

WHEN RECORDED MAIL TO:

9532455

NEWMARK DEVELOPMENT, INC.
6768 SOUTH 1300 EAST
SALT LAKE CITY, UTAH 84121

**DECLARATION OF PROTECTIVE COVENANTS
FOR LONE PEAK VILLAGE**

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, the undersigned being the owners of the following described real property situate in Salt Lake County, State of Utah, to-wit:

Known as LONE PEAK VILLAGE.

In consideration of the premises and as part of the general plan for improvement of the property comprising the Lone Peak Village, we do hereby declare the property hereinabove described and all lots located therein, subject to the restrictions and covenants herein recited.

ARTICLE I
RESIDENTIAL AREA COVENANTS

1. Planned Use and Building Type.

No lot shall be used except for single-family residential purposes. No building shall be erected, altered, placed, or permitted to remain on any lot other than detached single-family dwellings not to exceed two stories in height with a private garage for not less than two vehicles.

2. Architectural Control.

No building shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the structure upon the lot have been approved by the Lone Peak Village Architectural Control Committee, hereinafter referred to as the Architectural Control Committee or Management Committee, as to quality of workmanship and materials, harmony of external design with existing structures, and to location in respect with topography and finish grade elevation. No fence or wall shall be erected, placed or altered on any lot nearer to any street than the minimum building setback line unless similarly approved. Approval shall be as provided herein. Two sets of plans must be submitted for this purpose, the Architectural Control Committee may at it's sole discretion retain one set in it's office. The Architectural Control Committee and Management Committee hereby approves the plan designs to be built at Lone Peak village by Newmark Development and Utah Lifestyle Homes.

3. Dwelling Quality and Size.

Except as otherwise provided herein, no dwelling shall be permitted on any lot wherein the ground floor area of the main structure, exclusive of one story open porches and garages, shall be less than 1,800 square feet for single story homes. For two story homes the combined footage for both floors shall not be less than 2,200 square feet. For the purpose of these covenants, bi-level, split-level and tri-level homes shall be considered as single story homes. The combined footage for the three floors shall not be less than 2,000 square feet. The Lone Peak Village Architectural Control Committee shall have the right, at its sole discretion, to approve homes for construction in which the floor area is less than provided above.

4. Sandy City and Other Approval.

Approval of any improvements by the Architectural Control Committee does not waive the requirement for any other required public agency review or permit approval process. By approving plans, the Architectural Control Committee takes no responsibility for plan conformity to any other criteria other than the requirements of this Declaration and any Architectural Guidelines.

5. Building Location.

(a) Building location must conform to the requirements of Sandy City.

(b) For the purpose of this covenant, eaves, steps, and porches shall not be considered as a part of a building, provided however, that this shall not be construed to permit any portion of a building on a lot to encroach upon any other lot.

6. Roofing and Exterior Materials.

All exterior materials utilized on dwellings and other structures shall consist of stone, brick, wood, etc. Acrylic stucco may also be used as a siding material. Aluminum, steel and vinyl materials may only be used for soffit and fascia unless otherwise approved by the Architectural Control Committee in writing. The roofing material for all homes or other structures built on any lot shall be either cedar shingles, tile or architectural grade laminated shingle.

7. Paving.

Driveway and other flat paved areas may be concrete, exposed aggregate concrete, stamped concrete, asphalt, quarry tile, brick or paving blocks. Gravel areas are not permitted.

8. Solar Equipment.

Solar panels are to be integrated into roof design. Panels and frames must be copper or compatible with roof colors and all equipment must be screened from view.

9. Antennas.

All antennas are restricted to the attic or interior of the residence. It is mandatory that all homes be pre-wired for cable reception. Satellite dish antennas shall be allowed provided they are screened from view.

10. Pools, Spas, Fountains, Gamecourts.

Pools, spas, fountains and gamecourts shall be approved by the Architectural Control Committee and shall be located to avoid impacting adjacent properties with light or sound. Pool heaters and pumps must be screened from view and sound insulated from neighboring houses. Nothing herein shall be construed as permitting the construction of skateboard areas and/or ramps, which structures shall be prohibited.

11. Metal Awnings.

Metal awnings, metal "lean-tos," or metal patio covers shall not be permitted on any Lot.

12. Nuisances.

No noxious or offensive 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. No clothesline or storage or any articles which are unsightly in the opinion of the Architectural Control Committee will be permitted unless located in enclosed areas built and designed for such purposes. No automobiles or other vehicles are to be stored on streets or front and side lots unless they are in running condition, properly licensed, and are being regularly used. No trailers, boats or other large recreational items shall be stored on the streets or front yards without specific written permission of the Architectural Control Committee.

