

**METRO NATIONAL TITLE**

275 East South Temple, #100  
Salt Lake City, UT 84111

AL NEWMAN 801-393-8833

MNT# 88000637

*Handwritten initials*

4820134

06 SEPTEMBER 89 04:16 PM  
KATIE L. DIXON  
RECORDER, SALT LAKE COUNTY, UTAH  
METRO NATIONAL TITLE  
REC BY: REBECCA GRAY, DEPUTY

4820134

**DECLARATION OF RESTRICTIVE COVENANTS  
AGREEMENTS, AND CONDITIONS AFFECTING  
THE REAL PROPERTY KNOWN AS  
LOTS 1 THROUGH 17 OF WILLOWCREEK HOLLOW ESTATES**

TO WHOM IT MAY CONCERN:

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the undersigned is the legal and beneficial owner of a certain tract of land situated in Salt Lake County, State of Utah, described as follows:

All of Lots 1 through 17 inclusive, WILLOWCREEK HOLLOW ESTATES, according to the official plat thereof, as recorded in the office of the County Recorder of said County.

WHEREAS, the undersigned is about to sell the property described heretofore, which it desires to subject, pursuant to a general plan of improvement, to certain restrictions, conditions, covenants and agreements between the several purchasers of said property themselves as hereinafter set forth:

NOW, THEREFORE, the undersigned declares that the property described heretofore is held and shall be sold, conveyed, leased, occupied, resided upon, hypothecated and held subject to the following restrictions, conditions, covenants and agreements between itself and the several owners and purchasers of said property and between themselves and their heirs, successors and assigns:

1. MUTUAL AND RECIPROCAL BENEFITS, ETC.: All of said restrictions, conditions, covenants and agreements shall be made for the direct and mutual and reciprocal benefit of each and every lot created on the above described property and shall be intended to create a mutual and equitable servitude upon each of said lots in favor of each other lot created on the aforesaid property and to create reciprocal rights and obligations between the respective owners of all of the lots so created and to create a privity of contract and estate between the grantees of said lots, their heirs, successors and assigns, and shall, as to the owners of each lot in said tract, their heirs, successors and assigns, operate as covenants running with the land for the benefit of all other lots in said tract.

2. PERSONS BOUND BY THESE RESTRICTIONS AND COVENANTS: All covenants and restrictions herein stated shall run with the land and all owners, purchasers or occupants thereof shall by acceptance of contracts or deeds be conclusively deemed to have consented and agreed with the present and future owners of said land and with his or their successors and assigns to conform to and observe the following covenants, restrictions and stipulations as to the use thereof and construction of residences and improvements thereon for a period from the date hereof to January 1, 2018, at which time said covenants and restrictions shall be automatically extended for successive periods of 10 years, unless, by a vote of a majority of the then owners of said lots, it is agreed to amend or release said covenants in whole or in part by an appropriate agreement in writing

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specifying the restriction(s) amended or released and by filing said agreement with the office of the Salt Lake County Recorder. Provided, however, any amendment or release regarding paragraph three shall require a unanimous vote.

3. LAND USE AND BUILDING TYPE: No lot shall be used except for residential and related purposes. No building shall be erected, altered, or permitted to remain on any lot other than one detached single-family dwelling and a private garage for not more than three (3) vehicles. No building shall be erected to a height in excess of twenty-five (25) feet above street level, except that at the sole discretion of the Supervising Committee a height of up to thirty-five (35) feet may be allowed as an exception on certain lots. No dwelling shall be erected to a height less than one (1) full story above grade. The Architectural and Structural Control Committee shall have the power to further limit the number of stories and the height of structures as to all lots in its sole and exclusive discretion. Every detached single family dwelling, exclusive of garages and open porches, erected on any one of the above described residential lots shall have a minimum area above the ground of 1,250 square feet for a single level residence and 900 square feet for each floor for a multi-level residence. All construction shall be of new materials except for approved "used brick". Such accessory buildings as are approved by the Architectural and Structural Control Committee may also be permitted.

