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WASATCH CO RECORDER-ELIZABETH H PARCELL  
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REQUEST: GREENER HILLS ESTATES LLC

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR THE**  
**GREENERHILLS SUBDIVISION**

THIS DECLARATION is made this 6<sup>th</sup> day of <sup>Sept</sup>~~August~~, 2000 by "Declarant" Owner of the GREENERHILLS Subdivision.

**RECITALS**

WHEREAS, Declarant is the Owner of certain Property in Wasatch County, State of Utah which is more particularly described as follows:

THE GREENERHILLS SUBDIVISION  
AS RECORDED IN THE OFFICIAL RECORDS  
OF THE COUNTY RECORDER  
OF WASATCH COUNTY, UTAH

WHEREAS, Declarant desires and intends to develop the Subdivision for single-family residences on lots within said Subdivision and to provide for the preservation of the natural amenities and values of the Subdivision, and to develop the lots consistent with and in harmony with the natural environment of the Subdivision; and

WHEREAS, Declarants have deemed it desirable to establish covenants, conditions, and restrictions upon said real property and each and every lot and portion thereof and upon the use, occupancy, and enjoyment thereof, all for the purpose of enhancing and protecting the value, desirability, and attractiveness of said tract; and

WHEREAS, Declarants have deemed it desirable for the efficient preservation of the value, desirability, and attractiveness of the Subdivision, pursuant to the provisions of this Declaration, to create a Homeowners Association and Architectural Committee to which shall be delegated and assigned the powers of administering and enforcing these covenants; and

NOW, THEREFORE, Declarants hereby covenant, agree, and declare that all of said lots described above and such additions thereto as may hereafter be made, held, sold, and conveyed subject to the following covenants, conditions, and restrictions (hereinafter "Covenants") which are hereby declared to be for the benefit of the whole tract and all of the property described herein and the owners thereof, their successors and assigns. These covenants, conditions, and restrictions shall run with the said real property and shall be

binding on all parties having or acquiring any right, title, or interest in the described real property or any part thereof and shall inure to the benefit of each owner thereof and are imposed upon said real property and every part thereof as a servitude in favor of each and every parcel thereof as the dominant tenement or tenements.

## I DEFINITIONS

The following terms used in these Covenants, Conditions, and Restrictions shall be applicable to this Declaration and also to any supplemental Declaration and are defined as follows:

**1.1 "Architectural Committee"** shall refer to the committee established to administer and enforce these covenants and shall be comprised initially of the original Declarants of the Spring Creek Subdivision and thereafter as provided in the Bylaws of the GREENERHILLS Homeowners Association, Inc.

**1.2 "Association"** shall mean and refer to the GREENERHILLS Homeowners Association, Inc., a non-profit corporation incorporated under the laws of the State of Utah, its successors and assigns.

**1.3 "Building."** Any structure having a roof supported by columns or walls, for the housing or enclosure of persons, animals, or chattel.

**1.4 "Building, Accessory."** A subordinate building clearly incidental to and located upon the same lot occupied by the main building.

**1.5 "Carport."** A space not completely enclosed by walls or doors for the housing and storage of motor vehicles. For the purpose of these Covenants, a carport shall be subject to all of the regulations prescribed for a private garage.

**1.6 "Committee"** shall mean the Architectural Committee of the GREENERHILLS Homeowners Association, Inc.

**1.7 Common Areas or Common Areas and Facilities** shall mean and refer to all portions of the Property owned by the Association for the common use and enjoyment of the Owners, and shall include:

(a) All portions of the Property not specifically included within the individual Lots.

(b) All Common Areas designated as such on the Plat.

(c) All lakes, ponds and water courses designated on the plat not specifically included with the individual lots and not owned by or dedicated to a governmental or quasi-governmental authority.

(d) In general all apparatus, installments, landscaping, buildings, trails and facilities included within the subdivision and existing for common use.

(e) All installation, equipment, and lines, if any, now or hereafter located on, over, or under the Common Areas and connected with or related to the furnishing of subdivision utility services such as water, sewage disposal, electricity, and telephone, and which are not owned by or dedicated to a governmental or quasi-governmental authority or public or private utility company and which are not reserved by Declarant.

(f) All private roads which are not owned by or dedicated to a governmental or quasi-governmental authority, designated as such on the Plat or as may be added from time to time upon written approval of the Board of Trustees.

**1.7 "Declarant"** shall mean and refer to the Greener Hills, L.L.C., its successors and assigns.

**1.8 "Dwelling."** Any building or portion thereof, which is designed for residential purposes.

**1.9 "Dwelling, Single Family."** A building arranged or designed to be occupied exclusively by one (1) family, the structure having one (1) dwelling unit.

**1.10 "Family."** An individual or two or more persons living together in a single dwelling unit and maintaining a common household. The term "family" shall be construed to mean a group of not more than four (4) non-related individuals.

**1.11 "Fence, Sight Obscuring."** A fence having a height of at least six feet above grade, which will substantially prohibit vision through it.