13. Temporary Structures.

No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other out building shall be used on any lot at any time as a residence either temporarily or permanently.

14. Garbage and Refuse Disposal.

No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste and all such items must be kept in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. Each lot and its abutting street are to be kept free of trash, weeds and other refuse by the lot owner. No unsightly material or objects are to be stored on any lot in view of the general public.

15. Animals and Pets.

Dogs, cats or other household pets may be kept as permissible within current zoning regulations provided that they are not kept, bred, or maintained for any commercial purpose and are restricted to the owner's premises and under the owner's control. Whenever a pet is allowed to leave a Lot, it shall be kept on a leash or in a cage. No pets shall be allowed to make an unreasonable amount of noise or otherwise become a nuisance. The exterior structure for the care, housing or confinement of any such pets shall be maintained by Owner and approved by the Architectural Control Committee. Any Owner or other resident within the Development who violates this Section shall be subject to such penalties or fines as the Board by resolution or as regulation may provide. No horses or other farm animals shall be allowed on any lots within the subdivisions.

If in the opinion of the Architectural Control Committee, any of the animals or pets become an annoyance, nuisance or obnoxious to other owners throughout the subdivision, the committee may require a reduction in the number of animals or pets permitted or elimination of any such animal or pet considered dangerous or unsafe to the neighborhood.

16. Landscaping.

Landscaping of any dwelling shall be completed within 12 months after initial occupancy. Trees, lawns, shrubs or other plantings provided by the owner of each respective lot shall be properly nurtured and maintained or replaced at the property owner's expense upon request of the Architectural Control Committee. All demolition, clearing, grubbing, stripping of soil, excavation, compaction and grading must be performed within the confines of a Lot.

17. Site Grading and Drainage.

Sandy City requires that each Lot Owner retain on his own Lot. Where drainage cannot be placed in an established drainage channel, lot owners shall be required to install a sump to retain surface drainage on owner's lot. The sump shall be installed in accordance with specifications provided by the project engineer or in such other manner as approved by Sandy City Engineering.

18. Subdivision of Lots.

No owner of any lot within the subdivision shall at any time be permitted to subdivide his lot into two or more sublots less in square foot area than the area of the lot at the time of its initial purchase.

19. Recreational Vehicles.

No boats, trailers, large trucks and commercial vehicles belonging to Owners or other residents of the Property shall be parked in a side yard which is less than 8 feet in width. No motor vehicle of any kind shall be repaired, constructed or reconstructed upon any Lot, Private Street or other Common Areas, except that these restrictions shall not apply to emergency repairs to vehicles.

20. Detached Garages and Out Buildings.

No detached garages, and/or out buildings shall be constructed on any lot without the specific written permission of the Architectural Control Committee.

ARTICLE II
EASEMENTS

1. For the installation of and maintenance of utilities and drainage facilities, areas are reserved as shown on the recorded plat. Within these easements, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the area, or which may obstruct or retard the flow of water through drainage channels in the easement. The easement area of each of the lots and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

2. Wherever sanitary sewer connections, water connections, electricity,

gas, telephone and cable television lines or drainage facilities are installed within the subject property, the owners of any lot served by said connections, lines or facilities shall have the right, and are hereby granted an easement to the full extent necessary therefor, to enter upon the lots owned by others, or to have utility companies enter upon the lots owned by others, in or upon which said connections, lines or facilities, or any portion thereof lie, to repair, replace and generally maintain said connections as and when the same may be necessary as set forth below. Any premises so entered shall be restored by those entering to as near its original condition as is reasonably possible.

ARTICLE III
COMMON AREAS, OWNERSHIP AND MANAGEMENT

1. Common Areas and Facilities. The following are designated as common areas and facilities of the subject property, to-wit: Planter Strip and Fence along 11400 South and also along 1000 East on the Lone Peak Village Subdivision and such property, neighborhood amenities, irrigation systems, planting and etc. as may be installed for the beautification of the neighborhood.

2. Ownership - Association of Property Owners. The property owners of the subject property shall comprise and be part of an association for the ownership, administration and management of the common areas and facilities upon the terms and conditions specified in these protective covenants. Such association shall come into existence at such time as Newmark Development and Utah Lifestyle Homes complete construction of homes in the subdivision or at such earlier time as the members of New Utah, LLC determines. The Association of Property Owners shall include Lone Peak Village. All common expenses shall be shared and allocated equally over the lots within the subject property with each lot considered to hold one share with the total lots representing 100% of such shares.

