

Grassy Creek

P.O. Box 610

Helen City, UT 84032

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS  
AND MANAGEMENT POLICIES FOR GRASSY CREEK SUBDIVISION**

March 15, 1999

THIS DECLARATION, made on the date hereinafter set forth by D. Vernile Prince, as Managing Partner in Grassy Creek L.L.C., hereinafter referred to as "Declarant."

WHEREAS, Declarant is the owner and/or agent of certain property in Summit County, State of Utah, which is more particularly described as Plats "A", "B" and "C" of Grassy Creek Subdivision as recorded with the Summit County Records Office.

NOW THEREFORE, Declarant does hereby declare that all of the lots and parcels of land described above are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied, and improved, subject to the following limitations, covenants, agreements and restrictions, conditions, easements, management policies, and charges, all of which are declared and agreed to be in furtherance of a plan for the subdivision, established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of said lands, and every part thereof. All of the limitations, covenants, restrictions, conditions, easements, management policies, and charges shall run with the land and shall be binding on all parties having or at any time hereafter acquiring any right, title of interest in the described lands, or any part thereof. The limitations, covenants, agreements, restrictions, conditions, easements, management policies, and charges referred to herein are as follows:

**ARTICLE I - DEFINITIONS**

Section 1. "Association" shall mean and refer to the Grassy Creek Home Owners Association, its successors and assigns.

Section 2. "ARC" shall mean and refer to the Architecture Review Committee which falls under the jurisdiction of the Association.

Section 2. "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.

Section 3. "Properties" shall mean and refer to the certain real property herein before described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Lot", or "Parcels" shall mean and refer to any plot of land shown upon any recorded final plat map of the properties described above.

Section 5. "Declarant" shall mean and refer to Grassy Creek L.L.C.

**ARTICLE II - HOME OWNERS ASSOCIATION AND ASSESSMENTS**

Section 1. Purpose of Association and assessments. The Association and any assessments levied by the Association shall be used exclusively to promote the health, safety, and welfare of the residents in the properties and for the implementation of the use restrictions should any lot owners repeatedly fail to comply with those restrictions as contained herein.

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REQUEST: GRASSY CREEK

Section 2. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment.

Section 3. The Association shall have two classes of voting membership:

Class A. Class A member(s) shall be all owners with the exception of the Declarant and shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot. Class A members are subject to any and all assessments made by the association.

Class B. The Class B member shall be the Declarant and shall be entitled to three (3) votes for each lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership: or

(b) On December 31, 2005.

The Class B member is not subject to an assessment upon those lots owned by it.

Section 4. Creation of the lien and personal obligation of assessments. The Declarant, for each lot owned within the properties, hereby covenants, and each owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) monthly assessments or charges; and (2) special assessments for needs which cannot be covered by the monthly assessments, such as assessments to be established and collected as hereinafter provided. The monthly and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for the delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 5. Monthly assessment. The monthly assessment shall begin on each lot held in ownership by a Class A stockholder of the Association in the first full month of ownership. The assessments will then become due on the 1<sup>st</sup> of each month thereafter. No monthly billing will be sent. It is the obligation of the lot owner to submit this assessment to: Grassy Creek Home Owners Association, c/o Grassy Creek L.L.C. PO Box 610, Heber City, Utah 84032. Voting rights will be suspended on any lots in which the assessments are not current.

The maximum monthly assessment shall be \$5.00. This may be paid in advance should a lot owner wish to do so. All funds shall be held in a separate bank account for the association requiring two signatures for any expenditure.

The specific purpose of the monthly assessment is to give the Association funds necessary to monitor and fund any corrective actions needed in upholding these covenants including administrative costs. These do not include any compensation for time for the Board of Directors. The funds are expressly prohibited to be used any other purpose.

The maximum funds to be held by the Association from this monthly assessment shall be \$10,000 or any amount over this collected in a specific month in which this balance is reached. Once it is determined by the treasurer of the Association that the balance of the fund has exceeded \$10,000, the monthly assessment will be temporarily suspended until this balance drops below \$10,000. Notification to all lot owners of any suspension or reinstating of the monthly assessment will be done by the Association.

The Board of Directors of the Association may alter the monthly assessment and/or place a special assessment for additional costs to the Association only by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for that purpose.

All properties dedicated to, and accepted by, a local public authority shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 6. Notice and quorum for any action authorized under Sections 4 and 5. Written notice of any meeting called for the purpose of taking any action authorized under Section 4 or 5 shall be sent to all members not less than thirty (30) days or more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty (60%) percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same requirement. If a quorum is not present for the second meeting, another meeting may not be called for at least 60 days.

