

AMENDED DECLARATION OF PROTECTIVE COVENANTS

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FOR

REED D HATCH-SANPETE COUNTY RECORDER  
1996 JUN 03 15:31 PM FEE \$123.00 BY RDH  
REQUEST: PROPERTY OWNERS OF OAKER HILLS

OAKER HILLS PHASE I & II

*Oak Ph1 101-149 & Common*  
*Oak Ph2 201-250*

LOT #101 TO 149 & 201 TO 250

This declaration is made by THE PROPERTY OWNERS ASSOCIATION OF OAKER HILLS, hereafter known and referred to 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 all future owners of any part of such real property described as, "OAKER HILLS PHASE I AND PHASE II". Lot #'s 101 thru 149, including 13.29 acres, of Common Area Phase I, and lot #'s 201 thru 250 Phase II.

I. GENERAL PURPOSES:

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; and 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 development known as Oaker Hills Phase I and Phase II is a division of land into lots of approximately five (5) or more acres. There shall be no more residences on any lot than allowed by Sanpete County zoning laws. 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 for access to lot: Each lot shall have access to a road by an access easement shown on the recorded survey plat. Such easement shall be a total of 60 feet, 30 feet from each lot.

2.3 Fire Control: The Association, at its option has the right to cut, with machinery, grass areas of the subdivision for fire control, unless the land owner fences his property and does this service for himself.

### III. MECHANIC'S LIEN RIGHTS

3.1 Mechanic's liens: No labor performed or material furnished for use in connection with any lot with the consent or at the request of an owner or his agent or subcontractor shall create any right to file a statement of mechanic's lien against the lot of any other owner not expressly consenting to or requesting the same.

### IV. THE ASSOCIATION.

4.1 Every owner shall be entitled and required to be a member of the Oaker Hills Property Owners Association Inc., a non-profit corporation herein after named the "Association". If title to a lot is held by more than one person the membership to that 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 by him. Each such membership shall be appurtenant to the lot on which it is based and shall be transferred automatically by the 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 mortgagee as further security for a loan secured by a lien on a lot.

4.2 Amplification: The provisions of this article are to be modified by the Articles of Incorporation of the Association and by the Bylaws 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 obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the project, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project or the enforcement of this declaration. The Association may arrange with others to furnish lighting, heating, water, trash collection, sewer service, and other such common services to each lot.

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 regulation 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 reasonable 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 by it within the project, 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, 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 in this declaration, and fixed, established and collected from time to time in the manner provided by the Association and this article.

6.2 Amount of Total Annual Assessments: The total annual assessments against all development 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 or management, taxes and special assessments as provided herein, premiums for all insurance which the Association is required or permitted to maintain pursuant hereto, trash collection, repairs and maintenance, wages for Association employees, legal and accounting fees and any deficit remaining from a previous period, the creation of a reasonable contingency 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 lot on or about March 31 of each year for the fiscal year commencing June 1 following such date. Such assessment shall be due and payable commencing on or before June 1 succeeding the date of the assessment; provided, however, that the first annual assessment shall be for the balance of the fiscal 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. Failure of the association to give timely notice of any assessment as provided herein shall not affect the liability of the owner of any lot for such assessment, but the date when payment shall become due in such case shall be deferred to a date thirty days after such notice has been given, but not after October 1 of the fiscal year to which such assessment relates.

6.5 Lien for Assessments: All sums assessed to the owner of a lot pursuant to this article, together with interest thereon as provided herein, shall be secured by a lien on such 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 shall consist initially of three (3) individuals. This may be expanded to five (5). The initial three shall be designated by the developers of Oaker Hills, and shall serve until such time as the developers deems appropriate. At such time, designation of the committee members will be turned over to the Association.

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 of the Project nor shall anything be done or placed on the project which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others.