**1.12 "Garage, Private"** An accessory building designed or used for the storage of automobiles owned and used by the occupants of the building to which it is an accessory, and in which no business, commercial service or industry is carried on. A garage shall be considered part of the dwelling if the garage and dwelling have a roof or wall in common.

**1.13 "GREENERHILLS Subdivision"** shall mean all of the GREENERHILLS Subdivision, according to the official plat thereof recorded in the office of the County Recorder of Wasatch County, State of Utah.

**1.14 "Height of Building."** The average height of the occupied space of the building above grade.

**1.15 "Improvements"** shall mean and include, but not be limited to buildings, out-buildings, driveways, exterior lighting, fences, landscaping, lawns, parking areas, retaining walls, roads, signs, utilities, and walkways.

**1.16 "Landscaping"** shall mean a Lot, as defined herein, covered with lawn, ground cover, shrubbery, trees and other vegetation, which may be enhanced with earth berms, masonry, or similar materials, all harmoniously combined with themselves and with other improvements.

**1.17 "Lot"** shall mean any parcel of property shown as a separate numbered lot or parcel on the recorded Plat of the Subdivision.

**1.18 "Lot, Corner."** A lot which sides on at least one of the corners of the intersection of two or more streets.

**1.19 "Owner"** shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

**1.20 "Perimeter Fencing"** is defined to mean fences along or near lot lines or fencing not connected with a building or structure.

**1.21 "Properties"** shall mean and refer to that certain real property hereinbefore described.

**1.22 "Recreation Vehicle."** Any trailer house, camper, van, or similar vehicle used or maintained primarily as a temporary dwelling for vacation, travel, or recreational purposes.

**1.23 "Setback."** A front, rear, or side setback shall be the minimum horizontal distance between the lot line and building or structure.

**1.24 "Story."** That portion of a building included between the surface of a floor and the ceiling next above it.

**1.25 "Street."** Any right-of-way serving the principal means of access to the property.

**1.26 "Structure."** Anything constructed or erected which requires location on the ground or attached to something having location on the ground.

**1.27 "Subdivision."** The term "subdivision" means the division of a tract or lot or parcel of land into two or more lots, plats, sites, or other division of land for the purpose, whether immediate or future, of sale or of building development.

**1.28 "Use, Accessory."** A subordinate use customarily incidental to and located upon the same lot occupied by the main use and devoted exclusively to the main use of the premises.

## **ARTICLE II GREENERHILLS HOMEOWNERS ASSOCIATION, INC.**

**2.1 Status and General Authority of Association.** The Association has been incorporated under the laws of the State of Utah as a Nonprofit Corporation. The Association, subject to the rights and duties of the Owners as set forth herein, shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon (including the Common Facilities), and shall keep the same in a good, clear, attractive, safe, and sanitary condition, order, and repair. The Association shall be responsible for the maintenance and repair of the Common Areas including, without limitation, utility lines, trails common facilities, and all improvements and other items located within or used in connection with the Common Areas. All goods and services procured by the Association in performing its responsibilities shall be paid for with funds from the Common Expenses fund.

**2.2 Membership.** The Association shall have members. The members of the Association shall be all record owners (hereinafter "Owners"), including contract sellers, of one or more Lots contained within GREENERHILLS Subdivision, as such Owners are shown on the records of the County Recorder of Wasatch County, State of Utah.

The term Owner shall not include any mortgagee, trustee, or beneficiary under any mortgage, trust deed, or other security instrument by which a Lot or any part thereof is encumbered (unless such mortgagee, trustee, or beneficiary has acquired title for other than security purposes), nor shall it include persons or entities purchasing a Lot under contract, until such contract is fully performed and legal title conveyed.

Each Owner shall be entitled and required to be a member of the Association; membership shall begin immediately and automatically upon becoming an Owner and shall terminate immediately and automatically upon ceasing to be an Owner.

Each membership shall be appurtenant to the Lot to which it relates and shall be transferred automatically by conveyance of that Lot. Ownership of a Lot within GREENERHILLS Subdivision cannot be separated from membership in the Association appurtenant thereto, and any devise, encumbrance, conveyance, or other disposition of a Lot shall be construed to be a devise, encumbrance, conveyance, or other disposition, respectively, of the Owner's membership in the Association and rights appurtenant thereto. No person or entity other than an Owner may be a member of the Association, and membership in the Association may not be transferred except in connection with the transfer of a Lot.

**2.3 Voting Rights.** The Association shall have the following described two classes of voting membership:

**Class A.** Class A Members shall be all Owners, except Declarant. Class A Members shall be entitled to one (1) vote for each Lot in which the interest required for membership in the Association is held. Although each of the multiple Owners of a single Lot shall be a Class A Member, in no event shall more than one (1) Class A vote exist or be cast on the basis of a single Lot.

**Class B.** The Class B Member shall be the Declarant. The Class B Member shall be entitled to three (3) votes for each Lot in which the interest required for membership in the Association is held.

The Class B membership shall cease and the Declarant shall become a Class A Member upon the first to occur of the following: (i) After fee titles to 39 of the 51 Lots initially contained in the Subdivision have been conveyed by Declarant to purchasers; or (ii) The expiration of fifteen (15) years after the date on which Declarant first conveys to a purchaser fee title to a Lot.

**2.3 Right of Ingress, Egress.** Each Owner shall, have a non-exclusive right of ingress and egress over, upon and across the Common Areas, and such rights shall be appurtenant to and pass with, the title to each Lot.

**2.4 Assessments.** Each Owner of a lot, by the acceptance of a deed therefor, whether or not it be so expressed in the deed, or by becoming a record owner in the records of the Wasatch County Recorder shall be deemed to covenant and agree with each other and with the Association to pay to the Association annual assessments made by the Association for the purposes provided herein, and special assessments for capital improvements and other matters as provided herein.

Assessments, whether annual or special, shall be approved by a majority vote of all Lot Owners at an annual meeting or at a special meeting called for such purpose.

**2.5 Assessments Constitute Lien.** All sums assessed to any Lot by the Association, together with interest thereto as provided herein, shall be secured by a lien on such Lot in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Lot except: (a) tax and special assessment liens on the Lot in favor of any assessing unit or special improvement district; (b) liens and encumbrances granted in favor of a mortgagee affecting the interest of an Owner, which is recorded prior to the date notice of the Association's lien is recorded and which by law would be a lien prior to subsequently recorded encumbrances; and (c) liens for purchase money used to acquire Lots in the Subdivision, as described in Section 2.6 herein.

To evidence a lien for sums assessed hereunder, the Board may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Lot and a description of the Lot. Such a notice shall be signed by the Association or its authorized agent and shall be recorded in the office of the county Recorder of Wasatch County, Utah. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be foreclosed in the same manner as foreclosures in deeds of trust or mortgages or in any other manner permitted by law. The Association shall be deemed to be, and is hereby constituted to act in the capacity of a trustee within the meaning of Utah code Ann. 57-1-19 *et seq.* if foreclosure by trustee sale is the chosen remedy. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceeding, the costs and expenses of filing the notice of the lien and all court costs and reasonable attorneys fees. All such costs, expenses and fees shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the Association any assessments against the Lot which shall become due during the period of foreclosure.

In the event of foreclosure, after notice of default is received by the Owner, the Association shall, without regard to the value of the Lot, be entitled to the appointment of a receiver to collect any rentals due from the Owner or any other person. The Association shall have the right and power to bid an amount equal to its then existing lien at the foreclosure sale or other legal sale and to acquire hold, convey, lease, rent, encumber, use and otherwise deal with the same as the Owner thereof.

A release of notice of lien shall be executed by the Association and recorded in the office of the county Recorder of Wasatch county, Utah, upon payment of all sums by cleared funds which were secured by a lien which has been made the subject of a recorded notice of lien.

**2.6 Subordination of Lien.** The Association hereby subordinates its lien for assessments to any purchase money Lender on any Lot. In the event that a mortgagee or beneficiary under a Deed of Trust takes title to any Lot through trustees sale, foreclosure or deed in lieu of foreclosure or sale, the Association will

waive the right to lien for accrued but unpaid common area assessments. The mortgagee will take title free of lien for unpaid common area assessments accrued prior to the date of possession. The mortgagee in possession will, however, be subject to the common area expenses accruing from the date it takes possession.

**2.7 Personal Obligation of Owner.** The amount of any annual or Special Assessment against any Lot shall be the personal obligation of the Owner thereof to the Association. No Owner may avoid or diminish any personal obligation by waiver of the use and enjoyment of any of the Common Areas, by abandonment of his Lot or by the rental or leasing of his Lot. The Association shall be entitled to all related collection costs including, but not limited to, attorney fees.

**2.8 Personal Liability of Purchaser for Assessments.** A purchaser of a Lot shall be jointly and severally liable with the seller for all unpaid assessments against the Lot up to the time of the grant or conveyance, without prejudice to the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

### **ARTICLE III PERMITTED USES**

**3.1** Each lot may be used for any purpose consistent with this Declaration and consistent with the applicable ordinances, laws, and regulations of any governmental entity having jurisdiction over the use of all or any of the subdivision.

**3.2** Each lot must be used solely for single family residential use.

**3.3** Zoning Regulations. The lands within the properties shall never be occupied or used by or for any building or purpose or in any manner which is contrary to the zoning regulations applicable thereto.

**3.4** Land Use and Building Type.

(a) No lot shall be used except for residential purposes. No buildings shall be erected, altered, placed, or permitted to remain on any lot in excess of 20 feet average height of occupied space above grade.

(b) No single-story dwellings shall be erected or placed on any lot in the subdivision with floor space in said dwelling of less than 2,000 square feet on the ground level, excluding garage, carport, and patio.

00227029 BK 00474 Pg 00736



(c) No multi-story dwelling shall be erected or placed on any lot in the subdivision with floor space in said dwelling of less than 1,800 square feet on the ground floor level, exclusive of garage, carport, and patio.

(d) A concrete or masonry foundation wall shall form a complete enclosure around the perimeter of each home. Piers, walls, or other means of support may be utilized for interior or deck support required for the building.

(e) All single family dwellings may include the following accessory buildings and structures not used for residential occupancy: A private garage for the storage of automobiles; greenhouses for private use only; private swimming pools; and structures to house animals and other personal property.

(f) Every single family dwellings must have a minimum of a two-car garage.

(g) Driveways for single family dwellings must be large enough to accommodate two parked automobiles.

(h) Dwellings style, design, alterations or additions will conform to standards to be determined by the Architectural Committee. The following architectural styles are strictly prohibited:

- i. A-frame structures.
- ii. Geodesic dome structures.
- iii. Mediterranean motifs.
- iv. Southwestern adobe motifs.

(i) Exterior construction materials will be limited to stone, brick, wood, logs or stucco, and shall be in earth tones indigenous to the area. Stucco may be used only in conjunction with at least twenty percent (20%) surface area of another approved material. Log construction is strongly encouraged, as are copper roofs. Aluminum and vinyl siding are strictly prohibited.

Roof materials shall compliment the building design and encourage compatibility with the surrounding environment. They shall be in earth tones indigenous to the area, and any brightly colored or highly visible materials are strictly prohibited. Wood shake or wood shingle roofs are strictly prohibited. Copper roofs are encouraged.

Specifications regarding the color, texture, finish, and quality for the above may be posted and made available by the Architectural Committee.

(j) All storage or utility buildings, garbage and refuse containers, air conditioning equipment, and utility pipes, etc., must be placed at the rear of the dwelling and located on the site in such a manner as not to be conspicuous from the frontage street.

(k) Any light used to illuminate garages, patios, parking areas or for any other purpose shall be so arranged as to reflect light away from adjacent residences and away from the vision of passing motorists.

(l) It is the general intention that all perimeter fencing within the property have a continuity of appearance in keeping with the setting and surroundings of the property. All perimeter fencing shall be of a crossbuck and pole style, of similar style and quality to the fencing installed by the Declarant along the southern property line of the Subdivision that adjoins Lake Creek Road.

Interior fences, screens, or walls which are associated or connected with a building or structure may be of such design, material, and height as may be approved by the Architectural Committee. Fences or walls shall be of wood, brick or stone. No fence or walls of chain link wire mesh, or unpainted concrete blocks shall be allowed, except inside the perimeter fencing upon prior written approval by the Architectural Committee. Fences, walls, or hedges shall not exceed six feet in height. No fences shall be allowed in the front yards or in side yards from the average front line of the dwelling forward, unless approved by the Architectural Committee. Hedges and landscaping will be permitted in front yards and side yards of corner lots so long as they do not exceed four (4) feet in height meet with the approval of the Architectural Committee.

3.5 Building Location. Dwellings shall be sited with approval of the Architectural Committee in consideration of the following factors:

- (a) Proximity to lot lines.
- (b) Proximity to neighboring dwellings.
- (c) Siting of the driveway associated with the dwelling.
- (d) The aesthetic effect of the proposed siting in the context of the natural contours of the lot and the anticipated development of surrounding lots. This includes consideration of the effect of clustering of dwellings near lot lines.

00227029 BK 00474 Pg 00738

In no case shall a dwelling be sited nearer than forty (40) feet to a lot line. No accessory building shall be located on any lot nearer than fifty (50) feet to any lot line except by approval of the Architectural Committee.

A geotechnical study may be required for construction on slopes steeper than 20 percent (20%) grade.

3.6 Utility Easements. Easements for the installation and maintenance of utilities and drainage facilities are reserved, as shown on the recorded plat, over each lot or parcel of land (or as otherwise recorded or referred to herein). Within these easement areas, 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 and drainage facilities. The easement areas of each lot and parcel of land, and all improvements in it, shall be maintained continuously by the owner of said lot and parcel of land.

3.7 Modification of Natural Contours. The natural contours of any lot shall not be modified in excess of two vertical feet without prior written approval of the Architectural Committee.

3.8 Landscaping Control. Each owner shall maintain his lot in an attractive and safe manner so as not to detract from the community. All owners possessing vacant lots shall be responsible for keeping such lots clean in appearance and free from all refuse and potential fire hazards. Each owner shall utilize existing trees and natural growth to the maximum extent possible. The cutting or removal of any natural trees or foliage must first be approved, in writing, by the Architectural Committee.

Lot owners must comply with any county noxious weed ordinance.

3.9 Building and Landscaping Time Restrictions. The construction of all structures shall be completed within a period of one year following commencement of construction. Grading of Lots associated with construction of a dwelling shall be completed prior to occupation of any dwelling. The area surrounding a dwelling shall have basic landscaping substantially completed within six (6) months of occupancy. Areas covered with natural foliage (e.g. scrub oak, aspen, sagebrush, etc.) will be considered landscaped.

3.10 Temporary Structures. No structure of a temporary character, trailer, mobile home, basement, tent, shack, garage, barn, or other out-building shall be used on any lot at any time as a residence, either temporarily or permanently, except during construction of the dwelling and with prior written approval of the Architectural Committee. No dwelling house on any Lot shall be occupied in any manner prior to its completion without prior written approval of the Architectural Committee. No old or secondhand structures shall be moved onto any of said lots for use as a dwelling or accessory building, it being the intention hereof that all dwellings and

accessory buildings to be erected on the lots and within the subdivision shall be new construction of good quality, workmanship, and materials. However, historic or period accessory buildings may be moved onto a Lot with the prior written approval of the Architectural Committee, provided such structures in no way detract from or diminish the aesthetic character of the Lot or Subdivision.

Owners must comply with any relevant Wasatch County ordinance.

3.11 Parking Requirements. Parking on streets, whether public rights-of-way or privately owned, is prohibited. There shall be sufficient land allocated by the owner to meet the parking requirements for the Lot. Campers, trailers, motor homes, camping vehicles, other recreational vehicles, and all commercial vehicles shall be stored within buildings or to the rear of the dwelling so that they can not be seen from the nearest street and so that they do not create an unsightly appearance from any perspective. No more than one commercial vehicle with load capacity greater than one (1) ton may be stored on any one Lot. In no case shall such vehicles be allowed to remain overnight in driveways, and in no case shall such vehicles be stored for the benefit of parties other than the Lot Owner.

The Association or its employee or its agent may store one snow removal vehicle within the Subdivision. Such vehicle shall not be subject to the limitations on storage of vehicle previously stated herein.

3.12 Pets and Livestock. All animals must be of a nature that compliment the surrounding area. Owners may maintain no more than one (1) animal per acre of land on the Lot. For the purpose of this calculation, the recorded Lot size shall be reduced by one acre for land occupied by the dwelling and outbuildings. Fractional acres shall be rounded down to zero. Under no circumstance shall an Owner maintain more than fifteen (15) animals on the Lot, regardless of the size of the Lot. Household pets weighing less than fifteen (15) pounds are exempt from this limitation.

No animals may be maintained on the property for economic gain. No boarding-for-hire shall be allowed.

The Owner of any animal shall be personally liable for any damages or inconveniences resulting from said animal and shall take all necessary steps to prevent his or her animal from roaming unrestrained throughout the subdivision or on neighboring properties.

Before animals are kept on a specific Lot, the Lot must be improved to adequately provide for the animals' needs, both permanent and seasonal. The Owner shall not make such improvements to the Lot without the prior written approval of the Architectural Committee. The approval will be for the accommodation of a specific number and type of animal(s). This specific

requirement for approval does not apply to ordinary household pets. The Architectural Committee may direct the removal of any animals that detract from the natural surrounding, adversely affect property values of any Lot in the Subdivision, or impinge on the quiet enjoyment of a Lot by any Owner in the Subdivision.

3.13 Signs. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, one temporary sign of not more than five square feet advertising the property for sale or rent, signs used by a builder to advertise the property during the construction and sales period, or signs erected by the Declarant to market the Subdivision and Lots within the Subdivision. Any sign must comply with applicable Wasatch County ordinance.

3.14 Antennas. All antennas must be enclosed within a building and not roof mounted. All satellite dishes shall be less than 24" in diameter and must be located and screened in a manner approved in advance by the Architectural Committee so that such dishes are not readily visible from other Lots, the common areas or the street.

3.15 Garbage and Refuse Disposal. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste. Such trash, rubbish, garbage or other waste shall not be kept except in sanitary containers. No rubbish, trash, papers, junk or debris shall be burned upon any lot except that trash may be burned inside homes that are properly equipped with inside incinerator units.

3.16 Sight Distance at Intersections. No fence, wall, hedge, or shrub planting which obstructs sight-line elevations between two and six 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 45 feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the Street property lines extended. The same sight-line limitations shall apply on any lot within ten feet from the intersection of a street property line with a driveway.

3.17 Limited Business Use.

(a) The lands within the property shall be used exclusively for single family residential living purposes, except that the Declarant or its duly authorized agent may use any lot owned by Declarant as a sales office, sales model, or property office or rental office. Additionally, each lot owner may operate a home-based business upon written approval from the Association. Each Lot Owner wishing to operate a home-based business shall submit a written request for approval to the Association detailing the nature of the proposed business and the anticipated impact on the surrounding properties. In determining whether to grant approval, the criteria the Association shall consider shall include, but not be limited to the following: (1) the potential impact of the business on traffic and parking; (2) the proposed

operation, maintenance, and storage of equipment utilized by the business; and (3) any other potential impact on the surrounding properties which may be caused by the particular business. The decision whether to grant approval of a particular business will be at the sole and absolute discretion of the Association. No equipment relating to a home-based business will be operated, maintained, or stored on any lot unless specifically authorized by the Association.