3. By-Laws of Property Owners Association. The procedure for administration and management of the common areas and facilities of the subject property shall be governed by the following By-Laws:

(a) Voting at meeting of lot owners. At any meeting or election of lot owners, each owner shall be entitled to one vote per lot. In the event of multiple ownership of a given lot, said multiple owners shall cumulatively only have one vote and shall come to agreement among themselves with respect to how said vote shall be cast. In the event multiple record owners are unable to resolve their disagreements and act unanimously, the management committee designated hereinbelow shall not accept the vote of said owners.

(b) Annual meeting of lot owners and elections. The lot owners shall hold an annual meeting on the first Tuesday in March, or at such other time as may be designated by the management committee designated hereinbelow and delivered to the owners not less than ten (10) days prior to the date fixed for said meeting. At the annual meeting, elections shall be held to elect members of the management committee, which members shall also serve as and constitute the Architectural Control Committee referred to in these protective covenants. A financial report shall be given and such other business conducted as may be properly presented at the meeting. A special meeting of the lot owners may be called at any time by written notice signed by the majority of the management committee or by the owners having one-third (1/3) of the total votes, delivered not less than 15 days prior to the date fixed for said meeting. Notice of such meeting shall state the date, time, place and matters to be considered. Notices may be delivered personally or by certified mail, return receipt requested. Address changes may occur by giving notice in writing to the management committee.

(c) The Management/Architectural Control Committee. The management committee, also referred to herein as the architectural control committee, shall initially consist of three (3) persons, appointed by the Declarant, which committee shall serve until the Lone Peak Village is

completed, at which time the Association of Property Owners for Lone Peak Village shall be combined with the Architectural Control Committee. The combined Association of Property Owners and Architectural Control Committee, shall be managed by a single Management/Architectural Committee, with committee members selected from among the residents of Lone Peak Village. The Management/Architectural Control Committee shall have all the powers, duties and responsibilities which are provided by law, and by these protective covenants and any amendments subsequently filed hereto. Said committee shall be responsible to control the operation and management of the common areas and facilities in accordance with these protective covenants, and such administrative and management rules and regulations as the committee shall adopt from time to time. The committee shall provide for the proper and reasonable control, operation and management of the common areas and facilities and maintain and repair the same. They shall supervise the access and activities pertaining to the same. In the case of a vacancy on the management committee occasioned by death, resignation, removal or inability to act for a period in excess of 90 days the remaining members of the committee shall elect a successor to hold office until the next regular meeting of the lot owners. The committee shall elect such officers as it shall deem appropriate and shall hold regular meetings at times and places which the committee shall determine. The quorum for the transaction of business shall consist of the majority of the committee in office. The Management/Architectural Control Committee shall have authority to provide additional facilities and improvements within the common areas, provided such additional facilities and improvements shall not cost in excess of the aggregate of \$1,000.00 per year. Facilities or improvements in excess of \$1,000.00 per year shall require the approval and consent of 2/3 of the lot owners. The Committee shall have the power to adopt and establish management and operation rules for the common areas and facilities as the committee shall deem necessary or desirable and proper for the maintenance, operation, management and control of said common areas and facilities. They may from time to time alter, amend or repeal said rules. All lot owners shall, at all times, obey all such rules and see that the same are faithfully observed by those persons over whom they are responsible for or exercise control and supervision. It being understood and agreed that such rules shall apply to and be binding upon all of the lot owners and/or occupants of all homes within the subject property and their quests. The Management/Architectural Control Committee shall determine all uses of the common areas and facilities and may obtain insurance, insuring the committee, the lot owners or other appropriate persons against liability to the public or to the owners of lots, their invitees or tenants incident to ownership for use of the common areas and facilities, together with such other insurance as may be deemed necessary by the Committee to cover other risks of similar nature which are customarily covered for common areas or facilities.

4. Payment of Expenses. Each lot owner hereby agrees to pay to the Management/Architectural Control Committee his or their portion of all costs and expenses required and deemed necessary, if any, by the Management/Architectural Control Committee in connection with the common areas and facilities and the management, maintenance and operation of the same. Costs and expenses may include, among others, the costs of management, taxes, special assessments, fire, casualty, and public liability insurance premiums, common lighting and electrical charges, landscaping and care of the grounds, repairs, renovations of common areas and facilities, maintenance and repairs, snow removal, wages, water and related charges, legal and accounting fees, costs of operation of all equipment and cost of electricity and other expenses and liabilities incurred by the management committee under or by reason of their duties under these covenants as well as the payment of any deficits remaining from any previous period and the creation of a reasonable contingency or reserve fund as well as all other costs or expenses of any nature relating to the common areas and facilities. Such payments shall be made upon such terms and at such times and in the manner provided by the management committee without deduction of any offsets or claims which the owner may have against the committee, and if any lot owner or owners shall

fail to pay any installment within one (1) month from the time that the same becomes due, the owner shall pay interest thereon of one and one-half (1 1/2) percent per month from the date such installment shall become due to the payment thereof, and all costs and expenses including a reasonable attorney's fee incurred by the Management/Architectural Control Committee in collecting such assessments, whether or not formal legal proceedings have been commenced.

