

Cabin Creek Enterprises
285 N. Main
Spanish Fork, Ut 84660

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**DECLARATION OF PROTECTIVE COVENANTS OF
WAPITI ESTATES PLAT "B"
CITY OF SPANISH FORK
UTAH COUNTY, UTAH**

ENT 75853 BK 4719 PG 887
RANDALL A. COVINGTON
UTAH COUNTY RECORDER
1998 Jul 30 11:31 am FEE 52.00 BY SS
RECORDED FOR SPANISH FORK CITY

KNOW ALL MEN BY THESE PRESENTS: That, Whereas, the undersigned, Cabin Creek Enterprises, Inc. a Utah Corporation (hereinafter referred to as the "Company") is the owner of all of that certain Subdivision known as Wapiti Estates, Plat "B", Utah County, Utah (hereinafter sometimes referred to as the "Subdivision"); and WHEREAS, the Company is desirous of maintaining said Subdivision as a residential district of the highest standard in which each owner of a Site (as hereinafter defined) in said subdivision shall enjoy maximum livability and freedom with respect to the use of said Site, subject only to due regard for the equal rights of the owners of Site in said Subdivision;

NOW THEREFORE, in consideration of the premises, the Company, for itself, its successors and assigns, and for itself and its grantees, does hereby impose upon said lots, of said Subdivision, the following reservations, conditions, stipulations and protective covenants, established for the purpose of enhancing the value, desirability, & attractiveness of the property, all of which shall be deemed to run with the land and inure to the benefit of and be binding upon the owner at any time of any Site in said Subdivision and such owner's heirs, legal representatives, successors and br assigns. It is the intent of these restrictions and covenants to create a development of custom style homes. All homes shall exhibit superior architectural design, detail and the use of above-average new materials (except used brick) with conventional construction methods. Pre-fabricated or pre-constructed homes will not be allowed.

DEFINITIONS

As used in these protective covenants, the term "Building Site", (hereinafter referred to as the "Site") shall mean any lot shown on the recorded plat of Wapiti Estates, Plat "A". The following conditions, stipulations and protective covenants are hereby imposed upon all sites in said Subdivision;

1. Zoning ordinances, rules and regulations of the City of Spanish Fork, Utah, are considered to be a part hereof, and to any extent that these covenants might establish minimum requirements established by said zoning ordinances, rules and regulations, the most restrictive shall apply.

2. All Sites in said Subdivision shall be for residential purposes only and no building shall be erected or placed on any Site other than a private single family dwelling, together with a private garage and such outbuildings as are customarily appurtenant to such a dwelling. An "out-building" as the word is used herein is intended to mean an enclosed covered structure not directly attached to the dwelling which it serves.

3. An owner or resident on a Lot may use a portion of a single-family house located on a Lot for home office use to conduct a trade or business if the house is primarily used for residential purposes and the trade or business activity: (a) is merely incidental to the residential use of the Lot; (b) consists of typical office uses only and is used only by residents of the house; (c) does not include any other commercial uses, including, without limitation, manufacturing, production, repairs, warehousing or boarding; (d) is not apparent or detectable by sight, sound or smell from the exterior or the house; (e) conforms to all zoning requirements for the Project and all other applicable laws, ordinances, rules, and regulations; and (f) is consistent with the residential character of the Project and does not constitute a nuisance or a hazardous or offensive use, including, without limitation, excessive or unusual traffic or parking of vehicles in the vicinity of any Lot as may be determined by the Architectural Control Committee, in its sole and absolute judgement and discretion.

4. No cows, pigs, horses, chickens, poultry, rabbits or other livestock shall be raised, grown, bred, maintained or cared for upon any Site other than as herein after provided; provided, however, that nothing herein contained shall prevent any owner of any Site from maintaining, keeping and caring for domestic household pets not for commercial purposes.

5. No building, fence, wall or other structure shall be commenced, erected, or maintained unless said structure's nature, kind, shape, height, material, floor plan, exterior color scheme, location, grading plan and finished grade elevations is in conformity with the general architectural design, landscaping plan and aesthetic characteristics of the subdivision.