7.4 No Hazardous Activities: No activities shall be conducted nor improvements constructed upon the project which are 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 lumber, grass, shrubs, or tree clippings, waste, metals, bulk material, refuse, garbage and trash shall be kept stored or allowed to accumulate on the property. No vehicles, boats, or equipment shall be constructed, reconstructed, repaired or 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 2 (two) horses, 2 (two) cattle, 4 (four) sheep, or 4 (four) 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 county and state, most restrictive regulations.

7.8 Restrictions On Signs: No sign of any kind shall be displayed to the public view on any lot except for 1 (one) sign of not more than 5 (five) square feet, 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 Regulations: No owner shall violate any rules, regulations, or ordinances for the use of said lots adopted from time to time by the Association.

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 covenant committee.

7.11 Construction: All building exteriors must be completed within 36 months from the commencement of construction.

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 have been submitted to the appropriate health authorities. Such percolation tests will be made and test results provided at the expense of the said lot owner, prior to such 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. 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 owners. 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 metal containers. Trash, tin cans, paper, etc., must be kept in wire or metal containers. Lot owner is responsible for removal of all garbage, as no service is anticipated, unless provided by the Association.

#### VIII. MISCELLANEOUS

8.1 Compliance with Provisions of Declaration 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 an action for damages or injunctive relief.

8.2 Registration of Mailing Addresses: Each owner shall register his current mailing address with the Association so that all notices or demands may be sent to the owner by either Registered or Certified Mail.

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

8.4 The Provisions of this Declaration shall be in addition 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 OTHER

10.1 Modular homes may be used if HUD approved as residences from the date of the lot purchase so long as they are neat, skirted and porched with approved materials. The architectural committee will pass on these requirements as created by the Trustees per Sanpete Co. regulations. Trailers and campers may be temporarily used on mountain recreation lots per rules set by Oaker Hills board of trustees.

#### X. FENCES

11.1 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 boundry seperation, except no fence, wall or hedge may be used for this purpose in the front set back area of a lot in excess of 60" above the adjacent grade.

## XI BUILDING SETBACKS

12.1 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.

## XII. WATER RIGHTS

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

13.2 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 owners, in accordance with the state laws as pertaining to the conversion of rights from stock watering to culinary.

13.3 No lot owner shall protest the application of any other lot owner for a permit to drill a well on such applicants lot.

## XIII. ACCESS RIGHTS

14.1 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.

## XV. SUBDIVISION OF LOTS

15.1 No lot or parcel of land shall be divided into smaller lots or parcels than 5-(five) acres each.

These conditions shall run with the land and shall be binding upon all parties and all persons claiming under them until June 1, 1996, at which time said conditions and covenants shall be automatically extended for successive periods of ten (10) years, unless by vote of the owners of a quorum (forty (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.

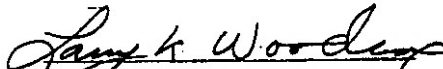
PROVIDED FURTHER, that if any paragraph, section, clause or phrase of the restrictions, conditions and covenants herein contained shall be or become illegal, null, or void, for any reason or shall be held by any court of competent jurisdiction to be illegal, null or void, the remaining paragraphs, sections, 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 any such conditions, covenants and/or restrictions and either to prevent him 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 restrictions shall be binding upon and effective against any owner or any lot or lots in said property whose title is aquired 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:

  
STEVE NEWBOLD TRUSTEE

  
LARRY WOODCOX TRUSTEE

  
BOYD SPARROW TRUSTEE

STATE OF UTAH )

COUNTY OF Utah )

On the 6<sup>th</sup> day of May 1996 personally appeared before me, a majority of the covenants committee Steve Newbold, Larry K. Woodcox, Boyd Sparrow who being duly sworn, did say that they represent the "Association" Board of Officers and that the foregoing declaration was signed in behalf of the "PROPERTY OWNERS ASSOCIATION OF OAKER HILLS.

NOTARY PUBLIC: Dorothy Woodcox  
RESIDING AT: Am. Fork, Ut  
MY COMMISSION EXPIRES: 9-12-96

