMA ]

Before me, the undersigned, a Notary Public in and for said County and State, on this \_\_\_\_\_ day of \_\_\_\_\_, 2005, personally appeared Barry T. Rice, to me known to be the identical person who subscribed the name of the maker thereof to the foregoing instrument as the President of SUGAR HILL HOMEOWNERS ASSOCIATION, INC., and acknowledged to me that he executed the same as his free and voluntary act and deed and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and seal of office the day and year last above written.

\_\_\_\_\_  
My Commission Expires: Notary Public

\_\_\_\_\_  
  
STATE OF OKLAHOMA ]  
]SS:  
COUNTY OF OKLAHOMA ]

Before me, the undersigned, a Notary Public in and for said County and State, on this \_\_\_\_\_ day of \_\_\_\_\_, 2005, personally appeared Arleather L. Rice and Robert O. Rice, to me known to be the identical persons who subscribed their names and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and seal of office the day and year last above written.

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My Commission Expires: Notary Public