(b) Any owner or his duly authorized agent may rent or lease said owner's residential building from time to time. Any rental shall be only for residential, not commercial, use.

3.18 Underground Utility Lines. All water, gas, electrical, telephone, and television cables, other electronic pipes and lines and all other utility lines within the limits of the property must be buried underground and may not be exposed above the surfaces of the ground.

3.19 Maintenance of Property. All lots and all improvements on any lot shall be kept and maintained by the owner thereof in clean, safe, attractive, and slightly condition and good repair.

3.20 Private Area Uses and Restrictions. The Association or its duly authorized agents shall have the right, at any time, without any liability to the owner for trespass or otherwise, to enter any private area for the purpose of removing any improvement constructed reconstructed, refinished, altered, or maintained upon such private area in violation of this Declaration, or to enforce, without limitations, all of the covenants, conditions and restrictions set forth in this Declaration. The Owner shall be assessed for the actual cost of enforcement plus ten percent (10%) for associated administrative costs. Such assessment shall constitute a lien against the Lot.

3.21 Removal of Natural Foliage. No trees, shrubs, bushes, or other natural foliage shall be removed except as is absolutely necessary for the ingress and egress and construction of the dwelling and other permitted structures on the lot without the prior written approval of the Architectural Committee.

3.22 Rules and Regulations. The Association may adopt rules and regulations for the use of Lots. No such rules and regulations shall be established which violate the intention or provisions of this Declaration or which unreasonably restrict the use of any lot by the owner thereof.

#### **ARTICLE IV PROHIBITED USES AND ACTIVITIES**

The following uses and activities are prohibited on any Lots in the Subdivision:

4.1 **Illegal Activities.** Any use which is in violation of the applicable ordinances, laws, and regulations of any governmental entity having jurisdiction over the use of all or any of the Subdivision.

4.2 **Oil and Mining Operations.** No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon any lot, 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 structures designed for use in boring oil or natural gas shall be erected, maintained, or permitted upon any lot.

4.3 **Sewage Disposal and Water Supply.** No individual sewage disposal system or water supply system shall be permitted to remain on any lot.

4.4 **No Re-Subdivision.** No lot shall be re-subdivided, and only one family residence shall be constructed or allowed to remain per lot.

4.5 **Pollution.** In the interest of public health and sanitation, and so that the land above described and all other land in the same locality may be benefitted by a decrease in the hazards of stream pollution, groundwater pollution and fire, and by the protection of water supplies, recreation, wildlife, and other public uses thereof, Owners shall not use any Lot for any purpose that would result in the pollution of any waterway that flows through or adjacent to such Lot or Subdivision by refuse, sewage or other material that might tend to pollute the waters of any such stream or streams or otherwise impair the ecological balance of the surrounding lands, nor shall any open fires be permitted except in a fireplace or pit designed for such purposes.

4.6 **Wildlife Harassment.** Any harassment of wildlife within the GREENERHILLS Subdivision is prohibited. Owners shall be responsible for their pets, children, and guests complying with this provision.

4.7 **Nuisance.** No activity shall be conducted on any Lot of the Subdivision nor shall anything else be done thereon which may be or become an annoyance or nuisance to the owners or occupants by reason of unsightliness or excessive emission of fumes, odors, glare, vibration, gasses, radiation, dust, liquid waste, smoke, noise or fire hazard. Additionally, no nuisance shall be created by any home-based business. If a nuisance is created, the Association shall deny the operation of the home-based business.

4.8 **No Hazardous Activities.** No activities shall be conducted on any lot and no improvements constructed on any lot which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any lot, and no open fires shall be lighted or permitted on any lot except in a contained barbeque unit while attended and in use for cooking purposes or within safe and well-designed interior fireplaces.

## **ARTICLE V ARCHITECTURAL CONTROL**

5.1 Approval by Architectural Committee. No building, fence, wall, or any other structure shall be commenced, erected, or maintained upon the properties, nor shall any exterior addition, change or alteration therein be made, nor shall any excavating, alteration of any stream or clearing, removal of shrubs or trees or landscaping on any lot within the properties be permitted unless a written application is submitted to the Architectural Committee for approval of such improvement and in connection therewith the Owner shall submit two complete sets of plans and specifications for the proposed improvement or improvements. Such written application shall include, in detail and as applicable, the following:

- (a) An overall view of the proposed improvement or improvements.
- (b) The location of said improvement or improvements on the lot upon which it or they will be placed or constructed and the location of the proposed improvement or improvements relative to other improvements on said lot.
- (c) Floor plans of each floor level.
- (d) The basic structural system of the improvement or improvements and the materials to be used in the construction thereof.
- (e) Elevations.
- (f) Provision for temporary and permanent parking of vehicles in connection with construction and use of the facility.
- (g) Design and layout of proposed utility connections.
- (h) Proposed time schedule for construction to completion.
- (i) A survey acceptable to the Architectural Committee locating lot corners and the proposed building position.
- (j) A landscaping plan which includes as a part thereof, a planting plan, irrigation plan and grading plan.

5.2 Escrow of Funds for Completion of Improvements. When an application is submitted to the Architectural Committee, the Committee may, in its discretion, require that the person submitting such plan also provide assurances, satisfactory to the Committee, that funds are, or will be, made available to pay the costs of completion of the proposed construction and landscaping in accordance with the



plans submitted to the Committee. In its discretion, the Committee may require that a reasonable sum be placed in an escrow account to insure completion of the above referenced improvements, or alternatively, that a commitment be furnished by a construction lender insuring that construction loan proceeds will unconditionally be disbursed for the purpose of completing construction of the improvements and landscaping. The Committee may require, as a condition precedent to approval the application, that the Committee be given the right to draw from the set aside funds for the purpose of completing such landscaping or improvement and for paying costs and reasonable attorneys fees associated therewith if the lot owner fails to timely complete the improvements in accordance with the plans approved by the Committee.

5.3 Architectural Committee Policy. The Architectural Committee shall not give its consent to the proposed improvement unless, in the opinion of the Architectural Committee, the improvement is properly designed and the design, contour, materials, shapes, colors, and general character of the improvement shall be in harmony with existing structures on the Lot and on neighboring Lots and in harmony with the surrounding landscape, and the improvements shall be designed and located upon the lot so as to minimize intrusion to the natural land forms and vegetation cover.

5.4 Architectural Committee Disapproval. The Architectural Committee shall have the right to disapprove any application for the following reasons:

- (a) In the event said application and the plans and specifications submitted therewith are not of sufficient detail, or are not in accordance with the provisions herein set forth,
- (b) If the design or construction of the proposed improvement is not in harmony with neighboring improvements and the general surroundings,
- (c) If the design and the plans for construction do not include sufficient safeguards for preservation of the environment and safety of the surrounding areas,
- (d) If the plans for construction would create disturbances that would interfere with the enjoyment of surrounding properties, or
- (e) For any other reason the Architectural Committee may deem in the best interest of the Subdivision.

The decision of the Architectural Committee shall be final, binding, and conclusive on all of the parties affected.

5.5 Preliminary Approvals. Persons who anticipate constructing improvements on lands within the subdivision, whether they already own lands or are contemplating the purchase of such lands, may submit preliminary sketches of such improvements to the Architectural Committee for informal and preliminary approval or disapproval. All preliminary sketches shall be submitted in duplicate and shall contain a proposed site plan together with sufficient general information on all aspects that will be required to be in the complete plans and specifications to allow the Architectural Committee to act intelligently to give an informed and preliminary approval or disapproval. The Architectural Committee shall not be finally committed or bound by any preliminary or informal approval or disapproval.

5.6 Non-Waiver. The approval of the Architectural Committee of any plans, drawings or specifications for any work done or proposed, or in connection with any other matter, requiring the approval of the Architectural Committee under these restrictions, shall not be deemed to constitute a waiver of any right to withhold approval as to any similar plan, drawing, specification, or matter whenever subsequently or additionally submitted for approval. Upon approval or disapproval of the plans by the Architectural Committee, one set of plans shall be returned to the lot owner and one set shall be retained by the Committee. If the Architectural Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. In order to obtain such approval, the owner must submit for consideration of the Architectural Committee such details and information with relation to the contemplated action as the Architectural Committee shall request.

5.7 Professional Assistance. If at any time the Architectural Committee shall determine that it would be in the best interest of Association to employ professional assistance in the review of any improvement, the requesting Owner shall reimburse the Association for the reasonable cost of employing such professional assistance.

5.8 Architectural Committee Rules. The Architectural Committee may, from time to time and in its sole discretion adopt, amend and repeal by unanimous vote, rules and regulations to be known as "Architectural Committee Rules" which, among other things, interpret or implement the provisions of this Declaration. A copy of the Architectural Committee Rules as they may from time to time be adopted, amended or repealed, certified by any member of the Architectural Committee shall be available from the Architectural Committee.

5.9 Appointment of Architectural Committee. The Board of Trustees of the GREENERHILLS Homeowners Association, Inc. shall appoint the Architectural Committee, to consist of not less than three (3) members. Members of the Architectural Committee need not be Members of the Association.

5.10 Written Records. The Architectural committee shall keep and safeguard complete written records of all applications for approval submitted to it (including one set of all preliminary sketches and all architectural plans so submitted) and of all actions of approval or disapproval and all other actions taken by it under the provisions of this instrument which records shall be maintained for the lesser of three years after approval or disapproval or three years after completion of the improvement.

5.11 Liability. Neither the Architectural Committee nor any member thereof shall be liable to any owner or third persons for any damage, loss, or prejudice suffered or claimed on account of (a) the approval or disapproval of any plans, drawings, and 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 or manner of development of any property within the Subdivision.

5.12 Variances. The Architectural Committee may, in its sole discretion, by an affirmative vote of a majority of the members of the Architectural Committee, allow reasonable variance as to any of the covenants, conditions and restrictions contained in this Declaration, on such terms and conditions as it may require. Any variance must also comply with any relevant Wasatch County ordinance.

## **ARTICLE VI**

### **IRRIGATION WATER**

Water rights furnished with each lot in the Subdivision allow for an irrigation of 15,900 square feet of land based on the normal water use rate of three (3) acre feet per irrigated acre. Should low water use plants, low rate applications water systems, and/or Xeriscaping techniques be employed, additional areas may be landscaped.

In dry water years, irrigation water may be restricted in amount and duration of use.

Should the State Water Engineer rule that there are return flows from the Heber Valley Special Services sewer treatment plant in Midway, the above 15,900 square feet irrigation area may be increased to 18,500 square feet.

Additional areas of lots may potentially be irrigated if individual lot owners acquire additional irrigation water rights in terms of quantity, source flow rate, and point of diversion.

The Association may elect to install irrigation water metering to ensure proper apportionment of irrigation water among Lot Owners. The Association may levy a

special assessment for metering or include it in the annual Association assessment.

## **ARTICLE VII GENERAL PROVISIONS**

7.1 **Enforcement.** The Declarants, the Architectural Committee, or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

The result of every act or omission, whereby any provision, condition, restriction, covenant, easement, or reservation contained in this Declaration is violated in whole or in part, is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance, either public or private, shall be applicable against every such result, and may be exercised by the Association, or any other lot owner in the Subdivision. Such remedy shall be deemed cumulative and not exclusive.

7.2 **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 forty (40) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then Owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

7.3 **Severability.** Invalidation of any one of these covenants by statute, judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

7.4 **Amendments.** At any time while any provision, covenant, condition or restriction contained in this Declaration or amendment thereto, is in force and effect, it may be amended or repealed by the recording of a written instrument specifying the amendment or repeal, executed by a vote of the majority of the Members of the GREENERHILLS Homeowners Association, Inc.

Without the written consent of the Declarant, no amendment shall have the effect of eliminating or changing the rights of the Declarant.

No amendment will be binding upon the holder of any existing mortgagee or trust deed beneficiary on any Lot unless the mortgagee or trust deed beneficiary joins in the amendment.

7.5 Boundary Changes. Declarants reserve the right to change at any time the bounds and area of any lot owned by it, provided such change does not adversely affect the access to any lot already sold, and that such change has been approved and is in accordance with the various county, state, and/or federal regulations controlling this Subdivision.

7.6 Limited Liability. Neither Declarant, the Association, the Board of Trustees of the Association, the Architectural Committee, nor any member, agent, representative, officer, director, or employee of any of the same shall be liable to any party for any action or for any failure to act with respect to any matter pertaining to or contemplated by this Declaration.


7.7 Mortgage Protection Clause. No breach of the covenants, conditions, or restrictions herein contained nor the enforcement of any lien provisions herein shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value; all of said covenants, conditions, and restrictions shall be binding upon and effective against any owner whose title is derived through foreclosure of trustee's sale, or otherwise.

7.8 Singular Includes Plural. Whenever the context of this Declaration requires same, the singular shall include the plural and the masculine shall include the feminine.

7.9 Captions. The captions and headings in this instrument are for convenience only and shall not be considered in construing any provision, restriction, covenant, or condition contained in this Declaration.

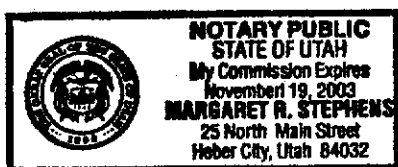
7.10 Notice to Land Owners Holding Land for Development or Speculation in Wasatch County. The attached exhibit A, entitled Notice to Land Owners Holding Land for Development or Speculation in Wasatch County, is incorporated herein by reference.

DATED this 16<sup>th</sup> day of Sept. ~~August~~, 2000.

Greener Hills, L.L.C.  
By   
Brent Hill  
Managing Member, Greener Hills, L.L.C.

State of Utah                    )  
  )ss.  
County of Wasatch )

The foregoing instrument was acknowledged before me on the 6 day of September, 2000,  
by Brent Hill as President & managing Member of Greener Hills  
Development LLC, and Greener Hills Homeowner's Association, Inc..



Margaret R. Stephens  
Notary Public

25 N. Main, Heber City, Utah 84032  
Residing at:

My commission expires: 11-19-03

**ALL OF LOTS 1-51, GREENERHILLS SUBDIVISION, according to the Official Plat thereof, recorded in the office of the Wasatch County Recorder.**

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