

PROTECTIVE COVENANTS FOR ELK RIDGE ESTATES SUBDIVISION  
KANE COUNTY, UTAH

TO THE PUBLIC: MARK JACOBS ("the Developer"), the legal and equitable owners of ELK RIDGE ESTATES subdivision do hereby acknowledge, declare and adopt the following protective covenants with regard to ELK RIDGE ESTATES ("the Subdivision"), located in Kane County, Utah.

The protective covenants are to run with the land and shall be binding upon all parties and all persons owning lots within the Subdivision or claiming an interest under them.

If the owners of such lots, or any of them, or their heirs or assigns, shall violate any of the covenants hereinafter set out, it shall be lawful for any other person owning real property situated in the Subdivision to prosecute any proceedings at law or in equity against the persons or person violating any of such covenants, and prevent violation of such covenant, condition or restriction.

Invalidation of any of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

1. General Use and Construction Restrictions.

a. No lot located within the Subdivision shall be used for any other purpose than a single family residence except those lots fronting highways US-89 and US-14 which may be used for commercial purposes. There shall not exist on any residential lot more than one residence. One garage or other storage building which is not of temporary construction may be located on residential lots, but may not be used for dwelling purposes. No tent or house trailer, motor home, camper or large truck shall be parked within the subdivision, except that a lot owner may park a motor home within the confines of his lot for a period not exceeding 30 days so long as it is not used for residential purposes.

b. 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, or permitted to remain on any lot.

c. No building shall be constructed on any lot with a fully enclosed ground floor area of less than 768 square feet, exclusive of carport, garage, porches, steps and patios.

d. No structure shall be located nearer the front boundary line of any lot than 25 feet or nearer to the side line of any lot than 20 feet, or nearer to the back line of any lot than 25 feet except with written permission from the Trustees of Elk Ridge Owners Association.

e. 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. The removal of natural vegetation and cutting the soil on

RECORDED AT REQUEST OF MARK JACOBS, FEES \$1.00  
AT 2:42 P.M.  
KANE COUNTY RECORDER  
PAGE 337-341  
BOOK 21029  
BY DEPUTY 5TH

any lot shall not be undertaken without the permission in writing from the Trustees.

2. Elk Ridge Estates Water Company. Upon purchasing a lot, the owner becomes a member of the Elk Ridge Estates Water Company and is entitled to water subject to compliance with the Users Agreement, Bylaws and Articles of Incorporation of such corporation.

3. Elk Ridge Estates Owners Association. Upon purchasing a lot, the owner becomes a member of the Elk Ridge Estates Owners' Association (hereinafter the "Association"). Owners are bound by the provisions of the Articles and Bylaws of the Association.

a. Owners are entitled to one vote for each lot owned, except the Declarant of the subdivision shall have three (3) votes for each share associated with a lot which has not been sold and on which there is no dwelling constructed. 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. Each lot owner shall pay the Association an annual fee for utility services, sewer charges, road maintenance 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. (Water system maintenance and water charges shall be charged in accordance with the Articles and Bylaws of Elk Ridge Estates Owners' Association). The Trustees shall determine the amount assessed to each lot based on a per lot share of the total cost of such items. The Trustees shall also determine the due dates of assessments. The Trustees 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 and another fee for commercial 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. This assessment shall be the personal obligation of the lot owner when the assessment fell due, and shall be a continuing lien on the lot assessed. Successors-in-title shall not be personally liable for assessments delinquent at the time they took title unless that obligation is expressly assumed by them.

c. 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 Elk Ridge Estates. 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.

d. Any assessment not paid within thirty (30) days after the due date therefor shall bear interest from the due date at the rate of eighteen percent (18%) per annum (or such lesser rate as the Trustees shall determine appropriate) until paid. In addition, the Trustees may assess a late fee for each delinquent installment and/or a penalty for violation of rules of the Association which shall not exceed twenty per cent (20%) of the installment.

e. 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, and/or (c) may restrict, limit, or totally terminate any or all services the assessment is designed to cover, as to the lot for which assessments are not paid current, and all other lots owned by that owner, and as to the owner.

f. There shall be added to the amount of any delinquent assessment the costs and expenses of any action, sale or foreclosure, and a reasonable attorney's fee, together with an account for the reasonable rental for the lot from time to time of commencement of the foreclosure. The Trustees shall be entitled to the appointment of a receiver to collect the rental income or the reasonable rental without regard to the value of the other security.

