

MILLCREEK VISTAS PHASE 2
A DUPLEX SUBDIVISION
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the undersigned (hereafter "Developer") is the owner of certain real property located in St. George, Washington County, State of Utah, identified as MILLCREEK VISTAS PHASE 2, A DUPLEX SUBDIVISION, such property being more particularly described in Addendum "A" attached hereto and made a part thereof; WHEREAS, Developer shall cause such property to be conveyed subject to certain protective covenants, conditions and restrictions as hereinafter set forth.

NOW, THEREFORE, developer hereby declares that all of the properties described in Addendum "A" shall be held, sold and conveyed subject to the following covenants, conditions and restrictions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the properties. These covenants, conditions and restrictions shall run with the properties and shall be binding on all parties having or acquiring any right, title or interest in the properties and shall inure to the benefit of each such party.

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1. Land Use and Building Type: No property shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any property other than one detached single-family dwelling or one duplex dwelling not to exceed one story in height. Every dwelling shall have as a minimum a one-car garage. All residences shall have a concrete paved driveway connecting the parking with a street allowing safe ingress and egress. All construction shall be of new materials, except that used brick may be used with the prior written approval of the Architectural Control Committee (hereafter referred to as the "Committee").
2. Care and Maintenance of Lot: The owner of each lot shall keep the same free from rubbish, litter and noxious weeds. All structures, landscaping and improvements shall be maintained in good condition and repair at all times.
3. Nuisances: No noxious or offensive activity shall be carried out on any lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No lot shall be used for any illegal purpose.
4. Temporary Structures: No structure of a temporary character, trailer, mobile home, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently. No lumber, material or bulk materials

shall be kept, stored or allowed to accumulate on any lot except building or other materials to be used in connection with any construction, alteration or improvement approved in accordance with the terms hereof.

5. **Signs:** No signs of any kind shall be displayed to the public view on any lot except one sign of not more than one square foot for identification (numbering) purposes. One sign of not more than six square feet may be used for advertising the property for sale or rent.

6. **Livestock and Poultry:** No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets, in reasonable numbers, may be kept provided that they are not kept, bred or maintained for any commercial purpose and are restricted to the owner's premises or on a leash under the handler's control. Pets shall not be kept if they create noise that, in the opinion of the Committee, constitutes a nuisance.

7. **Garbage and Refuse Disposal:** No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. No unsightly materials or other objects are to be stored on any lot in view of the general public or neighboring lot owners.

8. **Landscaping:** Within 120 days from the issuance of a certificate of occupancy, a lot shall be landscaped in a manner providing that all unpaved portions of street front or street side yards shall be planted in either grass or other groundcover acceptable to the Committee. Landscaping shall be maintained at a reasonable standard compatible with other homes in the subdivision. Shrub and tree planting on corner lots shall be located so as not to create a hazard for the movement of vehicles along streets. No trees or shrubs shall be planted on any corner. Undeveloped lots shall be kept free of all tall weeds by the owner of said lots. Should excessive growth occur, the owner shall be notified of such condition and shall be given thirty (30) days to correct the same, after which time the Committee may order such correction effected, the expense of which shall be charged to the owner of the undeveloped lot or lots.

9. **Paving:** All driveways, walkways, parking areas and other areas of similar nature shall be paved with concrete in accordance with the approved plans and specification within 60 days of completion of buildings or improvements erected upon the subject lot.

10. **Storage of Materials:** During construction and for a period of 60 days after completion, a lot may be used for the storage of materials used in the construction of the building or improvement. The total storage period shall not exceed 180 days unless specifically approved by the Committee.

11. **Fences, Walls, Hedges and Shrubs:** Fences, walls, and hedges may be erected or planted in rear yards and side yards not extending beyond the front line of the dwelling to

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a height not exceeding 6 feet. Fences, walls, and hedges may be erected or planted on remaining side yards and property lines not to exceed 4 feet. No fence, wall, hedge, shrub or other structure shall be placed along any front property line. No fence, wall, hedge, tree, plant, shrub or foliage shall be planted, kept or maintained in such manner as, in the opinion of the Committee, shall create a serious potential hazard or aesthetically offensive appearance.