4. MOVING OF STRUCTURES: No structure of any kind shall be moved from any other place to the property.

5. DILIGENCE IN BUILDING: When the erection of any residence or other structure is once begun, work thereon must be prosecuted diligently and completed within 12 months. No building shall remain incomplete for any reason for a period in excess of eleven (11) months from the date that site excavation commenced.

6. COMPLIANCE WITH ZONING ORDINANCES OF SALT LAKE CITY: All buildings in said subdivision shall be placed and used upon said lots in accordance with the present provisions of Salt Lake County Zoning Ordinances relating to Zone R-1-21, or as the same may be hereinafter amended, unless otherwise modified or restricted by these covenants herein.

7. TEMPORARY STRUCTURES: No trailer, basement, tent, shack or other out-building shall be placed upon or used at any time within said subdivision as a temporary or permanent residence.

8. NUISANCES:

A. Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be an annoyance or nuisance to the neighborhood.

B. Pets. No barn, coop, shed, sty or building of any type shall be constructed for the purpose of housing pigs, cows, sheep, goats, poultry, or any other livestock, and none of the foregoing shall be kept, maintained or permitted at any place within the limits of said subdivision, excepting only a

reasonable number of common household pets. Pets shall at all times be under property control and supervision of their owners. The only exception to this is that horses may be kept on the property, but no permanent structure to house or support said animals shall be built.

C. Storage. No storage of any articles, materials, equipment or vehicles, including boats, of any nature is permitted in the front yard portion of any lot except that regularly used passenger cars and light pickup trucks may be parked upon driveway areas.

D. Signs. Except for signs displayed by the developer during the construction and lot sales period, no sign, other than name plates, shall be displayed to the public view on any lot except one sign not exceeding four square feet advertising the sale or lease of a lot.

E. Drilling and Mining. There shall be no oil drilling, mining, quarrying or related operations of any kind permitted upon any lot.

F. Rubbish. No rubbish shall be stored or allowed to accumulate anywhere in said subdivision, except in sanitary containers.

G. Transmitting and Receiving Equipment. No external radio, citizen's band, ham radio or any other transmitting and/or receiving antennas or equipment shall be placed upon any structure or lot; provided, however, a television antenna may be placed on a structure at a height to be specifically approved by the Committee.

H. Construction Debris. All lots owners shall properly maintain their lots during the construction period so as to insure that no "spoils" from construction or any other debris are permitted to locate on any adjoining lot or any public right-of-way. Lot owners shall take whatever action is necessary to prevent run-off to and resultant erosion of adjoining public or private property. Lot owners agree that the undersigned or the Architectural and Structural Control Committee shall be empowered to clean up any and all "spoils" or construction debris which are located upon any adjoining public or private (land?) resulting from activities of a lot owner, his builder or any other person employed or otherwise controlled by owner and record a mechanic's lien against the owner's property to secure the repayment of all sums expended by said Committee or the undersigned in cleaning up and removing said "spoils" and debris from adjoining public or private property if same is not voluntarily cleaned up and removed by owner within 48 hours of written notice from the undersigned or said Committee identifying the required cleanup and removal work.

9. EASEMENTS: Such easements and rights-of-way shall be reserved to the undersigned, its successors and assigns, in and over said real property for the erection, construction and maintenance and operation therein or thereon of drainage pipes or conduits and pipes, conduits, poles, irrigation ditches, wires and other means of conveying to and from lots in said tract, gas, electricity, power, water, telephone and telegraph services, sewage and other things for convenience to the owners of lots in said tract, as may or may not be shown on the subdivision plat. No structure of any kind shall be erected over any of such

easements except upon written permission of the undersigned, its successors or assigns.

10. IRRIGATION DITCHES:

A. The property owners adjacent to or owners of lots which the irrigation ditches run through shall be responsible to keep all debris out of the ditches and dispose of said debris.