6. Any residence erected wholly or partially on Lots 1 through 35 of the Subdivision, herein described, shall have a ground floor area, exclusive of garage, basements, porches, or terraces, of at least 1200 square feet on the main floor in the case of one-story structure, and 1000 square feet on the main floor with a minimum of 1800 square feet in the aggregate in the case of a two story structure. Any residence erected wholly or partially on Lots 36 through 62 of the Subdivision, herein described, shall have a ground floor area, exclusive of garage, basements, porches, or terraces, of at least 1500 square feet on the main floor in the case of one-story structure, and 1200 square feet on the main floor with a minimum of 2100 square feet in the aggregate in the case of a two story structure. All lots shall have a covered front porch which shall be bordered with vinyl fencing or a brick pony wall with a maximum height of 36 inches from the foundation. Each structure shall have at least one gable on the front elevation; a box out window or a bay window. The accent (15% or less of total exterior) can be brick, stucco, stone or siding. On all lots, the main level shall be brick or stucco. On a two story structure the upper level may be siding but in no event shall the siding be more than 40% of the total exterior surface area. On all lots the pitch of the roof shall not be less than 5/12. All roofing material must be of either Wood Shake/Shingle or 25 year Architectural Grade shingle or equivalent. No rooftop, window or wall mount evaporative coolers will be allowed.

A garage shall be required, and shall be at least twenty (20) feet deep and twenty-five (25) feet wide and shall contain a minimum of 500 square feet. Any garage shall be attached to and enclosed with garage doors and be a part of a single family dwelling including attachment by means of a breezeway erected or placed on any site. No car ports shall be allowed.

7. Fencing. No fence, wall, hedge, or dividing structure higher than 3 ½ feet shall be permitted within the front yard setback. No dividing structure on any other portion of the lot shall be over 6 feet in height. Fence must be wood, vinyl, ornamental iron or masonry block.

8. Maintenance. Each lot owner shall be responsible for maintaining the sidewalk, curb and gutter in front of each lot and will repair any damage thereto related to construction or otherwise. No owner or contractor shall leave building or landscaping materials within the road right of way (including sidewalks) for any prolonged period of time. Every lot, including the improvements in said tract, shall be kept in good repair and maintained by the owner thereof in a clean, safe and attractive condition.

9. All landscaping must be installed and operative within one year from the date an occupancy permit is issued by the city to each individual dwelling. Landscaping shall be deemed to include grass, shrubbery, trees and an underground sprinkling system capable of properly irrigating the front yard. The Landscaping shall include 5 trees per lot. Two of the five trees shall be planted in the planter strip, such that the spacing of the trees shall split the lot into 3 equal parts. Each corner lot shall be required to plant 1 tree in each planter strip such that the spacing of the tree shall split the lot into 2 equal parts. The 2 trees in the planter strip are to be _____. The planter strip shall be grass.

10. No radio, short wave, television, or other type of antenna shall be installed on the exterior of any building.

11. Trash containers must be concealed from view by an acceptable enclosure.

12. No tanks, which extend above the ground shall be erected, placed or permitted upon any site.
13. Fruit trees and shade trees may be planted. The following shade tree species Lombardy and Carolina poplars, American and Chinese Elms and Cottonwoods may not be planted.
14. All clotheslines, equipment, garbage cans, service yards, wood piles, or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from the view of neighboring residences and streets. All rubbish, trash or garbage shall be regularly removed from the property, and shall not be allowed to accumulate thereon.
15. No temporary house, trailer, tent for dwelling purposes or other out-building shall be placed or erected on any Site and no dwelling shall be occupied in any manner at any time prior to completion.
16. The construction or maintenance of billboards, "for rent" or "for sale" signs larger than six (6) square feet, poster-boards or advertising structures of any kind, except those belonging to the company or its duly authorized agent, on any Site in said Subdivision is prohibited.
17. No tractors, trucks (except pickups), construction equipment, Farming equipment, or other commercial vehicles and no campers, mobile homes, motor coaches, trailers, boats, horse trailers, or other similar recreational equipment shall be kept or maintained on any site or on any street in the subdivision unless such equipment is parked in garages or screened areas within owner's yard.
18. Spanish Fork City shall be authorized to enforce Paragraph 6 and 7 of this Agreement through the issuance of a building permit.

ARCHITECTURAL CONTROL COMMITTEE

19. The Architectural Control Committee shall be composed of three members, selected by the Company. The members may be removed at any time by the Company and in the event of such removal or the death, incapacity or resignation of any one of the members, the Company shall have full authority to designate a successor who in like manner, may be removed at any time by the Company. The Company may designate a person to serve on the Committee during the temporary absence of any the members. The removal of members, the appointment of successors, members and designation of such temporary members of such Committee shall all be made by the Company by the execution, acknowledgment and recording of an appropriate instrument in writing for any such purpose. The Committee shall charge a fee not exceeding \$25.00 for the review of each set of plans and specifications submitted. Such charges shall be paid by the person or persons submitting such plans and specifications for approval. A quorum at any meeting of such Committee shall consist of at least two of the members thereof and any decision shall be reached by the affirmative vote of a majority of such members present. When all of the Sites in said Subdivision shall have been sold by the Company, then the owners of a majority of the Sites shall have the power through a duly recorded instrument to change the membership of the Architectural Control Committee. As new members are appointed by the property owners they shall each serve for a term of two years. Successors shall be appointed by the owners of the property at duly arranged meetings of the Owners.