12. Sight Distance At Intersections: No fence, wall, or hedge, which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 30 feet from the intersection of the street property lines extended. The same sight line limitations shall apply on a driveway or alley. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

13. Vehicles: Motor vehicles that are inoperable shall not be permitted to accumulate upon any street or lot or road areas adjacent thereto. No automobile, recreation or commercial vehicle, other motorized vehicle, or any portion thereof, shall be dismantled, rebuilt, serviced, repaired or repainted on or in front of any lot unless performed within a completely enclosed garage or other structure located on the lot which screens the sight and sound of such activity from the public streets and neighboring lots. The foregoing restriction shall not be deemed to prevent temporary parking for loading or unloading of such vehicles.

14. Commercial Activities Prohibited: Lots shall not be used for, or in connection with, the conduct of any trade, business, professional or commercial activity of any kind.

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

16. Resubdivision of Lots: No lot in this subdivision shall be divided, subdivided, partitioned, parceled or broken up into smaller lots or units.

17. Damages: Any damage inflicted on existing improvements such as curbs, gutters, streets, concrete sidewalks and such, by the purchaser or owner and/or their agents or builder of any particular lot in this subdivision must be repaired as soon as possible after such damage is discovered, and the expense of such repair shall be borne by the purchaser or owner.

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18. The Developer shall appoint an Architectural Control Committee (hereafter referred to as "The Committee"), consisting of three persons, one of whom shall be knowledgeable in the area of residential development. The Developer shall have the power to create and fill vacancies on the Committee until the Developer shall relinquish this power or until 75% of the lots in the subdivision have been sold or when a structure has been constructed on 50% of the lots in MILLCREEK VISTAS PHASE 2, A DUPLEX SUBDIVISION and such structures are occupied, whichever event first occurs. When the Developer ceases to have this power, it shall give written notice of this event to each property owner and thereafter the property owners in MILLCREEK VISTAS PHASE 2, A DUPLEX SUBDIVISION shall within 60 calendar days select new members of the Committee by one vote for each lot. The initial committee members shall be elected for terms of one, two, and three years each, and thereafter committee members shall be elected for terms of three years. No construction of any kind may occur without the written consent of the majority of the Committee.

No member of the Committee shall receive any compensation or make any charge for services rendered. The Committee shall adopt reasonable rules and regulations for the conduct of its proceedings and to carry out its duties and may fix the time and place for its regular meetings and such extraordinary meetings as may be necessary, and shall keep written minutes of its meetings, which shall be open for inspection upon request. The Committee shall, by majority vote, elect one of its members as chairman and one of its members as secretary and the duties of each will be such as usually appertain to such offices. The Committee shall meet monthly or more often on a regular basis as determined by the Committee. The Committee shall have power, by majority vote, to promulgate rules and regulations to guide it in its activities. The initial rules and regulations, subject to amendment by the Committee, are attached as Addendum B. By majority vote of the property owners, by one vote for each lot, any rule or regulation may be amended, adopted or repealed.

19. **Severability:** In the event that any provision, restriction, covenant or condition is found to be invalid by a court of competent jurisdiction, the remaining provisions, restrictions, covenants and conditions shall remain in full force and effect.

20. **Duration:** This Declaration shall run with the land and shall be binding upon all parties and all persons claiming under them for a period of 25 years from the date of recordation of this Declaration, after which time this Declaration shall be automatically extended for successive periods of 10 years unless an instrument, signed by of the then owners of two thirds (2/3) of the lots, has been recorded agreeing to amend or terminate such Declaration.

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21. This Declaration may be amended by a written document signed by the owners of two-thirds of the lots in the subdivision.
22. The Developer is exempt from all constraints in this Declaration.

IN WITNESS WHEREOF, the undersigned, being the developer, has hereunto set its hand this

13TH day of APRIL 19 95.

Robert R. Beers, Manager
MILLCREEK VISTAS ASSOCIATES, L.C.
ROBERT R. BEERS, MANAGER
Developer

STATE OF UTAH)
)
) s.s.
COUNTY OF WASHINGTON)

On the 13TH day of APRIL, 1995, personally appeared before me Robert R. Beers, who being duly sworn did say that he is the Manager of Millcreek Vista Associates, L.C., and that he executed the foregoing Owners Dedication in behalf of said Limited Liability Company being authorized and empowered to do so by the operating agreement of Millcreek Vista Associates, L.C. and he did duly acknowledge to me that such Limited Liability Company executed the same for the uses and purposes stated therein.

