

Ent 173440 Bk 609 Pg 563  
Date: 18-OCT-2010 1:38:46PM  
Fee: \$129.00 Check  
Filed By: KEH  
REED D HATCH, Recorder  
SANPETE COUNTY CORPORATION  
For: PROPERTY OWNERS ASSOCIATION O  
F OAKER HILLS OAKER HILLS

**AMMENDED DECLARATION OF PROTECTIVE COVENANTS**

**FOR**

**PROPERTY OWNERS ASSOCIATION OF OAKER HILLS**

**PHASE I LOT # 101 TO 149 INCLUDING COMMON AREA &  
PHASE II LOT # 201 TO 250**

This declaration is made by the **PROPERTY OWNERS ASSOCIATION OF OAKER HILLS (POAOH)**, hereafter known as the, "ASSOCIATION", Oaker Hills Phase I and Phase II and to be recorded in the Sanpete County Recorders Office. The **PROPERTY OWNERS ASSOCIATION OF OAKER HILLS**, hereby makes and declares the following qualifications, limitations, restrictions, and covenants running with the land, and binding upon any and all future owners of any part of such property described as, "OAKER HILLS PHASE I AND PHASE II", LOT #'S 101 THRU 149( # 24701-24744 ) INCLUDING 13.29 ACRES, of Common Area Phase I, and lot #'s 201 thru 250 ( # 24751- 24800 ) Phase II.

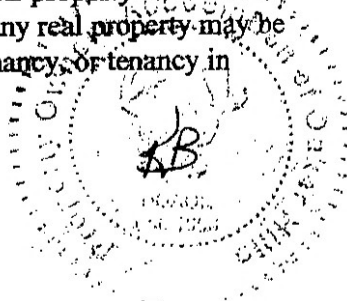
**I. GENERAL PURPOSE:**

1.1 These covenants are made for the purpose of creating and keeping the subdivision, insofar as possible, desirable, attractive, beneficial, and suitable in architectural design, materials, and appearances, guarding against fires and unnecessary interference with the natural beauty of the subdivision, all for the mutual benefit and protection of the owners of lots in the subdivision.

**II. NATURE AND INCIDENTS OF LOT OWNERSHIP:**

2.1 The subdivision known as "Oaker Hills Phase I and Phase II is a subdivision of land into lots of approximately five ( 5 ) or more acres. There shall be no more residences on any lot than allowed by **THE SANPETE COUNTY SUBDIVISION ORDINANCE**, Title 13 Subdivisions general provisions and administration. Sections: 13.04.010 Scope, 13.04.020 Intent and purpose, 13.04.030 Exemptions, 13.04.040 Permits, 13.04.050 Fees, and 13.04 060 Violation and penalty.

The property owners shall be responsible to comply with all current Sanpete County rules and regulations and shall be responsible for any fines against their property. The title to any lot may be held and owned in any manner to which title to any real property may be held in the State of Utah, including without limitations, joint tenancy, or tenancy in common.



2.2 **Easement Access To Each Lot** : Each lot shall have access to a road by an easement shown on the recorded survey plat.

2.3 **Fire control**: The Association, at its option, has the right to cut, with machinery, grass areas of the subdivision access roads for fire control.

### III. MECHANICS LIEN RIGHTS:

3.1 **Mechanics Lien** : Mechanics Liens shall be filed by the Association against any property owner more than two ( 2 ) years delinquent in assessments, for the collection of unpaid Assessments against any property including late fees, penalties, and interest. Association Protective Covenants and By-Laws are filed with each deed or Notice of Interest.

### IV. THE ASSOCIATION:

4.1 Every owner shall be entitled and required to be a member of the Property Owners Association Of Oaker Hills, Inc., a non-profit organization hereinafter named the 'Association'. If title to a lot is held by more than one person, the membership of the lot shall be shared by all such persons in the same proportionate interests and by the same type of tenancy in which the title to the lot is held. An owner shall be entitled to one membership for each lot owned. Each such membership shall be appurtenant to the lot on which it is based and shall be transferred automatically by conveyance of the lot. No other person or entity other than the owner may be a member of the Association and, a membership in the Association may not be transferred except in connection with the transfer of a lot, provided, however, that the right of membership may be assigned to a mortgage as further security for a loan secured by a lien on a lot. All property owners, including NEW owners/purchasers, shall have all legal conveyance documents recorded with Sanpete County. The information on any legal document(s) should include, but is not limited to: Owners name, property number(s) with legal descriptions, and members mailing address. New members are strongly encouraged to use a title company when purchasing real property, and to file a "Notice of Interest" if making payments.

