

AFTER RECORDING, PLEASE RETURN TO:

Holland & Hart LLP
Attn: Matthew T. Wirthlin
60 E. South Temple, Ste. 2000
Salt Lake City, UT 84111

**PROTECTIVE COVENANTS FOR
SOLDIER SUMMIT ESTATES SUBDIVISION**
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
(CC&R's)

Soldier Summit Recreation & Development Company, L.L.C., a Utah limited liability company (the "Declarant"), the legal and equitable owners of SOLDIER SUMMIT ESTATES SUBDIVISION do hereby acknowledge, declare and adopt the following protective covenants with regard to SOLDIER SUMMIT ESTATES SUBDIVISION (the "Subdivision").

The real property subject to this Declaration is situated in Utah County, State of Utah, and is more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference.

ARTICLE I. Construction Restrictions

- A) No lot located within the subdivision shall be used for any other purpose than a single family residence, except those deemed as common areas by the Declarant. There shall not exist on any residential lot more than one residence. A lot may have two garages or other storage buildings which are not of temporary construction.
- B) No tent, house trailer, motor home, camper or large truck shall at any time be used as a residence, except for a period not to exceed ninety (90) days while constructing a permanent residence. Notwithstanding the foregoing, a guest of a lot owner may use a tent, motor home, or camper for a period not to exceed seven (7) days.
- C) All material used in the construction of buildings located on any lot shall be new. No old, used, existing building or structure of any kind and no part of an old, used, existing building or structure shall be moved onto any lot.
- D) No mobile or manufactured homes will be allowed in the Subdivision.
- E) Outbuildings or garages erected and maintained upon any lot or building site shall conform generally in architectural design and exterior material to the finish of the dwelling house to which they are appurtenant, and must be approved by the Architectural Committee.
- F) All residences shall have a main floor of not less than 1000 square feet of living area and have a total living area of not less than 1200 square feet, exclusive of carports, garages, patios, and covered porches.

- G) No structure shall be located nearer the front boundary line of any lot than 30 feet; or nearer the side boundary line of any lot than 30 feet; or nearer the rear boundary line of any lot than 30 feet.
- H) No person shall erect or maintain upon any part of the Subdivision or any lot, any sign, advertisement, billboard, or other advertising structure without prior approval of the Architectural Committee, with the exception of standard real estate signs.
- I) The natural vegetation and contour of the terrain within the Subdivision shall be preserved as far as possible in the construction of any dwelling on any lot. Natural growth shall be preserved and remain as nearly as possible in the natural state. The removal of natural vegetation and cutting the soil on any lot shall not be undertaken without the permission in writing from the Architectural Committee.
- J) No fence, wall or hedge shall be planted, erected, located or maintained upon any lot in such location or at such height as to unreasonably obstruct the view from any other lot or lots in the Subdivision. Fences and walls shall be constructed of material which will enhance the appearance of the landscape. Chain link fences or similar looking fences are not permitted. Barbed wire fences or barricades are not permitted. The use of other types of materials for fencing and walls, such as pipe, lodge pole, cement, or cinder block used for decorative fencing, backyards or corrals is subject to final approval by the Architectural Committee prior to installation. All walls and fences shall be kept in good repair, and no fence, wall or hedge shall, exceed an overall height as measured from the top of the footing or grade, whichever is higher, to the top of the fence, wall or hedge in excess of six (6) feet. No walls, fences or hedges may exceed an overall height of four (4) feet across frontage or setback areas. All fences or walls on lots with drainage or water flow must not hinder or alter the natural flow or drainage.
- K) No open fires shall be allowed without a fire permit. Accumulations of dry underbrush or any other combustible materials will not be allowed. Spark arrestors shall be installed on all chimneys or fireplaces or any other device designated to contain a fire.
- L) On each lot, the lot owner shall install (not less than twenty-five (25) feet from the family dwelling) a self-draining water faucet attached to the water line feeding the dwelling from the main system.
- M) Roof material shall be of fireproof product, such as metal, fireproof fiberglass shake, or equivalent, and approved by the Architectural Committee.

ARTICLE 2. Use and Activity Restrictions. The use of the lots in the Subdivision shall be subject to the following guidelines, limitations and restrictions, which shall be binding upon all owners and residents, their family members, guests and invitees:

- A) The shooting of firearms or deadly weapons of any nature is prohibited within the Subdivision. Target practice, including with bows and arrows, and any other type of deadly weapon within 500 feet of the Subdivision boundaries, is prohibited. Hunting of wild life of any kind within 1,000 feet of the Subdivision boundaries is prohibited, including during established hunting seasons.

- B) No garbage incineration or burning shall be permitted on any lot except for purposes of cooking or heating a structure located on a lot.
- C) Said Subdivision shall not, nor shall any part thereof, nor any lot therein be used for the purpose of mining, quarrying, drilling, exploring for, taking or producing therefrom, water, oil gas, or other hydrocarbon substances, minerals, or ores of any kind except the lots designated for water storage.
- D) To preserve the natural pristine atmosphere of the Subdivision, no refuse piles, no trash of any kind, appliances, unlicensed automobiles, or parts, shall be placed or allowed to remain outdoors on any lot.
- E) All lots need to be maintained and kept in general good appearance and free of dead trees, brush or fire hazards.
- F) No owner of any lot within the Subdivision will do or permit to be done any act upon his property which is or may become a nuisance. It shall be the responsibility of each owner and resident to prevent the creation or maintenance of a nuisance in, on or about the Subdivision. For purposes of this section a "nuisance" includes but is not limited to the following:
 - (1) The development of any unclean, unhealthy, unsightly, or unkempt condition on, in or about a lot;
 - (2) The storage of any item, property or thing that will cause any lot to appear to be in an unclean or untidy condition or that will be noxious to the senses;
 - (3) The storage of any substance, thing or material upon any lot that will emit any foul, unpleasant or noxious odors, or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the other residents at the Subdivision;
 - (4) The creation or maintenance of any noxious or offensive condition or activity in or about any lot; and,
 - (5) Maintaining any plants, animals, devices, items, instruments, equipment, machinery, fixtures, or things of any sort whose activities or existence in any way is illegal, noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Subdivision by other residents, their guests or invitees;
- G) The pursuit of hobbies or other activities, including but not limited to the assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Subdivision.
- H) No lot shall be subdivided or partitioned.
- I) The use of firearms and incendiary devices or the painting of graffiti, within the Subdivision is prohibited. The term firearms includes but is not limited to all guns, pistols, handguns, rifles, automatic weapons, semi-automatic weapons, BB guns, pellet guns, sling shots, wrist-rockets, blow-dart guns, and other firearms of all types, regardless of size.
- J) No animals or birds shall be kept or maintained on any part of a lot within the Subdivision except dogs, cats, pet birds and other domestic animals which many be

kept in reasonable numbers as pets, but not for any commercial purpose. All domestic animals or birds kept on the premises shall be confined within the structures on the lot or will be tied or fenced within the boundaries of the lot and will not be allowed to roam from the owner's lot. Notwithstanding the foregoing, horses for non-commercial purposes are allowed to be housed only on lots 1C through 12C and 58C through 66C, which are commonly known as the lower lots.

- K) No exterior clotheslines shall be erected or maintained and there shall be no outside drying or laundering of clothes.
- L) No commercial trade or business may be conducted on, in, or from any lot unless:
 - a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the residence; b) the business activity conforms to all zoning requirements for the Subdivision; c) the business activity does not involve persons coming onto the Subdivision who do not reside in the Subdivision or door-to-door solicitation of residents of the Subdivision; and d) the business activity is consistent with the residential character of the Subdivision and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Subdivision, as may be determined in the sole discretion of the Association.
- M) The driving, parking, standing and storing of motor vehicles in, on or about the Subdivision shall be subject to the following:
 - 1) The parking rules and regulations adopted by the Association from time to time;
 - 2) No parking on the street is allowed in the Subdivision;
 - 3) Residents may only park their motor vehicles within their garages and on their respective driveways;
 - 4) Vehicles parked in violation of this Declaration may be impounded or towed without further notice, and at the vehicle owner's sole expense.
- N) Nothing shall be done or kept in, on or about any lot, or common area, or any part thereof, which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body.
- O) No damage to, or waste of, the Common Area shall be committed by any owner or resident of the Subdivision or any invitee of any owner or resident of the Subdivision, and each owner shall indemnify and hold the Association and the other owners harmless against all loss resulting from any such damage or waste caused by that owner or resident of the Subdivision, or an invitee; provided, however, that any invitee of the Declarant shall not under any circumstances be deemed to be an invitee of any other owner.

