

**DECLARATION OF BUILDING AND USE RESTRICTION  
OF  
ROCKY MOUNTAIN MEADOWS SUBDIVISION - PHASE II**

**PART A. PREAMBLE**

**KNOW ALL MEN BY THESE PRESENTS:**

THAT, WHEREAS, THE UNDERSIGNED, being the owner of the following described real property located in Weber County, State of Utah, to-wit:

Rocky Mountain Meadows Subdivision, Phase II, according to the official records of the county recorder's office of Weber County, State of Utah.

Do hereby establish the nature of the use and enjoyment of all lots in said subdivision and do declare that all conveyances of said lots shall be made subject to the following conditions, restrictions and stipulations:

**PART B. RESIDENTIAL AREA COVENANTS**

1. Land Use and Building Type. No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling not to exceed two stories in height and private garages for not less than two vehicles accessory buildings may be erected only with Architectural Control Committee approval as described herein. All construction to be of new materials, except that used brick may be used with prior written approval of the Architectural Control Committee. Said premises shall be used for private resident purposes only except as hereinafter set forth, and no structure of any kind shall be moved upon said premises, nor shall any incomplete building be permitted to remain incomplete for a period in excess of one year from the date the building was started unless approved by the Architectural Control Committee.

2. Architectural Control. No building, structure or wall shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external with existing structures, and as to location with respect to placement on lot, topography and finish grade elevation. No fence or wall shall be erected, placed or altered on any lot nearer to any street than the front building setback line unless similarly approved. Approval shall be as provided in Part C.

3. Dwelling Cost, Quality and Size. No dwelling shall be permitted on any lot at a cost of less than \$100,000.00, exclusive of lot and financing, based upon cost levels prevailing on the date these covenants are recorded, it being the intention and purpose of the covenants to assure that all dwellings shall be of a quality of workmanship and materials substantially the same or better than that which can be produced on the date these covenants are recorded at the minimum cost stated herein for the minimum permitted dwelling size. The minimum permitted dwelling size shall be as follows:

(a) The ground floor square feet area of the main structure, exclusive of garage and any one-story open porches, shall not be less than 1,700 square feet for a one-story dwelling.

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(b) In a two-story home, which is two stories above the curb level, the combined area of the ground story level and the story above ground-story level, exclusive of garage and any one-story open porches, shall total not less than 2,200 square feet.

(c) In a multi-level home (i.e. three or four level split), the total area of all levels of the main structure above ground, exclusive of garage and any one story open porches, shall not be less than 2,200 square feet. For purposes of this paragraph, only finished area in levels, the entirety of which are more than 1/2 exposed above finished grade, shall be included in the calculation of area.

(d) All dwellings shall be set on permanent foundations. All houses shall have an attached garage large enough to accommodate at least two automobiles. All houses shall be finished with brick, stucco, or stone on all parts of the front of the house. The sides of the house shall have brick, stucco or stone on at least the lowest four feet above the foundation. The rear of the house may be siding if chosen by the ultimate home builder. Foundations or basement cement must not exceed three feet of exposure out of the ground line, unless appropriate finish materials as described above are used for the facade. All houses shall have a roof with a minimum 5/12 pitch.

(e) All exterior materials must be approved by the Architectural Control Committee prior to commencement of construction.

(f) Aluminum siding shall be allowed in soffit and fascia areas, and in other areas as approved by the architectural control committee.

(g) Roofing materials shall be cedar shake, tile, or architectural grade asphalt shingle (20 year type) or as approved by the Architectural Control Committee.

(h) Sewer system connections and fees shall be the responsibility of buyer. Connections and connection specifications shall be as determined by the Health Department of the State of Utah or other applicable governing bodies. All plumbing fixtures, dishwashers and toilets shall be connected to the individual sewer system connection which shall, in turn be connected to the main sewer line provided by the developer.

The purpose of these covenants is to assure that all dwellings shall be of a quality of workmanship and materials substantially the same as or better than that which can be produced at the date that these covenants are recorded. The minimum square footage cited in this paragraph can be waived if prior written approval of the Architectural Control Committee is obtained and the lot size and topography justifies the waiver, and all other covenants contained in this declaration are met.

The Architectural Control Committee reserves the right to be "subjective" in approving or disapproving the construction of any home to be built in the subdivision in order to enhance and protect the value, desirability, and attractiveness of the lots. It is contemplated by this declaration, and agreed to by all lot owners, that there will be variations and adjustments made by the Architectural Control Committee in approving or disapproving building plans. The process of approval by the Architectural Control Committee will be subjective, but not arbitrary, in approving building plans in substantial conformity with these Protective Covenants.

4. Building Location. To retain desired separation of buildings on adjacent lots, yet to eliminate undesirable rigidity in the pattern of dwellings created by ordinary set back lines, and to encourage greater opportunity for individual freedom in development of the lots, the following guidelines are set:

(a) Dwelling set back shall be at least thirty (30) feet from the front of lot property line adjacent to designated roadway, ten (10) feet for side yards, along a line paralleling side property lines, except twenty-four (24) feet total for both side yards, and thirty (30) feet for rear yards, along a line paralleling the rear yard line. All set backs on corner lots shall be in conformity with minimum footage as specified in the applicable zoning ordinances of Weber County.

(b) Garage and other non-habited structure set backs shall be the same as specified above for dwellings.

(c) No dwelling shall be constructed nearer than fifteen (15) feet from an accessory building or twenty-five (25) feet from a dwelling on an adjacent lot, and no accessory building may be constructed nearer than fifteen (15) feet from a dwelling on an adjacent lot. (First issued building permit shall prevail in situations where buildings are planned but not yet constructed on adjacent lots. Such permits shall be good for one year only.)

(d) For the purpose of this covenant, eaves, steps, and open porches shall not be considered as a part of a building, provided, however, that this shall not be construed to permit any portion of any building on a lot to encroach upon another lot.

(e) No dwelling shall be erected or placed on any lot having a width of less than 85 feet at the point where it is proposed to locate the part of the dwelling closest to the front street.

5. Particular Rules for Application of Set Back Requirements.

(a) If the line with respect to which a set back measurement is to be made is a meandering line, the average length of two lot lines that intersect said meandering line shall be determined, and by using the average length, an imaginary straight line shall be drawn through the meandering line and the set back measurement shall be made along a line perpendicular to such imaginary line.

(b) The term "side line" defines a lot boundary line that extends from the street in which the lot abuts to the rear line of the lot.

(c) The term "rear lot line" defines the boundary line of the lot that is farthest from the boundary line that substantially abuts the street, except that on corner lots it may be determined from either street line.

(d) A corner lot shall be deemed to have a front line of each street on which the lot abuts, and such lot need have only one rear yard.

6. Easement. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the lot, except for those improvements for which a public authority or utility company is responsible.

7. Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No clothes drying or storage of any articles which are unsightly in the opinion of the Architectural Control Committee will be permitted on patios or in other open areas, unless the patio or area is enclosed and designed for such purpose. No automobiles, trailers, boats, or other vehicles are to be parked or stored on the front or side street of the lots unless they are in running condition, properly licensed and are being regularly used. Automobiles must be moved every 24 hours. All RV's stored or parked on the lot must be located to the side or in the rear of the home and must be concealed from the front of the street. All roof mounted heating and cooling equipment must be set back to the back side of the roof out of view from the street. All TV antennas are to be placed in the attic out of view. Satellite dishes are to be hidden from view from the street. Within one year of occupancy of each and every home built in the subdivision, the front and side yards, and within two years of occupancy, the back yard, shall be planted in lawn or other acceptable landscaping so as not to negatively impact the aesthetics of the subdivision. "Acceptable landscaping" and "lawn" shall be interpreted by the then existing Architectural Control Committee which will reflect the majority view of the then-existing homeowners in the subdivision.

8. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out buildings shall be used on any lot at any time as a residence either temporarily or permanently except during initial construction. No mobile homes are permitted. No overnight camping will be permitted on any lot.

9. Private Residence, Moving of Structures, Incomplete Building. Said premises shall be used for private residence purposes only, except as hereafter set forth. No incomplete building shall be allowed to remain incomplete for a period in excess of one year from the date the building is started unless approved, in writing, by the Architectural Control Committee.

10. Signs. No sign of any kind shall be displayed to the public view on any lot except signs used by a builder to advertise the property during the construction and sales period, or signs used by a property owner advertising the property for sale.

11. Garbage and Refuse Disposal. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. Each lot and its abutting street are to be kept free of trash, weeds and other refuse by the lot owner. No unsightly materials or other objects are to be stored on any lot in view of the general public.