Section 7. Uniform rate of assessment. Both annual and special assessments must be fixed at a uniform rate for all Class A lot owners except for unusual exposure or other unusual conditions, and may be collected on a monthly basis.

Section 8. Special assessments. Any special assessments provided for herein shall commence as to all Class A lot owners on the first day following a full month of ownership. The Board of Directors shall fix the special assessment against each lot at least thirty (30) days in advance of the assessment due date. Written notice of the special assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid.

Section 9. Effect of nonpayment of assessment: remedies of the Association. Any Assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eighteen (18%) percent per annum. The Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of their lot.

Section 10 Selection of Board of Directors. The Board of Directors for the Home Owners Association shall be selected on an annual basis at a meeting called for such a purpose. They shall be elected by a majority vote of the membership.

The original three Board Members shall be as follows:

D. Vernile Prince	PO Box 688, Kamas, Utah 84036
James C. Kaiserman,	PO Box 610, Heber City, Utah 84032
Mark L. Nicoll	PO Box 610, Heber City, Utah 84032

Section 11. Intent of the Covenants. The Board of Directors shall have the power to waive or modify these covenants if it is determined by a majority of the Directors that the intent of the covenants is being met.

### **ARTICLE III - ARCHITECTURAL CONTROL**

No building, fence, wall or other structure shall be commenced, erected or maintained upon the properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, material and location of the same have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board or its designated committee, fails to approve or disapprove such design and location within ten (10) days after said plans and specifications have been submitted to it, approval will not be required and this article will be deemed to be in full compliance.

The plans (home and site) must be submitted for review to the Architectural Review Committee and receive approval prior to application to Kamas City for a building permit. The plans submitted shall consist of the following:

- A. Front, side and rear elevations, and floor plans for each floor and basement.
- B. A description of the permanent materials of which the structure(s) will be built, including designation of the exterior materials.
- C. A plot plan which contains the location and orientation of the proposed dwelling with reference to the streets and lot lines, including setbacks, roofs, decks, porches, gazebos, walkways, driveways, and a general landscaping plan including the location of trees, yard lights, shrubs, fencing and other details.
- D. A designation of the construction starting date and completion date.
- E. An acknowledgment signed by the Owner and builder, stating they have read and will comply with all covenants and guidelines and will accept financial responsibility for any costs incurred as a result of failure to build in accordance with the covenants, guidelines and approved plans, including court costs and attorney fees.

F. An acknowledgment signed by the Owner and builder, stating they have inspected the physical improvements surrounding their lot and the subdivision and will accept financial responsibility for any costs incurred as a result of damage which is a direct result of their construction efforts, including court costs and attorney fees.

#### **ARTICLE IV - USE RESTRICTIONS PERTAINING TO RESIDENTIAL LOTS**

Section 1. No single family dwelling, building (addition or accessory thereto), storage shed, garage, patio, fence, or other structure or improvements, shall be commenced, erected or maintained, nor shall any addition to, change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, floor plan, materials, location, lot drainage plan, have been submitted to and approved in writing by the Association. This is to be done prior to the lot owner submitting plans to the City for a building permit. The Association's failure to give notice of its approval or disapproval of such plans and specifications within ten (10) days after receipt thereof by the Association shall be deemed to constitute its approval thereof.

Section 2. The Association reserves the right to, but shall have no obligation to enter upon all lots, blocks or parcels of land creating an unsightly appearance. Should the Association determine, that which is creating an unsightly appearance, is due to the willful or unwillful actions of the property owner, the Association may inform the property owner in writing, of such unsightly appearance. Should the property owner not clean up the problem area within 30 days to the approval of the Association, the property owner may be charged for the actual costs of the clean up plus ten (10%) percent, to alleviate said unsightly appearance. Each lot owner shall maintain the entire lot in a neat and clean condition at all times.

In the event that any of the above charges made by the Association under this Section 2 shall not be paid when due, all costs and expenses including, but not limited to, attorney's fees incurred by the Association to effectuate collection of said charges, shall be borne by the lot owner.

Section 3. All homes, garages, and outbuildings must have exterior walls constructed of logs, cedar, stucco, stone, vinyl or metal siding, brick or other material approved by the Association. All building materials are subject to review and approval of the Architectural Control Committee.

Section 4. Not more than one home or single family dwelling shall be placed on each lot or parcel of land. A lot or parcel of land may be occupied and used for a single family dwelling and for no other use or purpose, unless Kamas City approves a zoning change or a Conditional Use Permit. Any and all accessory buildings require approval of the Association and a valid building permit from Kamas City.

A. All homes constructed within the development shall conform to the following standards:

1. The exterior walls of each home shall be constructed of logs, stone, stucco, brick, vinyl or metal siding, cedar or other materials approved by the Association.
2. Each building in the development will have positive drainage away from the building.

3. All homes must have brick, stone, or other material approved by the Association, up to the bottom of the windows on the front of the home or like amount as approved by the Architectural Control Committee.

4. All homes must have landscaping in place within a one year period of occupancy in the front and side yards. Failure to do so will be corrected under Section 2 above.

5. Exterior color of homes must be kept to light colored, moderate tones. No bold or bright colors will be accepted on the exterior surface except as approved by the Association.

6. Fencing is to kept to the rear of the front of the house.

7. All homes in the subdivision must have at least a 12" or greater overhang and a roof pitch of at least 4 in 12.

8. All homes shall have a minimum width of 24 feet.

9. All homes shall have garaged parking for a least 2 automobiles. Each shall be serviced by a driveway constructed of concrete or like material approved by ARC.

10. All homes will have soffits, rain gutters and down spouts made of aluminum or other material approved by ARC.

B. The lots in Phase A, B and C will be divided into 2 classes. Class 1 lots will be Lots 1-7 and 12-17. Class 2 lots will be Lots 8-11 and 18-79.

1. Class 1 lots will be required to have on-site built homes will a minimum square footage of 1200 sq feet on the main floor. A two story will be required to have 1000 square feet on the main floor. At least a double garage will be required. (Square footages are exclusive of porches, patios, garages and storage rooms.)

2. Class 2 lots may have off-site built homes will a minimum square footage of 1000 square feet with a double garage. Garages may be detached.

C. Manufactured Homes. Pre-constructed homes are welcome, but they must meet these minimum conditions:

1. Be set on a concrete block or concrete wall foundation. Reinforced styrofoam block is acceptable. These foundations walls must be plastered to conceal the styrofoam, blocks or bare concrete wall. Foundations should be poured at such elevation as to only have 2 steps from natural ground to the front door of the house.

2. Have exterior walls as described in Article IV. Section 4A.

3. Have permanent steps, both front and back. The front should be in concrete unless another plan is approved by the ARC.

4. Must all meet UBC, 1995 or latest revision thereof and or HUD latest standards.

5. Any pre-built or modular home must have exterior siding which runs horizontal to the ground. Vertical siding will not be permitted. Vertical seams covering the joints of the two halves of the home on the ends of the home will not be approved.

6. Interior walls of any modular home must have a finished drywall surface.

Section 5. Easements for the installation and maintenance of utilities and drainage facilities are reserved, as shown on the recorded map or plat, over the rear, side and front of each lot or parcel of land.

Section 6. No noxious, offensive, or dangerous activity shall be carried on upon any lot; nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. The dumping of trash or garbage of any kind on any lot within the subdivision shall be prohibited. Trash shall be gathered and retained on lots in a proper receptacle. No toxic or exotic chemicals shall be applied to the soil which would violate current State codes with respect to water quality.

Unlicensed vehicles may not be left in the yard or on the street for more than a 30 day period without being operated. Should unlicensed vehicles or unsightly junk be left, the Association may remove as stated in Section 2 above.

Unsightly junk as deemed by an Association meeting cannot be left on the lot for more than a 10 day period.

Section 7. The parking of vehicles or any other object on the streets of the subdivision shall be prohibited from October 1 to April 1 during the hours of 12 midnight to 6:00 A.M. This is to allow for snow removal.

Section 8. In the event of any violation of any of the covenants, agreements, easements, conditions, or the non-payment of any of the charges herein, the Association, any person, firm or corporation to whom the Association may have assigned the right, or any owner or any lot, block or parcel of land in the tract, may bring actions at law, or any additional remedy which may be available. All such remedies shall be cumulative, and the bringing of such an action, Or the failure to do so, by anyone so entitled shall not affect the right of another to avail himself or itself of any remedy.

Section 9. The failure to bring an action by any land owner, or by the Association, or by any person, firm or corporation to whom the Association may have assigned the right to enforce any restriction, shall not be deemed a waiver for the right to do so thereafter as to the same breach or as to one occurring prior or subsequent therefore; nor shall such failure to enforce any restrictions give to any claim or cause of action against the Association or such land owner.