ARTICLE 3. Construction Controls

For the protection of the lot owners, and for the purpose of further ensuring development of the Subdivision as an area of high standards, any and all structures will be reviewed and approved by the Architectural Committee. The Committee shall have the right to control the buildings, structures, fences, and other improvements placed on

each lot, as well as to make such exception to these restrictions as the Architectural Committee shall deem necessary and proper.

No building, wall, or other structure shall be placed upon any lot unless and until the plans and specifications therefore and plot plan have been approved in writing by the appropriate city or county where required, and the Architectural Committee. Each such building, wall or structure shall be placed on the premises only in accordance with the plans and specifications and plot plans so approved.

Any set of construction plans that exhibit quality construction, is not unsightly as to exterior appearance, preserves the beauty of its natural surroundings, and does not violate any of the Covenants, Conditions, or Restrictions, will be approved for construction by the Architectural Committee. The primary purpose of the Architectural Committee, shall be to aid the individual owners and builders in the expedient approval and quality development and construction of and on their properties.

- A) Exterior construction is to be completed no later than two (2) years after Utah County permit approval date.
- B) Construction area is to be kept clean of excess debris and no construction material is to be stored on vacant lots except during active construction as defined by two (2) year exterior completion provision.
- C) All construction material, including, but not limited to, lumber, steel, roofing materials, gravel and cement must be placed upon the lot whereupon the structure is being constructed on not on the road right of way. There shall be no trespassing upon a neighboring lot or lots for access to ease the construction process.

ARTICLE 4. Easements

The Subdivision and the lots and building sites included therein are subject to such easements and rights-of-way as may be necessary or convenient for erecting, constructing, maintaining and operating public service wires and conduits for lighting, heating, power, telephone, water and other methods of conducting and performing and public or quasi-public utility service or function as easements and rights-of-way are shown and designated on the Plat of said real property recorded in the Utah County Recorder's Office, and all said easements and rights-of-way are reserved for the purposes herein and in said Plat set forth.

ARTICLE 5. Architectural Review

- A) The Declarant will act as the Architectural Committee of each Phase until such time that 75% of the lots have been privately purchased. At that time, Members of the Architectural Committee shall be selected and appointed each year at the annual meeting of the Soldier Summit Estates Owners Association. The Architectural Committee shall be composed of three (3) members, selected as hereinafter set forth.

- B) No building, garage, patio, outbuilding, fence or other structure shall be constructed, erected, altered, remodeled, placed, maintained, or be permitted to remain in said Subdivision unless and until two complete sets of plans and specifications therefore including finished grading plans, plot plan showing location of such structure on the building site, floor and roof plan, exterior elevations, sections, and salient exterior details and colors scheme, including the type and location of hedges, walls, and fences, shall have submitted to and approved in writing by any two (2) members of the Architectural Committee. The second set of plans shall be filed as a permanent record with the Architectural Committee.
- C) Members of the Architectural Committee shall be selected and appointed each year at the annual meeting of the Soldier Summit Estates Owners Association by the record owners of the Subdivision lots, with each lot having one vote. Selection of such members shall be by written ballot cast either in person at the meeting, or received by mail prior to the meeting.
- D) The Architectural Committee approval in no way alleviates the need for independent county approval, appropriate building permit(s), approval(s), and compliance with all otherwise applicable state, county and local building codes, ordinances, etc.
- E) If the Architectural Committee fails to take any action, either approval or disapproval, of such plans and specifications and plot plan within sixty (60) days after said plans, specifications and plot plan have been submitted to it, it shall be presumed that the Committee has approved said plans, specifications and plot plan as submitted.

ARTICLE 6. Soldier Summit Estates Owners Association

Upon purchasing a lot in the Subdivision, the owner automatically becomes a member of the Soldier Summit Estate Owners Association (the “Association”). Owners are bound by the provisions of the Soldier Summit Estates Subdivision Covenants, Conditions, and Restrictions. The Association shall have the power to make, establish, promulgate, amend and repeal Association rules.