12. Sight Distance at Intersection. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines or in case of a rounded property corner from the intersection of the street property lines extended. The same sight-line limitations shall apply on a driveway or alley pavement, except that the distance of connecting points from intersection shall be ten feet. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

13. Domestic Household Pets. Domestic household pets and such additional animals or livestock as may be permitted by applicable zoning ordinances of Weber County or West Haven City, may be kept on any lot. No large animals or livestock may be confined in an area to the side or front of any dwelling or attached garage. Large animals or livestock may be permitted to occupy the area to the side or front of any dwelling or garage only if the area is maintained in grass and the animals have access to a larger area to the rear of the dwelling.

14. Completed Residence. No residence shall be occupied until the same has been substantially completed in accordance with its plans, specifications, and Weber County guidelines.

15. Storage Tanks. Every tank for the storage of fuel installed outside any building in the Subdivision shall be either buried below the surface of the ground or screened to the satisfaction of the Committee by fencing or shrubbery. Every outdoor receptacle for ashes, trash, rubbish, or garbage shall be installed underground, screened or so placed as not to be visible from any street or common area within the Subdivision.

16. Destroyed or Damaged Building. Any dwelling or outbuilding on any lot in the Subdivision which may be destroyed or damaged in whole or in part by fire, windstorm, earthquake, or any other "act of God", or any human caused destruction or damage, must be rebuilt, repaired, or all debris removed and the lot restored to a sightly condition with reasonable promptness; provided, however, that no debris shall remain longer than sixty (60) days.

17. Trash, Garbage and Refuse. No trash, ashes, garbage or other refuse or debris shall be dumped, stored, accumulated or allowed to accumulate on any lot or be thrown into or left in the Subdivision.

18. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or gas shall be erected, maintained, or permitted upon any lot.

19. Landscaping. Trees, lawns, shrubs, or other plantings shall be properly nurtured and maintained or replaced at the property owner's expense upon request of the Architectural Control Committee.

20. Slope and Drainage Control. No structure, planting or other material shall be placed or permitted to remain or other activities undertaken which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of flow of drainage channels or obstruct or retard the flow of water through drainage channels. The slope control areas of each lot and all improvements in them shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

#### **PART C. ARCHITECTURAL CONTROL COMMITTEE**

1. Membership. In the event of death or resignation of any member of the Architectural Control Committee, the remaining members of the Committee shall have full authority to select a successor. Neither the members of the Committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. A majority of the committee may designate a representative to act for it. At such time that all lots owned by the initial owner/developer are sold, the aforementioned owner/developer shall be released from responsibility of the committee. At any time after all lots owned by the initial owner/developer are sold, the record owners of a two-thirds majority of the then recorded owners of the lots shall have the power, through a duly recorded written instrument, to change the membership of the Committee or to withdraw from the committee or restore to it any of its powers and duties. The Architectural Control Committee is composed of:

Kevin V. Glasmann  
Robert Cowperthwaite  
Donald F.W. Russell

2. Procedure. The committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee, or its designated representative, fails to approve or disapprove within 30 days after written plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the final and actual completion thereof, approval will not be required, and the related covenants shall be deemed to have been fully complied with.

3. Immunity. Notwithstanding the foregoing provisions, the Architectural Control Committee shall have no affirmative obligation to be certain that all elements of the design comply with the restrictions contained in this declaration, and no member of the Architectural Control Committee shall have any liability, responsibility, or obligation, whatsoever, for any decisions or lack thereof, in the carrying out of the duties as a member of such committee. Such committee and its members shall have only an advisory function, and the sole responsibility for compliance with all of the terms of the declaration shall rest with the homeowner. Each lot owner agrees to save, defend, and hold harmless the Architectural Control Committee and each of its members on account of any activities of the Architectural Control Committee relating to such owner's property or buildings to be constructed on his or her property.

#### **PART D. GENERAL PROVISIONS**

1. Accepted Owner Activities. Nothing in this Declaration shall prevent Owners', Owners' developer transferees or the employees, contractors, or sub-contractors of Owners or Owners' developer transferee from doing on any part or parts of the subdivision whatever they determined may be reasonably necessary or advisable in connection with the development of the subdivision, including, but not limited to, construction and maintenance of

such structures, including model homes, as may be reasonably necessary for the completion of the development of the subdivision; conducting the business of establishing the subdivision as a residential community in the disposing of lots by sale, lease, or otherwise; and the maintaining of such sign or signs on any of the lots owned or controlled by the Owner or the Owners' developer transferee as may be reasonably necessary or lease of subdivision lots. As used in this section, the words "Owners' developer transferee" specifically exclude individual purchases of improved lots.

2. Revocation. The Declarant reserves to itself and/or its successors and assigns the right to revoke at any time prior to sale of any lot within the Subdivision all or any part of these restrictions and further to vacate any or all streets, common facilities and any other amenity shown on the recorded plat.

3. Term. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty years from the date these covenants are recorded, after which time, said covenants shall be automatically extended for successive periods of ten years unless an instrument signed by a two-thirds (2/3) majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

4. Variations. The Committee may allow reasonable variations and adjustments to these restrictions in order to overcome practical difficulties and prevent unnecessary hardships in the applications of the provisions contained herein; provided, however, that such is done within conformity with the intent and purposes hereof and provided also that in every instance such variance or adjustment will not be materially detrimental or injurious to other property and/or improvements within the Subdivision. Also, any such variance or adjustment must be applied for by the owner in writing and approved of in writing by the Committee.

5. Enforcement. If any party hereto, or its successors or assigns, shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person or persons owning real property within this Subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any covenant including, but not limited to, by restraining order or recovery of damages or both. These enforcement rights shall be cumulative and are not intended to exclude any other remedies which may be available to any person in law or in equity. In any action to enforce this Declaration the prevailing party shall be entitled to an award of reasonable attorney's fees and costs incurred in prosecuting such action. By purchasing or acquiring a lot within the Subdivision, such lot owner agrees that immediate and irreparable harm without adequate remedy at law shall be the presumed consequence in the event of any breach or threatened breach of these covenants, and that any party or persons having standing and seeking to enforce these covenants may obtain a temporary restraining order, preliminary injunction and permanent injunction, among other remedies, in order to enjoin the threatened or proscribed conduct.

6. Severability. Every one of the Restrictions is hereby declared to be independent of, and severable from, the rest of the Restrictions and of and from every combination of the Restrictions. Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable or to lack the quality of running with the land, that holding shall without effect upon the validity, enforceability, or "running" quality of any other one of the Restrictions.

7. Acceptance of Restrictions. All purchasers of property described above shall, by acceptance of delivery of any deed, or by purchasing under a contract, or by acquiring any interest in any lot listed herein, or any portion thereof, be conclusively deemed to have consented and agreed to all restrictions, conditions, covenants and agreements set forth herein.

8. Mutuality of Benefit and Obligation. The Restrictions and agreements set forth herein are made for the mutual and reciprocal benefit of each and every lot and lot owner in the Subdivision and are intended to create mutual, equitable servitudes upon each of said lots and the respective owners in favor of each and all the other lots and owners therein; to create reciprocal rights between the respective owners of all said lots; to create a privity of contract and estate between the grantees of said lots, their heirs, successors and assigns, and shall, as

to the owner of each lot, his heirs, successors or assigns, operate as covenants running with the land for the benefit of each and all other lots in the Subdivision and their respective owners.

9. Grantee's Acceptance. The Grantee of any lot subject to the coverage of this Declaration, by acceptance of a deed conveying title thereto or the execution of a contract for the purchase thereof, whether from the undersigned or from a subsequent owner of such lot, shall accept such deed or contract upon and subject to each and all of these Restrictions and the agreements herein contained and by such acceptance shall for him/herself, his/her covenant, consent and agree to and with Declarant, and consent with the grantees and subsequent owners of each of the lots within the Subdivision to keep, observe, comply with and perform said Restrictions and agreements.

10. Modification. This Declaration of Protective Covenants may be modified, amended, supplemented, or cancelled by an instrument signed by a two-thirds (2/3) majority of the then owners of record of all lots in the Rocky Mountain Meadows Subdivision, Phase II.

Dated this        day of June, 1996.

KDR, L.L.C.

By:

*Kevin V. Glasmann*  
Kevin V. Glasmann, Member

STATE OF UTAH        )  
                              ) : ss  
COUNTY OF WEBER    )

On the 27<sup>th</sup> day of June, 1996, personally appeared before me KEVIN V. GLASMANN, who being by me duly sworn say that he is a member of the limited liability company that executed the above and foregoing instrument and that said instrument was signed on behalf of said limited liability company by authority and the said KEVIN V. GLASMANN acknowledged to me that the said limited liability company executed the same.

IN WITNESS WHEREOF I have herewith set my hand and affixed my seal this 27<sup>th</sup> day of June, 1996.

*Patricia P. Lasater*  
Notary Public

Residing at:  
My Commission Expires:

