

HURRICANE HERITAGE ESTATES

DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND USE RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the undersigned (hereafter "Developer") is the owner of certain real property located in Hurricane, Washington County, State of Utah, identified as Hurricane Heritage Estates, such property being more particularly described in Addendum "A" attached hereto, made a part thereof.

WHEREAS, Developer will cause or has caused 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 or encumbered, leased, rented, used, occupied, and improved subject to the following limitations, restrictions, and covenants, all of which are declared and agreed to be in furtherance of a plan for the subdivision, improvement and sale of the lands; and are established and agreed upon for the purpose of enhancing and protecting the value, desirability, and attractiveness of the lands and every part thereof. The acceptance of any deed or conveyance thereof by the grantee or grantees therein, and their heirs, executors, administrators, successors, and assigns shall constitute their covenant and agreement with the undersigned and with each other, to accept and hold the property described or conveyed in or by such deed or conveyance, subject to said covenants and restrictions, as follows, to-wit:

1. **PURPOSE:** The purpose of these restrictions is to provide for the enhancement and protection of the value, desirability and attractiveness of the properties. These covenants

shall be binding on any person or entity acquiring an interest in the subject property and shall inure to the benefit of each party and shall run with the land.

2. **AGRICULTURAL AMBIANCE:** This subdivision is situated in an active agricultural area. Those activities usual to an agricultural area such as, but not limited to, chemical spraying, harvesting of crops, farm animal production, etc., should be expected and should not be a matter of contention with neighbors. It is expected that those operating and using agricultural properties will use due care and diligence to avoid any inordinate amount of impact due to agricultural activities. Most of the area surrounding Hurricane Heritage Estates has been proposed for agricultural and related use on the Hurricane City Master Plan.

3. **ARCHITECTURE:** The architecture of each home shall be country ranch, country estates, farm house, French provincial or similar style structure built on site with new materials approved by the Architectural Control Committee. No southwestern style, i.e., flat roof, adobe appearing, homes will be approved. The elevation of the home shall be in accordance with the style of the other homes in the subdivision to enhance the ambiance of the subdivision.

4. **ARCHITECTURAL CONTROLS:** Prior to the commencement of construction of any dwelling, garage, storage building, fence, pool, or other improvements on any Lot in this subdivision, construction drawings, specifications and locations shall be submitted and approved by the Architectural Control Committee as to design and quality of materials, harmony of external design with existing (or proposed) structures, and location with respect to topography and finish grade elevation. Approval shall also be obtained from the City of Hurricane. Approval will be required from Architectural Control Committee prior to making application for permits and paying impact fees.

5. **ARCHITECTURAL CONTROL COMMITTEE:** The Architectural Control

Committee shall comprise of the two developers, Scott Stratton and Todd Langston, until construction on all lots are completed. Afterwards, the Architectural Control Committee shall comprise of three members elected by a majority of the lot owners. Each lot shall have one vote and the term of each member shall be two years.

6. **MINIMUM DESIGN STANDARDS:** The Lots shall be used only for residential purposes. No building shall be erected nor permitted to remain on any property other than one single-family residence (maximum of 2 stories above ground) and associated structures. All structures shall be constructed in accordance with the prevailing zoning and building ordinances. Minimum square footage of living space for a single level home shall be twenty two hundred (2,200) square feet. The minimum square footage of living space in a two story home shall be twenty four hundred (2,400) square feet total with at least seventeen hundred (1,700) square feet on the main level. Only living space above the basement (excluding garage) is computed to qualify for the minimum square footage. Detached garages are to be approved, provided they are architecturally appropriate as determined by the Architectural Control Committee. Each home shall have at least a two (2) car garage. Except for Lot 19, minimum square footage of living space in a single level home shall be sixteen hundred (1,600) square feet, excluding garage.

7. **BUILDING LOCATION:** All dwellings shall have a Thirty Foot (30) setback. Side set backs shall be as required by Hurricane City Ordinances and this document. For the purposes of this covenant, eaves, steps and open porches shall be considered as part of the building for purpose of determining such distances.

8. **IRRIGATION:** Irrigation water piping has been or will be installed to each Lot owner and will be available for hook-up by the Lot owners when they purchase an irrigation water right. Each Lot owners are required to buy approximately one- half share of water. Each of the Lot owners within the subdivision shall be responsible for the maintenance of the

irrigation delivery pipe lying within his/her property lines. Such owners shall be responsible to maintain this irrigation system in good and working order.

9. **ROOFS, ROOFING AND SIDING:** Roofing materials will consist of tile. All roofs must be 5/12 pitch or greater. Masonry veneers, metal siding, vinyl siding, stucco, are acceptable for exterior walls. The color of siding or other exterior materials must be approved by the Architectural Control Committee. Houses with siding must have at least 25% of the front of the house and 36" Weins-Coat at least 8' down the sides of house in brick or rock.

10. **LANDSCAPING:** Within six (6) months of occupancy, a Lot must be landscaped in a satisfactory manner. All unimproved portions of the street side or sides of the Lot from the front of the home out to the street or streets must be planted in either grass or ground cover. Also, at least two trees are to be planted in the front of the home, unless trees are already present. Landscaping shall be maintained at a reasonable standard compatible with other homes in the subdivision. Shrub and tree planting on street corner Lots shall be located so as not to create a hazard for movement of vehicles along the streets. No trees or tall shrubs shall be planted on any street corner, in accordance with city code. Undeveloped Lots shall be kept free of all tall vegetation by the owner of said Lot. Should excessive growth occur, the owner shall be notified of such condition and shall be given 30 days to correct the same, or the Architectural Control Committee may order such correction effected, the expense of which shall be borne by the owner of the undeveloped Lot. Grading of lots needs to be as such to hold runoff water from homes on the lots preventing spilling of water into the curb and going into the detention basin.