B. The Ditch Company shall have the right to enter property 24 hours a day each and every day of the year if it is necessary to maintain the ditch.

C. The Ditch Company shall have a non-restricted access to maintain and preserve the ditch (see 14.C.6 Fences).

D. Owner of Lot Ten (10) and/or assignees shall be responsible to keep clean the opening of the pipe or culvert at the point which the irrigation ditch enters to cross Siesta Drive and to dispose of the debris either themselves or by calling the County Flood Control.

E. Owner shall not drain washing machine water, swimming pool water, or surface water, etc., into the irrigation ditch or remove water from the ditch.

F. The Ditch companies have the right to trim or remove landscaping that is restricting the flow of water.

G. Home owners and adjacent property owners will be responsible for the open ditch areas and will release ditch companies from any liability because the ditches are open.

11. SET BACKS: No dwelling house or other structure shall be constructed or situated on any of said lots created except in conformity with the "set back" lines as established in each instance by the Committee and in conformity with any additional "set back" lines which may be fixed by the undersigned, its successors and assigns, in the recorded subdivision plat, contracts or deeds to any or all of the lots created on said property. The "set back" of any building, or other structure, as to any line, shall be deemed to be the minimum distance between said building, or other structure, and said line; the "set back" of any building, or other structure as to any street, shall be deemed to be the minimum distance between said building, or other structure, and the nearest line of said street.

12. MANNER OF VOTING: In voting, pursuant to the provisions of paragraphs two or twelve hereof, each lot owner of record shall be entitled to one vote for each lot owned by him, and the action resulting from such vote is to be evidenced by a written instrument signed and acknowledged by such lot owners. Any vote resulting in the amendment or repeal of the Declaration shall be recorded in the County Recorder's Office of the County of Salt Lake, State of Utah.

13. ARCHITECTURAL AND STRUCTURAL SUPERVISING COMMITTEE: An Architectural and Structural Control Committee (hereinafter "the Committee"), consisting of three (3) members is hereby created, and the undersigned may fill vacancies in the Committee and remove members thereof at its pleasure; provided, however, that when 90% of the lots in the subdivision have been sold, (either deeded or sold under contract of sale) thereafter, upon written designation of 65% of those who are owners (either by contract of purchase, or in fee) of lots in said tract, of some person or persons whom such owners desire to make a member or members of said Committee, the undersigned will appoint such person or persons to the Committee, and if necessary, will remove from said Committee existing members hereof in order to create vacancies for the new appointment provided further, however, that one person designated by the undersigned shall always remain a member of said Committee if the undersigned so desires. The functions of said Committee shall be in addition to the functions elsewhere in the Declaration set forth, to pass upon, approve or reject any plans, or specifications for structures to be erected on lots in the subdivision, so that all structures shall conform to the restrictions and general plans of the undersigned, and of the Committee, for the improvement and development of the whole tract. Nothing in this paragraph shall be construed as authorizing or empowering the Committee to change or waive any restrictions which are set forth in this Declaration except as herein specifically provided. The Committee may act by any two (2) of its members, and any authorization approval or power made by the Committee must be in writing signed by at least two (2) members.

14. ARCHITECTURAL AND STRUCTURAL CONTROL COMMITTEE MEMBERS:

Robyn Kimball

Victor M. Kimball

David M. Kimball

15. ARCHITECTURAL AND STRUCTURAL CONTROL:

A. Approval Required: No building or structure, including a tennis court or swimming pool, shall be erected, remodeled or placed on any lot without the written approval as to location, height, design and harmony with existing structures first having been obtained from the Committee. No construction of any kind or nature on any of the lots shall be commenced until either sidewalk or curb grade has been established. No fence or wall shall be erected on any lot nearer to the street than the minimum building setback line unless similarly approved. No existing natural vegetation shall be removed unless similarly approved.