- A) Owners are entitled to one vote for each lot owned, except the Declarant of the Subdivision shall have three votes for each share associated with a lot which has not been sold. When more than one person holds an interest in any lot, the group of such persons shall be considered an owner. 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.
- B) Members of the Board of Directors shall be selected and appointed each year at the annual meeting of the Association by the record owners of the Subdivision lots, with each lot having one vote. Selection of such members shall be by written ballot cast either in person at the meeting, or received by mail prior to the meeting. The annual meetings of the members of the Association shall be held in the area of Soldier Summit Estates Subdivision, in Utah County, Utah, at such place the Board of Directors designates, on the first Saturday in July of each year, commencing with

the year 2005. This date may change from year to year as determined by the Board of Directors.

- C) Each lot owner shall pay the Association an annual fee for road maintenance, including, but not limited to snow removal and dust control, within the Subdivision and other charges for services provided by the Association, except the Declarant shall be exempt from assessment as to any lot within and developing thereon. The Board of Directors shall determine the amount assessed to each lot based on a per lot share of the total cost of such items. The Board of Directors shall also determine the due dates of assessments. The Board of Directors shall determine what additional services are to be furnished to lots within the subdivision and the cost of such services on a per lot basis according to the use of the lot, such as one fee for vacant lots, another fee for improved lots. The annual assessment may be increased each year not more than five percent (5%) above the assessment for the previous year, without a majority vote of the lot owners present in person or by proxy at a meeting duly called. Each lot owner hereby, and by acceptance of a deed to a lot in the Subdivision, covenants and agrees to pay when due all assessments or charges by the Association. These assessments together with interest, costs and reasonable attorneys' fees which may be incurred in collecting the same, shall be a charge on the land and shall be a continuing lien upon the lot against which each such assessment is made, and shall be also the personal obligation of the lot owner when the assessment falls due. The personal obligation for delinquent assessments shall not pass to an owner's successors in title unless expressly assumed by them. No owner may waive or otherwise avoid liability for any assessment by non-use of the Common Areas or by abandonment of the lot.
- D) In addition to the assessments for services and maintenance, the Association may levy a special assessment as hereafter authorized. Special assessments may only be levied to defray, in whole or in part, the cost of any construction, reconstruction, repair or replacement of structures, fixtures and personal property generally beneficial to the owners of land within Soldier Summit Estates Subdivision. Special assessments must have the assent of sixty-seven percent (67%) of the votes of each class of the members authorized to vote, in person or by proxy, at a meeting duly called for this purpose. At such a meeting, the presence of sixty-seven percent (67%) of the members authorized to vote, in person or by proxy, shall constitute a quorum.
- E) The right to collect and enforce payment of the assessments made by the Association is vested in the Association. If any assessment is not paid when due, the Association may (a) bring an action at law against the owner personally obligated to pay such delinquent assessment without waiving the lien of assessment or (b) may foreclose the lien against the property subject to the lien of assessment in accordance with the laws of the State of Utah applicable to the exercise of powers of sale in deeds of trust or to the foreclosure of mortgages, or in any other manner permitted by law.
- F) Delinquency: Any Assessment provided for in the Declaration which is not paid when due shall be delinquent on said due date (the "delinquency date"). If any such assessment is not paid within thirty (30) days after the delinquency date, a late

charge of Twenty Dollars (\$20.00) shall be levied and the Assessment shall bear interest from the delinquency date, at the rate of eighteen percent (18%) per annum. The Association may, at its option, and without waiving the right to foreclose its lien against the Lot, bring an action at law against the Member personally obligated to pay the same, and/or upon compliance with the notice provisions set forth in Section E of this Article to foreclose the lien against the Lot. If action is commenced, there shall be added to the amount of such Assessment the late charge, interest, the costs of preparing and filing the complaint in such action, and attorneys' fees incurred in connection with the commencement of such action and in the event a judgment is obtained, such judgment shall include the said late charge, interest and a reasonable attorney's fees, together with the costs of action. Each Member vests in the Association or its assigns, the right and power to bring all action at law and/or for lien foreclosure against such member for the collection of such delinquent assessments.

G) Control of Common Areas: As provided in the Article hereof entitled "Definitions", the Common Areas shall consist exclusively of the common roadways within the Subdivision. Declarant contemplates, but does not warrant, that the roadways will be dedicated to the Town. Declarant may also, but shall not be obligated to, convey open space and/or recreational common areas to the Association. Declarant, its subcontractors, agent and employees shall have the right to come on the Common Areas. Also, notwithstanding the foregoing, in the event that any of the Declarant's subcontractors are contractually obligated to maintain improvements on the Common Areas, such maintenance shall not be assumed by the Association until the termination of such contractual obligation. Neither such construction nor such maintenance shall in any way postpone the commencement of Assessments pursuant to this Article or entitle a Member to claim any offset or reduction in the amount of such Assessments. If any excess of Assessments collected over actual Common Expenses incurred by the Association is caused by aforesaid, or otherwise, such excess shall be placed in the reserve to offset the future expenses of the Association in any manner designated by the Board.