4.2 **Amplification** : The provisions of this article are to be modified by the Articles of Incorporation of the Association and by the By-laws of the Association: provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the owners set forth herein.

## V CERTAIN RIGHTS AND OBLIGATION OF THE ASSOCIATION

5.1 **Miscellaneous services:** The Association may NOT obtain and pay for the services of any entity to manage its affairs, or any part thereof, which is the sole responsibility of the 'Board of Trustees' of the Association, but may obtain and pay, to the extent it deems advisable for professional services as the Board of Trustees shall determine to be necessary for the proper operation of the project.

5.2 **Rules and Regulations:** The Association may make reasonable rules and regulations governing the use of lots and the common area, which rules and regulations shall be consistent with the rights and duties established in this declaration. The Association may also take legal action against any owner to enforce compliance with such rules, regulations or other obligations or to obtain damages for non-compliance, all to the extent permitted by law.

5.3 **Implied Rights:** The Association may exercise any other right or privilege given to it expressly by this declaration or by law, and every other right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

5.4 **Road maintenance:** From and after the recording of the plat designating rights of way and easements for roads and utilities, the Association shall have the responsibility to maintain the roads and accesses so as to provide access-weather permitting to each individual lot and to any and all common areas or utilities.

## VI ASSESSMENTS

6.1 **Agreement to Pay Assessments:** The developer/owner, for each lot owned within the subdivision, hereby covenants with each owner of any lot by the acceptance of a deed therefore, whether or not it be so expressed in the deed or other legal document, shall be deemed to covenant and agree with each other and with the Association to pay to the Association, annual assessment made by the Association for the purposes provided in this declaration, and fixed, established and collected from time to time in the manner provided by the Association in this article. All members are notified herewith of their responsibility to pay all assessments due.

6.2 **Amount of Total Annual Assessments:** The total annual assessments against all the subdivision lots shall be based upon advance estimates of cash required by the Association to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the roads which estimates may include, among other things, expenses for maintenance, taxes and special assessments as provided herein, premiums for all insurance which the Association is required or permitted to maintain pursuant hereto, repairs and maintenance, legal accounting fees and any reserve, surplus and/or sinking fund, and any other expenses and liabilities which may be incurred by the Association for the benefit of the owners under or by reason of this declaration.

**6.3 Apportionment of Annual Assessments:** Expenses attributable to the roads and to the project as a whole shall be apportioned among all owners in proportion to their respective interests.

**6.4 Notice of Annual Assessments and Time for Payment Thereof:** Annual assessments shall be made on June 1 through May 31, fiscal year basis. The Association shall give written notice to each owner as to the amount of the annual assessment with respect to his/her lot on or about March 31<sup>st</sup> of each year for the fiscal year commencing June 1<sup>st</sup> following such a date. Such assessment shall be due and payable commencing on or before June 1<sup>st</sup> succeeding the date of the assessment; provided, however, that the first annual assessment shall be for the balance of the fiscal year remaining after the date thereof as the date of commencement of the project. Each annual assessment shall bear interest, at the maximum lawful interest rate from the date it becomes due and payable if not paid by such date. Notice of an annual assessment is hereby given and deemed owed each year by June 1<sup>st</sup> of current year. Notice of assessment amount is mailed to the property owner of record. Failure to receive written notice is not forgiveness of the assessment debt. Members are to notify the Association, no later than 30 days prior to the scheduled Annual Meeting if notice has not been received.

**6.5 Lien For Assessments:** All sums assessed to the owner of a lot pursuant to this article together with interest and late fees as provided herein, shall be secured by a mechanics lien on any delinquent lot in favor of the Association.

**6.6. Personal Obligation of The Owner:** The amount of any annual or Special assessment against any lot shall be the personal obligation of the Owner thereof to the Association. Suit to recover a money judgment for such personal obligation shall be maintainable by the Association without foreclosing or waiving the lien securing the same.