11. **IMPROVED SURFACES:** All driveways, walkways, parking areas and other areas of similar nature shall be improved with concrete.

12. **ANTENNA AND MECHANICAL DEVICES:** IN general, any antenna must be located at the rear of the Lot or home. Radio antennae, or devices for the reception or transmission of radio, microwave, or other similar signals, to include TV antennae, and satellite dish, shall be permitted on any Lot only upon approval by the Architectural Control Committee. No air conditioning, heating nor similar devices shall be mounted on the roof without express approval of the Architectural Control Committee.

13. **TEMPORARY STRUCTURES:** No structure of temporary character, i.e., trailer, mobile home, modular home, basement, shack, garage, barn or other outbuildings shall be used on any Lot at any time as a residence either temporarily or permanently. Motor homes may be occupied by guests of the Lot owner for a period not in excess of ten (10) days at any one time.

14. **KEEPING ANIMALS:** The keeping of family pets and other critters shall be a matter to be controlled by the ordinances of the City of Hurricane. Lot owners shall not board or keep livestock on the Lots.

15. **VEHICLES:** Motor vehicles that are inoperable shall not be permitted to remain upon any street or lot. No automobile, recreation or commercial vehicle, other motorized vehicle, or any portion thereof, shall be dismantled, rebuilt, serviced, repaired, or repainted on 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. No noisy off the road vehicles such as four wheelers or noisy motorcycles may be ridden in the subdivision or on the Lots. The above shall not preclude small tractors or other small agricultural implements.

16. **STORAGE OF MATERIALS:** No lumber, material or bulk material shall be

kept, stored or allowed to accumulate on any Lot except building or other materials to be used in connection with any ongoing construction, alteration or improvement approved in accordance with the terms hereof. During construction and for a period of sixty (60) days after completion, an Lot may be used for the storage of materials used in the construction of the building or its improvements. The total storage period shall not exceed eight (8) months.

17. **GARBAGE AND REFUSE DISPOSAL:** No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste. All waste shall be kept 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. A garden compost pile is acceptable if properly screened from sight.

18. **SIGNS:** No sign of any kind shall be displayed to the public view on any Lot except a sign that has been approved by the Architectural Control Committee. Customary Real Estate for sale signs are permissible.

19. **DAMAGES:** Any damage inflicted on improvements such as curbs, gutters, streets, concrete, etc. in the subdivision must be repaired as soon as possible. If damage occurs, the responsible party is required to repair the damage in a timely manner. If the Lot owner who is at fault does not act in a responsible manner the Developer or other home owner may rectify the problem and charge the Lot owner.

20. **COMMERCIAL ENTERPRISE:** No commercial enterprise of any description shall be conducted on any Lot. This shall be construed to mean the selling of goods, operating a business of any nature either for profit or charity, except for a home office space incidental to one's employment or business.

21. **NATURAL HABITAT:** Only the minimum removal of vegetation will be permitted to facilitate the building of any home, garage, garden or other improvement. It is the intent of this protective covenant to protect the natural beauty of the property, without being unduly restrictive.

22. **NUISANCES:** No noxious or offensive activity shall be carried out on any Lot nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. No Lot shall be used for any illegal purpose.

23. **DURATION:** These Covenants, Conditions, and Restrictions shall run with the land and shall be binding upon all parties and all persons claiming under them for a period of twenty-five (25) years from the date of recordation of this Declaration, after which time this Declaration shall be automatically extended for successive periods of like duration if such extension has been approved by the then current Home Owners Association. This Declaration may be terminated after the aforesaid period of time if such decision has been recorded with the Washington County Recorder's office.

24. **CARE AND MAINTENANCE OF EACH 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.

25. **CARE AND MAINTENANCE OF LOT 19:** The Lot owner of lot 19 shall be responsible for the maintenance and upkeep of the water detention basin on their property. Because of the detention basin on Lot 19, all dirt and debris must be kept off of the road daily and cleaned by contractors to help maintain detention basin.

26. **EXEMPT:** The developer is exempt from all constraints in this Declaration.

27. **ARBITRATION CLAUSE:** Any controversy or claim arising out of or relating to this document or the breach thereof will be settled by binding arbitration in accordance with the Rules of the American Arbitration Association, and judgment upon the award rendered may be entered in any court having jurisdiction thereof.

28. **RIGHTS TO ENFORCE:** The provisions in this Declaration shall be enforceable by the land developer and its assigns, or by the owner or owners of any Lot or portion of property in the subdivision, or their legal representatives. In addition, the City of Hurricane may enforce duly passed and approved ordinances.

29. **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.

30. **AMENDMENT:** This Declaration may be amended by a written document signed by the owners of two thirds (2/3) of the Lots in the subdivision.

31. **ASSIGNMENT OF POWERS:** Any and all rights and powers of the Developer herein contained may be delegated, transferred, or assigned. Wherever the term "Developer" is used herein, it includes Grantor, and its successors and assigns.

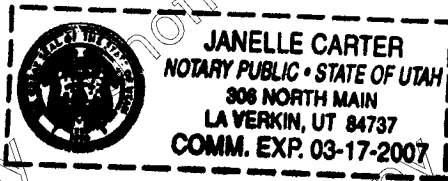
IN WITNESS WHEREOF, the undersigned has hereunto executed this document this _____ day of January, 2004.

By: *Scott Stratton*
Scott Stratton, Developer

By: *Todd Langston*
Todd Langston, Developer

STATE OF UTAH)
)ss.
COUNTY OF WASHINGTON)

On the 22 day of January, 2004, personally appeared before me Todd Langston and Scott Stratton, the signers of the foregoing document, who acknowledged to me that they executed this document.



Janelle Carter
Notary Public