ARTICLE 7. General Provisions

- A) These Protective Covenants may be amended by an instrument signed by not less than Sixty-seven percent (67%) of the lot owners. Any amendments must be properly recorded in the records of Utah County, Utah, to become effective.
- B) All the covenants, conditions and restrictions set forth herein shall run with the land and each grantee, by accepting a deed to such premises, accepts the same subject to the covenants, conditions, and restrictions and agrees for himself, his heirs, administrators, and assigns to be bound by them jointly, separately, and severally.
- C) The Association, Board of Directors, Architectural Committee, the Declarant, or any lot owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, or any rule of the Association, including but not limited to any proceeding at law or in equity against any person or

persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages and against the land to enforce any lien created by these covenants. Failure of the Association, Declarant, or any lot owner to enforce any covenant or restriction herein contained or any rule of the Association shall in no event be deemed a waiver of the right of the Association, Declarant or any lot owner to do so thereafter. In the event action, with or without suit, is undertaken to enforce any provision hereof or any rule of the Association, the party against whom enforcement is sought shall pay to the enforcing party a reasonable attorney's fees and costs. The Association may, after notice and hearing, levy an additional assessment not to exceed 10% of the amount of the maximum annual assessment against any owner and/or occupant, and/or owner's agent who fails to refrain from violation of these covenants or a rule of the Association, after three (3) days written notice.

- D) All of said conditions, covenants and reservations contained in this Declaration shall be construed together, but if any one of said conditions, covenants or reservations, or any part thereof, shall at any time be held invalid, or for any reason become unenforceable, no other condition, covenant, or reservation, or any part thereof, shall be thereby affected or impaired.
- E) Each member of the Board of Directors and each member of the Architectural Committee shall be indemnified by the owners of the lots of the Subdivision against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed in connection with any proceeding to which said member may be a party or in which said member may become involved, by reason of said person being or having been a member of the Board of Directors or Architectural Committee, or any settlement thereof, whether or not said person is a member of the Board of Directors or Architectural Committee at the time such expenses or liabilities are incurred, except in such cases wherein said person is adjudged guilty of willful misfeasance or malfeasance in the performance of his or her duties. This Section shall extend to and apply also for the indemnification of the Declarant during the initial period of operation of the Association or prior thereto during the period the Declarant is exercising the powers of the Association.
- E) The covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association, Declarant or the owner of any lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns.
- F) No provision contained in the Declaration shall be deemed to have been waived by reason of any failure to enforce it, irrespective of the number of violations which may occur.

IN WITNESS WHEREOF, ROBERT BARRUS, FOR SOLDIER SUMMIT RECREATION & DEVELOPMENT COMPANY, L.L.C., has signed these Protective Covenants of Soldier Summit Estates Subdivision this ____ day of July, 2005, and caused the same to be placed of record at the office of the Utah County Recorder.

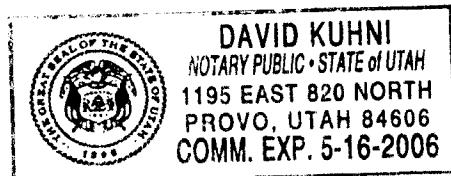
DECLARANT:

**SOLDIER SUMMIT RECREATION 7
DEVELOPMENT COMPANY, L.L.C.,
a Utah limited liability company**

By: Robert Barrus
Robert Barrus, Manager

STATE OF UTAH)
:ss.
COUNTY OF UTAH)

The foregoing instrument was acknowledged before me this 7th day of July, 2005, by Robert Barrus, Manager of Soldier Summit Recreation & Development Company, L.L.C., a Utah limited liability company.



Robert Barrus
NOTARY PUBLIC

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Exhibit "A"

All of Plat "C" and all of Plat "D", SOLDIER SUMMIT SUBDIVISION, according to the official plat thereof on file in the Office of the County Recorder, Utah County, Utah.