## **VII. PROVISIONS APPLICABLE FOR ALL PROPERTY**

**7.1 The Covenants Committee:** The Covenants Committee shall consist of three ( 3 ) Trustees. This may be expanded to five ( 5 ). The Covenants Committee shall be responsible for reviewing and recommending changes to the By-Laws and Protective Covenants according to State Statutes.

**7.2 Maintenance of the Project:** ALL of the project shall be kept and maintained by the owners thereof in a CLEAN, SAFE AND ATTRACTIVE condition, in good repair, and in all other respects in accordance with the provisions of this declaration at the owners sole cost and expense.



7.3 **NO NOXIOUS or OFFENSIVE ACTIVITY:** No noxious or offensive activity shall be carried on upon any part of the Project which are or might become unsafe or hazardous to any person or to the property.

7.4 **NO HAZARDOUS ACTIVITIES:** No activities shall be conducted for improvements constructed, upon the project which or might become unsafe or hazardous to any person or to the property.

7.5 **NO UNSIGHTLINESS :** No unsightliness shall be permitted upon any of the project. No waste, refuse, garbage and trash shall be kept stored or allowed to accumulate on the property. No vehicles, boats, or equipment shall be abandoned on the project.

7.6 **NO ANNOYING LIGHTS SOUNDS OR ODORS:** No light shall be emitted from the project which is unreasonably bright, no sound shall be emitted from the project which is unreasonably loud or annoying except for security and fire alarm devices used exclusively to protect the project; no odors shall be emitted from any of the project which are noxious or offensive to others.

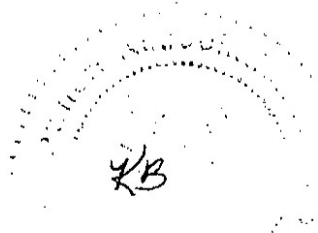
7.7 **RESTRICTIONS ON ANIMALS:** There shall be no more than two ( 2 ) horses, two ( 2 ) cattle, four ( 4 ) sheep, or four ( 4 ) goats, per acre. It should be noted that all corrals, fences, etc., used in containing such animals be constructed at 40' ( forty feet ) from property lines and any dwelling units per Sanpete County and Utah State most restrictive regulations.

7.8 **RESTRICTIONS ON SIGNS:** No signs of any kind shall be displayed to the public view on any lot except for one ( 1 ) sign of not more than five ( 5 ) feet square, advertising the property for sale or rent, or sign used by a builder to advertise the property during the construction and sales period, or a sign advertising the owners names.

7.9 **RULES AND REGUALTIONS:** No owner shall violate any rules, regulations, or ordinances for the use of said lots adopted from time to time by the Association, County or State.

7.10 **NO TEMPORARY STRUCTURES:** No tent, shack, or other temporary building or improvement shall be allowed to remain on the project as a permanent dwelling unless approved by the Board of Trustees and is in Compliance with Sanpete County 'Subdivision Rules and Regulations.'

7.11 **CONSTRUCTION:** Prior to construction lot owners must notify the Association Board of Trustees. All buildings that require a building permit must comply with all Sanpete County regulations.



7.12 **SEWAGE DISPOSAL** : The cost of individual sewage disposal systems shall be at the lot owner's expense for each lot in this tract. The type and construction shall conform to the requirements of Sanpete County and the State of Utah Health Department. No septic tank or field drain shall be closer than 50 feet from any lot boundary line or 100 feet from any culinary well system; nor shall any such system be constructed until the results of a satisfactory percolation test has been submitted to the appropriate health authorities. Such percolation test will be made and test results provided at the expense of the said lot owner, prior to construction.

7.13 **INDIVIDUAL CULINARY WELL SYSTEMS**: All well systems shall be drilled and constructed according to the standards and requirements of the State of Utah Health Department and Division of Water Rights. Each lot owner should confer with appropriate authorities on well and sewer systems. All costs incurred in connection with such wells shall be borne by the lot owner. Should the majority of the Association vote to construct a central culinary water distribution system, such system shall comply with the standards and requirements of the State of Utah Health Department in all and every respect. The cost of this system shall be that of the Association Members and not the Developer.

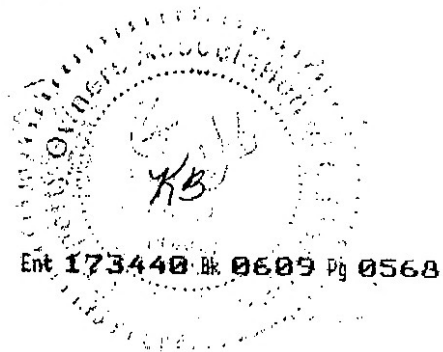
7.14 **GARBAGE**: Garbage must be kept in covered approved containers. Trash, tin cans, paper, etc., must be kept in approved containers. Lot owner is responsible for removal of all garbage. Outside services may available at the lot owners expense.

#### VIII. MISCELLANEOUS:

8.1 **Compliance With Provisions of Declaration of Covenant and By-Laws of the Association**: Each owner shall comply with the provisions of this Declaration, the Articles of Incorporation and the By-Laws of the Association, and the decisions and resolutions of the Association adopted pursuant thereto and lawfully amended from time to time. Failure to comply with any of the same shall be grounds for action for damages or injunctive relief.

8.2 **Registration of Mailing Address**: Each owner shall register his/her current mailing address with the Association so that all notices or demands may be sent to the owner. Persons selling property must notify the Association at HC13 Box 4203, Fairview, Utah 84629, within ten ( 10 ) days of the sale, with the new owners, name and mailing address.

8.3 **Owners Obligation to Continue**: All obligations of the owner under and by virtue of this declaration shall continue, notwithstanding that he/she may have leased or rented said lot, however the owner shall have no obligations for expenses or other obligations accruing after the sale conveyance of said lot.



8.4 **Provisions of This declaration:** The provisions of this Declaration shall be in additions and supplemented by the laws of the State of Utah and all other provisions of the laws of Sanpete County.

8.5 **No Waiver:** Failure to enforce any provisions or restrictions or covenants by the Association shall not operate as a waiver of any such provisions, restrictions, or covenants.

**IX FENCES:**

9.1 Fences, walls, or hedges may be erected, started or maintained to a height of 72" above the adjacent grade when used as a property line or boundary separation, except no fence, wall or hedge may be used for this purpose in the front area of a lot in excess of 60" above the adjacent grade, or per Sanpete County Regulations. Fences on perimeter of any lot must be 30 feet from the center of common roads.

**X BUILDING SETBACKS:**

10.1 Front yard setbacks shall conform to a minimum depth of fifty ( 50) feet from the front property line to the nearest structural projection, including eaves, overhangs, porches, or any building or structure. A side yard shall be maintained at least fifteen ( 15) feet in depth from all side property lines to the building line of any structure or per Sanpete County regulations.

**XI WATER RIGHTS:**

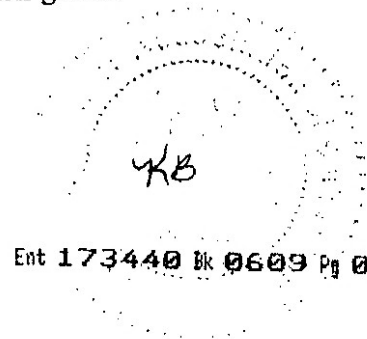
11.1 Included with the purchase of a lot in Oaker Hills, Plat I and Plat II, is 0.25 acre feet of water rights. This water shall be from permit number A-21239 (51-224)

11.2 Water rights as owned by the developer will be conveyed to each lot owner as his lot is paid for. Development thereafter will be the responsibility of the lot owner, in accordance with the state laws as pertaining to the conversion of rights from stock watering to culinary.

11.3 No lot owner shall protest the application of any other lot owner for a permit to drill a well on such applicant's lot.

**XII. ACCESS RIGHTS:**

12.1 All access rights will be conveyed to the Lot Owners Association. Maintenance of roads within the project will be the responsibility of the Association. All roads within the project are for the exclusive rights of the owners and their guests.



12.2 All lot owners shall submit plans for driveway access and culverts to the Board of Trustees for approval. All expenses for said driveways and culverts are the responsibility of the property owners. Culverts shall be no smaller than eight ( 8 ) inches in diameter and a minimum of twelve ( 12 ) feet in length. Property owners are responsible for keeping culverts in a clean and usable condition.

#### **XIII MERGER:**

13.1 One or more domestic corporations, Domestic Non-profit Corporations, may merge into a non-profit corporation. Upon receipt of the request for a merger from the Non-profit Corporation wishing to merge:

A. The Board of Directors, ( Trustees) adopts a plan of merger. This plan shall incorporate the " Articles of Incorporation," Protective Covenants, and " By-Laws" of the Property Owners Association of Oaker Hills, on record at the Sanpete County Recorders Office. This plan shall be presented to the membership of the Property Owners Association of Oaker Hills, hereafter known as POAOH, for acceptance of the Non-profit Corporation wishing to merge. All terms, conditions, and transfer of funds from the merging corporation shall be accepted by the POAOH, by a forty ( 40 ) affirmative membership vote.

B. The Board of Directors of the merging Non-profit Corporation presents this information to their membership, including the developer of their organization for acceptance of the terms of the merger. The developer of the merging corporation shall abide by the same terms and laws as other members. After their merger is voted on and terms accepted, all monies shall be transferred to and paid to POAOH.

C. New officers for the merged corporation may be elected into office on the first annual meeting of the POAOH, as any other officer according to the Voting Guideline (see section 2.5) following the merger.

D. NO other plan or provisions shall be set forth or accepted relating to the merger.

#### **XIV. SUBDIVISION OF LOTS:**

14.1 NO LOT OR PARCEL OF LAND SHALL BE DIVIDED INTO SMALLER LOTS OR PARCELS THAN FIVE ( 5 ) ACRES EACH.

These conditions shall run with the land and shall be binding upon parties and all persons claiming under them from June 1, 1996, at which time said conditions and covenants shall be automatically extended for successive periods of ten ( 10 ) years, unless by a vote of the owners of a quorum, forty percent ( 40 %) memberships of the Association, present or by proxy of the lots in said subdivision, it is agreed to change said conditions in whole or in part. Subject to approval of Sanpete County Planning and Zoning Authorities of any changes.



PROVIDED FURTHER, that if any paragraph, section, clause or phrase of the restrictions, conditions and covenants herein contained shall become illegal, null or void, for any reason or shall be held by any court of competent jurisdiction to be illegal, null, or void, the remaining paragraphs, sections, sentences, clauses or phrases herein contained will not be deemed invalid, irrespective of the fact that any one or more other paragraphs, sections, sentences, clauses, or phrases are or shall become or be illegal, null, or void.

PROVIDED FURTHER, that if any owner of any lot in said property or his heirs, or assigns, shall violate or attempt to violate any of the conditions, covenants and/or restrictions herein, it shall be lawful for any other person or persons owning any other lots in said property to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate such conditions, covenants, and/or restrictions and either to prevent him/her or them from so doing or to recover damages or other dues for such violation.

PROVIDED FURTHER, that a breach of any of the foregoing conditions, covenants, and/or restrictions shall not defeat or render invalid the line of any mortgage, or deed of trust in good faith, and for value, as to said property or any part thereof; but such conditions, covenants, and/or property whose title is acquired by foreclosure, trustee's sale or otherwise.



IN WITNESS WHEREOF, THE COVENANTS COMMITTEE, "PROPERTY OWNERS ASSOCIATION OF OAKER HILLS," has executed this declaration, according to prior instructions contained herein:

DATED and SIGNED this 18<sup>th</sup> day of October, 2010.

Kay Brown Kay Brown

Terry E. Stowell Terry E. Stowell

Anna Jean King Anna Jean King



STATE OF UTAH )

)ss

COUNTY OF Utah )

On the 18 day of October 2010, personally appeared before me, the Covenants Committee, Kay Brown, Terry E. Stowell, and Anna Jean King, who being duly sworn, did say that they represent the Association Board of Trustees and that the foregoing declaration was signed in behalf of the "Property Owners Association of Oaker Hills".

NOTARY PUBLIC: Jean C Duffield

RESIDING AT: Spanish Fork

MY COMMISSION EXPIRES: 9-10-14

-10-