g. A power of sale is hereby conferred upon the Association which it may exercise. Under the power of sale, the lot of an owner may be sold in the manner provided by Utah law pertaining to deeds of trust as if the Association were beneficiary under a deed of trust. The Trustees may designate any person or entity qualified by law to serve as Trustee for purposes of power of sale foreclosure.

h. No owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his lot.

i. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage held by an institutional lender if the mortgage was recorded prior to the date the assessment became due. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to foreclosure of a first mortgage or any proceeding in lieu thereof, shall extinguish the assessment lien as to payments which became due prior to such sale or transfer. No sale or transfer, however, shall relieve a lot or owner from personal liability for assessments coming due after he takes title or from the lien of such later assessments.

### 3. Health and Utilities.

a. All waste and disposal systems must conform with standards of the Utah State Department of Health and must conform to County and State codes. In the event that installation of sewers or holding tanks is required by governmental authority after the purchase of a lot in the subdivision, the owner

of each lot shall pay his proportionate share of the cost of installation of such system.

b. It is preferred that lot owners use electricity for all services in structures built on the lots. Any tanks used in connection with the residence such as oil, propane, or other type fuel must be under ground or adequately concealed in a manner to blend harmoniously with the natural foliage of the subdivision. If generators are used on any lot, they shall be enclosed or placed in a location so that the sound does not disturb other lot owners.

c. No lot owner shall install or allow the installation of utility services on top of the ground within the subdivision. No poles or overhead facilities for installation of utilities shall be allowed within the subdivision and any utilities installed in the future shall be placed underground.

4. Signs and development Activity. No advertising signs of any character shall be permitted or maintained on any residential lot within the subdivision; provided, however, (a) one sign of not more than one square foot displaying the name of the property owner may be displayed near the entrance of any dwelling constructed on the lot and (b) signs advertising the sale or rental of a residence not larger than six square feet will be allowed.

The Developer may maintain such facilities and conduct such activities as in the sole opinion of the Developer may be reasonably required, convenient or incidental to the construction and sale of lots and upon such portion of the premises as the Developer deems necessary including but not limited to a business office, storage areas, construction yard, signs, model units and sales offices.

#### 5. Activity Restrictions.

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 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 may 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. Wild animals which inhabit the terrain near or within 1,000 feet of the Subdivision will be allowed to roam within the Subdivision and shall not be destroyed by or at the request of the owner of any lot. Notwithstanding other provisions of this paragraph, owners of lots 48-56 may have horses or cows, not to exceed one such animal per one-half acre.

c. 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.

d. Clothes lines or drying yards shall not be located or maintained on any lot within the Subdivision.

e. No garbage incineration or other burning shall be permitted on any lot except for purposes of cooking or heating a structure located on a lot.

f. No refuse pile, including piles of weeds or other foliage which is not living, shall be placed or allowed to remain anywhere within the Subdivision.

6. Construction Controls: For the purpose of further ensuring development of the Subdivision as an area of high standards, the Trustees of Elk Ridge Owners Association shall have the right to control the buildings, structures, and other improvements placed on each lot, as well as to make such exceptions to these reservations and restrictions as the Trustees 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 State of Utah or any of its political subdivisions where required and the Trustees of Elk Ridge Owners Association. 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.

#### 7. General Provisions

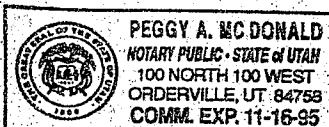
a. These Protective Covenants may be amended by an instrument signed by not less than Sixty-seven percent (67%) of the lot owners. Any amendment must be properly recorded in the records of Kane County, Utah, to become effective.

b. All of 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. Each covenant, condition and restriction shall be considered to be an independent and separate covenant and agreement and in the event any shall for any reason be held to be invalid or unenforceable, all remaining covenants, conditions and restrictions shall remain in full force and effect.

IN WITNESS WHEREOF, MARK JACOBS has signed these Protective Covenants of Elk Ridge Estates Subdivision this 20 day of Aug 1993, and caused the same to be placed of record at the office of the Kane County Recorder.

Mark Jacobs  
MARK JACOBS



Public Notary: Peggy A. McDonald August 20, 1993