

E# 1296408 BK1719 PG985  
DOUG CROFTS, WEBER COUNTY RECORDER  
10-JUN-94 1052 AM FEE \$54.00 DEP MH  
REC FOR: CRAIG STOREY

RECORDED FOR:

CRAIG D. STOREY  
Attorney at Law  
Key Bank Building, Suite 200  
2491 Washington Boulevard  
Ogden, Utah 84401

PLATTED  VERIFIED   
ENTERED  MICROFILMED

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

TO WHOM IT MAY CONCERN:

THIS DECLARATION, made this 27 day of MAY  
        , 1994, by RULON JONES and KATHY JONES, hereinafter referred  
to as "Declarants" being the present owners of the lots embraced  
within COTTONWOOD HILLS ESTATES, PHASE I, hereinafter called the  
"Subdivision", to Weber County, State of Utah.

W I T N E S S E T H :

WHEREAS, Declarants are the owners of all the real  
property set forth and described on that certain plat entitled  
COTTONWOOD HILLS ESTATES which plat is recorded in the records of  
the County Recorder of Weber County, Utah, and is made a part  
hereof, and incorporated herein by reference, and

WHEREAS, it is the desire of the undersigned to place  
certain covenants, conditions and restrictions upon the subdivided  
numbered lots set forth and described in the said recorded plat of  
the subdivision, for the mutual benefit and protection of present  
and future owners.

NOW, THEREFORE, the undersigned hereby declare that all

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of the lots in COTTONWOOD HILLS ESTATES are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved subject to the following restrictions, all of which are declared and agreed to be in furtherance of a plan for the subdivision, improvement and sale of said lots and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the property described in said recorded plat. All of the restrictions shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest in and to the real property or any part or parts thereof subject to such restrictions.

#### ARTICLE I

##### DEFINITIONS

Section 1. "Committee" shall mean the COTTONWOOD HILLS ESTATES Control Committee, its successors and assigns.

Section 2. "Owner" shall mean the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, but excluding those having an interest merely as security for the performance of an obligation.

Section 3. "Property" shall mean that certain real property described on Exhibit A hereto, referred to as the COTTONWOOD HILLS ESTATES Subdivision, Phase 1.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Property, excluding roads, streets, etc.

Section 5. "Declarant" shall mean RULON JONES and KATHY JONES, and their successors and assigns.

Section 6. "Association" shall mean the COTTONWOOD HILLS ESTATES, Homeowners' Association, its successors and assigns.

Section 7. "Covenants" shall include all liens, easements, covenants, conditions, reservations or restrictions imposed by this Declaration or any amendment thereto.

## ARTICLE II

### HOMEOWNERS' ASSOCIATION

Section 1. All Owners are Members. Declarant has formed the COTTONWOOD HILLS ESTATES HOMEOWNERS' ASSOCIATION ("Association"), a Utah non-profit corporation. Each and every Owner, in accepting a deed or contract for any Lot, agrees to and shall become a member of and be subject to the obligations and duly enacted Articles of Incorporation, By-Laws and rules of the Association.

Section 2. Agent of All Owners. The Association is hereby designated as the agent for the Owners under an irrevocable agency coupled with an interest and as a beneficiary of all the Covenants and provisions herein and as the assignee of Declarant, and is vested with the right in its own behalf and on behalf of all Owners to enforce all the Covenants and provisions herein contained.

Section 3. Administration. Administration of the Property shall be governed by the Articles of Incorporation and By-Laws of the Association. An Owner of a Lot herein shall be and remain a

member of the Association for the period of his ownership of such Lot. No Owner may exempt himself from liability for his contribution for the common expenses or compliance with the Articles of Incorporation, By-Laws, and the regulations and decisions of the Association, by waiver or abandonment.

Section 4. Right to Maintain Action. Each Owner shall comply strictly with the Covenants and provisions of this Declaration, the Articles of Incorporation, the By-Laws, and the regulations and decisions of the Association. Failure to comply with any of same shall be grounds for an action to recover sums due and for damages or injunctive relief or both, maintainable by the Board or Directors of the Association, in the name of the Association on behalf of the Owners or by an aggrieved Owner, if the Association should fail to do so.

Section 5. Powers of Association. The Association shall have the right and obligation to enforce and administer the Covenants contained herein, to hold title to such property or property rights as shall be conveyed or transferred to it by Declarant, or as it may otherwise acquire, to acquire, own and maintain recreational and other types of property for community use, and to perform such other acts and functions as may be reasonable or necessary for the general benefit and welfare of the Owners and as may be authorized or permitted by its Articles of Incorporation and By-Laws.

Section 6. Assessments. Each Owner, for himself, his

heirs, executors, and assigns, covenants and agrees to pay annually his pro rata share of all sums assessed by the Association to meet the common expenses thereof. An Owner's assessment in this regard shall be paid promptly when same becomes due and in the event of an Owner's failure to pay same promptly when due, shall constitute a lien upon the Owner's Lot that may be enforced in equity as in the case of any foreclosure, by the Board of Directors of the Association. Such lien shall, however, be subordinate to any first or second mortgage or deed or trust.

### ARTICLE III

#### WATER

Section 1. Culinary Water. Each owner must obtain water for culinary, household purposes, at his own expense, from the Liberty Pipeline Co. or by permit from the Weber Basin Water Conservancy District. The right to use such water shall be an easement appurtenant to the Lot and its benefits and burdens shall run with such Lot.

Section 2. Irrigation Water. Each Owner must obtain for secondary, outside irrigation purposes, shares of stock in the Liberty Irrigation Company, at his own expense. The right to use such water and the times and conditions of delivery of such water shall be pursuant to the rules and regulations of said Company and shall be an easement appurtenant to the Lot and its benefits and burdens shall run with such Lot.

## ARTICLE IV

ARCHITECTURAL CONTROL

Section 1. Architectural Control Committee: There is hereby created the COTTONWOOD HILLS ESTATES ARCHITECTURAL CONTROL COMMITTEE for the purposes of maintaining within the Property a style and nature of building design that is homogeneous to the area's physical setting.

Section 2. Membership: The Committee shall be initially composed of RULON JONES and KATHY JONES, or such other person or persons as they may designate. Subsequent to the sale of 80% of the Lots by Declarant, the Committee shall be composed of three members and the Association shall designate the members to serve on the Committee. A majority of the Committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the remaining members shall have full power and authority to designate a successor. Neither the members of the Committee, nor its designated representative, shall be entitled to any compensation for services performed pursuant to this Declaration.

Section 3. Review of Plans: No building, fence, wall, driveway, other structure or improvement shall be commenced, erected, remodeled, altered, moved, removed or maintained upon the Property, nor shall any exterior addition to, or change or alteration thereof, be made until the plans and specifications and such other information or documents as required by the Committee,

showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing by the Committee as to harmony of external design and location in relation to surrounding structures and topography.

A site plan shall also be submitted to the Committee for its approval, showing the location of said proposed structure with respect to topography, finish grade elevation and any existing structures on or adjacent to said building site. Each Owner shall provide at his cost, one complete set of house plans, specifications, site and grade plans, to the Committee at least thirty(30) days prior to the date actual construction is scheduled to commence on his residence.

Should the Committee fail to approve or disapprove, in writing, the plans and specifications submitted to it by the Owner of a Lot within thirty (30) days after written request thereof, then such approval shall not be required. The issuance of a building permit or license, which may be in contravention of these Covenants, shall not prevent the Committee from enforcing them. Neither the Committee nor any of its members shall be liable in damages to any person submitting requests for approval or to any Owner within the Property by reason of any action, failure to act, approval, disapproval or failure to approve or disapprove with regard to such requests.

A majority vote of the committee shall be required for approval or disapproval of any request. Further, the Committee

shall maintain written records of all applications submitted to it and all actions taken by it. If at any time the Committee has ceased to exist, the need for Committee approval is dispensed with.

**ARTICLE V**

**COMMON SCHEME USE RESTRICTIONS**

**Section 1. Residential Use.** The Lots are for single-family residential purposes only. No building or structure intended for or adapted to business purposes, and no apartment house, double house, lodging house, rooming house, hospital, sanatorium or doctor's office, or multiple family dwelling shall be erected, placed, permitted or maintained on a Lot, or on any part thereof. No residence may be used for trade or business of any kind. No improvement or structure whatever, other than a first class private dwelling house, patio walls, swimming pool, and customary outbuildings, such as barns, guest houses, garages and carports may be erected, placed, or maintained on any Lot. All buildings erected on such Lots shall be of new construction.

**Section 2. Building Standards:** Only one detached single-family dwelling shall be erected on a Lot. Each dwelling must have an attached two-car private garage attached to it. All structures shall conform with the current edition of the Uniform Building Code published by the International Conference of Building Officials as a guide for sound construction; furthermore, all buildings shall conform to current editions of the National Electric and National Plumbing Code.



Section 3. Building Height: The designated maximum building height shall be 38 feet or 3 stories, whichever is less. Building heights shall be considered as the vertical distance from the average finished ground level of the building site to the highest point of the structure directly above said ground level. The designated maximum building height requirements may be waived by the Committee when in their opinion, such structures relate to sound architectural planning and land use, and conform to the overall design and pattern of the development.

Section 4. Dwelling Cost: Quality and Size: No dwelling shall be permitted on any Lot at a cost of less than \$100,000.00 based on cost levels prevailing on the date of this Declaration is recorded with the Weber County Clerk and Recorder. The ground floor area of the dwelling, exclusive of one story open porches and garages, shall be not less than 1,800 square feet for a one story dwelling, nor less than 2,300 square feet for a dwelling of more than one story, excluding utility rooms and attics. Construction shall be original materials, no factory built or pre-built homes are allowed.

Section 5. Time for Construction: Upon the approval by the Committee of any plans and specifications submitted to it, the person who submitted the same shall proceed diligently with construction of said improvements, which construction must be commenced no later than six (6) months after approval, and the same shall be completed and ready for occupancy or use within a period

of six (6) months time from the date of construction begins; provided, however, that this period may be extended by the Committee if said extension is made necessary by reason of inclement weather, inability to obtain materials, strikes, acts of God, etc.

Section 6. Occupancy of Structures. No structure shall be occupied or used for the purpose for which it was designed or built until it is approved and/or inspected by the County Building Inspector or similar official designated by Weber County. No structure erected upon any Lot shall be occupied in any manner while in the course of construction nor at any time prior to its being fully completed, as herein required.

Section 7. Building Exterior: The exterior portions of all residences shall be constructed of or finished with color-mixed manufactured finished surface material or natural stone or shall be painted or stained upon completion so that all exposed surfaces shall have a finished appearance. All buildings shall be one-third (1/3) of stone, brick or masonry construction with a shake roof, shake-like roof or tile roof. Any other type of roof must be approved in writing by the Declarant or Association. The use of concrete blocks, except as quoins, or cinder blocks in the exterior walls of a residence is forbidden.

Section 8. Off-Street Parking: At least one off-street parking space shall be required for each residence.

Section 9. Water and Sewage Disposal: Any residence

constructed on any Lot shall comply with the requirements of the Utah State Health Department, Utah Water Pollution Control Commission and the Utah State Engineer.

Section 10. Clearing of Trees and Grading: Each and every Owner agrees that all the trees cleared by him will be disposed of in such a way that all Lots, whether vacant or occupied by a residence, shall be kept free of accumulations of brush, trash or other materials which may constitute a fire hazard or render a Lot unsightly, provided, however, that this shall not restrict Owners from storing fireplace wood in neat stacks on their Lots.

A grading plan shall be presented to the Committee for its approval prior to commencing construction of any residence on any Lot and no additional grading on any Lot shall be permitted without prior approval by the Committee.

Section 11. Unnatural Drainage: Under no circumstances shall any Owner of any Lot be permitted to deliberately alter the topographic conditions of his Lot in any way that would permit unusual additional quantities of water from any source, other than what nature originally intended, to flow from his Lot onto any other property or public right-of-way. The elevation of a Lot shall not be changed so as to materially affect the surface elevation or grade of the surrounding Lots. No rock, gravel or clay shall be excavated or removed from any Lot for commercial purposes.

Section 12. Temporary Residences: No structure of

temporary character, no trailer, converted trailer, mobile home, or tent shall be used on any Lot as a residence, temporarily or permanently, and no used structure of any sort shall be moved onto any Lot.

Section 13. Private Automobiles and Other Vehicles or Machinery: No inoperative private automobiles and other vehicles or machinery shall be placed and remain on any Lot for more than 48 hours unless stored or parked in, or directly next to, a garage or carport. However, this section shall not apply to equipment being used in conjunction with construction of a residence upon a Lot.

Section 14. Nuisance: Nothing shall be done or permitted on the Property which may be or become an annoyance or nuisance. No noxious, illegal, dangerous or offensive activities or commercial business or trade shall be carried on or upon any Lot. No Lot shall be used in whole or in part for the storage of any property or thing that will cause such Lot to appear in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material emit foul or obnoxious odors, or noise that might disturb the peace, quiet, comfort, or serenity of the occupants of surrounding property. No wrecked, abandoned, discarded or junked vehicle, equipment or material of any kind shall be placed upon or permitted to remain upon any Lot.

Section 15. Refuse and Rubbish: Rubbish, garbage, or other waste shall be kept and disposed of in a sanitary manner. No Lot

or easement shall be used or maintained as a dumping ground for rubbish. All containers or other refuse shall be kept in clean, sanitary condition. Outdoor burning of trash will not be permitted at any time, unless by special permit issued by the Weber County Health Department or its division(s).

Section 16. Walls: No boundary wall shall be constructed with a height of more than six (6) feet and no boundary line hedge or shrubbery shall be permitted with a height of more than six (6) feet. No wall of any height shall be constructed on any Lot until after the height, type, design, and approximate location therefor shall have been approved in writing by the committee. The heights or elevations of any wall shall be measured from the existing elevations of the property at or along the applicable points or lines. Any questions as to such heights may be completely determined by the Committee.

Section 17. Tanks, etc: No elevated tanks of any kind shall be erected, placed, or permitted on any Lot, provided, that nothing herein shall prevent the placing of water tanks and other water system apparatus on the Lots as long as same are camouflaged and enclosed. Any tanks for use in connection with any residence constructed on such Lots, including tanks for the storage of fuels, must be buried or walled sufficiently to conceal them from the view of neighboring Lots, roads, or streets. All garbage cans, equipment, coolers, or storage piles shall be walled in to conceal them from the view of neighboring Lots, roads, or streets. Plans

for all enclosures of this nature must be approved by the Committee prior to construction.

Section 18.     Signs: No sign shall be displayed or placed upon any of the Lots in the Property except one professionally made sign of not more than nine square feet in area advertising the Property for sale. All signs are subject to the approval of the Committee.

Section 19.     Animals: In keeping with the open and rustic nature of the area, all accepted domestic household pets, including horses, may be kept. No animals may be kept for commercial or breeding purposes. The Committee may require any Owner to remove any animals from his premises if in the opinion of the Committee the land area on which the animals are kept is over-used or the animals constitute an annoyance to the Owners of neighboring Lots.

All animal housing areas must be kept clean, sanitary and reasonably free of refuse, insects and waste.

Section 20.     Barns and Stables: The location of any barn, stable, corral or other such structure constructed for keeping of horses or other animals shall be approved by the Committee. No such structure shall be constructed nearer than fifty (50) feet from any residential dwelling on any Lot, nor shall such structure extend beyond any setback limit imposed by these Covenants or regulations of Weber County.

All hay, feed, grain or other such animal food shall be stored in an enclosed building.

Section 21.     Mining:   Except as expressly permitted on the plat, no derrick or other structure designed for use in boring for oil or natural gas shall be erected, placed or permitted upon any part of any Lot, nor shall any oil, natural gas, petroleum, asphaltum, or hydro-carbon products or minerals of any kind be produced or extracted therefrom. No quarrying, mining dredging or excavating, of any type or nature, shall be done on any Lot.

Section 22.     Commercial Vehicles:   No commercial-type vehicles or trucks shall be stored or parked on any Lot except in a closed garage, nor parked on any road or access-way except when engaged in transportation to or from a residential dwelling. For the purpose of these Covenants, a 3/4-ton or smaller vehicle, commonly known as a pickup truck and which is not used for commercial purposes, shall not be deemed to be a commercial vehicle or truck.

Section 23.     Setbacks:   No building shall be erected nearer than 30 feet to the street line or 30 feet to the lot side line.

Section 24.     Fires:     No open fire of any kind shall be permitted, except within a metal or pottery cooking, barbecuing or brazing device or within a masonry fireplace, barbecue or fire pit. The construction and use of any masonry fireplace, barbecue or pit shall require the prior written approval of the Committee.

Section 25.     Fences:     All fences erected or maintained within the Property shall have metal, vinyl or wooden posts and either three or four strands of wire, barbed or unbarbed, vinyl or

wood rails, unless the Committee approves another type of fence in writing.

Section 26.     Septic Tanks: Individual septic systems with leach fields shall be placed on each Lot by the Owner in accordance with the requirements of the Weber County Health Department.

#### ARTICLE VI

#### EASEMENTS

Section 1.     Reservation of Easements: Easements and rights-of-way are hereby expressly reserved by Declarant over each Lot for the creation, construction and maintenance of utilities, such as gas, water, telephone, telegraph, electricity, sewers, storm drains, public, private, or quasi-public, and private, as well as for any public, private, or quasi-public utility or function deemed necessary or expedient for the public health and welfare. Such easements and rights-of-way shall be confined to the rear ten (10) feet of every Lot and the (10) feet along the sides of every Lot, and along every street of the subdivision.

Section 2.     Easements: Each Lot shall be subject to all easements and right-of-way shown or provided for, upon any recorded plat of the Property. The Owner of any Lot subject to and traversed by any trail or bridle path easement or right-of-way shall be personally responsible for the upkeep, repair and maintenance of the same in regard to that portion of said easement or right-of-way shall be kept, repaired and maintained in accordance with the guidelines, rules and regulations established



by the Association.

## ARTICLE VII

### GENERAL PROVISIONS

Section 1.      Enforcement:    The Association, Committee, or any Owner, shall have the right to enforce, by a proceeding at law or in equity, all Covenants now or hereafter imposed by the provisions of this Declaration. Failure by the Association, Committee or by any Owner to enforce any Covenant herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2.      Severability:    Invalidation of any one of the Covenants by judgment or court order shall not affect any other Covenant.

Section 3.      Amendment:    The Covenants of this Declaration shall run with and bind the Property, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by the Owners of not less than ninety percent (90%) of the Lots, and thereafter by an instrument signed by the Owners of not less than seventy-five percent (75%) of the Lots. Any amendment must be recorded. Only Owners of the fee title shall be permitted to vote, one vote per residence.

Section 4.      Gender and Grammar:    The singular wherever used

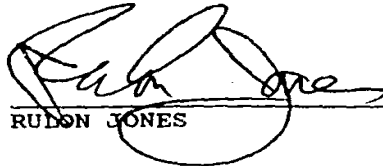
herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed, as though fully expressed.


Section 5. All of these Covenants apply not only to the first building erected on each Lot, but also to any building thereafter erected, as long as these Covenants remain in full force and effect. The Covenants created by this Declaration benefit and burden only the Property. There is no intention to benefit any persons other than those having an interest in the Property.

Section 6. Any action brought to enforce the Covenants herein must be brought within six (6) months after the violation of Covenants first occurred or notice of such violation became or should have become apparent to the Asscciation, whichever is later.

Section 7. No previous Owner, including Declarant, shall have the power to enforce these Covenants after he has disposed of all land in the Property.

IN WITNESS WHEREOF, the undersigned, being the Declarant, has executed this Declaration this 27 day of MAY, 1994.

  
\_\_\_\_\_  
RUDON JONES

  
\_\_\_\_\_  
KATHY JONES

STATE OF UTAH )  
 ) :ss.  
COUNTY OF WEBER )

The above and foregoing instrument was acknowledged before me  
this 27<sup>th</sup> day of MAY, 1974, by RULON JONES and  
KATHY JONES, the Declarants.

*Cynthia E. Brunker*  
\_\_\_\_\_  
NOTARY PUBLIC