The Management/Architectural Control Committee may, from time to time, up to the close of each calendar year for which cash requirements have been determined, increase or diminish the amounts previously fixed or determined for such year and may include in the cash requirements for any year, any liabilities or items of expense which have accrued or have become payable in the previous year or which might have been included in the cash requirements in the previous year but were not included therein for any reason.

Notwithstanding anything to the contrary, any and all assessment practices shall comply with the revenue rulings and regulations of the Internal Revenue Service which have been or may be promulgated. The Management/Architectural Control Committee shall have discretionary powers to determine the management and operation of the common areas and facilities and to determine the cash requirements of the committee to be paid as aforesaid by the owners for the operation, maintenance, repair and replacement of same. Each month the assessment or other assessments of any nature shall be separate, distinct, personal debts and obligations of the lot owners against whom the same are assessed, at the time the assessment is made and shall be collectible as such.

Suits to recover a money judgement for the unpaid common expenses may be maintained without foreclosing or waiving the liens securing the same. The amount of the assessment, whether regular or special, assessed to the owners of any lots plus one and one-half percent per month and costs, including a reasonable attorney's fee, shall become a lien upon such lot upon recordation of a Notice of Assessment with said lien having priority over all other liens and encumbrances recorded or unrecorded, except only (a) tax and special assessment liens of the lot in favor of any assessment authority or special district and (b) encumbrances upon the owner's lot and such owner's interests as are recorded prior to the date of recording of such Notice of Assessment. The Notice of Assessment shall be made on a certificate executed and acknowledged by the majority of the Management/Architectural Control Committee stating the indebtedness secured by the lien and shall describe the lot upon which the same is held and the same shall be conclusive upon the committee and the owners as to the amount of the indebtedness on the date of the certificate in favor of all persons who rely thereon in good faith. Upon payment of a delinquent assessment concerning which such a Certificate has been recorded with the office of the Salt Lake County Recorder or satisfaction thereof, the Management/Architectural Control Committee shall cause to be recorded in the same manner as the Notice of Assessment a further Certificate of Satisfaction and Release stating satisfaction and release of the lien thereof.

Notwithstanding any provisions herein to the contrary the liens created hereunder upon any lot shall be subject and subordinate to and shall not affect the rights of the holder or holders of indebtedness secured by any recorded first mortgage meaning a mortgage with first priority over other mortgages upon such interest made in good faith and for value.

5. Additional Powers. The Management/Architectural Control Committee is hereby further vested with such other powers as are set forth in these covenants including but not limited to those powers set forth in Article IV hereof.

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ARTICLE IV DURATION, ENFORCEMENT AND AMENDMENT

1. Duration of Restrictions. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty (30) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive period of ten (10) years unless an instrument signed by a majority of the then owners of the subject property has been recorded, agreeing to change said covenants in whole or in part.

2. Enforcement. The owner or owners of any portion of the subject property, and/or the Architectural Control Committee, shall be entitled to prosecute any proceeding, at law or equity, against any person, firm, corporation or party violating, attempting or threatening to violate any of the covenants and restrictions contained herein and to enforce, restrain, enjoin and/or collect damages for such violation or attempted or threatened violation. Failure by the Architectural Control Committee, the Declarant executing these conditions, covenants and reservations or any property owner, or their legal representative, heirs, successors or assigns to enforce any of said covenants or restrictions shall in no event be deemed a waiver of the right to do so thereafter. Any and all remedies specified herein shall be deemed cumulative and not exclusive.

3. Construction and Validity of Restrictions. All of said conditions, covenants and reservations contained in this declaration shall be construed together, but if it shall at any time be held that any one of said conditions, covenants, or reservations, or any part thereof, is invalid, or for any reason becomes unenforceable, no other condition, covenant, or reservation, or any part thereof, shall be thereby affected or impaired; and the Declarant and the owners of the subject property, their successors, heirs, and/or assigns shall be bound by each article, section, subsection, paragraph, sentence, clause and phrase of this declaration, irrespective of the fact that any article, section, subsection, paragraph, sentence, clause or phrase be declared invalid or inoperative or for any reason becomes unenforceable.