B. Structural Guidelines: Footings, foundations, walls, floor diaphragms and other earth retaining structures must be designed to resist all lateral forces. Complete details of these structural elements together with recommended construction procedures must contain the seal and signatures of a professional engineer licensed by the State of Utah before consideration will be given by the Committee. The Committee's approval will in no way be deemed as passing upon the engineering and structural adequacy of the said design. Said

design's adequacy will be the sole responsibility of the professional engineers whose seal and signature accompanies said design.

C. Architectural Guidelines: The following architectural guidelines shall apply to all lots in the Willowcreek Hollow Estates affected hereby:

1. Harmony in Building: The exterior material of all homes shall be either wood, stucco, brick, or stone. The roofing materials shall be either wood shingles, composition shingles or tile roofs.

2. Landscaping: No landscaping shall be started on said property nor any planting of trees take place until the plans and specifications therefore have been first approved in writing by the Committee. Landscaping must be commenced within one month of the date the house is ready for occupancy (or by April 30th of the following year if a house is ready for occupancy after October 15th) and must be completed in a manner sufficient to stabilize the site to the satisfaction of the Committee within nine months of the date the house is approved for occupancy. No landscaping plan will be approved unless the front yard and side yard have and the owner of said residential lot installs underground automated sprinkling system.

3. Color Harmony: Exterior colors must be approved by the Architectural Committee in order that harmony with the surrounding environment and with existing homes may be assured. The use of natural earth tones shall be encouraged, along with the use of wood and stone as material. The use of bland, unpainted concrete or blocks and painted or unpainted metals is prohibited on exterior surfaces.

4. Retaining Walls: All retaining walls must be approved by the Committee. The Committee will not be required to approve the use of unfaced concrete retaining walls. The Committee will encourage the use of rock-faced walls and walls screened by vegetation. Railroad ties and large rocks may be used for landscaping purposes but not as structural slope retention devices. See Paragraph 15B, Structural Guidelines.

5. Site Plan: The direction which homes on corner lots shall face must be approved by the Committee. Lot owners must determine the depth and location of the sewer from the Salt Lake County Sewer Department prior to designing their exterior house elevations.

6. Fences: Fences shall be constructed on coordination with the general architecture and character of the surrounding area. The materials used shall be the same as or similar to those used in the building of homes, and should compliment the architecture of the home. The height of fences shall be in conformity with Salt Lake

County ordinances. Under no circumstances will any "chain link" fencing of any type, brand or make be allowed to be constructed on any property within the described Willowcreek Hollow Estates. Any Owner with a lot adjacent to an open "Irrigation Ditch" that decides to fence his property will leave an access gate, where the water enters and exits the property for the Ditch Company. Said fence as it crosses the ditch will be 2' above the water line.

7. Exterior Lighting: Some form of exterior lighting shall be required for each lot in order to provide neighborhood lighting on the whole. Lighting or residential house numbers shall be encouraged to insure night time visibility.

8. Scale Lot Layout: No building or structure shall receive approval from the Committee until a 1/4 inch scale lot layout and house plan has been submitted to the Committee for its approval. In addition, all elevations with respect to improvements must be shown in quarter scale.

9. Samples: Prior to the approval of any building or structure, appropriate building materials samples must be provided to the Committee in order to determine if said materials comply with the terms of these conditions and restrictions. In addition, samples must be provided accurately reflecting the color scheme to be used on the improvements.

10. Construction Plans and Drawings: Prior to obtaining approval from the Committee, a set of final "to be constructed" plans and drawings must be submitted to the Committee. The Committee will not permit any redlining or oral modification of said final "to be constructed" plans and drawings, and all plans and drawings so submitted will be evaluated based solely on the submitted "to be constructed" plans. In addition, no plans shall be approved by the Committee until after the footing and foundation plans have been approved in writing by a licensed structural engineer. All such plans and drawings will be deemed to be approved at such time as they have been signed by three members of the Committee or their designated representatives.