My commission expires 2-22-98

[Signature]
Notary Public, residing in Washington County



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"ADDENDUM B"

RULES AND REGULATIONS OF THE ARCHITECTURAL CONTROL COMMITTEE

While the controls exercised by the Architectural Control Committee (hereafter referred to as the "Committee") must be maintained, the Committee does not intend to stifle innovative designs or architectural freedom. If any design elements of a prospective home appear to be in conflict with the controls or recommendations set forth, such conflicts must be resolved by the Committee and will, whenever possible, be resolved in favor of aesthetic and design quality.

The guidelines and restrictions contained herein are consistent with the provisions of the recorded covenants of MILLCREEK VISTAS PHASE 2 subdivision. The protective covenants for MILLCREEK VISTAS PHASE 2 are on record in the office of the Recorder, Washington County, Utah, at 197 East Tabernacle, St. George, Utah. Any violations of these guidelines, or the restrictions or protective covenants may result in required changes to floor plans, colors, materials, etc. at the owner's and/or contractor's expense.

No construction may begin in MILLCREEK VISTAS PHASE 2 without the issuance of a building permit issued by the City of St. George building inspector. A set of drawings and specifications with MILLCREEK VISTAS PHASE 2 Architectural Committee signatures should be submitted to the building inspector to obtain a permit. This stamp of approval will be given upon compliance with all provisions stated in the protective covenants and conditions and these rules and regulations and by execution of the final agreement page of these rules by the owner and/or contractors legally responsible for the project.

SECTION "A"

THREE (3) complete sets of plans shall be submitted to the Committee and shall contain the minimum exhibits as listed below. Two (2) sets will be stamped and returned, one for the City building inspector and one for construction use.

A. SITE PLAN

1. Scale 1/8" - 1' or 1" - 10'. Scale must be noted.
2. Indicate lot number and street name.
3. Indicate setback from street (front yard minimum setback is 25 feet and side yards minimum setbacks are 8 feet and 10 feet).
4. Indicate grade elevations at front corners of lot and finished floor elevations.
5. All finished floor elevations must be a minimum of twelve (12) inches above the crown of the road of the front street elevations. Finished floor elevations are to be consistent with existing homes on the adjacent lots. (In

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instances where the contour of the land prohibits compliance, a special examination of the site will be made by the Committee and a determination will follow.)

6. Location of the HVAC unit shall be noted.

B. FLOOR PLAN

1. Scale 1/4" = 1'0". Show over-all dimensions.
2. Indicate window and door locations and sizes.
3. Show location of all HVAC units, satellite dishes, and any other mechanical and/or non-mechanical devices. Location of these items must be in the rear of the house or out of street view. (Special consideration will be given when rear installation is not feasible. In such a situation, the unit must be screened from the street view with materials compatible with materials used in the construction of the house.)

C. ELEVATIONS

1. Scale 1/4" = 1'0".

D. COLOR SCHEMES AND EXTERIOR MATERIALS

1. Colors shall be similar to those of Millcreek Cottages. Shades of gray are acceptable. All exterior trim shall be white. The color scheme should compliment the neighborhood. The committee reserves the right to reject any scheme it deems not consistent with the area.
2. The general design expressed in the front of the house must continue to each side elevation.
3. Innovative designs used on the front of the house using stone, brick or other materials are encouraged and must match the design of Millcreek Cottages.

E. CONSTRUCTION AND MATERIALS WHICH ARE NOT ACCEPTABLE

1. Log house.
2. Pre-manufactured houses.
3. Metal and vinyl siding in any color other than gray.
4. Earth or berm houses.
5. Re-located houses.

F. ACCEPTABLE ROOFING MATERIALS

1. Roofing materials must be dark gray or black in color and of slate, clay or concrete tile. The Committee may allow a tile facsimile at its discretion.

G. HEIGHT OF HOUSE

1. No house will exceed eighteen feet (18) from street frontage view.

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H. SIZE OF HOUSE, LANDSCAPING, AND SPECIAL RESTRICTIONS

1. The outside measurement of each house containing a single level, or of each house containing a ground level and a basement level, will not be less than nine hundred (900) square feet on the main floor, exclusive of garages, porches, patios, and/or storage.
2. All storage units, detached garages, etc., are to have the same design and materials as the main dwelling.
3. All homes are to have as a minimum a ONE-CAR garage attached or detached.
4. Fences and swimming pools will follow the St. George zoning requirements.
5. All required landscaping (as outlined in #8 of the Declaration) will be completed within 90 days after the date of occupancy.
6. Campers, boats, pickups and other recreational and commercial vehicles must be kept in a garage or on a concrete (or other suitable material) pad at the side or in the rear of the house.
7. All walls around houses shall be of wood or masonry materials and shall conform to the St. George zoning requirements. No chain link or wire fences/walls will be allowed.
8. Blasting of any kind will not be allowed.