4. Architectural Control Committee. The Architectural Control Committee which is vested with the powers described hereinabove shall initially consist of three (3) persons appointed by the undersigned Declarant. Prior to the commencement of any excavations, construction, remodeling or alteration to any structure theretofore completed, there shall first be filed with the architectural control committee two (2) complete set of plans and specifications for such excavation, construction, remodeling or alteration, together with a block or plot plan indicating the exact part of the subject property the improvement will cover, and said work shall not commence unless the Architectural Control Committee shall endorse said plans as being in compliance with these covenants and are otherwise approved by the committee. The committee shall have the right to refuse to approve any such plans and specifications which, in the committee's discretion, are not desirable, and in so passing upon them the committee shall have the right to take into consideration the suitability of any proposed excavation, construction, remodeling or alteration and of the materials to be included, the harmony and effect thereof with the surroundings and the effect thereof on the outlook from the adjacent or neighboring property. In the event said committee fails to approve or disapprove in writing said plans within thirty (30) days after their submission, then said approval shall not be required. The Architectural Control Committee hereby approves the plans for Newmark Development and Utah Lifestyle Home.

No member of the Architectural Control Committee shall be entitled to any compensation for services performed pursuant to these covenants and restriction. At any time, the then record owners of a majority of the subject property shall have the power through a duly recorded written instrument to change the membership of the committee or to withdraw from the committee or restore to it any of its powers and duties. In the event of the death or resignation or the refusal or inability to act of any member of such committee the remaining members shall have full authority to approve or disapprove such plans and specifications and to designate and appoint a successor member of such committee to fill and vacancy with like authority.

The Architectural Control Committee shall have the power and authority to take such action as it deems necessary to keep any portion of the subject property and exterior of any structure maintained so that the same complies with the provisions of these covenants and restrictions. In this connection, the committee may notify any owner of a portion of the subject property of any violation hereunder, and after due notice, if the owner fails to correct such

violation, then in such event the Architectural Control Committee may cause the necessary corrections to be made and compliance hereunder to be effected, and the cost and expenses thereof shall constitute a lien against such real property affected and shall also be the personal obligation of the owner of said property. The Architectural Control Committee shall have the right to foreclose its lien against the said real property in the manner and nature that mechanics liens are foreclosed and shall also have an action at law against the owner for the amount involved. The initial Architectural Control Committee shall consist of Mark Eldredge and Jim Whitmoore. After completion of development, Declarant shall appoint three (3) persons to replace the initial committee members named hereinabove. The three (3) members appointed at that time by Declarant shall be appointed to staggered initial terms of one, two, and three years respectively. At the expiration of a member's term, an election shall be held by the owners who shall elect a new member to the Architectural Control Committee for a three (3) year term. In elections each lot shall be construed to have one (1) vote.

5. Assignment and Reservation of Powers. Any and all rights and powers of the undersigned Declarant herein contained may be delegated, transferred or assigned. Wherever the term "Declarant" is used herein, it includes assigns or successors-in-interest of the Declarant.

7. Consents. The Declarant has obtained the acknowledgment and consent to these protective covenants of all third-party living unit owners, and all parties possessing liens affecting any portion of the subject property; and all such consents are attached hereto and by this reference are made a part hereof.

IN WITNESS WHEREOF, the undersigned has executed these covenants and restrictions the 24TH day of OCTOBER, 2005.

New Utah, LLC

By: 

Mark D. Eldredge, Manager

By: 

James Whitmoore, Manager

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

On the 24TH day of OCTOBER, 2005, personally appeared before me, Mark D. Eldredge who being duly sworn did say that he is the member/manager New Utah, L.L.C. a Utah Limited Liability Company and that the within and foregoing instrument was signed on behalf of said Limited Liability Company by authority of its Articles of Organization and he duly acknowledged to me that said Limited Liability Company executed the same.

Janet J. Murray
NOTARY PUBLIC

My Commission Expires: 11/20/06

Residing in SALT LAKE CITY



STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

On the 24TH day of OCTOBER, 2005, personally appeared before me, James Whitmore who being duly sworn did say that he is the member/manager New Utah, L.L.C. a Utah Limited Liability Company and that the within and foregoing instrument was signed on behalf of said Limited Liability Company by authority of its Articles of Organization and he duly acknowledged to me that said Limited Liability Company executed the same.

Janet J. Murray
NOTARY PUBLIC

My Commission Expires: 11/20/06

Residing in SALT LAKE CITY



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405