11. Prohibition Against Soil Erosion and Runoff: It shall be the responsibility of the property owner to direct site work relative to the lot in such manner as to minimize erosion and runoff. Construction shall be conducted in such manner as to prevent the movement of earth materials or construction debris onto neighboring property or into the storm drainage system and/or changing the existing irrigation ditch.

16. ARCHITECTURAL PROCEDURE: The Committee's approval or disapproval shall be in writing. All decisions of the Committee shall be final, and neither the Committee nor its designated representative shall be subject to any liability therefore. Any errors or omissions in the design of any building or landscaping,

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and any violations of city ordinances are the sole responsibility of the lot owners and/or their designer or architect. The Committee's review of plans shall in no way be concerned with the structural or mechanical adequacy of the building or with architectural soundness thereof. At such time as the Committee has approved a lot owner's final plans and drawings, the Committee shall give notice in writing to the Salt Lake County Planning Department of its approval. Said notice of approval shall also contain the Committee's assent to the issuance by the Salt Lake County Planning Department of a building permit with respect to the lot. No such building permit will be issued by the Salt Lake City Planning Department until such a letter of approval has been duly received from the Committee.

17. ADDITIONAL COVENANTS:

A. **Concrete Maintenance:** Each lot owner shall at all times keep the curb and gutter and sidewalk in front of his or her lot or lots in good condition, and shall repair any cracks or breaks in such concrete within a reasonable time after receiving notification to do so from the Committee.

B. **Restriction Against Raising or Otherwise Changing the Height of Grade:** Neither the lot owner nor any person or persons claiming under him shall or will at any time raise or otherwise change the grade of any lot or lots herein conveyed or otherwise permit said grade to be different from the grade established by the developer. Nor will any "Irrigation Ditch" be re-channeled or altered without the written consent of the Committee and the Ditch Companies. Notwithstanding the foregoing, a lot owner shall be entitled to make application to the Salt Lake County Planning Commission for a change in grading. Upon approval of the Committee, the "Ditch Companies" (if ditches are on the subject property), and the Salt Lake County Planning Commission in writing, a change in grading will be permitted.

C. **Enforcement:** The lot owners hereby agree that the Committee may institute in its own name any suit or suits necessary in order to obtain a decree for specific performance or any restraining order necessary under these agreements. Should any suit be instituted, the affected lot owners agree that if the court finds in the Committee's favor such lot owner or owners shall pay reasonable attorneys' fees for the plaintiff's attorney as such fees may be fixed by the Court.

18. VIOLATIONS OF RESTRICTIONS, PENALTIES: Violation of any of the restrictions, conditions, covenants or agreements, herein contained shall give the Committee, the undersigned, their successors and assigns, the right to enter upon the property upon or as to which said violation or breach exists, and to summarily abate and remove at the expense of the owner, any erection, thing or condition that may be or exist thereon contrary to the provisions hereto without being deemed guilty to trespass. The result of every action or omission whereby any restriction, condition, covenant or agreement is violated, in whole or in part, is hereby declared to be and constitute a nuisance and every remedy allowed by law against a nuisance, either public or private, shall be applicable against such result. Such remedy shall be deemed cumulative and not exclusive.



19. ACCEPTANCE OF RESTRICTIONS: All purchasers of property described above shall be acceptance of contracts or deeds for every lot or lots shown therein, or any portion thereof, thereby be conclusively deemed to have consented and agreed to all restrictions, conditions, covenants and agreements, set forth.

20. EFFECT OF WAIVER OR BREACH OR FAILURE TO ENFORCE: Each and all of the covenants, conditions, restrictions and agreements, contained herein shall be deemed and construed to be continuing, and the extinguishment of any right of re-entry or reversion for any breach shall not impair or affect any of the covenants, conditions, restrictions or agreements, so far as any future or other breach is concerned. It is understood and agreed by and between the parties hereto that no waiver of a breach of any of the covenants, conditions, restrictions, and agreements herein contained shall be construed to be a waiver of any other breach of the same, or other covenants, conditions, restrictions and agreements herein contained shall be construed to be a waiver of any other breach of the same, or other covenants, conditions, restrictions and agreements; nor shall failure to enforce any one of such restrictions, either by forfeiture or otherwise, be construed as a waiver of any other restriction or condition.