I. Easements: Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Structures of any type are prohibited within these easements. Plants or other materials may be placed or permitted to remain within such easements which will not damage utilities, or which will not change the direction of flow of drainage channels in the easements, or which will not obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot except for those improvements for which a public authority or utility is responsible.

SECTION "B"

DURING THE COURSE OF CONSTRUCTION, APPLICANT AND CONTRACTOR WILL COMPLY WITH THE FOLLOWING CONDITIONS AND AGREEMENTS.

- A. DAILY: All garbage and construction waste materials must be kept in a container.
- B. DAILY: No materials may be stored, piled or put on any adjacent lots, roads or natural areas.
- C. DAILY: The volume of stereos, radios or any equipment must be maintained at a LOW LEVEL that does not disturb the quiet peace and enjoyment of adjoining property owners or the surrounding neighborhood.

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SECTION "C"

REFUNDS OR FORFEITURES OF DEPOSITS

- A. A deposit of **FIVE HUNDRED DOLLARS (\$500.00)** will be included with each submittal for consideration by the Committee.
- B. **FIFTY DOLLARS (\$50.00)** will be used by the Committee to compensate for secretarial and bookkeeping fees and other expenses.
- C. The remaining **FOUR HUNDRED FIFTY DOLLARS (\$450.00)** will be returned to the depositor at the completion of the house and front yard landscaping, providing all of the conditions contained herein have been met.
- D. If any Committee inspections reveal any violations as noted in SECTION "B" above, a **FIFTY DOLLAR (\$50.00)** penalty violation shall be charged for each violation issued. A notification will be given for a **24 HOUR LIMIT** to rectify the situation, after which time, the Committee may elect an additional **ONE HUNDRED FIFTY DOLLARS (\$150.00)** penalty for expenses incurred in remedying the violation which also will be withdrawn from the Applicant's deposit.
- E. If a building deviation is found from the Applicant's approved plans and conditions of approval a **ONE HUNDRED DOLLAR (\$100.00)** building deviation fine may be invoked against the Applicant. All deviations and variances have to be approved by the Committee.
- F. At completion of construction, the contractor or owner will call for a final inspection by the Committee.
- G. The deposit will be refunded if it is determined that all provisions have been complied with, that the house plans as originally approved have been followed, that the premises have been cleaned up and the front yard has been landscaped.
- H. If it is determined that any conditions have not been met, the Contractor or Owner will be given **THIRTY (30) days** to comply, after which time the deposit will be forfeited and legal action may result.
- I. **TIME LIMIT on DEPOSIT REFUNDS** is one hundred twenty (120) days from the date of completion. This is determined when final power is approved and turned on.

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- J. Issuance of dated Committee signatures on the plans obligates the contractor or owner to carry construction to a stage of substantial completion within six (6) months from date construction commenced. Substantial completion means that the exterior of the house is complete.
- K. After a building permit is issued, construction must be started within NINETY (90) calendar days, or the deposit will be forfeited.

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EXHIBIT A

BEGINNING at a point North 89°19'29" East 692.13 feet along the Section line and North 00°08'16" West, 305.74 feet from the South Quarter Corner of Section 14, Township 42 South, Range 16 West, Salt Lake Base and Meridian said point also being the Southwest Corner of Lot 1 of Millcreek Vista, Phase 1 as recorded and filed in the office of the Washington County Recorder and running thence South 89°20'50" West 169.57 feet; thence North 00°08'16" West, 479.43 feet to the South boundary of said Millcreek Vista, Phase 1 thence North 89°51'27" East, 71.71 feet; thence along said Boundary North 89°51'35" East, 25.00 feet to the point on the Center Line of 1340 West Street, a 50 foot wide public street; thence along the Center Line of said public street North 00°08'25" West, 11.75 feet, thence departing said Center Line North 89°51'35" East, 96.81 feet; thence South 00°08'25" East, 314.35 feet; thence South 25°19'44" West, 55.75 feet; thence South 00°08'25" East, 124.99 feet to the point of Beginning.

Being the Proposed Plat of "MILLCREEK VISTA PHASE 2"

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