Section 10. All animals kept on lots within Grassy Creek must meet Kamas City ordinances.

Section 11. Right to Farm: Kamas City has passed an ordinance, No. 96-2, Preserving the Right to Agricultural Operations and Other Related Provisions. This Grassy Creek Subdivision has been approved subject to the foregoing document. All lot owners are subject to the ordinance. Some of the provisions

are:

1. Farmers, ranchers and sawmill personnel work early and late and no one can require them to work other hours.
2. Lot owners will control their domestic pets as horses and cattle operations may be adjacent. Uncontrolled animals will be dealt with by the County Animal Officer and the owner of the property where they are a nuisance.
3. There are existing irrigation ditches across some of the lots. The people who own the water turn have a right and privilege to enter such lot, to clean or repair said ditch. However, the person owning the water turn has the obligation to keep the water within the ditch as far as humanly possible.
4. If a lot borders an agricultural area, it is the lot owners obligation to keep the fence in good repair and to keep livestock out of their lot.
5. Some lots border a designated stock trail. The fencing on the lot side of the trail must be maintained by the lot owner and nothing shall be done to block the usage of this trail by the users of right.
6. 100 West will also be used as a part of this stock trail. At times, livestock will be moved down this street. This is to notify lot owners that the ranchers have the right to do so, and it is the lot owners responsibility to protect their property from livestock damage.
7. Some objectionable airborne odors and particulate may come to any or all lots due to nearby agricultural, industrial or municipal operations. The possibility of such existed prior to the subdivision and therefore all lot owners must tolerate these conditions if they arise.

Section 12. Grassy Creek owns a parcel of land located in Summit County adjacent to lots 91-97, totaling 7 lots. This land is located north of these lots. This land has been leased to the adjacent lot owners for their use and enjoyment. This land is not to be construed as open space or common area. No dwelling units may be build hereon. Should Grassy Creek be permitted to subdivide this ground at some point, it will be divided and deeded to these lot owners. The lessee will be responsible for any liability issues and taxes on these parcels.

#### ARTICLE V - GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, condition, covenants, and management policies, and reservations, and charges now or hereafter imposed by the provisions of this declaration. Failure by this Association or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver or the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgement or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this declaration shall run with and bind the land, for a term of twenty (20) years from the date this declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This declaration may be amended by an instrument signed by not less than a seventy-five (75%) percent of the membership vote.

Section 4. Annexation. Additional land may be annexed to the land described in this declaration without the consent of the members within twenty (20) years of the date of this instrument, provided the Planning Commission and City Council determine that the annexation is consistent with the preliminary plan heretofore approved.

#### ARTICLE VI - AMENDMENTS

Section 1. These By-Laws may be amended, at regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy.

#### ARTICLE VII - MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of January, and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, the undersigned, D. Vernile Prince, being the agent for the Declarant herein, Grassy Creek, LLC, has hereunto set his hand this 26 day of July, 1999.

GRASSY CREEK LLC

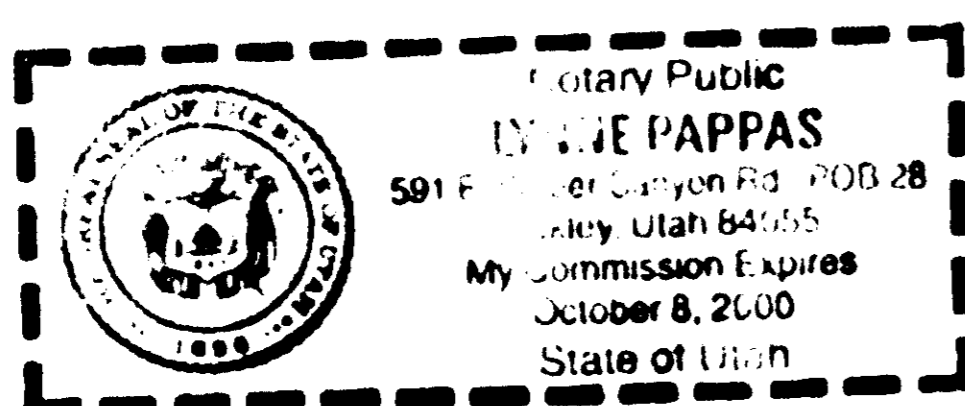
D. Vernile Prince

D. Vernile Prince, Managing Partner

STATE OF UTAH )  
COUNTY OF Summit ) ss.

On this day personally appeared before me, D. Vernile Prince, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that he signed the same as a free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 26 day of July, 1999.



Lynne Pappas  
Notary Public

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