21. ARCHITECT-BUILDER-ENGINEER ACKNOWLEDGEMENT: All purchasers of property described above hereby agree to cause any architect, designer, builder or engineer whom purchaser desires to employ or enter into any contract with regarding the design or construction of a residence on the property to execute an Architect-Builder-Engineer Acknowledgement of Receipt of these Restrictive Covenants, prior to commencement of any work on the property on behalf of purchaser. Purchaser further agrees to present a copy of all such fully executed Architect-Builder-Engineer Acknowledgements to the undersigned prior to filing of an application for a building permit.

22. SEVERABILITY: Invalidation of any one or any portion of any one of these covenants and restrictions by judgement or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned has executed this document this 20th day of July, 1989.

By: Franklin W. Platt  
Franklin W. Platt

By: Ellen B. Platt  
Ellen B. Platt

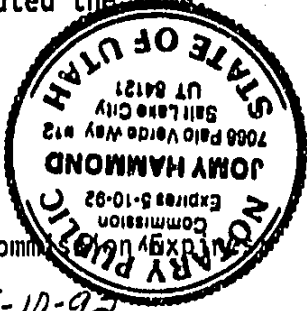
CHRISTENSEN & KIMBALL, a Utah Partnership

By: [Signature]  
General Partner

Proctor Enterprises  
Proctor Enterprises  
By: [Signature]  
Eddie R. Proctor  
General Partner

STATE OF UTAH  
: ss.  
COUNTY OF SALT LAKE

On the 30<sup>TH</sup> day of July, 1989, personally appeared before me Victor M. Kimball who being by me duly sworn did say, for himself, that he, the said mitner, is a general partner of Christensen & Kimball, a Utah Partnership, and that the within and foregoing instrument was signed in behalf of said partnership and said Victor M. Kimball duly acknowledged to me that said partnership executed the same.



Jomy Hammond  
NOTARY PUBLIC  
Residing at: Salt Lake City

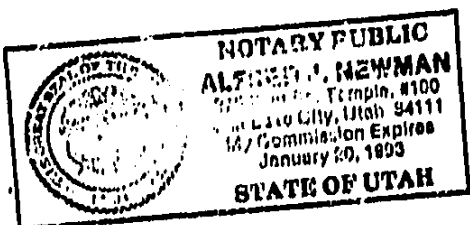
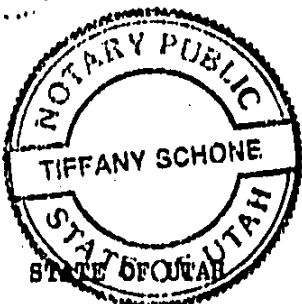
My Commission Expires 5-10-92

State of Utah  
: ss.  
County of Salt Lake

On the 31st day of August, 1989 personally appeared before me Franklin S. Platt and Ellen B. Platt the signer of the within instrument who duly acknowledged to me that they signed and executed the same.

My Commission Expires; 8-11-91

Tiffany Schone-Biggs  
Notary Public  
Residing at; Salt Lake City, Utah



COUNTY OF SALT LAKE ; ss.

On the 30th day of August, 1989 personally appeared before me Eddie R. Proctor, who being by me duly sworn did say, for himself, that he, the said Eddie R. Proctor is a General Partner of Proctor Enterprises, and that the within and foregoing instrument was signed in behalf of said partnership and said Eddie R. Proctor executed the same.

My commission expires; 1/20/89  
Residing at:

Alfred J. Newman  
Notary Public

800-6157 ext 0429