All plans, specifications and plot plans including exterior material and color selections seeking an exception to the restrictions contained in this Declaration must be submitted to the committee in duplicate and be accompanied by a written request for approval. The committee's approval or disapproval shall be in writing and returned to the one making submission, together with a notation of approval, disapproval and br corrections and modifications and the date

thereof affixed to one copy of such plans and specifications. In the event the committee fails to approve or disapprove such plans and specifications within thirty (30) days after the same have been submitted to it, then the plans shall be deemed approved. The Committee or its duly authorized representatives shall not be liable, in any manner, for any action or failure of action taken in these premises. The Architectural Control Committee need only approve plans that are seeking an exception to this Declaration as recorded.

20. Notwithstanding any other provision this Declaration to the contrary, a Developer shall have the right to maintain model homes on Lots owned by the Developer and to construct and maintain parking areas for the purpose of accommodating persons visiting such model homes provided the construction, operation, and maintenance of such model homes otherwise complies with all provisions of the Declaration. Any home constructed as a model home shall cease to be used as a model home at any time the Developer is not actually engaged in the construction or sale of Residential Units in the Project. Notwithstanding any other provision of the Declaration to the contrary, a Developer may store supplies of brick, block, lumber and other building materials on the Lot owned by the Developer. In addition, normal construction activities of the Developer in connection with the construction of Improvements shall not be considered a nuisance or otherwise prohibited by this Declaration. A Developer constructing Improvements on Lots shall keep the Lots in a clean, safe and neat condition free of weeds, trash and debris.

21. In interpreting this agreement as it pertains to city zoning and subdivision ordinances, if there are any discrepancies between this agreement and the Spanish Fork City zoning and subdivision ordinances, as thereafter amended from time to time, then the Spanish Fork City zoning and subdivision ordinances shall control such interpretation and the meaning of any terms or definitions hereof.

22. Enforcement of these covenants and restrictions shall be by proceedings at law or in equity to restrain violation or to recover damages against any person or persons violating or attempting to violate any of the covenants contained within this Declaration. The Architectural Control Committee or any of the other lot owners shall have the right, but not the obligation, of enforcement as described above.

23. The Declaration hereby submits and subjects the real property located in Spanish Fork, Utah County, Utah and more particularly described on Exhibit A, attached hereto and by reference incorporated herein, the improvements, all easements, rights and appurtenances, and all other Property, as defined herein, to the provisions of this Declaration and declares that all such real property, improvements, easements, rights, appurtenances and other Property are and shall be held, possessed, occupied, used, leased, encumbered, transferred, sold, conveyed, devised and inherited subject to the provisions of this Declaration.

24. Declarant reserves, however, such easements and rights of ingress and egress over, across, through and under the above described real property and any improvements (including Residences) now or hereafter constructed thereon as may be reasonably necessary for Declarant (a) to construct and complete each of the Residences and all of the other improvements, structures, utilities and facilities described in this Declaration or in the Plat recorded concurrently herewith or which shall hereafter be recorded and all other things reasonably necessary in connection therewith; (b) to construct and complete on the Property, or any portions thereof, such other improvements, structures, facilities or landscaping designed for the use and enjoyment of the Owners as Declarant may reasonably deem necessary or appropriate, and such marketing, sales, management, promotional or other activities designed to accomplish or facilitate the sale of Lots owned by Declarant.

25. This Declaration and all the provisions hereof are declared to be and shall constitute covenants which run with the land or equitable servitudes and shall be binding upon and inure to the benefit of Declarant and any and all parties who have acquired or hereafter acquire any interest in a Lot, their respective grantees, transferees, mortgages, tenants, heirs, devisees, personal representatives, successors and assigns. Each present and future Owner, Mortgagee, tenant, or occupant of a Lot or Unit shall be subject to and shall comply with the provisions of this Declaration and the provisions of any rules and regulations contemplated by this Declaration. Each party acquiring any interest in a Lot or Unit thereby consents to and agrees to be bound by all of the provisions of this Declaration.

Dated the 28 day of July, 1998.

CABIN CREEK ENTERPRISES, INC.

J. D. Smith
By: President

STATE OF UTAH)
.ss
COUNTY OF UTAH)

On the 28 day of July, 1998 personally appeared before me a Notary Public of the State of Utah, _____ who being duly sworn did say, that he is the President of Cabin Creek Enterprises, Inc., and that the within and foregoing instrument was signed in behalf of said corporation by authority of its Bylaws or a Resolution of its Board of Directors.

M. D. Maughan
Notary Public

My Commission Expires:
Residing at:

